



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

**NOTICE OF POTENTIAL LIABILITY, OFFER TO NEGOTIATE  
FOR REMOVAL ACTION  
URGENT LEGAL MATTER -- PROMPT REPLY NECESSARY  
FEDERAL EXPRESS**

Mr. Gene McCall  
McCall Environmental PA  
200 Augusta Arbor Way, Suite B  
Greenville, South Carolina 29605

Re: Welch Group Environmental Fairplay (the Site)  
Fairplay, Oconee County, South Carolina

Dear Mr. McCall:

This letter is to notify your client, Welch Group Environmental, LLC (WGE), of the potential liability, as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9607(a), as amended (CERCLA), that WGE may have incurred with respect to the above-referenced Site. This letter also notifies WGE of forthcoming removal activities at the Site which WGE is being asked to perform or finance.

The United States Environmental Protection Agency (EPA) has documented the release or threatened release of hazardous substances, pollutants, or contaminants at the Site. EPA has spent, and is considering spending, additional public funds on actions to investigate and control such releases or threatened releases at the Site. Unless EPA reaches an agreement under which a potentially responsible party (PRP) or parties will properly perform or finance such actions, EPA may perform these actions pursuant to Section 104 of CERCLA.

**SITE BACKGROUND**

The Site is located at 170 Feltman Farm Road in Fairplay, Oconee County, South Carolina 29643, and encompasses approximately six acres of property with one house and a one-story, partially enclosed, brick building. The Site is owned by James O. Feltman, Sr. and Sarah Francis Feltman, as Trustees of the Feltman Family Trust of 2009 (the Trust), and is leased to WGE. WGE used the Site for approximately fourteen months to conduct lead melting operations as part of its munitions recovery business. WGE operations involve smelting and molding of lead and other metals, such as copper, recovered from both indoor and outdoor shooting ranges across the United States. This Site is one of three locations where WGE operated in South Carolina. On December 2, 2010 the South Carolina Department of Health and Environmental

Control (SCDHEC) ordered WGE to cease operations at this Site due to permit violations. WGE ceased operations.

On December 22, 2010, SCDHEC referred the Site to EPA Region 4. EPA began the Removal Site Evaluation (RSE) on January 31, 2011. Due to the melting operations, lead is present at high levels in soils, sediments, uncontained vessels/drums, the lead melting process shed, several on-Site dump locations, and on various equipment and brick supplies. EPA's findings show that these high levels exist at concentrations that are an imminent and substantial threat to public health and welfare.

Following the RSE, EPA initiated an emergency removal action. Under EPA's oversight, on February 8, 2011, WGE and the Trust began securing the Site, containing and securing open vessels/drums and constructing a sediment and soil containment measure such as silt curtains and hay bales where appropriate. The emergency removal action is transitioning into a time-critical removal action, subject to the terms of the Administrative Order on Consent.

#### EXPLANATION OF POTENTIAL LIABILITY

PRPs under CERCLA include current and former owners and operators of the Site, as well as persons who arranged for disposal or treatment of hazardous substances sent to the Site, or persons who accepted hazardous substances for transport to the Site. Under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) and 9607(a), Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6873 (RCRA), and other laws, PRPs may be obligated to implement response actions deemed necessary by EPA to protect health, welfare or the environment. PRPs may also be liable for all costs incurred by the United States Government in responding to any release or threatened release at the Site. Such costs include, but are not limited to, expenditures for investigations, planning, response, oversight, and enforcement activities. In addition, PRPs may be required to pay for damages for injury to natural resources or for their destruction or loss, together with the cost of assessing such damages. Where the Site conditions present an imminent and substantial endangerment to human health, welfare or the environment, EPA may also issue an administrative order pursuant to Section 106(a) of CERCLA to require PRPs to commence cleanup activities. Failure to comply with an administrative order issued under Section 106(a) of CERCLA may result in a fine of up to \$37,500 per day under Section 106(b) of CERCLA, or imposition of treble damages under Section 107(c)(3).

Based on information received during preliminary investigations of the Site, EPA believes that WGE may be a responsible party as an operator of the Site under Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

Before the United States Government undertakes further response actions, EPA requests that WGE voluntarily perform the planned response actions described below pursuant to an EPA Administrative Settlement Agreement and Order on Consent.

## SITE RESPONSE ACTIVITIES

In addition to the emergency removal activities already undertaken at the Site, the following activities are required to be conducted at the Site:

- a. Develop a Site Health and Safety Plan;
- b. Provide for Site security and control access to Site;
- c. Contain and secure open vessels/drums;
- d. Implement drainage controls to prevent run off;
- e. Construct sediment/soil containment measures such as silt curtains or hay bales where appropriate;
- f. Provide for the containment and segregation of noncompatible materials and/or Waste Material;
- g. Immediately identify all usable products destined for future use and/or sale;
- h. Repackage all materials and Waste Materials that are currently in compromised containers;
- i. Remove containers and equipment that may contain Waste Material; and
- j. Provide the following plans:
  1. Waste Characterization Plan;
  2. Decontamination/Demolition Plan; and
  3. Soils Removal and Disposal Plan.

## STATEMENT OF WORK AND DRAFT ADMINISTRATIVE ORDER

A copy of a draft Administrative Settlement Agreement and Order on Consent (AOC) with a Statement of Work (SOW) is enclosed (Enclosure A). The draft AOC is provided to assist you in negotiations with EPA. Work conducted by PRPs must be conducted according to a signed AOC and an EPA-approved work plan.

## DECISION NOT TO USE SPECIAL NOTICE

Under CERCLA Section 122(e), EPA has the discretionary authority to invoke special notice procedures to formally negotiate the terms of an agreement between EPA and the PRPs to conduct or finance response activities. Use of these special notice procedures triggers a moratorium on certain EPA activities at the Site while formal negotiations between EPA and the PRP or PRPs are conducted. In this case, EPA has decided not to invoke the Section 122(e) special notice procedures. EPA's rationale for not invoking Section 122(e) special notice procedures is based on the Agency's removal policy regarding time-critical removals. Nonetheless, EPA is willing to discuss settlement opportunities without invoking a moratorium, but will issue an order or initiate the response action as planned if such discussions do not lead to settlement expeditiously.

## ADMINISTRATIVE RECORD

Pursuant to CERCLA Section 113(k), EPA will establish the administrative record that will contain documents that will form the basis of EPA's decision on the selection of a response action for the Site. This administrative record will be open to the public for inspection and comment.

## RESOURCES AND INFORMATION FOR SMALL BUSINESSES

As you may be aware, the Superfund Small Business Liability Relief and Brownfields Revitalization Act was signed into law on January 11, 2002. This Act contains several exemptions and defenses to CERCLA liability, which we suggest that all parties evaluate. You may obtain a copy of the law via the Internet at <http://www.epa.gov/brownfields/laws/sblrbra.htm> and review guidance regarding these exemptions at <http://www.epa.gov/brownfields/laws/index.htm>.

EPA has created a number of helpful resources for small businesses. EPA has established the National Compliance Assistance Clearinghouse as well as Compliance Assistance Centers which offer various forms of resources to small businesses. You may inquire about these resources at [www.epa.gov](http://www.epa.gov). In addition, the EPA Small Business Ombudsman may be contacted at [www.epa.gov/sbo](http://www.epa.gov/sbo).

## PRP RESPONSE AND CONTACT

WGE is encouraged to contact EPA in writing within twenty-four (24) hours of its receipt of this letter to indicate a willingness to participate in future negotiations at this Site. If EPA does not receive a timely response, EPA will assume that WGE does not wish to negotiate a resolution of its liabilities in connection with the response action, and that WGE has declined any involvement in performing the response activities. Moreover, if WGE does not contact EPA to indicate its willingness to participate in the response actions at the Site and/or does not participate in the negotiations, WGE may be issued an administrative order under Section 106(a) of CERCLA, or be held liable under Section 107 of CERCLA, for the cost of the response activities EPA performs at the Site and for any damages to natural resources.

If WGE is interested in participating in future negotiations at the Site, such negotiations must be concluded by Friday, April 15, 2011. Response to this notice letter may be sent by email and should be sent to:

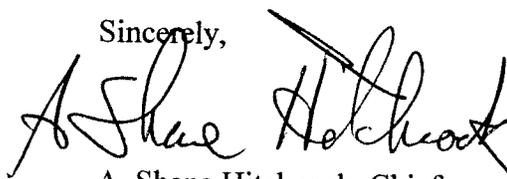
Bianca N. Jaikaran  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
61 Forsyth Street, SW  
Atlanta, Georgia 30303  
[jaikaran.bianca@epa.gov](mailto:jaikaran.bianca@epa.gov)

If you have any technical questions relating to this matter, please direct them to Leo Francendese, On-Scene Coordinator, at (404) 606-2223. All legal questions should be directed to Bianca N. Jaikaran, Assistant Regional Counsel, at (404) 562-9680.

Due to the seriousness of the problem at the Site and the legal ramifications of failure to respond properly, EPA strongly encourages you to give this matter your immediate attention.

The factual and legal discussions contained in this letter are intended solely for notification and information purposes. They are not intended to be and cannot be relied upon as final EPA positions on any matter set forth herein.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Shane Hitchcock". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

A. Shane Hitchcock, Chief  
Emergency Response & Removal Branch  
Superfund Division  
Region 4  
U.S. Environmental Protection Agency

Enclosure A: Administrative Settlement Agreement and Order on Consent

cc: Daphne Neil, SC DHEC