

**NOTICE OF INTENT TO PERFORM
A NATURAL RESOURCE DAMAGE ASSESSMENT**

In re: **NEWTON COUNTY MINE TAILINGS SUPERFUND SITE
NEWTON COUNTY SUPERFUND SITE
NEWTON COUNTY, MISSOURI**

POTENTIALLY RESPONSIBLE PARTIES:

Blue Tee Corporation
Burlington Northern & Santa Fe Railway Company
Eljer Plumbingware, Incorporated
Viacom, Incorporated

Pursuant to state or federal laws, the Missouri Department of Natural Resources and the U.S. Department of the Interior (collectively, the Trustees) have trusteeship authority to perform a natural resources damages assessment for the Newton County Mine Tailings Superfund Site (hereinafter referred to as the Newton County Superfund Site). Each agency's specific authority to act in this capacity is specified in Attachment A. This is to notify your company or entity of, and invite its participation in, the development and performance of the assessment of damages for injuries to natural resources at the Newton County Superfund Site.

The Missouri Department of Natural Resources and the U.S. Department of the Interior (USDO I), have taken the initial step of conducting a Preassessment Screen for the Newton County Superfund Site in accordance with Subpart B – Preassessment Phase, Sections 11.20 – 11.25 of the USDO I Natural Resource Damage Assessment (NRDA) Regulations, 43 CFR Part 11, as amended. The NRDA regulations provide a method for assessing damages for natural resources injuries resulting from releases of hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA)(42 USC §9601 et. seq.). Adherence to the methods set forth in the NRDA regulations are not mandatory and do not preclude the Trustees from using alternative assessment methods, or arriving at a negotiated settlement with the potentially responsible parties.

A copy of the Preassessment Screen is attached for your review (Attachment B). The Preassessment Screen contains, to the extent known, a description of the site; releases of hazardous substances of concern to the Natural Resource Trustees; and the natural resources potentially injured. The Preassessment Screen is a public document. The public will be encouraged to provide input into the assessment process, including reviewing and commenting on the development of the Assessment Plan as well as any restoration proposals developed pursuant to the NRDA regulations.

Based on the Preassessment Screen, the Trustees have made a preliminary determination that the specified criteria in Section 11.23(e) of the NRDA regulations have been met.

1. Releases of hazardous substances have occurred.
2. Natural resources for which the Missouri Department of Natural Resources and the U.S. Department of the Interior may assert trusteeship under CERCLA have been, or likely have been adversely affected by the releases.
3. The quantity and concentration of the released hazardous substances are sufficient to potentially cause injury to those natural resources.
4. Data sufficient to pursue an assessment are readily available, or likely to be obtained at a reasonable cost.
5. Response actions, if any, carried out or planned do not or will not sufficiently remedy the injury to natural resources without further action.

Based upon an evaluation of these five criteria, the Trustees have determined that a NRDA is warranted at this site in accordance with 43 CFR Part 11 Subparts C and E. The NRDA will assess damages for injuries to natural resources caused by releases of cadmium, lead and zinc and other hazardous substances potentially released from the Newton County Superfund Site including copper, selenium, and acid mine drainage. More detail concerning the impact of these hazardous substances may be found in the Preassessment Screen.

A preliminary determination has also been made that your company or entity, as well as the other companies or entities listed in Attachment C, are potentially liable for any natural resources damages at the Newton County Superfund Site. Additional information on the background of the site and basis of the preliminary determination may be found in the Preassessment Screen.

We recommend that you evaluate your potential responsibility and determine whether you will participate in the assessment. Within thirty (30) calendar days of your receipt of this notice, please provide a written response to each of the Trustee contacts in the attached letter indicating whether you intend to participate in the NRDA process at the Newton County Superfund Site.

MISSOURI DEPARTMENT OF NATURAL RESOURCES

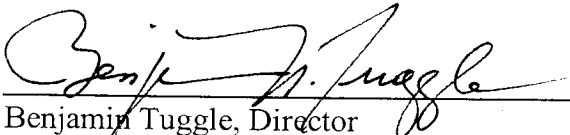


Doyle Childers, Director
Missouri Department of Natural Resources

12-4-07

Date

U.S. DEPARTMENT OF THE INTERIOR



Benjamin Tuggle, Director
Region 2
U.S. Fish & Wildlife Service
U.S. Department of the Interior

1/03/08

Date

