

7.1.29

**Olin** CHEMICALS

P.O. BOX 248, CHARLESTON, TN 37310  
(615) 336-4000

March 8, 1988

Lynne Fratus  
Rhode Island Superfund Section  
U. S. Environmental Protection Agency  
Region I  
John F. Kennedy Federal Building  
(Mail Code HSV CAN3)  
Boston, Massachusetts 02203-2211

Re: Your Letter of 12/8/87  
Waste Disposal from Underground Tank Cleanout  
Western Sand and Gravel Site  
Burrillville, Rhode Island

Dear Ms. Fratus:

First, I apologize for the time it has taken to gather the information you requested. But we finally have it all together. Attached are:

1. Certificate of Destruction and manifests for the liquids from the underground tank.
2. An Olin form, CSD-WO1, describing the liquid waste characteristics.
3. Certificate of Disposal and manifests for the drums and refuse from the clean-out operations.
4. An Olin form, CSD-WO1, describing the solid waste characteristics.
5. A legal memorandum provided by Chemical Waste Management on which they based their qualifications to receive this waste (see p. 9).

**Waste Shipment from Western Sand and Gravel**

The following wastes were shipped from the Western Sand and Gravel Site to Clean Harbors, Braintree, Massachusetts on October 28, 1987:

- Approximately 5000 gallons of liquids in a vacuum tanker truck (contents of 82 drums)
- Nineteen 55-gallon drums containing liquids
- Nine 55-gallon drums containing potentially contaminated solids
- Eighty-two empty 55-gallon drums

O L I N C O R P O R A T I O N

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WESTERN SAND AND GRAVEL  
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WSG 008

1119 F

Lynne Fratus  
March 8, 1988  
Page 2

- One empty overpack drum used to overpack a leaking drum; the leak was confined to the top of the drum

**Liquids Disposal**

At Clean Harbors, the contents of the nineteen 55-gallon drums were combined with liquids from the vacuum tanker truck. All liquids were shipped to the SCA incinerator, arriving on November 2, 1987. They were incinerated on November 11, 1987.

**Solids Disposal**

The solids consisted of:

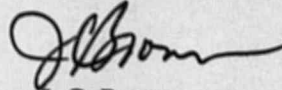
- Nine 55-gallon drums (DOT Type "H") containing potentially contaminated overalls, gloves, polyethylene sheeting, plastic hose, rags, paper and other miscellaneous solids generated by the tank cleanout;
- 101 empty 55-gallon metal drums used to store the liquids onsite; and
- One overpack drum

These solids were shipped from Clean Harbors on November 3, 1987 and received at Model Cities on November 4, 1987. They were landfilled on November 4, 1987. The date of January 18, 1988 on the certification is the date the certification was prepared, not the date of disposal.

Please let me know if you have any questions.

Sincerely,

OLIN CORPORATION



J. C. Brown  
Manager, Environmental Affairs

jmm  
Enclosures

cc: A. M. Carnam  
Felix Harvey  
R. D. McCaleb  
V. M. Norwood

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**WSG 008**

1121

ATTACHMENTS RE LIQUIDS



COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF ENVIRONMENTAL QUALITY ENGINEERING  
DIVISION OF SOLID AND HAZARDOUS WASTE  
One Winter Street  
Boston, Massachusetts 02108

20259

JOB# R2549

Please print or type. (Form designed for use on site (12-pitch) typewriter.)

UNIFORM HAZARDOUS WASTE MANIFEST		Generator US EPA ID No. RIIP000005044	Manifest Document No.	2 Page 1 of 1	Information in the shaded areas is not required by Federal law		
3. Generator's Name and Mailing Address Olin Corp. P.O. Box 248 Lower River Rd. Charlestown, TN, 37310		6. US EPA ID Number MA D 0 3 9 3 2 2 2 5 0		A. State Manifest Document Number MA C 329801		B. State Gen. ID Rt 27	
4. Generator's Phone 615-336-4073		7. Transporter 1 Company Name Clean Harbors of Kingston		C. State Trans. ID MA 16662		D. Transporter's Phone 617-585-5111	
5. Transporter 2 Company Name		8. US EPA ID Number		E. State Trans. ID		F. Transporter's Phone	
9. Designated Facility Name and Site Address Clean Harbors of Braintree 385 Quincy Avenue Braintree, MA 02184		10. US EPA ID Number MA D 0 5 3 4 5 2 6 3 7		G. State Facility's ID Not Required		H. Facility's Phone 617-849-1800	
11. US DOT Description (including Proper Shipping Name, Hazard Class, and ID Number)			12. Containers	13. Total Quantity	14. Unit Wt/Vol	1. Waste No.	
a. Hazardous Waste Liquid N.O.S. ORM-E NA-9189 (M002) F002, F003, F005, D001			No. Type			i. 01 01 2	
J. Additional Descriptions for Materials Listed Above (include physical state and hazard code.)			K. Handling Codes for Wastes Listed Above				
a. PCB Liquid 73 PPM			a. S I C K c.				
b.			b. d.				
1b. Special Handling Instructions and Additional Information							
16. GENERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national government regulations.							
If I am a large quantity generator, I certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and that I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment. OR, if I am a small quantity generator, I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford.							
17. Transporter 1 Acknowledgment of Receipt of Materials			Signature Robert D. McCall		Date 1/12/87		
Printed/Typed Name Robert D. McCall			Signature Rex A. Ridge		Date 1/12/87		
18. Transporter 2 Acknowledgment of Receipt of Materials			Signature		Date		
Printed/Typed Name			Signature		Date		
19. Discrepancy Indication Space							
20. Facility Owner or Operator: Certification of receipt of hazardous materials covered by this manifest except as noted in Item 19.							
Printed/Typed Name WADE HUBER			Signature		Date 1/12/87		

Form Approved OMB No. 2050-0038, Expires 9-30-88  
EPA Form 8700-22 (Rev. 9-86) Previous editions are obsolete.

COPY>4: TSDf-RETAINED BY TSDf

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WSG 008

1122

MA C329801 COPY>4: TSDf-RETAINED BY TSDf

GENERATOR

TRANSPORTER

FACILITY

DATE

**UNIFORM HAZARDOUS WASTE MANIFEST**

1. Generator's US EPA ID No. **MAD053452637**

Manifest Document No. **28359**

2. Page 1 of 1

Information in the shaded areas is not required by Federal law, but is required by Illinois law.

3. Generator's Name and Mailing Address

**Clean Harbors of Braintree, 385 Quincy Ave., Braintree, MA 02184**

4. Generator's Phone **617-849-1807**

5. Transporter 1 Company Name

**Clean Harbors of Kingston**

6. US EPA ID Number

**MAD039322250**

7. Transporter 2 Company Name

8. US EPA ID Number

9. Designated Facility Name and Site Address

**SCA Chemical Services Inc., 11700 So. Stony-Island Ave, Chicago, Il.**

10. US EPA ID Number **ILD000672121**

11. US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number)

**RQ Waste Hazardous Substance, Liquid, NOS (Polychlorinated Biphenyls) NA9188**

12. Containers No. **01** Type **TT**

13. Total Quantity **5300**

14. Unit **5650**

J. Additional Descriptions for Materials Listed Above

**water with PCB contamination**

**PH=7 SG=0.985 Flash=>140°C PCB=>50ppm**

K. Handling Codes for Wastes Listed Above in Item # 14

**1 = Gallons 2 = Cubic Yards**

15. Special Handling Instructions and Additional Information

**SCA CH code E68420 W.O.#28359 Clean Harbors code DH Accum. Date 10/31/87**

16. GENERATOR'S CERTIFICATION. I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national government regulations.

If I am a large quantity generator, I certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and that I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment. OR, if I am a small quantity generator, I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford.

Printed/Typed Name

**John McNamara**

Signature

*John McNamara*

Date

**10 31 87**

17. Transporter 1 Acknowledgement of Receipt of Materials

Printed/Typed Name

**Edward J. Hill**

Signature

*Edward J. Hill*

Date

**10 31 87**

18. Transporter 2 Acknowledgement of Receipt of Materials

Printed/Typed Name

Signature

Date

19. Discrepancy Indication Space

20. Facility Owner or Operator: Certification of receipt of hazardous materials covered by this manifest except as noted in item 19.

Printed/Typed Name

**DARLENE J. CROOK**

Signature

*Darlene J. Crook*

Date

**11 02 87**

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MSG 008

1123

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EPA ID #ILD000672121  
ILL. ID #0316000058

NO 011930

11933  
Certificate No.



## Certificate of Destruction

SCA Chemical Services Inc. has incinerated waste received from Clean Harbors of Braintree Inc. as identified in hazardous Waste Manifest # IL1847705 at it's Chicago Incineration facility and hereby certifies such destruction as of this 11th day of November 1987.

Generator Clean Harbors of Braintree, Inc.  
Address 385 Quincy Ave.  
Braintree, Ma. 02184

*[Signature]*  
Title Operations Coordinator

WESTERN SAND AND GRAVEL  
ADMINISTRATIVE RECORD

MSG 008

1124

**Olin** CHEMICALS  
WASTE INFORMATION FORM

CONTRACT SERVICES USE ONLY  
Exhibit # H-01 Page 1 of 4  
Contract # CS-CA-03015  
Date 10/29/87  
Contractor Clean Hacks  
Waste Code N/A

GENERAL INFORMATION: Date Sept 29, 1987 Olin Control No. RDM001  
Generating Facility Western Sand and Gravel Site EPA I.D. No. RIPC00005044  
Address Route 7 (Douglas Pike) Nashville, RI 02830 Contact Robert D. McCall  
Generating Process CEMEX site (pumping of wastewater) Phone 615/336-4173 401/563-9150  
Waste Name Western Sand and Gravel Underground Storage Tank Contents  
EPA or State Waste Code F002, F003, F005, D001

WASTE CATEGORY:  Organic  Inorganic  Pesticide  Halogenated  
(Use most descriptive combination)  Sulfonated  Organophosphate  Carbamate  Land Ban Restricted  
 Acid  Alkali  Cyanide  Precious Metal Bearing  Wastewater  
 Radioactive  Etiological  Solvent  Ground

PHYSICAL CHARACTERISTICS: Color whitish-yellow Odor Strong solvent Free Liquid 95 % + pH 4-7  
Specific Gravity Approx 0.8-1.0 Heating Value < 2000 Btu/lb Vapor Pressure Not known Viscosity of water approx 10cp  
Physical State Solid at 70°C Ash Content See attach 2  
Flashpoint 76 °F  Open Cup  Closed Cup  of oil/solvent layer only  
Layers:  No layering  Multi-layered  Bi-layered  Single

CHEMICAL COMPOSITION:  Analysis  History  Estimate METALS:  Total (ppm)  EP Extract (mg/l)  
See attachments land 2  
Arsenic \_\_\_\_\_ Lead \_\_\_\_\_  
Barium \_\_\_\_\_ Mercury \_\_\_\_\_  
Cadmium \_\_\_\_\_ Selenium \_\_\_\_\_  
Chromium \_\_\_\_\_ Silver \_\_\_\_\_  
OTHER COMPONENTS-TOTAL (ppm)  
Copper \_\_\_\_\_ Cyanides \_\_\_\_\_  
Nickel \_\_\_\_\_ Sulfides \_\_\_\_\_  
Zinc \_\_\_\_\_ Phenolics \_\_\_\_\_  
Thallium \_\_\_\_\_ PCBs 50 ppm oil/solvent layer  
TCLP Analysis  Yes  No  Attached

HAZARDOUS CHARACTERISTICS:

REACTIVITY:  None  Pyrophoric  Shock Sensitive  
 Explosive  Water Reactive  Other  
TOXICITY:  None  Irritant  Low  Moderate  High

HAZARD RATING

Flammability 2  
Health 1 Reactivity 0  
Special Instructions

DISPOSAL/SHIPPING INFORMATION:

Disposal Method Incineration Material is exempt from land ban restrictions under 40CFR 268.30(a)(2) Incineration at EPA Cleburn, China, etc.  
DOT Proper Shipping Name "RG" Hazardous Waste liquid n.o.s. ORM-E, NA-9189 (PCB, F002, F003, F005, D001)  
UN-NA NA-9189 (PCB) DOT Hazard Class ORM-E  
Packaging:  Bulk  Drums (Metal)  Drums (Fiber)  Other Size 55 gallon  
Special Handling Instructions Quantity of 101 drums 55 gallon use type "E" closed top  
Expected Quantity 5000-5500 gallons  Annually  Quarterly  Monthly  Weekly  One time

CERTIFICATION:

I hereby certify that all information submitted above and attached is complete and accurate, and that all known or suspected hazards have been disclosed.

Authorized Signature Robert D. McCall  
Title Environmental Specialist Date 9/29/87

APPROVALS:

Prepared by Robert D. McCall Date 9/29/87  
Local Disposal Approved by Robert D. McCall Date 9/29/87  
 Additional Information Attached  MSDS Attached  
Form CSD-WO1 Revised 5/87

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WSG 008

1125

ATTACHMENT I  
 ANALYSIS OF WASTE OIL (OIL/SOLVENT LAYER ONLY)  
 FROM UNDERGROUND STORAGE TANK  
 DECEMBER 1982

PARAMETER	RESULTS
pH	5.7
Specific Gravity @ 60°F	0.872
Flash Point	76°F
Water Point	0.5%
BTU Content	18,500/lb
Sulfur	0.31%
<b>Metals (total):</b>	
Barium	<6.0 ppm
Cadmium	<0.15 ppm
Chromium (total)	8.49 ppm
Lead	1.76 ppm
Polychlorinated Biphenyls (PCBs)	73 ppm
Pesticides	ND
<b>Volatile Organic Compounds:</b>	
Methylene Chloride	140 ppm
1,1,-Dichloroethane	20 ppm
Trans-1,2-Dichloroethylene	15 ppm
Chloroform	120 ppm
1,1,1-Trichloroethane	4,900 ppm
Trichloroethylene	4,100 ppm
Tetrachloroethylene	3,800 ppm
Chlorobenzene	25,500 ppm
Benzene	400 ppm
Toluene	153,000 ppm
Ethylbenzene	20,300 ppm
Xylenes	78,400 ppm

Source: Environmental Resource Associates  
 Analysis by Ri Analytical

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**WSG 008**

1126



ATTACHMENT 2

The results of the analysis are listed below:

PARAMETER	RESULT
Arsenic	<1.5
Beryllium	<0.3
Cadmium	<0.3
Chromium	<3.0
Copper	2.0
Lead	<1.5
Mercury	<3.0
Molybdenum	<0.5
Nickel	<0.5
Zinc	1.7
BTU/lb.	<2000
Ash, %	<0.2
Scrub, gCl/g	<0.02
PCBs (oil)	58
(water)	<10

All results are expressed as mg/kg unless otherwise stated.

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ADMINISTRATIVE RECORD

WSG 008

1127

ATTACHMENT 3

NOTE 1

While originally in the underground storage tank the waste consisted of 250 to 1000 gallons of waste oil/solvent floating on top of 4000 to 5000 gallons of contaminated groundwater. Additionally, less than 0.25 cubic yards (estimate) of silt appeared to be on the bottom of the tank. Less than 0.25 cubic yards (estimate) of a semi-solid gelatinous material floated at the oil-groundwater interface.

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WSG 008

1128

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**WSG 008**

1129

ATTACHMENTS RE SOLIDS



COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF ENVIRONMENTAL QUALITY ENGINEERING  
DIVISION OF SOLID AND HAZARDOUS WASTE  
One Winter Street  
Boston, Massachusetts 02108 **R2549**

Print or type. (Form designed for use on elite (12-pitch) typewriter.)

<b>UNIFORM HAZARDOUS WASTE MANIFEST</b>		1. Generator US EPA ID No. <b>RI010000050414</b>	Manifest Document No.	2. Page 1 of 1	Information in the shaded areas is not required by Federal law.
3. Generator's Name and Mailing Address <b>UNION... TN</b>					
4. Generator's Phone <b>615-336-4073</b>					
5. Transporter 1 Company Name <b>CLAN HARDSHIP</b>		6. Transporter 1 US EPA ID Number <b>MA05373321</b>		7. Transporter 2 Company Name	
7. Transporter 2 Company Name		8. Transporter 2 US EPA ID Number		9. Designated Facility Name and Site Address <b>CLEAN HARBORS OF BRATTLE LLC 370 QUINCY ST BRATTLE MA 02128</b>	
9. Designated Facility Name and Site Address		10. Designated Facility US EPA ID Number <b>MA053452637</b>		11. US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number)	
a. <b>HAZARDOUS WASTE SOLID NOS. ORM-L NA4189 (H000)</b>		12. Containers No.	Type	13. Total Quantity	14. Unit Wt/Vol
b. <b>HAZARDOUS WASTE LIQUID NOS. ORM-L NA4189 (H000)</b>				<b>0091DM04000 P</b>	
c.				<b>0119DM10000 P</b>	
d.					
15. Special Handling Instructions and Additional Information <b>33 empty Drums</b>					
16. GENERATOR'S CERTIFICATION: I hereby declare that the contents of this assignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national government regulations.  If I am a large quantity generator, I certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and that I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment; OR, if I am a small quantity generator, I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford.					
Printed/Typed Name <b>Robert D McCaleb</b>		Signature <i>[Signature]</i>		Date <b>1/13/87</b>	
17. Transporter 1 Acknowledgement of Receipt of Materials Printed/Typed Name <b>CLAN J...</b>		Signature <i>[Signature]</i>		Date <b>1/13/87</b>	
18. Transporter 2 Acknowledgement of Receipt of Materials Printed/Typed Name		Signature		Date	
19. Discrepancy Indication Space					
20. Facility Owner or Operator: Certification of receipt of hazardous materials covered by this manifest except as noted in Item 19.					
Printed/Typed Name		Signature		Date Month Day Year	

In case of emergency or spill, immediately call the National Response Center (800) 424-8802.

TRANSFERRING FACILITY

Form Approved OMB No. 2050-0038, Expires 9-30-88  
EPA Form 8700-22 (Rev. 9-86) Previous editions are obsolete.

**COPY > 8: HEP GENERATOR-RETAINED BY GENERATOR**

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MA C 329908 COPY > 8: GENERATOR-RETAINED BY GENERATOR

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**1130**



Please print or type.

STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
DIVISION OF SOLID AND HAZARDOUS WASTE  
HAZARDOUS WASTE MANIFEST  
P.O. Box 12820, Albany, New York 12212

RECEIVED  
JAN 26 1988  
Form Approved. OMB No. 2000-0404. Expires 7-31-86

In case of emergency or spill immediately call the National Response Center (800) 424-8802 and the N.Y. Department of Transportation (518) 457-7362.

<b>UNIFORM HAZARDOUS WASTE MANIFEST</b>		1. Generator's US EPA No. M A D 0 5 3 4 5 2 6 3 7 2 8 3 9 6		Manifest Document No. 1	2. Page Information in the shaded areas is not required by Federal Law.	
3. Generator's Name and Mailing Address Clean Harbors of Braintree Inc., 385 Quincy Av. Braintree, Ma. 02184				A. State Manifest Document No. NY A 333987-6		
4. Generator's Phone (617) 849-1807				B. Generator's ID Same		
5. Transporter 1 (Company Name) Clean harbors of Kingston Inc.		6. US EPA ID Number M A D 0 3 9 3 2 2 2 5 0		C. State Transporter's ID 11111111		
7. Transporter 2 (Company Name)		8. US EPA ID Number		D. Transporter's Phone (617) 505-6211		
9. Designated Facility Name and Site Address SCA Chemical Services Inc., 1550 Balmer Rd. Model City, NY 14107				E. State Facility's ID 11111111		
10. US EPA ID Number N Y D 0 4 9 8 3 6 6 7 9				F. Transporter's Phone 716 754-8221		
11. US DOT Description (Including Proper Shipping Name, Hazard Class and ID Number) a. (RQ) Waste Hazardous Substance, Solid N.O.S. (RM-E) Polychlorinated Biphenyls NA 9188		12. Containers No. Type 0 0 1 C M	13. Total Quantity 2 2 0 0 0	14. Unit P	15. Special Handling Instructions and Additional Information SCA-MC Code E58844 W.O.#. 123278 Accum. Date 11/2/87 Roll Off # 47 All Wgts. Esty.	
b.						
c.						
d.						
J. Additional Descriptions for Materials listed Above PCB Contaminated Debris				K. Handling Codes for Wastes Listed Above		
15. Special Handling Instructions and Additional Information SCA-MC Code E58844 W.O.#. 123278				Accum. Date 11/2/87 Roll Off # 47 All Wgts. Esty.		
16. GENERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway.						
17. Transporter 1 (Acknowledgement of Receipt of Materials) Printed/Typed Name: William J. Gilroy Signature: [Signature] Mo. Day Year: 1 1 0 3 8 7						
18. Transporter 2 (Acknowledgement or Receipt of Materials) Printed/Typed Name: Bill Poland Signature: [Signature] Mo. Day Year: 1 1 0 3 8 7						
19. Discrepancy Indication Space						
20. Facility Owner or Operator: Certification of receipt of hazardous materials covered by this manifest except as noted in item 19. Printed/Typed Name: Lynn Piechowski Signature: [Signature] Mo. Day Year: 1 1 0 4 8 7						

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WSG 008

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1132

EPA ID# NYD049836679



No 245

## Certificate of Disposal

SCA Chemical Services Inc., Model City, New York, has landfilled waste received from Clean Harbors

identified on hazardous Waste Manifest# NYA 3339876

as CWM Profile# E-58844 and hereby certifies

such disposal as of this 18th day of January, 1988

Generator Clean Harbors By Pam Cook

Address \_\_\_\_\_ Title Customer Service Representative

Contact Angela Taglieri

01/18/88 15:27 P. 3

FROM CHEM WASTE

**Olin** CHEMICALS  
WASTE INFORMATION FORM


Exhibit # A-02 Page 1 of 1  
Contract # CS-CA-03033  
Date 10/24/87  
Contractor Clean Hacks  
Waste Code NA

GENERAL INFORMATION: Date Sept 29, 1987 Olin Control No. RDM 002  
Generating Facility Western Sand and Gravel Site EPA I.D. No. RIP000005044  
Address Route 7 (Douglas Pike) Narragansett, RI 02880 Contact Robert D. McCalb  
Generating Process CERCLA Site (tank close-out) Phone 615/336-4073 or 401/568-9150  
Waste Name Contaminated solids generated during Western Sand and Gravel Underground Tank Close-out  
EPA or State Waste Code F002, F003, F005

WASTE CATEGORY:  Organic  Inorganic  Pesticide  Halogenated  
(Use most descriptive combination)  Sulfonated  Organophosphate  Carbamate  Land Ban Restricted  
 Acid  Alkali  Cyanide  Precious Metal Bearing  Wastewater  
 Radioactive  Etiological  Solvent

PHYSICAL CHARACTERISTICS: Color NA Odor Minor solvent Free Liquid < 5 % pH NA  
Specific Gravity Not known Heating Value Not known Vapor Pressure NA Viscosity NA  
Physical State Solids (70°C) Ash Content Not known  
Flashpoint NA °F  Open Cup  Closed Cup  
Layers:  No layering  Multi-layered  Bi-layered  Single NA

CHEMICAL COMPOSITION:  Analysis  History  Estimate METALS:  Total (ppm)  EP Extract (mg/l)  
Articles, equipment, and clothing contaminated with PCBs. (< 50ppm - PCB) Arsenic \_\_\_\_\_ Lead \_\_\_\_\_  
PCB contaminated solids, debris, safety gear, plastic hose, polyethylene sheeting, etc. (< 1% - solvent) Barium \_\_\_\_\_ Mercury \_\_\_\_\_  
Cadmium \_\_\_\_\_ Selenium \_\_\_\_\_  
Chromium \_\_\_\_\_ Silver \_\_\_\_\_  
OTHER COMPONENTS-TOTAL (ppm)  
Copper \_\_\_\_\_ Cyanides \_\_\_\_\_  
Nickel \_\_\_\_\_ Sulfides \_\_\_\_\_  
Zinc \_\_\_\_\_ Phenolics \_\_\_\_\_  
Thallium \_\_\_\_\_ PCBs Yes  
TCLP Analysis  Yes  No  Attached

HAZARDOUS CHARACTERISTICS: HAZARD RATING  
Flammability  
REACTIVITY:  None  Pyrophoric  Shock Sensitive  
 Explosive  Water Reactive  Other  
TOXICITY:  None  Irritant  Low  Moderate  High  
Health  Reactivity  
Special Instructions

DISPOSAL/SHIPPING INFORMATION:  
Disposal Method Landfill Material is exempt from land ban restrictions under 40 CFR 261.30(a)(2) Landfill at SEA Chatham, Mass City, MA  
DOT Proper Shipping Name "RM" Hazardous Waste Solids, n.e.s., ORM-E, NA-9109 (PCB)  
UN-NA NA-9109 (PCB) DOT Hazard Class ORM  
Packaging:  Bulk  Drums (Metal)  Drums (Fiber)  Other \_\_\_\_\_ Size 55 gallon type  
Special Handling Instructions Quantity of 9 drums 55 gallon size type "1"  
Expected Quantity \_\_\_\_\_  Annually  Quarterly  Monthly  Weekly  One time

CERTIFICATION:  
I hereby certify that all information submitted above and attached is complete and accurate, and that all known or suspected hazards have been disclosed.  
Authorized Signature Robert D. McCalb  
Title Environmental Specialist Date 9/29/87

APPROVALS:  
Prepared by Robert D. McCalb Date 9/29/87  
AD Disposal Approved by Robert D. McCalb Date 9/29/87  
 Additional Information Attached  MSDS Attached  
Form CSD-WO1 Revised 5/87

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ATTACHMENT PROVIDED BY  
CHEMICAL WASTE MANAGEMENT

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SEP 11 1977

THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

CHEMICAL WASTE MANAGEMENT, INC.,  
and SCA CHEMICAL SERVICES, INC.,

Plaintiffs,

v.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY. et al.,

Defendants.

Civ. Act. No.  
87-2411-S

MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION  
TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

In this action plaintiffs seek, *inter alia*, to enjoin the U.S. Environmental Protection Agency ("EPA") from implementing both its "off-site" policy and section 121(d)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9621(d)(3). Specifically at issue is the application of that statutory provision and policy to plaintiffs' incinerator in Chicago. Plaintiffs contend that EPA's determination that the incinerator is ineligible to receive hazardous waste from CERCLA cleanup

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1135

as to the fact situation alleged . . ." Id. It was emphasized, however, that this opportunity should not replace the forum for challenging EPA's determination of a violation provided as part of the enforcement process under RCRA.

Because the off-site policy was intended as guidance for the Regional Administrators, and by its terms did not eliminate the broad discretionary authority of those officials to manage CERCLA cleanups within their regions, various Regional Administrators may have implemented the policy in a slightly different form or rephrased its provisions differently than have their counterparts in other regions.

## 2. Section 121(d)(3) of CERCLA

As noted, the underlying rationale of the off-site policy was endorsed by Congress in SARA. The statute, like the policy, now provides that hazardous substances generated by a CERCLA response action can only be sent to a facility that is "operating in compliance with" RCRA sections 3004 and 3005. However, the statute imposes conditions in addition to those addressed by the policy. Specifically, Section 121(d)(3) further provides that:

such [hazardous] substance or pollutant or contaminant may be transferred to a land disposal facility only if the President determines that both of the following requirements are met:

(A) The unit to which the hazardous substance or pollutant or contaminant is transferred is not releasing any hazardous waste, or constituent

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1136

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WSG 008

1137

thereof, into the groundwater or surface water or soil.

(B) All such releases from other units at the facility are being controlled by a corrective action program approved by the Administrator under subtitle C of the Solid Waste Disposal Act.

42 U.S.C. § 9621(d)(3). There is now also a specific statutory requirement for notification of facility owners and operators of determinations made regarding eligibility. Id.

These requirements do not apply to cleanups underway before the enactment of SARA, i.e., to any remedial action for which the Record of Decision was signed before October 17, 1986. Pub. L. No. 99-499, § 121(b). The 1985 off-site policy continues to apply in such cases.

Congress expected that EPA would need time to develop detailed eligibility standards and procedures for implementing section 121(d)(3). Specifically, it was contemplated that EPA would establish procedures for the notification of, and informal discussion with, owners and operators regarding eligibility determinations. H. R. Rep. No. 962, 99th Cong. 2d. Sess. 248 (1986). Such standards and procedures are under consideration within the Agency. (McGraw Declaration, Exh. 1).

### 3. Modification of the Off-site Policy

Although the 1985 policy rather than section 121(d)(3) technically applies to pre-SARA cleanups, EPA believes that, insofar as possible, the policy and the statute should be

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applied consistently. The Agency has been grappling with the application of these two requirements, which employ different language to achieve the same goal. Consistency of application has been difficult for many reasons including the extraordinary demands placed on Agency resources by the sweeping changes of SARA, the decentralized management of CERCLA cleanups, the number of sites involved, and the sometimes ambiguous status of those sites as pre- or post-SARA.<sup>2</sup>

The Agency has not, as yet, issued a directive, policy statement, or regulation which accomplishes this goal of harmonizing SARA and the off-site policy. Nevertheless, EPA's current view is that, regardless of whether a site is governed by the 1985 policy or the SARA provision, the primary focus for determining eligibility to receive off-site CERCLA waste should be the particular unit within a facility which will receive and treat the waste. (McGraw Declaration, Exh. 1). Accordingly, the Agency's current position on the 1985 off-site policy is that RCRA violations at units of a facility which are not involved in the primary treatment activities do not constitute "significant violations" which render the

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<sup>2</sup>For example, in cleanups involving more than one § 106 order, it may not be clear what activities are conducted pursuant to each order. This may be especially true in cases where one order is issued initially to require immediate activities to secure the site and includes broad authority which could be read to justify activities such as final disposition of waste, which are part of the final remedy and are often subject to a different order.

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113B

entire facility ineligible to receive off-site CERCLA waste. This position underlies the determination in June of this year by Assistant Administrator Porter that plaintiffs' Chicago incinerator was eligible to receive off-site waste from a CERCLA cleanup in Bridgeport, New Jersey. (Exh. K of Complaint).

EPA admits that this position has not been communicated to all of its Regional Administrators as effectively as it might wish and admits that its Regional Administrators may have made some determinations under the off-site policy which do not reflect this position. EPA intends to communicate this view to its Regional Administrators as agency policy immediately and to endeavor to ensure its consistent application. This position will also be applied at once to plaintiffs' facility at issue in this case.

**B. Statement of Facts**

At issue in this case is the application of section 121(d)(3) and the off-site policy to one of plaintiffs' facilities, i.e., "the Agency's declaration that the SCA incinerator in Chicago is ineligible to receive material from CERCLA sites." (Memo in Support of TRO at 8). Although the complaint alleges other improper applications to plaintiffs in the past and requests broad prospective relief, the only actual controversy referenced in the motion for preliminary

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1139

On June 22, 1987, representatives of plaintiffs, EPA and IEPA met to discuss the groundwater assessment issue and the status of the SCA facility under the off-site policy and section 121(d)(3). (See Exh. L to Complaint). At that meeting SCA was furnished a draft of a formal RCRA complaint alleging that violation. *Id.* Plaintiffs requested that such a complaint not be issued and that further discussions be held. *Id.* A follow-up meeting among the parties was held on July 7, 1987 to discuss the eligibility of the facility. (Miner Declaration, Exh. 7). No resolution was achieved, however. Plaintiffs filed this action on August 7, 1987 by which time EPA had just signed the formal RCRA complaint which was mailed to SCA on August 13. (Exh. 8). That complaint notified plaintiffs of their right to a formal hearing.

## 2. The Baird & McGuire Site

The Baird & McGuire site is an abandoned pesticide formulation operation in Holbrook, Massachusetts where EPA Region I is conducting, through a contractor, a Superfund-financed cleanup under section 104 of CERCLA. On June 24, 1985, prior to the effective date of SARA, the Regional Administrator for Region I signed an action memorandum authorizing an Interim Response Measure for cleanup at the site. This action memorandum functions as a Record of Decision. (Cavagnero Declaration, Exh. 9). Plaintiff Chemical

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1140

Waste Management ("CWM") is a subcontractor for the removal of certain wastes to an eligible off-site facility. (Complaint ¶ 74). The contract specifies that plaintiff will use the SCA incinerator or, if it is ineligible, another eligible facility. (Exh. 10).

In July of 1987, Region I learned from Region V that the SCA incinerator was not deemed acceptable for receipt of off-site waste from CERCLA sites. (Cavagnero Declaration, Exh. 9). Accordingly, on August 12, 1987, Region I informed CWM representatives that the Baird & McGuire wastes should not be sent to the SCA incinerator. *Id.*

EPA no longer adheres to that determination. As noted, above, in order to minimize inconsistency between the off-site policy, which applies to pre-SARA cleanups, and section 121(d)(3), which applies to post-SARA cleanups, EPA has decided that a violation not affecting the primary treatment unit for off-site CERCLA wastes should not be considered a significant violation that would render the entire facility ineligible to receive CERCLA wastes. Thus, the test for eligibility of the SCA incinerator to treat waste from Baird & McGuire is presence of (1) a significant RCRA violation at the incinerator itself and (2) other environmental conditions that adversely affect the operation of the facility. Because the groundwater assessment issue does not affect the operation of the incinerator itself, part one of the test is met. Region V of EPA has also concluded that there are no other

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1141

environmental conditions at the facility that would adversely affect its operation. (Minor Declaration, Exh.7 ) Hence, the SCA facility is eligible to receive waste from the Baird & McGuire site.

### 3. The Rose Chemical Site

The Rose Chemical site is an abandoned PCB storage and treatment facility located within EPA's Region VII at Holden, Missouri. On May 23, 1986, EPA issued an order under section 106 requiring several named potentially responsible parties to take immediate removal action to abate the imminent hazard posed by the site. On November 19, 1986, EPA issued a second such order to an additional seventeen generators who had contributed to the creation of the site. In the summer of 1986, a number of these generators formed the Rose Chemical Steering Committee to carry out the removal action required by the EPA's orders.

The steering committee and EPA Region VII also began negotiations for a bilateral agreement (an administrative order on consent pursuant to section 106) governing the disposal of PCBs off-site. The steering committee retained Clean Sites, Inc., a private contractor, to carry out any necessary activities under the two orders already issued and the consent order, if and when it was negotiated. A ROD has not been signed for the Rose Chemical site. Accordingly, the

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