

Ortlieb, Erich

From: Kim McEvoy <Kim.McEvoy@dep.nj.gov>
Sent: Friday, December 12, 2014 11:31 AM
To: Jerri Weigand
Cc: Pettit, Chris; William Lindner; Donna Mahon
Subject: RE: DC Plastics - compliance info
Attachments: Superior_Loan Approval Letter.rtf; Superior directive.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Hello

Here is a summary of what I had dug up today:

Superior MPM is the property owner of Lot 10 that is associated with the company DC Plastics
David Moscovitz is the president of DC Plastics and one of the chairs of Superior MPM

- Superior MPM along with several other companies were issued a Directive to clean their properties up under the Site name Bayonne Terminals Inc. (PI G000003244)
- In 2009 an ACO was signed by all companies in the Directive EXCEPT Superior MPM (attached)
- Superior MPM decided to pursue a separate environmental investigation under Matlack Inc., Bayonne (PI #007391)
- Address of the site under this PI is 70 Hobart Ave when the actual site address is 86 Hobart Ave
- This site was out of compliance until December 2013 – hired Whitestone Associates as LSRP Firm
- HDSRF loan package submitted in 2014 and the loan of \$200,000 was approved on May 28, 2014 (see attached letter)
- Called Whitestone and spoke to Chris Seib (site LSRP) -- he stated he is currently the active LSRP who prepared the HDSRF loan application for Superior MPM,
 - he has not done any work on the site besides the loan application, and did not even know that Superior loan was approved on May 28, 2014,
 - he has not been contacted to do any work on the property but has not dismissed himself yet.
- NJEMS data base says the Remedial Investigation is due on 5/7/2016

All in all it turns out they are **in compliance** with having an LSRP; however, no work is being conducted right now.

Sincerely,
Kim McEvoy

Project Manager
NJDEP Sandy Recovery
609-789-2526

Bureau of Enforcement and Investigations
401 East State Street, 5th Floor West
P.O. Box 028
Trenton, New Jersey 08625
(609) 633-1464 Fax: (609) 633-1439

DIRECTIVE AND NOTICE TO INSURERS

Site Name: Bayonne Terminals Incorporated Site

Respondents: Duraport Realty One LLC, Duraport Realty Two LLC, Duraport Realty Three LLC, Bayonne Terminals, Inc., Dow Chemical Company, Bayer Corporation, Matlack, Inc., Superior MPM (Manufacturing Property Management) LLC.

Location: Foot Of 2nd St East and Hobart Avenue
Bayonne City, Hudson County, New Jersey 07002

Identifying #: G000003244
EA ID #: PEA080001 - G000003244

This Directive and Notice to Insurers is issued pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection (hereinafter "the Department" or "NJDEP") by N.J.S.A. 13:1D-1 et seq. and the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., and duly delegated to the Assistant Director of the Enforcement and Assignment Element pursuant to N.J.S.A. 13:1B-4. This Directive and Notice to Insurers is issued in order to notify the above-captioned Respondents that the Department, pursuant to the Spill Compensation and Control Act, has determined that it is necessary to cleanup and remove discharges, and in order to notify the Respondents that the Department believes them to be responsible for the discharges.

FINDINGS

1. The Bayonne Terminals Incorporated Site, is located at Foot Of 2nd St East and Hobart Avenue and is also known as Block 359, Lots 1, 3, 4.02, and 10 on the Tax maps of Bayonne City, Hudson County (hereinafter "the Site"). The Site, and all other areas to which any hazardous substances discharged on the Site have migrated, are collectively referenced hereinafter as "the Contaminated Site".
2. Duraport Realty One LLC is a New Jersey Corporation with it's corporate address known as 85 East 2nd Street, P.O. Box 1009, Bayonne, NJ 07002.

3. Duraport Realty Two, LLC is a New Jersey Corporation with its corporate address known as 85 East 2nd Street, P.O. Box 1009, Bayonne, NJ 07002.
 4. Duraport Realty Three, LLC is a New Jersey Corporation with its corporate address known as 85 East 2nd Street, P.O. Box 1009, Bayonne, NJ 07002.
 5. Bayonne Terminals, Inc. was incorporated in the Commonwealth of Pennsylvania in 1962 as Best Tread. The company changed its name to Truck Services, Inc. in November of 1966, then to International Bulk Terminals, Inc. in August of 1968, and eventually to Rollins Terminals, Inc. in October 1969. The Company was authorized in New Jersey in May 1971. The name Bayonne Terminals, Inc. was adopted in July of 1988. The last known business address for Bayonne Terminals, Inc. is known as One Rollins Plaza, Wilmington, DE 19803.
 6. The Dow Chemical Company was incorporated in the State of Delaware in June 1947 and was authorized in New Jersey on July 15, 1947. The company's mailing address is known as 2030 Dow Center, Tax Department, Midland, MI 48674.
 7. Bayer Corporation, as successor to Mobay Chemical Co., successor to Verona-Pharma Chemical Corporation, was incorporated in the State of Indiana as Miles, Inc. and was subsequently authorized in the State of New Jersey on August 7, 1987. The company changed its name to Bayer Corporation in or about October 1995. Bayer Corporation was the parent of Mobay Corporation, and later became the successor by merger of the Mobay Corporation. Bayer Corporation has a known mailing address of 100 Bayer Road, Building 4, Pittsburgh, PA 15205.
 8. Matlack, Inc. was incorporated in the Commonwealth of Pennsylvania in or about October 1946, and was authorized in New Jersey in February 1961. The company's last known mailing address is One Rollins Plaza, P.O. Box 8789, Wilmington, DE 19899.
 9. Superior Manufacturing Property Management (Superior MPM), LLC was formed in the State of New Jersey on April 8, 1998 as D.C. Industrial Properties, LLC. The company adopted the current name on or about July 21, 2003. Superior MPM, LLC's known mailing address is 894 Hobart Avenue, Bayonne, NJ 07006.
 10. The Pharma Chemical Corporation acquired the properties composing lots 1 and 3 from the United States Government in 1949. Pharma constructed a chemical manufacturing facility on lot 3 and began manufacturing dyes and dye intermediates on this parcel beginning in the early 1950's. Although lot 1 was essentially unimproved at the time, Pharma Chemical Company installed an underground pipe that extended across lot 1 and was used for discharging untreated wastes to the Kill Van Kull. Pharma Chemical eventually merged into and was survived by Vernona-Pharma Chemical Corporation. Verona-Pharma Chemical Corporation was succeeded by the Mobay Corporation. Soon thereafter, the company was acquired by Farbenfabriken Bayer A.G. (Bayer) and apparently operated as a subsidiary of Bayer. The New Jersey Department of Health cited the company on several occasions during the late 1960's/early 1970's for discharges of objectionable wastes in to the Kill Van Kull. As a result of these violations, the company eventually discontinued certain operations at the Site,
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upgraded their wastewater treatment system and commenced manufacturing operations that produced less objectionable wastes. In or about that time (early 1970's), the company operated as another division of Bayer (Mobay Chemical Corporation). Mobay Chemical Corporation manufactured optical brighteners of the stilbene class and trimethyl base (a dye intermediate) at the site until 1984. Mobay has acknowledged the use of chlorinated solvents on lot 3 in its manufacturing processes during that time period that they owned the Site, and as noted previously, was cited by the New Jersey Department of Health for discharging untreated industrial waste to the Kill Van Kull. An environmental investigation was conducted at the Mobay facility during the 1980's and early 1990's pursuant to the requirements of the Environmental Cleanup Responsibility Act (as amended by the Industrial Site Recovery Act). Soil and ground water contamination was encountered throughout the Mobay facility. Several Areas of the Site exhibited elevated levels of chlorinated organic compounds including, trans 1, 2-dichloroethylene, trichloroethylene, tetrachloroethylene and 1,1,1-trichloroethylene.

11. Bayonne Terminals Inc. and its predecessors operated a bulk chemical storage facility on various lots of this property from the early 1950's to the early 1990's. Investigative findings indicate that spills releases and discharges from Bayonne Terminals (and predecessors) operations contributed to extensive soil and groundwater contamination on Block 359, Lots 1, 4.02 and 10 and in sediments in the Kill Van Kull. Contamination from site operations has also migrated onto, and impacted soil and groundwater on nearby properties (including lot 3, as well as other properties within Block 359 and possibly Block 475). Bayonne Terminals (and predecessors) also operated transfer stations/areas where rail cars were loaded/unloaded with product. Several catastrophic incidents were reported at the site during Bayonne Terminals Inc.'s ownership/operations from the 1975 to 1993. The contaminants discharged included trans 1, 2-dichloroethylene, trichloroethylene, tetrachloroethylene, 1,1,1-trichloroethylene, glycerine, white mineral oil and morpholine. In addition to the bulk storage and transfer of chemicals at this Site, information obtained by NJDEP personnel during a RCRA hazardous waste inspection revealed that Bayonne Terminals Inc. conducted mixing/blending and re-packaging operations at this Site. Water samples collected by Bayonne Terminals, Inc. under a Memorandum of Agreement, which was signed in October of 1992, revealed the presence of trichloroethylene, tetrachloroethylene, 1,1,1-trichloroethylene, 1,1,2-trichloroethane, 1,1-dichloroethylene, 1,1-dichloroethane, cis-1,2-dichloroethylene, 1,2-dichloroethane and methylene chloride. In August and September of 1995 an investigation was also conducted in an area in which a large tetrachloroethylene spill had occurred. Samples of soil collected from this area exhibited elevated levels of tetrachloroethylene. Soil gas samples were also collected and exhibited elevated levels as well. The Department recommended further investigation in these areas, however, further investigation and remediation of these areas was never completed.
12. The Dow Chemical Company owned much of the product that was stored at this site's bulk storage facilities from as early as the 1960's to the 1980's. Numerous discharges and spills occurred at the Site at the time that Dow Chemical reportedly operated the site and/or at the time the Company's products were stored on the Site. Spills, releases and discharges of hazardous substances occurred as a result of catastrophic events (tank, equipment and/or piping failure) incidental spillage during transfer operations and poor housekeeping practices.

Several of the discharges apparently involved products (including trichloroethylene and tetrachloroethylene) owned by Dow Chemical.

13. Matlack Inc. operated a portion of this Site from approximately the mid 1980's to the late 1990's. On March 15, 1995 the NJDEP was notified that approximately 20-30 gallons of propionic acid spilled from a leaking tank truck on the property. An incident number of 95-03-15-1719-59 was assigned to the case. On March 24, 1995, a local resident notified the NJDEP that various chemicals and caustic solution were being discharged into the sewer and possibly onto the ground or into an underground tank, however, an incident number for this discharge could not be located. The dispositions of these incidents are unknown. In May of 1998 Matlack Inc. retained American Hi-Tech for the removal of an 8,000-gallon underground fuel tank and abandonment-in-place of a 15,000-gallon underground fuel tank (later found out to be 18,000 gallons). Soil contamination was noted, as elevated levels of petroleum hydrocarbons, vinyl chloride, ethylbenzene, xylenes and tetrachloroethylene were detected in several samples. No groundwater samples were collected, but ground water contamination was suspected. The NJDEP was notified of these findings and the case was assigned an incident # of 98-06-18-1426-23. It appears that in October of 1998, additional soil borings were installed around the 18,000-gallon underground fuel tank. Petroleum hydrocarbons were detected at levels up to 127,000 ppm. Several samples were also analyzed for volatile organic contaminants. Elevated levels of several chlorinated organic compounds were detected in several samples. Compounds include, but are not limited to vinyl chloride, methylene chloride, chloroform, 1,1,2-trichloroethane, trichloroethylene and tetrachloroethylene. Free phase product was also observed at or near the groundwater interface. It appears that the investigation for these underground storage tanks was never completed.
14. Duraport Realty One, LLC; Duraport Realty Two, LLC and Duraport Realty Three, LLC acquired most of the properties, which make up this Site in December of 1998. These three companies currently separately own lots 1, 3 and 4.02 of block 359. Information included in the deed for these properties suggests that Duraport Realty One, Two and Three, LLC were fully aware of the contamination that existed on the properties at the time of the sale. In December of 1998, Duraport Realty One, LLC and Duraport Realty Two, LLC entered into a Memorandum of Agreement (MOA) with the Department to conduct an investigation and remediation at the Site. The MOA was originally executed on behalf of Duraport Realty One, LLC, (owner of lot 1) and Duraport Realty Two, LLC (Owner of Lot 4.02) however, the MOA was amended by way of letter dated June 14, 2000 to replace Duraport Realty, LLC with Duraport Marine and Rail Terminals, LLC.
15. Superior MPM, LLC is the current property owner of Block 359, Lot 10. Superior MPM, LLC has owned lot 10 since October 10, 2003. Previous soil samples collected on lot 10 have revealed the presence of soil contamination on this parcel.
16. In April of 1999 soil samples collected in response to a spill of tetrachloroethylene spill exhibited elevated levels of 1,1,1-trichloroethane, trichloroethylene and tetrachloroethylene. Ground water samples also exhibited elevated levels of 1,1,1-trichloroethane, trichloroethylene and tetrachloroethylene. Other samples collected have revealed that these contaminants exist in the subsurface in the form of dense non-aqueous phase liquid. In March

of 2000, an investigation into sediments in the Kill Van Kull was conducted as part of a proposed dredging operation at the Site. Sediment samples exhibited elevated levels of volatile organic compounds, including, but not limited to trichloroethylene, tetrachloroethylene and vinyl chloride. Other contaminants found in the sediments include various dioxin and furan congeners. Additional samples were collected in March of 2001 and contained elevated levels of chlorinated organic compounds, including but not limited to chloroethane, chloroform, vinyl chloride, trichloroethane, tetrachloroethylene, methylene chloride, 1,1-dichloroethane, 1,1,1-trichloroethane and chlorobenzene. Most, if not all of these compounds were stored, handled and transferred at the subject Site. On November 15, 2005, the Department, by way of letter, terminated the MOA with Duraport Realty One, LLC and Duraport Realty Two, LLC due to the fact that the required reports had not been submitted to the Department. In January of 2007, the Department conducted soil and groundwater sampling at this Site in order to evaluate current site conditions. The soil sample results exhibited elevated levels of chloroethane, chloroform, trichloroethane, tetrachloroethylene, methylene chloride, 1,1-dichloroethylene, 1,1 dichloroethane, 1,1,1-trichloroethane, 1,2,4-trichlorobenzene, carbon tetrachloride, and chlorobenzene. Elevated levels of trichloroethylene and tetrachloroethylene were also detected in groundwater. As of May of 2008, no further investigation/remediation has been conducted.

17. To cleanup and remove the discharges the Department has determined that it is necessary to conduct a Departmentally approved remedial investigation at the Contaminated Site in order to fully determine the nature and extent of the problem presented by the discharges. Upon completion of the remedial investigation, it will be necessary to implement a remedial action to address the discharges at the Site.
18. The substances referenced in the paragraphs above are hazardous substances pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11b.
19. The Respondents are responsible for the discharges of hazardous substances at the Site which were discharged to the lands and waters of the State.
20. Pursuant to N.J.S.A. 58:10-23.11g.c., the Respondents are strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs.
21. Pursuant to N.J.S.A. 58:10-23.11f., whenever any hazardous substance is discharged, the Department may, in its discretion, act to clean up and remove or arrange for the cleanup and removal of such discharge, or may direct any person in any way responsible for the hazardous substance to clean up and remove, or arrange for the cleanup and removal of the discharge.

DIRECTIVE

22. The Department hereby directs the Respondents to take the following corrective actions:
 1. Pay the Department \$1,000,000.00 to perform a remedial investigation and remedial action selection at this Contaminated Site, pursuant to N.J.A.C. 7:26E.

23. The respondents must reply to the Department pursuant to N.J.A.C. 7:26C-4.2(g), regarding its decision to comply with this Directive and Notice to Insurers, within thirty (30) calendar days after Respondents' receipt of this Directive and Notice to Insurers.

NOTICE

24. If the Respondents fail to pay the Department the amount set forth above, the Department may commence suit against the Respondents seeking reimbursement for all costs incurred.
25. Failure to comply with this Directive and Notice to Insurers will increase the Respondents' potential liability to the Department in an amount equal to three (3) times the cost of arranging for the cleanup and removal of the discharge and may cause a lien to be placed on the Respondents' real and personal property pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11f., including a first priority lien on the property subject of the discharge.
26. Pursuant to N.J.S.A. 58:10-23.11u., the Department may issue an order to require compliance with the Spill Compensation and Control Act. Failure by the Respondents to comply with this Directive may result in the issuance of an order by the Department, which will subject each Respondent to penalties of up to \$50,000 per day and each day of violation constitutes an additional, separate and distinct violation of the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq.

RESERVATION OF RIGHTS

27. In the event that the costs of completing the activities described in this Directive and Notice to Insurers exceed the current estimates, the Department reserves the right to direct the Respondents to pay such costs and to seek full reimbursement and damages for all such costs. In the event that the costs of completing the activities described in the Directive and Notice to Insurers are less than the estimate specified above, the Department will rebate the unexpended funds to those parties that complied with the Directive and Notice to Insurers on a proportional basis.
28. The Department reserves the right to direct the Respondents to take or arrange for the taking of any and all additional remediation which the Department determines to be necessary to protect the public health and safety or the environment and to seek full reimbursement and treble damages for all costs incurred in taking such additional remediation.
29. The respondents are advised that the discharges referenced in this Directive and Notice to Insurers may also constitute violations of the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and that the respondents may, therefore, be subject to the penalties prescribed for violations of these Acts. The Department reserves all rights and remedies under those Acts as well as any other rights and remedies under any applicable law.

NOTICE TO INSURERS

30. Be on notice that, pursuant to N.J.S.A. 58:10-23.11s., any claims for costs of cleanup or civil penalties by the State and any claim for damages by any injured person, may be brought directly against the bond, insurer or any other person providing evidence of financial responsibility. The respondents are therefore urged to contact such insurers and notify them of the issuance of this Directive and Notice to Insurers.

Date: _____

Ronald T. Corcory, Assistant Director
Enforcement and Assignment Element



State of New Jersey

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION
SITE REMEDIATION PROGRAM
OFFICE OF BROWNFIELD REUSE
MAIL CODE 401-05K
P.O. BOX 420 401 E. STATE STREET
TRENTON, NEW JERSEY 08625-0420
[HTTP://WWW.STATE.NJ.US/DEP/SRP](http://www.state.nj.us/dep/srp)

BOB MARTIN
Commissioner

May 28, 2014

Mr. David Moskovits, President
Superior-MPM LLC
86 Hobart Avenue
Bayonne, NJ 07002

Re: Hazardous Discharge Site Remediation Fund (HDSRF) – Private Loan
Applicant: Superior-MPM LLC
Project Name: Matlack Inc Bayonne
NJDEP PI #: 007391
Location: 70 Hobart Ave, Bayonne, Hudson County

Dear Mr. Moskovits:

The New Jersey Department of Environmental Protection (Department) has completed a review of the Hazardous Discharge Site Remediation Fund (HDSRF) application for a loan to conduct remediation activities at the Matlack Inc Bayonne Site (site) located at 70 Hobart Avenue in the City of Bayonne.

The Remediation activities to be conducted using funding from this HDSRF loan request include Geoprobe Investigation, Monitor Well Installation, Vapor Intrusion Evaluation, Contaminated Soil Excavation, Soil & Ground water sampling, site restoration and reporting. The Department has completed a review of the application and finds the proposal to be technically eligible for the requested funding in the amount of **\$200,000.00**. Therefore, the Department is recommending the New Jersey Economic Development Authority (NJEDA) move forward with processing the loan in order to provide the financing to conduct the remediation.

The Department's recommendation for the award of a loan from the HDSRF, and its determination that certain remediation costs are eligible for funding, is subject to the review and approval of the NJEDA, which, if in agreement with the Department's recommendation, may forward the recommendation to its Board for consideration. Any award by the NJEDA's Board is subject to a ten-day gubernatorial veto period and the appropriation of money to the Fund in an amount adequate to cover the loan. Any loan awarded from the HDSRF is to cover remediation costs for the calendar year covered by the application. An applicant seeking a grant to cover remediation costs for subsequent calendar years must re-apply to the HDSRF. There is no guarantee of any funding in this year or future years.

If you have any questions regarding this letter, please feel free to contact John Doyon, HDSRF Coordinator at (609) 633-0713 or at john.doyon@dep.nj.gov.

Sincerely,

Timothy T. Bartle, Chief
Office of Brownfield Reuse

Cc: DEPFile