



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 POST OFFICE SQUARE – SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

URGENT LEGAL MATTER – PROMPT REPLY NECESSARY
SENT VIA EMAIL WITH AUTOMATIC RECEIPT

Dated: *see signature*

ABB Installation Products, Inc.
c/o Peter R. Knight
Robinson & Cole LLP
280 Trumbull Street
Hartford, Connecticut 06103

Re: Notice of Potential Liability and Invitation to Perform or Finance Cleanup Activities for
the Riverside Square PCB Site in Hyde Park, Massachusetts

Dear Mr. Knight:

This letter serves to notify ABB Installation Products, Inc. of potential liability regarding the Riverside Square PCB Site (Site), as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), commonly known as the federal "Superfund" law. This letter also notifies ABB Installation Products, Inc. of planned removal activities at the Site which it is invited to perform or finance and which it may be ordered to perform at a later date.

NOTICE OF POTENTIAL LIABILITY

Under CERCLA, the U.S. Environmental Protection Agency (EPA) is responsible for responding to the release or threat of release of hazardous substances, pollutants, or contaminants into the environment, *i.e.*, for stopping further contamination from occurring and for cleaning up or otherwise addressing any contamination that has already occurred. EPA has documented that such a release has occurred at the Site, located along the northern bank of the Neponset River within the Riverside Square area in Hyde Park (Boston), Suffolk County, Massachusetts. The geographical coordinates of the estimated midpoint along the center of Riverside Square are 42° 15' 35.16" north and 71° 06' 51.72" west. The approximately 8-acre Site consists of residential areas, a commercial property, and areas created by dredge spoils that lie between the residences and the northern bank of the Neponset River.

Hazardous substances involved in the release or threat of release of hazardous substances at the Site include but are not limited to polychlorinated biphenyls (PCBs) and metals, particularly lead and chromium. EPA has spent public funds and is considering spending additional public funds to investigate and address the releases and/or threatened release(s) at the Site. Based on information presently available to EPA, EPA has determined that ABB Installation Products is

Notice of Potential Liability and Invitation to Perform or Finance Cleanup Activities

potentially liable under CERCLA for the cleanup of the Site, which it is invited to perform or finance and which it may be ordered to perform at a later date. Unless a potentially responsible party or parties commit to properly performing or financing such actions, EPA will perform these actions pursuant to Section 104 of CERCLA, 42 U.S.C. §9604.

EXPLANATION OF POTENTIAL LIABILITY

Under CERCLA, specifically Sections 106(a) and 107(a), 42 U.S.C. §§9606(a) and 9607(a), Section 7003 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6973, and other laws, potentially responsible parties (PRPs) may be required to implement cleanup actions deemed necessary by EPA to protect public health, welfare, or the environment. PRPs may also be responsible for all costs incurred by the Government in responding to any release or threatened release at the Site, unless the PRP can show divisibility or any of the other statutory defenses. Such actions and costs may include but are not limited to expenditures for investigations, planning, response, disposal, oversight, and enforcement activities.

PRPs include current and former owners and operators of a Site, as well as persons who arranged for treatment and/or disposal of any hazardous substances found at the Site, and persons who accepted hazardous substances for transport and selected the Site to which the hazardous substances were delivered.

Based on information gathered during investigations of the Site, EPA believes that ABB Installation Products is a PRP under Section 107(a) of CERCLA. Specifically, EPA has reason to believe that ABB Installation Products, or its predecessor(s) in interest, is a previous owner and/or operator of a facility(ies) at the time of disposal of hazardous substances and that such hazardous substances have impacted the Site. ABB Installation Products is urged to voluntarily perform or finance those response activities that EPA determines are necessary at the Site.

OUTLINE OF SITE RESPONSE ACTIVITIES

To date, EPA has taken the following response actions under the authority of the Superfund Program including:

- In July 2011, EPA conducted a preliminary assessment/site investigation (PA/SI) to verify MassDEP's 2010 sampling results. Thirty surface soil samples (0 to 1-foot depth) were collected from six of eight residential areas.
- In October and November 2012, EPA conducted an extent of contamination study collecting 275 soil samples from 0 to 3 feet below ground surface.
- In May and July of 2023, EPA conducted a supplemental preliminary investigation that included collecting 319 surface and subsurface soil samples from 233 soil borings from

Notice of Potential Liability and Invitation to Perform or Finance Cleanup Activities

the Site. Samples were collected from depths of 0 to 1-foot interval and 1- to 3-foot intervals.

Due to the presence of hazardous substances, EPA has determined that there is an imminent and substantial endangerment to public health, welfare, or the environment. In response, the immediate removal activities will include the following:

- Walking the site to assess layout and determine required equipment, personnel and utilities;
- Developing and implementing a site-specific health and safety plan;
- Developing and implementing a community involvement plan;
- Developing a site-specific work plan providing estimates of materials, time and costs;
- Provisioning site security as necessary based on conditions;
- Mobilizing personnel and equipment;
- Delineating work zones and decontamination area;
- Coordinating cleanup activities with MassDEP, DCR and city;
- Performing air monitoring and implementing dust control and suppression for worker protection and public health, as needed;
- Excavating and segregating soils, and potentially sediments, contaminated with PCBs and metals;
- Installing a geotextile fabric and warning barrier across excavation area;
- Developing a traffic management plan for the transportation and disposal of hazardous soils/sediments and incoming clean soil;
- Transporting and disposing contaminated soil/sediments and/or other hazardous substances, at EPA approved disposal facilities;
- Treating surface water accumulated in excavated areas if necessary;
- Decontaminating onsite larger debris, and segregating hazard-free debris;
- Removing other hazardous substances discovered;
- Characterizing post excavated areas to verify that the soil remaining meets MassDEP Standards for Soil Remediation and EPA Removal Management Levels;
- Backfilling excavated areas to grade with clean fill;
- Repairing response-related damage;
- Demobilizing resources; and
- Referring Site to MassDEP for any long-term measures that may be required to address remaining risks, including post-removal site controls.

INVITATION TO PERFORM SITE RESPONSE ACTIVITIES

Before EPA spends public funds to undertake the removal action at the Site, EPA urges ABB Installation Products to participate in removal activities or finance all the removal activities outlined above. Any such work performed by ABB Installation Products in its capacity as a PRP may be conducted pursuant to an administrative order and an EPA-approved workplan as authorized by Section 106(a) of CERCLA, 42 U.S.C. § 9606(a). Prior to final issuance of such an order, a draft order would be sent to ABB Installation Products or its representative for review and comment. Enclosed is a copy of a summary of a generic Scope of Work. This document should provide an understanding of the types of plans and activities typically required by such an Order.

Be advised that even if ABB Installation Products does not indicate a willingness to perform or finance necessary response actions, EPA explicitly reserves any rights it may have to order ABB Installation Products to undertake such actions under Section 106 of CERCLA, 42 U.S.C. § 9606. Failure to comply with a Section 106(a) administrative order may result in a fine of up to \$69,733 per day under Section 106(b) or imposition of treble damages under Section 107(c) (3) of CERCLA. Further, ABB Installation Products may be held liable under Section 107(a) for the cost of the response activities EPA performs at the Site and for any damages to natural resources. In addition, by virtue of Section 113 of CERCLA, 42 U.S.C. § 9613, other PRPs who agree to perform the necessary response action may seek contribution protection.

FINANCIAL CONCERNS/ABILITY TO PAY SETTLEMENTS

EPA is aware that the financial ability of some PRPs to contribute toward the payment of response costs at a Site may be substantially limited. If you believe, and can document, that ABB Installation Products falls within that category, please contact Stacy Greendlinger, Enforcement Coordinator, listed below for information on "Ability to Pay Settlements." In response, you will receive a package of information about the potential for such settlements. You will be asked to fill out form(s) pertaining to ABB Installation Products' finances and to submit financial records including business federal income tax returns.

Also, please note that, because EPA has a potential claim against ABB Installation Products, EPA must be included as a creditor if ABB Installation Products files for bankruptcy.

In addition, some or all the costs associated with this notice may be covered by current or past insurance policies issued to ABB Installation Products. Most insurance policies will require timely notification to the carrier(s) of a claim against ABB Installation Products. To evaluate whether you should notify ABB Installation Products' insurance carrier(s) of this demand, you may wish to review current and past policies, beginning with the date of ABB Installation Products' first contact with the Riverside Square PCB Site, up to the present. Coverage depends on many factors, such as the language of the particular policy and state law.

PRP RESPONSE AND EPA CONTACT

You should contact EPA within **ten (10) days** after receipt of this letter to indicate ABB Installation Products' willingness to perform or finance the response activities outlined above. If EPA does not receive a response within that time, EPA will assume that ABB Installation Products does not wish to negotiate a resolution of its liabilities in connection with the response and that it has declined any involvement in performing response activities. Be advised, however, that liability under CERCLA is joint and several; therefore, each PRP is potentially liable for undertaking all response actions or reimbursing the Government for the entire amount of its response costs.

Please provide the name, address, and telephone number of a designated contact for future communications. Your written response, including any technical comments or questions concerning the proposed response activities, should be directed to the EPA Enforcement Coordinator Stacy Greendlinger via email at greendlinger.stacy@epa.gov.

Legal questions and all communications from counsel should be directed to Michelle Lauterback, Senior Enforcement Counsel at 617-918-1774 or via email at lauterback.michelle@epa.gov or alternatively to Joy Sun, Senior Enforcement Counsel at 617-918-1018 or via email at sun.joy@epa.gov.

DECISION NOT TO USE SPECIAL NOTICE

Under Section 122(e) of CERCLA, 42 U.S.C. § 9622(e), EPA has the discretionary authority to invoke special notice procedures to formally negotiate the terms of an agreement between EPA and the PRPs to conduct or finance response activities. The use of special notice procedures triggers a moratorium on certain EPA activities at the Site while formal negotiations between EPA and the PRPs are conducted.

Due to the exigencies posed by conditions present at the Site, removal activities must be conducted as expeditiously as possible. EPA has therefore decided not to invoke the Section 122(e) special notice procedures with respect to CERCLA removal actions at this Site. Nonetheless, EPA is willing to discuss settlement opportunities without invoking a moratorium, but will continue the response action as planned unless such discussions lead expeditiously to a settlement.

INFORMATION TO ASSIST YOU

EPA would like to encourage communication between ABB Installation Products, other PRPs, and EPA concerning the Site. *Notices of Potential Liability and Invitations to Perform or Finance Proposed Cleanup Activities* have also been sent to representatives of the Massachusetts Department of Conservation and Recreation, Archer Well Company, Inc., and Siemens Industry, Inc.

Notice of Potential Liability and Invitation to Perform or Finance Cleanup Activities

Specifically, to:

Massachusetts Department of Conservation and Recreation

Laura Dietz
Deputy General Counsel
Massachusetts Department of Conservation and Recreation
10 Park Plaza, Suite 6620
Boston, Massachusetts 02116
857-406-2648
laura.dietz@mass.gov

Archer Well Company, Inc.

Adam Todd
General Counsel
Archer Well Company
5510 Clara Road
Houston, Texas 77041
281-301-2600
713-856-4222
Adam.todd@archerwell.com

Marc J. Goldstein, Esq.
Beveridge & Diamond, P.C.
155 Federal Street, Suite 1600
Boston, Massachusetts 02110
(617) 419-2300
mgoldstein@bdlaw.com

Siemens Industry, Inc.

Siemens Industry, Inc.
c/o Orlyn O. Lockard
Deputy General Counsel
Siemens Corporation
4800 North Point Parkway
Alpharetta, Georgia 30022
skip.lockard@siemens.com

Notice of Potential Liability and Invitation to Perform or Finance Cleanup Activities

Siemens Industry, Inc.
c/o Frank J. Nuzzi
Principal Counsel – IP Litigation & Disputes
Siemens Corporation
170 Wood Avenue South
Iselin, New Jersey 08830
(732) 321-3002
Frank.nuzzi@siemens.com

Marc J. Goldstein, Esq.
Beveridge & Diamond, P.C.
155 Federal Street, Suite 1600
Boston, MA 02110
(617) 419-2300
mgoldstein@bdlaw.com

You or your attorney may wish to discuss the matters set forth in this letter with such parties or their attorneys.

ADMINISTRATIVE RECORD

Pursuant to Section 113(k) of CERCLA, 42 U.S.C. § 9613(k), EPA will establish an administrative record containing documents that serve as the basis of EPA's decision on the selection of a cleanup action for the Site. The Administrative Record files may be inspected, and comments may be submitted by contacting the EPA On-Scene Coordinator Athanasios (Tom) Hatzopoulos via email at Hatzopoulos.Athanasios@epa.gov.

The Administrative Record Files with corresponding index should be available for inspection at a repository near the Site within sixty (60) days of initiation of on-site removal activities, as well as the Superfund Records Center, U.S. EPA, 5 Post Office Square, Suite 100, Boston, MA 02110-3912, (617) 918-1440.

SITE ACTIVITY OUTSIDE EPA ACTIONS

If you are already involved in discussions with state or other local authorities or involved in a lawsuit regarding this Site, you should continue such activities as you see fit. This letter is not intended to advise or direct ABB Installation Products to restrict or discontinue any such activities. However, ABB Installation Products is advised to report the status of any such discussions or actions in its response to this letter and to provide a copy of its response to any other parties involved in those discussions or actions.

RESOURCES AND INFORMATION FOR SMALL BUSINESSES

On January 11, 2002, the Superfund Small Business Liability Relief and Brownfields Revitalization Act was enacted. This Act contains several exemptions and defenses to CERCLA liability, which we suggest that all parties evaluate. You may download a copy of the law from www.epa.gov/brownfields/laws-and-regulations#Small and review EPA guidance regarding these exemptions at <https://www.epa.gov/enforcement/defenses-and-exemptions-superfund-liability>.

EPA has created a number of helpful resources for small businesses. EPA has established the National Compliance Assistance Clearinghouse as well as Compliance Assistance Centers which offer various forms of resources to small businesses. You may inquire about these resources at www.epa.gov. In addition, the EPA Small Business Ombudsman may be contacted at www.epa.gov/resources-small-businesses/asbestos-and-small-business-ombudsman. Finally, EPA developed a fact sheet about the Small Business Regulatory Enforcement Fairness Act and information on resources for small businesses; it is available on the agency's website at <http://www.epa.gov/compliance/small-business-resources-information-sheet>.

PURPOSE AND USE OF THIS NOTICE

The factual and legal discussions contained in this letter are intended solely to provide notice and information. Such discussions are not intended to be, and cannot be, relied upon as EPA's final position on any matter set forth herein.

Please give these matters your immediate attention and consider consulting with an attorney. If you have any questions regarding this letter, please contact Michelle Lauterback at 617-918-1774 or Joy Sun at 617-918-1018.

By copy of this letter, EPA is notifying the Commonwealth of Massachusetts and the Natural Resources Trustees of EPA's intent to perform, or to enter into negotiations for the performance or financing of, response actions at the Site.

Thank you for your attention to this matter.

Sincerely,

BRYAN OLSON
Digitally signed by BRYAN OLSON
Date: 2024.07.26 14:36:22 -04'00'

Bryan Olson, Director
Superfund and Emergency Management Division

Enclosure

Notice of Potential Liability and Invitation to Perform or Finance Cleanup Activities

cc: Keith Knauerhase, ABB Installation Products
Jennifer McWeeney, MassDEP
Andrew Raddant, Regional Environmental Officer - U.S. DOI
Gwendolyn McCarthy, National Oceanic & Atmospheric Administration
Athanasios (Tom) Hatzopoulos, EPA On-Scene Coordinator
Emma Dixon, EPA On-Scene Coordinator
Stacy Greendlinger, EPA Enforcement Coordinator
Michelle Lauterback, EPA Senior Enforcement Counsel
EPA Region 1 Superfund Records Center
Natividad Figueroa, EPA Information Coordinator
Jonathan Onufryk, EPA Information Coordinator

SUMMARY OF GENERIC SCOPE OF WORK

This summary of the Generic Scope of Work is provided for informational purposes only. More detailed provisions will be set forth in the site-specific Scope of Work. Provisions may vary from site to site.

When EPA determines that a Potentially Responsible Party (PRP) has the ability to promptly and properly prevent, mitigate, or eliminate the threats posed by hazardous substances at the Site, EPA may issue an Administrative Order (Order) to such party (the Respondent) with an attached Scope of Work (SOW). The Order and SOW, among other things, compel the Respondent to develop a plan to clean up the Site. The components of the plan (also called a "deliverable") must be submitted to EPA for approval before implementation. Detailed instructions for generating each component shall be provided in the SOW. The plan shall consist of the components listed below.

1) **Site Security** - The Respondent shall provide on-site security service. Site security shall be maintained until EPA determines the threats posed by conditions at the Site are eliminated or substantially mitigated.

2) **Notification of Contractor Selection** - The Respondent shall notify EPA of the proposed cleanup contractor selected to perform work required under the Order.

3) **Site-Specific Health and Safety Plan (HASP)** - The Respondent shall develop and implement a HASP for all activities to be conducted at the Site. The HASP shall be developed to protect all on-site personnel and must comply with all applicable health and safety regulations.

4) **Quality Assurance Plan (QAP)** - The Respondent shall develop a QAP to be utilized in conducting all field and laboratory analysis. The QAP shall ensure that analytical results generated are of known quality.

5) **Site Assessment Plan (SAP)** - The Respondent shall develop a SAP specifying the overall strategy of the field investigative work necessary to characterize site contamination.

6) **Site Assessment** - A Site Assessment shall be conducted following EPA approval of the SAP.

7) **Site Assessment Report and Cleanup Plan (SAR/CP)** - Following completion of the Site Assessment, the Respondent shall develop a SAR/CP that summarizes the Site Assessment and proposes cleanup methods necessary to substantially mitigate and/or eliminate the threats posed by hazardous substances present at the Site.

8) **Site Cleanup** - The Site Cleanup shall be conducted according to the EPA approved Cleanup Plan.

9) **Completion of Work Report (CWR)** - Upon completion of the Site Cleanup, the Respondent shall submit a CWR summarizing the work performed under the Order and SOW and outlining any remaining contamination.

At any time prior to or after the completion of the work specified in this SOW, EPA may determine that additional tasks are necessary in order to achieve the objectives of the Order, the SOW and CERCLA.