



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
CONTAMINATED SITE REMEDIATION & REDEVELOPMENT
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PHILIP D. MURPHY
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SHEILA Y. OLIVER
Lt. Governor

SHAWN M. LATOURETTE
Commissioner

IN THE MATTER OF :
CANRAD HANOVIA INC. :
100 CHESTNUT STREET, :
CITY OF NEWARK, :
ESSEX COUNTY :
PROGRAM INTEREST NO. 004254 : DIRECTIVE AND NOTICE TO INSURERS
and :
BASF CATALYSTS LLC :
and :
CITIGROUP GLOBAL MARKETS :
HOLDINGS INC. :
and :
ENGELHARD HANOVIA INC, :
(A DELAWARE CORPORATION) :
and :
HANOVIA SPECIALTY LIGHTING LLC :
and :
CANRAD, INC. :
and :
SUMO REALTY, INC. :

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") 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 Information Support Element pursuant to N.J.S.A. 13:1B-4. This Directive and Notice to Insurers is issued to notify the above-captioned Respondents that the Department, pursuant to the Spill Compensation and Control Act, has determined that it is necessary to clean up and remove hazardous substance discharges, and in order to notify the Respondents that the Department believes them to be responsible for the hazardous substances that were discharged and/or the remediation of the discharges.

To protect public health and the environment, the Department requires a full understanding of Respondents' historical development, transport, use, storage, release, discharge, and/or disposal of hazardous substances at the Site. Therefore, the Department is directing that Respondents provide a complete accounting of their historical activities at the Site with respect to hazardous substances, including, but not limited to, the usage of polycyclic aromatic hydrocarbons ("PAHs"), tetrachloroethylene ("PCE"), 1,1,1-trichloroethane ("1,1,1-TCA"), trichloroethylene ("TCE"), 1,1-dichloroethene ("1,1-DCE"), 1,1-dichloroethane ("1,1-DCA"), cis-1,2-dichloroethene ("cis-1,2-DCE"), vinyl chloride, polychlorinated biphenyls ("PCBs") and benzene, toluene, ethylbenzene and xylene ("BTEX").

## FINDINGS

### The Site

1. The Canrad Hanovia Inc site (the "Site") is located at 100 Chestnut Street, Block 919, Lots 1, 5, 15, 43.01-43.30 f/k/a Lots 1, 5, 15, 43 and 45, on the tax maps of Newark City, Essex 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."

### Ownership and Operational History of the Site

2. Around 1909, Hanovia Chemical and Manufacturing Company ("Hanovia Chemical") and The American Platinum Works ("American Platinum Works"), New Jersey corporations, purchased portions of current Block 919, Lots 1 and 5. Hanovia Chemical, American Platinum Works, or successor corporations thereof, purchased additional portions of Block 919 in the subsequent decades and at one point in time owned each of prior Block 919, Lots 1, 5, 15, 43, and 45.
3. From approximately 1892 until 1965, Flood & Conklin Manufacturing Company ("Flood & Conklin"), or its divisions, operated an industrial facility at the Site, where it manufactured and sold paints, varnishes, and paint products. Flood and Conklin's

operations began on or around current Block 919, Lots 43.21-43.30 and later grew to include nearly all current Block 919, Lots 43.01-43.30. Most of the structures that housed Flood & Conklin's operations were razed and replaced with a parking lot around 1968.

4. From approximately 1909 until 1958, Hanovia Chemical operated an industrial facility at the Site, on or around current Block 919, Lots 1 and 15, where it manufactured items including liquid gold and decorating materials for ceramics, quartz glass, mercury quartz-vapor lamps, and ultra-violet equipment.
5. From approximately 1909 until 1958, American Platinum Works operated an industrial facility at the Site, on or around current Block 919, Lot 5, and, for a period of time, on Lot 15, where it refined precious metals and manufactured products from them.
6. On or about January 1, 1958, at least eight (8) companies, which included Hanovia Chemical and American Platinum Works, were merged into Baker & Co., Inc., a New Jersey corporation. At or around the same time Baker & Co., Inc.'s name was changed to Engelhard Industries, Inc. (a New Jersey corporation). Upon information and belief, Engelhard Industries, Inc. (a New Jersey corporation), or its divisions, operated on Block 919, Lots 1, 5 and 15 between 1957 and 1960, and used hazardous substances such as PAHs, PCE, 1,1,1-TCA, TCE and PCBs during operations at the Site.
7. Engelhard Industries, Inc. (a New Jersey corporation) continued Hanovia Chemical's lamp and ultraviolet equipment manufacturing operations at the Site in its Hanovia Lamp Division and continued American Platinum Works' precious metals operations at the Site in its American Platinum and Silver Division.
8. Around March 1960, Engelhard Industries, Inc.'s (a New Jersey corporation) name was changed to Engelhard Hanovia, Inc. (a New Jersey corporation). At or around the same time, Engelhard Hanovia, Inc. (a New Jersey corporation) transferred its precious metals business and properties, and certain other manufacturing operations and properties to its subsidiary, Engelhard Industries, Inc. (a Delaware corporation), in exchange for common stock and assumption of certain liabilities. The transfer included the American Platinum and Silver Division and operations continued at Block 919, Lots 5 and 15 at the Site.
9. In 1966, Engelhard Hanovia, Inc. (a New Jersey corporation) merged with and into Engelhard Hanovia, Inc. (a Delaware corporation). The lamp and ultraviolet equipment manufacturing operations at the Site continued as the Hanovia Lamp Division of Engelhard Hanovia, Inc. (a Delaware corporation)
10. On or about September 27, 1967, Minerals & Chemicals Philipp Corporation merged with and into Engelhard Industries, Inc. (a Delaware corporation). At or around the same time, Engelhard Industries, Inc.'s (a Delaware corporation) name was changed to Engelhard Minerals & Chemicals Corporation. The precious metals operations at the Site are believed to have continued under the Engelhard Industries Division of Engelhard Minerals & Chemicals Corporation on Block 919, Lots 5, 15. Upon information and belief, Engelhard

Minerals & Chemicals Corporation used hazardous substances such as PAHs, metals, PCE, 1,1,1-TCA, TCE and PCBs during operations at the Site.

11. On or about August 1, 1970, Canrad Precision Industries, Inc. purchased the Hanovia Lamp Division of Engelhard Hanovia, Inc. (a Delaware corporation). Canrad Precision Industries, Inc., later known as Canrad-Hanovia, Inc. and then Canrad Inc. (hereinafter Canrad Inc.), continued the lamp and ultraviolet equipment manufacturing operations at the Site.
12. On December 29, 1970, Canrad Inc. purchased prior Block 919, Lot 43 from Engelhard Hanovia, Inc. (a Delaware corporation) and continued operating on the Site.
13. On February 2, 1971, Canrad Inc. purchased Block 919, Lot 1 from HD Properties (New Jersey), Inc. On February 6, 1974, Canrad Inc. purchased Block 919, Lots 5 and 15 from Engelhard Minerals & Chemicals Corporation. At or around that time, Engelhard Minerals & Chemicals Corporation ceased their precious metals operations at the Site. Thereafter, Canrad Inc. expanded their operations to the entire area of the main buildings located on Block 919, Lots 1, 5, and 15.
14. On February 15, 1979, Canrad Inc. purchased prior Block 919, Lot 45 from Engelhard Minerals & Chemical Corporation.
15. During the 1970s when Canrad Inc. operated at the Site, it submitted Selected Substance Reporting information and Industrial Waste Survey information to the Department that recorded the use and storage of TCE at the Site and disposal of waste containing TCE from the Site. The Selected Substance Reporting information noted that TCE was used to degrease parts prior to painting.
16. Hanovia Lamp Inc., later UTBHL, Inc., was incorporated in New Jersey on February 4, 1987. The entity, a subsidiary of Canrad Inc., continued the lamp and ultraviolet equipment manufacturing operations at the Site after its formation. Hanovia Lamp Inc. operated on Block 919, Lots 1, 5 and 15.
17. On September 2, 1987, in connection with the planned sale of property (f/k/a Block 919, Lots 1, 5, 15, 43 and 45), Canrad, Inc. submitted to the Department a General Information Submission ("GIS"), which was assigned Environmental Cleanup Responsibility Act ("ECRA") case #E87752. However, that sale did not occur and Canrad, Inc.'s counsel sent a letter to the Department, dated January 12, 1988, requesting that this ECRA case remain active while they look for a new purchaser. In August 1988, ARC USA Acquisition Corporation, a wholly owned subsidiary of ARC International Corporation, was merged into Canrad, Inc., with Canrad, Inc. being the surviving corporation. Upon information and belief, Canrad, Inc. is currently insolvent.
18. On January 22, 1996, a General Information Notice ("GIN") and Remediation Agreement application were submitted to the Department in connection with a sale of assets between

Canrad, Inc.'s subsidiary, Hanovia Lamp Inc., and Gavenco, L.L.C. ISRA case #E96030 was assigned.

19. On January 30, 1996, a Remediation Agreement for ISRA case #E96030 was executed between Canrad Inc. and the Department to allow the sale of assets between Canrad, Inc.'s subsidiary, Hanovia Lamp Inc. (seller), and Gavenco, L.L.C. (buyer) to occur. Gavenco L.L.C. continued the lamp and ultraviolet equipment manufacturing operations at the Site until spring 1997, when it moved to another facility in Union Township, NJ. The structures on Block 919, Lots 1, 5, and 15 that had housed the industrial operations were razed starting circa 1998.
20. Between approximately 1892 and approximately 1997, "hazardous substances," as defined in N.J.S.A. 58:10-23.11b, were "discharged" at the Site within the meaning of N.J.S.A. 58:10-23.11b. Upon information and belief, historical operations at the Site used and/or stored hazardous substances including, but are not limited to, PAHs, PCE, 1,1,1-TCA, TCE, 1,1-DCE, 1,1-DCA, cis-1,2-DCE, vinyl chloride, PCBs and BTEX.
21. In March 1997, a GIN was submitted to the Department for the cessation of operations of Gavenco, L.L.C. at the Site. ISRA case #E97114 was assigned.
22. In January 1998, Canrad Inc. subdivided Block 919, Lots 43 and 45 into Lots 43.01 to 43.30. On June 8, 1998, Sumo Realty, Inc. purchased Block 919, Lots 43.01 to 43.18 and 43.20 to 43.29 from Canrad Inc. Sumo Realty, Inc. constructed multi-level residential structures on each of the Lots and began selling them as early as March 30, 1999.<sup>1</sup>
23. In August 2001, a Remediation Agreement application was submitted to the Department by Sumo Realty, Inc. for the sale of Block 919, Lots 1.01-1.21 between Canrad, Inc. and Sumo Realty, Inc. In May 2002, a Remediation Agreement for ISRA case #E87752 was executed between the Department and Sumo Realty, Inc.
24. On September 10, 2002, Sumo Realty, Inc. purchased Block 919, Lots 1, 5 and 15 from Canrad Inc. Sumo Realty, Inc. owns these lots as of the issuance date of this Directive.
25. On or around September 24, 2004, the City of Newark acquired Block 919, Lots 43.19 and 43.30 via municipal property tax foreclosure. On or around July 12, 2022, the Superior Court of New Jersey entered an order reversing the City of Newark's foreclosure on the two lots. Canrad, Inc. is currently listed as the owner of Block 919, Lots 43.19 and 43.30.

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<sup>1</sup> The Department issued restricted use No Further Action ("NFA") letters for Lots 43.01 to 43.18 and 43.20 to 43.29 in 1999. This Directive does not cover, and does not direct the Respondents named in this Directive to address, those NFAs or unmet obligations, if any, arising from those NFAs. Further, the Department does not waive, and expressly reserves, the right to take appropriate enforcement actions with respect to those NFAs and any such unmet obligations.

## Responsible Parties

26. BASF Catalysts LLC, Citigroup Global Markets Holdings Inc., Engelhard Hanovia Inc., Hanovia Specialty Lighting LLC, Canrad, Inc., and Sumo Realty, Inc., hereinafter referred to as (“Respondents”) are responsible for the remediation of the discharges of hazardous substances at the Contaminated Site and the costs the Department has incurred, and may incur, responding to this threat to public health, safety and the environment.

### **BASF Catalysts, LLC**

27. BASF Catalysts LLC is a limited liability company organized and existing under the laws of the State of Delaware and doing business in the State of New Jersey, with a registered agent of CT Corporation System, and mailing address of 820 Bear Tavern Road, Ewing, New Jersey 08628.
28. On or around May 18, 1981, Engelhard Minerals & Chemicals Corporation transferred all of the assets and liabilities of its Engelhard Industries Division and its Minerals & Chemicals Division to its subsidiary Porocel Corporation. At or around the same time Porocel Corporation’s name was changed to Engelhard Corporation.
29. In or around June 2006, BASF AG, later BASF SE, acquired Engelhard Corporation. Engelhard Corporation was converted into an LLC and on or around August 1, 2006, its name was changed to BASF Catalysts LLC.
30. BASF Catalysts LLC is a successor to the Engelhard Industries Division and the Minerals & Chemicals Division of the former Engelhard Minerals & Chemicals Corporation and all its liabilities arising out of the discharges of hazardous substances at the Site.

### **Citigroup Global Markets Holdings Inc.**

31. Citigroup Global Markets Holdings Inc. is a corporation organized and existing under the laws of the State of New York, with a principal executive office at 388 Greenwich Street, New York, New York 10013.
32. On or around May 21, 1981, Engelhard Minerals & Chemicals Corporation changed its name to Phibro Corporation.
33. On or around July 1, 1999, Salomon Smith Barney Holdings Inc., which had once been Phibro Corporation, merged into SSBHI Merger Company Inc., a New York Corporation. At or around the same time SSBHI Merger Company Inc.’s name was changed to Salomon Smith Barney Holdings Inc. On or around April 3, 2003, Salomon Smith Barney Holdings Inc.’s name was changed to Citigroup Global Markets Holdings Inc.
34. Citigroup Global Markets Holdings Inc. is a corporate successor to Salomon Smith Barney Holdings Inc. (a Delaware corporation), formerly Engelhard Minerals & Chemicals

Corporation, and all its liabilities arising out of the discharges of hazardous substances at the Site.

**Engelhard Hanovia, Inc. (a Delaware corporation)**

35. Engelhard Hanovia, Inc. (a Delaware corporation) is a corporation organized and existing under the laws of the State of Delaware and doing business in the State of New Jersey, with a registered agent of CT Corporation System, and mailing address of 820 Bear Tavern Road, Ewing, New Jersey 08628.
36. Engelhard Hanovia, Inc. (a Delaware corporation) is the former owner of the lamp and ultraviolet equipment manufacturing operations at the Site and is a corporate successor to Engelhard Hanovia, Inc. (a New Jersey corporation), formerly Engelhard Industries, Inc. (a New Jersey corporation), and all of its liabilities arising out of the discharges of hazardous substances at the Site.

**Hanovia Specialty Lighting LLC**

37. Hanovia Specialty Lighting LLC is a limited liability company organized and existing under the laws of the State of New Jersey. It may be conducting business under the fictitious names Hanovia, Colight, or Hanovia Colight. Its registered agent is Liming Du and the registered agent mailing address is 6 Evans Street, Fairfield, NJ 07004.
38. Hanovia Specialty Lighting LLC is believed to have purchased the assets of Gavenco L.L.C., the last industrial operator at the Site, and may be responsible for all of its liabilities arising out of the discharges of hazardous substances at the Site.

**Canrad, Inc.**

39. Canrad Inc. is a corporation organized under the laws of the State of Delaware that filed to do business in the State of New Jersey on August 20, 1970. On January 30, 1996, a Remediation Agreement for ISRA case #E96030 was executed between Canrad Inc. and the Department to allow the sale of assets between Canrad, Inc.'s subsidiary, Hanovia Lamp Inc. (seller), and Gavenco, L.L.C. (buyer) to occur. On June 8, 1998, Sumo Realty, Inc. purchased Block 919, Lots 43.01 to 43.18 and 43.20 to 43.29 from Canrad Inc. On September 10, 2022, Canrad, Inc., through its Receiver, Richter Consulting, Inc., conveyed Block 919, Lots 1, 5, and 15 to Sumo Realty, Inc. Canrad, Inc. currently owns Block 919, Lots 43.19 and 43.30. Upon information and belief, Canrad, Inc. is currently insolvent.

**Sumo Realty, Inc.**

40. Sumo Realty, Inc. is a corporation organized and existing under the laws of the State of New Jersey. Its business status was revoked on February 16, 2007, for failure to submit annual reports. Its registered agent is Jacinto Rodrigues, who has the mailing addresses 27 Prince Street, Elizabeth, NJ 07208 and 6 Conklin Lane, Warren, NJ 07059. Jacinto

Rodrigues is the President of Sumo Realty, Inc. and Joaquina Rodrigues is the Vice-President of Sumo Realty, Inc.

## **HISTORY AND CONFIRMATION OF HAZARDOUS DISCHARGES**

### **Contamination in Soil and Ground Water at the Site and the Contaminated Site**

41. Between 1989 and 1993, Canrad, Inc. submitted numerous "Report of ECRA Sampling Plan Results" reports, prepared by Handex Environmental Management, Inc. ("Handex"), to the Department. These reports confirmed the presence of soil and ground water contamination at the Site and documented the historic use of hazardous substances.
  - a. Sampling from Area of Concern ("AOC") I (Block 919, Lots 43.01 to 43.19 and 43.20 and 43.30) confirmed the presence of various hazardous substances in soil, including but not limited to, TPHC, total volatile organic compounds, total base neutral organic compounds, antimony, arsenic, cadmium, copper, lead, mercury, and zinc, all at concentrations that exceeded the Department's cleanup criteria at that time.
  - b. Four monitoring wells were installed (MW-1 through MW-4). Volatile organic compounds such as benzene, 1,1-dichloroethene, 1,1-dichloroethane, cis-1,2-dichloroethene, ethylbenzene, toluene, TCE, xylenes and vinyl chloride were detected in MW-3 and MW-4 which were located on Block 919 Lots 5 and 43.19. The above noted substances were all detected at concentrations exceeding their Ground Water Quality Standards ("GWQS") at that time.
  
42. Between 1992 and 2000, Canrad Inc. and their environmental consultants continued remedial activities at the Site. Reports by Handex and Vectre Corporation, now known as TRC Vectre Corporation ("Vectre"), submitted during this period include but are not limited to the following:
  - June 1993 Report of ECRA Sampling Plan results,
  - August 1994 Remedial Investigation Report ("RIR"),
  - July 1995 Remedial Action Workplan ("RAW"),
  - August 1996 Remedial Investigation Workplan ("RIW"),
  - October 1997 Remedial Action Report ("RAR"), BTEX AOC,
  - December 1997 RAR Addendum Classification Exception Area/Well Restriction Area
  - June 1999 RIR/RIW; and
  - June 2000 RIR Addendum

A majority of remedial actions undertaken during this time were focused on four (4) AOCs: Area I, BTEX contamination in ground water, chlorinated volatile organic compounds ("CVOCs") in ground water, and free phase liquid petroleum hydrocarbons.



- a. Area I – Soils: Consists of Block 919, Lots 43.01-43.19 and 43.20-43.30. This includes the area in which lead had been detected at 6,990 mg/kg, also referred to as the “lead hotspot”. PAHs, such as benzo[a]anthracene, benzo[a]pyrene, and benzo[k]fluoranthene, were detected at levels above their respective Residential Direct Contact Soil Cleanup Criteria (“RDCSCC”) and Non-Residential Direct Contact Soil Cleanup Criteria (“NRDCSCC”). Multiple metals such as arsenic and lead were detected in samples above their respective RDCSCC.
- b. BTEX Contamination in ground water: In 1992, soil borings were conducted in the vicinity of MW-4 (Block 919, Lot 43.19) that showed BTEX contamination extended upgradient to MW-5, where two (2) empty underground storage tanks (“USTs”) found in 1990 were located on Block 919, Lot 5. In a July 1994 sampling event, toluene was the highest BTEX concentration in an air sampling, which was detected at 2,700mg/m<sup>3</sup>. Sampling events were conducted during years 1997-2000 that showed levels of benzene ranging from 5.6-130 ug/L, toluene from 14-32,000 ug/L, ethylbenzene from 12-1,300 ug/L and xylenes from 4.2-3,060 ug/L, all exceeding the Department’s GWQC. Vectre conducted excavation activities that caused MW-4 to be destroyed and once the excavation was backfilled, MW-4A was installed. In 1997, Vectre sampled MW-4A and results indicated benzene at 83 ug/L, which exceeded its Class II-A Ground Water Quality Criterion (“GWQC”) of 1 ug/L. This well was later destroyed during site development work and MW-4R was installed in March 2000 in the vicinity of MW-4A.
- c. CVOC Contamination in Ground water: In 1995, Handex collected samples from five (5) basement sumps in the Canrad, Inc. structures on Block 919, Lots 1, which detected CVOCs in four (4) out of five (5) sumps at levels above their respective GWQS. CVOCs included vinyl chloride (highest concentration of 130 ug/L), TCE (highest concentration of 240 ug/L) and PCE (highest concentration of 40 ug/L). In 1998, four (4) soil borings and stainless steel well points were installed near MW-3 (Block 919, Lot 5). Cis-1,2-DCE was detected at 56 mg/kg, above its Impact to Ground Water Soil Cleanup Criteria (“IGWSCC”). CVOCs detected in ground water included TCE, PCE, vinyl chloride, cis-1,2-DCE, 1,1,1-TCA, 1,1-DCE and 1,1-DCA. Vectre noted that there were two (2) distinct plumes of CVOCs in ground water at the Site. The northern plume existed near MW-3 (Block 919, Lot 5) and consisted mainly of TCE, vinyl chloride and cis-1,2-DCE while the second plume was on the southern portion of the Site and consisted of TCE, vinyl chloride, cis-1,2-DCE, PCE, 1,1,1-TCA, 1,1-DCE and 1,1-DCA.
- d. Free Phase Liquid Petroleum Hydrocarbons (LPH): LPH was regularly observed on MW-1, MW-3, and MW-13 in the northern courtyard area on Block 919, Lots 5 and 15, and occasionally in MW-2 (located on the sidewalk near Block 919, Lot 5) and MW-12 (Block 919, Lot 5). This area is known as AOC D, which is where two USTs were located and abandoned in place. Holes in at least one of the abandoned USTs were discovered in previous investigations.

43. In or around 2000, Cilli Environmental Group, LLC (“CEG”) collected twelve (12) soil samples in Area D (located on Block 919, Lot 5) on behalf of Sumo Realty, Inc. Seven (7) PAHs were detected in samples above their respective RDCSCC. Ground water samples were also collected at three (3) monitoring well points (MP-1 to MP-3) on Block 919, Lot 5 and benzene, CVOCs and naphthalene were detected above their respective GWQS in one or more samples. TCE was detected in samples from all three (3) monitoring points with a maximum concentration of 34,900 ug/L in MP-3.
44. In 2002, CEG installed five (5) temporary wells near MW-16 (located on Block 919, Lot 1) and collected ground water samples that detected benzene, TCE, PCE and vinyl chloride all at levels above their respective GWQS.
45. In 2003, CEG collected ground water samples from vertical delineation borings along Chestnut Street, downgradient of MW-16 on Block 919, Lot 1, which contained CVOCs at levels above their respective GWQS. TCE was detected at 6,830 ug/L at 35 feet below grade. Vinyl chloride, 1,1-DCE, and PCE were detected in samples from one or more of the borings at levels above their respective GWQS.
46. Between 2004 and 2006, CVOCs such as TCE, PCE, vinyl chloride, 1,1-DCE, cis-1,2-DCE, trans-1,2-DCE, and 1,1,2-trichloroethane were detected above their respective GWQS in all of the monitoring wells sampled (MW-2 [Block 919, Lot 5], MW-3 [Block 919, Lot 5], MW-4R [Block 919, Lot 4.19/4.30], MW-16 [Block 919, Lot 1], MW-17 [on the sidewalk near Block 919, Lot 1]), except MW-14 which was located off-site. In 2004, TCE (1,102 ug/L), PCE (1.6 ug/L), vinyl chloride (30.8 ug/L), and cis-1,2-DCE (366 ug/L) were all detected at levels about their GWQS.
47. In the May 2007 Remedial Investigation Report/Remedial Action Workplan submitted by CEG on behalf of Sumo Realty, Inc., five (5) soil borings were installed around Area D (Block 919, Lot 5) and two (2) samples were collected from each boring in February 2007. CEG reported that total petroleum hydrocarbons (“TPHC”) were detected above the NJDEP Cleanup Criteria of 10,000 mg/kg in four (4) samples and was detected above the NJDEP Action Level of 1,000 mg/kg. Benzo[a]pyrene was detected in one of the soil samples at 0.707 mg/kg, which exceeded its RDCSCC of 0.66 mg/kg. Two (2) soil borings were installed within the former UST excavation and one (1) grab sample was collected from each boring. Multiple PAHs, which included benzo[a]anthracene, benzo[a]pyrene, and benzo[k]fluoranthene, were detected above their respective RDCSCC in one or both samples. In addition, the PCB Aroclor 1242 was detected at 1.35 mg/kg, above its RDCSCC of 0.49 mg/kg in one of the samples. Four (4) soil borings were installed around MP-3 in February 2007; one (1) soil sample was collected from each boring from the six (6) inch interval exhibiting the highest photo-ionization detector (“PID”) reading. TCE was detected at 5.1 mg/kg in one of the samples and cis-1,2-DCE was detected at 3.72 mg/kg in another sample. Both exceeded their respective IGWSCCs, which was 1 mg/kg.
48. In or around 2007, monitoring well MW-3R, was installed upgradient on the sidewalk within approximately 3-5 feet of where MW-3 had been located on Block 919, Lot 5. In March 2007, CEG collected ground water samples on behalf of Sumo Realty, Inc. from

(MW-2 [Block 919, Lot 5], MW-3R [on the sidewalk near Block 919, Lot 5], MW-16 [Block 919, Lot 1], MW-17 [on the sidewalk near Block 919, Lot 1] and MW-18 [upgradient to the Site]). The table below summarizes the results from the 2007 ground water sampling (in ug/L). Results for MW-14 were not included since CVOCs were non-detect. Instead, MW-4R, last sampled in 2004, was included. Benzene, TCE, and vinyl chloride were detected at levels above the Vapor Intrusion Ground Water Screening Levels (“VIGWSL”).

Compound	MW-2	MW-3R	MW-4R	MW-16	MW-17	MW-18	Current GWQS	Current VIGWSL
Benzene	ND	46.6	ND	1.15	1.15	1.2	1	23
1,1-DCE	ND	5.64	1.8	ND	ND	ND	1	26
Cis-1,2-DCE	ND	ND	366	ND	ND	ND	70	-
PCE	3.51	ND	1.6	ND	1.47	ND	1	36
TCE	319	44.8	1,102	34.9	110	ND	1	3
Vinyl chloride	11.7	733	30.8	ND	47.5	55.9	1	1
VO TICs	211	1390	-	456	71.9	8,450	500	-

49. A “Vapor Intrusion Remedial Investigation Workplan”, dated July 2009, was prepared by CEG for Sumo Realty, Inc. The workplan proposed collecting sub-slab soil gas samples and indoor air samples at eight (8) properties on Chestnut Street. The Department approved the workplan in a letter dated July 27, 2009, and instructed Sumo Realty, Inc. to submit a remedial investigation report on October 16, 2009.
50. A “Ground Water Remedial Investigation Workplan”, dated November 2009, was prepared by CEG for Sumo Realty, Inc. and submitted to the Department on March 22, 2010.
51. On December 22, 2009, Sumo Realty, Inc.’s counsel sent a letter to the Department that noted access request letters had been sent to the eight property owners on Chestnut Street in October 2009 and that Sumo Realty, Inc. had not been granted access by the property owners to conduct the required vapor intrusion sampling.
52. On March 21, 2011, the Department sent Jacinto Rodrigues of Sumo Realty, Inc. a Notice of Deficiency for the Ground Water Remedial Investigation Workplan submitted on March 22, 2010, which identified seven open AOCs, including ground water and vapor intrusion. The Department determined that Sumo Realty, Inc. needed to delineate the horizontal and vertical extent of ground water contamination at the Site and that Sumo Realty, Inc. failed to complete the vapor instruction investigation of the previously identified eight (8) properties on Chestnut Street noted in paragraph 49 above and the Department further identified additional buildings that required vapor intrusion investigation.
53. On February 22, 2019, the Department issued a Notice of Violation and Offer of Settlement to Sumo Realty, Inc. for failure to comply with the applicable timeframes for sites subject to N.J.S.A. 58:10C-27(a)3 and failure to comply with the requirements for direct oversight.

54. Sumo Realty, Inc. received compliance assistance phone calls, emails, or other communications from the Department reminding Sumo Realty, Inc. of its obligation to comply with all applicable remediation requirements.
55. On June 14, 2022, the Department sent Jacinto Rodrigues of Sumo Realty, Inc. a Notice of Potential Enforcement Action letter outlining Sumo Realty, Inc.'s noncompliance with the Remediation Agreement and the Spill Act.
56. Between June 29, 2022, and September 19, 2022, the Department issued letters to the residential addresses below requesting site access to conduct a vapor intrusion investigation. The Department was granted access to 63 Oliver St. and vapor intrusion sampling was conducted on January 25, 2023. No vapor intrusion was identified. Vapor intrusion investigations are still outstanding for the remaining residential properties.

<b>Address</b>	<b>Block &amp; Lot</b>
89 Chestnut St. (Residential)	920; 7.05
91 Chestnut St. (Residential)	920; 7.06
93-95 Chestnut St. (Residential)	920; 7.07
97 Chestnut St. (Residential)	920; 7.08
99 Chestnut St. (Residential)	920; 7.09
101 Chestnut St. (Residential)	920; 7.10
103 Chestnut St. (Residential)	920; 7.11
107 Chestnut St. (Residential)	920; 7.12
109 Chestnut St. (Residential)	920; 7.13
111 Chestnut St. (Residential)	920; 7.14
116 Chestnut St. (Residential)	919; 43.29
118 Chestnut St. (Residential)	919; 43.28
122-124 Chestnut St. (Residential)	919; 43.26
55-57 Oliver St. (Residential)	919; 43.18
59 Oliver St. (Residential)	919; 43.17
61 Oliver St. (Residential)	919; 43.16
63 Oliver St. (Residential)	919; 43.15
<b>TOTAL</b>	17 Properties

Responsibility for Cleanup and Removal Costs

57. 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.

58. The Respondents are responsible for the hazardous substances that were discharged at the Site and for the remediation of the hazardous substances that were discharged to the lands and waters of the state.
59. Pursuant to N.J.S.A. 58.10-23.11g.c, any person who has discharged a hazardous substance or is in any way responsible for any hazardous substance, shall be strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs no matter by whom incurred. Such person shall also be strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs by the Department. The Respondents are persons who discharged a hazardous substance or are in any way responsible for the discharge of a hazardous substance and are strictly liable, without regard to fault, for all cleanup and removal costs.
60. 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.
61. The Department is authorized to seek and obtain information from persons related to discharges or potential discharges of pollutants into the waters of the State, discharges of hazardous substances, and disposal of solid waste. Pursuant to the Water Pollution and Control Act ("WPCA"), the Department is empowered to assess a person's compliance with the Act, and may request from any person who has information relevant to discharges of pollutants to provide certain documents and/or information to the Department. N.J.S.A. 58:10A-5(a)-(b), -10.3(a). Additionally, pursuant to the Spill Act, persons who may be subject to liability for discharges must immediately notify the Department of same. N.J.S.A. 58:10-23.11e.

#### DIRECTIVE

62. Within seven (7) calendar days after receipt of this Directive and Notice to Insurers, the Respondents shall reply to the Department pursuant to N.J.A.C. 7:26C-9.11(f), stating their responses to this Directive and Notice to Insurers. The responses shall be sent to Ann H. Wolf, Assistant Director, Enforcement & Information Support Element, Contaminated Site Remediation & Redevelopment, New Jersey Department of Environmental Protection, Mail Code 401-06A, P.O. Box 420, Trenton, New Jersey, 08625-0420.
63. The Department hereby directs the Respondents to clean up and remove the hazardous substances discharged at the Site by taking the following actions. Note the timeframes specified herein do not represent an extension to any past due timeframes and the Department reserves the right to pursue penalties back to the original due dates:
- a. Within thirty (30) days after receipt of this Directive and Notice to Insurers, retain a Licensed Site Remediation Professional ("LSRP") to perform the remediation for the entire Contaminated Site;

- b. Within forty-five (45) days after receipt of this Directive and Notice to Insurers, notify the Department, in accordance with N.J.A.C. 7:26C-2.3(a)2, of the name and license information of the LSRP that has been hired to perform the remediation;
- c. Within sixty (60) days after receipt of this Directive and Notice to Insurers, submit a detailed initial Remediation Cost Review Form, prepared and certified by the LSRP retained to oversee remediation of the entire Contaminated Site and annually thereafter, pursuant to N.J.A.C. 7:26C-5.10 for the full cost of remediation of the Contaminated Site;
- d. Within sixty (60) days after receipt of this Directive and Notice to Insurers, establish and maintain a remediation funding source in the form of a line of credit, letter of credit, or remediation trust fund pursuant to N.J.A.C. 7:26C-5 in the amount determined by a detailed cost review pursuant to N.J.A.C. 7:26C-5.10 for the full cost of remediation of the Contaminated Site;
- e. Within sixty (60) days after receipt of this Directive and Notice to Insurers, and annually thereafter, submit to the Department the one percent (1%) remediation funding source surcharge with the remediation funding source, pursuant to N.J.A.C. 7:26C-5.9;
- f. Conduct the remediation at all areas of concern at the Contaminated Site pursuant to N.J.A.C. 7:26-2.3, including but not limited to the following:
  - 1) Within one hundred fifty (150) days after receipt of this Directive and Notice to Insurers, conduct a vapor intrusion investigation, in accordance with N.J.A.C. 7:26E-1.15, and specifically conduct vapor intrusion investigations and sampling at:
    - i. 89 Chestnut St. (Block 920, Lot 7.05)
    - ii. 91 Chestnut St. (Block 920, Lot 7.06)
    - iii. 93-95 Chestnut St. (Block 920, Lot 7.07)
    - iv. 97 Chestnut St. (Block 920, Lot 7.08)
    - v. 99 Chestnut St. (Block 920, Lot 7.09)
    - vi. 101 Chestnut St. (Block 920, Lot 7.10)
    - vii. 103 Chestnut St. (Block 920, Lot 7.11)
    - viii. 107 Chestnut St. (Block 920, Lot 7.12)
    - ix. 109 Chestnut St. (Block 920, Lot 7.13)
    - x. 111 Chestnut St. (Block 920, Lot 7.14)
    - xi. 116 Chestnut St. (Block 919, Lot 43.29)
    - xii. 118 Chestnut St. (Block 919, Lot 43.28)
    - xiii. 122-124 Chestnut St. (Block 919, Lot 43.26)
    - xiv. 55-57 Oliver St. (Block 919, Lot 43.18)
    - xv. 59 Oliver St. (Block 919, Lot 43.17)
    - xvi. 61 Oliver St. (Block 919, Lot 43.16)

- xvii. 63 Oliver St. (Block 919, Lot 43.15)
- xviii. Any other buildings located within 100 feet of a structure identified as showing an immediate environmental concern or vapor concern conditions due to the contaminants of concern or showing sub-slab soil gas concentrations that exceed soil gas screening levels for those contaminants; or any other buildings within 100 feet of a location exceeding the ground water screening level of the contaminants of concern.

2) If a vapor concern and/or immediate environmental concern condition is identified at any structure, remediate pursuant to N.J.A.C. 7:26E-1.11, as applicable.

- g. Within one hundred twenty (120) days after receipt of this Directive and Notice to Insurers, conduct a preliminary assessment/site investigation and submit to the Department the preliminary assessment/site investigation report pursuant to N.J.A.C. 7:26E-3 to identify the source or sources of soil and ground water contamination;
  - h. Within two (2) years after receipt of this Directive and Notice to Insurers, complete a remedial investigation report pursuant to N.J.A.C. 7:26E-4;
  - i. Within six (6) years after receipt of this Directive and Notice to Insurers, submit an entire site response action outcome pursuant to N.J.A.C. 7:26C-6.2 that includes, but is not limited to, a final remedial action report after obtaining all required remedial action permits.
64. The Respondents shall pay all applicable fees and Department oversight costs.
65. The Respondents shall provide access to all applicable documents concerning remediation to the Department.
66. The Respondents shall enter into an Administrative Consent Order memorializing their agreement to comply with this Directive and Notice to Insurers.
67. The Respondents shall provide the Department with copies of all insurance policies for this Site including, but not limited to, all insurance policies required as financial responsibility pursuant to 40 CFR Part 280 and N.J.A.C. 7:14B-15.
68. Each Respondent, within twenty-one (21) days of receipt of this Directive and Notice to Insurers, shall provide the following information to the Department regarding its historic use of hazardous substances at the Site, including but not limited to, PAHs, PCE, 1,1,1-TCA, TCE, 1,1-DCE, 1,1-DCA, cis-1,2-DCE, vinyl chloride, PCBs and BTEX.:
- a. Identify and describe all hazardous substances, supplied, transported, stored, used, treated, disposed, and/or discharged at the Site and specifically identify the location at the Site;

- b. Identify the nature, extent, source and location of discharges of all hazardous substances into the water and lands of the State at the Site;
  - c. The Respondent's ability to pay for, or perform, the cleanup and removal of hazardous substances at the Site.
69. This Directive and Notice to Insurers is not a formal enforcement order, a final agency action or a final legal determination that a violation has occurred. This Directive and Notice to Insurers is not subject to pre-enforcement review and may not be appealed or contested.

### NOTICE

70. If the Respondents fail to comply with this Directive and Notice to Insurers, the Department may conduct the remediation using public funds.
71. Failure to comply with this Directive and Notice to Insurers will increase the potential liability of the Respondents to the Department to an amount equal to three (3) times the cost of arranging for the cleanup and removal of the discharge pursuant to the Spill Compensation and Control Act, pursuant to N.J.S.A. 58:10-23.11f.a.(1).
72. As authorized by N.J.S.A. 58:10-23.11u., the Department may issue an order to require compliance with the Spill Compensation and Control Act and/or assess penalties of up to \$50,000 per day and/or pursue a court action if the Respondents fail to comply with this Directive and Notice to Insurers. 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

73. The Department reserves the right to direct the Respondents to take or arrange for the taking of any and all additional remediation that the Department determines to be necessary to protect the public health and safety of the environment and to seek reimbursement and treble damages for all costs incurred in taking such additional remediation.
74. 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 statutes as well as all other applicable statutes not set forth herein and the common law of New Jersey, including its right to bring an action in the Superior Court for appropriate relief.

### NOTICE TO INSURERS

75. 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:

4/19/2003

Ann H. Wolf

Ann H. Wolf, Assistant Director  
Enforcement & Information Support Element