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February 22, 2000



SDMS DocID 2084201

Mr. Arthur E. O'Connell, Chief  
Site & Brownfield Assessment/  
State Superfund Division  
Maryland Department of the Environment  
2500 Broening Highway  
Baltimore, MD 21224

RE: Cecil Industrial Park Site

Dear Mr. O'Connell:

I represent General Electric Capital Railcar Services Corporation (GE Railcar), owner of a parcel (the "Facility") at the Cecil Industrial Park Site (CIP Site) near Elkton, Maryland. I am responding to your letter of January 24, 2000 to GE Railcar. You state that stillbottoms deposited at the Facility may be the source of groundwater contamination on two parcels east of the Facility, and that GE Railcar is accordingly a "responsible party." You say that GE Railcar should accordingly conduct "additional work," including a study of the extent of soil and groundwater contamination.

I am responding in some detail because GE Railcar has a long history of cooperative efforts with MDE and, as explained more fully below, your letter raises two very troublesome issues: (i) EPA Region III and MDE are addressing the Facility on separate tracks and in a potentially inconsistent fashion; and (ii) it appears that MDE is addressing the Facility in disregard of the area-wide contamination at the CIP Site for which multiple parties, including the U.S. Government, have responsibility.

While GE Railcar is prepared to undertake additional work under the appropriate circumstances, it is unwilling to do so at this time. We believe further discussions and clarification of your intentions are first in order, and to this end we request a meeting with MDE personnel and your legal counsel in Baltimore. We also believe it is important for representatives of EPA Region III to join the meeting with their legal counsel, and are copying Region III personnel for this purpose.

## **BACKGROUND**

### **1. Operations Under MDE Hazardous Waste Permit Followed By Clean Closure and Release from RCRA**

GE Railcar and its corporate predecessors assumed ownership and control of the Facility in 1983, and all operations at the Facility ceased in 1989. GE Railcar and former owners operated the Facility under different names over the years, but for convenience I will refer to the owner and operator throughout this time as GE Railcar. GE Railcar now maintains the Facility as a vacant parcel.

In conjunction with its railcar cleaning and repair operations, GE Railcar conducted hazardous waste storage and treatment at the Facility. Until EPA authorized MDE to operate the RCRA permitting program in 1983, EPA and MDE had concurrent jurisdiction over RCRA permitting. Accordingly, GE Railcar initiated the RCRA permit process at both the federal and state levels.

GE Railcar filed Part A and Part B permit applications with Region III in 1980. The Region notified the Facility that EPA had authorized MDE to operate the RCRA permitting program for storage and treatment, and that RCRA permitting for the Facility would accordingly be handled exclusively by MDE. MDE issued permit A-229 to the Facility for hazardous waste storage and treatment on October 15, 1982. This permit was never renewed. Rather, on May 28, 1985, the Facility withdrew its request for renewal of permit A-229. This withdrawal led to an extensive RCRA closure process.

This process culminated with MDE fully releasing the Facility from its hazardous waste permit obligations on May 18, 1992. First, after GE Railcar performed extensive cleanup and remedial operations respecting the so-called "T-22" tank farm, MDE confirmed that the tank farm had been sufficiently closed. (See MDE letter of June 14, 1990, Attachment A.) Second, after MDE had identified several additional areas of concern and GE Railcar had addressed them to MDE's satisfaction, MDE sent GE Railcar a final closure letter on May 18, 1992. (Attachment B.)

In its 1992 letter, MDE found as follows: "HSWMA has determined, after reviewing this report and inspecting the site, that this facility has been closed in accordance with the approved closure plan. Specifically, this formerly permitted facility has been closed in a manner that minimizes the need for further maintenance and minimizes, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste and hazardous waste constituents to the groundwater. This facility is released from its obligations under controlled hazardous substance facility permit number A-229."

### **2. Removal of Galaxy Stillbottoms Under MDE Supervision and Agreement**

In 1989 GE Railcar discovered a mass of buried waste material in an isolated corner of the Facility. Upon investigating the matter with MDE's assistance, GE Railcar learned that the wastes were stillbottoms from a nearby solvent recycling operation known as the Galaxy

Chemical Company. These wastes were totally unrelated to the operations of GE Railcar and were disposed long before GE Railcar or any of its corporate predecessors had any relationship to the Facility.

GE Railcar entered into a Consent Order with MDE dated January 24, 1991. Pursuant to that Consent Order, GE Railcar arranged for the removal and treatment of the Galaxy stillbottoms. GE Railcar completed the work under that Consent Order in 1991. Pursuant to the work plan approved by MDE, when GE Railcar removed the stillbottom material, it did not remove all the soil that had been contaminated with the stillbottoms. Rather, GE Railcar agreed that the issue of this remaining contaminated soil would be addressed at a later time, because MDE would be pursuing an area-wide remedial investigation of the entire CIP Site.

3. MDE's Pursuit of Multi-Party, Area-Wide Approach to CIP Site Contamination With Participation of the U.S. Government as a Liable Party

In discussions respecting the Galaxy stillbottom removal, MDE personnel informed GE Railcar personnel and counsel on numerous occasions that MDE intended to address issues of residual contaminated soil and potential groundwater problems on an area-wide basis. Consistent with these discussions, MDE official James Pittman sent a letter to a number of parties that currently or formerly own or operate facilities within the CIP Site. A copy of the letter Mr. Pittman sent to GE Railcar on August 10, 1993 is enclosed. (Attachment C.) Mr. Pittman invited the parties to a meeting and attached basic information about the CIP and MDE's plans to his letter. MDE held the meeting on August 24, 1993, and GE Railcar personnel attended (along with representatives of several other parties). A copy of the materials MDE handed out at the meeting is enclosed. (Attachment D.)

The basic principle behind MDE's efforts, as repeatedly communicated by MDE personnel verbally and as shown vividly in the attached written materials, was that numerous parties were responsible for soil and groundwater contamination over a period of many years – with the U.S. Government being among the most significant – and that groundwater in the area could not be effectively remediated without a coordinated effort from many of these parties. For instance, MDE's "fact sheet" (accompanying the invitation to the meeting) presents the history of contamination-causing activities at the CIP Site going back to the 1930s. MDE explains that many different industrial owners and operators of many parcels at the CIP Site over the decades were responsible for many different types of hazardous substances.

In its fact sheet, MDE says every basic type of hazardous substance contamination – organic, inorganic, metal, and pesticide – has been found throughout the CIP Site and lists many types of facilities that have contributed over the decades. Prominent among the significant contributors are the U.S. Army and the U.S. Navy, each of which took over a fireworks factory to produce munitions on major portions of the CIP Site during World War II.

After highlighting the activities of the Army and the Navy, MDE lists the following type of industrial activities that have taken place at the CIP Site in addition to GE Railcar's prior operations: chemical companies, explosive manufacturers, a carbon battery firm, pesticide producers and a pesticide formulator, a rocket propellant manufacturer, a phosgene

manufacturer, a cork processing plant, a specialty paint plant, a paving and roadwork company, a maker of precious metal complexes, a mobile home manufacturer, an auto repair shop, a tire retreading facility, a chemical dye plant, a construction company (which has a landfill on its property), a luggage firm that made briefcases, a manufacturer of coated fabric products, and a producer of di-isocyanate compounds used in making polyurethane foams.

MDE stressed that for the entire area, "ground water flow is complicated and difficult to predict." Fact Sheet, p. 1. MDE also stressed in its presentation to the responsible parties in 1993 that there was "no obvious single source of contamination." In fact, frequently in meetings with GE Railcar personnel and counsel, MDE personnel stressed that the nature and likely causes of the groundwater contamination were such that only a multi-party, area-wide approach could be effective in remediating the problem.

GE Railcar and other companies met among themselves and with MDE on several occasions in 1993 and 1994 in order to make arrangements for a group effort to address the problem. As a result of a review of the available data and records, one thing became clear to all cooperating parties: the U.S. Army and the U.S. Navy both played a highly significant role in causing the contamination problems. This revelation was fully consistent with the MDE fact sheet, which had stressed the role the Army and Navy had played at the CIP Site during World War II.

Consequently, MDE sent a lengthy letter to the U.S. Army Corps of Engineers on November 18, 1994. Attachment E. In this letter, MDE reviewed in great detail the role played by the Army and Navy at the site from 1942 until after World War II, and showed with exhaustive recitations to facts and contract documents that the responsibility for significant contamination rested with the Army and the Navy. The MDE letter stated in conclusion: "Therefore, MDE concludes that CERCLA liability for contamination at this site [the CIP Site] must be assumed by the United States Government."

Unfortunately, the U.S. Government (through the Army Corps of Engineers) refused MDE's request to cooperate. Because the role of the Army and Navy in causing contamination at the CIP Site had been so significant, the efforts of the cooperating parties were in effect stymied by the Corps of Engineers' refusal. In fact, until last year, we had heard nothing further from MDE about any attempts or efforts to address contamination at the CIP Site.

#### 4. EPA's Attempts to Address GE Railcar's Facility With RCRA Corrective Action Authority

On November 16, 1998, EPA Region III sent a letter to GE Railcar announcing that the Region intended to conduct an inspection of the Facility to determine if any RCRA corrective action would be necessary. Attachment F. The Region stated that the Facility was listed among the "high priority" RCRA TSD sites for corrective action (the Region's so-called "GPRA Name & Address List"). The Region stated that the Army Corps of Engineers (as discussed above, a prime responsible party for contamination throughout the CIP Site) would be inspecting the Facility on the Region's behalf, and alerted GE Railcar to a number of issues the Corps and/or the Region would like addressed during the inspection.

This letter came as a total surprise to GE Railcar, as MDE had in 1992 released the Facility from its RCRA permit and agreed that GE Railcar had achieved "clean closure" at the Facility. In letters to the Region dated December 31, 1998 and January 15, 1999, GE Railcar explained its view that EPA had no RCRA corrective action authority over the Facility and asked EPA to delete the Facility from EPA's GPRA Name & Address List. Attachments G and H. GE Railcar stated that out of a spirit of cooperation, it was nevertheless willing to go forward with an inspection.

GE Railcar noted in its letters to the Region that soils associated with removed Galaxy stillbottom materials remained in place at the Facility. GE Railcar noted that MDE had informed GE Railcar and other parties that MDE intended to address problems of residual soil and groundwater contamination at the CIP Site on an area-wide basis, and that GE Railcar was willing to work with MDE and other parties on this basis.

The Region has never responded to GE Railcar's letters of December 31, 1998 and January 15, 1999. GE Railcar still firmly believes, and wishes to stress here, that EPA has no RCRA corrective action authority over the Facility for the reasons stated in those letters and that EPA should delete the Facility from the GPRA Name & Address List.

On October 5, 1999, the Corps of Engineers conducted an inspection of the Facility on the Region's behalf. L. Craig Maurer represented the Corps, and Denis M. Zielinski of the Region accompanied Mr. Maurer. Two representatives of MDE also appeared for the inspection: you and Richard A. Johnson, Chief of the Hazardous Waste Enforcement Division.

Based upon remarks Mr. Zielinski made during the inspection and in subsequent telephone conversations with GE Railcar personnel, I can briefly summarize what we believe to be the Region's current position:

(a) The Region continues to believe EPA has RCRA corrective action authority over the Facility (even though the Region has never responded to GE Railcar's letters of December 31, 1998 and January 15, 1999, and even though no one from the Region or the Corps has attempted to explain to GE Railcar personnel verbally why they believe EPA has such authority).

(b) The Region will probably be issuing its report based on the October, 1999 inspection some time in the month of March, 2000.

(c) As a result of the inspection and report, the Region will most likely encourage GE Railcar to undertake a groundwater investigation. The Region appears to be particularly interested in encouraging GE Railcar to consider entering into a "Facility Lead Corrective Action Agreement" with the Region, patterned after a model document that now appears on the Region's web site (U.S. EPA Region III, Waste and Chemicals Management Division).

**5. MDE's Recent Evaluations of Facility and Attempts to Direct GE Railcar to Perform Additional Assessments**

As stated in part 4 above, you and Mr. Johnson from MDE appeared at the inspection conducted by the Corps of Engineers on October 5, 1999. During that inspection, and in subsequent telephone conversations with MDE personnel, GE Railcar personnel have learned that MDE has conducted additional evaluations of the Facility since 1994. MDE personnel have, in response to requests for GE Railcar personnel, delivered copies of these evaluations to GE Railcar. These evaluations are: (i) an "Expanded Site Inspection" of the Facility, prepared by MDE for the Region in October, 1995; and (ii) a report entitled "Surface Water and Ground Water at Triumph Industrial Park, Volume I," prepared by MDE for the Region in August, 1998. I will hereafter refer to these documents as the "1995 Report" and the "1998 Report," respectively. MDE sent the 1995 Report to GE Railcar in February, 2000. MDE delivered the 1998 Report to GE Railcar during the October 5 inspection.

On January 24, 2000, you sent your letter to GE Railcar. Attachment I. In that letter, citing the 1998 Report, you state "there is evidence that contamination from the still bottoms area" at the Facility "is impacting the groundwater" at the CIP Site. A table attached to your letter recounts (as stated in the 1998 Report) that MDE had collected groundwater samples "via geoprobe" from parcels 585 and 586, directly east and northeast of the Facility.

You then allege that GE Railcar is a "responsible party" (your quotes) and say that GE Railcar must, after submitting a work plan to MDE, perform new studies to "delineate" the horizontal and vertical extent of soil and groundwater contamination. It is not clear whether this "delineation" relates to (i) only the stillbottom area at the Facility, (ii) the entire Facility, (iii) the Triumph Industrial Park (specifically mentioned in your letter), or (iv) the entire CIP Site (not specifically mentioned in your letter).

In an apparent reference to the generators of the stillbottom materials and other parties with legal responsibilities for the disposal of these Galaxy materials (such as the Waters family), you conclude: "Under the Comprehensive Environmental Response, Compensation and Liability Act, this work is expected to be carried out by all 'responsible parties' under the law." Your letter does not say whether and to what extent your request is based upon any Maryland statutory authority, as the federal CERCLA is the only statute you cite.

**REQUEST FOR CLARIFICATION FROM MDE AND EPA**

As we hope you can appreciate, all the foregoing puts my client in a rather untenable position. Having received a complete release from its RCRA permit years ago based on its approved clean closure, GE Railcar is now being told by the Region that the Facility is a RCRA corrective action site and that any day now, a report will issue that will require GE Railcar to perform further study (and possibly remediation) under the Region's supervision. Having been told by MDE years ago that MDE would be leading a multi-party, area-wide study of the CIP Site, GE Railcar is now being directed to perform a groundwater study under MDE's supervision that apparently (this is not clear) focuses on the stillbottom residues at the Facility, and that should be performed along with "all responsible parties under the law." No other such

“responsible party,” however, received a similar letter. Even though this work is to be performed under MDE’s supervision, the only “law” referred to in MDE’s letter is the federal CERCLA.

We find your recent letter to be particularly surprising because MDE never sought GE Railcar’s comments on either the 1995 Report or the 1998 Report before issuing them, and because the approach suggested by your letter departs so remarkably from the approach MDE has always communicated to us in the past. As MDE personnel well know, GE Railcar has a wealth of data and information regarding the Facility and GE Railcar has always been cooperative in addressing environmental issues regarding the Facility. In keeping with the cooperative spirit GE Railcar personnel have always maintained, we believe at least some prior consultation would have been appropriate before issuing such a directive.

As indicated above, we seek a meeting with MDE personnel and your counsel (and with Region III personnel and their counsel) so we can begin to sort this all out. Before such a meeting, we would like to provide you with detailed comments on the 1995 Report and the 1998 Report, as these appear to be key documents on which MDE is now relying.

As a preliminary matter, we find the geoprobe data unconvincing in attempting to link the apparent groundwater contamination in Parcels 585 and 586 to the residual stillbottom materials on the GE Railcar Facility. The geoprobe data do not in any way purport to assess groundwater flow direction in the vicinity, for example. Moreover, it appears from the 1998 Report that the various geoprobe samples may not even be drawn from the same aquifer. See 1998 Report, pp. 6-7. We should repeat in this regard what MDE stressed in 1993: groundwater flow in this area “is complicated and difficult to predict.”

Casting additional doubt on your conclusion is the fact that Figure 6a of the 1995 Study indicates three additional nearby areas of “solvent recovery still bottoms,” none of which is on GE Railcar’s property. In fact, one of these stillbottom disposal areas is located directly on one of the parcels you allege is being impacted by the GE Railcar Facility. By virtue of the geoprobe data and Figure 6a, therefore, one could just as easily conclude that GE Railcar’s Facility is being contaminated by the adjacent parcel as one could conclude that the adjacent parcel is being contaminated by GE Railcar’s Facility.

At the meeting we are requesting, we would like to discuss with MDE and EPA whether and how further assessments of the GE Railcar Facility and the CIP Site may be conducted in a coordinated fashion among responsible parties.<sup>1</sup> GE Railcar is advised by its technical consultants, in fact, that a groundwater study focusing only on the GE Railcar Facility would not be productive in light of the complexity of the groundwater and all the apparent sources of contamination in the immediate vicinity.

Thus, because a study focusing solely on GE Railcar’s Facility is neither legally fair nor technically appropriate, GE Railcar does not believe it can undertake any further work at the Facility unless and until it can obtain further information and clarification from MDE and the

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<sup>1</sup> We would particularly like to learn the current status of MDE’s efforts to convince the Corps of Engineers (on behalf of the U.S. Army and U.S. Navy) to participate, as the Army and Navy are such obvious key responsible parties.

**ATTACHMENTS TO LETTER FROM RICHARD G. STOLL  
TO ARTHUR E. O'CONNELL OF FEBRUARY 22, 2000**

ATTACHMENT A – Letter from Ronald Nelson to Chester Miller, June 14, 1990

ATTACHMENT B – Letter from Richard W. Collins to Michael C. O'Toole, May 18, 1992

ATTACHMENT C – Letter from James Pittman to Michael C. O'Toole, August 10, 1993

ATTACHMENT D – Letter from James Pittman to Michael C. O'Toole, August 30, 1993  
(and slides from meeting of August 24, 1993)

ATTACHMENT E – Letter from Robert A. DeMarco to U.S. Army Corps of Engineers,  
November 18, 1994

ATTACHMENT F – Letter from Robert E. Greaves to P&R Rail Car, November 16, 1998

ATTACHMENT G – Letter from Michael C. O'Toole to Denis M. Zielinski, December 31, 1998

ATTACHMENT H – Letter from Michael C. O'Toole to Denis M. Zielinski, January 15, 1999

ATTACHMENT I – Letter from Arthur E. O'Connell to David L. York, January 24, 2000



**ATTACHMENT A**  
**TO LETTER FROM**  
**RICHARD G. STOLL**  
**TO ARTHUR E. O'CONNELL**  
**OF FEBRUARY 22, 2000**

Letter from Ronald Nelson to Chester Miller, June 14, 1990



**DEPARTMENT OF THE ENVIRONMENT**

2500 Greening Highway, Baltimore, Maryland 21224  
Area Code 301 • 631-3304

William Donald Schaefer  
Governor

Martin W. Walsh, Jr.  
Secretary

June 14, 1990

Mr. Chester Miller  
Manager Environmental and Safety Programs  
General Electric Railcar Services Corporation  
33 West Monroe Street  
Chicago, IL 60603

Dear Mr. Miller:

As a result of our meeting on May 14, 1990 and subsequent discussions among the Hazardous and Solid Waste Management Administration staff, I find that we can conclude that the T-22 tank farm at the GE Railcar facility in Elkton, Maryland has been closed in accordance with its approved closure plan. Specifically, I find that GE Railcar has closed the formerly permitted facility in a manner that minimizes the need for further maintenance and minimizes, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste and hazardous waste constituents to the ground water. The facility is released from its obligations under controlled hazardous substance facility permit number A-229.

Please note that this action does not relieve GE Railcar from the obligation to remove the still bottoms from the area up-gradient from T-22. The removal of the material is to be done expeditiously. Also, the closure approval does not affect any involvement of GE Railcar in groundwater remediation activities that are or may be required at the Triumph Industrial Park.

If you have any questions, please contact Mr. Alvin Bowles at (301) 631-3343.

Sincerely,

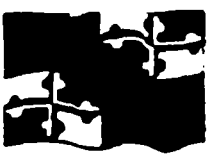
Ronald Nelson, Director  
Hazardous and Solid Waste  
Management Administration

RN:lak

cc: Mr. Richard Johnson

**ATTACHMENT B**  
**TO LETTER FROM**  
**RICHARD G. STOLL**  
**TO ARTHUR E. O'CONNELL**  
**OF FEBRUARY 22, 2000**

Letter from Richard W. Collins to Michael C. O'Toole, May 18, 1992



STATE OF MARYLAND  
 DEPARTMENT OF THE ENVIRONMENT  
 2500 Broening Highway Baltimore, Maryland 21224  
 (410) 631- 3304

ATT B

William Donald Schaefer  
 Governor

RECEIVED

Robert Perciasepe  
 Secretary

MAY 27 1992

May 18, 1992

M. C. O'TOOLE

Mr. Michael C. O'Toole  
 Vice President  
 Environmental Programs  
 General Electric Railcar Services Corp.  
 33 West Monroe Street  
 Chicago, IL 60603

Dear Mr. O'Toole:

The Maryland Department of the Environment, Hazardous and Solid Waste Management Administration (HSWMA) has reviewed the "Certification of Final Closure of Hazardous Waste Units, General Electric Railcar Services Corp., Elkton, Maryland Facility," dated April 1992. HSWMA has determined, after reviewing this report and inspecting the site, that this facility has been closed in accordance with the approved closure plan. Specifically, this formerly permitted facility has been closed in a manner that minimizes the need for further maintenance and minimizes, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste and hazardous waste constituents to the groundwater. The facility is released from its obligations under controlled hazardous substance facility permit number A-229.

Please note that this action does not affect any involvement of General Electric Railcar Services Corp. in groundwater remediation activities that are or may be required at the Triumph Industrial Park.

If you have any questions, please contact Mr. Alvin Bowles at (410) 631-3343.

Sincerely,

Richard W. Collins, Director  
 Hazardous and Solid Waste  
 Management Administration

RWC/st

cc: Ann Marie DeBiase, Esquire  
 Mr. Alvin Bowles  
 Mr. Harold L. Dye, Jr.  
 Mr. Arthur O'Connell

**ATTACHMENT C**  
**TO LETTER FROM**  
**RICHARD G. STOLL**  
**TO ARTHUR E. O'CONNELL**  
**OF FEBRUARY 22, 2000**

Letter from James Pittman to Michael C. O'Toole, August 10, 1993



MARYLAND DEPARTMENT OF THE ENVIRONMENT  
 2500 Broening Highway • Baltimore, Maryland 21224  
 (410) 631-3000

ATT C

William Donald Schaefer  
 Governor

Robert Perciasepe  
 Secretary

RECEIVED

August 10, 1993

AUG 16 1993

M. C. O'TOOLE

Mr. Michael C. O'Toole, Director  
 Environmental Health and Safety Programs  
 GE Railcar Services Corp.  
 33 West Monroe Street  
 Chicago, IL 60603

Dear Mr. O'Toole:

I am writing to invite you to a meeting that the Maryland Department of the Environment (MDE) will be conducting at 1:00 p.m. on Tuesday, August 24, 1993, regarding the Cecil Industrial Park site. The meeting will be held at the Cecil County Health Department, Conference Rooms B and C, 401 Bow Street in Elkton, Maryland.

As you know, the Cecil Industrial Park site is currently being investigated under MDE's Environmental Response and Restoration Program. The agenda for the meeting includes an overview of the known problems associated with contamination at the site, MDE's conceptual plan of action, and a discussion of the role individuals and firms identified as Potentially Responsible Parties (PRPs) may play in carrying out that plan.

This meeting is not intended to debate questions of individual liability. Rather, our goal is to begin discussions with the PRPs to explore options for the coordinated effort to address environmental problems at the site. Your participation would be invaluable in this endeavor, and I strongly encourage you to attend. The success of this undertaking clearly hinges on the cooperation and effort of all participants.

I look forward to a frank, productive discussion on August 24 that will serve as the beginning of our concerted efforts to address this site. If you have comments or questions, I invite you to contact me at (410) 631-3305, or Robert A. DeMarco, Program Administrator, Environmental Response and Restoration Program, at (410) 631-3437.

Sincerely,

James Pittman, Deputy Director  
 Waste Management Administration

JP:rl  
 Enclosure

cc: Richard Collins



## CECIL INDUSTRIAL PARK SITE Elkton, Cecil County

### WHAT IS THE ISSUE?

*The Maryland Department of the Environment (MDE) is investigating environmental contamination involving a group of properties near Elkton, Maryland, referred to as the Cecil Industrial Park Site. Starting in the early 1930s, a variety of industrial and manufacturing firms have been located on these properties. Environmental concerns are the impacts on soil and ground water contamination from compounds used and/or disposed of on-site. MDE is currently working with several present and former property owners to fully investigate and clean-up the site.*

### SITE DESCRIPTION

Cecil Industrial Park is a collection of properties covering approximately 1,300 acres in the northeastern portion of Cecil County. The name "Cecil Industrial Park" is used by MDE to denote this collection of more than 70 individual properties and does not refer to a former or existing industrial complex. However, the site does include properties that were part of the former Triaco Industrial Park and the existing Triumph Industrial Park in Elkton. The individual properties have been combined to facilitate the environmental investigation. MDE is beginning discussions with a core group of Potentially Responsible Parties (representing approximately 450 acres) to explore options for addressing environmental problems at the site in a coordinated manner. Adjoining properties within the Park will also be addressed.

The site is roughly three miles west of the Maryland-Delaware state line and straddles the northwestern border of Elkton. The bulk of the site lies west of Blue Ball Road and extends north from Route 40. The remainder of the site includes properties along the northern side of Route 279 between its intersections with Route 545 and Route 213 (see map).

Four waterways are located on the site. Gravelly Run flows through the northeastern corner of the site. Laurel Run runs along the site's western edge, and Dogwood Run passes through the eastern portion of the site. These three runs feed into Little Elk Creek, which flows west to east in a winding path through the middle of the site west of Blue Ball Road. Less than one mile southeast of the site, Little Elk Creek joins Big Elk Creek, a tributary of the Elk River that flows into the Chesapeake Bay. Like most areas of Maryland, ground water flow is complicated and difficult to predict.

### SITE HISTORY

The Cecil Industrial Park Site and its adjoining properties began its transformation from farmland to industrial property in the early 1930s. The first tenants of the property, and the first known generators of hazardous substances, were fireworks companies. During World War II, the Triumph Fusee and Fireworks Company expanded its operations to include the manufacture of munitions, explosives and other ordnance products. As wartime demands increased, especially after the United States entered the war, Triumph turned to full-time munitions production. Between 1940 and 1944, the company's land holdings increased from 271 acres to 1,225 acres.

Facilities to produce ammunition for the U.S. Navy, particularly 40-millimeter shells, were constructed in 1941 on Triumph's property west of Blue Ball Road, which eventually came to be known as "the Navy side." The Navy was involved as a result of a presidential order which authorized its takeover of the plant during the war. Across the road, on the so-called Army side, Triumph employees were occupied with completing U.S. Army contracts. During the war, the compound *trichloroethylene* (TCE) was widely used in military munitions and explosives.

manufacturing because it burns only at high temperatures. In addition, Triumph is known to have dumped or burned waste materials and off-spec explosives on its lands.

After the war the fireworks companies were largely replaced by chemical companies and other industries, including explosives manufacturers, a carbon battery firm, pesticide producers, a rocket propellant manufacturer and a phosgene and aluminum chloride manufacturer, many of which are known to have used TCE in their operations. It is also known that the two pesticide concerns disposed of waste pesticide products at the site by burying or burning them or spreading them on the ground.

Light industry at the site included a cork processing plant, a paving and roadwork company, a specialty paint plant and a railcar cleaning facility. The paving company stored road building materials on site and may at one time have used TCE to degrease heavy equipment. The specialty paint plant, which is no longer in business, had used many solvents in its operations. The railcar cleaning facility held a permit for storing hazardous materials mostly pumped from railcars on-site. Spills may have occurred during the car washing and cleaning operations.

Other companies purchased former Triumph land in the Trinco Industrial Park. They included: a pesticide formula'tor, which began production in 1967 and is still in operation; an aluminum chloride manufacturer, which operated from 1968 to 1984 north of Little Elk Creek; a maker of precious metal complexes, which began operating in 1971; a mobile home manufacturer, which operated from 1963 to 1989; an auto repair shop, which opened in 1965 and may have used TCE; a tire retreading facility that opened in 1977; a chemical dye plant, which operated from 1969 to 1972; and a construction company, which opened in 1972 and currently includes a landfill suspected of sitting on a source of TCE.

In the 1980s, Trinco became Triumph Industrial Park, and new light industries moved to the site. The newest residents included a luggage firm that made briefcases, a manufacturer of coated fabric products and a producer of di-isocyanate compounds used in making polyurethane foams.

## SITE CONTAMINATION

The impacts from soil and ground water contamination are the primary environmental concerns at the site. The soils in several locations are contaminated with metals, pesticides and volatile organic compounds (VOCs) that were manufactured, used or disposed of at the Park. The ground water contaminants of concern are VOCs, primarily *trichloroethylene* (TCE) which is a common industrial solvent used and disposed of on-site by many companies. Several areas of the Park were also used to dump used chemicals, explosives, munitions, still bottoms, pesticides, construction debris and other liquid and solid wastes.

Contaminants were first discovered at the site in 1984, when three pesticides (DDT, DDE, and DDD) were discovered on a 75-square-foot patch of land in the southwestern portion of the site. A previous owner of that property, which manufactured agricultural chemicals, was known to have used this property as a disposal area.

Tests conducted by the property owner on three wells confirmed suspicions that groundwater was contaminated with elevated levels of pesticides. However, those tests also detected unusually high levels of another contaminant—TCE. Subsequent sampling at the site, conducted by MDE and the U.S. Environmental Protection Agency (EPA), showed TCE levels of up to 15,000 parts per billion (ppb). MDE and EPA's recommended maximum level of TCE in drinking water is five ppb. Further evidence of a "TCE plume" in the groundwater was discovered during the state's testing of nearby residences.

Residents were advised by MDE in 1986 to begin using bottled water to avoid problems associated with what was believed to be widespread contamination of groundwater with TCE. A Potentially Responsible Party (PRP), under a consent order with the state, installed carbon filter units in 16 homes. Under a 1989 Consent Order with MDE, two PRPs assumed responsibility for installing a new water line along Route 40 for residents. That water line was completed in December 1990.

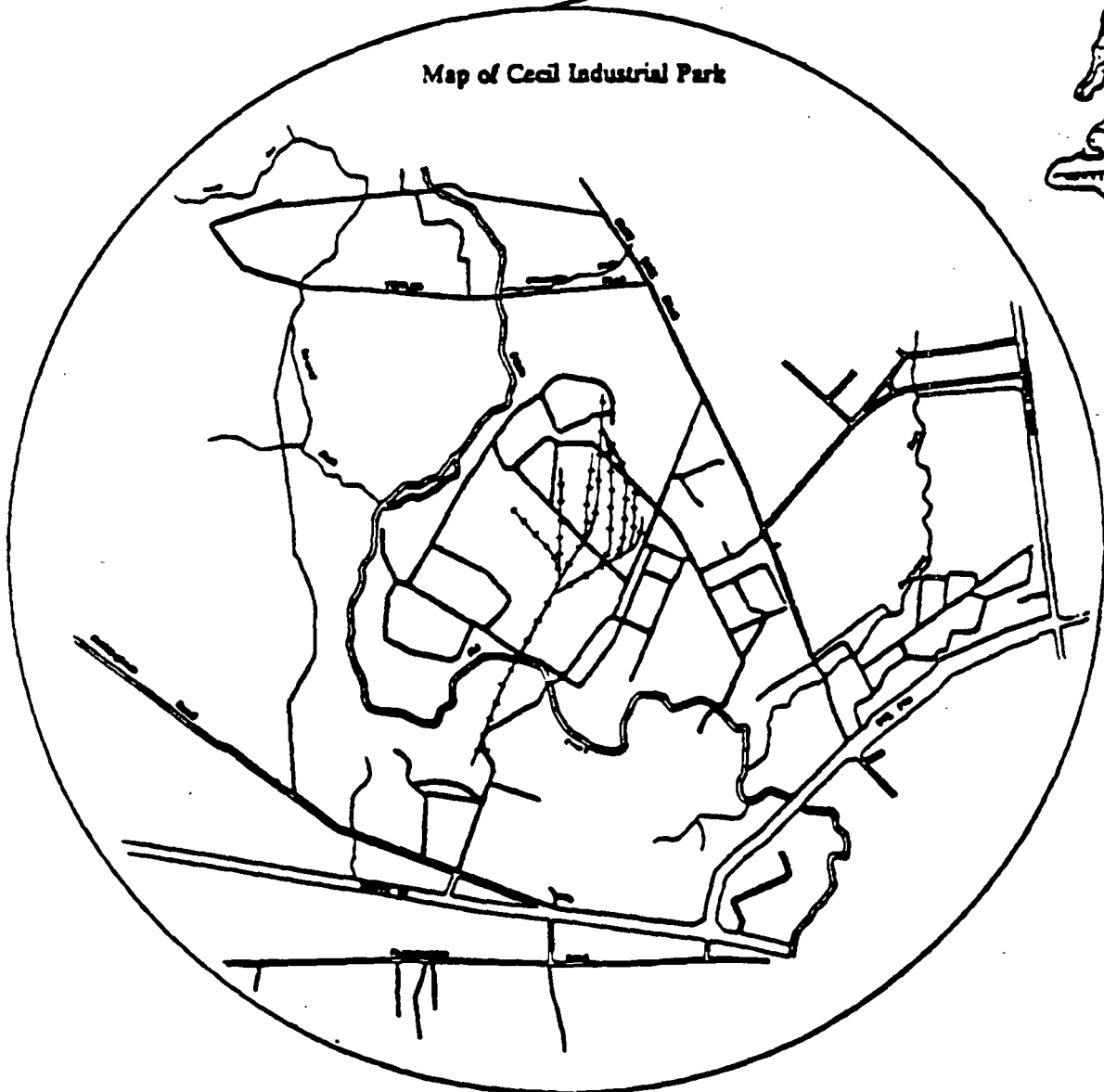


The source and extent of TCE contamination is not yet fully known. Subsequent investigations have not found a source, although investigators concurred that it is likely that there is no obvious single source of contamination. TCE, which was a popular industrial cleaning agent during the 1940s through the 1970s, is known to have been used in a number of industrial operations at the site into the 1970s.

Cecil County



Map of Cecil Industrial Park



## **CURRENT STATUS**

In August 1991, MDE's Waste Management Administration requested information on the generation and disposal of wastes to a list of nearly 50 PRPs. Approximately 12 additional PRPs were identified during the review of these responses and additional letters requesting information were sent.

MDE has completed a detailed review of industrial activities at the site, including reported and alleged spills and discharges, available environmental monitoring data, and site investigation reports. MDE has determined that further investigations are needed regarding the extent of ground water contamination and delineation of contaminant sources at the site. MDE is currently reviewing options for working in a cooperative fashion with willing PRPs to investigate sources and migration pathways. These investigations will likely include the installation of monitoring wells, various types of geophysical testing to determine areas of contamination, analysis of groundwater, surface water, sediment, and soil to characterize the specific type of contaminants, potential waste sources, and potential migration pathways.

## **MDE TO HOLD PUBLIC MEETING**

MDE has scheduled a public meeting to inform the community about recent and future environmental activities at the Cecil Industrial Park Site. This will include an overview of the known problems associated with contamination at the site and a presentation of MDE's conceptual plan of action regarding the site investigation. The meeting will be held at 7:00 p.m. on Thursday, September 23, at the public library, 301 Newark Avenue in Elkton, Maryland.

8/9/93

**ATTACHMENT D**  
**TO LETTER FROM**  
**RICHARD G. STOLL**  
**TO ARTHUR E. O'CONNELL**  
**OF FEBRUARY 22, 2000**

Letter from James Pittman to Michael C. O'Toole, August 30, 1993  
(and slides from meeting of August 24, 1993)



MARYLAND DEPARTMENT OF THE ENVIRONMENT  
2500 Broening Highway • Baltimore, Maryland 21224  
(410) 631-3000

William Donald Schaefer  
Governor

David A.C. Carroll  
Secretary

August 30, 1993

RECEIVED

SEP 7 1993

M. C. OTOOLE

Mr. Michael C. O'Toole  
Director, Environmental Health  
and Safety Programs  
GE Railcar Services Corporation  
33 West Monroe Street  
Chicago, IL 60603

Dear Mr. O'Toole:

In a letter dated August 10, 1993 the Maryland Department of the Environment (MDE) invited Potentially Responsible Parties (PRPs) associated with the Cecil Industrial Park site to a meeting held in Elkton, Maryland, on August 24, 1993. The purpose was to discuss the nature of environmental contamination, MDE's actions to date, and the potential voluntary role of individuals and corporations to conduct a comprehensive environmental assessment. It is important to restate that this is a State action, not a federal one. Enclosed is a copy of the attendance list and the slides that were used at the August 24 meeting.

It is unfortunate that certain PRPs did not take advantage of the opportunity to hear the Department's presentation and regulatory objectives. Although I was pleased with the interest expressed by those in attendance, it was disappointing that several parties chose not to attend the meeting nor contact this office. Regardless, I am still convinced that a coordinated, cooperative effort to address the environmental contamination at the site is a realistic approach and has the advantages of reducing costs, reducing duplication of efforts and increasing overall efficiency.

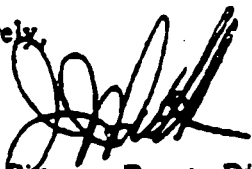
I anticipate that one or more of the PRPs will establish a CORE group which would be followed by a CORE group meeting to determine the scope of involvement. If you are invited in the near future to a CORE group meeting, I encourage you to participate. As explained at the recent meeting, our involvement in that particular meeting will be limited. As a first step to determine your willingness to cooperate to some extent in a coordinated investigative effort, it is requested that you submit a brief response to this office by October 1, 1993 which indicates your interest. This in no way will be construed as a commitment to expend resources on the necessary environmental assessment. If the establishment of the CORE group is successful, the Department will be prepared to begin negotiations on a consent document that clearly defines the work to be accomplished.

Mr. Michael C. O'Toole

Page 2

We are encouraged by the interest some of the PRPs have shown thus far, and look forward to working with all in a progressive and cooperative manner. Our main objective is to efficiently address the site-wide environmental concerns together, and avoid unnecessary protracted litigation. We look forward to your response and if you have any questions, please direct them to me at (410) 631-3305 or Mr. Robert DeMarco, Program Administrator, Environmental Response and Restoration Program, at (410) 631-3437.

Sincerely,



James Britman, Deputy Director  
Waste Management Administration

JP:cm

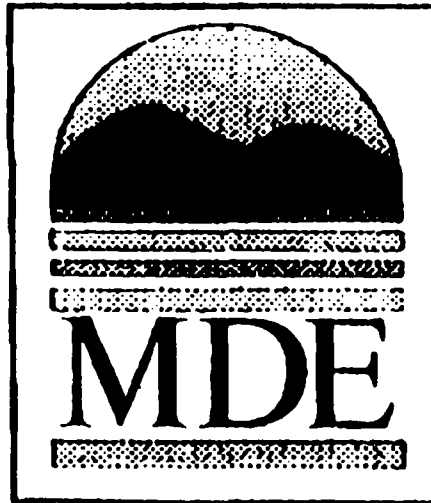
Enclosures

cc: Mr. Richard W. Collins  
Mr. Robert DeMarco

**Cecil Industrial Park  
MDE Meeting  
August 24, 1993**

Name	Address	Phone
1. <u>Bill Schmidt</u>	<u>MDE - WAS Ridge</u>	<u>(410) 758-5020</u>
2. <u>Lyone WHITE</u>	<u>Asst. Mgr. of Engineer</u>	<u>(302) 221-7672</u>
3. <u>CATHY GROTHEER</u>	<u>"</u>	<u>(402) 221-4019</u>
4. <u>Cherie THROSS</u>	<u>CENTRAL CHEMICAL CORP.</u>	<u>410 388-7100</u>
5. <u>KENNARD R. WAGNER</u>	<u>SCHULTZ HOMES CORP.</u>	<u>219-294-7491</u>
6. <u>DAVID M. LATZKO</u>	<u>W.L. CARE + ASSOC., INC.</u>	<u>(302) 738-4880</u>
7. <u>Jim Water</u>	<u>Inquirer Ind. Park</u>	<u>(410) 398-2383</u>
8. <u>MICHAEL OTOLE</u>	<u>ONE RAILCAR</u>	<u>(302) 853-5591</u>
9. <u>Ellie Rollin</u>		<u>398 / 1870</u>
10. <u>John Pacumba</u>	<u>2511 PULLASKI Hwy <sup>GLASGOW</sup> DE 19001</u>	<u>302 368 2801</u>
11. <u>GEORGE BENVENUTO</u>	<u>COLONIAL METALS ELKTON</u>	<u>(410) 392-7200</u>
12. <u>ED WEBSTER</u>	<u>" " " "</u>	<u>" " " "</u>
13. <u>Dennis C. Lewis</u>	<u>Joel Antinoph 626 E. Main Elkton</u>	<u>398-7400</u>
14.		
15.		
16.		
17.		

**MDE Meeting on  
Cecil Industrial Park  
August 24, 1993**



# **GOAL**

**To begin discussions with a core group to explore options for coordinated effort to address environmental problems at the site.**



# **COOPERATIVE EFFORT**

- ➔ Reduce Costs**
- ➔ Reduce Duplication**
- ➔ Increase Efficiency**



# **CECIL INDUSTRIAL PARK**

- ➔ Farmland**
- ➔ Fireworks**
- ➔ WWII Munitions**
- ➔ Industrial/Commercial**

THERE WAS A 1942 and 1947 AERIAL PHOTOGRAPHS SHOWN. THESE HAVE NOT BEEN REDUCED FROM A SLIDE  
FORMAT AND ARE NOT PROVIDED WITH THESE OVERHEADS.

# **PAST WASTE PRACTICES**

- ➔ Land Disposal**
- ➔ Spills and Leaks**
- ➔ Treatment Lagoon**
- ➔ Degreasing Areas**
- ➔ Drum Storage**

# **THE 1980's**

- ➔ **Increased Regulatory Activity**
- ➔ **Discovery of Pesticide and TCE Contamination**
- ➔ **Expanded Monitoring and Sampling Programs**
- ➔ **Construction of Rt 40 Waterline**
- ➔ **No Obvious Single Source of Contamination**

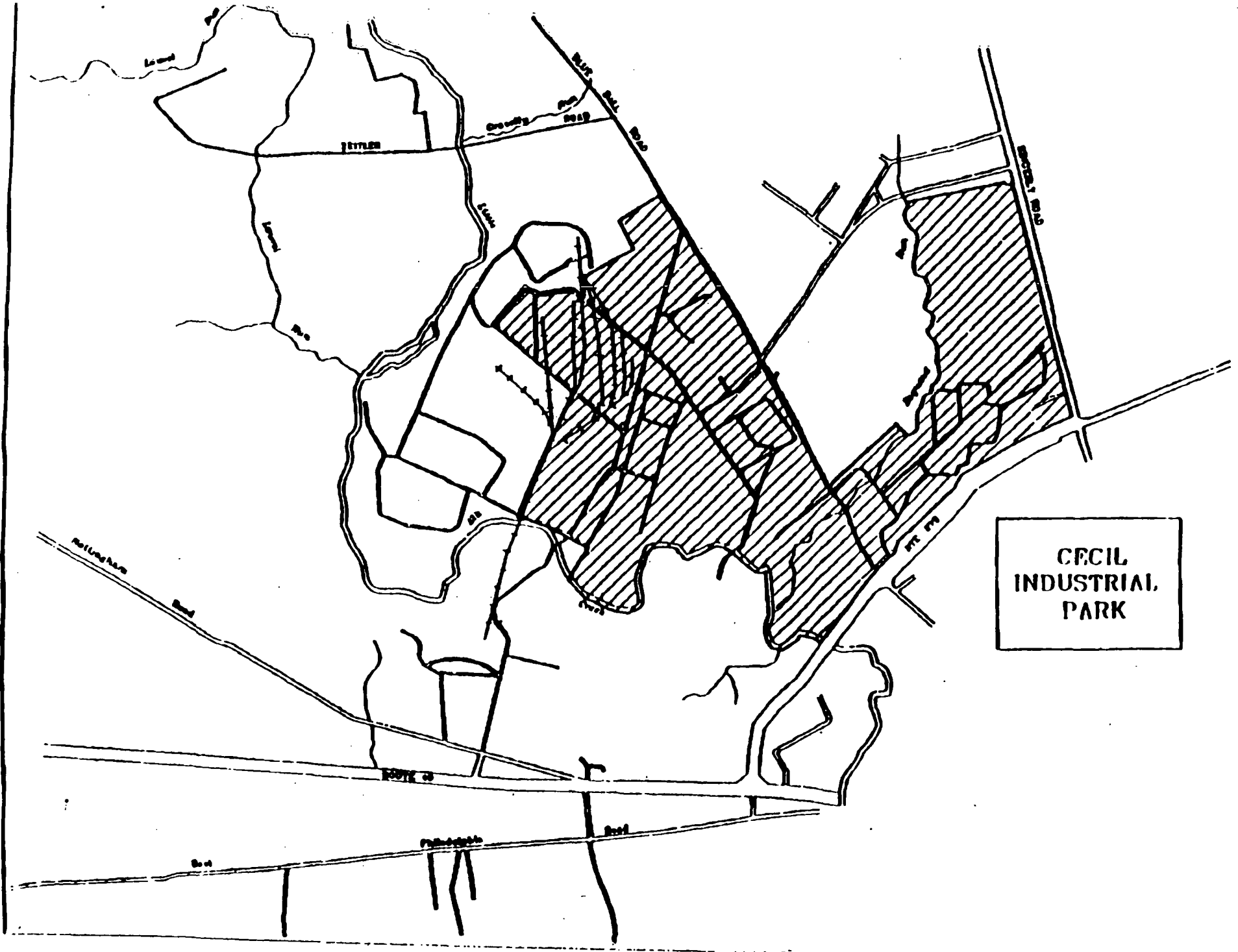
# **THE 1990's**

- ⇒ Site Considered as a Regional Issue**
- ⇒ Conducted PRP Investigations**
- ⇒ Completed Detailed Review of Industrial Activities at the Site**
  - Reported/Alleged Spills and Discharges**
  - Environmental Monitoring Data**
  - Site Investigations**

# **THE 1990's — continued**

- ➔ Reviewed the Hydrogeological/Geological Conditions at the Site**
- ➔ Complex Hydrogeology with Multiple Groundwater Flows**
  - Topography**
  - Stratigraphy**
  - Bedrock Fractures**
- ➔ Current Data is Limited**





CECIL  
INDUSTRIAL  
PARK

# **CORE GROUP**

- ➔ **Steering Committee**
- ➔ **Letter of Intent**
- ➔ **Consent Decree**
- ➔ **Comprehensive Site  
Environmental Investigations**

# **PLAN OF ACTION**

## **➔ Field Investigations**

- **Geophysical Testing**
- **Installation of Monitoring Wells**
- **Sampling and Analysis**

## **➔ Address Source Removals**

## **➔ Evaluation of Remedial Alternatives**

**ATTACHMENT E**  
**TO LETTER FROM**  
**RICHARD G. STOLL**  
**TO ARTHUR E. O'CONNELL**  
**OF FEBRUARY 22, 2000**

Letter from Robert A. DeMarco to U.S. Army Corps of Engineers, November 18, 1994



**MDE** MARYLAND DEPARTMENT OF THE ENVIRONMENT  
2500 Broening Highway • Baltimore, Maryland 21224  
(410) 631-3000

William Donald Schaefer  
Governor

David A.C. Carroll  
Secretary

November 18, 1994

U.S. Army Corps of Engineers  
Omaha District  
Attn: CEMRO-ED-EA (Ms. Linda White)  
215 North 17th Street  
Omaha NE 68102-4978

RE: Status Concerning Potential Liability at the Cecil Industrial Park Site.

Dear Ms. White:

The Maryland Department of the Environment, Waste Management Administration (MDE/WAS) has reviewed documents from the Potentially Responsible Party (PRP) files concerning potential Department of Defense (DOD) liability in the Cecil Industrial Park State Superfund Site, Cecil County, Maryland and has determined that the Department of Defense (DOD) is not exempt from liability at this site. Copies of a number of documents from the 1939 to the late 1940's period are being enclosed (Exhibits A through I) to confirm the claim by MDE/WAS that essentially all of the physical plant which comprised the World War II era munitions plant located on Triumph Explosives, Inc. property west of Blue Ball Road was in fact (and by admission) a government-owned facility. Confirmation of this claim is found in the enclosed copy of a letter from the Chief of the Bureau of Ordnance to the Secretary of the Navy (dated December 10, 1941) concerning extension of Contract No. S-91879-LL with Triumph Explosives, Inc. Paragraph 3(a) of this letter states: "Triumph Explosives, Incorporated is operating a government-owned plant which was built for the express purpose of loading 40 mm ammunition" (Exhibit A).

The concept of Government-Owned, Contractor-Operated (GOCO) munitions plants was adopted through consensus of the various military authorities charged with expanding the domestic ordnance production capacity during the 1939-1941 pre-war "emergency" period. A summary of the history of the pre-war and World War II era munitions industry and the government's initiatives and policies to attain wartime levels of ordnance production is found in the enclosed article "Shot, Shell, and Bombs" (Exhibit B), acquired from the National Archives. The evolution and implementation of the GOCO plants, which supplied 95% of U.S. shells, bombs, and explosives during World War II, is found in Exhibit B, SNA 13 and 14.

The earliest effort by U.S. military authorities to define policy for expanded pre-war emergency era ordnance production was a U.S. Ordnance Department Directive "High Explosives Manufacturing Plants" dated September 20, 1939 (Exhibit C). This Directive called for expansion of existing facilities and for drawing up detailed plans for new ordnance plants. This Directive assigned the Ordnance Department of the Army to do the necessary planning for existing ordnance production facilities, and to prepare construction and operating plans for additional new facilities for both the U.S. Army and Navy (Paragraph 6.a of the Directive). The following conclusions were reached by all military authorities participating in the drafting of this Directive:

"Together We Can Clean Up"



- 1) The construction and operation of new facilities can be carried out acceptably only by industries regularly manufacturing explosives. (Paragraph 6.a.1)
- 2) The production of new facilities can be advanced appreciably by the pre M-day (Mobilization-day?) preparation of plans and by the tentative selection of suitable plant sites. (Paragraph 6.a.2)
- 3) The preparation of such plans should be under the direction of the Ammunition Division and in conjunction with the industries that will construct and operate them. (Paragraph 6.a.3)
- 4) In the pursuance of this common conclusion, an office has been established in the center of the explosives and smokeless powder industry in Wilmington, Delaware, known as the Wilmington Office of the Philadelphia Ordnance District. This office will, in cooperation with the leaders of the high explosives industry, develop plans acceptable to the industry and as are called for in this Directive. The Wilmington Office may contact and correspond with commercial facilities in all Districts. It is desired, however, that District Executives be informed of visits or contacts in their Districts. When practicable, the services of the District Offices should be utilized in connection with this work. (Paragraph 6.a.4)

The Directive further stipulates eight objectives for the Wilmington Office in working out the plans for expanded ordnance production:

- 1) To promote the good will, interest, and cooperation of the leaders of the industries now engaged in making high explosives. (Paragraph 6.b.1)
- 2) To obtain the earliest possible mass production of high explosives meeting specifications prescribed. (Paragraph 6.b.2)
- 3) To produce the items required and deliver them to the point of use at the lowest unit cost to the government. (Paragraph 6.b.3)
- 4) To select tentative sites for the new plants in the most advantageous locations; preferably west of the Appalachian Range and not less than 300 miles from any seacoast. These plants should be located as close to source of raw and component materials as possible. (Paragraph 6.b.4)
- 5) To develop the plant plans in the form of compilations of standard parts which are generally applicable to large explosives manufacturing plants. (Paragraph 6.b.5)
- 6) To so plan that the manufacturer who is to operate the plant also will have direct supervision over its construction. (Paragraph 6.b.6)
- 7) To carry the plans to a stage of completion such that construction may begin as soon as authorized and proceed without interference or unnecessary delay. (Paragraph 6.b.7)
- 8) To keep housing construction at a minimum. (Paragraph 6.b.8)

The Directive stipulates that "expansion of the existing facilities will be a small proportion of that needed to meet requirements. The production required to make up the deficit is to be obtained through the creation of new facilities, a plan for which is the major burden of this Directive." (Section 5.b)

**CONTRACT NOD-2002 BETWEEN THE NAVY DEPARTMENT AND TRIUMPH EXPLOSIVES, INC.**

On August 14, 1941, the UNITED STATES OF AMERICA and TRIUMPH EXPLOSIVES, INC. entered into a contract referred to as NOD-2002 (Exhibit D). Article 1 of this contract states: "SCOPE OF CONTRACT. The Contractor (Triumph Explosives, Inc.) shall with due expedition, by contract with others or otherwise, acquire and install or construct the machinery, equipment, facilities, services, and appurtenances identified in Appendix A attached to and forming a part of this contract (and hereinafter sometimes collectively referred to as 'the facilities' or 'the Department-owned facilities'), furnishing or causing to be furnished the labor, materials, tools, and services, and doing or causing to be done all other things necessary for the acquisition, installation, and construction thereof. All of the said facilities shall be in accordance with the drawings, specifications, descriptions, and instructions set forth in Appendix A."

While it is not specifically stated in this contract whether the Contractor or the Navy Department had originally drawn up the plans in Appendix A, it is assumed that the Navy supplied the plans to the Contractor. Paragraph 6.b.7 of the previously mentioned Ordnance Department Directive (Exhibit C) lists as among its objectives: 1. "To select tentative sites for new plants" (paragraph 6.b.4), 2. "To carry the plans (for construction of new facilities) to a stage of completion such that construction may begin as soon as authorized" (paragraph 6.b.7), 3. "To so plan that the manufacturer who is to operate the plant also will have direct supervision over its construction." (paragraph 6.b.6) Furthermore, NOD-2002 states on page one: "WHEREAS, in order to expedite the completion of the facilities hereunder (Appendix A) in the interest of national defense the Department transmitted to the Contractor a Letter of Intent dated April 17, 1941, which became an agreement between the Department and the Contractor upon the Contractor's acceptance thereof on April 21, 1941; and WHEREAS, in accordance with the aforesaid Letter of Intent the Contractor has commenced work on the facilities hereunder and the Department has approved plans, specifications, lists of equipment and estimated costs for the facilities which have been submitted;". Use of the Letter of Intent as a contractual instrument is defined on page 23 of the enclosed document, History of Navy Department Renegotiation, Volume 1-A (Exhibit E): "Letter of Intent - If the Navy desired to have work begun immediately and in advance of completed specifications or a definitive contract, the Letter of Intent was used until time permitted its supersedure by a definitive contract." It should be noted that the plans in Appendix A which accompany this contract include the Lead Azide production facilities. The U.S. production capacity for this crucial explosive ordnance compound was far below that required for wartime ordnance production needs (Exhibit C, paragraph 2.b).

The Corps of Engineers (COE) February 7, 1992 Final Report, Site Operations/Ownership History, Triumph Explosives, Inc. states that in 1940 Triumph Explosives was contracted by the United States to produce lead azide (page 11). Construction of these facilities on the Navy side did not even begin until after mid-April, 1941 when the Letter of Intent for Contract NOD-2002 was signed by Triumph Explosives. This report also states that "by the end of 1940, the plant encompassed approximately 300 acres" (page 11). This statement is misleading because it implies that all 300 acres of land owned by Triumph Explosives at the end of 1940 was developed. In fact, there is very little physical

evidence that any of the Navy side facility was developed prior to late April, 1941. Land acquisition by Triumph Explosives, Inc. on the Navy side (west side) of Blue Ball Road was obviously progressing during 1940, possibly in anticipation of major expansion after the start of hostilities in Europe during late 1939, or possibly at the request of the Navy in order to secure the needed land in advance of the construction contract (NOd-2002) for the 40 mm plant on Triumph Explosives, Inc. real estate. The Triumph Explosives 40 mm assembly plant was the only source of this ammunition until the spring of 1943. Because the 40 mm gun was the Navy's primary antiaircraft weapon, production of this ammunition was vitally important to the National Defense.

MDE/WAS made a comparison of the plans for the physical plant constructed under Contracts NOd-2002 and NOd(F)1087 (Exhibit F) with a November 8, 1942 aerial photo of the actual physical plant on the Navy side of Blue Ball Road. MDE/WAS found that the constructed facilities as of November 8, 1942 exactly coincide with the plans accompanying Contracts NOd-2002 and NOd(F)1087, which are the plans for the "government-owned plant built for the express purpose of loading 40 mm ammunition". Since the only facilities identified on the November 8, 1942 aerial photo were those to be constructed under Contracts NOd-2002 and NOd(F)1087, and since construction of those facilities did not begin until sometime after the April 21, 1941 Letter of Intent and before the formal signing of NOd-2002 (August 14, 1941), it appears that there were no Triumph Explosives facilities constructed on the Navy side of Blue Ball Road prior to April 21, 1941 and that all facilities on the Navy side were "government-owned" facilities of the 40 mm ammunition plant as defined in Contracts NOd-2002 and NOd(F)-1087 and the Change Letters of July 31, 1942, March 24, 1943, July 27, 1943 and November 16, 1943 (Exhibit G).

MDE/WAS wishes to point out that, according to NOd-2002, construction began soon after the April 21, 1941 Letter of Intent was signed, and not in "late 1941" as indicated on page 11 of the February 7, 1992 COE report Site Operations/Ownership History of Triumph Explosives, Inc. The timing of these details and events is useful in determining the size and scope of specifically designated "government-owned facilities" compared to the size of the physical plant owned by Triumph Explosives, Inc. during World War II.

The February 7, 1992 COE report states (page 11) that the first area of Triumph Explosives plant expansion beyond the original 5-10 acres was to the north and west of the original plant. This would have been on the Navy side (west side) of Blue Ball Road. Since the facilities on the Navy side of Blue Ball Road were not under construction until late April, 1941, the rapid plant expansion during 1940 must have occurred on the "Army side" (east side) of Blue Ball Road. An aerial view of the Triumph Explosives plant on the Army side of Blue Ball Road is seen in the enclosed photo from the November 3, 1949 issue of the Cecil Whig newspaper (Exhibit H). This property, now called the Dwyer Property in MDE/WAS files, consists of 76 acres which were extensively developed by Triumph Explosives before and during World War II. The late 1939 through early 1941 expansion of the privately-owned Triumph Explosives plant occurred entirely on the Army side of Blue Ball Road on the 76-acre Dwyer Property. Construction after April, 1941 was concentrated primarily on the government-owned facilities on the Navy side of Blue Ball Road.



As mentioned previously, the Triumph Explosives plant was one of 58 GOCO munitions plants which supplied 95% of U.S. shells, bombs and explosives during World War II (Exhibit B). By terms of their contracts, the companies operating these plants received reimbursement of their costs plus a fixed fee. In the summer of 1944, Congressman Albert J. Engel, of the House Appropriations Committee, who took a dim view of excessive government spending, personally visited approximately one-third of the GOCO plants. Congressman Engel totaled up the fixed fees paid by the government, estimated the amount returned to the government in excess-profits taxes paid by the contracting firms, and concluded that the net management fees amounted to only 1.3% of the cost of the munitions turned out (Exhibit B, SNA 14). As a result of this fact-finding trip, Congressman Engel reported back to the Congress: "I have on numerous occasions pointed out how money has been wasted. It gives me a great deal of satisfaction to be able to point out this instance in which the taxpayers are obtaining value received for every dollar spent" (Exhibit B, SNA 14). The profit motive had clearly been excluded from GOCO plants and replaced with pride and patriotism. TNT, which had cost 50 cents per pound during World War I and 17 cents per pound before World War II, was down to 6.25 cents per pound in 1945. Composition B, a combination of RDX and TNT, cost 30 cents per pound in 1943 and 11 cents per pound in 1945. The total cost of loading a 500 pound bomb, which was \$18.97 in January 1943 had been cut to \$4.07 in early 1945 (Exhibit B, SNA 11). In the July 16, 1945 letter from the Secretary of the Navy to the president of Triumph Industries, Inc. (Exhibit D), the Secretary noted "a total of approximately eighty-five million completed rounds of 40 mm ammunition alone has been delivered to the Navy by Triumph. In addition, the company has produced hundreds of millions of components for 20 mm ammunition and various forms of pyrotechnics.... Until the spring of 1943 the Company was the only source available to the Navy for the loading of 40 mm ammunition."

The profit-motive is clearly excluded from both the construction and operation of the Navy's 40 mm ammunition plant at the Triumph Explosives location. Article 8.b of NOd-2002 (Exhibit D) states: "The Contractor shall be paid without profit as full compensation under this contract the true cost of performance thereof, said true costs being determined in the manner provided in Article 6 hereof." The Contract further requires that the Contractor "..will at its own expense protect and maintain them (Department-owned facilities) in the manner and following the same practices and standards of care that it normally employs in the protection and maintenance of its own properties of similar character and function and will at its own expense keep them insured against such risks and in such amounts as the Department shall require." (Article 9.a). In the preamble to the Contract on page one of NOd-2002, the emphasis of cost control through government financing and ownership of the production plant and machinery is confirmed by the following:

- WHEREAS, the Department and the Contractor are entering into a contract or contracts, hereinafter sometimes referred to as "the supply contract", for the sale by the Contractor to the Department of certain ordnance material on the understanding that the facilities required for the production of the same will be provided by the Department; and
- WHEREAS, the contractor represents to the Department that the price to be paid the Contractor under the supply contract or under any other contract will not include any amount or allowance for the cost of acquisition, construction or installation or for the amortization or depreciation of the said facilities; and

- WHEREAS, the necessary funds are available for the purpose of this contract under the appropriation "Replacement of Naval Vessel, Armor, Armament, and Ammunition."

The emergency legislative authority and justification for Contract NOd-2002 is also listed in the preamble under the heading "WITNESSETH THAT:". Appendix A of the Contract formally separates ownership status of the Department-owned facilities from the separate and distinct ownership of the real estate on which these facilities are located. Article 27 of the Contract states: "No chattel or movable which is part of the facilities shall be or become part of any realty whatsoever by reason of affixation to such realty, nor shall any chattel or movable whatsoever be or become, by reason of such affixation, part of any realty, irrespective of the title of such realty."

Article 9 of Contract NOd-2002 deals with, among other topics, operational restrictions and rental payments by the Contractor for use of the Department-owned facilities. Article 9.b states: "...So long as the Department-owned facilities shall be left in the possession of the Contractor for its use in accordance with this Article, orders for material for the United States of America shall be given precedence over other work requiring the use of the Department-owned facilities." The de facto condition of operational control (possession) as well as ownership of the facility is satisfied by these contractual restrictions. Article 9.c.i through 9.c.v specifies the conditions for rental payment. Article 9.c states: "In consideration of the Department-owned facilities being left in the possession of the Contractor for its use as aforesaid, the Contractor hereby agrees to pay a rental therefor in the manner and at a rate hereinafter provided." Article 9.c.iii waives the rental fee for supplies manufactured for the government.

Appendix A of NOd-2002 identifies the Plant Facilities as follows: "Although not part of the Emergency Plant Facilities, the Emergency Plant Facilities are located on, or attached to, or used in connection with, the following described property:". A legal description of the Triumph Explosives, Inc. real estate on the Navy side of Blue Ball Road is included. Following the legal description of the land involved, the description of the Emergency Plant Facilities resumes "250 various buildings including conveyor houses, magazines, barricades, boardwalks, etc., more particularly enumerated and described on plans on file with the Secretary of the Navy." Also included in the description of "OTHER PROPERTY" are: "All plant facilities, building equipment, fixtures, machines, machine equipment, tools, furniture, etc., located on, or attached to, or used in conjunction with the property described under Land and Buildings above, labeled with the tag or impression: 'This property is owned by the United States by virtue of Contract NOd-2002 and amendments'."

Contract NOrd(F)1087 (Exhibit F) greatly expanded the Navy Ordnance facility on the west side of Blue Ball Road. It was signed on April 21, 1942 after the war had started. The terms of NOrd(F)1087 are similar to those of NOd-2002 except for Article 9 of NOrd(F)1087 which states: "It is understood and agreed that all of the facilities which are the subject of this contract are being installed temporarily due to the exigencies of the war effort. Without limiting the generality of the provisions hereinafter set forth, if any of the facilities of Appendix A are owned by the Contractor, title thereto as the sole property of the Government, together with any additions or increments thereto by reason of labor or work done thereon or otherwise, shall vest in the Government upon


U.S. Army Corps of Engineers  
Ms. Linda White  
Page 7

the execution of this contract. Hereafter, any and all facilities which the Contractor may require for the performance of its obligations under this contract shall be purchased in the name and for the account of the Government and shall be the sole property of the Government.... The provisions of this Article, however, shall not be construed as relieving the contractor from the responsibility for the care and preservation of such facilities or as a waiver of the right of the Department to require the fulfillment of all the terms of this contract."

As a result of the contractual relationship between the U.S. Government (Navy Department) and Triumph Explosives, Inc. (also known as Triumph Industries, Inc.), the facilities located on the west side of Blue Ball Road (Navy side) were owned and under the direct operational control of the U.S. Government from the spring of 1942 until the Government relinquished control after World War II. The U.S. Government controlled production, had the power to seize control of the plant, controlled raw materials supplies and labor policies for the facility, and controlled product prices and production output of the facility. Therefore, MDE concludes that CERCLA liability for contamination at this site must be assumed by the United States Government. MDE wishes to facilitate the investigation and cleanup of the former 40 millimeter ammunition plant location by encouraging participation by all PRPs in a coordinated, PRP-led effort under the regulatory authority of the Maryland State Superfund program. MDE believes this approach will result in the most timely and cost effective solution to environmental contamination at this site.

Please direct your comments, questions, or responses to me at (410) 631-3437.

Sincerely,



Robert A. DeMarco, Administrator  
Environmental Response and Restoration Program

Enclosures

cc: Mr. Richard W. Collins  
Dennis Clower, Esquire

**ATTACHMENT F**  
**TO LETTER FROM**  
**RICHARD G. STOLL**  
**TO ARTHUR E. O'CONNELL**  
**OF FEBRUARY 22, 2000**

Letter from Robert E. Greaves to P&R Rail Car, November 16, 1998



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

November 16, 1998

**P&R Rail Car Service Corporation  
Plant Manager  
Trinco Industrial Park  
Elkton, MD 21921**

**Re: RCRA Corrective Action at P&R Rail Car Service Corporation  
EPA ID# MDD 078 288 354**

**Dear Sir/Madam:**

The purpose of this letter is to inform you that the United States Environmental Protection Agency (EPA), Region III, will be conducting a site visit in the next couple of months to determine if RCRA Corrective Action is necessary at your facility.

First, let me inform you why EPA is initiating this inspection at your facility. EPA has set a goal of meeting Environmental Indicators or achieving final remediation at each of the approximately 300 high priority RCRA Treatment, Storage, and Disposal (TSD) Facilities in Region III by the year 2005. Your facility is ranked as one of these high priority facilities. EPA Region III utilized the National Corrective Action Priority System (NCAPS) model to evaluate the relative priority of the Region III TSD universe. The NCAPS model is based on four different exposure pathways: groundwater, surface water, air and on-site (direct contact with hazardous materials or contact with contaminated surface soils). Based upon the NCAPS model, your facility was ranked as a high priority facility. The NCAPS modeling results do not mean that a facility ranked as "high" will, in fact, require large-scale remediation. In some cases, remediation may have already taken place under the State's jurisdiction or as a facility-lead.

EPA Region III is focusing on two interim Environmental Indicators as a result of the Government Performance and Results Act: Human Exposures Controlled and Groundwater Releases Controlled. In general terms, EPA considers the environmental indicators to be met where migration of groundwater releases has been controlled and human exposure pathways controlled or cut off so that the facility poses no unacceptable risk to human health and the environment under existing conditions at the facility. Even if these two Environmental Indicators are met, additional remediation may still be necessary for the final corrective measures.

EPA encourages public involvement in all stages and aspects of the Corrective Action process. Final remedy selection will include a formal decision making process which incorporates public involvement.

EPA Region III recently tasked the U.S. Department of Army, Corps of Engineers, to review file information and conduct a site visit at your facility to gather relevant information for EPA to determine whether the environmental indicators have been achieved. Information which will be discussed at the site visit to determine the status of the environmental indicators may include the following:

- An outline of the operational history of the facility including all wastes generated at the facility and their management;
- A brief description of all areas where hazardous constituents may have been released to the air, soils, groundwater and surface waters (e.g., Solid Waste Management Units (SWMUs) and Areas of Concern (AOCs));
- A description of known releases and potential releases at each SWMU and AOC;
- A description of exposure pathways for all releases and potential releases;
- A summary of existing investigative information;
- A description of all exposure pathway controls and/or release controls instituted at the facility and how these achieve or contribute toward achieving the two environmental indicators;
- Up-to-date information about Corrective Action goals previously accomplished at your facility;
- Your views as to how Corrective Action can proceed at your facility; and
- Any other issues that you would like to discuss.

EPA or the Corps of Engineers will be contacting you within the next several weeks to set up this site visit.

On behalf of EPA Region III, I thank you in advance for your cooperation during this anticipated site visit. If you have any questions or concerns I encourage you to contact Denis M. Zielinski, RCRA Senior Project Manager, at (215)814-3431.

Sincerely,



Robert E. Greaves, Chief  
General Operations Branch

cc: Butch Dye, MDE  
Scott Evans, DOA COE  
Craig Maurer, DOA COE

**ATTACHMENT G**  
**TO LETTER FROM**  
**RICHARD G. STOLL**  
**TO ARTHUR E. O'CONNELL**  
**OF FEBRUARY 22, 2000**

Letter from Michael C. O'Toole to Denis M. Zielinski, December 31, 1998



**Michael C. O'Toole**  
Senior Vice President  
Environmental Health & Safety Programs

General Electric Railcar Services Corporation  
A unit of General Electric Capital Corporation  
33 West Monroe Street, Chicago, IL 60603  
312 353 5591 Fx 312 353 5489  
E Mail railcar.motoole@capital.ge.com

December 31, 1998

**Via Federal Express**

Mr. Denis M. Zielinski  
RCRA Senior Project Manager  
U.S. Environmental Protection Agency  
Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

**Re: Letter of 11/16/98 from Robert Greaves Regarding  
RCRA Corrective Action Inspection at  
P & R Railcar Car Site in Elkton, MD**

Dear Mr. Zielinski:

Thank you for your assistance last month in forwarding copies of the above-referenced letter to my counsel and me. As you apparently discovered from communications with Maryland Department of Environment (MDE) personnel, General Electric Capital Railcar Services Corporation (GE Railcar) is the current owner of the Elkton site. I am Vice President of Environmental Affairs for GE Railcar, and should be considered the contact person for all communications regarding this matter.

Mr. Greaves' letter says EPA intends (through the Army Corps of Engineers) to inspect our site to determine if RCRA corrective action is necessary. We will be fully cooperative with you and the Corps' inspectors and will arrange an inspection at a mutually convenient time. As explained below, however, we do not believe EPA has RCRA corrective action authority over our site at this time.

We are now assembling the information relating to environmental status indicators in accordance with the format set forth in the bullet points on page two of Mr. Greaves' letter. While this effort will provide a more detailed and comprehensive background, I will summarize a few of the most pertinent points relating to our legal position at this time. I should note that GE Railcar's predecessors owned or operated the facility under several different names over the years, but for convenience and simplicity I will refer to the owner and operator as GE Railcar in the discussion that follows.



Mr. Denis M. Zielinski  
December 31, 1998  
Page 2

In conjunction with its railcar cleaning and repair operations, GE Railcar conducted hazardous waste storage and treatment at the site. Until EPA authorized the Maryland Department of the Environment (MDE) to operate the RCRA permitting program in 1983, EPA and MDE had concurrent jurisdiction over RCRA permitting. Accordingly, in 1980, GE Railcar initiated the RCRA permit process for storage and treatment at both the federal and state levels.

GE Railcar filed Part A and Part B permit applications with Region III in 1980. The Region never issued a permit to the facility, however. Rather, on January 10, 1984, Region III notified the facility that EPA had on November 23, 1983 authorized MDE to operate the RCRA permitting program for storage and treatment, and that RCRA permitting for the facility would accordingly be handled exclusively by MDE.

MDE issued permit A-229 to the facility for hazardous waste storage and treatment on October 15, 1982. This permit was never renewed. Rather, on May 28, 1985, the facility withdrew its pending request for renewal of permit A-229. This withdrawal led to an extensive RCRA closure process.

This process culminated in MDE fully releasing GE Railcar from its hazardous waste permit obligations on May 18, 1992. First, after extensive cleanup and remedial operations had been performed respecting the so-called "T-22" tank farm, MDE confirmed that the tank farm had been sufficiently closed. (See MDE letter of June 14, 1990, Attachment A.) Second, after MDE had identified several additional areas of concern and GE Railcar had addressed them to MDE's satisfaction, MDE sent GE Railcar a final closure letter on May 18, 1992. (Attachment B.)

You will see that in its 1992 letter, MDE found as follows: "HSWMA has determined, after reviewing this report and inspecting the site, that this facility has been closed in accordance with the approved closure plan. Specifically, this formerly permitted facility has been closed in a manner that minimizes the need for further maintenance and minimizes, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste and hazardous waste constituents to the groundwater. This facility is released from its obligations under controlled hazardous substance facility permit number A-229."

We believe the foregoing demonstrates there is no RCRA corrective authority over the site. First, under RCRA §3004(u), EPA's corrective action authority applies only to hazardous waste permits issued after November 8, 1984. MDE issued permit A-229 well before this date and that permit was never renewed. EPA never issued a RCRA permit to the facility. Thus, there can be no corrective action authority over the facility under §3004(u).

Mr. Denis M. Zielinski  
December 31, 1998  
Page 3

Second, EPA has corrective action authority over certain interim status facilities under RCRA §3008(h). This authority, however, applies only to those facilities that currently have interim status, and our facility does not. Interim status ended when MDE issued permit A-229 in 1982. As recently as two months ago, EPA confirmed that §3008(h) authority no longer exists in such a situation. EPA first stated that such authority terminates "after final disposition of the permit application." 63 Fed. Reg. 56711, col. 3, October 22, 1998. EPA then added, more to the point in our situation, that §3008(h) authority does not apply to "clean closed" facilities where there has been final disposition of a permit application. Id. at 56716, col. 1. Even if one were to argue that issuance of the permit in 1982 was not a "final disposition" of the permit application, the final closure approval and complete release by MDE in 1992 most certainly shows "final disposition" of our permit.<sup>1</sup>

As §§3004(u) and 3008(h) are the only possible sources of RCRA corrective action authority over our facility and neither apply in our situation, we must state as a legal matter that EPA has no RCRA corrective action authority over our site. As noted above, we are willing to go forward with the inspection, but we feel it is necessary to state our legal position for the record at this time.

While corrective action is not applicable, we are aware of certain conditions on or near our facility which may prompt EPA or MDE to seek further information or response. I will summarize these matters below, and we will provide more detailed information in our upcoming response to Mr. Greaves' letter.

(1) Galaxy Stillbottoms. In 1989 we discovered a mass of buried waste material in an isolated corner of our site. Upon investigating the matter with MDE's assistance, we learned that the wastes were stillbottoms from a nearby solvent recycling operation known as the Galaxy Chemical Company. These wastes were totally unrelated to the operations of GE Railcar or any of its predecessors at the site.

GE Railcar entered into a Consent Order with MDE dated January 24, 1991. Pursuant to that Consent Order, GE Railcar arranged for the removal and treatment of the Galaxy stillbottoms. GE Railcar completed the removal and treatment work under that Consent Order in 1991.

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<sup>1</sup> I should note that upon reviewing the complete set of files Region III maintains on our facility - which Region III personnel sent to our counsel on December 15, 1998 -- we have discovered that neither of the above-referenced MDE closure letters are in Region III's files. This may explain why our facility appears on the Region's list of corrective action sites.

Mr. Denis M. Zielinski  
December 31, 1998  
Page 4

Pursuant to the work plan approved by MDE, when we removed the stillbottom material, we did not remove all the soil that had been contaminated with the stillbottoms. Rather, we agreed that the issue of this remaining contaminated soil would be addressed at a later time, because MDE would be pursuing an area-wide remedial investigation of the entire industrial park on which our site was located. (See part (2) immediately below.) Thus, we are aware that these residual contaminated soils remain at our site, but we have always been informed by MDE that they would be addressed with authorities other than RCRA.

(2) Area-Wide Remediation. In discussions respecting the Galaxy stillbottom removal, MDE personnel informed us on numerous occasions they intended to address issues of residual contaminated soil and potential groundwater problems on an area-wide basis. This was because our facility is part of the Cecil Industrial Park (CIP), and MDE believed there were several sources of potential soil and groundwater contamination at the CIP (one of the most significant sources being a munitions plant operated for the U.S. government during World War II).

Consistent with these discussions, MDE official James Pittman sent a letter to a number of parties that currently or formerly own or operate facilities within the CIP. A copy of the letter Mr. Pittman sent to GE Railcar is enclosed. (Attachment C.) Mr. Pittman sent an identical letter to several other parties.

You will note Mr. Pittman invited the parties to a meeting and attached basic information about the CIP and MDE's plans to his letter. MDE was approaching an area-wide soil/groundwater assessment by focussing on an area of approximately 450 acres within the CIP that includes our site. MDE noted it was "currently reviewing options for working in a cooperative fashion with willing PRPs to investigate sources and migration pathways." We indicated our willingness to work with other parties and MDE to pursue such an investigation, and we remain willing to do so.

Thus, we are aware of the potential groundwater problems affecting our site and the area surrounding our site, but we have always assumed (as had MDE) that these issues would not be dealt with in the RCRA context. In fact, as the problem is an area-wide problem, it does not appear that any site-specific RCRA approach could possibly make sense. Moreover, as explained above, there is no RCRA corrective action authority over our site.

Mr. Denis M. Zielinski  
December 31, 1998  
Page 5

I hope this will give you at least an initial picture of the extensive cleanup work at the site over the years and alert you to our fundamental position that RCRA corrective action authority does not exist at the site. I assume I will soon be hearing from EPA or the Corps to discuss a time that would be convenient for the inspection. Thank you for your consideration of these points.

Sincerely,

*Michael C. O'Toole*

Michael C. O'Toole

MCO:mh

Attachments (3)

**ATTACHMENT H**  
**TO LETTER FROM**  
**RICHARD G. STOLL**  
**TO ARTHUR E. O'CONNELL**  
**OF FEBRUARY 22, 2000**

Letter from Michael C. O'Toole to Denis M. Zielinski, January 15, 1999



**Michael C. O'Toole**

General Electric Capital Services Corporation  
Division of General Electric Capital Corporation  
10 West Monroe Street, Chicago, IL 60603  
Tel: 312 553 5531 Fax: 312 553 5459  
http://www.gecapital.com

General Electric Capital Services Corporation  
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January 15, 1999

**Via Federal Express**

Mr. Denis M. Zielinski  
RCRA Senior Project Manager  
U.S. Environmental Protection Agency  
Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

**RE: Request for Deletion of Facility From Corrective Action Lists**

Dear Mr. Zielinski:

On December 31, 1998, I sent you a letter responding to Robert Greaves' letter of November 16, 1998 relating to a facility he referenced as "P & R Rail Car" in Elkton, Maryland. (EPA ID# MDD 078 288 354.) As explained in my response, General Electric Capital Railcar Services Corporation (GE Railcar) is the current owner of that facility.

We have recently learned our facility appears on a list maintained by Region III entitled the "GPRA NAME & ADDRESS LIST" and have obtained a copy. We understand this is the Region's list of high-priority RCRA corrective action facilities. For the reasons set forth in my December 31, 1998 letter, we strongly believe there is no RCRA corrective action authority over the facility.

Accordingly, we hereby request that EPA, at the earliest practicable date, delete the facility from all lists EPA maintains indicating the facility is subject to RCRA corrective action jurisdiction. Our request includes but is not limited to the list entitled "GPRA NAME & ADDRESS LIST" Region III maintains for the State of Maryland. (On the listing for Maryland facilities, our facility is identified as Facility #20.) Our request pertains to all lists that EPA may maintain at both the Regional and Headquarters level.

Mr. Denis M. Zielinski  
January 15, 1999  
Page 2

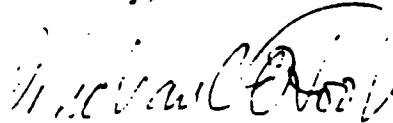
As I stated the facts and legal reasoning for our position in detail in my December 31, 1998 letter, I will merely summarize our position at this time. First, RCRA §3004(u) confers corrective action jurisdiction only over facilities that receive RCRA permits after November 8, 1984. Our facility never received a RCRA permit from the Region, and the only RCRA permit it ever received from the State was issued in 1982. Therefore, RCRA §3004(u) cannot apply.

Second, RCRA §3008(h) confers corrective action jurisdiction only over facilities that currently have interim status, and EPA has recently confirmed such authority does not apply where there has been final disposition of a permit. Our facility's interim status terminated in 1982, when the State issued its RCRA permit. Moreover, in 1992, the State issued the facility not only a final closure approval but also a complete release from all RCRA permit obligations. This most certainly shows final disposition of our permit. As §§3004(u) and 3008(h) are the only possible sources of RCRA corrective action authority over our facility and neither apply in our situation, we must conclude as a legal matter that EPA has no RCRA corrective action authority over our facility.

If you and/or the Corps of Engineers still wish to inspect the facility after considering this request, we will arrange an inspection at a mutually convenient time. In the meantime, however, I will soon be contacting you to discuss how our request for deletion may be expedited and to arrange for a meeting to discuss our request.

Thank you for your consideration of these points, and please let me know if you need any further information at this time.

Sincerely,



Michael C. O'Toole

MCO:mh

**ATTACHMENT I**  
**TO LETTER FROM**  
**RICHARD G. STOLL**  
**TO ARTHUR E. O'CONNELL**  
**OF FEBRUARY 22, 2000**

Letter from Arthur E. O'Connell to David L. York, January 24, 2000





# MARYLAND DEPARTMENT OF THE ENVIRONMENT

2500 Broening Highway • Baltimore, Maryland 21224

(410) 631-3000 • 1-800-633-6101 • [http:// www. mde. state. md. us](http://www.mde.state.md.us)

Parris N. Glendening  
Governor

Jane T. Nishid  
Secretary

January 24, 2000

Mr. David L. York  
General Electric Railcar Services Corporation  
33 West Monroe Street  
Chicago, IL 60603

Dear Mr. York:

As discussed at our October 5, 1999 meeting, there is evidence that contamination from the still bottoms area at the former General Electric (GE) Railcar site is impacting the groundwater at Triumph Industrial Park.

During a 1997 Brownfields Assessment conducted by the Maryland Department of the Environment (MDE), the investigations revealed contaminants in the groundwater, including chlorobenzene at 420 µg/L, benzene at 25 µg/L, and trichloroethene at 16 µg/L (see attached results). Historical concentrations of these contaminants at GE Railcar may be an indication that GE Railcar is the source of the groundwater contamination. Moreover, the source removal conducted at the site may not have been adequate since boring logs show that source material still exists in the subsurface.

Based on the groundwater impact at the adjacent Triumph Industrial Park and evidence that the contamination is likely attributable to the GE Railcar facility, MDE has determined GE Railcar to be a "responsible party" and that additional work should be conducted at the GE Railcar site. This work should, at a minimum, include the delineation of horizontal and vertical extent of soil and groundwater contamination. Under the Comprehensive Environmental Response, Compensation and Liability Act, this work is expected to be carried out by all "responsible parties" under the law.

Mr. David L. York  
Page 2

MDE anticipates that GE will forward a work plan specifying the work to be done. This may be forwarded to the Site and Brownfields Assessments/State Superfund Division.

Sincerely,



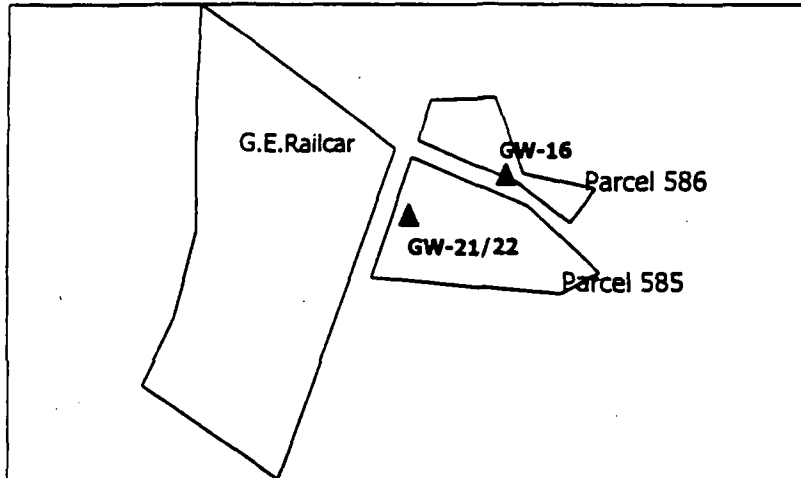
Arthur O'Connell, Chief  
Site and Brownfields Assessments/  
State Superfund Division

AOC:cp

Enclosure

cc: Mr. Richard Collins  
Mr. Karl Kalbacher  
Mr. Jim Waters, Jr.  
Ms. Peggy Smith

In October and November of 1997, MDE collected groundwater samples via geoprobe from the first encountered water bearing zone adjacent to the G.E. Railcar site. Two samples were collected from parcels 585 and 586, directly east and northeast of the G.E. Railcar site. Samples were analyzed for VOCs, SVOCs, Pest/PCBs, and total and



dissolved metals. The analytes of concern were found to be volatile organic compounds. The following table summarizes the findings in  $\mu\text{g/L}$ :

Analytes	GW-16	GW-21	GW-22(dup of 21)	MCL
1,1,1-trichloroethane	1 J			200
trichloroethene	5 J	11 J	16	5
1,2-dichloroethene			2 J	
tetrachloroethene			2 J	5
benzene	8 J	16 J	25	5
chlorobenzene	130	320	420	100
toluene	1 J			1,000
xylene	2 J			10,000

J = analyte present, value may not be accurate or precise.