



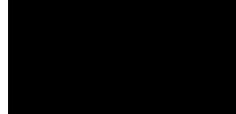
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

March 17, 2010

Via Federal Express

Recipient Name

Recipient Address



Re:

Operating Industries, Inc. Site *De minimis* Settlement Offer;
Response Due May 7, 2010

Dear Sir / Madam:

Previously, the United States Environmental Protection Agency ("U.S. EPA") sent the person or entity identified above, or a predecessor (collectively referred to in this letter as "your company or organization") a *De Minimis* Notice Letter discussing the potential liability of your company or organization for the ongoing remediation of the Operating Industries, Inc. Site ("OII Site"). Those parties who may be responsible for the waste at Superfund sites are referred to as "potentially responsible parties" or "PRPs." PRPs include individuals, businesses, governmental agencies, and other types of organizations. You may be a PRP if you are:

- 1) a current owner or operator of the OII Site;
- 2) the former owner or operator of the OII Site during the period of waste disposal;
- 3) a party that arranged for the treatment, disposal, or transportation of hazardous substances to the OII Site (a "generator"); or
- 4) a party that selected the OII Site as a place to dispose of hazardous substances and who transported these substances to the OII Site (referred to as "transporters").

The parties receiving this letter are all believed to be "generators," or the liable company associated with the generator(s) of wastes disposed at the OII Site, and therefore PRPs at the OII Site.

This letter is intended to offer your company or organization the opportunity to resolve its liability for waste that was disposed of at the OII Site. The U.S. EPA is making this offer to your company or organization on very favorable terms, due to the comparatively small quantity of waste (referred to as a “*de minimis*” quantity) it is responsible for having contributed to the OII Site.

An individual or business that resolves its Superfund liability as a *de minimis* party is not typically required to perform site cleanup. Instead, EPA typically offers *de minimis* parties the opportunity to enter into a settlement with EPA under which they pay their fair share of all cleanup costs at a site, plus a “premium” that accounts for, among other things, uncertainties associated with the costs of work to be performed in the future. In return, *de minimis* settlors receive: (1) a covenant not to sue, which is a promise that EPA will not bring any future legal action against the settling party for the specific matters addressed in the settlement; and (2) protection from contribution claims, which provides a settling party with protection from being sued in a contribution action by other responsible parties for the specific matters addressed in the settlement. (The matters addressed in a *de minimis* settlement are typically all cleanup actions and all cleanup costs at the particular site.)

The protection from contribution suits for *de minimis* settlors is based on Sections 113(f)(2) and 122(g)(5) of the Comprehensive Environmental Response, Compensation, and Liability (CERCLA) law, which provide that a person “who has resolved its liability to the United States” in an administrative or judicially approved settlement “shall not be liable for claims for contribution regarding matters addressed in the settlement.” This protection against contribution claims, however, may not extend to claims by third parties that have incurred their own response costs and seek to recover them under Section 107(a)(4)(B). See United States v. Atlantic Research Corporation, 127 S.Ct. 2331, 168 L.Ed. 2d 28 (June 11, 2007) (in certain situations, a liable party who has incurred cleanup costs at a site can sue other liable parties under CERCLA Section 107(a)(4)(B)).

If your company or organization wishes to participate in this settlement, it must ensure that the U.S. EPA receives its completed **Consent and Authorization Signature Page** (“Signature Page”) no later than **May 7, 2010**.

The settlement with your company or organization will take the form of an **Administrative Settlement Agreement and Order on Consent (“Settlement Agreement”)**, a copy of which is enclosed. Your company’s or organization’s cost to settle with the U.S. EPA will depend upon the volume of waste it sent to the OII Site for treatment or disposal. In addition, to join the settlement, your company or organization will have a choice of two settlement tiers: Tier I or Tier II. The difference between the two tiers relates to the “Covenants Not To Sue” provisions in the Settlement Agreement. These provisions are described on page 6 of the OII Site *De Minimis* Settlement Information enclosure.

The enclosed **Settlement Cost Summary** provides the volume assessment for your company or organization. The volume assessment, site costs and the settlement offer are discussed briefly below.

- The Volume Assessment. The enclosed **Manifest Summary Report** lists each waste manifest for your company or organization and the volume for each manifest. Copies of

the manifests are also enclosed. For an explanation of the Manifest Summary Report and a guide to understanding the manifest information, please review the enclosed memorandum entitled “**Operating Industries, Inc. Site Manifest and Volume Database Information.**”

- The Site Costs. Past and future total site remediation clean-up costs are provided in the enclosure entitled “**OII Total Site Remediation Costs as of 9/30/2008**”. The resulting dollar per gallon calculation for this offer is provided in the enclosure entitled “**2010 De minimis Settlement Offer**”.
- The Settlement Offer. The U.S. EPA is providing your company or organization with a settlement offer. The dollar amounts of the Tier I and Tier II settlement options are set forth in the Settlement Cost Summary. If your company or organization submits the enclosed **Signature Page** in time to be received by the U.S. EPA no later than 5:00 p.m. on Friday, **May 7, 2010**, and does not apply for a financial and/or volume review, the settlement amount will be automatically reduced by five percent (5%). For a detailed explanation of the settlement offer including the 5% discount, please review the enclosed memorandum entitled “**Operating Industries, Inc. Site De Minimis Settlement Information.**”

Companies or organizations that agree to settle in principle, but either (i) face financial hardship and/or (ii) believe their assessed volume is in error and wish to request a volume review, can submit the appropriate application(s) along with their signature page(s). Further information about both the financial review process and the volume review process is provided in the **Operating Industries, Inc. Site De Minimis Settlement Information** memorandum, and in the respective instructions and application forms.

The U.S. EPA is providing several ways for you to obtain answers to any remaining questions you may have after reviewing the enclosed information. We hope you will take advantage of these resources, which include a web site, a telephone information line, an e-mail address, and an informational meeting. A brief description of each of these sources of information is provided below.

- OII Site Web Page. If your company or organization has access to the world-wide web, it can visit the following web page for information:

<http://www.epa.gov/region09/operatingindustries>

- Telephone Information Line. If you wish to contact us by telephone, please use the following toll-free special information line:

(800) 394-0495

- E-Mail Address. E-mail provides one of the best ways to communicate with us quickly and efficiently. The e-mail address reserved for inquiries about this settlement is:

OII_De_Minimis@epa.gov

- Informational Meeting. *De minimis* parties who wish to have their questions answered in person can attend an informational meeting on **April 22, 2010**, from 6:00 p.m. to 9:00 p.m., at the **Westin Los Angeles Airport Hotel**, 5400 West Century Boulevard, Los Angeles, CA 90045.

For details about the meeting, and to learn about other information sources (including the OII Site document repositories), please see the **Operating Industries, Inc. Site De Minimis Settlement Information** memorandum.

The U.S. EPA asks that your company submit the attached “**Primary Contact Designation Form**” within 10 days of receipt of this letter, regardless of whether or not it wishes to participate in this settlement.

If your company or organization agrees to join the OII Site *de minimis* settlement, it must submit the enclosed **Signature Page**, bearing the original signature of an authorized representative of your company or organization, in time to be received by the U.S. EPA no later than 5:00 p.m. on **May 7, 2010**. No duplicates or copies sent by facsimile will be accepted. Please send your company or organization’s signature page to:

Keith Olinger (SFD-7-5)
Enforcement Officer
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, California 94105-3901

PLEASE DO NOT SEND PAYMENT AT THIS TIME. EPA will be providing payment information after the settlement agreement is final.

We look forward to receiving your company or organization’s response. If you have any questions, please contact the toll-free OII information line at (800) 394-0495. Thank you in advance for your participation.

Sincerely,



Kathleen Salyer, Assistant Director
Superfund Division
California Site Cleanup Branch

cc: Dennis Ragen, Deputy Attorney General, California DOJ – w/ Enclosures
Tedd Yargeau, Brownfields Coordinator, California DTSC – w/o Enclosures
Amy Gillespie, Assistant Attorney General, U.S. Department of Justice – w/ Enclosures
David Giannotti, Esq., OII Steering Committee – w/o Enclosures
Janet Magnuson, Assistant Regional Counsel, U.S. EPA – w/o Enclosures
Keith Olinger, Enforcement Officer, U.S. EPA – w/o Enclosures

Enclosures:

- Consent and Authorization (Signature Page) for the proposed Administrative Settlement Agreement and Order on Consent
- Proposed Administrative Settlement Agreement and Order on Consent
- Settlement Cost Summary
- Manifest Summary Report
- Manifest Copies
- Operating Industries, Inc. Site Manifest and Volume Database Information
- OII Total Site Remediation Costs as of 9/30/2008
- 2010 De Minimis Settlement Offer
- Operating Industries, Inc. Site *De Minimis* Settlement Information
- Optional Applications (includes the following forms)
 - Instructions & Application for Parties with Limited Financial Abilities
 - Instructions & Application for Parties Seeking Volume Review
 - Instructions & Application for Parties Who Disposed of Additional Contaminants
- Primary Contact Designation Form and Postage Paid Return Envelope
- List of Parties Receiving this Offer