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STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

#5 on RP so feel copy.

February 19, 2009

CERTIFIED NO. 7008 2810 0002 2573

~~Irving Oil Terminal Services
(D.W. Small & Sons, Inc., Ellsworth)
Drake Bell
25 Station Ave.
Searsport, ME
04974~~

Re: Portland-Bangor Waste Oil Company, Ellsworth Site

Dear ~~Drake Bell~~:

NOTICE OF POTENTIAL LIABILITY AND RELATED INFORMATION

This Letter serves to notify you that your company has potential legal liability with respect to the Portland-Bangor Waste Oil Company Site, located in Ellsworth, Maine.

SITE BACKGROUND

The Portland-Bangor Waste Oil, Ellsworth Site ("PBWO-Ellsworth Site" or "Site") is located on US Route 1A (Bangor Road), in Ellsworth, Maine. From 1963 to 1980, Mr. George West (deceased) operated a waste oil recycling facility at the location. During that time substantial volumes of wastes were spilled or deposited, contaminating soil and groundwater. The Maine Department of Environmental Protection (MEDEP) conducted investigations at the site beginning in 1992. The investigations found significant soil and bedrock groundwater contamination. In 2002 the MEDEP removed contaminated soil. Off-site bedrock wells have been impacted by site related contaminants. MEDEP is monitoring this groundwater contamination and provides point-of-entry treatment to the impacted users. Additional future work at the site includes extending the existing waterline to the impacted areas, working with affected landowners and the City of Ellsworth to restrict the use of groundwater, and assessing Natural Resource Damages.

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., 28 TYSON DR.

BANGOR
106 HOGAN ROAD
BANGOR, ME 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, ME 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, ME 04769-2094
(207) 764-0477 FAX: (207) 764-1507

MEDEP COSTS

As of December 19, 2008, MEDEP has incurred \$908,112 in expenses at the PBWO-Ellsworth Site. MEDEP will incur additional expenses to assess natural resource damages, pursue settlement of any resultant natural resource damage claims as well as cost recovery claims, prevent the withdrawal of contaminated water for drinking, extend the existing waterline, and monitor the natural attenuation of contaminants in groundwater.

LIABILITY UNDER MAINE LAW

Under the Uncontrolled Hazardous Substance Sites Law, 38 M.R.S.A §§ 1361-1371, MEDEP is authorized to investigate uncontrolled hazardous substance sites (*i.e.*, sites where hazardous substances have come to be located), and to clean up such sites, and/or mitigate threats or hazards posed by such sites.

Under 38 M.R.S.A. § 1362(2), persons who are current or former owners and/or operators of an uncontrolled hazardous substance site, persons who arranged for transport or handling of hazardous substances which arrived at such a site, and persons who accepted hazardous substances for transport if the substances arrived at such a site, are responsible parties for that site.

Under 38 M.R.S.A. § 1365 and other laws, responsible parties may be obligated to undertake and complete response actions deemed necessary by MEDEP at the site to protect the public health and welfare, or the environment. Under 38 MRSA § 1367, each responsible party is also jointly and severally liable for all costs incurred by the MEDEP in responding to any release or threatened release of hazardous substances at the PBWO-Ellsworth Site. Such costs may include, but are not limited to: expenditures for investigation, planning, cleanup, and enforcement activities. In addition, responsible parties are liable for damages for injury to, destruction of, loss of or loss of use of natural resources, including the costs to assess such damages.

NOTICE OF YOUR POTENTIAL LIABILITY

Information obtained by MEDEP indicates that ~~D.W. Small & Sons, Inc.~~, sent, transported, or otherwise arranged for oily waste materials to be taken to the Site. This information was provided to the MEDEP by Mr. George West Jr., the owner and operator of Portland-Bangor Waste Oil Company, and used by TechLaw (a consultant under contract to the MEDEP) to create a list of potentially responsible parties and their respective volume allocations. The TechLaw List can be seen at the MEDEP internet web page. The web page address is: www.maine.gov/dep/rwm/pbwo

Documents used to determine the volume of waste material brought to the Site are on file at the MEDEP's main office in Augusta. Arrangements to review files may be made with the MEDEP File Room. The telephone number for the File Room is 207-287-7843.

Therefore, the MEDEP believes that as a party that brought or sent waste oil and/or other liquids containing hazardous substances to the site ~~D.W. Small & Sons, Inc.~~, is a Potentially

Responsible Party (PRP), as defined by law. MEDEP hereby notifies ~~F. W. Small & Sons, Inc.~~ that it has potential liability related to the Site.

STATE FUNDS TO COVER THE COSTS FOR SOME MAINE BUSINESSES

In 2007 the Maine Legislature passed a law to help pay the costs associated with the cleanup of four Portland-Bangor Waste Oil sites in Maine, including the PBWO-Ellsworth Site. This law was subsequently amended in 2008. The "Waste Motor Oil Disposal Site Remediation Program" (10 Maine Revised Statute Annotated, Chapter 110, Subchapter 1-F, Section 1020-A) authorizes the Finance Authority of Maine (FAME) to issue revenue obligation bonds to pay for "response costs" of certain eligible PRPs. A link to this law is posted on the MEDEP's Portland-Bangor Waste Oil Company web page at: www.maine.gov/dep/rwm/pbwo. Only those PRPs that are found to be "eligible" will qualify for payment of their response costs. You should carefully review the eligibility criteria in the law, but in general the law covers parties which sent waste motor oil to the Site, including Maine government agencies and Maine businesses and their successors, specifically:

1. State licensed new car and truck dealers;
2. State licensed used car and truck dealers;
3. Some commercial auto repair shops;
4. Some fleet auto repair shops;
5. Some shops that performed repairs on some special or other mobile equipment; and
6. Parties that sent less than 110 gallons of waste oil to the site.

The Maine Legislature intended to fund eligible parties at four different Portland-Bangor Waste Oil sites. Currently, the fund's revenue mechanism is insufficient to cover all eligible response costs.

NEXT STEPS

MEDEP will use the following procedure to resolve your potential liability for this site. We encourage your participation in this process.

1. **Return Form:** To ensure that you receive all future pertinent documents and information, MEDEP requests that you fill out and mail or fax (207-287-7826) the enclosed form to DEP by **March 2, 2009**. The form requests a contact name, telephone number, email address, and current mailing address. Persons not responding to this request may not receive necessary information or notices necessary for you to resolve your liability with respect to this site, or to receive funding. Returning the form simply provides MEDEP with your contact information; it is not an admission of liability.
2. **Potentially Responsible Party (PRP) Meeting:** The MEDEP will hold a meeting on **March 4, 2009** at the City Hall Auditorium, Ellsworth at 10AM to which all of the PRPs are invited. The purpose of this meeting is to provide a forum for MEDEP to respond to any questions you may have, and for you to meet the other PRPs and discuss formation of a PRP group to represent the PRPs' interests. Directions to the meeting are available on the MEDEP's website. A representative from FAME will be present as well, to answer

questions regarding possible funding of any response costs incurred by your company under the Maine Waste Motor Oil Disposal Site Remediation Program.

3. **Demand for Payment Letters:** In March 2009, MEDEP will issue Demand for Payment letters to responsible parties, which will allocate costs to viable PRPs, based upon the volume of waste transported to the site.
4. **Final Settlement:** The MEDEP will pursue a settlement with the PRPs. A draft settlement offer will be posted at a future date on the MEDEP's website at: www.maine.gov/dep/rwm/pbwo. This settlement will include a release of liability for the site in exchange for payment of MEDEP's past and future response costs and resolution of the State's claims for natural resource damages.

Further Information

Further information about the PBWO-Ellsworth site is available at the MEDEP's website at: www.maine.gov/dep/rwm/pbwo, including details on the site history, PRP lists, volumetric rankings, funding eligibility, the FAME statute, the Site Designation, MEDEP Decision Document, and, in time, a draft settlement offer. Please direct any questions to Wayne Paradis, Project Manager, PBWO-Ellsworth Site at 207-287-7196 or by email at: wayne.m.paradis@maine.gov

Sincerely,



Mark Hyland, Director
Bureau of Remediation
Maine Department of Environmental Protection

Cc: David Wright, MEDEP
Hank Aho, MEDEP
Wayne Paradis, MEDEP
Katrjn Gabrielson, FAME
Mary Sauer, Office of the Attorney General

**PBWO-ELLSWORTH SITE
PRP CONTACT INFORMATION FORM**

Providing this information is not an admission of liability.

To help ensure that you receive all pertinent information and notices to resolve your POTENTIAL liability related to the PBWO-Ellsworth Site, please review your contact information below and make any necessary corrections and/or additions. If all of the information is correct and complete, simply return this form unchanged.

CURRENT COMPANY NAME: ~~Irrig. Oil Corporation~~

Doing Business As, former names and/or Aliases: ~~D. W. Small & Sons, Inc., Ellsworth~~

Contact Name(s): ~~Drake Bell~~

Contact Telephone Number(s): ~~207-548-2541~~

Current Mailing Address(es):

~~52 Station Avenue
Seasideport, ME 04974~~

Physical Address (if different from current mailing address):

Street Address

Municipality

State

ZIP Code

E-mail address(es):

Please check this box if you planning to attend the PBWO-Ellsworth Meeting scheduled for **March 4, 2009**.

Please indicate the number of persons planning to attend from your organization.

Mail or FAX this completed Form by **March 2, 2009** to:

(IF BY MAIL)

MEDEP

Attn: Wayne Paradis

17 State House Station

Augusta, ME 04333-0017

(IF BY FAX)

MEDEP Attn: Wayne Paradis

Fax Number (207) 287-7826