



North Carolina Department of Environment and Natural Resources
Division of Waste Management

Beverly Eaves Perdue
Governor

Dexter R. Matthews
Director

Dee Freeman
Secretary

May 22, 2012

Mr. Victor Kung
Pearl Pacific Properties, LLC
1016 Montana Drive
Charlotte, NC 28216

Mr. Michael H. Smith
Chem-Tex Laboratories, Inc.
PO Box 5228
Concord, NC 28027

Re: **NOTICE OF REGULATORY REQUIREMENTS FOR CONTAMINANT ASSESSMENT AND CLEANUP**

Chem-Tex, Former, Aka. Classic Coffee Concepts (Former: Pliana, Inc. Facility & Chemical Tex Laboratories, Inc.)

1016 and 1024 Montana Drive
Charlotte, Mecklenburg County
Brownfields Project No.: 14006-10-60
IHSB No. Pending

Dear Mr. Victor Kung & Mr. Michael Smith:

This letter is written to solicit your cooperation for contaminant assessment and cleanup on your Site **Chem-Tex, former**, aka. Classic Coffee Concepts (Former Pliana Facility & Chemical Tex Laboratories, Inc.) located at 1016 and 1024 Montana Drive, in Charlotte, Mecklenburg County, North Carolina (the "Site"). A developer for this site was previously negotiating a Brownfields agreement with the Division of Waste Management (the "Division"). The Brownfields Program provided the Division's Superfund Section, Inactive Hazardous Sites Branch ("Branch") a copy of a "No Further Interest" (NFI) letter sent to Mr. Zac Moretz in March of 2012 due to inactivity in the project. The letter indicates that the Brownfields Program will no longer be pursuing an agreement with the developer for the subject site, therefore, regulation of the site will fall under the authority of the Branch. The Division has determined that there is a release, or substantial threat of a release into the environment of a hazardous substance from the Site. Related documents, forwarded by the Brownfields Program to the Branch on March 7, 2012, indicate that your Site has been contaminated by one or more hazardous substances. Additional assessment and delineation of non-petroleum contamination, including but not limited to, previously detected tetrachloroethene (PCE), trichloroethene (TCE), Arsenic (As) and Lead (Pb) impacts in groundwater and / or soils is required at this Site. Depending on the contaminants involved and whether the contaminants have impacted or may impact groundwater quality, you

will be required to assess and cleanup the contamination under one or more cleanup authorities. Regulatory oversight for the assessment and cleanup under all applicable authorities will be provided by the Branch.

Review of available historical file documents and analytical data results documenting investigations conducted at the site reveals your Site has been contaminated by one or more hazardous substances. The Inactive Hazardous Sites Response Act ("IHSRA"), codified under N.C. Gen. Stat. § 130A-310, et seq., applies to the Site. In addition, initial immediate actions may be required under 15A NCAC 2L, Groundwater Classifications and Standards. Your Site will be listed in our inventory as there are exceedances of the 15A NCAC 2L groundwater quality standards and potential exceedances of the Inactive Hazardous Sites Branch's (IHSB) direct contact soil remediation goals (SRGs) and protection of groundwater (POG) criteria for soils. PCE, As and Pb have been detected above the state's 15A NCAC 2L groundwater quality standards in various Site monitoring wells.

For the minimum technical and administrative procedures for site assessments and site cleanups conducted pursuant to the Inactive Hazardous Sites Response Act of 1987 (N.C.G.S. 130A-310 et seq.), please refer to the Branch's Guidelines for Assessment and Cleanup (August 2011) which can be found at: <http://portal.ncdenr.org/web/wm/sf/ihs/ihsguide>.

I. ACTIONS REQUIRED AT THIS TIME:

Complete the Site Cleanup Questionnaire.

To comply with the requirements of State law, a "Site Cleanup Questionnaire", must be completed and returned to this office. In addition, please complete and submit a "Notification Of An Inactive Hazardous Substance Or Waste Disposal Site" form, both of these documents are found on the website noted at the end of this letter. The information you provide will be reviewed along with other information to prioritize the site, so please make certain that the information you provide is complete and accurate. Please note that your failure to inform the Branch of any nearby potable wells or other high risk conditions may adversely affect the Branch's ability to identify this site as a higher-risk site.

Take Initial Abatement Actions Required Under 15A NCAC 2L.

If you have not already done so, you must take the initial abatement actions required under 15A NCAC 2L. Pursuant to 15A NCAC 2L .0106(b), any person conducting or controlling an activity which results in the discharge of a waste or hazardous substance to the groundwaters of the State, or in proximity thereto, shall take immediate action to terminate and control the discharge, and mitigate any hazards resulting from exposure to the pollutants. Pursuant to 15A NCAC 2L .0106(c), if groundwater standards have been exceeded, you must take immediate action to eliminate the source or sources of contamination. Beyond initial abatement actions, all assessment and remediation will be done through the IHSRA.

II. FUTURE ASSESSMENT AND CLEANUP ACTIVITIES:

All correspondence regarding this site should be sent to the Branch. Future assessment and cleanup activities (activities conducted after the initial abatement steps required in 15A NCAC 2L) may be conducted through the Voluntary Cleanup Program (discussed below) or pursuant to an Order issued under N.C. Gen. Stat. § 130A-310.3. In addition, if you choose not to conduct a cleanup through the Voluntary Cleanup Program, the site may be referred to the United States Environmental Protection Agency ("EPA"). If so referred, EPA will

screen the site for Federal enforcement action under the Federal Superfund Program, established under the Comprehensive Environmental Responsibility, Compensation, and Liability Act ("CERCLA").

III. VOLUNTARY CLEANUP PROGRAM:

Under the IHSRA, persons who move forward to assess and remediate contamination, without being compelled to do so through formal legal action filed against them, are called "volunteers." To participate in the voluntary cleanup program, you will be required to enter into an administrative agreement with the Branch. The voluntary cleanup will proceed through the Registered Environmental Consultant Program or under direct oversight by the Branch Staff, as discussed below:

Agreement to Conduct Assessment and Remediation Through the Registered Environmental Consultant Program.

The Branch has a privatized oversight arm of the voluntary cleanup program known as the Registered Environmental Consultant ("REC") program. Based on the responses provided on the questionnaire (degree of hazard and public interest in the site), the Branch will determine whether a staff person or an REC will perform the oversight and approval of your assessment and cleanup action. Please note that having one or more of the conditions identified on the questionnaire does not necessarily preclude the site for qualifying for an REC-directed cleanup action.

Under the REC program, the volunteer hires an environmental consulting firm, which the State has approved as having met certain qualifications, to implement a cleanup and certify that the work is being performed in compliance with regulations. In other words, the REC's certifications of compliance are in place of direct oversight by the Branch. Details of the REC program can be found at <http://portal.ncdenr.org/web/wm/sf/ihs/recprogram>. If you have any questions specific to the REC Program, including how to participate, please contact the REC Program Manager, Kim Caulk, at (919) 707-8350.

Agreement to Conduct Assessment and Remediation Under State Oversight.

If the Branch determines that the site should be assessed and remediated pursuant to direct State oversight, it will not be eligible for a REC-directed cleanup. Rather, the remedial action will receive direct oversight by Branch staff.

IV. FAILURE TO RESPOND:

If we do not receive a completed questionnaire, the Branch will take further action to prioritize the site without your input. Failure to take the initial abatement steps required in 15A NCAC 2L may result in the assessment of a civil penalty against you. In addition, the Branch may seek an injunction compelling compliance with the initial abatement steps required in 15A NCAC 2L. For future work beyond the initial abatement steps required pursuant to 15A NCAC 2L, a unilateral Order may be issued pursuant to N.C. Gen. Stat. § 130A-310.3 to compel assessment and cleanup.

V. ADDITIONAL INFORMATION REGARDING THE IHSRA AND THE BRANCH:

People are often confused by the name of the Inactive Hazardous Sites Response Act and the Branch. By definition, "Inactive Hazardous Sites" are any areas where hazardous substances have come to be located and

would include active and inactive facilities and a variety of property types. The term "inactive" simply refers to the fact that cleanup was inactive at large numbers of sites at the time of program enactment. Additional information about the Branch may be found at <http://portal.ncdenr.org/web/wm/sf/ihome>.

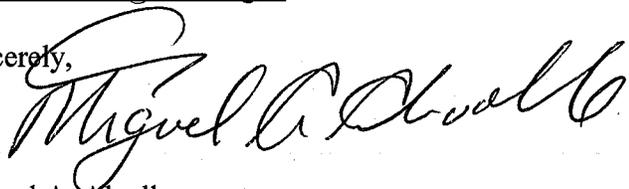
All documents submitted to the Division in relation to this work must be provided in both paper and in an electronic format designated by the Division (see the Inactive Hazardous Sites Branch website located at <http://portal.ncdenr.org/web/wm/sf/ihome> for current specifications on electronic document submittal).

Please submit completed questionnaire and additional reports to:

Miguel A. Alvalle
Inactive Hazardous Sites Branch
610 East Center Avenue, Suite 301
Mooresville, North Carolina 28117

If you have additional questions about the requirements that apply to this site or the suggested additional abatement and investigations outlined in this letter, please contact me at (704) 663-1699 or by email at miguel.alvalle@ncdenr.gov.

Sincerely,



Miguel A. Alvalle,
Hydrogeologist
Department of Environment and Natural Resources
Division of Waste Management
Superfund Section - Inactive Hazardous Sites Branch

Cc: Zac Moretz - Moretz & Skufca, PLLC, 37 Union Street South, Suite B, Concord, NC 28025
Robert C. Foster - AMEC E&I, Inc., 2801 Yorkmont Road, Suite 100, Charlotte, NC 28208
Corporation Service Company- Register Agent: Pliana Inc., 327 Hillsborough St, Raleigh NC 27602