

COPY



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III

841 Chestnut Building
Philadelphia, Pennsylvania 19107

NOTICE OF POTENTIAL LIABILITY,
URGENT LEGAL MATTER - PROMPT REPLY NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Mr. John H. Mervine, Sr., President
Nanticoke Homes, Inc.
Route 13 South
Greenwood, DE 19950

Re: Nanticoke Homes, Inc.
Route 13
Greenwood, DE

Dear Mr. Mervine:

This letter notifies you of potential liability, as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9607(a), as amended, (CERCLA), that you may incur or may have incurred with respect to the above-referenced site which is located on the west side of Route 13 approximately 1.5 miles north of Greenwood, Sussex County Delaware (the "Site"). This letter also notifies you of forthcoming removal activities at which you may be asked or required to finance or conduct.

NOTICE OF POTENTIAL LIABILITY

The United State Environmental Protection Agency (EPA) has documented the release or threat of release of hazardous substances, pollutants, or contaminants at the Site. EPA is spending public funds on actions to investigate and control such releases or threatened releases at the Site and is planning to spend funds to immediately remove hazardous substances at the Site and conduct other response actions. Unless a potentially liable party or parties properly perform or finance actions to remove such substances and conduct other necessary response actions, EPA may perform these actions pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604.

Under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) and 9607(a), Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6973, as amended (RCRA), and other laws, potentially liable parties may be ordered to perform response actions deemed necessary by EPA to protect the public health or welfare or the environment, and may be liable for all costs

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incurred by the government in responding to any release or threatened release at the site. Such actions and costs may include, but are not limited to expenditures for conducting removal response actions and other investigation, planning, response, oversight, and enforcement activities. In addition, potentially liable parties may be required to pay for damages for injury to, destruction of, or loss of natural resources, including the cost of assessing such damages.

EPA may issue an administrative order pursuant to Section 106(a) of CERCLA to require potentially responsible parties to commence cleanup activities. Failure to comply with an administrative order issued under Section 106(a) of CERCLA may result in a fine of up to \$25,000 per day, under Section 106(b) of CERCLA, and/or imposition of treble damages under Section 107(c)(3).

EPA has evaluated information in connection with the investigation of the Site. Based on this information, EPA believes that you are a potentially responsible party (PRP) with respect to the Site. Potentially responsible parties under CERCLA include current and former owners and operators of the site, as well as persons who arranged for disposal or treatment of hazardous substances sent to the site, or persons who accepted hazardous substances for transport to the site. By this letter, EPA notifies you of your potential liability with regard to this matter and encourages you to voluntarily perform or finance those response activities that EPA determines are necessary at the Site.

SITE RESPONSE ACTIVITIES

EPA is planning to immediately conduct the following activities at the Site:

1. excavate, characterize and overpack, if necessary, all buried drums found on-site;
2. excavate, characterize, contain and stage all visibly contaminated subsurface soils from drum burial areas;
3. excavate, characterize, contain and stage all visibly contaminated surface soils; and
4. backfill and hydroseed excavated areas.

DECISION NOT TO USE SPECIAL NOTICE

Under Section 122(e) of CERCLA, EPA has the discretionary authority to invoke special notice procedures to formally negotiate the terms of an agreement between EPA and PRPs to conduct or

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finance response activities. Use of these special notice procedures triggers a moratorium on certain EPA activities at the site while formal negotiations between EPA and the PRP or PRPs are conducted.

In this case, pursuant to Section 122(a) of CERCLA, EPA hereby notifies you that EPA has decided not to invoke the Section 122(e) special notice procedures. In order to expedite cleanup activities, it is EPA policy not to use the special notice procedures for removal actions unless there is a 6-month planning lead time after the decision to respond and prior to the initiation of the action. Since the planning lead time prior to the initiation of this response action is less than 6 months, special notice procedures will not be used. EPA believes the action at the Site must be taken as expeditiously as possible.

ADMINISTRATIVE RECORD

Pursuant to CERCLA Section 113(k), EPA must establish and administrative record that contains documents that form the basis of EPA's decision on the selection of a response action for a site. The administrative record files, which contain the documents related to the response action selected for this site will be available to the public for inspection and comment. The primary location at this time is the EPA Region III Office located at 841 Chestnut Building, Philadelphia, PA 19107.

PRP RESPONSE AND EPA CONTACT

The factual and legal discussions contained in this letter are intended solely for notification and information purposes. They are not intended to be and cannot be relied upon as final EPA positions on any matter set forth herein.

If you have any questions pertaining to this letter, please contact immediately, Mr. Christopher Thomas at 215-597-4458 or Carol Manning at 215-597-0299 or direct your attorney to contact Mr. Dean Jerrehian, Assistant Regional Counsel at 215-597-3230.

Sincerely,

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Dennis P. Carney, Branch Chief
Superfund Removal Branch

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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

REGION III

841 CHESTNUT BUILDING
PHILADELPHIA, PA. 19107

OFFICIAL BUSINESS

REPLY TO THE OFFICE OF THE DIRECTOR

Mr. Glen Kenton
1 Rodney Square
P.O. Box 351
Wilmington, DE 19899

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CERTIFICATE OF SERVICE

Notice of Potential Liability regarding the Nanticoke Homes, Inc.
Site was served to Mr. John Mervine, President or his representative on February 7, 1990.

1740 JDE
Courier

The aforementioned Notice was accepted by JL Mervine
for Mr. John Mervine, Nanticoke Homes, Inc. on February 7, 1990.

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