

Former IMP Boats PRP Search Report



726 E. 9th Ave

Anchorage, AK 90501

IMP Boats

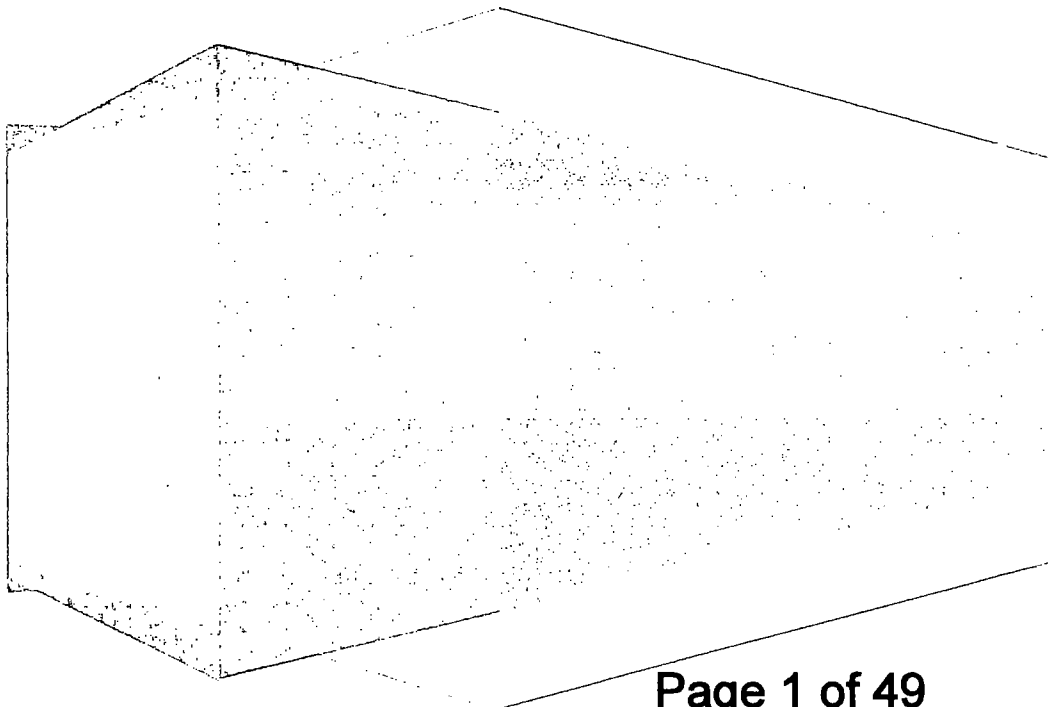
Iola, Allen County, KS

Potentially Responsible Party (PRP) Report

PREPARED FOR:

U.S. ENVIRONMENTAL AGENCY REGION 7, SUPERFUND DIVISION

901 N. 5th STREET, KANSAS CITY, KANSAS 66101



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EPA Work Assignment Manager:

Michelle Quick

Telephone Number:

913-551-7335

On-Site Manager:

Gabrielle Haenn

Telephone Number:

913-551-7154

Project Manager:

Eric D. Bailey

Telephone Number:

856-217-7871



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POTENTIALLY RESPONSIBLE PARTY SUMMARY

Chenega Global Services, LLC (CGS) received Task Order 0003, Project Code 07KYRP00, from the U.S. Environmental Protection Agency (EPA) Region 7 office, under the Superfund Contract Number EP-S7-09-08. The purpose of this task order is to provide EPA's Superfund Division with a vehicle through which to perform expedited site-specific Potentially Responsible Party (PRP) searches in support of the EPA Task Order/Project Officer (TOPO) search activities.

This Potentially Responsible Party Report for the IMP Boats Site (the "Site") summarizes the research conducted by the Records Specialists (RS) and Regulatory Analysts (RA) to determine the Site history. The following Potentially Responsible Party Search Report provides for the ownership/lease history, operational information, Site boundaries, and corporate successors of PRPs for the IMP Boats Site in Allen County, Kansas.

CGS research revealed the following PRPs pursuant to CERCLA Section 107(a) liability law:

PRP	Viability	Reason	CERCLA Liability Law
W & J Lanyon	No	Owner: 1897-1899	107(a)(2)
Robert and William Lanyon d.b.a. Robert Lanyon Son's Spelter Company	No	Owner/Operator: 1896-1899	107(a)(2)
Lanyon Zinc Company	No - defunct 1912	Owner/Operator: 1899-1911	107(a)(2)
J.B. Kirk, individual	No - deceased	Arranger: 1953-1958	107(a)(3)
J.B. Kirk Gas & Smelting Company	No - dissolved 1995	Owner: 1916-1918 Arranger: 1953-1958	107(a)(2) 107(a)(3)
United States Smelting Company	No - withdrawn from Kansas 1920; merged into USSRM ¹	Owner/Operator: 1915-1918	107(a)(2)
Cherryvale Zinc Company	No - dissolved 1977	Transporter: 1953- 1957	107(a)(4)

¹ See the United States Smelting Company PRP Section for important information regarding this merger.

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PRP	Viability	Reason	CERCLA Liability Law
The City of Iola, Kansas	Yes	Current Owner	107(a)(1)
West Bottoms Property, Inc.	Yes	Current Owner	107(a)(1)
A.C.B., Inc.	Yes	Current Owner	107(a)(1)
Douglas D. Rose and Kenneth Rose	Yes - individuals	Current Owner	107(a)(1)

Table 1: Potentially Responsible Parties

I. INTRODUCTION

PROJECT BACKGROUND

Chenega Global Services, LLC (CGS) received Task Order 0003, Project Code 07KYRP00, from the U.S. Environmental Protection Agency (EPA) Region 7 office, under the Superfund Contract Number EP-S7-09-08. The purpose of this task order is to provide EPA's Superfund Division with a vehicle through which to perform expedited site-specific Potentially Responsible Party (PRP) searches in support of the EPA Task Order/Project Officer (TOPO) search activities.

This Potentially Responsible Party Report for the IMP Boats Site (the "Site") summarizes the research conducted by the Records Specialists (RS) and Regulatory Analysts (RA) to determine the Site history.

PROJECT APPROACH

The U.S. Environmental Protection Agency, Region 7, Superfund Division, Kansas City, Kansas contracted Chenega Global Services, Anchorage, AK was to perform the PRP search and report.

LIST OF CONTACTS

- Allen County Register of Deeds
- Allen County Appraiser
- Allen County Zoning Commission
- EPA Region 7 CERCLA Records Center
- Kansas Department of Health and Environment
- Kansas State Historical Society
- Kansas Secretary of State

SITE DESCRIPTION

The IMP Boats Smelter Site is located primarily in the northeast quarter (NE/4) of the southeast quarter (SE/4) of Section 27, Township 24, Range 18 E, but also extends to the north into the southeast quarter (SE/4) of the northeast quarter (NE/4). The Site covers approximately 40 acres adjacent to the west of the right-of-way of the Atchison, Topeka, & Santa Fe Railway, with Lincoln Street dissecting the northern portion, made up of the Lots 1, 2, 7, and 8 of Iola Industrial Tract Number One, from the southern section, comprised of two parcels of unplatted land, all situated on the western edge of Iola, Allen County, KS.



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Figure 1: IMP Boats Site Map with Tracts

The first Site smelting operations commenced in 1895 when Robert Lanyon Son's Spelter Company erected a zinc smelter on the southern area of the Site (Tracts 5, 6). In 1896, Robert Lanyon and William Lanyon leased this property for erecting a zinc smelter (M5-135²). Two years later, W. & J. Lanyon erected a smelter on the lands adjacent to the north (Tracts 1-4) (3). In 1899, the Lanyon Zinc Company was formed and obtained control of both smelters (12). The company continued to operate the Robert Lanyon Son's Spelter Company smelter under lease, but purchased the W. & J. Lanyon Works along with the land.

The two zinc smelters operated under the direction of Lanyon Zinc Company until 1910, when the company defaulted on bond interest payments and went into receivership (5). In

² This citation format is used to for title instrument book and page numbers throughout the report.

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April of 1910, Lanyon Zinc Company foreclosed on its mortgage bonds and the property was sold to Charles H. Werner via an order of sale (17). Smelter operations remained under the direction of Lanyon Zinc Company's receivership until July 1910 when James O. Rogers, acting as receiver of Lanyon Zinc Company, leased the property's on-site smelter operations to The American Metal Company, a New Jersey corporation (17). Operations continued under lease to American Metal Company until December of that year, when the lease was surrendered and the smelters ceased operations (11). For a detailed account of this lease see Lanyon Zinc Company's PRP Section on page 15.

In February of 1911, the property was sold to Edmund L. Judson, who then sold to the Lanyon Zinc Smelting Company, a New York corporation, in March of the same year (57-122, 57-141).

In July of 1912, the Lanyon Zinc Smelting Company sold the smelter property, along with its gas and oil rights and leases, to J.B. Kirk, an individual (M22-125). J.B. Kirk transferred the property to the J.B. Kirk Gas & Smelting Company, a Kansas corporation of which he was president, the following month (M22-141).

In 1915, J.B. Kirk Gas & Smelting Company sold the larger smelter and its lands (Tracts 5, 6) to the United States Smelting Company, and commenced operations that year (24-534, 6). One year later, the United States Smelting Company sold the property back to the J. B. Kirk Gas and Smelting Company, but continued to operate on the Site, presumably under lease. This smelter ceased operations and was dismantled in 1918 (6, 8, 9, 10).

J.B. Kirk, in his name and as president of J.B. Kirk Gas & Smelting Company, executed a number of other transactions regarding the Site property from 1912 to the late 1950's. He owned the Site property, became a lessee, and then set in place an agreement with a third party (Cherryvale Zinc Company) to access a cinder residue dump on the land of which he was lessee (Attachment B: Chain of Title Tables).

In 1934, J.B. Kirk Gas & Smelting Company sold the northern area of the site (Tracts 1-4) to the City of Iola (98_299). This area was later platted as the Iola Industrial Tract Number One. Various small businesses have operated on these lots since, and The City of Iola has a number of government buildings on these properties.

The southeastern portion of the Site (Tracts 5 & 6) was sold in 1967 by the J. B. Kirk Gas & Smelting Company to Gerald L. and Mary Lea Wright, who sold it to the City of Iola the following year (145-605, 147-567). Portions of this property have been owned and used by several different companies, most notably IMP Boats, Inc., and a manufacturer of fiberglass boats. For a full list of current Site owners see Table 1.

CONTAMINANTS OF CONCERN

The primary contaminant of concern associated with the Site is lead. On-site smelting activities produced wastes, often in the form of slag, containing high concentrations of



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heavy metals, such as lead. Often the waste material was reprocessed to extract valuable metal contents, or used as fill in construction.

Kansas Department of Health and Environment (KDHE) investigations revealed elevated levels of lead on the Site and surrounding areas. A Phase II Risk Assessment performed by Environmental Engineering Consultants for Iola Bank and Trust (EPA) in March 1991 showed elevated concentrations of lead, cadmium, and zinc, with some soil samples containing lead at levels as high as 32,000 parts per million (13).

II. OWNERSHIP HISTORY

REVIEW OF TITLE DOCUMENTS

The RA and RS were instructed to review all title/deed documents relevant to historic smelting activities on the Site property. The RA and RS used pertinent title/deed documents to determine site boundaries. The research determined smelting activities occurred across an area that is now divided into six parcels of land, referenced as Tracts 1-6. Their legal descriptions can be found in 'Attachment B: Chain of Title Tables'. The current owner information for the Site parcels is listed in the Table 1 below:

Assessor's Parcel No.	Chain of Title Tract Number	Chain of Title Lot Reference	Current Owner	Property Address
078-27-0-10-01-008.00-0-01	1		Douglas Rose, Kenneth Rose	N Industrial Rd. - Iola, KS 66749
078-27-0-10-01-012.00-0-01	2		City of Iola	801 N. Industrial Rd. Iola, KS 66749
078-27-0-40-03-001.00-0-01	3		Westbottom Properties, Inc.	W. Lincoln Rd. Iola, KS 66749
078-27-0-40-03-001.00-0-01	4	A	Westbottom Properties, Inc.	W. Lincoln Rd. Iola, KS 66749
078-27-0-40-02-001.00-0-01	4	B	Jack McFadden	713 N. Industrial Rd. Iola, KS 66749
078-27-0-40-05-002.00-0-01	5		A C B, Inc	505 W. Lincoln Rd. Iola, KS 66749
078-27-0-40-05-001.00-0-01	6		A C B, Inc	W. Lincoln Rd. Iola, KS 66749

Table 2: Current Parcel Owners (2)

CURRENT AND PAST OWNERSHIP HISTORY

Historical and current ownership of the Site is summarized in chronological order in 'Attachment B: Chain of Title Tables'.



LEASES

On June 1st, 1896 a lease was executed between Mary Northrup, et al and Robert H. Lanyon and William Lanyon. This lease was for the property in Tracts 5a and 6a. The lease stated it was for a period of twenty years, and specified that the Lanyon's were to:

...erect as soon as practicable on said premises a smelter or manufactory and employ therein during the first year of operation not less on an average than fifty (50) laborers or employees a year during the life of this lease, and to maintain and operate said smelter or manufactory during the life of this lease. (M5-135)

On July 16, 1910 James O. Rodgers, receiver for Lanyon Zinc Company, leased the Site property to American Metal Company. For details on this lease see Lanyon Zinc Company's PRP Section of this report (page 17).

On August 28, 1953 the J.B. Kirk Gas & Smelting Company entered into a lease agreement with J.B. Kirk, the company's president for the term of five years. The lease was recorded in Book M52, Page 105 of the Allen County Register of Deeds and granted J.B. Kirk access to all cinder residues that resulted from previous on-site smelting activities. The Site property is referenced in the lease as 'Dump No. Three'.

AGREEMENTS

On August 28, 1953, JB Kirk entered into an agreement with Cherryvale Zinc, which was recorded in Book M52, Page 110 of the Allen County Register of Deeds. JB Kirk held a lease covering Tracts 5A, 5B, 6A, 6B and 6C, which contained a cinder residue dump. The agreement allows Cherryvale the option of purchasing and removing cinder residue from dump number three (renamed Dump No. 2 in the 1956 agreement) for a period of 6 months from the date of the agreement.

On October 24, 1956 the Estate of JB Kirk, deceased, represented by Stanley J. Kirk, Executor, entered into an agreement with Cherryvale Zinc Company, Inc. for the term of one year. The agreement granted Cherryvale the option of purchasing and removing cinder residue from dump number three; it was recorded in Book M55, Page 143 of the Allen County Register of Deeds.

TITLE TREES

Title Trees for Tracts 1-6 of the Site are included in 'Attachment A: Title Trees'.

ZONING

According to the Allen County Zoning Commission, the entire IMP Boast Site property is zoned as 'Industrial'.



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OPERATIONAL INFORMATION

Available operational information pertaining to the IMP Boats Site property is compiled in Table 3 below. The statistics were found in 'The Mineral Industry, Its Statistics, Technology, and Trade' and 'Mineral Resources of the United States' publications for the indicated years.

Year	Operator	Capacity/Notes
1907	Lanyon Zinc Company	5 furnaces / 3000 Ret.
1910	Lanyon Zinc Company - Under lease to American Metal Company	5 furnaces / 6660 Ret
1914	United States Smelting Company	Close of year: no retorts June 1915: 1400 Ret.
1915	United States Smelting Company	3440 retorts
1916	United States Smelting Company	3440 retorts
1917	United States Smelting Company	3440 retorts
1918	United States Smelting Company	dismantled

Table 3: IMP Boats Site Mineral Industry Statistics

III. POTENTIALLY RESPONSIBLE PARTIES

A. W. & J. LANYON

SUMMARY

W. & J. Lanyon are included as PRPs based on evidence that, during their period of Site ownership, the W. & J. Lanyon Works, later renamed Lanyon Zinc Company Works No. 2, operated on-site. Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107 (a) (2), PRP liability can be applied to W. & J. Lanyon, as they were owners of the Site property at the time of disposal. No legal documentation was found regarding the smelter works.

OWNERSHIP / LEASE HISTORY

W & J Lanyon purchased Tracts 1-4, 5A, 6B and 6C of the Site from Seth Tozer on June 2, 1897 (22-173). CGS was not able to locate legal documentation indicating that the company



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operated an on-site smelter. The property was sold to George M. Curtis, Jr. on February 10, 1899 (23-433).

OPERATIONAL INFORMATION

John Clark, in his book *'Towns and Minerals in Southeastern Kansas; A Study in Regional Industrialization, 1890-1930'*, informs the reader that W. & J. Lanyon established a zinc smelter at Iola in 1898.

CORPORATE HISTORY

No corporate information was located.

PROPERTY BOUNDARY/SITE DESCRIPTION:

For a parcel map, see Figure 1.

B. ROBERT LANYON AND WILLIAM LANYON D/B/A ROBERT LANYON SON'S SPELTER COMPANY

SUMMARY

Robert Lanyon Son's Spelter Company owned and leased parts of the Site from 1896 to 1899 and operated a zinc smelter on-site during that time. Historical records indicate that Lanyon Zinc Company absorbed Robert Lanyon Son's Spelter Company and its smelter in 1899 (1).

Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107 (a) (2), PRP liability can be applied to Robert Lanyon Son's Spelter Company, as they were owners and operators at the time of disposal.

OWNERSHIP / LEASE HISTORY

Robert and William Lanyon leased Tracts 5C and 6A from Mary Northrup et al. on June 2, 1896. The title document, recorded in Book M5, Page 135 of the Allen County Register of Deeds, indicated that the lease was for a term of 20 years and was made specifically for the purpose of erecting and operating a smelter:

...erect as soon as practicable on said premises a smelter or manufactory and employ therein during the first year of operation not less on an average than fifty (50) laborers or employees a year during the life of this lease, and to maintain and operate said smelter or manufactory during the life of this lease. (M5-135)

In addition to leasing, Robert and William Lanyon purchased Tract 6C from Walter P. Hull in July of 1896 (2-255). A Quit Claim Deed from Water Hull to Robert H. Lanyon, trustee for Robert H. & William Lanyon, lists the individuals as 'doing business as Robert Lanyon Son's Spelter Company' (20-18).



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The Robert Lanyon Son's Spelter Company sold Tract 6C to Charles H. Werner on February 2, 1899 (23-429).

OPERATIONAL INFORMATION

No operational statistics were found for Robert Lanyon Son's Spelter Company.

CORPORATE HISTORY

The New Jersey Department of Treasury and Kansas State Historical Society had no record of Robert Lanyon's Sons Spelter Company (40).

PROPERTY BOUNDARY/SITE DESCRIPTION:

For a parcel map, see Figure 1.

C. LANYON ZINC COMPANY

SUMMARY

Lanyon Zinc Company owned and operated on the IMP Boats Site from 1899 to 1911. The majority of the Site transactions pertaining to this company relate to Case No. 8464 of the District Court of Allen County: Trust Company of America, Trustee (Plaintiff) v. Lanyon Zinc Company, et al. (Defendants). In addition to complex court proceedings, the Lanyon Zinc Company was involved with two other companies that are mentioned in Case 8464; American Metal Company (New Jersey) and The American Metal Company, Limited (New York). The relationship between Lanyon Zinc Company and each of these entities is clearly defined in Lanyon's 'Operational History' section on page 19 of this report.

Lanyon Zinc Company conducted on-site smelting activities. Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107 (a) (2), PRP liability can be applied to Lanyon Zinc Company because it was an owner and operator of the Site property at the time of disposal. Lanyon Zinc Company is not a viable PRP; it is defunct and no corporate successors could be located.

Details of Lanyon Zinc Company's ownership history and Case No. 8464 are included in the subsequent sections.

OWNERSHIP HISTORY

On March 1, 1899, Lanyon Zinc Company purchased the Robert Lanyon Son's Spelter Company works. George M. Curtis conveyed the land covering Tracts 1 through 4, Tract 5c and Tract 6b of the Site and Charles H. Werner sold Tract 6c (23-501, 23-497). At the time of purchase, Lanyon Zinc took over the on-site works of Robert Lanyon Son's Spelter Company and W. & J. Lanyon (12). The company continued to operate the Robert Lanyon Son's Spelter Company smelter under a lease to Robert and William Lanyon from 1896 (Tracts 5A & 6A), but purchased the W. & J. Lanyon Works along with the land.



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Renamed Lanyon Zinc Company Works No. 1 & No. 2, these smelters operated under the direction of Lanyon Zinc Company until 1910, when the company defaulted on bond interest payments and went into mortgage foreclosure and receivership to protect the bondholders' investments (17). The Trust Company of America, as trustee for the bondholders, brought suit against Lanyon Zinc Company for the defaulted payments; Case 8464 of the District Court of Allen County, Kansas, documented the proceedings; see Table 4 for a timeline of events.

Through an order of sale given during Case 8464 the Site property was sold to Charles H. Werner (17.d). The court ordered all the property of Lanyon Zinc Company, including leases, contracts and stocks in Allen County, to be sold as one parcel to satisfy the mortgage judgment lien that had been placed on the company. The terms of the sale transferred to Werner, the purchaser, "all pending contracts of said receiver in respect to the management and operation of said property...unpaid indebtedness and obligations or liabilities..." (17.d). On April 11, 1910 Charles H. Werner purchased the entire property at auction for \$250,000.00. The purchase settled the company's debt to the bondholders, but did not release the property from its receivership.

On July 16, 1910, a court order issued through the same case allowed James O. Rogers, as receiver of Lanyon Zinc Company, to lease the property to The American Metal Company, a New Jersey Corporation. An unsigned copy of the lease was submitted as part of a court order in Case No. 8464; no original lease was located. There are several important aspects of the lease that pertain to the Site property and the parties involved. For a detailed description of the lease and its relevance to the Site see the section entitled 'Relationship with the American Metal Company of New Jersey' on page 19.

In February of 1911, Lanyon Zinc Company released the property from receivership and conveyed the property to Edmund L. Judson (17.f; 57-122).

CASE 8464: TRUST COMPANY OF AMERICA, TRUSTEE V. LANYON ZINC CO. ET AL.

On March 1, 1899 Lanyon Zinc Company executed \$2,000,000 worth of mortgage bonds under trust to the Colonial Trust Company (merged into Trust Company of America on April 26, 1907) (17.a). The bonds were issued for a 30-year term at six percent annual interest, and payable semi-annually. On March 1, 1909, The Trust Company of America sued Lanyon Zinc Company for the defaulted payments; \$1,792,000 of the bonds remained unpaid. Table 4 shows the progression of the court case from the issuance of the bonds through 1911, when Lanyon Zinc Company broke its final ties to the Site property.

Date	Event	Case 8464 Doc. No.
3/1/1899	Lanyon Zinc Company executes 2,000 first mortgage bonds at \$1000 each.	17.a, page 3



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Date	Event	Case 8464 Doc. No.
3/1/1909	Trust Company of America, trustee for the bondholders, petitions to the District Court of Allen County against Lanyon Zinc Company for defaulted bond payments. The trust company asks for immediate payment if payment is not made the mortgage will be foreclosed.	17.a
4/17/1909	James O. Rodgers is appointed receiver of Lanyon Zinc Company: "...said receiver is hereby authorized, empowered and directed to enter upon and take possession of all the smelting works of defendant Lanyon Zinc Company..."	17.b
2/23/1910	Lanyon Zinc Company's mortgage is foreclosed.	17.c
4/11/1910	Allen County Court orders the property sold as one parcel to the Sheriff of Allen County. Charles H. Werner purchases the property for \$250,000.00 at the sheriff's sale. The purchase settles the company's debt to the bondholders, but does not release the property from its receivership.	17.d
7/16/1910	James O. Rogers, receiver, is granted an order to lease Lanyon Zinc Company's smelting works to American Metal Company	17.g
2/24/1911	J.B. Kirk is appointed receiver of Lanyon Zinc Company	17.e
2/10/1911	J.B. Kirk asks that the property be released from his receivership. Property is conveyed to Edmund L. Judson	17.f

Table 4: Allen County District Court, Case 8464 Timeline

OPERATIONAL HISTORY

On July 16, 1910 James O. Rodgers, receiver for Lanyon Zinc Company, petitioned the district court of Allen County, under Case 8464, for an order to lease the company's smelting works and other property conveyed to Charles H. Werner earlier that year. The order was issued that same day and included a copy of the proposed lease. The order and lease mention the involvement of two companies American Metal Company and The American Metal Company, Limited. In an effort to distinguish between the entities, the following sections detail each company's separate interaction with Lanyon Zinc Company.

RELATIONSHIP TO AMERICAN METAL COMPANY OF NEW JERSEY

According to a New Jersey Secretary of State publication from 1911, American Metal Company filed its certificate in New Jersey on May 25, 1904. Its Registered Agent is listed as Register & Transfer Co. with offices at 15 Exchange Place, Jersey City, NJ (21). Corporate documents for this entity could not be located. (20)



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On July 16, 1910, James O. Rodgers, receiver of Lanyon Zinc Company, petitioned the district court of Allen County, KS and was granted permission to lease Lanyon's three smelter works to American Metal Company (17.g). In his application to the court Rodgers claimed that he was without sufficient capital to continue smelter operations and had the opportunity to lease the plants and property to American Metal Company, a New Jersey corporation. An unsigned copy of the proposed lease was included with the application; the term was set for six months, beginning at midnight on July 16, 1910.

- C O P Y -

INDENTURE OF LEASE, made this 16th day of July, 1910, by and between JAMES O. RODGERS, as Receiver of the Lanyon Zinc Company (hereinafter designated the "Lessor"), party of the first part and THE AMERICAN METAL COMPANY, a corporation organized and existing under the laws of the State of New Jersey (hereinafter called the "Lessee"), party of the second part:

W I T N E S S E T H: THAT

WHEREAS, the Lessor by virtue of an order of the District Court of Allen County, Kansas, made April 17th, 1909 was appointed Receiver of all the property of the Lanyon Zinc Company, a New Jersey corporation, in an action for the foreclosure of its first mortgage, brought by The Trust Company of America as Trustee for bondholders; and

WHEREAS, all of the property, real and personal, of the Lanyon Zinc Company pursuant to a judgment of foreclosure and sale in said action was sold on April 11th, 1910; but said Receiver has not yet been discharged and continues in possession of the smelting plants and other property so sold, but is without sufficient capital for the proper operation thereof;

Figure 2: Lease to American Metal Company (New Jersey)

Article III of the lease releases James O. Rodgers from any obligation to The American Metal Company, Limited, of New York. The New York Corporation was not the lessee; The American Metal Company, Limited was a third party supplying ore for smelting purposes.

III. The American Metal Company hereby agrees, as a further consideration for the making of this lease by the Receiver, that it will cause said Receiver to be released from his obligation to The American Metal Company, Limited, a New York corporation, for the smelting of approximately six thousand (5000) tons of ore now on the premises hereby leased and such additional amount of ore as may be on route or contracted for by the said The American Metal Company, Limited. Nothing herein contained shall be construed as being intended to release, or procure the release of, the Receiver from any claim which The American Metal Company, Limited, may have against the Receiver growing out of the smelting by him heretofore of ores under the terms of his agreement with the said The American Metal Company, Limited.

Figure 3: Lease showing American Metal Company, Limited as a third party



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The excerpt shown above clearly indicates that American Metal Company and The American Metal Company, Limited were involved with the Site in two different capacities.

There are several issues with the consistency of the lease copy. Each number corresponds to the callouts in Figure 4:

1. The lease is unsigned by James O. Rodgers, lesser.
2. J. Lanqloth is listed as American Metal Company's president.
3. J. Lanqloth is also listed as The American Metal Company, Limited's president. His name is spelled incorrectly; Jacob Langeloth was an incorporator of The American Metal Company, Limited (See Figure 5).

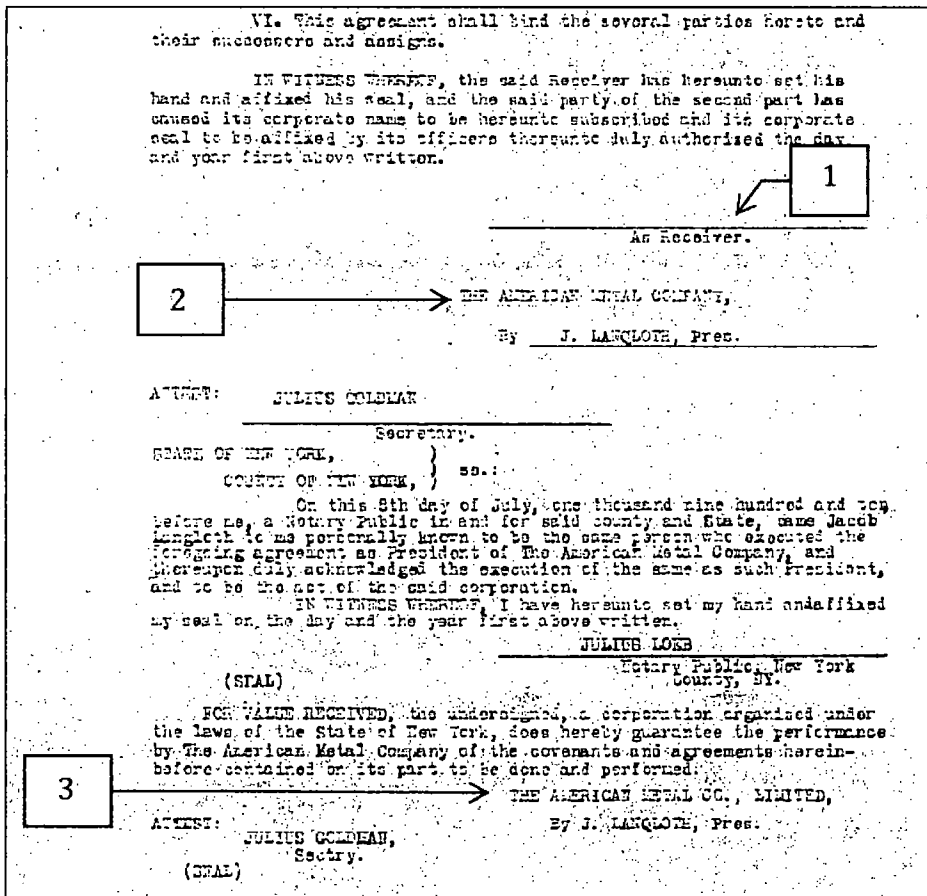


Figure 4: Case 8464 Lease Inconsistencies

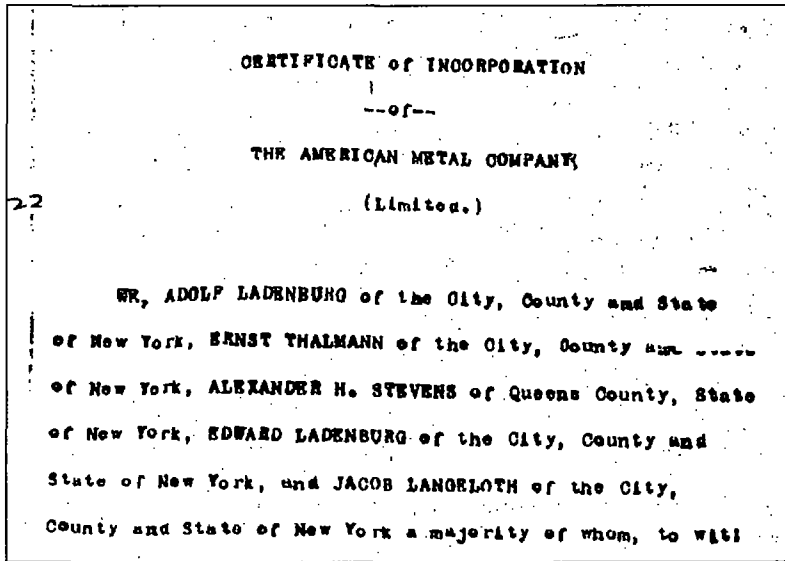


Figure 5: Jacob Langeloth of American Metal Company, Limited (19)

In addition to the lease, a receivers report made by J.B. Kirk as receiver of Lanyon Zinc Co. in 1912 designates American Metal Company as lessee (17.g). The report lists all payments received; including rents from American Metal Company during 1910 (see Figure 6).

1910	<p>Oct. 14, Amt. received of American Metal Co. as rent to Oct. 15, 1910 under lease made by Jas. O. Rodgers as receiver,..... \$100.00</p>
1910	<p>Nov. 1, Amt. paid Campbell & Coshorn on salary as counsel to the Receiver for last half September,..... " 1, Amt. paid Campbell & Coshorn salary as counsel to Receiver for October,..... " 2, Amt. paid to American Sash & Door Company in full of claim,..... " 16, Amt. received of American Metal Co. as rent to Nov. 15, 1910 under lease made by Jas. O. Rodgers Receiver,..... \$100.00</p>
1910	<p>Dec. 15, Amt. received of American Metal Co. in payment of rent to Dec. 15 under lease made by Jas. O. Rodgers as Receiver,..... \$100.00</p>
1910	<p>July 1, Amt. received of American Metal Co. as rent from Dec. 15 to Dec. 31, 1910 under lease made by Jas. O. Rodgers, Receiver,..... \$19.33</p>

Figure 6: Rents received of American Metal Company

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The inconsistencies of the 1910 lease, in combination with the absence of any corporate filings for American Metal Company, of New Jersey, prevent a legal connection from being made between these corporations and the Site property.

RELATIONSHIP TO THE AMERICAN METAL COMPANY, LIMITED OF NEW YORK

The American Metal Company, Limited of New York was mentioned in the above lease as a supplier of ores for smelting. The company's involvement with Lanyon Zinc Company's operations at Iola is further described in Case No. 17,662 of the Supreme Court of Kansas. The metal company referred to herein as 'American Metal Company' is assumed 'American Metal Company, Limited'. The lack of consistency and the similarity in the two company names prevents any clear conclusions from being drawn.

Case No. 17,662 of the Supreme Court of Kansas affirms judgment on F.B. Vandegrift & Company v. Lanyon Zinc Company et al. The case was decided in favor of F.B. Vandegrift in January of 1912 and filed for record on June 8, 1912. J. Burch presided over the case and delivered the opinion, including a case history, summarized below:

At its Iola and La Harpe smelters, Lanyon Zinc Company received ores from The American Metal Company, Limited, a New York corporation. Lanyon Zinc Co. treated the ores and then stored them:

The Lanyon Zinc Company, owning smelters at Iola and La Harpe, smelted imported lead and zinc ore for itself and others. Ultimately it confined its operations to treating ores for the American Metal Company on a toll basis.
(14)

After the ores were assayed, Lanyon Zinc paid duties to the revenue officers. In turn, The American Metal Company, Ltd paid Lanyon Zinc a fee based on the duty price; Lanyon turned a small profit on these transactions.

It was later determined illegal duties were charged and collected by the government revenue officials. Lanyon Zinc protested these fees and hired F.B. Vandegrift & Company, the appellants, to recover the excessive duty charges, agreeing to pay F.B. Vandegrift 50% of those fees recovered.

F.B. Vandegrift secured the return of large sums of duty fees to Lanyon Zinc Company. In April of 1909, Lanyon Zinc Company appointed J.O. Rogers, president of the Company, receiver. J.O. Rogers, as receiver of Lanyon Zinc Co, collected the returned fees for \$22,533.18 in a government warrant.

Immediately after receiving the fees, J.O. Rogers turned them over to The American Metal Company, Ltd. F.B. Vandegrift & Co. did not receive any compensation, and therefore sued J.O. Rogers and Lanyon Zinc Company for their 50%.



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A judgment was passed and Rogers ordered to pay \$11,266.69 to F.B. Vandegrift & Company. The defendant appealed, claiming that they should not be held liable for the sum because the ore on which duties were paid belonged to The American Metal Company, Ltd. who ultimately paid the excessive duties.

It was the court's opinion that the contract between Lanyon Zinc and The American Metal Company was of no concern to the case, and that Lanyon Zinc Company was owner of the properties in question. Further, the court ruled that James O. Rogers, as receiver of Lanyon Zinc Company, failed to present the recovered fund to the court where an order for the disposition of said funds could be issued. The opinion quotes, "He could not arbitrarily divest himself of the fund. It should be regarded as still in his possession and the plaintiffs [F.B. Vandegrift & Co] were entitled in equity to a lien upon it for their share" (14).

CORPORATE HISTORY

Incorporation

Lanyon Zinc Company incorporated in New Jersey on February 27, 1899 "to carry on the business of a mining, concentrating, smelting and refining company". The incorporators were, Benjamin Haskell, Martin W. Littleton, and L.B. Grant. (33)

Application to the Charter Board of Kansas

On March 30, 1899, Lanyon Zinc Company applied to the Charter Board of Kansas for permission to engage in business as a foreign corporation. The officers listed were as follows:

Benjamin Haskell, President
 Louis B Grant, Secretary
 Edmund L. Judson, Treasurer

Included within the application is 'Exhibit A: Assets and Liabilities,' which lists the complete holdings of Lanyon Zinc Company upon that date. The document explicitly states that the sole liabilities of Lanyon Zinc Company are as follows:

First Mortgage on all its property \$2,000,000. (Bonds to the amount of \$1,650,000 secured by this mortgage have been issued.)
 Due employee[e]s about \$10,000. (32)

Application for Authority as a Foreign Corporation in Kansas

Lanyon Zinc Company, under the direction of James S. Rogers, submitted an application for authority to engage in business in Kansas as a foreign corporation and was approved on January 18, 1900. The application included an updated account of the company's assets and liabilities, including land ownership of 1,269 acres in Allen County, KS.

In reference to its smelting operations, Lanyon Zinc Company attests:

That the capacity of the smelters owned by said Company is about 100 tons per day, or 36,500 tons per annum; that the capacity of its three smelters located at Iola and La



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Harpe is about 90 tons per day...In addition, affiant [James S. Rogers] says that he manages said business of said Company and knows the profits made by said smelters during the past two years, and that he is confident that the profits of said Company from the operation of the smelters now owned by it will continuously pay more than six percent interest on \$5,000,000. (31)

Item number six under 'Exhibit C: List of Other Property Owned by Lanyon Zinc Company' of the application addresses the Allen County smelting properties:

Four smelting plants, two of which are located at Iola, Kansas, one near La Harpe, Kansas, and one at Pittsburg, Kansas, including machinery, tools, approximately 15 miles of pipe lines for conducting natural gas, plant to supply water to Iola smelters, the good will of the former owners giving said Company the control of the two best known brands of spelter in the trade; also including the control of the most efficient and economical roaster known covered by patent for de-sulphurizing ore; patents for introduction of air into furnaces, and other valuable patents on appliances connected with furnaces of the value of more than 1,500,000. (31)

Decrease in Capital Stock

In 1906, Lanyon Zinc Company's stockholders voted to decrease the amount of capital stock. The certificate was signed by J.O. Rogers, President and Edmund L. Judson, Secretary and filed with the New York Secretary of State on February 21, 1907. Included with the certificate is a list of stockholders; notable individuals include The American Metal Co. 'Limited', J.O. Rogers, and the Estate of J.S. Rogers. (34)

Mortgage Foreclosure

In a letter dated February 2, 1912, Lanyon Zinc Company's legal representatives informed the Kansas Secretary of State that the company's property was sold at mortgage foreclosure in early 1910. The law firm also claimed that Lanyon Zinc Company was a defunct corporation. (35)



PROPERTY BOUNDARY/SITE DESCRIPTION:

Lanyon Zinc Company's Works No. 1 and No. 2 covered the Site property. Figure 7 shows the property held under lease compared to the property owned by Lanyon Zinc Company:



Figure 7: Lanyon Zinc Company ownership vs. property lease

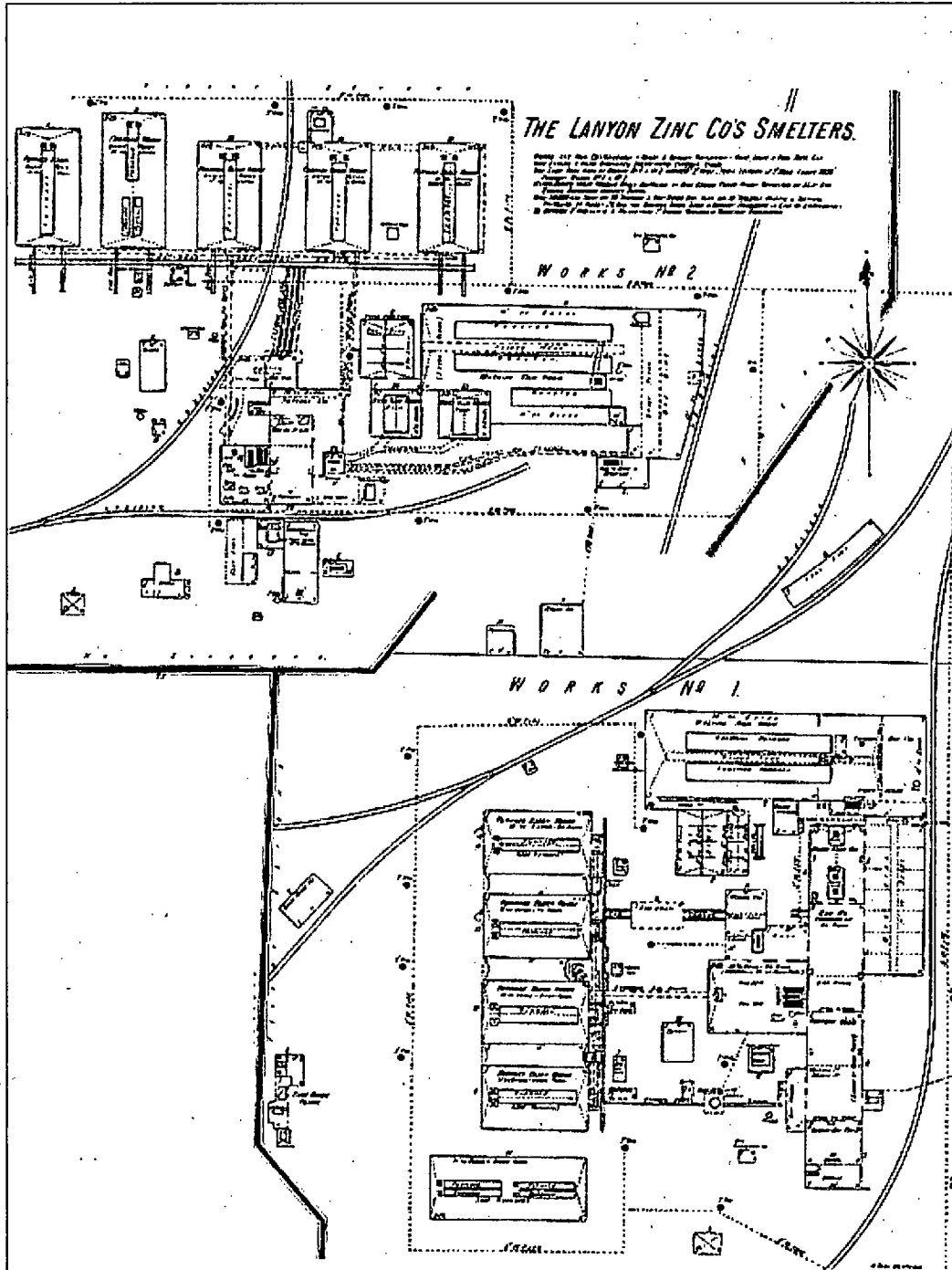


Figure 8: Lanyon Zinc Works No.1 & 2, 1901 Sanborn Map

D. J.B. KIRK GAS & SMELTING COMPANY

SUMMARY

J.B. Kirk Gas & Smelting Company owned the Site property during the time that United States Smelting Company operated an on-site smelter (1916-1918). Smelting is known to have occurred on the Site property and may be sources of the heavy metal contamination detected in the soil at the Site. According to CERCLA Section 107(a) (2), J.B. Kirk Gas & Smelting Company can be considered a PRP, as it was an owner at the time of disposal.

J.B. Kirk Gas & Smelting Company maintained ownership of certain parcels, and in 1953, leased to J.B. Kirk, allowing him access to the on-site cinder residue dump. In this capacity, the company was an arranger for the treatment of smelting wastes. According to CERCLA Section 107(a) (3), J.B. Kirk Gas & Smelting Company can be considered a PRP, as it was an arranger of the treatment of smelting wastes. The company dissolved on September 13, 1995; no corporate successor was located.

OWNERSHIP / LEASE HISTORY

J.B. Kirk Gas & Smelting Company purchased Tracts 1-4, 5C, 6B and 6C from J.B. and Estella Kirk on August 20, 1912 (M22-141). On November 19, 1914, the company acquired Tracts 5A and 6A from the heirs of L.L. Northrup and Thomas Bowlus (59-121).

In June of 1915, J.B. Kirk Gas & Smelting transferred Tracts 5A, 5C, and all of Tract 6 to United States Smelting Company, who then deeded the land back to J.B. Kirk Gas & Smelting Company in July of 1916 (24-534; 59-334).

On January 1, 1934, J.B. Kirk Gas & Smelting Company sold Tracts 1-4 (the northern portion of the Site) to the City of Iola (98-299). The company maintained ownership of Tracts 5A, 5C and all of Tract 6 until 1967 when it transferred the land to Gerald and Mary Lea Wright, two individuals (145-605).

Leases

On August 28, 1953, the J.B. Kirk Gas & Smelting Company entered into a lease agreement with J.B. Kirk, the company's president, for the term of five years. The lease was recorded in Book M52, Page 105 of the Allen County Register of Deeds and granted J.B. Kirk access to all cinder residues that resulted from previous on-site smelting activities. The Site property is referenced in the lease as 'Dump No. Three'.

Agreements

During the period of J.B. Kirk Gas & Smelting Company ownership, J.B. Kirk, lessee of the Site property, entered into two consecutive agreements with Cherryvale Zinc Company to access the cinder residues of 'Dump No. Three' (M52-110; M55-143). Details regarding the agreements are included in Cherryvale Zinc Company's PRP Section of this report (see page 31).

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OPERATIONAL INFORMATION

No operational was located for the J.B. Kirk Gas & Smelting Company Iola works.

CORPORATE HISTORY

The Kansas Secretary of State and the Kansas State Historical Society had no records available for J.B. Kirk Gas & Smelting Company. The Kansas Secretary of State provided a record of the company's dissolution.

Incorporation

The Kansas Secretary of State online database indicates that J.B. Kirk Gas & Smelting Company incorporated in Kansas on August 16, 1912. No other documentation of the company's incorporation was available. (29)

Dissolution

J.B. Kirk Gas & Smelting Company, a Kansas corporation, was dissolved by stockholders meeting on July 19, 1995. Marvin E. Kraft, President and director, affixed his signature on the same date. The document was filed with the Kansas Secretary of State on September 13, 1995. (30)

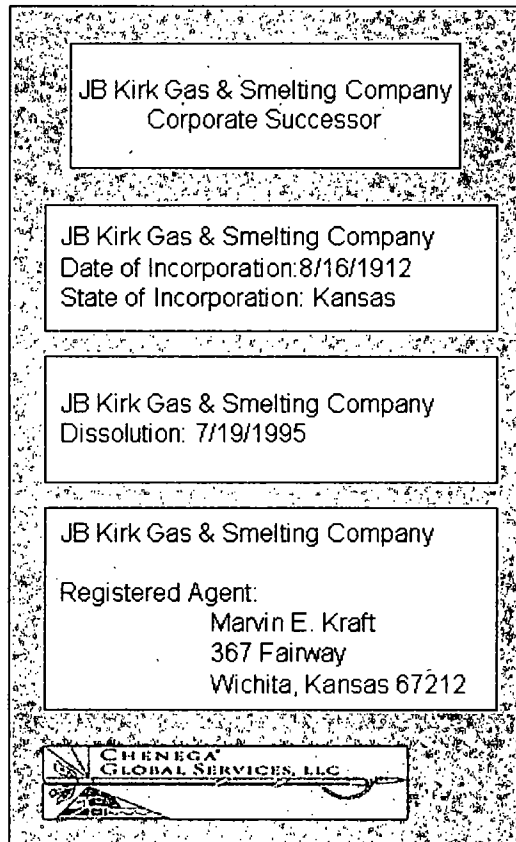


Figure 9: J.B. Kirk Gas & Smelting Company Corporate Successor Chart

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PROPERTY BOUNDARY/SITE DESCRIPTION:

For a parcel map, see Figure 1.

E. J.B. KIRK

SUMMARY

J.B. Kirk was an intermediate Site owner for one month in 1912. In 1953, J.B. Kirk leased an area known as Dump No. 3, which covered the entire Site property. During his five-year lease, he entered into an agreement that granted Cherryvale Zinc Company access to the cinder residues contained in Dump No. 3.

In this capacity, J.B. Kirk arranged for the access and removal of on-site smelter wastes. Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107(a) (3), J.B. Kirk is considered a PRP, as he was an arranger of the treatment of wastes. J.B. Kirk is not a viable PRP; he is deceased (M55-143).

OWNERSHIP / LEASE HISTORY

J.B. Kirk acquired Tracts 1-4, 5C, 6B and 6C of the IMP Boats Site from Lanyon Zinc Smelting Company on July 29, 1912 (M22-129). On August 20, 1912 J.B. Kirk transferred the land to J.B. Kirk Gas & Smelting Company (M22-141).

Leases

J.B. Kirk leased the southern portion of the IMP Boats Site, Tracts 5A, 5B, 6A, 6B and 6C from 1953 to 1958.

On August 28, 1953 the J.B. Kirk Gas & Smelting Company entered into a lease agreement with J.B. Kirk, the company's president, for the term of five years. The lease was recorded in Book M52, Page 105 of the Allen County Register of Deeds and granted J.B. Kirk access to all cinder residues that resulted from previous on-site smelting activities. The Site property is referenced in the lease as 'Dump No. Three'.

Agreements

On August 28, 1953, JB Kirk entered into an agreement with Cherryvale Zinc, which was recorded in Book M52, Page 110 of the Allen County Register of Deeds. For full details see Cherryvale Zinc Company's PRP Section on page 31.

On October 24, 1956 the Estate of JB Kirk, deceased, represented by Stanley J. Kirk, Executor, entered into an agreement with Cherryvale Zinc Company, Inc. for the term of one year. For full details see Cherryvale Zinc Company's PRP Section on page 31.

CORPORATE HISTORY

J.B. Kirk is deceased (M22-141).



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OPERATIONAL INFORMATION

CGS found no operational information.

PROPERTY BOUNDARY/SITE DESCRIPTION:

J.B. Kirk gained access to smelting waste on-site through a lease made with J.B. Kirk Gas & Smelting Company from 1953 through 1958. The cinder residue dump referenced in the lease covered the majority of the Site property. Figure 11 shows the dump area relative to the Site boundary.

F. UNITED STATES SMELTING COMPANY

SUMMARY

United States Smelting Company owned Site property from June 1915 to July 1916. According to mineral industry statistics from 1915-1918, after deeding the land to J.B. Kirk Gas & Smelting Company, the United States Smelting Company continued to operate the on-site smelter.

Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107 (a) (2), PRP liability can be applied to United States Smelting Company because it was an owner/operator at the time of disposal. United States Smelting Company's property was consumed by United States Smelting Refining and Mining Company in 1918; at the time, the Iola Site no longer belonged to United States Smelting Company; No corporate successor was located for United State Smelting Company in relation to the IMP Boats Site property.

OWNERSHIP / LEASE HISTORY

United States Smelting Company purchased Tracts 5A, 5C, and all of Tract 6 from J.B. Kirk Gas & Smelting Company on June 13, 1915 (24-534). On July 6, 1916 U.S. Smelting Company deeded the land back to J.B. Kirk Gas & Smelting Company (59-334).

OPERATIONAL INFORMATION

According to mineral industry publications, United States Smelting Company operated the on-site smelter from 1915 to late 1917 (see Table 3 for full operational statistics).

CORPORATE HISTORY

Certificate of Organization

On September 2, 1902, United States Smelting Company filed for Certificate of Organization with the Maine Secretary of State. The Certificate lists the purpose of said corporation as follows:

"... to carry on the business and license others to carry on the business of smelting, refining, dressing, amalgamating and preparing for market gold, silver, copper, zinc,



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iron, lead and coal, and all sorts of ore and metals, mineral substances and stone; ...and smelting corporations and other corporations formed for purposes similar to.. .” (46)

The Certificate of Organization lists five directors as follows: C.A. Hight, L.L. Hight, M.G. Connellan, F.W. Batchelder, and W.F. Moller. Officers are listed as: C.A. Hight, President; LeRoy L. Hight is Clerk; L.L. Hight is treasurer; and C.A. Hight, L.L. Hight, and M.G. Connellan are Directors. (46)

Application for Authority in Kansas

On July 25, 1916, a letter was sent to the Kansas Secretary of State enclosing an Application for Authority to engage in business in the State of Kansas as a foreign corporation. The letter states:

“... This concern is a very substantial institution and is now operating smelting plants at Iola, La Harpe, and Altoona, Kansas. It is doing no other business in the State of Kansas, except that of zinc smelting.” (44)

The Kansas Charter Board on August 16, 1916 approved the charter.

Acquisition

On October 1, 1918, the assets of the U. S. Smelting Company were liquidated and the United States Smelting, Refining, and Mining Company acquired all the assets of the United States Smelting Company held at La Harpe, Kansas (43). At the time of acquisition, United States Smelting Company had already sold the IMP Boats property to J.B. Kirk Gas & Smelting Company (59-334).

Withdraw from Kansas

On June 3, 1920, United States Smelting Company filed an Application of Foreign Corporation to withdraw from the State of Kansas. The Charter Board approved the application on June 3, 1920 and filed on June 8, 1920. (45)





Figure 10. U.S. Smelting Company Corporate Successor

G. CHERRYVALE ZINC COMPANY

SUMMARY

Cherryvale Zinc Company did not own or lease the IMP Boats Site property. Between 1953 and 1957, the company was granted access to a cinder residue dump on-site. See below for details on the agreements.

Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. Cherryvale Zinc Company transported wastes found on the Site. According to CERCLA Section 107 (a) (3), PRP liability can be applied to Cherryvale Zinc Company because it was a transporter of smelter wastes. Cherryvale Zinc Company dissolved on August 26, 1977 and no corporate successors were located.

OWNERSHIP / LEASE HISTORY

Cherryvale Zinc Company did not own or lease the IMP Boats Site property. Between 1953 and 1957 the company was granted access to cinder residue dumps on-site. See below for details on the agreements.

Agreements

On August 28, 1953, JB Kirk entered into an agreement with Cherryvale Zinc, which was recorded in Book M52, Page 110 of the Allen County Register of Deeds. JB Kirk held a lease



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covering Tracts 5A, 5B, 6A, 6B and 6C, which contained a cinder residue dump. The agreement allows Cherryvale the option of purchasing and removing cinder residue from dump number three (renamed dump number two in the 1956 agreement) for a period of 6 months from the date of the agreement.

On October 24, 1956 the Estate of JB Kirk, deceased, represented by Stanley J. Kirk, Executor, entered into an agreement with Cherryvale Zinc Company, Inc. for the term of one year. The agreement granted Cherryvale the option of purchasing and removing cinder residue from dump number three and was recorded in Book M55 on Page 143 of the Allen County Register of Deeds.

The on-site dump contained 8,841 tons of cinder residues.

OPERATIONAL INFORMATION

CGS found no operational information for Cherryvale Zinc Company.

CORPORATE HISTORY

Incorporation

Cherryvale Zinc Company, Inc. was incorporated in the State of New York on January 1, 1950, "to carry on business to smelt, refine, and concentrate" (22). The incorporators were, Benno Elkan, C.H. Scherf, and Julian B. Beaty.

Application for Authority as a Foreign Corporation in Kansas

On February 27, 1950, Cherryvale Zinc Company applied to the Charter Board of Kansas for permission to engage in business as a foreign corporation. The application was approved February 27, 1950. The Officers listed were as follows:

Julian B. Beaty, President
O. Frohnknecht, Vice-President
C.H. Scherf, Treasurer
E. H. Mann, Secretary
Carl M. Elkan, Manager (23)

Withdraw from the State of Kansas

On February 9, 1973, Cherryvale Zinc Company, Inc. surrendered its authority to transact business in the State of Kansas. The Certificate of Withdraw was filed with the Kansas Secretary of State on May 10, 1973. (24)

Dissolution

Cherryvale Corporation dissolved by way of stockholders meeting on August 8, 1977.

R. Fred Baerwald, President and Stanley J. Titch, Secretary/Treasurer are listed as the company's only officers. The Certificate of Dissolution was filed with the New York Secretary of State on August 26, 1977. (25)



PROPERTY BOUNDARY/SITE DESCRIPTION:

Cherryvale Zinc Company gained access to smelting waste on-site through agreements made with J.B. Kirk from 1953 through 1957. The cinder residue dump covered the southern portion of the Site property. Figure 11 shows the dump area relative to the Site boundary:



Figure 11: IMP Boats Site Dump Number Three

H. THE CITY OF IOLA, KANSAS

SUMMARY

In 1934, The City of Iola acquired Tracts 1-4 of the Site property. It sold Tracts 1, 3 and 4, but maintained ownership of Tract 2 since 1934. According to CERCLA Section 107 (a) (1), PRP liability can be applied to The City of Iola because it is a current owner of the Site property.

OWNERSHIP / LEASE HISTORY

In 1934, the J.B. Kirk Gas & Smelting Company sold its lands north of W. Lincoln Street to the City of Iola (98-299). This land was to become platted as Iola Industrial Park Number One, comprised of eight lots. Only the southern four lots are identified in this report as being within Site boundaries. It sold the area identified in this report as Tract 1 in 1962, and the areas identified as Tract 3 and Tract 4 in 1960. It has maintained ownership of Tract 2 since 1934 (2).

OPERATIONAL INFORMATION

Operational information for this site is not known.

CORPORATE HISTORY

A Dun & Bradstreet Business Information Report dated April 20, 2010 states that the City of Iola incorporated in Kansas in 1870 and is an active non-profit corporation³. The directors are as follows:

Bill Maness, Mayor
 Judy Brigham, Administrator
 William Shirley, Commissioner
 Craig Abbott, Commissioner

PROPERTY BOUNDARY/SITE DESCRIPTION:

The City of Iola owns the portion of the Site described within this report as Tract 2, a parcel of land also described as Iola Industrial Tract Number One, Lot 2.

I. WEST BOTTOMS PROPERTY, INC.

SUMMARY

West Bottoms Property, Inc. also referred to as "Westbottom Properties, Inc." has maintained ownership of Tracts 2 and 4A since 1993. According to CERCLA Section 107 (a) (1), PRP liability can be applied to West Bottoms Property, Inc. because it is a current owner of the Site property.

³ For a full copy of the Dun & Bradstreet Report, see Attachment J: Dun & Bradstreet Reports.



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OWNERSHIP / LEASE HISTORY

In 1993, Allen County, Kansas sold property to "Westbottom Properties, Inc." which included Tracts 3 and 4A (187-230). As of the date of the writing of this report, they still have ownership of the property (2).

OPERATIONAL INFORMATION

No corporate information could be found for "Westbottom Properties, Inc.," however, a Dun & Bradstreet report for "West Bottoms Property, Inc." was located⁴, and a search of the Kansas Secretary of State's records shows a corporation on file of that name with a registered office address of 504 W. Lincoln, Iola, KS (located on the corresponding area of Site property). The Dun & Bradstreet⁵ report specifies the corporation's line of business as "nonresidential building operator" (48). An aerial photograph of the site demonstrates there to be four large and numerous other structures on the property (See Figure 1: Parcel Map). This suggests that the corporation is leasing the structures on this portion of the land to commercial tenants, but no information about what businesses are currently in operation there were located.

CORPORATE HISTORY

West Bottoms Property, Inc. was formed in the state of Kansas on June 25th, 1993. The corporation is still active, but on the date of this report was delinquent for failure to file its 2009 Annual Report. The forfeiture date is listed as 7/15/2010 (2).

The registered agent is listed as West Bottoms Property, Inc., 504 W. Lincoln, Iola, Kansas, 66749 (48).

PROPERTY BOUNDARY/SITE DESCRIPTION:

West Bottom Property, Inc. (or Westbottom Properties, Inc.) owns Tracts 3 and the west portion of Tract 4, labeled 4A, which are the center two parcels of the site area (see Figure 1)

J. A.C.B., INC.**SUMMARY**

A.C.B. Inc acquired Tract 6 in 1992, and Tract 5 in 2006; it is the current owner of both tracts. According to CERCLA Section 107(a) (1), PRP liability can be applied to A.C.B. Inc., as it is a current owner of the Site property.

⁴ For a full copy of the Dun & Bradstreet Report, see Attachment J: Dun & Bradstreet Reports.

⁵ For a full copy of the Dun & Bradstreet Report, see Attachment J: Dun & Bradstreet Reports.



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OWNERSHIP / LEASE HISTORY

In 1992, A.C.B., Inc. purchased the southeast portion of the Site area from the City of Iola, encompassing all of Tract 6 (185-601). In 2006, it also purchased the Tract adjacent to the west, previously occupied by the Marvin E. Boyer Oil Company (A70-563), identified in this report as Tract 5 (See Figure 1: Parcel Map). As of the date of this report, A.C.B., Inc. still owns both of these Tracts (2).

OPERATIONAL INFORMATION

A Dun & Bradstreet report was obtained for ACB, Incorporated with a business address of "Unknown, Iola, KS" that contained no specific information about the operations of the corporation or its officers⁶.

CORPORATE HISTORY

A.C.B., Inc. incorporated as a for profit corporation in the state of Kansas in 1992. The corporation is still active, but on the date of this report was delinquent for failure to file its 2009 Annual Report. The forfeiture date is listed as 7/15/2010 (2).

The registered agent/address for the corporation is James M. Immel, Four East Jackson, Iola, Kansas 66749 (18).

PROPERTY BOUNDARY/SITE DESCRIPTION:

A.C.B., Inc. currently owns all of Tract 5 and Tract 6 as identified on Figure 1 of this report. This is all of the Site area that is located on the south side of W. Lincoln St.

K. DOUGLAS D. ROSE / KENNETH ROSE

SUMMARY

In 1992, Douglas D. Rose and Kenneth Rose, individuals, acquired Tract 1; they remain the current owners of this Site property. According to CERCLA Section 107(a) (1), PRP liability can be applied to Douglas Rose and Kenneth Rose, as they are current owners of Site property.

OWNERSHIP / LEASE HISTORY

In 1992, Douglas Rose and Kenneth Rose purchased Iola Industrial Tract 1 from Emprise Bank, who had owned it since 1985, when Iola Concrete Products suffered a mortgage foreclosure (185-187). As of the date of this report, they are still the listed owners of the property.

⁶ For a full copy of the Dun & Bradstreet Report, see Attachment J: Corporate Documents.



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OPERATIONAL INFORMATION

A general internet search of the mailing address associated with this property revealed that it is currently in use by Payless Concrete Products, Inc.

CORPORATE HISTORY

Payless Concrete Products, Inc. was incorporated in the state of Kansas in 2007. The corporation is current and active (39).

The registered agent/address is George B. Rose, 802 N. Industrial Road, P.O. box 664, Iola, Kansas 66749 (39).

PROPERTY BOUNDARY/SITE DESCRIPTION:

The Site property currently owned by Douglas Rose and Kenneth Rose is described as all of Lot 7 of Iola Industrial Tract Number One. For the purposes of this report, it is identified as all of Tract 1 (see Figure 1).

IV. NOTABLE CORPORATE OWNERS

A. IMP BOATS, INC.

SUMMARY

EPA requested that CGS note that IMP Boats, Inc. was a current owner when the property was identified as a Site of concern. According to CERCLA Section 107(a) (1), PRP liability can apply to current owners of the Site property. At the time of submission for this report, pursuant to CERCLA Section 107 (a) (1), IMP Boats, Inc. cannot be considered a PRP. IMP Boats, Inc. is dissolved. Russo Industries, a stockowner of IMP Boats from 1985, is currently inactive.

OWNERSHIP / LEASE HISTORY

In 1978, the APECO Corporation deeded its Site property to IMP Boats, Inc. (164-109). This land included all of Tract 3, the western portion of Tract 4, identified as 4A, and all of Tract 6. Following the bankruptcy of IMP Boats, Tract 6 was deeded to the City of Iola in 1991 (182-536), and Tracts 3 and 4A were deeded to Allen County, Kansas in 1992 (185-603).

OPERATIONAL INFORMATION

IMP Boats, Inc. was a manufacturer of fiberglass boats.

CORPORATE HISTORY

IMP Boats, Inc. was incorporated in the State of Kansas in 1978 by Webster L. Gordon. The purpose of the corporation was "to engage in any lawful act or activity for which corporations may be organized under the general corporation code of Kansas". At its



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OPERATIONAL INFORMATION

A general internet search of the mailing address associated with this property revealed that it is currently in use by Payless Concrete Products, Inc.

CORPORATE HISTORY

Payless Concrete Products, Inc. was incorporated in the state of Kansas in 2007. The corporation is current and active (39).

The registered agent/address is George B. Rose, 802 N. Industrial Road, P.O. box 664, Iola, Kansas 66749 (39).

PROPERTY BOUNDARY/SITE DESCRIPTION:

The Site property currently owned by Douglas Rose and Kenneth Rose is described as all of Lot 7 of Iola Industrial Tract Number One. For the purposes of this report, it is identified as all of Tract 1 (see Figure. 1).

IV. NOTABLE CORPORATE OWNERS

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OWNERSHIP / LEASE HISTORY

In 1978, the APECO Corporation deeded its Site property to IMP Boats, Inc. (164-109). This land included all of Tract 3, the western portion of Tract 4, identified as 4A, and all of Tract 6. Following the bankruptcy of IMP Boats, Tract 6 was deeded to the City of Iola in 1991 (182-536), and Tracts 3 and 4A were deeded to Allen County, Kansas in 1992 (185-603).

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incorporation, the registered address and principal place of business were identified as 500 W. Lincoln Street in Iola (26)

IMP Boats changed its name in 1983 to The New IMP Boat Corporation in an Amendment to the Articles of Incorporation. In 1988, it again filed an Amendment, changing the name to International Marine Products (42, 28).

A memorandum date November 26, 1991, located in the EPA Site files, contained the following corporate information: The last annual report was filed in 1989 and listed the following officers: Donald G. Vincent – Pres.; Zoltan Olah – Secretary Treasurer; Joseph Russo – Board of Directors. All stock shares were owned by Russo Industries, Inc. Russo Industries, Inc. incorporated in the State of Texas in 1985, and is currently inactive (13).

A search of the Texas Secretary of State Corporations Division website confirmed that Russo Industries in inactive due to “Tax Forfeiture”, effective February 2, 1993 (41).

International Marine Products, Inc. was administratively dissolved by the State of Kansas due to failure to file an Annual Report, effective May 15, 1991 (27).

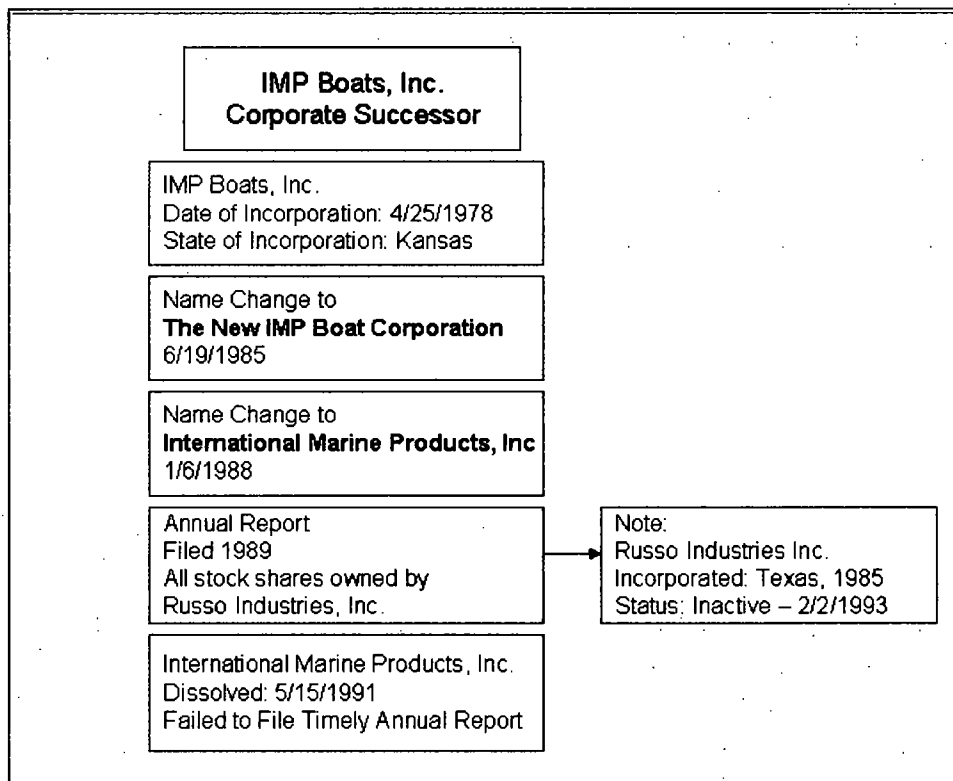


Figure 12: IMP Boats Corporate Successor

PROPERTY BOUNDARY/SITE DESCRIPTION:

For a parcel map, see Figure 1.

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OPERATIONAL INFORMATION

A general internet search of the mailing address associated with this property revealed that it is currently in use by Payless Concrete Products, Inc.

CORPORATE HISTORY

Payless Concrete Products, Inc. was incorporated in the state of Kansas in 2007. The corporation is current and active (39).

The registered agent/address is George B. Rose, 802 N. Industrial Road, P.O. box 664, Iola, Kansas 66749 (39).

PROPERTY BOUNDARY/SITE DESCRIPTION:

The Site property currently owned by Douglas Rose and Kenneth Rose is described as all of Lot 7 of Iola Industrial Tract Number One. For the purposes of this report, it is identified as all of Tract 1 (see Figure 1).

IV. NOTABLE CORPORATE OWNERS

A. IMP BOATS, INC.

SUMMARY

EPA requested that CGS note that IMP Boats, Inc. was a current owner when the property was identified as a Site of concern. According to CERCLA Section 107(a) (1), PRP liability can apply to current owners of the Site property. At the time of submission for this report, pursuant to CERCLA Section 107 (a) (1), IMP Boats, Inc. cannot be considered a PRP. IMP Boats, Inc. is dissolved. Russo Industries, a stockowner of IMP Boats from 1985, is currently inactive.

OWNERSHIP / LEASE HISTORY

In 1978, the APECO Corporation deeded its Site property to IMP Boats, Inc. (164-109). This land included all of Tract 3, the western portion of Tract 4, identified as 4A, and all of Tract 6. Following the bankruptcy of IMP Boats, Tract 6 was deeded to the City of Iola in 1991 (182-536), and Tracts 3 and 4A were deeded to Allen County, Kansas in 1992 (185-603).

OPERATIONAL INFORMATION

IMP Boats, Inc. was a manufacturer of fiberglass boats.

CORPORATE HISTORY

IMP Boats, Inc. was incorporated in the State of Kansas in 1978 by Webster L. Gordon. The purpose of the corporation was "to engage in any lawful act or activity for which corporations may be organized under the general corporation code of Kansas". At its

V. NON-OPERATIONAL ON-SITE SMELTERS

A. LANYON ZINC SMELTING COMPANY

SUMMARY

On March 9, 1911 Lanyon Zinc Smelting Company purchased Tracts 1-4, 5C, 6B and 6C from Edmund L. Judson, the company's secretary (57-141). The company sold the land to J. B. Kirk on July 29, 1912 (M22-129).

Operations during Lanyon Zinc Smelting Company's period of ownership are unknown; therefore the company cannot be classified as a PRP. The company dissolved on August 1, 1912; no corporate successor was located (33).

VI. ADDITIONAL CORPORATE PROPERTY OWNERS

During the collection and review of Site title instruments, CGS found several corporations that owned Site property. EPA asked CGS to account for these businesses and their on-site operations. Based on the information gathered, the corporations listed cannot be classified as Potentially Responsible Parties. Business information available for these companies is provided in Table 5 of the report body and is duplicated in Attachment H: Corporate Property Owners.

Company	Dates of Ownership	Tract	Nature of business / Notes	Source
APECO Corporation / American Photocopy Equipment Corp.	1969 - 1978	3, 4, 6 (all)	Manufacture and sale of photocopy equipment.	1
Emprise Bank	1985 - 1992	1	A financial institution	2
The Iola Carriage and Omnibus Company	1887 - Unknown	5a, 6a	Manufacturer of coaches and carriages	3
Iola Concrete Products, Inc.	1972 - 1985	1	Brick and concrete block manufacturing	4
Iola Molded Plastics	1960 - 1969	3, 4, 6 (all)	Boat design and manufacture	1
Kansas City Testing Laboratories	Unknown - 1961	5b	unknown	none
Marvin E Boyer Oil Company, Inc	1969 - 2006	5 (all)	Oil drilling	none

Table 5: Corporate Property Owners



CONCLUSIONS

According to Chenega Global Services research, the following entities are considered Potentially Responsible Parties pursuant to CERCLA Section 107 (a) for the following reasons:

W. & J. Lanyon are included as PRPs based on evidence that, during their period of Site ownership, the W. & J. Lanyon Works, later renamed Lanyon Zinc Company Work No. 1, operated on-site. Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107(a) (2) PRP liability can be applied to W. & J. Lanyon, as they were owners of the Site property at the time of disposal.

Robert Lanyon Son's Spelter Company operated a zinc smelter on-site during 1898 to 1899. Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107(a) (2) PRP liability can be applied to Robert Lanyon Son's Spelter Company, as it was an operator of the Site property at the time of disposal. Historical evidence indicates that the company became Lanyon Zinc Company (Works No. 2) in 1899.

Lanyon Zinc Company owned Site property and operated two smelting facilities on-site from 1899 to 1911.

In a letter dated February 2, 1912, Lanyon Zinc Company's legal representatives informed the Kansas Secretary of State that the company's property was sold at mortgage foreclosure in early 1910. The law firm also claimed that Lanyon Zinc Company was a defunct corporation; no corporate successors were located. Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107(a) (2) PRP liability can be applied to Lanyon Zinc Company, as it was an owner/operator of the Site property at the time of disposal.

J.B. Kirk Gas & Smelting Company, a Kansas corporation, owned portions of the Site property from 1912 to 1967. During their ownership United States Smelting Company operated the on-site smelter. In 1953, the company leased to J.B. Kirk, an individual, who then arranged for treatment of on-site cinder residues. Smelting is known to have occurred on the Site property and may be sources of the heavy metal contamination detected in the soil at the Site. According to CERCLA Section 107 (a) (2) and CERCLA Section 107 (a) (3), J.B. Kirk Gas & Smelting Company is considered a PRP because it was both an owner at the time of disposal, and an arranger for the treatment of smelter wastes. J.B. Kirk Gas & Smelting Company dissolved in 1995; no corporate successors were located.

J.B. Kirk, an individual, owned portions of the Site property from July to August of 1912. In August of 1953 he leased the Site property from J.B. Kirk Gas & Smelting Company. The same day, he established an agreement with Cherryvale Zinc Company, allowing the zinc company to access and remove cinder residues that had resulted from previous smelting activities (referred to as Dump No. 3).

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Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. In this capacity, J.B. Kirk arranged for the relocation of smelting wastes. According to CERCLA Section 107(a) (3), J.B. Kirk is considered a PRP, as he was both an owner at the time of disposal and an arranger of disposal activities. A title document from October of 1956, identified J.B. Kirk as deceased (M55-143).

United States Smelting Company owned the Site property from June 1915 to July 1916 and operated the on-site smelter from 1915 to late 1917. Smelting is known to have occurred on the Site property and may be sources of the heavy metal contamination detected in the soil at the Site. According to CERCLA Section 107 (a) (2), PRP liability can be applied to United States Smelting Company because it was an owner/operator at the time of disposal. No corporate successor was located for United State Smelting Company in relation to the IMP Boats Site property.

Cherryvale Zinc Company, a New York corporation, entered into an agreement with J.B. Kirk, lessee of the Site property, on August 28, 1953, to access and remove cinder residues that had resulted from previous smelting activities. The agreement spanned three years and was renewed at J.B. Kirk's death in 1956 for one year. Cherryvale withdrew from Kansas on May 10, 1973 and was dissolved on August 26, 1977; no corporate successors were located.

Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107(a) (4), Cherryvale Zinc Company is considered a PRP, as it was a transporter of smelter wastes.

Notable Corporate Property Owners

EPA requested that CGS note that IMP Boats, Inc. was a current owner when the property was identified as a Site of concern. According to CERCLA Section 107(a) (1), PRP liability can apply to current owners of the Site property. At the time of submission for this report, pursuant to CERCLA Section 107 (a) (1), IMP Boats, Inc. cannot be considered a PRP. IMP Boats, Inc. is dissolved. Russo Industries, a stockowner of IMP Boats from 1985, is currently inactive.

Current Owners

According to CERCLA Section 107(a) (1) PRP liability can be applied to the following entities, as they are current owners of the Site property:

The City of Iola, Kansas is the current owner of Tract 2 of the Site property; the City of Iola was incorporated in Kansas in 1870 and is listed as an active non-profit corporation.

West Bottom Property, Inc. (or Westbottom Properties, Inc.) owns Tracts 3 and 4A, which are the center two parcels of the Site area. The registered agent is listed as West Bottoms Property, Inc., 504 W. Lincoln, Iola, Kansas, 66749. As of April 2010, the company is delinquent in Kansas.



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A.C.B., Inc. currently owns all of Tract 5 and Tract 6 of the Site property. As of April 2010, the Kansas Corporation is delinquent for failure to file an annual report with the Secretary of State. The registered agent/address for the corporation is James M. Immel, Four East Jackson, Iola, Kansas 66749.

Douglas Rose and Kenneth Rose purchased Iola Industrial Tract Number One Lot 7 in 1992. Their land is currently in use by Payless Concrete Products, Inc., an active Kansas corporation.

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 - b. Document 02: *Order, 4/17/1909*
 - c. Document 10: *Journal Entry: Mortgage Foreclosure, 2/23/1910*
 - d. Document 11: *Order of Sale, 3/4/1910*
 - e. Document 16: *Application of J.B. Kirk, Receiver, for Order to Quit Claim and Give Possession of the Rolling Mill Property, 2/24/1911*
 - f. Document 17: *Application for the Release and Discharge of the Property from the Care, Custody, Management and Possession of Receivers, 2/24/1911*
 - g. Document 33: *Lease to American Metal Company and Report of J.B. Kirk as Receiver of Lanyon Zinc Company, 7/19/1910*

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