



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

December 26, 2019

**VIA HAND DELIVERY**

U.S. EPA-REGION 3-RHC  
FILED-26DEC2019pm4:01

Joseph J. Lisa (3RC00)  
Regional Judicial and Presiding Officer  
U.S. Environmental Protection Agency  
1650 Arch Street  
Philadelphia, PA 19103

**Re: Chem Fab Superfund Site, Doylestown, Bucks County,  
Pennsylvania: Lien Proceeding CERC 03-2019-0111LL:  
Status Report by EPA**

Dear Presiding Officer Lisa:

During the November 21, 2019 conference call with Your Honor and Turog representative Heywood Becker in this matter, Mr. Becker indicated that he was interested in reviewing documents pertaining to EPA's response work at Turog's property that would have been in EPA's files prior to 1998. During the call, Your Honor directed me to work with Mr. Becker and for the parties to submit a status report on this issue by December 20, 2019. By letter dated December 17, 2019, Your Honor moved the deadline for submission of the status report to January 2, 2020. I am filing EPA's status report at this time because I currently expect to be in the office for only a limited period of time between today and January 2, 2020.

By letter to Turog dated November 21, 2019, I provided Mr. Becker with details regarding EPA's 1994-1995 Removal Assessment and Removal Response Action at Turog's property.<sup>1</sup> The letter was received on November 22, 2019.<sup>2</sup> My

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<sup>1</sup> A copy of this letter was also filed with your office.

<sup>2</sup> See Attachment 1. The letter was sent via UPS Overnight Mail and not certified mail as the Certificate of Service indicated. By this letter, I request that this correction be accepted into the record.

letter identified, and provided copies of, EPA's 1995 Action Memorandum selecting an action to respond to threats identified at the property during the Removal Assessment (previously provided to Mr. Becker as *Lien Filing Record 3*), Pollution Reports ("POLREPs") documenting the implementation of the action at the property (previously provided to Mr. Becker as *Rebuttal Exhibit 7*), and an On-Scene Coordinator's Report ("OSC Report") summarizing the action taken (previously provided to Mr. Becker as *Lien Filing Record 4*). My November 21 letter stated:

"The Action Memorandum, POLREPs, and OSC Report document the presence of, among other things, drums and an underground tank containing 'hazardous substances' (as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14)) on the property and would have been in EPA's files prior to 1998. However, as stated in EPA's Rebuttal:

'This list [the Action Memorandum, POLREPs, and OSC Report] is by no means comprehensive as EPA's files would have also contained other operational, legal, and financial documents pertaining to that activity. That action itself was no small project as on-Site activities spanned almost two months and resulted in the removal and off-Site disposal of '117 drums, approximately 8400 gallons of pumped liquid waste, approximately 250 gallons of fuel oil, 6 cubic yard boxes of solid waste, [and] 3 cylinders' containing '[i]norganic acidic liquids and solids, caustic liquids and solids, poisonous solids, liquids, and gases, flammable liquids, radioactive material, [and] poly chlorinated biphenyls.' LFR 004, at ii. EPA contends that that information regarding EPA's work during this time would also have been available from the Pennsylvania Department of Environmental Resources (now the Pennsylvania Department of Environmental Protection), the Bucks County Department of Health, and the Bucks County Emergency Management Agency as each of these offices were specifically mentioned as coordinating agencies in EPA's summary report of the cleanup action. LFR 004.'"

"*Rebuttal*, at 25. In addition to documents pertaining to EPA's 1994-1995 response, EPA's files contain documentation of environmental

issues at the property going back to the late 1960s. This documentation would include, among other things, the ‘Preliminary Assessment for the Chem-Fab Corporation’ attached to this letter as ‘Attachment 4.’ This package refers to instances of spills and releases of various hazardous substances associated with operations occurring at the property over time.”

Letter from Andrew S. Goldman to Turog Properties, Ltd. (November 21, 2019). My November 21 letter to Mr. Becker continued:

“In light of the above, and per my argument in EPA’s *Rebuttal*, I believe that EPA has a reasonable basis to believe that Turog would not be able to show that at the time it acquired the property it ‘did not know and had no reason to know that any hazardous substance which is the subject of the release or threatened release was disposed of on, in, or at the facility’ within the meaning of Section 101(35) of CERCLA, 42 U.S.C. § 9601(35).

....

“I have provided you with this information and the enclosed documents to explain why EPA has a reasonable basis to believe Turog will not be able to carry its evidentiary burden under the ‘innocent landowner’ defense. I have not searched EPA’s files for all documents relating to response activities occurring at the property prior to 1998 as I believe these documents are dispositive. Should you wish to discuss these documents, request additional documents, or discuss any other issue concerning this letter, please do not hesitate to contact me at (215) 814-2487 or [goldman.andrew@epa.gov](mailto:goldman.andrew@epa.gov).”

*Id.* As of this date I have received no response to this letter.

Determining which documents would have been seen by Mr. Becker at the time he claims to have visited EPA’s office to review files is difficult at best. As an EPA attorney counseling the Superfund program at EPA Region 3 since 1987, I can represent that:

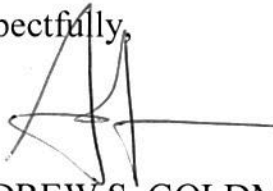
- Site files would likely have been located, among other places, in the offices of various staff personnel working on the Site, in the Removal Response room files, in the Superfund central filing room, and in the Administrative Records room.

- The Administrative Records room housed collections of documents copied from staff files, the Removal Response room files, the central filing room, and possibly elsewhere, supporting the selection of response actions and was, as I recall, open to the public by appointment.
- Written requests to review documents under the Freedom of Information Act (“FOIA”) at that time often involved collecting responsive documents from staff offices, the Removal Response room, and the central file room for review by the requestor.

What Mr. Becker saw when he reviewed EPA files in or prior to 1998 would have depended on how he approached EPA to review records pertaining to the property (*e.g.*, by reviewing the administrative record in the Administrative Record room vs. submitting a FOIA request written to include relevant documents). I can confirm that the Action Memorandum and several POLREPs were included in an administrative record compiled for the action and made available on February 20, 1998 (see Attachment 2). These documents would also have existed in staff offices, the Removal Response room, and/or the central file room as of the date of their creation.

EPA remains willing and available to assist Mr. Becker should he have additional document needs in this matter.

Respectfully,

A handwritten signature in black ink, appearing to read 'A. Goldman', with a long horizontal stroke extending to the right.

ANDREW S. GOLDMAN  
Sr. Assistant Regional Counsel

cc: Heywood Becker

# Attachment 1





Tanya Williams? Log Out (<https://www.ups.com/one-to-one/logout?returnto=http%3A%2F%2Fwwwapps%2Eups%2Ecom%2FWebTracking%2FreturnToSummary%3Floc%3Den%5FUS>)  
Locations ([https://www.ups.com/dropoff?loc=en\\_US](https://www.ups.com/dropoff?loc=en_US)) | Tanya Williams

[Home \(/us/en/Home.page?\)](#) > [Shipping \(/us/en/shipping.page?\)](#) > View Shipping History

# Track Shipments

Tracking Summary

[Printer Friendly](#) | [Help](#)

Tracking Number: 1Z A43 F71 24 9255 345 0  
[View package progress](#)

Type: Package

Status: [Delivered](#)

Delivered On: 11/22/2019  
9:01 A.M.

Delivered To: PIPERSVILLE, PA, US

Received By: BECKER

Service: UPS Next Day Air

Tracking results provided by UPS: 11/22/2019 2:59 P.M. ET

[Printer Friendly](#)

NOTICE: UPS authorizes you to use UPS tracking systems solely to track shipments tendered by or for you to UPS for delivery and for no other purpose. Any other use of UPS tracking systems and information is strictly prohibited.

[Back to Shipping History](#)

(<https://www.campusship.ups.com/cship/create?ActionOriginPair=returntohistory> ShippingHistory)

Your package has been delivered.

To view Proof of Delivery, please select the link.

Tracking Number: 1Z A43 F71 24 9255 345 0  
 Type: Package  
 Status: [Delivered](#)  [Proof of Delivery](#)  
 Delivered On: 11/22/2019 9:01 A.M.  
 Received By: BECKER  
 Location: Office  
 Delivered To: 5382 WISMER RD  
 PIPERSVILLE, PA, US 18947  
 Shipped/Billed On: 11/21/2019  
 Service: UPS Next Day Air  
 Special Instructions: SIGNATURE REQUIRED  
 Weight: 2.00 Lbs

Package Progress

Location	Date	Local Time	Description
PIPERSVILLE, PA, US	11/22/2019	9:01 A.M.	DELIVERED
Horsham, PA, US	11/22/2019	6:47 A.M.	Out For Delivery Today
	11/22/2019	6:19 A.M.	Loaded on Delivery Vehicle
	11/22/2019	5:54 A.M.	Destination Scan
	11/22/2019	4:38 A.M.	Arrival Scan
Philadelphia, PA, US	11/22/2019	3:46 A.M.	Departure Scan
Philadelphia, PA, US	11/21/2019	9:48 P.M.	Origin Scan
	11/21/2019	7:30 P.M.	Pickup Scan
US	11/21/2019	3:09 P.M.	Order Processed: Ready for UPS

Tracking results provided by UPS: 11/22/2019 2:59 P.M. ET

[Printer Friendly](#)



# Attachment 2

CHEM FAB. INC. SITE  
REMOVAL ADMINISTRATIVE RECORD FILE \*  
INDEX OF DOCUMENTS

161690

I. FACTUAL INFORMATION/DATA

1. U.S. EPA Pollution Report #2, Chem-Fab Inc. Site,  
9/15/94. P. 100001-100001.
2. U.S. EPA Pollution Report #3, Chem-Fab Inc. Site,  
4/3/95. P. 100002-100003.
3. U.S. EPA Pollution Report #4, Chem-Fab Inc. Site,  
5/8/95. P. 100004-100004.
4. U.S. EPA Pollution Report #5, Chem-Fab Inc. Site,  
5/9/95. P. 100005-100005.

\* Administrative Record File available 2/20/98.

II. DECISION DOCUMENTS

1. Memorandum to Mr. Elliott P. Laws, U.S. EPA, from Mr. Thomas C. Voltaggio, U.S. EPA, re: Approval of a request for funds for a removal action for the Chem-Fab Corporation Drum Site, 3/28/95. P. 200001-200006.

**Docket No. CERCLA 03-2019-0111LL**

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the documents identified below were provided to the following persons:

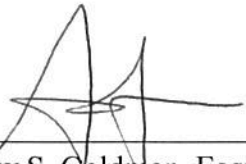
**By Certified Mail (Return Receipt Requested) and Email:**

Turog Properties, Limited  
c/o Heywood Becker  
5382 Wismer Road  
Pipersville, PA 18947

**By Hand Delivery:**

Joseph Lisa (3RC00)  
Regional Judicial Officer  
U.S. Environmental Protection Agency  
1650 Arch Street  
Philadelphia, PA 19103

<b>Documents Provided</b>	
1.	Letter from Andrew Goldman to RJO Joseph Lisa, re: "Chem Fab Superfund Site, Doylestown, Bucks County, Pennsylvania: Lien Proceeding CERC 03-2019-0111LL: Status Report by EPA" (December 26, 2019).

  
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Andrew S. Goldman, Esquire  
Sr. Assistant Regional Counsel

12/26/19  
\_\_\_\_\_  
Date