



Request for Information

Patty Simrall

to:

Marianne Lodin

02/06/2012 03:20 PM

Cc:

"Sweatt, Frenchie", Chris Briney, Kim Harmon

Hide Details

From: Patty Simrall <psimrall@HeavenHill.com>

To: Marianne Lodin/R4/USEPA/US@EPA

Cc: "Sweatt, Frenchie" <Frenchie.Sweatt@diageo.com>, Chris Briney <cbriney@HeavenHill.com>, Kim Harmon <kharmon@HeavenHill.com>

History: This message has been replied to.

1 Attachment



EPA Letter.PDF

Ms. Lodin,

To follow up our conversation this afternoon in response to your written request for information (copy attached), please be advised that Heaven Hill Distilleries purchased the property at 1701 W. Breckinridge Street in Louisville, Kentucky, in 1999, from Diageo North America, but did not purchase the site located at 1391 Dixie Highway, also in Louisville, which is the subject of your request for information.

Any requests for information regarding Schenley Distillers or Diageo should be referred to Diageo North America at 3860 Fitzgerald Road, Louisville, KY, 40216.

Regards,

Patty Simrall | *Bernheim Plant*
HEAVEN HILL DISTILLERIES, INC.
Tel/502.585.9142 Fax/502.585.9143





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
SAM NUNN
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA GEORGIA 30303-8960

FEB 01 2012

URGENT LEGAL MATTER
PROMPT REPLY NECESSARY
CERTIFIED MAIL

Diageo North America, Inc.
c/o Don Jones
1701 W. Breckinridge Street
Louisville, Kentucky 40210

Re: Request for Information for the Black Leaf Chemical Superfund Site located at 1391 Dixie Highway, Louisville, Kentucky (the Site)

Dear Mr. Jones:

The purpose of this letter is to request that Schenley Distillers, Inc./Diageo, (the company) responds to the enclosed Information Request. The United States Environmental Protection Agency (EPA) is currently investigating the release or threatened release of hazardous substances, pollutants or contaminants, or hazardous wastes on or about the above-referenced Site. This investigation requires inquiry into the identification, nature, and quantity of materials generated, treated, stored, or disposed of at, or transported to, the Site and the nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from the Site.

Site Background

The Site is generally located at 1391 Dixie Highway in Louisville, Kentucky on a portion of a 29-acre parcel of land in the Park Hill neighborhood. The Site is currently abandoned and is bordered by a densely populated residential area to the north, including a licensed daycare facility within 200 feet of the Site, a large rail yard to the south, and industrial/commercial areas to the east and west. Multiple brick structures occupy the Site, which formerly housed pesticide formulating operations that date back from at least the early 1950s to 1959 when the Site became a whiskey distillery followed by a wood drying and lumber^o distribution facility. On July 25, 2011, the Kentucky Department for Environmental Protection (KDEP) Superfund Branch requested that the EPA evaluate this Site for purposes of conducting a time-critical removal action. The request was based on the results of an October 2010 Preliminary Assessment and Site Investigation by the EPA and KDEP that revealed high concentrations of organochlorine pesticides in surface soil at the Site. KDEP also expressed concern regarding the lack of controls on access to the Site. On August 8, 2011, the EPA On-Scene Coordinator, Art Smith, and KDEP performed a site inspection. At that time, a gate at the 17th Street entrance to the Site was missing and evidence of trespassing was noted in areas of the Site where hazardous substance releases are present. The OSC completed the removal site evaluation under 40 CFR Section 300.410, and concluded that the Site meets the National Contingency

Plan (NCP) criteria for a time-critical removal action.

Site Response Activities

To date, EPA and the State of Kentucky have taken several response actions at the Site under the authority of the Superfund Program. At present, the EPA is planning to conduct the following activities at the Site:

- Provide for Site security and control access to Site.
- Perform sampling and analyses to identify the nature and extent of hazardous substance releases from the Site. This will include sampling to be conducted in off-site residential areas to evaluate if contaminant migration has occurred.
- Mitigate the effects of releases of hazardous substances to the environment. This is expected to include, but not be limited to:
 - excavation and disposal of contaminated soils, debris, and other solid wastes;
 - demolition and/or decontamination of structures where contamination is identified and which requires abatement in order to prevent releases to the environment; and
 - restoration of disturbed areas to existing contours and conditions existing before the removal action.

Information Request

Pursuant to the authority of Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9604, as amended, and Section 3007 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6927, you are hereby requested to respond to the Information Request set forth in Enclosure A. Instructions on how to respond to the questions are included in Enclosure A, as well as definitions that apply to the words appearing in the questions.

Your response to this Information Request is due **thirty (30) calendar days** of receipt of this letter. Compliance with the Information Request is mandatory. Failure to respond to this Information Request within **thirty (30) calendar days** of receipt of this letter can result in enforcement action by the EPA pursuant to Section 104(e) of CERCLA, as amended, and/or Section 3008 of RCRA. Each of these statutes permits the EPA to seek the imposition of penalties of up to thirty-seven thousand five hundred (\$37,500) for each day of continued non-compliance. Please be further advised that provision of false, fictitious, or fraudulent statements or representations to the Information Request may subject you to criminal penalties under 18 U.S.C. § 1001 or Section 3008(d) of RCRA, 42 U.S.C. § 6928(d).

Your response should be mailed to:

Marianne Ortiz Lodin
U.S. Environmental Protection Agency, Region 4
Office of Environmental Accountability, 13th floor
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

This Information Request is not subject to the approval requirement of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501, et seq.

Conclusion

Due to the seriousness of the problem at the Site and the legal ramifications of failure to respond properly, the EPA strongly encourages your client to give this matter their immediate attention. If you have any legal questions regarding this letter, please contact Marianne O. Lodin, Associate Regional Counsel, at 404-562-9547. If you have any general questions or specific questions related to the information requests, please contact Karen Coleman, Enforcement Project Manager at 404-562-8853. For technical questions, please contact Art Smith, On Scene Coordinator, at 502-905-7559.

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 agency positions on any matter set forth herein. Thank you for your prompt attention to this matter.

Sincerely,



Karen Coleman, Enforcement Project Manager
Superfund Enforcement and
Information Management Branch
Superfund Division
Region 4, U.S. Environmental Protection Agency

Enclosure