

75431

EXECUTIVE SUMMARY OF RESPONSE ACTION

SITE: Chemical Commodities, Inc. - Shawnee
LOCATION: Shawnee, Johnson County, Kansas
PROJECT DATES: February 18, 1992, through November 20, 1992

INCIDENT DESCRIPTION:

The site consisted of two structures owned by Jerald Gershon, an individual, and was used for the storage of chemicals since approximately 1977 by Chemical Commodities, Inc. (CCI). In January 1990, Jerald Gershon, sole stockholder, officer, and director of CCI, entered a guilty plea pursuant to Section 3008 (d) (2) (A) of the Resource Conservation and Recovery Act (RCRA) for the unlawful disposal of hazardous wastes at a CCI facility in Olathe, Kansas. Contemporaneously with the entry of the guilty plea, a Plea Agreement was filed. Under the terms of the Plea Agreement Gershon/CCI agreed to "take all steps necessary to liquidate and cease doing business, except to the extent necessary to liquidate, and apply for all authorizations necessary from applicable state and federal agencies to do so."

On May 29, 1990, Mr. Gershon called the on-scene coordinator concerning the movement of the chemicals from the main building to a storage trailer so he could rent the main building. On June 15, 1990, apparently unknown to the Environmental Protection Agency, Gershon sold the property to Tire Town. When it became apparent CCI/Gershon, Tire Town, and five entities who had sold the surplus or excess chemicals to CCI refused to address the site, a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) funded removal was performed.

ACTIONS:

The removal at this site consisted of the inventory, sorting, transportation and disposal of all containers of hazardous substances, pollutants and contaminants at the site.

George K. Hess
George K. Hess, OSC
U.S. EPA, Region VII
Kansas City, Kansas

Site: Chemical Comm
ID #: KSD980632962
Break: 2.4
Other: 2-18-92



S00076134
SUPERFUND RECORDS

Chemical Commodities, Inc. - Shawnee
Shawnee, Kansas
OSC Final Report
prepared by
George K. Hess
July 6, 1994

I. SUMMARY OF EVENTS

A. Site Conditions and Background

1. Initial Situation

In January 1990, Jerald Gershon, sole stockholder, officer, and director of Chemical Commodities, Inc. (CCI), entered a guilty plea on behalf of CCI to one count of Superseding Information. This count charged a violation of Section 3008 (d)(2)(A) of the Resource Conservation and Recovery Act (RCRA) for the unlawful disposal of hazardous wastes at a CCI facility in Olathe, Kansas. Contemporaneously with the entry of the guilty plea, a Plea Agreement (attachment A) was filed.

Under the terms of the Plea agreement, Gershon/CCI agreed to "take all steps necessary to liquidate and cease doing business, except to the extent necessary to liquidate, and apply for all authorizations necessary from applicable state and federal agencies to do so." Shortly thereafter, Gershon/CCI contacted the Environmental Protection Agency (EPA), Region VII, to determine what was necessary to comply with the requirement regarding liquidation of CCI's inventory and termination of the business. EPA provided Gershon/CCI with a detailed statement of the actions required for the clean-up and closure of each of its facilities, including the Shawnee site, which was subsequently incorporated in the sentencing order issued by the United States District Court in May 1990 (attachment B). The sentencing order further provided that "All material remaining after 45 days following selection of a contractor shall be designated as waste..." Attachment C summarizes the Agency's involvement in the implementation of the sentencing.

On June 7, 1990, following an evaluation of a clean-up proposal submitted by PEI Associates, Inc. (PEI), to CCI, EPA recommended the selection of PEI to serve as supervising contractor for the performance of work associated with clean-up and closure of CCI's facilities. Gershon/CCI ultimately claimed financial inability to secure the services of PEI.

In August 1990, a preliminary assessment and site investigation was performed to determine the types and quantities of materials remaining at the site. At the time of the investigation, a variety of containers (drums, bottles, boxes, bags and metal cans) was found in two 40-foot trailers and

a large pole building at the site. The materials were not segregated according to chemical compatibility, and some of the hazardous substances were in broken, deteriorating, and leaking containers.

On May 17, 1991, the on-scene coordinator (OSC) made a site visit and discovered a leaking container of copper fluoborate which was contributing to further corrosion on the side of the trailer and the other container the material was in contact with.

2. Location of Hazardous Substances

The site is located in Shawnee, Kansas, a rapidly developing suburb of metropolitan Kansas City. The site is located at 20201 West 55th Street, Shawnee, Johnson County, Kansas. The legal description of the site is the 2.4 acres in the north 1/4 of the Northeast 1/4 of Section 11, Township 12, Range 23. A map showing the location of the site is provided in attachment D. Several residences are within one-quarter mile of the site. A girls softball complex is just north of the site. Immediately north and northwest of the site are commercial/ industrial businesses. Originally the chemicals were stored in the main building and in a pole building at the site. The pole building was secured on one side with a six-foot chain-link fence. Prior to the start of the actual removal, the owner of CCI placed the chemicals which were in the main building into two semi-trailers near the pole building. The two trailers were then mysteriously moved off the property and onto a third party's property.

3. Cause of the Release

Many of the chemicals were in the original manufacturers' shipping containers, which in some cases were more than 10 years old. Typically, the manufacturers' design life of a container is from 6 months to 4 years. The majority of the chemicals received by CCI were ones which another entity had purchased and for one reason or another no longer needed. As a result of multiple handling and shipping, the containers were not always in the best shape when received by CCI. CCI's storage and handling practices also contributed to the problem. Once containers were received, CCI did not appear to have an established storage system. The pole building was open on the east side to the elements. Chemicals were not stored by compatibility so leaking containers would accelerate the deterioration of adjacent containers. During the removal assessment, it was observed that several of the containers had deteriorated to the point that a release of the materials could occur at any time. Additionally, the potential for vandalism was high due to the limited security of the pole building which would enhance the potential for a release.

4. Efforts to Obtain Response by Responsible Parties

On May 14, 1990, judgment was rendered by the United States District Court for the District of Kansas under the terms of a plea agreement. Chemical Commodities, Inc., was fined \$500,000 and placed on probation for a term of five years. As a condition of probation, CCI was required to liquidate and cease doing business and to close each of its facilities in accordance with an approved closure plan. Execution of the fine was stayed in lieu of CCI absorbing the costs of liquidation of its business and clean-up of each of its facilities. Pursuant to the terms of the sentencing order, EPA provided CCI with a recommendation for a contractor to assist in clean-up of its facilities, including the DeSoto site. CCI solicited and received a bid from the contractor; however, no further action was taken by CCI due to its contention that it was not financially able to perform necessary response actions at the site. On November 7, 1990, CCI filed a voluntary petition under Chapter 7 of the Bankruptcy Code in the United States District Court, Topeka, Kansas. The court dismissed the case as the U. S. Government was the major creditor and EPA was already addressing the CCI sites. On May 13, 1991, EPA issued notice letters to CCI, Gershon and five entities who shipped surplus, excess, or off-specification chemicals to CCI. The five potentially responsible parties (PRPs) met with the Agency and inspected this and the CCI-Kansas City, Kansas, site. The five entities declined to take any action. The week of September 20, 1991, EPA issued a notice letter to the property owner, Tire Town, Inc. On September 23, 1991, a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) 106 Unilateral Administrative Order was issued to CCI/Gershon and Tire Town. Both parties failed to comply with the order.

B. Organization of the Response

Once the action memorandum was signed in October of 1991, the Technical Assistance Team (TAT) was directed to provide a detailed inventory of all containers at the site and to survey the site boundaries. The survey was necessary because the two storage trailers of chemicals had mysteriously been moved and CCI/Gershon and the property owner indicated that the material was not on their property. When the inventory was completed, the Emergency Response Cleanup Services (ERCS) contractor was mobilized to the site to perform segregation and stabilization. When the inventory was completed, Emergency Planning and Response Branch (EP&R) and regional contract personnel began working on a site-specific contract for the transportation and disposal of the hazardous substances. The contract was awarded to Laidlaw Environmental Services (LES) on July 22, 1992. LES completed the transportation of the wastes on November 20, 1992, when all on-site activities ceased.

The following are the key personnel/organizations for this removal.

Agency/Company	Contact	Description
U. S. EPA Region VII Emergency Planning and Response Branch	George Hess	On-Scene Coordinator
U.S. EPA Region VII Office of Regional Counsel	Barbara Peterson	Attorney responsible for legal/enforcement issues.
U.S. EPA Region VII Superfund Branch	Steve Jones Bruce Morrison	Remedial Project officers, enforcement/ cost recovery
U.S. EPA Region VII Financial Management Branch	Marcia Trudeau	Contracting Officer; site specific T&D contract.
Ecology and Environment, Overland Park, KS	Randy Schademann	Team Leader for TAT support activities
Laidlaw Environmental Services, Greenbrier, TN	Marc Simon	Coordinator for T&D activities under site- specific contract.
Riedel Environmental Services, St Louis, MO	Don Flowers	ERCS Response Manager

C. Injury/Possible Injury to Natural Resource

Based on the removal assessment, a small release of copper fluoborate had occurred at the site. During the response action soil was excavated and disposed from the release. The natural resource trustee, Kansas Department of Health and Environment (KDHE) was notified of the response action. The continual deterioration of the building, precipitation, and severe weather conditions could have caused the material to deteriorate the storage containers.

D. Chronological Narrative of Response Actions

1. Threat Abatement Actions Taken

October-November, 1991: TAT performed the site inventory and field screened the unknowns. A total of 271 lots of chemicals

were inventoried. Of the items inventoried, 73 lots required field screening to determine the chemical characteristics of the lot. The inventory is summarized as follows:

NON Regulated	95
Class 9 (DOT)	90
Poison	33
Flammable Liquid	32
Corrosives	14
Oxidizers	2
Poison & Flammable	2
Poison & Corrosive	2

During this time period TAT subcontracted with a licensed land surveyor to determine the site boundaries. Attachment E is a copy of the map showing the relationship of the pole building and trailers in relationship to the property lines.

February 1992: The ERCS contractor was mobilized to the site to perform stabilization activities. The non-hazardous substances were segregated from the hazardous substances for disposal by the property owner as solid waste.

July 1992: The transportation and disposal (T&D) site-specific contract was awarded to Laidlaw Environmental Services (LES).

September 1992: LES began on-site activities and began off-site disposal.

November 20, 1992: LES made the final shipment of wastes from the site. On-site activities were completed.

2. Treatment/Disposal/Alternative Technology Approaches Pursued and Followed

Due to the diverse collection and the relative small quantities of each chemical, the majority of the disposal was by the use of lab packs. Prior to shipment, the disposal facilities were checked for compliance with the CERCLA off-site policy. The following facilities were utilized for disposal.

Laidlaw Environmental Services-Crowley, LA	
"	" -Pecatonica, IL
"	" -Pinewood, SC
"	" -Antioch, TN
"	" -Reidsville, NC
"	" -Greenbrier, TN
"	" -Roebuck, SC
ENSCO, Inc., Eldorado, AR	
Inmetco, Ellwood City, PA	
BDT, Inc., Clarence, NY	
Cyanokem, Inc., Detroit, MI	
Heritage Environmental Services, Indianapolis, IN	

3. Public Information and Community Relations
Activities Taken

The public was kept informed by a weekly briefing with the media. The main Kansas City newspaper had a reporter contact the Agency on a weekly basis for most of 1989 through 1991 while this and the other CCI sites were being addressed. An Administrative Record was completed for the site and placed at the Shawnee City Hall on March 11, 1992.

E. Resources Committed

Extramural Costs

ERCS	\$ 3,773
TAT Direct Costs*	5,489
Site-specific T&D contract	109,707

Extramural Subtotal \$118,969

EPA Intramural Costs

EPA Direct Costs	12,459
EPA Indirect Costs	26,530

Intramural Subtotal \$ 38,989

Estimated Total Project Costs \$157,958

Project Ceiling \$550,600

II. EFFECTIVENESS OF REMOVAL ACTION

A. Actions Taken by Potentially Responsible Parties

CCI was not willing to commit the necessary resources to adequately address this or any of its other sites. CCI made minimal effort to address the site. The corporation failed to comply with criminal plea sentencing required for this site to be addressed. Gershon complicated the effort by selling the site to a third party without the knowledge of EPA. Gershon and/or the new property owner further complicated the situation by moving the trailers off the property and the chemicals in the pole building to the end of the building owned by an absentee property owner. For more details, please refer to the attached report in the attachment on the trailer movement.

The other PRPs, Defense Reutilization and Marketing Service, Allied-Signal, Inc., Hercules, American Telephone and Telegraph, and Marion Laboratories declined to take action due to the lack

of sufficient information to support the finding that the sales of materials to Gershon/CCI constituted an arrangement for disposal.

B. Actions Taken by State and Local Agencies

KDHE, the Shawnee Fire Department, and, on occasion, EPA were involved with incidents and continued to inspect and permit on an annual basis related to this facility during its active operation. No state or local agencies were involved in this response action.

C. Actions by Federal Agencies and Special Teams

The Department of Justice was involved in the criminal case involving CCI and the clean-up mandated by the federal court.

D. Actions Taken by Contractors, Private Groups, and Volunteers

EPA contractors were utilized for the response to this site. TAT performed site characterization/inventory assistance. The ERCS contractor performed site stabilization activities. A site-specific contract was utilized for this site as well as the CCI sites in Olathe and Kansas City, Kansas, for the transportation and disposal of the hazardous substances.

III. DIFFICULTIES ENCOUNTERED

A. Items That Affected the Response

The fact that the criminal sentencing by the Federal District Court required the PRP to take action in reality slowed the response. While EPA would have acted if the site was involved/or evolved into a classic emergency, EPA was obligated to allow the PRP to comply with the sentencing. The U.S. Attorney's office refused to enforce the criminal sentencing order when it became apparent that CCI had no intention of complying with the terms of the sentencing. This left EPA in a dilemma as to when to abandon the criminal order and to proceed with a civil case against CCI, Jerald Gershon, the company's owner, or any other PRPs. On December 4, 1990, the U.S. attorney assigned to the case finally indicated, if warranted, EPA should proceed to get this site through the civil process.

B. Issues of Intergovernmental Coordination

At times the relationship between the local U.S. attorney's office and EPA were strained during the criminal case involving CCI. At times it appeared the Department of Justice's (DOJ) interests in the outcome of the case were not consistent

with EPA's. This came to a head when DOJ appeared to independently agree to accept the plea agreement which allowed the corporation to plead guilty and dropped all charges against the sole owner, Jerald Gershon. The result was a victory on paper but one that lacked any real substance to deal with the environmental concerns of this site and the other CCI facilities.

C. Difficulties Interpreting, Complying With, or Implementing Policies and Regulations

No major difficulties were encountered during this action.

IV. RECOMMENDATIONS

A. Means to Prevent a Recurrence of the Discharge or Release

Some types of regulations are needed to address the surplusage, excessing, gifts or selling of chemicals at a loss, specifically, if this process is an arrangement for disposal. Speculative accumulation of wastes/surplus chemicals needs further consideration by EPA, as enforcement under RCRA appears difficult.

B. Means to Improve Response Actions

EPA and DOJ need to coordinate their efforts. Specifically, DOJ either needs to place attorneys in the various U.S. Attorney's offices with a background in environmental law or handle all cases out of one office. As a result, the public's image to this and the other CCI sites is that CCI and its sole stockholder committed an environmental crime and did not have to pay any penalty.

The site-specific contract for the T&D services at this site clearly shows the cost saving that can be obtained over the traditional usage of the ERCS contract. However, the present governmental contract procurement process under the FAR and EPAR are overly time-consuming and complicated. This contract took nearly five months to place which is considerably longer than it would have taken under the ERCS contract.

C. Proposals for Changes in Regulations and Response Plans

The CERCLA law needs to address the issue of surplusage, excessing, or selling items at a loss as an act of disposal and not the sale of a commercial product.

Attachments

FILED
U.S. DISTRICT COURT
DISTRICT OF KANSAS

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

JAN 5 12 47 PM '90

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 CHEMICAL COMMODITIES, INC.)
)
 Defendant.)

BY _____ DEPUTY
ATTORNEY GENERAL

No. 90-20002-01

I N F O R M A T I O N

The United States Attorney charges that:

Count 1

From on or about the 8th day of August, 1988, through and including on or about the 18th day of November, 1988, at Olathe, in the District of Kansas,

CHEMICAL COMMODITIES, INC.

did unlawfully and knowingly treat, store, and dispose of methyl bromide, a hazardous waste identified or listed under subchapter III of Chapter 82, Title 42, United States Code, and the regulations promulgated thereto at 40 C.F.R. Part 261, without a permit under subchapter III of Chapter 82, Title 42, United States Code, in violation of Title 42, United States Code, Section 6928(d)(2)(A).

BENJAMIN L. BURGESS, JR.
United States Attorney

Robert S. Streepy

ROBERT S. STREEPY
Assistant United States Attorney
Ks. S. Ct. # 10954

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
(KANSAS CITY DOCKET)

UNITED STATES OF AMERICA,)
)
Plaintiff,) No. 90-_____
)
v.)
)
CHEMICAL COMMODITIES, INC.,)
)
Defendant.)

PLEA AGREEMENT

It is hereby agreed to by and between the Plaintiff, United States of America, by its attorney, Robert S. Streepy, Assistant United States Attorney, and the Defendant, Chemical Commodities, Inc., and its attorneys, James L. Eisenbrandt and J. Charles Droege, as follows:

1. Defendant, Chemical Commodities, Inc., will enter a plea of guilty to a one-count superseding information now pending in the above-captioned case in the United States District Court for the District of Kansas, Case No. 90-_____, charging a violation of 42 U.S.C. § 6928(d)(2)(A) involving the disposal of methyl bromide, a hazardous waste identified under subchapter III of Chapter 82, Title 42 United States Code, and the regulations promulgated thereto at 40 C.F.R. pt. 261, without a permit under subchapter III of Chapter 82, Title 42 United States Code, from on or about August 8, 1988, through and including on or about November 18, 1988, at Olathe, Kansas.

2. In exchange for the plea of the defendant, as set forth above, the United States Attorney's Office agrees to dismiss the indictment pending in the case before this Court captioned United States of America, Plaintiff, v. Jerald Gershon, d/b/a Chemical Commodities, Inc., Defendants, Case No. 89-20074-01. Further, there will be no criminal charges brought by the United States against Jerald Gershon and/or Chemical Commodities, Inc., arising out of any conduct, violation of any rule, regulation, or law by Jerald Gershon and/or Chemical Commodities, Inc. occurring on or before December 31, 1989, except in accordance with the express terms of this Plea Agreement.

3. The government and the defendant agree that restitution is not applicable in this case. See 18 U.S.C. § 3663(a).

4. The government will make no recommendation as to sentence. The government and defendant may present any facts to the Court on the issue of sentencing in this case.

5. Within a reasonable amount of time, defendant shall take all steps necessary to liquidate and cease business, except to the extent necessary to liquidate, and apply for all authorizations necessary from applicable state and federal agencies to do so. The parties recognize that state and federal agencies may deny such authorization or otherwise prohibit defendant from liquidating and ceasing business.

If the failure of defendant to liquidate and cease doing business is due to the failure of approval by state or federal agencies, it shall not be considered a breach of this agreement.

6. The parties acknowledge and understand that this plea is made pursuant to Rules 11 and 43(c)(1) of the Fed. R. Crim. P.

7. This written Plea Agreement supersedes any and all other agreements or negotiations which the parties may have previously reached or discussed; and this written Plea Agreement embodies each and every term of the agreement among the parties.

8. This Plea Agreement has been read, ratified and approved by the defendant by a Resolution of the Board of Directors authorizing and ratifying execution, delivery and implementation of this Plea Agreement dated January ___ 1990.

Dated: _____

BENJAMIN L. BURGESS, JR.
UNITED STATES ATTORNEY

By: _____
Robert S. Streepy
Assistant U.S. Attorney

Date: January 5, 1990

CHEMICAL COMMODITIES, INC.

By: Jerald Gershon
President

Dated: 1-5-90

LINDE THOMSON LANGWORTHY
KOHN & VAN DYKE, P.C.

By: James L. Eisenbrandt
James L. Eisenbrandt
J. Charles Droege
7101 College Blvd.
Suite 1500
Overland Park, KS 66210
(913) 649-4900
Attorneys for Defendant
Jerald Gershon

United States District Court

District of Kansas

UNITED STATES OF AMERICA
V.

JUDGMENT INCLUDING SENTENCE
UNDER THE SENTENCING REFORM ACT

Case Number 90-20002-01

CHEMICAL COMMODITIES, INC.
(Name of Defendant)

James L. Eisenbrandt - Retained
Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s) 1 of Information filed January 5, 1990
- was found guilty on count(s) _____ after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Count Number(s)</u>
42 U.S.C. 6928(d)(2)(A)	Unlawfully Treating, Storing, Disposing of Methyl Bromide, a Hazardous Waste.	1

The defendant is sentenced as provided in pages 2 through 4 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) _____, and is discharged as to such count(s).
- Count(s) _____ (is)(are) dismissed on the motion of the United States.
- The mandatory special assessment is included in the portion of this Judgment that imposes a fine.
- It is ordered that the defendant shall pay to the United States a special assessment of \$ _____, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of residence or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Defendant's Soc. Sec. Number:

Not applicable.

Defendant's mailing address:

2708 West 118th Street
Leawood, Kansas 66211

Defendant's residence address:

Same as above.

APPROVED: Robert S. Streepy
Robert S. Streepy / ADSA

May 14, 1990
Date of Imposition of Sentence

Signature of Judicial Officer
Honorable G. T. Van Bebber
U. S. District Court Judge
Name & Title of Judicial Officer

Date

Defendant: Chemical Commodities, Inc.
Case Number: 90-20002-01

PROBATION

The defendant is hereby placed on probation for a term of 5 years

While on probation, the defendant shall not commit another Federal, state, or local crime and shall comply with the ~~standard conditions that have been adopted by this court (set forth on the following page). If this judgment imposes a fine or a restitution obligation, it shall be a condition of probation that the defendant pay any such fine or restitution. The defendant shall comply with the following additional conditions:~~

1. Pursuant to Stipulation No. 5 in the Petition to Plead Guilty in this case, Chemical Commodities, Inc. (CCI) shall take all steps necessary to liquidate and cease business, except to the extent necessary to liquidate, and apply for all authorizations necessary from applicable state and federal agencies to do so.
2. Immediately upon sentencing, Chemical Commodities, Inc. shall discontinue all purchases and receipt of additional materials from any persons, stop formulating and manufacturing additional materials and/or preparing solicitations for acquiring additional materials.
3. All aspects of the work to be performed by CCI pursuant to this sentence shall be done under the direction and supervision of a qualified contractor/consultant to be selected by the EPA.
4. Starting 15 days after selection of a supervising contractor, CCI must submit to the EPA and the Probation Office a report that indicates in detail what actions have been taken at the previous 2 weeks and what actions are anticipated in the 2 upcoming weeks. This report shall be submitted to the EPA and the U. S. Probation Office by the close of business every other Monday until the terms of this sentence are fully completed.
5. Within 20 days of selection of a supervising contractor, CCI must insure and maintain proper security and safety provisions as defined by the Court and the EPA at each site to prevent the unknowing entry, and minimize the possibility for unauthorized entry, of persons or livestock into each CCI facility. These security measures are for the protection of the community and must remain in effect until all hazardous substances, hazardous waste, and soil and debris contaminated with hazardous substances and/or hazardous waste have been removed from the facility.
6. Within 30 days after selection of a supervising contractor, CCI must develop and follow a plan for inspecting all safety and emergency equipment, security devices and assuring the

Special conditions: Continued.

integrity of all drums, tanks, bottles, bags or other containers holding hazardous substances. Inspections must be conducted on a weekly basis. The inspection plan must identify the types of problems to be looked for, such as malfunctions or deterioration during the inspection. The inspection plan must be kept at each site and copies provided to the EPA and the U. S. Probation Office in the biweekly report. A checklist must be developed to record the inspection results and copies of the checklist must be maintained at each facility until the terms of probation have been satisfied.

7. Chemical Commodities, Inc. must remedy any deterioration or malfunction of equipment or structures which the inspection reveals as an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action must be taken immediately. Remedial actions taken to address such situations must be documented in writing and must be submitted to the Environmental Protection Agency, the Probation Office and Kansas Department of Health and Environment within 5 days of taking such action.

8. Within 45 days after selection of a supervising contractor, CCI must develop and submit to the EPA, the U. S. Probation Office and the Kansas Department of Health and Environment a closure plan, written in accordance with 40 C.F.R. Part 264, Subpart G, to hazardous substances at each facility. The closure plan must be written and implemented so as to control, minimize or eliminate, to the extent necessary to protect human health and the environment, post closure escape of hazardous substances, leachate, contaminant runoff, or hazardous substance decomposition products to the ground or surface water or to the atmosphere.

9. All material remaining after 45 days following selection of a contractor shall be designated as waste or in the case of depleted uranium at the DeSoto facility, radioactive waste.

10. Within 60 days after approval of the closure plan by the EPA, the U. S. Probation Office and Kansas Department of Health and Environment, CCI shall remove from each facility all identified hazardous waste and/or radioactive waste in accordance with the approved closure plan and in accordance with all applicable federal and state hazardous and/or radioactive waste requirements.

11. Within 180 days after approval of the closure plan by the EPA, the U. S. Probation Office and the Kansas Department of Health and Environment, CCI shall complete closure of each facility by removing all remaining soil and debris contaminated with hazardous substances and/or hazardous waste.

12. All costs of the liquidation, clean-up and disposal are to be paid by Chemical Commodities, Inc.

Defendant: Chemical Commodities, Inc.
Case Number: 90-20002-01

FINE WITH SPECIAL ASSESSMENT

The defendant shall pay to the United States the sum of \$ 505,960.00 , consisting of a fine of \$ 505,760.00 * and a special assessment of \$ 200.00 .

* This sum includes an amount of \$5,760.00 for probation supervision costs.

These amounts are the totals of the fines and assessments imposed on individual counts, as follows:

Count 1: Fined \$500,000.00, assessed \$200.00, and fined \$5,760.00 for costs of supervision

This sum shall be paid immediately.

: as follows: The execution of the \$500,00.00 fine is stayed in lieu of Chemical Commodities, Inc. absorbing the costs of liquidation as outlined in the Conditions of Probation. The \$5,760.00 costs for probation supervision will be paid at the rate of \$96.00 per month. All payments will be made to the Clerk, U. S. District Court.

The Court has determined that the defendant does not have the ability to pay interest. It is ordered that:

- The interest requirement is waived.
- The interest requirement is modified as follows:

UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS

UNITED STATES OF AMERICA
v.

MEMORANDUM OF SENTENCING HEARING
AND REPORT OF STATEMENT OF REASONS

Chemical Commodities, Inc.
Defendant

Criminal No. 89-20074-01

The Court adopts the recommendations in the presentence report as to the applicable guideline factors.

OR

The Court adopts the recommendations in the presentence report as to the applicable guideline factors except:

Guideline Range Determined by the Court:

Total Offense Level: _____
Criminal History Category: _____
Imprisonment Range: _____ to _____ months
Supervised Release Range: _____ to _____ years
Fine Range: \$ _____ to \$ _____
(plus \$ _____ cost of imprisonment and \$ _____ cost
of supervision
\$ _____ Restitution \$ _____ Special Assessment

Sentence imposed is within the guideline range.

Because the width of the guideline range exceeds 24 months, the reason for selecting the particular point within the range is:

The Court departs from the guideline range for the following reason(s):

The defendant is a small business owner and the offense is a first-time offense. The defendant is a resident of the United States and the offense was committed in the United States. The defendant is a resident of the United States and the offense was committed in the United States. The defendant is a resident of the United States and the offense was committed in the United States.

Date: _____

U.S. District Court Judge



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
726 MINNESOTA AVENUE
KANSAS CITY, KANSAS 66101

JUL 03 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Daniel J. Muller
U.S. Courthouse & Federal Building
812 North 7th Street
Kansas City, Kansas 66101-3056

Dear Mr. Muller:

This letter is in response to your May 1, 1991, inquiry for information regarding the Chemical Commodities, Inc., (CCI) sites.

The Environmental Protection Agency (EPA) continues to seek a solution to the environmental problems created by CCI. In the last eight months it has become apparent to the Agency that CCI does not intend to comply with the May 14, 1990, sentencing by Judge Van Bebber. CCI has made no progress in over one year in performing pursuant to the court's sentence. As a result, the Agency is now in the process of locating other potentially responsible parties (PRPs) through the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) to clean up CCI's legacies at DeSoto, Shawnee, and Kansas City, Kansas.

The following is a brief outline of the Agency's involvement with CCI and its sole owner, Jerald Gershon.

December 6, 1990 - Barbara Peterson (EPA Regional Counsel), and George Hess (EPA) attended the hearing on CCI's bankruptcy petition in Topeka, Kansas. December 13, 1990, the Agency sent signed affidavits to the bankruptcy court showing the agencies costs for work involving the Olathe and Desoto sites. On January 7, 1991, the Judge dismissed the petition.

March 4, 1991 - The Agency sent a notice under CERCLA authority to Mr. Gershon requesting financial information for the last 5 years. The response was hand carried to the Regional Office by Mr. Gershon on April 2, 1991. This response failed to mention the June 1990 sale of the Shawnee facility.

March 5, 1991 - Mr. Gershon reported to EPA that he had shipped 32 cartons of silica gel to the Northeast Boiler Company, Lincoln, Nebraska, and 10 cases of thimerosal to D. A. Laboratories, Kansas City. The silica gel was removed from the Shawnee facility, and the thimerosal was removed from the Kansas City facility. Enclosed is a record of the telephone conversation (Enclosure 1).

May 17, 1991 - The U.S. Treasury Department, Bureau of Alcohol, Tobacco & Firearms sent an inspector to the Olathe site concerning the renewal of an explosives dealer's license/permit for CCI. The inspector was given your name and the U.S. Attorney's name and phone number to contact for details on CCI's plea agreement.

DESOTO, KANSAS (Superfund Site #07-EL)

September 17, 1990 - A Notice Letter under CERCLA authority was sent to several PRPs to remedy the environmental concerns at the DeSoto, Kansas, facility. CCI and Jerald Gershon were each sent separate Notice Letters to the Riggs Road address in Overland Park. However, Mr. Gershon had apparently moved to his new home in Hallbrook, in Leawood, and the Notice Letters were returned to the Agency. Also on September 17, 1990, EPA informed Mr. Gershon that his proposal for closure of the DeSoto, Shawnee, and Kansas City, Kansas, facilities by merely transferring title to the Olathe and DeSoto facilities was rejected by EPA. Enclosed is a copy of the September 17 letter (Enclosure 2) to Mr. Gershon from Martha Steincamp (EPA Regional Counsel).

November 2, 1990 - Mr. Gershon provided George Hess (EPA) with a letter Mr. Gershon had sent to the Defense Logistics Agency (DLA). The letter indicated the material CCI purchased 24 years ago was misrepresented by DLA (Enclosure 3).

November 8, 1990 - The Agency showed the U.S. Department of Defense personnel the site. Mr. Gershon, along with his attorney, was at the site during this visit.

February 15, 1991 - The U.S. Department of Defense assumed responsibility for the perimeter security fence rental at the site.

February 20, 1991 - The U.S. Defense Department made their second site visit. Mr. Gershon was present during this inspection.

May 14, 1991 - The contractor who will be doing remediation work at the site hired a structural engineer to determine the best way to safely remove material from the building at this facility. Mr. Gershon was present during this site visit.

May 29, 1991 - The Agency signed a Consent Agreement with the Defense Logistics Agency (DLA) for the total remediation of this site. The DLA has budgeted \$790,000 to remediate this site.

As of March 31, 1991, the Agency has spent in excess of \$68,500 in potentially recoverable costs for work at this site. As site work continues, the Agency will have additional costs associated with the oversight of the remediation by DLA.

KANSAS CITY, KANSAS (Superfund Site #07-FW)

December 21, 1990 - Mr. Gershon was present for an inspection of the site. During this inspection, the building owner apparently met Mr. Gershon for the first time.

February 20, 1991 - Mr. Gershon was present during the inspection of the site by the Department of Defense.

May 1, 1991 - The Agency sent Notice Letters under CERCLA authority to seven entities which have been identified as PRPs. CCI and Mr. Gershon are two of the seven entities. The notice letters were sent to Ron Wise, CCI and Jerald Gershon's attorney. To date no response has been received. A response was required by May 21, 1991. As of this letter the five other PRPs have expressed verbally a willingness to clean-up the site. In the event that none of the PRPs clean up this site, the Agency has prepared a document for signature by the Regional Administrator to commit CERCLA removal funds to remedy the situation at the site. The government estimate to clean up the site is \$582,200.

The Agency has spent in excess of \$10,000 in recoverable costs at this site. As Agency involvement continues, additional costs will be incurred.

LEAVENWORTH ROAD INCIDENT (Superfund Site #07-CJ)

This project has been completed. The incident involved the December 1988 CCI truck fire involving ammonium perchlorate. The Agency spent approximately \$69,000 in recoverable costs on this response.

OLATHE, KANSAS (Superfund Site #07-L3)

September 28, 1990 - EPA Headquarters granted a statutory exemption to the Region VII office so the site could continue to be cleaned up as a removal action under CERCLA authority. The exemption allows the Regional Office to spend up to \$5,049,960 for the cleanup of the site. The actual work at the site began on March 25, 1991. The site work continues as of this letter. The scope of the work includes the installation of an interceptor trench to collect solvents in the subsurface, the

decontamination of the main building, the removal of the most contaminated soil, the consolidation of the moderately contaminated soil, and the regrading of the site to minimize the infiltration of surface water. Mr. Gershon drives by the site approximately once a week and occasionally has stopped.

The Agency is continuing to spend money at this site and has spent in excess of \$2,243,700 in potentially recoverable costs for remediation.

SHAWNEE, KANSAS (Superfund Site #07-FZ)

The present owner of this facility, Duane Becker, indicated when he purchased this facility in June 1990, he had a verbal commitment from Mr. Gershon to remove the chemicals stored at this site.

December 21, 1990 - Mr. Gershon was present at the inspection of the site. During the inspection, Mr. Gershon acknowledged verbally, for the first time, that he had sold the facility to Duane Becker, Tire Town, Inc., in June 1990.

December 27, 1990 - Mr. Becker called George Hess and indicated Mr. Gershon had verbally promised to remove the chemicals as a condition of his purchasing the facility, and now he was indicating that EPA would not allow him to remove the chemicals.

February 20, 1991 - Mr. Gershon was present during the Department of Defense inspection of this site.

March 8, 1991 - Mr. Gershon was contacted to inform him that someone had broken the north door of the pole building. He indicated he would immediately check the damage and repair the door. When Mr. Gershon did not complete the repair on March 14, the property owner, Duane Becker, agreed to repair the damage. Enclosed are Mr. Becker's letters to Mr. Gershon and Mr. Gershon's response on the subject (Enclosure 4).

Some time in mid-March 1991, CCI/Jerald Gershon moved all the chemicals from the north end of the Pole Barn to the south end of the building. Approximately the first of June 1991 the two storage trailers of chemicals were moved to the southwest corner of the Pole Barn. Based on earlier conversations with Mr. Gershon and Duane Becker that the south end of the Pole Barn was not on the former Gershon property, George Hess (EPA) obtained the property dimensions from the Johnson County Clerks Office on June 14, 1991. Based on these dimensions the approximate south boundary line was determined. It appears that CCI/Jerald Gershon and Duane Becker moved all of CCI's chemicals off the property and placed them on property to the south owned by Ted and

Margaret Trapp of Brownsville, Texas. On June 17, 1991 the issue was discussed with Mr. Gershon. Mr. Gershon stated that he moved and consolidated the chemicals so Mr. Becker could use the north end of the Pole Barn.

May 17, 1991 - During a periodic inspection of the site several items needed attention. Mr. Gershon was contacted to remedy the problems. The items requiring attention included securing the middle door of the pole barn and overpacking some leaking containers in the north storage trailer. Mr. Gershon indicated he would be at the site May 18 to correct the problems. On May 22 George Hess (EPA) was at the site and the door had been secured. At least one 30-gallon container of copper fluoborate had been overpacked.

May 16, 1991 - Notice Letters issued under CERCLA authority were sent to seven entities identified as PRPs for this site. Chemical Commodities, Inc., and Mr. Gershon are two of the seven entities. The notice letters were sent to CCI and Jerald Gershon's attorney, Ron Wise. A response by the PRPs was required by May 21, 1991. To date no response has been received from CCI/Jerald Gershon. The other five entities have verbally agreed to clean-up the site. If no PRP cleans up the site, the Agency will, at that time, decide whether to commit the estimated \$550,600 necessary to remedy the situation.

The Agency has spent in excess of \$28,000 at the site in recoverable costs. As this site has not yet been resolved, EPA will continue to accumulate costs associated with this site.

With the periodic inspection of CCI facilities, EPA continues to monitor CCI's compliance with the May 14, 1990 United States District Court Sentence (Enclosure 6). VHS videos which depict CCI's compliance with the May 14, 1990 sentencing were completed in December 1990, and January and February 1991, and provided to Robert S Streepy, Assistant United States Attorney. On May 17, 1991 EPA (Alan K. Hancock) inspected CCI's Desoto, Shawnee and Kansas Avenue, Kansas facilities to review CCI's compliance with the May 14, 1990 sentence. Mr. Jerald Gershon was not present during the CCI facility inspections. Additionally, a review of documentation to be submitted by CCI to EPA, as required by the May 14, 1990 sentencing, was completed by Mr. Hancock.

A September 21, 1990 memorandum (Enclosure 7) from Mr. Hancock to Phillip S. Page (EPA Regional Counsel) summarizes CCI's compliance with the May 14, 1990 sentencing for the period of May 14, 1990 to September 13, 1990. Since May 14, 1990, EPA has continued to periodically observe the condition of containers and CCI's compliance with the United States District Court Sentence. As time passes, without the actions required of CCI by

the May 14, 1990 sentencing, the condition of containers continues to degrade with many leaking. Consequently, the migration of wastes and waste constituents, the threat to human health and the environment, and the cost for remediation, increases.

Following, is a summary of CCI's compliance with the May 14, 1990 sentencing requirements for the period of September 14, 1990 to May 17, 1991:

Requirement 1: "Pursuant to Stipulation No. 5 in the Petition to Plead Guilty in this case, Chemical Commodities, Inc. (CCI) shall take all steps necessary to liquidate and cease business, except to the extent necessary to liquidate, and apply for all authorizations necessary from applicable state and federal agencies to do so."

As of May 17, 1991 CCI has failed to take all steps necessary to liquidate and cease business. As of June 14, 1991 CCI had not formally dissolved as a corporation with the Kansas Secretary of State office. CCI has attempted to relieve itself of this responsibility by filing for bankruptcy and thereby passing the responsibility to a bankruptcy trustee. As noted above, this attempt failed and the Bankruptcy Court rejected CCI's bankruptcy petition.

Numerous solid and hazardous wastes remain at CCI facilities. CCI has requested that the Kansas Department of Health and Environment approve the disposal of some CCI solid waste to a sanitary landfill.

Requirement 2: "Immediately upon sentencing, Chemical Commodities, Inc. shall discontinue all purchases and receipt of additional materials from any persons, stop formulating and manufacturing additional materials and/or preparing solicitations for acquiring additional materials."

To EPA's knowledge, CCI has complied fully with this requirement.

CCI continues the sale of materials identified as wastes by requirement #9 of the May 14, 1990 sentencing. On March 5, 1991 Jerald Gershon notified EPA, at EPA's request, of the sale of 300 lbs. of silica gel to Northeast Boiler Company, Lincoln, Nebraska and 240 lbs. of Thimerosal to D. A. Laboratories, Kansas City.

Upon dialing the business telephone number (782-3200) of CCI the caller is informed that "... the new number is 339-6330." The 1990 - 1991 Greater Kansas City Telephone Directory identifies telephone number 339-6330 as a residential telephone number for Jerald Gershon. Upon dialing 339-6330 the caller is

greeted by an answering machine with the following message from Jerald Gershon:

"This is Jerry Gershon. I am not available to answer the phone at this time. Your call is important to me. Please leave any message at the beep and it will be answered promptly. The beep is now."

Jerald Gershon currently resides at:
2708 West 118th Street
Leawood, Kansas 66211

Requirement 3: "All aspects of the work to be performed by CCI pursuant to this sentence shall be done under the direction and supervision of a qualified contractor/consultant to be selected by the EPA."

On June 7, 1990 EPA notified the United States Attorney's Office of the selection of PEI Associates, Inc., 9225 Ward Parkway, Kansas City, Missouri 64114, as the contractor for supervision and direction of work required of CCI by the May 14, 1990 sentencing. On June 7, 1990 the United States Attorney's Office notified CCI of EPA's selection. As of May 17, 1991 CCI has failed to secure the selected contractor to perform the required work. CCI's failure to secure the selected contractor has resulted in CCI's noncompliance with the May 14, 1990 sentencing.

Requirement 4: "Starting 15 days after selection of a supervising contractor, CCI must submit to the EPA and the Probation Office a report that indicates in detail what actions have been taken at the previous 2 weeks and what actions are anticipated in the 2 upcoming weeks. This report shall be submitted to the EPA and the U.S. Probation Office by the close of business every other Monday until the terms of this sentence are fully completed."

As of May 30, 1991 EPA continues to receive the biweekly reports from CCI as required by the May 14, 1990 sentencing. The biweekly reports of progress are not detailed nor do they adequately describe the action anticipated in the two upcoming weeks. The adequacy of the CCI biweekly reports was previously addressed in the enclosed September 21, 1990 memorandum from Mr. Hancock (EPA) to Phillip S. Page (EPA Regional Counsel).

Requirement 5: "Within 20 days of selection of a supervising contractor, CCI must insure and maintain proper security and safety provisions as defined by the Court and the EPA at each site to prevent the unknowing entry, and minimize the possibility for unauthorized entry, of persons or livestock into each CCI facility. These security measures are for the protection of the

community and must remain in effect until all hazardous substances, hazardous waste, and soil and debris contaminated with hazardous substances and/or hazardous wastes have been removed from the facility"

During the May 17, 1991 CCI, Shawnee, Kansas facility inspection, it was discovered that the middle door of the Pole Barn was unsecured allowing unauthorized entry. On May 17, 1991 George Hess (EPA) notified Mr. Gershon of the unsecured Pole Barn door. On or about May 18, 1991 Mr. Gershon secured the middle door of the Pole Barn in a manner consistent with the May 14, 1990 sentencing.

During the May 17, 1991 CCI, Desoto, Kansas facility inspection, it was determined that EPA was maintaining security in a manner consistent with the May 14, 1990 sentencing.

During the May 17, 1991 CCI, Kansas City, Kansas facility inspection, it was determined that security was maintained in a manner consistent with the May 14, 1990 sentencing.

Requirement 6: "Within 30 days after selection of a supervising contractor, CCI must develop and follow a plan for inspecting all safety and emergency equipment, security devices and assuring the integrity of all drums, tanks, bottles, bags or other containers holding hazardous substances. Inspections must be conducted on a weekly basis. The inspection plan must identify the types of problems to be looked for, such as malfunctions or deterioration during the inspection. The inspection plan must be kept at each site and copies provided to the EPA and the U. S. Probation Office in the biweekly report. A checklist must be developed to record the inspection results and copies of the checklist must be maintained at each facility until the terms of probation have been satisfied."

Except for the inspection checklist completed for the period of July 29 through August 4, 1990 EPA has not received any of the completed checklists for inspections completed by CCI as required by the May 14, 1990 sentencing. As of May 30, 1991 a copy of the inspection plan had not been received by EPA as required by the May 14, 1990 sentencing.

During the May 17, 1991 CCI facility inspections, inspection plans and inspection checklists, required to be maintained at each CCI facility, could not be located.

During the May 17, 1991 CCI Kansas City, Kansas inspection, a search for emergency equipment was completed. Two fire extinguishers were identified at the CCI Kansas City, Kansas facility. Both fire extinguishers appeared to be in working

order. No other fire extinguishers or other emergency equipment were identified at the CCI Kansas City, Kansas facility.

During the May 17, 1991 CCI Shawnee, Kansas inspection, a search for emergency equipment was completed. Two fire extinguishers were identified at the CCI Shawnee, Kansas facility. Both fire extinguishers were empty. No other fire extinguishers or other emergency equipment were identified at the CCI Shawnee, Kansas facility.

Requirement 7: "Chemical Commodities, Inc. must remedy any deterioration or malfunction of equipment or structures which the inspection reveals as an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action must be taken immediately. Remedial actions taken to address such situations must be documented in writing and must be submitted to the Environmental Protection Agency, the Probation Office and Kansas Department of Health and Environment within 5 days of taking such action."

During the May 17, 1991 CCI Shawnee, Kansas inspection it was discovered that an aggressive liquid was leaking from the northern most storage trailer. The liquid appeared to have corroded the body of the trailer used for the storage of hazardous and solid waste and was leaking to the ground beneath the trailer. On May 17, 1991 George Hess (EPA) notified Mr. Jerald Gershon of the leaking drum in the northern most trailer. On or about May 18, 1991 Mr. Gershon overpacked the leaking container subsequently identified as copper fluoborate. The Material Safety Data Sheet, provided by the manufacturer, for copper fluoborate indicates that copper fluoborate has a pH of less than 1.0. Solid wastes with a pH of less than 2.0 are identified as a hazardous waste at 40 C.F.R. 261.22. As of June 20, 1991 CCI has failed to submit to EPA a written description of the remedial action taken to correct the leaking drum of copper fluoborate as required by the May 14, 1990 sentencing.

During the May 17, 1991 inspection of the CCI Kansas City and Shawnee, Kansas facilities numerous containers (bags, bottles, and drums) were observed to be open, leaking, and/or in a deteriorated condition. Many of the leaking and deteriorated containers were previously identified in an August 1 and 2, 1990 EPA compliance inspection report for CCI's facilities.

Requirement 8: "Within 45 days after selection of a supervising contractor, CCI must develop and submit to the EPA, the U.S. Probation Office and the Kansas Department of Health and Environment a closure plan, written in accordance with 40 C.F.R. Part 264, Subpart G, to hazardous substances at each facility. The closure plan must be written and implemented so as to control, minimize or eliminate, to the extent necessary to

protect human health and the environment, post closure escape of hazardous substances, leachate, contaminant runoff, or hazardous substance decomposition products to the ground or surface water or to the atmosphere."

As of May 30, 1991 EPA has not received a closure plan completed in accordance with the requirements of 40 C.F.R. part 264, Subpart G from CCI.

Requirement 9: "All material remaining after 45 days following selection of a contractor shall be designated as waste or in the case of depleted uranium at the Desoto facility, radioactive waste."

This requirement of the May 14, 1990 sentencing requires solid and hazardous materials remaining at the CCI facilities to be managed as wastes. As provided in requirement 2 above, CCI continues the sale of solid and hazardous materials remaining on-site.

Requirement 10: "Within 60 days after approval of the closure plan by the EPA, the U.S. Probation Office and Kansas Department of Health and Environment, CCI shall remove from each facility all identified hazardous waste and/or radioactive waste in accordance with the approved closure plan and in accordance with all applicable federal and state hazardous and/or radioactive waste requirements."

Since CCI has failed to submit a closure plan as required by the May 14, 1990 sentencing, compliance with this requirement is not required at this time.

Requirement 11: "Within 180 days after approval of the closure plan by the EPA, the U.S. Probation Office and the Kansas Department of Health and Environment, CCI shall complete closure of each facility by removing all remaining soil and debris contaminated with hazardous substances and/or hazardous waste."

Since CCI has failed to submit a closure plan as required by the May 14, 1990 sentencing, compliance with this requirement is not required at this time.

Requirement 12: "All costs of the liquidation, clean-up and disposal are to be paid by Chemical Commodities, Inc."

CCI has repeatedly indicated a lack of the financial resources necessary to comply with this requirement as well as any part of the May 14, 1990 sentencing.

No photographs are enclosed for the Shawnee, Kansas City, Kansas, and DeSoto sites as they have not changed significantly

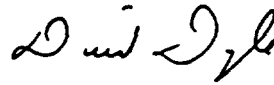
since your September 27, 1990, visit. Enclosed are several recent general photos of the Olathe site (Enclosure 5).

Should you have any questions concerning this letter, or require additional information, please call George Hess at (913) 764-0318 or David Doyle at (913) 551-7667.

Sincerely yours,



George K. Hess
On-Scene Coordinator
Emergency Planning and Response Branch
Environmental Services Division

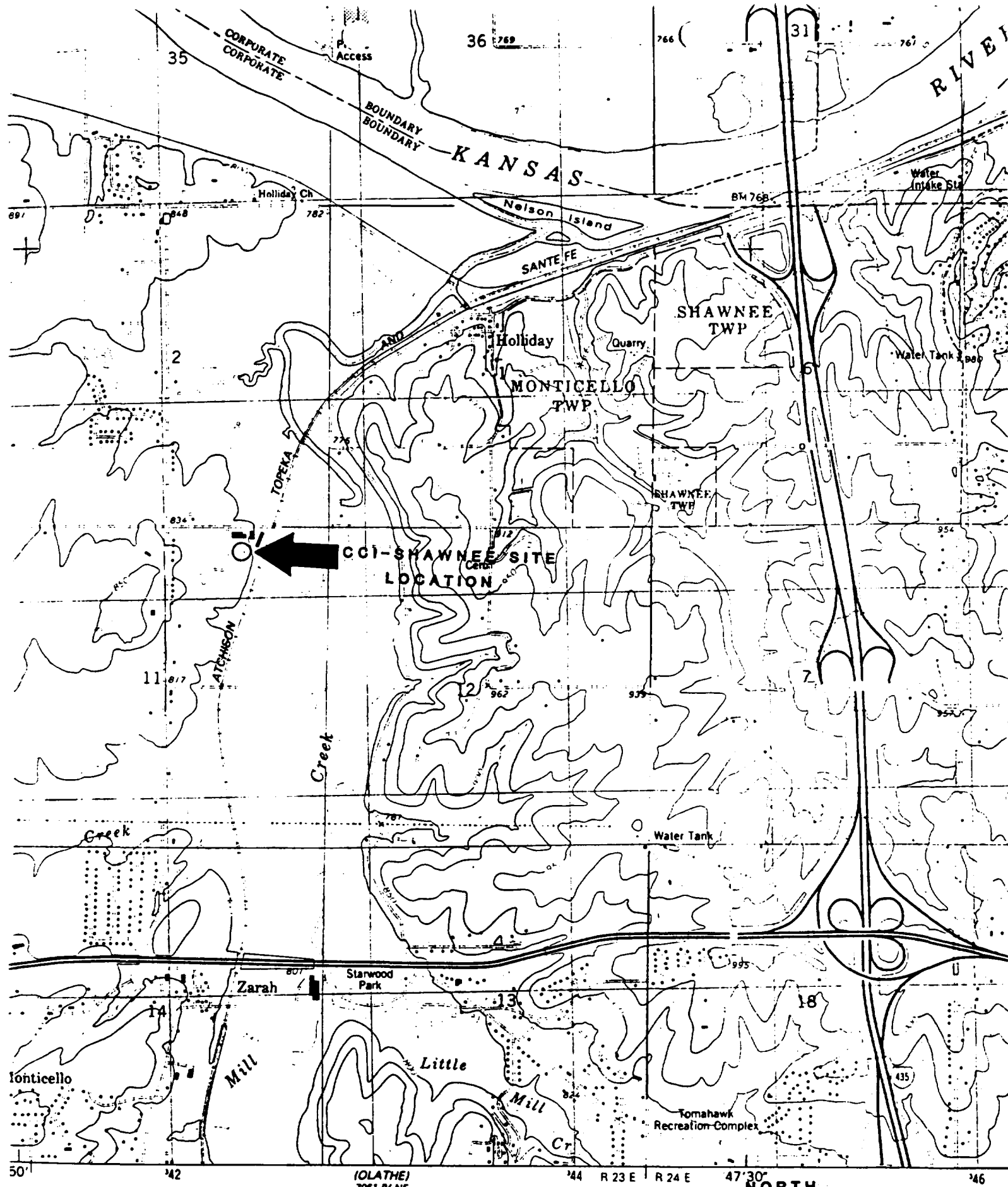


David Doyle
Chief, RCRA Compliance Section
RCRA Branch
Waste Management Division

Enclosures

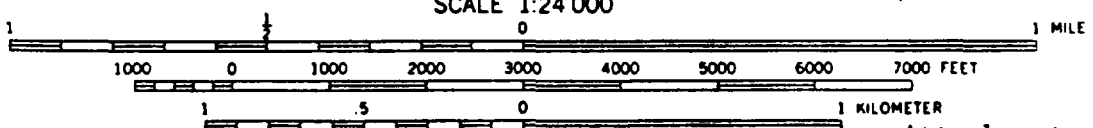
cc: w/copy of enclosures

Robert S. Streepy
Assistant United States Attorney



**CCI-SHAWNEE SITE
LOCATION**

**CHEMICAL
COMMODITIES, INC**



SCALE 1:24 000

Attachment D

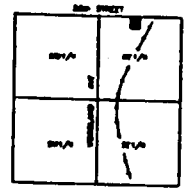
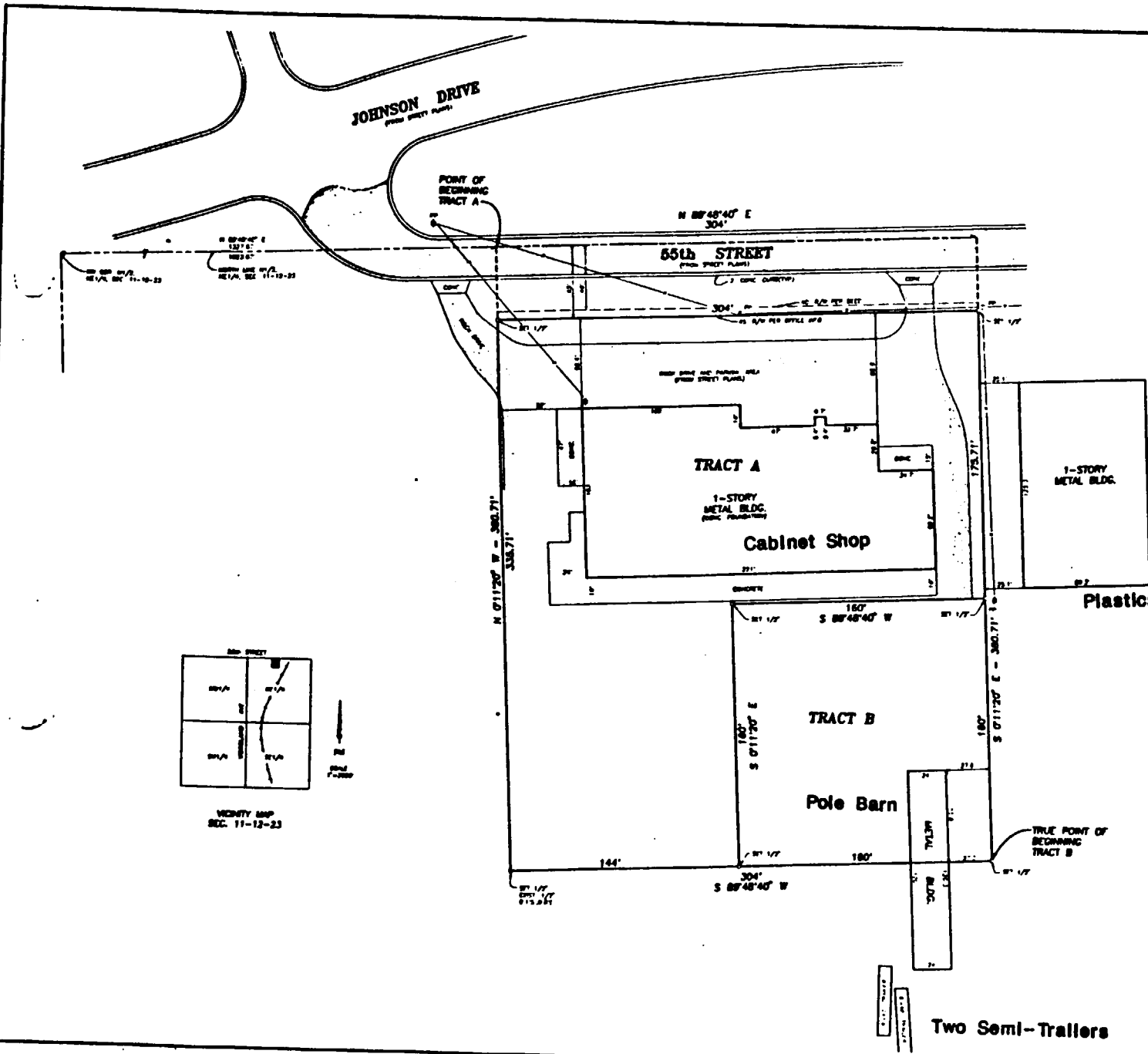
SHAWNEE, KS

CERTIFICATE OF SURVEY

DATE: NOVEMBER 12, 1981
 DRAWN BY: [Signature]
 CHECKED BY: [Signature]
 SECTION: 11 TOWNSHIP 12 NORTH RANGE 22 WEST

TRACT A
 All that part of the eastern 1/2 of the northeast quarter of SECTION 11, TOWNSHIP 12 NORTH R. 22 W. of the CITY of BANGOR, ANNEAPOLIS COUNTY, MARYLAND, bounded as follows: beginning at a point on the eastern line of said eastern 1/2 of the northeast quarter TRACT 1 in 89' 00" E. along the said eastern line, 200 FEET; thence S 89° 48' 40" W. 304 FEET; thence S 89° 48' 40" W. 180 FEET; thence S 89° 48' 40" W. 180 FEET to the point of beginning. AREA: 80,136± SQ. FT. (GROSS) 2.068± ACRES 76,456± SQ. FT. (NET) 1.7551± ACRES

TRACT B
 All that part of the eastern 1/2 of the northeast quarter of SECTION 11, TOWNSHIP 12 NORTH R. 22 W. of the CITY of BANGOR, ANNEAPOLIS COUNTY, MARYLAND, bounded as follows: beginning at a point on the eastern line of said eastern 1/2 of the northeast quarter TRACT 1 in 89' 00" E. along the said eastern line, 200 FEET; thence S 89° 48' 40" W. 304 FEET; thence S 89° 48' 40" W. 180 FEET; thence S 89° 48' 40" W. 180 FEET to the point of beginning. AREA: 25,000± SQ. FT. 0.588± ACRES



VICINITY MAP
 SEC. 11-12-23



AREAS:
 TRACT A = 80,136± SQ. FT. (GROSS)
 2.068± ACRES
 76,456± SQ. FT. (NET)
 1.7551± ACRES
 TRACT B = 25,000± SQ. FT.
 0.588± ACRES

SHAFER KUNTZ & BARRIS, P.A.
 CIVIL ENGINEERS & SURVEYORS
 1000 W. BROADWAY, BALTIMORE, MARYLAND 21201

Attachment E
 Site Map (Survey Map)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7
25 FUNSTON ROAD
KANSAS CITY, KANSAS 66115

October 2, 1991

MEMORANDUM

SUBJECT: Chemical Commodities, Inc. - Shawnee Site
Chemical and Trailer Movement

FROM: George Hess *GhH*
FIRE/EP&R/ENSV

TO: Barbara Peterson
CNSL

On September 27, 1991, you requested information on the movement of chemicals at the Chemical Commodities, Inc. (CCI), Shawnee site. It appears Jerald Gershon/CCI and Duane Becker/Tire Town have moved all of CCI's/Gershon's chemicals off site and placed them on an adjacent property to the south owned by a third party.

According to the plat map in the Johnson County clerk's office, the former Gershon property extends 380.71 feet south of the center line of 55th Street. The chemicals in the pole building are now located at least 395 feet south of the existing 55th Street centerline. The two storage trailers are presently at least 430 feet south of the existing 55th Street centerline.

On September 27, 1990, Mr. Gershon indicated to me that the south end of the pole building was approximately 15 feet off the property. Mr. Gershon further stated he attempted to purchase the additional property but the owners of the property were only interested in selling the entire 20-acre tract. At some point between February 11, 1991, and April 25, 1991, someone moved all the chemicals, which were in the pole barn, to the extreme south end of the building. On May 14, 1991, while at the CCI-DeSoto site, I asked Mr. Gershon about the chemical movement. Mr. Gershon indicated he moved the items at the Shawnee site to the south end of the building a couple months earlier. He further indicated the movement was done so the new property owner could have use of the building.

During a conversation with Duane Becker on May 24, 1991, he indicated that Mr. Gershon had told him that all the pole building was not on his property. Mr. Becker pointed out that possibly another landowner was involved. On May 29, 1991, the agency showed representatives of U.S.D.O.E., Allied Signal,

Marion Merrell Dow, and AT&T the site. At some point between this site inspection on May 29, 1991, and Steve Jones's (SPFD) inspection on June 4, someone moved the two storage trailers from their original location just west of the northwest corner of the pole building to the southwest corner of the pole building. During a conversation with Mr. Gershon on June 12, 1991, I asked if he had the trailers moved at the Shawnee site, and he indicated he had not. Mr. Gershon further indicated Mr. Becker had the trailers moved so he could mow the grass.

When I contacted Mr. Becker on June 14, 1991, he initially indicated he did not move the trailers; however, approximately 10 minutes after talking with him, he called back and indicated his son had moved the trailers. According to Mr. Becker, the trailers were moved off the property so they could comply with the county's request to cut the weeds and thistles. At this point Mr. Becker indicated he would have the trailers moved back to his property by June 25. During follow-up conversations with Mr. Becker on July 17 and with his son on August 9, 1991, assurance was given me that the trailers would be moved shortly. Between August 9, 1991, and September 11, 1991, someone turned the eastern-most trailer around and moved it farther to the south off the property.

Attached are the excerpts from my log books on this matter. Also attached are photographs and copies of correspondence provided to me by Mr. Becker. Please note the correspondence from Mr. Becker to Mr. Gershon dated May 24, 1991, where he indicates if the trailers are not moved by May 31, 1991, he will be forced to take other action. Also note Mr. Gershon's March 20, 1991, correspondence to Mr. Becker where Mr. Gershon indicates he has cleaned up the warehouse. "...you have two thirds of this shed to utilize."

Attachments

CCI - DeSoto Log Book #1

9/27/90 - 0850 - Picked up Alan Hancock. Met Dan Meuller at Federal Bldg. at 0900. Proceeded to 43 Kansas Ave. Back (south door open) with 3 drums at door.

0945 at Shawnee site - Gershon present - had unlocked storage trailers & bldg.

a) Gershon showed approximate property lines of property. Also indicated shed was approx. 15 off property at south end. Owner would not sell part. Only total 20 acres.

CCI - DeSoto Log Book #2

4/25/91 - 1750 at Shawnee. Since last site visit someone has moved all CCI items to south end of bldg.

CCI - DeSoto Log Book #2

5/14/91 - 0900 - Met Ewoldson at Olathe site. Proceeded to DeSoto - CCI facility. When arrived at 0930 hrs, Mr. Gershon & Dave Tyson (TAT) at site. Opened gate on north end of bldg.

Mr. Gershon indicates:

1) moved items at Shawnee to south end of bldg. a couple of months ago. He indicated this was done so new property owner would have use of bldg.

CCI - DeSoto Log Book #2

5/24/91 - 1030 hrs. Mr. Becker, owner, Shawnee called. He has inspected site bldg. secured & no leaks. He will send CCI correspondence. He indicated Gershon indicated to him all of bldg. is not on his property per Gershon. Possibly another landowner is involved.

CCI - DeSoto Log Book #2

6/12/91 - 1230 hrs at Shawnee. 2 trailers have been moved to south end of pole barn. Paced off from 55 street, approx. 304 feet. It appears Becker & Gershon have moved all the chemicals from their property to the adjacent property to the south!! Off site 1300 hrs.

CCI - Olathe Log Book #5

6/12/91 - 1200 - Gershon at site. He dropped off mail to Reidel. I asked if he had the trailer(s) moved at Shawnee - he indicated he did not. He indicated Becker did, so could mow grass. Gershon asked how long till completed. I indicated 3 weeks. Gershon noticed water line broken (1 inch) he indicated the line went to the NW corner of main bldg.

CCI - DeSoto Log Book #2

6/14/91 - 1530 - called Becker. He indicated he did not move trailer. I relayed my displeasure with fact material was moved off property. He indicated he would contact son and get back.

1540 - Mr. Becker called. His son had moved the trailer. Apparently county was after him to cut weeds & thistles he indicated so moved there as that was where other chemicals were. He will move trailers back to his property. We agreed to June 25. I indicated he possibly will be contacted by PRPs.

CCI - Olathe Log Book #5

6/17/91 - 1055 hrs. Gershon at site.

a) indicated chemicals at Shawnee not on property. Becker will move trailers back. Gershon claimed moved due to Becker wanting use of bldg. Gershon knows property owners in Texas.

CCI - DeSoto Log Book #2

8/9/91 - 1630 hrs. At Shawnee site. Mr. Becker's son at site. I asked about movement of trailers. He said if it did not rain, would do tomorrow. He is a little hesitant to do anything, especially if will be stuck anyway. I indicated his problems would be even more if did not.

TIRE TOWN, INC.

401 So. 2nd Street
Leavenworth, Kansas 66048
(913) 682-3201

May 24, 1991

Mr. Gerald Gershon
2708 W. 118th Street
Leawood, Ks. 66211

Dear Mr. Gershon:

On May 17, 1991 I got a call from Mr. Geroge Hess of the EPA stating that the shed was not secure again and that one of your trailers had some material leaking from it. As I stated before Mr. Gershon that I do want the merchandise of the shed removed and I do want the trailers removed. I must have these off our property, I do not have the time to be worrying about your problems with the EPA. We do not have any problems with the EPA and do not expect any and do not want any. I will continue to cooperate with the EPA and I do expect you to live up to your obligations that you have for removing these trailers.

I would expect these trailers to be removed by a date no later than May 31, 1991 or I will be forced to take other action.

Sincerely,


Duane L. Becker

CC: Mr. George Hess
25 Funston Rd.
Kansas City, Ks. 66101

RECEIVED
3-22-91

March 20, 1991

Tire Town, Inc.
401 S. 2nd Street
Leavenworth, Kansas 66048

Attention: Mr. Duane L. Becker

Dear Mr. Becker:

As a follow-up of your letter of May 14th, I do appreciate the repair to the door on the northwest side of the rear-shed at 20145 W. 55th--Shawnee, Kansas.

I have cleaned up this warehouse and have placed another key to this lock for you taped to the rear of the lock on one of the trailers. As you can see, you have about two thirds of this shed building to utilize--which evidently met with our prior verbal agreement.

The contents of the two trailers and the shed belonged to Chemical Commodities, Inc.--which went out of business.

At Olathe, Kansas--Chemical Commodities, Inc. removed 10 trailer loads of chemicals at a cost of approximately \$5,000.00. The government then removed approximately 3 trailer loads for 1 1/2 million dollars--according to their guidelines--which they considered hazardous.

Most of the chemicals at Shawnee could be sent to any local landfill, however, this is a state-controlled operation and local landfills will not accept same due to the adverse publicity E.P.A. has placed on this to justify their jobs.

As a result--Chemical Commodities, Inc., which has been out of business for 1 1/2 years and myself do not have the resources to spend 1 1/2 million in disposing of these three trailers according to E.P.A. guidelines.

My lawyers have advised the government as to my financial situation and inability to comply with their guidelines for disposal of the chemicals. I believe we will have an answer from them shortly. I wish to thank you in advance for your continued co-operation on the above.

Sincerely,


Jerald Gershon

TIRE TOWN, INC.

401 So. 2nd Street
Leavenworth, Kansas 66048
(913) 682-3201

December 19, 1990

Mr. Jerald Greshon
2708 W. 118th Street
Leawood, Kansas 66211

Dear Mr. Greshon:

I was talking with my son Ed and he tells me you cannot clean out that small building behind the building we purchased from you because of the EPA. This is hard for me to believe, what I would like to have you do is if you would please advise me by a date no later than January 15, 1991 of the name of the person you are dealing with. I cannot believe that you cannot move the stuff out of that little building into a trailer so that you can free up the building for our use.

I would appreciate your cooperation on this, I do want that building cleaned out so we can start cleaning it up and getting ready for summer and so I can rent that building out. If you need to leave the trailers there longer that is not a big problem, but I do need the building cleaned out. If you do put another trailer out there it needs to be parked out of the way.

Thanking you in advance for your cooperation in this matter.

Sincerely,

Duane L. Becker

339-6373

RECORDED
12-26-90

*File
Howard
Peterson*

November 27, 1990

Mr. Jerald Gershon
2708 W. 118th Street
Leawood, Kansas 66211

Dear Mr. Gershon:

This is in reference to my letter dated October 4, 1990 in which I asked you to clean out the building. I would appreciate you moving your belongs and cleaning out the back building by no later than January 1, 1991. Please leave everything as is in the front building. I would also like you to move the trailers but that is not a big problem for the time being, but I would like it done as soon as possible.

Thanking you in advance for your prompt attention to this matter.

Sincerely,

Duane L. Becker
Duane L. Becker

December 21, 1990

*Jim The...
756-745-8
Clayton Kelly #02*

Dear Duane:

I again called to the attention your above request regarding the metal bldg. in the back. Since this is under the Bankruptcy Court and their jurisdiction, they will not let me move the above. If you have any questions contact Mr. George Hess of the E.P.A. his phone no. is (913) 236-3881.

Sincerely,

J. Gershon
J. Gershon

*Phil Pope
KCKS
551-7580*

*Barbara Peterson
551-7277*

*Probate Office
Don Muller
721-3717*

*US Army
shown show
Streepy
236-3730*

TIRE TOWN, INC.

401 So. 2nd Street
Leavenworth, Kansas 66048
(913) 682-3201

file

October 4, 1990

Mr. Jerald Greshon
2708 W. 118th Street
Leawood, Kansas 66211

Dear Mr. Greshon:

Just a note to remind you that I would like to have that building cleaned out. If necessary I would appreciate it if you would put your stuff in a trailer. Our agreement was that you could leave your trailers there as long as necessary and that does not seem to be a problem, I would like to see them moved but that is not a big concern in my life. But I would like to have the building cleaned out as you and I discussed so I could rent the building.

If you would do this at your earliest convenience I would appreciate it. I don't want to set a dead line on this for you but I would like to have you consider getting it cleaned out so I can rent it.

Thanking you in advance for your consideration in this matter.

Sincerely,

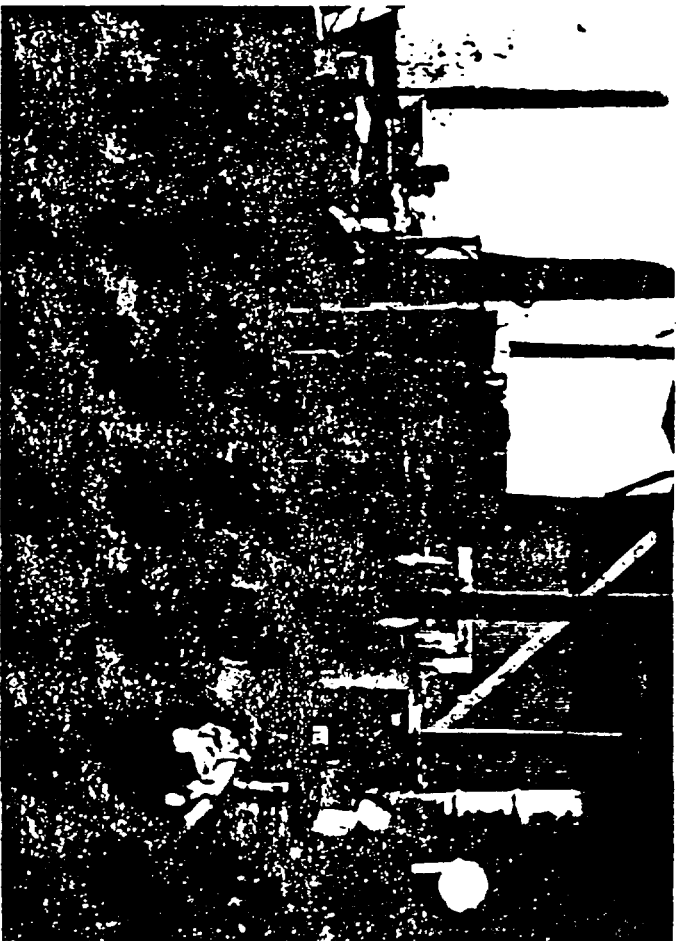
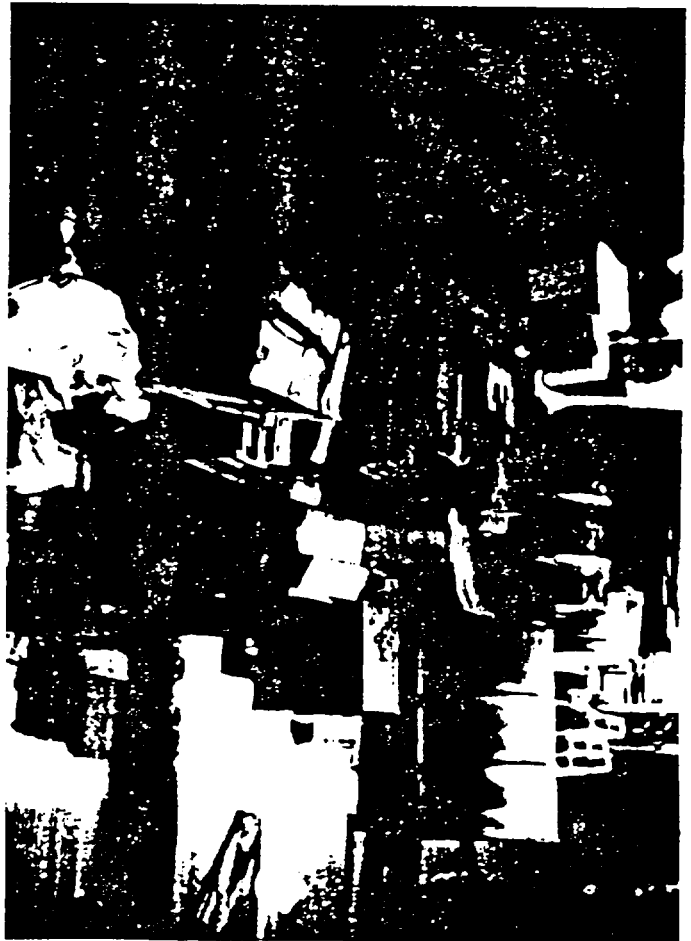
Duane L. Becker

COPY.

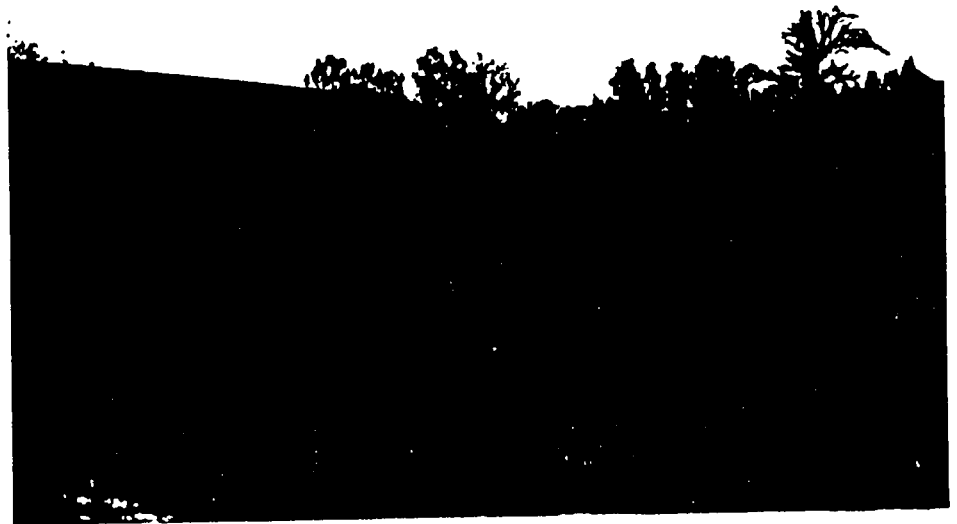
POOR LEGIBILITY

ONE OR MORE PAGES IN THIS DOCUMENT ARE DIFFICULT TO READ
DUE TO THE QUALITY OF THE ORIGINAL

C-LINE #52584
35MM PRINTS



C-LINE #52564
35MM PRINTS



TIRE TOWN, INC.

401 So. 2nd Street
Leavenworth, Kansas 66048
(913) 682-3201

September 26, 1991

United States Environmental Protection Agency
Region VII
Mr. Morris Kay, Regional Administrator
726 Minnesota Ave.
Kansas City, Kansas 66101

Dear Mr. Kay:

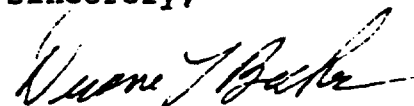
In reply to your Docket No. VII-91-F-0030 I would like to bring to your attention as I have dicussed with Ms. Pesterson that Tire Town, Inc. is no longer the owner of this land that seems to be in question. Several months ago this land was sold to AAA Insurance, Corp. (attached please find a copy of the deed). The reason this was sold was it is our understanding that the building in the back of the property we bought had encroached on some one elses property which we were not aware of at the time of purchase. The reason we sold this is so that we could work out the encroachment problem with the adjacent land owner if there was one with out tying up our other piece of property.

I feel this order dose not pretain to Tire Town, Inc. because of the fact that Tire Town, Inc. does not own the property at this time.

I have talked to Barbara Peterson about setting up a meeting and by copy of this letter I am requesting to meet with the EPA in order to work out this matter to a satisfactory agreement.

Thanking you in advance for your time and consideration.

Sincerely,



Duane L. Becker
President

CC: Barbara Peterson
George Hess

DEED GENERAL WARRANTY

FROM TO

Executed in Transfer Record, 19 day of

County Clerk

STATE OF KANSAS } County }

This instrument was filed for record on the day of 19 at 10 o'clock of Day, and duly recorded in Book of Deeds at page

Register of Deeds Deputy

FEES Register of Deeds for recording \$ County Clerk for recorder \$ Total \$

2029366

THIS DEED MADE THIS 20 day of May 1991 between Fire Town, Inc.

a corporation duly incorporated and existing under the laws of Kansas and having its principal place of business at Leavenworth in the State of Kansas as first party and AAA Insurance Corporation, a corporation duly incorporated and existing under the laws of Leavenworth County, in the State of Kansas as second party

WITNESSETH That first party in consideration of the sum of One dollar and other good and valuable considerations,

the receipt of which is hereby acknowledged does to these presents convey and warrant unto second party its heirs and assigns all of the following described real estate situated in Johnson County State of Kansas to wit -

All that part of the North half (N1/2) of the Northeast Quarter (NE 1/4) of Section Eleven (11), Township Twelve (12), Range Twenty-three (23), in the City of Shawnee, Johnson County, Kansas, more fully described as follows: Beginning at a point on the North line of said North half of the Northeast Quarter, said point being 1327.67 feet East of the Northwest corner of said North half of the Northeast Quarter, thence South 00° 11' 20" East 380.71 feet to the point of beginning, thence South 89° 48' 40" West 160.00 feet, thence North 00° 11' 20" West 160.00 feet, thence North 89° 48' 40" East 160.00 feet, thence South 0° 11' 20" West 160.00 feet to the point of beginning.

TO HAVE AND TO HOLD THE SAME Together with all and singular the tenements hereditaments and appurtenances thereto in any way thereto appertaining forever

And said first party, for itself, its successors and assigns, does hereby covenant, promise and agree to and with said second party that at the delivery of these presents it is lawfully seized in its own right of an absolute and indefeasible estate of inheritance in fee simple of all the above-described real estate, with the appurtenances, that the same are free, clear, discharged and unincumbered of and free from all former and other grants, titles, charges, claims, judgments, liens, claims, debts and incumbrances of whatever nature and last except.

Subject to easements, restrictions, reservations, covenants, now of record, all taxes, both general and special, not now due and payable,

and that it will warrant and forever defend the same unto said second party its heirs and assigns, against said first party, its successors and assigns, and all and every person or persons whatsoever lawfully claiming or to claim the same

Emered in Transfer Record (CORPORATE SEAL) 4th Day of June Beverly L. Baker

IN WITNESS WHEREOF, First party has caused this deed to be signed on its behalf by its President and its Secretary thereto duly authorized to so do, and has caused its corporate seal to be hereunto affixed the day and year first above written.

ATTEST: Johnson County Clerk JOHN, INC. Secretary BY DONALD L. BECKER President

STATE OF Kansas Leavenworth COUNTY is BE IT REMEMBERED That on this 20 day of May 1991 before me, the undersigned, a Notary Public in and for the County and State aforesaid, name DONALD L. BECKER, President of FIRE TOWN, INC. a corporation duly incorporated and existing under and by laws of the State of Kansas



Secretary of said corporation, who are personally known to me to be such officers, and who are personally known to me to be such officers, the foregoing deed on behalf of said corporation, and such other persons as may be the act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official Seal this day, and year first above written. DONALD L. BECKER Notary Public

FILED FOR RECORD JUN 5 1991 SARA S. HANSEN REGISTER OF DEEDS



STEWART INDUSTRIAL HYGIENE AND SAFETY, INC.

RED BRIDGE PROFESSIONAL BUILDING
400 EAST RED BRIDGE ROAD
KANSAS CITY, MO 64131
PHONE 816-942-6587

May 14, 1990

Mr. Dwayne L. Becker
401 South 2nd Street
Leavenworth, Kansas 66048

RE: Hazard Evaluation
20201 W. 55th Street
Johnson County Kansas

Dear Mr. Becker:

This is to certify that a property hazard evaluation was made on May 11, 1990 at the property located at 20201 West 55th Street, Johnson County, Kansas.

The evaluation consisted of a visual inspection to determine the existence of the following substances and/or conditions:

Asbestos-None present, either thermal insulation or miscellaneous materials.

Polyurethane Foam-None.

Formaldehyde Foam-None.

Underground Storage Tank(s)-None visible.

Landfill-Land appears to be virgin farm land-no history of any other use.

Polychlorinated biphenyls-Transformer located on pole. Owner unknown. Contains unknown.

I attest to the above.


Albert E. Stewart, Ph.D., P.E., C.I.H., C.S.P., C.H.C.M.
President

AES/crr

received
3-22-91

March 20, 1991

Tire Town, Inc.
401 S. 2nd Street
Leavenworth, Kansas 66048

Attention: Mr. Duane L. Becker

Dear Mr. Becker:

As a follow-up of your letter of May 14th, I do appreciate the repair to the door on the northwest side of the rear-shed at 20145 W. 55th--Shawnee, Kansas.

I have cleaned up this warehouse and have placed another key to this lock for you taped to the rear of the lock on one of the trailers. As you can see, you have about two thirds of this shed building to utilize--which evidently met with our prior verbal agreement.

The contents of the two trailers and the shed belonged to Chemical Commodities, Inc.--which went out of business.

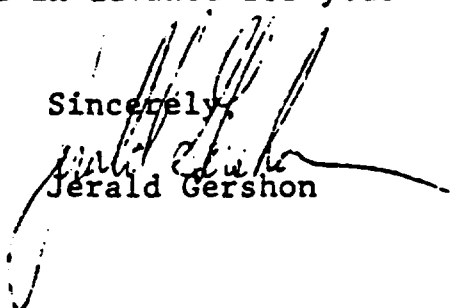
At Olathe, Kansas--Chemical Commodities, Inc. removed 10 trailer loads of chemicals at a cost of approximately \$5,000.00. The government then removed approximately 3 trailer loads for 1 1/2 million dollars--according to their guidelines--which they considered hazardous.

Most of the chemicals at Shawnee could be sent to any local landfill, however, this is a state-controlled operation and local landfills will not accept same due to the adverse publicity E.P.A. has placed on this to justify their jobs.

As a result--Chemical Commodities, Inc., which has been out of business for 1 1/2 years and myself do not have the resources to spend 1 1/2 million in disposing of these three trailers according to E.P.A. guidelines.

My lawyers have advised the government as to my financial situation and inability to comply with their guidelines for disposal of the chemicals. I believe we will have an answer from them shortly. I wish to thank you in advance for your continued co-operation on the above.

Sincerely,



Jerald Gershon

TIRE TOWN, INC.

401 So. 2nd Street
Leavenworth, Kansas 66048
(913) 682-3201

September 26, 1991

United States Environmental Protection Agency
Region VII
Mr. David A. Wagoner, Director
Waste Management Division
726 Minnesota Ave.
Kansas City, Kansas 66101

Dear Mr. Wagoner:

Received your letter on September 25, 1991, I would like to bring to your attention that I must contact the Regional Council by September 20th the letter said. I noticed at the top of your letter it was stamped September 23, 1991, I am assuming this was just a matter of timing. So I am replying in sufficient time, with that behind us I would like to reply to your letter.

I would like to bring to your attention that in the second paragraph on the second page where you state that the person acting on my behalf or under my direction and control moved two trailers containing hazardous substances from the site onto the adjoining property owned by other persons. This is not true, these trailers were moved at the request of Mr. Gershon. Mr. Gershon requested that these trailers be moved over at the end of the building so that all of his material could be organized in one location.

Tire Town, Inc. did not own the property at the time the trailers were moved. Tire Town, Inc. did not move the trailers. No corporation approval was given to any one to move the trailers in question. To my knowledge no Tire Town, Inc. equipment was ever used to move these trailers. Tire Town, Inc. does not use this property for tire storage and never have.

Therefore I am denying your request to move the trailers back. I was not aware that these trailers were being moved these trailers do not belong to Tire Town, Inc. Tire Town, Inc. is taking the stand at this point where we are not going to voluntarily move these trailers at this time.


TIRE TOWN, INC.

401 So. 2nd Street
Leavenworth, Kansas 66048
(913) 682-3201

If we can be of any further assistance in this matter feel free to contact me. Also we are not going to conduct weekly inspections of these trailers, they are not Tire Town, Inc. trailers, they never were. When I bought the property I had no idea what was in these trailers and these trailers were supposed to be removed in a very short time after we purchased the property. I did have the property inspected for environmental conditions but no one ever inspected the trailers and had no reason to inspect the trailers.

Mr. Gershon assured me these trailers would be moved in a short amount of time, later on we agreed with him that he could leave them there until he had approval to move them by the EPA which as I later found out that he never needed approval, he could have moved them any time under the condition that the EPA would accept, but that is behind us and there is no sense talking about that at this time.

Sincerely,



Duane L. Becker

CC: Barbara Peterson
George Hess

FEDERAL ON-SCENE COORDINATOR'S FINAL REPORT

Chemical Commodities, Inc. - Shawnee Site
Shawnee, Kansas

Non NPL Site
Superfund Site #07-FZ

February 18, 1990 - November 20, 1992

George K. Hess
On-Scene Coordinator
Emergency Planning and Response
Environmental Services Division
U.S. Environmental Protection Agency
Region VII

TO:

Joseph Shuehly

DATE: 03 127 97

ATTACHED ARE THE DOCUMENTS YOU REQUESTED FROM
THE SUPERFUND RECORDS CENTER

ALSO

DOCUMENTS YOU REQUESTED THAT COULD NOT BE FOUND
IN THE SITE FILE ARE LISTED BELOW.

Chemical Commodities - Shawnee
OSC Final Rept

IF YOU HAVE ANY QUESTIONS,
PLEASE CONTACT

Armstrong Data Services (ads)

MARY CALLOWAY	#7994
FRANCES GINGLES	#7113
SHARON ROBERTSON	#7922
MARLENE MARSH	#7134
ODESSA MURPHY	#7095
LINDA NORRIS	#7827
TRICIA RHODES	#7427
MELISSA YOCUM	#7476

Ruth Gervais 11/13



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL SERVICES DIVISION
REGION 7
25 FUNSTON ROAD
KANSAS CITY, KANSAS 66115

Site:	Chemical Commodities
ID #:	KSD980 630962
Break:	6.7
Other:	
7-6-94	

July 6, 1994

MEMORANDUM

SUBJECT: Federal On-scene Coordinator's Report for
Chemical Commodities, Inc. - Shawnee Site,
Shawnee, Kansas

FROM: Ron McCutcheon
Chief, EP&R/ENSV

TO: Debbie Dietrich (5202G)
Director, Emergency Response Division

Attached is the federal On-Scene Coordinators report for
the Chemical Commodities, Inc. - Shawnee site, Johnson County,
Kansas.

Attachment

cc: Barbara Ramsey, NRT
Jolleen Werst, SPFD/CRU
Superfund Records Center

with EPA's. This came to a head when DOJ appeared to independently agree to accept the plea agreement which allowed the corporation to plead guilty and dropped all charges against the sole owner, Jerald Gershon. The result was a victory on paper but one that lacked any real substance to deal with the environmental concerns of this site and the other CCI facilities.

C. Difficulties Interpreting, Complying With, or Implementing Policies and Regulations

No major difficulties were encountered during this action.

IV. RECOMMENDATIONS

A. Means to Prevent a Recurrence of the Discharge or Release

Some types of regulations are needed to address the surplusings, excessing, gifts or selling of chemicals at a loss, specifically, if this process is an arrangement for disposal. Speculative accumulation of wastes/surplus chemicals needs further consideration by EPA, as enforcement under RCRA appears difficult.

B. Means to Improve Response Actions

EPA and DOJ need to coordinate their efforts. Specifically, DOJ either needs to place attorneys in the various U.S. Attorney's offices with a background in environmental law or handle all cases out of one office. As a result, the public's image to this and the other CCI sites is that CCI and its sole stockholder committed an environmental crime and did not have to pay any penalty.

The site-specific contract for the T&D services at this site clearly shows the cost saving that can be obtained over the traditional usage of the ERCS contract. However, the present governmental contract procurement process under the FAR and EPAR are overly time-consuming and complicated. This contract took nearly five months to place which is considerably longer than it would have taken under the ERCS contract.

C. Proposals for Changes in Regulations and Response Plans

The CERCLA law needs to address the issue of surplusings, excessing, or selling items at a loss as an act of disposal and not the sale of a commercial product.

Attachments