

# NYSDEC SPILL REPORT FORM

DEC REGION: <u>9</u>	SPILL NUMBER: <u>0651503</u>
SPILL NAME: <u>PREMIER OF LAKEWOOD</u>	DEC LEAD: <u>FXGALLEG</u>
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CALLER NAME: <u>MIKE VENDETTE</u>	NOTIFIER'S NAME: _____
CLR'S AGENCY: <u>CH DOH</u>	NOTIFIER'S AGENCY: _____
CALLER'S PHONE: <u>(716) 269-4957</u>	NOTIFIER'S PHONE: _____
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SPILL DATE: <u>11/06/2006</u>	SPILL TIME: <u>12:00 pm</u>
CALL RECEIVED DATE: <u>11/10/2006</u>	RECEIVED TIME: <u>10:35 am</u>

## SPILL LOCATION

PLACE: <u>PREMIER OF LAKEWOOD</u>	COUNTY: <u>Chautauqua</u>
STREET: <u>201 WINCHESTER ROAD</u>	TOWN/CITY: <u>Busti</u>
	COMMUNITY: <u>LAKEWOOD</u>
CONTACT: <u>RON SAXTON</u>	CONTACT PHONE: <u>(716) 763-8521 248</u>
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SPILL CAUSE: <u>Deliberate</u>	SPILL REPORTED BY: <u>Local Agency</u>
SPILL SOURCE: <u>Commercial/Industrial</u>	WATERBODY: _____

### CALLER REMARKS:

injected 500 soybean oil ((newman zone) with 2500 gallons water under a building to remediate a site, found drainage ditch is running towards the lake.

MATERIAL	CLASS	SPILLED	RECOVERED	RESOURCES AFFECTED
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## POTENTIAL SPILLERS

COMPANY	ADDRESS	CONTACT
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Tank Number	Tank Size	Test Method	Leak Rate	Gross Failure
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### DEC REMARKS:

consultant who is doing the work is Steve Schalabba, 585-321-4244

11/10/06: Spill Notification. Steve (cell 585-749-0571) returned FXG's call. He is surprised DEC called and "want to be involved". He stated soybean oil (now leaching into ditch/creek going to the lake) had been injected. He said "it was really nothing". H&A was hired by the seller involved in a property transfer. I confirmed H&A had performed investigation prior to remedial activities. Their reports would not be provided. He would not say what they were treating and avoided the answer by asking "What do you mean by treating?" It was clear he would not volunteer any information about the on-going activities. With several more probing questions requiring details, the following was dragged out (i.e., the oil was part of a remedial effort ongoing at facility for general VOCs and some chlorinated solvents). I requested the MSDS for solvents and asked why he didn't report a spill to the Department that he is actively remediating. He stated they were "confused over whether it needed to be reported and if it did under which umbrella it should be reported". When asked which umbrella's were the concern, he stated only National Response Center. I informed him this should have been reported to NYS DEC. He asked if he should call the NRC. I stated I cannot speak for them, only our program and that when NRC gets reports, we are notified as well. Again I requested the MSDS sheets for the

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constituents being treated (solvents) ASAP. He said he would email/ fax the soybean oil MSDS and meet me out there if I would allow travel time from Rochester office. He wanted to meet there next week not now. I was responding to the spill soon. I reiterated the request for VOC information be sent before I leave. Steve did not directly answer any question with the proper response but chose to avoid and defer away from topics so that I needed to redirect the conversation back to the unanswered questions. It was made clear to him that information needed to be freely shared in an effort to deal with this emergency impact to the lake.

The emails/ faxes were not sent. Glen White called and stated that the MSDS for the soybean oil had been emailed (it was never sent or received). I asked about the info on what they were trying to treat. He stated "it is just daughter breakdown components" and they cannot provide this due to "attorney/client privilege"; I handed the phone to DKK stating their denial of information. DKK spoke w/Glen and Ed Hines. Three chemical constituents were given to DKK. Picked up fax from NRC before leaving for site. Steve reported the following to NRC: Soy based food grade bioamendment was discharged into the ditch as a result of treating a gw issue; only affected area was drainage ditch water; discovered Thurs 11/9/06 at 10am; they reported for the RP, Premier Lakewood Dye Casting (Tenant); admitted the release was not contained "not secured", Sheriff was notified.

Enroute to site. I received three calls from H&A over when I would be arriving because their on-site rep wanted to leave; it was Friday. I asked who the owner of the property was. Steve stated he wanted to say but had to "clear" it first. I stated it would be advisable to cooperate with the State since we could find this out without them. He expected that by the time he got clearance I would have the info on my own. This was true.

A call to Ron Saxton, Plant Manager for Premier Lakewood Inc. confirmed the owner was Lexington Precision, NYC (for at least 2 yrs)- contact Mike Lubin (212-319-4655). Lakewood Premier's former owner was Lexington (one year ago).

Mike Vendetti called to say he was leaving the site. He had H&A place hay bales and silt fence in the creek to impede/ slow the flow of contaminate. I suggested damming the ditch and vac pumping at the source to prevent further flow to the creek or dig an area for collection then vac pumping. He didn't think there was a place to do this except on the fire hall property since the railway owned this ditch area. He was uncomfortable with this idea. I told him our mission was to cease or control the substance and mentioned that VOCs are suspected to be associated with the soybean oil.

At Site. I met with Ron Saxton, Gill Auge as Tenant and Michael Nickelsen (H&A). Mike handed over the MSDS for soybean oil. Mike pointed out the 25 injection wells installed/ developed two weeks ago. Monday started the first of three days of injections at 6-10 psi (~1 gpm) into tight clays. Thursday they were to start again when they spoke w/ RR personnel about the "white stuff" coming out of the bank into the ditch and ceased injections. I asked what soil types were at the site. Mike doesn't know (he mentioned earlier tight clays???), he doesn't have the report with him. I asked for the boring logs to be submitted. I asked when the wells were installed (2 weeks ago), when the pilot test (2 weeks) was done previous to the injections Monday. The pilot grid was set up 5-12' apart offset. We walked down the bank to observe the seeps. The ditch had some dry spots, puddles and then an accumulation of milky white water that flowed in the direction of the lake. Mike pointed out that the active seeps were the more opaque patches of white swirling water. Several seeps were active. Ron, Mike, CGM walked the creek to the lake and found the opaque white substance thickly contaminated at Crescent and Terrace intersection—a short distance to the lake, then it was cloudy and thinner as it progressed to the lake. There was no doubt this would reach the lake by nightfall. Mike stated he walked the ditch/ creek to the lake Thursday and does not recall where the "white stuff" stopped.

During the Creek walk, children were observed playing in the creek. Sheriff Dan Forsberg, a local resident, stopped us to discuss the concerns over the creek and stated his children asked him Wednesday if it was safe to play in the creek. I stated we have not been given enough information about the substances that may be with the known soybean oil, but we are responding to the situation, sampling to determine what we are dealing with. Mike, quite annoyed, stated uncategorically, that "there is nothing unsafe about the water, it is only soybean oil". (No mention made of allergic reaction alert in MSDS.) I was uncomfortable with this since the Department has been denied any information to properly protect the public. Another citizen, Bruce (of the local fire department) also inquired about the appearance of the creek waters and impact to the lake. Again, Mike gave the same statement to the fireman. Mike repeatedly stated "this is a nothing thing". He wants to get home. I collected samples (from the obvious seeping points) for the lab to



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determine what we are dealing with since no cooperation was being provided by H&A. Mike decided to also sample. I provided liters and voas. BOD and VOCs (8260/8270 full TAGM list) will be tested. When I asked Mike/ Ron how far the white stuff traveled (source-ditch to Terrace St) they said "over a mile". Ron provided a copy of building plan and Lakewood area (with creek walk marked).

Call to Mike Lubin verifying ownership and hiring of H&A doing the work. Asked for reports to minimize any potential problems w/public-media, etc. He said he'd already talked to H&A and they were discussing it. They "just found out about this on Thursday".

I tried reaching DKK, FXG, anyone at the office. I spoke w/Rob who spoke w/DanD, Abbey regarding handling of the impending media concerns. Visually the creek was a concern even if the milky substance was safe. Rob reached DKK who advised getting the RP (H&A) to cease and contain or we must perform cleanup. I spoke w/Mike (who repeated to Steve who had a separate line w/Ed Hines) the instructions laid out by the Department. Mike put me on directly with Steve.

Steve objected to the "extreme" measures being taken by the Department for something so innocuous... "it is just soybean oil". I pointed out that to argue their perspective of interpretation is unnecessary; what they choose not to do, spills must do. Steve/Ed demanded to speak w/DKK and refused to respond to the requirement to cleanup the spill because "it was dark, after 5pm on Friday, no one will want to work over the weekend, let's wait til Monday and see if it is even necessary, they don't know any contractors who can come quickly to clean up, it is going to rain and no one wants to work in the rain, the rain will wash it all away anyway, why bother with the expense at this point, it has stopped leaking out of the bank/ hillside and it is getting too late, Mike wants to go home, etc." I restated that they must cease/contain the leaks and they are still on-going despite Steve's comment that it is stopped (my photos show on-going leaks).

Continued statements were evident that they had no intention of cleaning it up and fully intended to use the rain event to wash away their release. I stated that they had illegally discharged, regardless of whether it was a clean or dirty discharge, that their lack of cooperation was going to play against them and they should as the responsible party cooperate with the Department. I stated they must decide soon or I would be up til 4am getting the work done if they didn't. They insisted 3-4 times to speak w/DKK.

I spoke w/DKK who said he would not call them, but he did speak w/Mike. The results of that conversation were that DKK required Mike to "guarantee" the release had stopped to avoid doing any work tonite. Mike stated the "seeps have stopped". I told DKK that the pictures prove this to be a contradiction. He said Mike made that statement and if it were not true we would have the ECOs to proceed. DEC would come by in the morning with H&A to observe if the leaking had stopped. If it did not, H&A are to come prepared immediately w/equipment to remedy the situation. They were not allowed to delay again to coordinate contractors. If they come unprepared to immediately start work, I was to hire Optech and initiate cleanup. ECOs/ BECs were to arrive w/ us Saturday to ticket H&A's subversive actions and for obstructing the Department in carrying out State cleanup mandates. I reemphasized to Mike the need for H&A to immediately cooperate with the Department.

After DKKs call, Mike suggested a method of dealing with the current white stuff is to "run a garden hose at the ditch and wash the cloudy water downstream to make it go away". I stated that they do not want me to witness an activity that shouldn't ever happen. I arranged for Francine, Glen White and Steve to meet at 10am Sat. DKK could not reach any ECOs or BECs. They would call with a time to meet with FXG/CGM.

11/11/06: Arrive to site ~8:15am. Ron only onsite. Showed FXG injection areas and ditch impacts up to lake. Confirmed ECO Canary will be on site. After another site visit (Kingsview-spill), we returned ~10am to Canary speaking w/ Steve & Glen on fire hall property. Canary, FXG, CGM, Steve, Glen, Ron met in building lobby to discuss situation. DEC stated our position: seeps still releasing and considered an illegal discharge, this must be ceased/ contained and must not under any circumstance be allowed to reach the lake. Per DKK tel/con, H&A was to be prepared to immediately initiate remedial efforts. Glen/ Steve stated they were not prepared, did not have equipment/ contractors lined up for this scenario. They claimed they were not environmental contractors and did not know anyone who had

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equipment to attempt addressing this. They wanted us to hire the contractor, dictate the work to be done and they would work out financials w/ the contractor.

FXG again asked Steve what we were dealing with to properly respond in our cleanup efforts. Time was critical since rain storms threatened to worsen the situation. Steve still did not bring any documentation and stated just soybean oil, she asked what VOCs were being treated by the oil. Glen interjected with "let's get on with the cleanup of the oil" before allowing Steve to answer. Again H&A hedged every DEC attempt to obtain information allowing DEC to properly cleanup spill. FXG asked for the mw and injection information ASAP and all other data they had on this site. Steve asked FXG to put in writing what specific information she wants from H&A. FXG stated she wanted ALL information and it would be in their best interests to cooperative with the State because they are in bad situation. Glen interrupted with, "let's just get to the remediation of it". FXG needed this information to properly remediate. H&A displayed an intolerable arrogance in attitude, condescending tone and uncooperativeness. Glen denied seeps were ongoing, or were white (indicating soybean oil presence). The solid white water in the creek that reached the lake was confirmation that H&A would continue to deny the release occurred, existed, and was ongoing, refusal to cooperate in the cleanup or in providing facts to assist in protection of the public, had tried at every conversation to state contradictions to facts observed and evidence collected. DEC could not trust anything they said or provided because the more we learned/collected, the more obstinate H&A was. H&A denied the Dept information on the injection/ mws and refused to vac off wells to keep the release from reaching the ditch/creek.

FXG had a call with H&A, Ed Hines (on the phone), Steve Schalabba, & Glen White. I told them they must provide all the information they have on this site to assist in the cleanup of the discharge. Ed Hines said he would email anything they had to CGM email address and that they would cooperate. FG hired Optech to contain the discharge. FG notified DKK of the events occurring on site.

David Norberg, Captain of Lakewood Fire Dept and Tom Danielson/ JJ Maggio of Lakewood Police Department walked in at the peak of stressed communications. They had just received a call from Kevin of Optech who reported seeing a white cloudy plume in the lake and he noticed it was coming from the discharge off Crescent St. It was tracked back to this location. FD and PD wanted to know what was being done and how they could help. We explained that H&A had caused an illegal discharge/ release of material (soybean oil) along with unknown VOCs that they refused to cooperate or clean it up. DEC was being forced to act in the most conservative manner to protect people/ environment since we were not allowed answers to our questions. We were there in response in an effort to cleanup, protect the environment and health of the public. Steve said they wanted to cooperate, however, no documents or information could be provided and they would not hire contractors to cleanup. Glen suggested hiring Kingsview for equipment to dig a sump to pump from, but we reminded him that a UFPO was required and access agreements obtained prior to digging. He had neither. He also insisted on doing this on the FD property (off Chautauqua St). The position of DEC was to contain at the source and not allow movement of product all the way to that point. Calls from H&A indicated Ed would email reports.

Waiting at the PD. While we waited for vac trucks, baker tanks and staff, DEC/ BECI-Otto Tertinek/ PD waited at Police Department. Mayor arrived to ask about the white stuff in the ditch that he noticed and called in to Vendetti who in return reported to DEC. Access agreement obtained by Mayor to Town property to assist in response. Mark Stowe of Chautauqua County Health Department came to write up warning advisory for the unknown concentrations of hazardous constituents (placed on all radio stations and newspapers). Unable to access UIS emails from Ed. Will forward to Otto Monday.

Optech provided staff and vac truck and started pumping off all seeps in the ditch. When vac full, he will empty in baker tanks. Gary to check with treatment plants to determine if discharge will be allowed. Waiting on lab results. When Kingsview showed up with equipment, Glen asked where to have them start digging. Since Glen stated the UFPO and access agreements were not obtained it is not recommended that they do any digging yet. We request they pump off the injection and mws to draw back what is being forced out the seeps. Glen refused. They wanted the oil injected to stay there. We updated Optech staff, took several liter samples of impacted ditch water to take to STL at end of day. H&A felt our method/ reactions were unnecessary and extreme.



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Back on site, we gave Otto the grand tour and laid out what we knew and suspected. Conversations with Ron/ Tenant indicated that many wells were placed inside and there was a known plume under building that was "hotter" than the area of injection wells. Ron's understanding of H&A's purpose in injecting the soybean oil was to create a wall preventing the TCA/ TCE and breakdown products from exiting under the building. Ron was very cooperative in allowing access to the building and providing information/ maps he had. Ron said vats were inside the building at one time/ no longer used.

11/12/06 Frequent updates from Gary at shift transfers. He had to build a dam to try and contain the flow of contaminate from going downstream. Most of the time this worked, creek was cloudy until reaching the firehall. They had collected 15,000 gal. Weather workable. LG/Optech thought about making permanent dam in RR ditch w/ betonite. We do not have access to disturb property and decided just to pump off accumulation in ditch. We wanted to have H&A dig a ditch and or draw back on product from wells. Gary said H&A stuck around. Per Otto, DEC and Optech had to limit conversations w/H&A, they were digging for information and still uncooperative. Gary figures in no-rain conditions, the seep flow was increasing about 3,000/5 hrs then 3,000/4 hrs. Another tank coming in from OH.

11/13/06 Mark Jackson stated Lakewood could not take disposal (system may go out of compliance), but to check other sources. Bill Mucci, T/O Tonawanda treatment might be option for disposal. Optech continuing with pumping off seeps. Seeps still ongoing, very obvious. Water in ditch clearing up along creek and to lake.

11/14/06 DKK email. Ed Hines told to come up with game plan to control future off-site releases. Ed agreed to discuss inhouse. H&A wants to occasionally dewater injection zone and wants DEC to monitor RR ditch if necessary.

Contact w/ Lakewood assessor found that Falconer Metal Specialties was the original business at this address since 1912. In 1971 new building. An addition to building in Feb 1996 using Chautauque County IDA grant (for 10yr term in lieu of tax payments IDA becomes listed owner). Falconer sold to Precision of NYC in 1999. In 9th yr of grant Precision leased to Premier w/lease-buy option (to occur shorsly). Grant expiration listing Precision ownership concurrently happened in Jan 06.

FXG finds info on two RCRA visits to Falconer, last one in 1997. TCA, DCE. RCRA concerns.

Steve S/H&A sends injection Mwell location map.

FG SPOKE TO MIKE LUBIN WITH LEXINGTON PRECISION ON THE PHONE. HE AGREED THAT HE WANTS TO CLEAN UP. HE WILL HAVE H&A CONTACT ME TO DISCUSS THE REMEDIATION. HE SAID ALL THAT WAS DISCHARGED WAS FOOD GRADE OIL. I ASKED IF HE HAS SEEN THE H&A ANALYTICAL REPORT AND HE SAID HE HAD. I POINTED OUT WE CAN'T ALLOW THE DISCHARGE TO THE DITCH DUE TO THE PRESENCE OF TRICHLOROETHANE. HE SAID THEY WILL COMPLETE THE SITE WORK AND HAVE H&A CONTACT US.

11/15/06 FG SPOKE TO ED HINES WITH H&A ON THE PHONE. HE REQUESTED THAT WE UPDATE THE HEALTH ADVISORY. I TOLD HIM THAT WOULD BE CHAUTAUQUA COUNTY'S DECISION BUT I SEE NO CHANGE IN CIRCUMSTANCES FROM WHEN THE ADVISORY WAS INITIALLY REPORTED. HE SAID THEY WILL GET STARTED ON THE HI VAC SYSTEM FOR THE SITE AND WILL SUBMIT DOCUMENTATION AFTERWARD. THEY REQUESTED THE USE OF OP-TECH'S VAC TRUCK. THEY WILL SUBMIT THE ADDITIONAL SAMPLE RESULTS THEY COLLECTED FROM THE SITE.

THEY PLAN ON HI-VACING FROM THE INJECTION WELLS AND NOT THE MONITORING WELLS. THEY ORIGINALLY INJECTED INTO THE TOP OF BEDROCK - SHALE/WEATHERED. THEY KNOW WHICH INJECTION POINTS ACCEPTED THE MATERIAL EASIEST AND THEY WILL PUMP OFF OF THOSE. THEY WOULD NOT STATE WHICH ONES THOSE WERE.

ED HINES SAID WHEN HE PROVIDED THE ORIGINAL ELECTRONIC FILES, HE SUBMITTED WHAT HE COULD FIND. I THEN ASKED FOR ALL ANALYTICAL, ALL BORING LOGS AND ALL MONITORING WELL DETAILS.

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FG SPOKE WITH ED HINES, GLENN WHITE, STEVE SCHALABBA ON THE SPEAKERPHONE. THEY WANTED TO SPEAK TO OP TECH TO GET SPECS ON THEIR VAC TRUCK. I AGREED. THEY SAID THE GRANULAR ACTIVATED CARBON GAC WON'T TREAT THE SOYBEAN OIL. THEY ARE INVESTIGATING WHAT WILL. THEY MAY NEED A BETTER TREATMENT SYSTEM IF THEY NEED TO TREAT THE SOYBEAN OIL. THEY SAID OP TECH IS WASTING THEIR TIME BY FILTERING WITH GAC BECAUSE IT WON'T TREAT THE SOYBEAN OIL. I SAID THAT AS FAR AS I KNEW, GAC WILL TREAT THE VOC'S. THEY AGREED THAT IT WOULD. NYSDEC IS WAITING TO SEE WHAT THE TREATMENT PLANT CAN ACCEPT. THEY THINK THE TREATMENT PLANT CAN ACCEPT THE VOC'S UNTREATED.

Mark Jackson emails stream classification index/aerial photo of Lakewood. Optech submits baker tank solicitations.

Gary states 38,000 gal collected. Legality of treating tankwater on site. Considering carbon treatment. Test samples to be submitted.

11/16/06 FG SPOKE WITH ED HINES, STEVE SCHALABBA WITH H&A ON THE PHONE. THEY WANT TO TAKE CARE OF THE WHITE SOYBEAN OIL DISCHARGE AND HANDLE THE VOC ISSUE LATER. I TOLD THEM THAT BASED ON THEIR OWN DATA, THE DISCHARGE TO THE DITCH CONTAINS VOC'S AND THE TWO ISSUES CAN'T BE SEPARATED. I TOLD THEM THEY NEED TO WORK TOWARDS A PERMANENT GROUNDWATER DIVERSION FROM THE BANK BY UTILIZING THE SYSTEM THEY HAVE IN PLACE -- THE MONITORING WELLS AND/OR THE INJECTION POINTS. OBVIOUSLY, THE MW'S WERE PLACED IN A LINE ALONG THE BANK. IT SEEMS THAT THEY WERE PLACED TO MONITOR THE INJECTION POINTS. I DON'T HAVE ACCESS TO ALL OF THE TECHNICAL INFORMATION H&A HAS WHICH THEY HAVE NOT PROVIDED TO THIS OFFICE. THEY AGREED THAT THE DEPT DOES NOT HAVE ALL THE INFORMATION. THEY SAID THEY WILL HI VAC OFF THE INJECTION POINT THAT RECEIVED THE MOST SOYBEAN OIL BUT COULD ONLY GET PARTS FOR ONE INJECTION WELL. THEY ARE TRYING TO GET ALL THE NECESSARY EQUIPMENT TODAY.

MAV WITH CHAUTAUQUA COUNTY CALLED AND REQUESTED THAT THE DEPT SAMPLE THE DITCH FOR THE CONTAMINANTS OF CONCERN. I AGREED. MAV WILL COME ON SITE AND INDICATE SAMPLE LOCATIONS HE WOULD LIKE TO SEE.

GARY HOUSE WITH OP TECH CALLED AND SAID THAT H&A IS DELAYING. OP TECH IS READY AND DOESN'T KNOW WHY H&A IS DELAYING.

STEVE SCHALABBA WITH H&A SUBSEQUENTLY CALLED AND SAID THE VAC TRUCK IS OPERATING.

Discussions having Optech sub Paradigm for sampling. Ongoing discussions w/H&A getting them to take over. Due to scheduling issues, H&A had two options: have system in place operating on site (baker tank, vac truck and 24hr staff) by 7am Sunday, or DEC will have to make arrangements to do so. Their answer must be supplied by 3:30pm Sat. to allow time for DEC to make arrangements.

Mark Smith c/o Jamestown treatment plant (499-7334) will take all contents.

FXG obtained EPA ID#. Mike Lubin states submersibles to be placed on injection wells to decrease pressure on seeps. Gary has two vacs working once off injections three manifolded at once, expected to toggle up and down the row, one vac off source in ditch. Three H&A staff (Nordstrum, Lowes, Mike) handpumped the five pilot test wells, accumulated soy/VOCs drummed. Dennis estimates nine minutes on each well, 200 gal collected. Mike/H&A peppering staff w/ questions. H&A complained to Gary about photos being taken being an invasion of privacy. Mike wants to draw off wells until seeps stop. DEC disagrees. Seeps still ongoing, supported by photos showing obvious white discharge from ditch bank. Dennis states he was told by H&A to tell CGM that the seeps have stopped so CGM will send everyone home.

11/17/06 A LETTER WAS SENT TO BOTH H&A AND LEXINGTON PRECISION REQUESTING THAT THEY COMPLETE THE WORK DEC HAS REQUESTED OR LEXINGTON ALLOW THE DEPT ACCESS TO COMPLETE



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THE WORK THEMSELVES. H&A HAD EARLIER INDICATED THEY WERE DISCONTINUING THE PUMPING FROM THE INJECTION POINTS AND WOULD ONLY MONITOR THE DITCH.

Gary states raining hard; hard to keep up with seeps. Water blowing through the dams. Encouraged Gary to keep up w/ seeps as can be expected under these conditions. Optech wants off the site. The second vac truck had to go by 3:30pm Sat and OH staff to leave 7am Sunday. DEC had to arrange for project transfer over to NWI to start 24hr pumping at 3:30pm Sat. This bumped requirement for H&A to choose an option by 2pm.

H&A wants to perform one-two hour test drawing down of MW7 while manifolded w/ injection wells and pumping off source ditch. CGM telcon at 2pm with Steve/Ed wherein they stated inability to obtain client authorization to perform DEC required work. Steve stated the "white is gone, they have drawn down enough on the mws, seeps are no longer in the ditch, it has slowed down to nothing, drips". (Yet another bold contradiction; photos show white active seeps in ditch and white water vacing from the wells.) H&A want only to recover material. Their "intent is to mitigate the seep in the ditch and be prepared to react when necessary". They don't think it is necessary at this time. CGM reiterated DEC's directive to choose one of two options (remediate as required or DEC to continue containment of release). H&A thinks this is unfair and wants more time to discuss w/client and need to understand why DEC has this stance. CGM stated the requested time (less than three hours) is not available to give since now DEC must use this time to line up contractors to accommodate the weekend coverage that H&A refuses to provide. DEC has not been unreasonable/unfair, has continually required since 11/10 the same remedial response, H&A has had plenty of time to discuss with the client if they actually wanted to respond to ceasing or containing the illegal discharge. Ed acted shocked by stating that their field people are saying no seeps and their field photos show no seeps. DEC is not surprised by Ed's statements since the entire week H&A has not cooperated, has issued statements in conflict with facts obtained by lab samples, their emailed reports, Optech staffing and DEC photos and observations. Amazingly H&A continues steadfastly uncooperative at every turn! CGM states H&A although choosing to have DEC cover weekend, should continue to reach client and get authorization to perform work by early next week. Ed says they will meet w/Mike Lubin Monday. He feels there is minor seeping now.

DEC lab results on samples collected FRI 11/10 show groundwater standards for hazardous VOCs (1,1,1 TCE, 1,1 DC-ethene and 1,1, DC-ethane) exceeded by a magnitude ranging from 6-15 times their allowable limit. DEC sends out RP letters to Lexington Precision and H&A. Calls and fax journal confirmed faxes arrived.

Call to Mike Lubin's office requesting access agreement signature. Lubin's secretary called back to say all conversations are to go through H&A. Requested call back from Lubin since H&A is not authorized to sign access agreement.

Gary left Smith two messages to coordinate drop off limits of baker tank contents. Plan is to start vac trucking to treatment plant on Tuesday.

11/18/06 Met w/ NWI-Doug reviewed site, toured Lakewood-creek, firedept baker tanks, etc. Staff (Bill Schnell) changeover went well. Seeps slow, can keep up with them for now.

11/20/06 FG, MAV ON SITE TO COLLECT SEDIMENT SAMPLES FROM THE DITCH. NATURE'S WAY, COREY HAAF, ON SITE WITH VAC TRUCK. JAY SCHERER WITH H&A ON SITE. THREE SEEPS OF WHITE MATERIAL CONTINUING TO DISCHARGE. COREY HAAF COLLECTED 6 SEDIMENT SAMPLES AT LOCATIONS POINTED OUT BY MAV. WE AGREED THAT THE SAMPLES WILL BE ANALYZED FOR 8260 FULL LIST.

CGM Tel/con w/Russ. NWI is all set w/staff thru Thanksgiving.

11/21/06 TELEPHONE MEETING WITH DKK, FG, JIM STRICKLAND, MIKE TONE- NIXON PEABODY (ATTY), STEVE SCHALABBA, ED HINES BOTH WITH H&A. MIKE LUBIN WITH LEXINGTON WAS NOT IN TODAY SO WASN'T AVAILABLE FOR THE CALL.

DKK 3 SEEPS STILL COMING OUT OF BANK. WE WANT LEXINGTON, H&A TO TAKE OVER THE CLEANUP.

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SEEPS ARE HAZARDOUS AS DETERMINED BY RCRA. THE SOYBEAN OIL IS IN CONTACT WITH THE SOLVENTS AND IS AN F WASTE. THE WORK CAN BE DISCONTINUED WHEN THE VOC'S ARE NON DETECT AT THE SEEPS.

MIKE TONE SAID LEXINGTON WANTS TO STEP UP AND DO WHAT IS REQUIRED. LEXINGTON WANTS H&A TO DO THE SITE WORK. HE DOESN'T WANT TO DISCUSS THE HAZARDOUS CLASSIFICATION DETERMINATION RIGHT NOW. HE IS NOT PREPARED FOR THAT DISCUSSION. HE WANTS OUR SAMPLE RESULTS.

DKK SAID WE NEED TO TALK TO LEGAL BEFORE WE CAN RELEASE THEM.

MIKE TONE HE WANTS THEM BECAUSE THEY WILL BE HELPFUL IN THEIR TECHNICAL DECISIONS.

DKK GAVE THE CONTACTS AT JAMESTOWN POTW, MARK SMITH & DEC MARK JACKSON. DEC NOTIFIED H&A AS A POTENTIALLY RESPONSIBLE PARTY BECAUSE THEY WERE ON SITE CARRYING OUT THE ACTIVITY AND RELEASING THE MATERIAL. LEXINGTON WAS NOTICED BECAUSE THEY ARE THE OWNER OF THE FACILITY.

MIKE TONE WANTS US TO ADVISE HIM ON ANY ENFORCEMENT OR LEGAL ISSUES

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HE WANTS CONTACT FROM OUR ATTORNEYS, BECI'S TO THEIR ATTORNEY, MIKE TONE.

DKK-CONTAINMENT EFFORT TO BE TAKEN OVER -- DEADLINE TODAY. WHAT ARE THEY PLANNING.

MIKE TONE H&A IS QUALIFIED TO DO THE WORK. THEY HAVE A RESPONSE COMPANY ENGAGED (EP&S). THEY WON'T DO MW EXTRACTION. EVEN WITH PUMPING, THERE MAY BE DISCHARGE. THEY WANT TO LEAVE THE SOYBEAN OIL TO CONTINUE TREATMENT. THEY WANT TO PUT SUMPS (HAND DUG) AND LEAVE THEM. A VAC TRUCK WILL BE AVAILABLE IN BUFFALO, 2 HOURS AWAY IF THE DISCHARGE GETS OUT OF HAND. THEY WILL HAVE PLANT PEOPLE WATCH THE SITE.

DKK YOU ARE CONTINUING TO TREAT WITHOUT DEPARTMENT APPROVAL. A DESIGN WOULD HAVE TO CONSIDER RAIN EVENTS.

MIKE TONE IS THE DEPT INCLINED TO REQUIRE PUMPING THE MW'S?

DKK WE DON'T HAVE ALL THE INFORMATION THAT HAS BEEN GENERATED BY LEXINGTON & H&A.

MIKE TONE WE NEED H&A TO DESIGN SOMETHING APPROPRIATE AND HE BELIEVES THEY CAN ACCOMPLISH THIS. THEY WILL GET US A DOCUMENT. BY THE END OF THE DAY, TOMORROW 11/22/06 THEY WILL BE OPERATIONAL.

11/22/06 DKK CALLED FG AND SAID H&A WILL HAVE EP&S VACCING ON SITE. DKK DOESN'T WANT DEC PRESENCE 24/7.

FG ON SITE WITH DAVE NOSTRAND H&A, TOBY - EP&S, COREY & DOUG NATURE'S WAY. THEY WILL SWITCH OUT. EP&S HAS ONE MAN AND A 100 GALLON VAC TRUCK. EP&S HAS A 3000 GALLON VAC TRUCK AVAILABLE IF IT STARTS RAINING. A BAKER TANK IS STAGED ON LEXINGTON PROPERTY ALSO. EP&S WILL



## NYSDEC SPILL REPORT FORM

DEC REGION:	9	SPILL NUMBER:	0651503
SPILL NAME:	PREMIER OF LAKEWOOD	DEC LEAD:	FXGALLEG

MAN 24/7 THROUGH THE WEEKEND. THEY WILL DECIDE ON AN ALTERNATE TREATMENT ON MONDAY.

OP TECH HAS 3 EMPTY BAKER TANKS AND ONE 1/2 FULL. THEY HAVE BEEN TAKING LOADS ALL DAY. THEY ARE USING THEIR 3000 GALLON VAC TRUCK AND TWO GUYS AND ONE PICK UP TRUCK.

SEEPS ARE STILL PRESENT.

Doug-NWI, all okay on site. Ended up using torch to keep water in pipes from freezing.

11/23/06 DAVE NOSTRAND WITH H&A ON SITE. EP&S ON SITE. THE HOSE FROZE OVER NIGHT. THEY USED A BUCKET AND THAWED THE HOSE. THE DISCHARGE IS STILL WHITE FROM THE SEEPS. THEY ARE MAINTAINING THE VACCING.

11/24/06 FG SITE INSPECTION. EP&S ON SITE AND DAVE NOSTRAND. WHITE MATERIAL IN ONLY 1 SEEP REMAINING -- THE MIDDLE ONE. THE WEST SEEP IS CLEAN AND THERE APPEARS TO BE NO SEEPAGE FROM THE EAST SEEP. H&A INDICATED THEY HAVE NOT FILLED THE VAC TRUCK YET AND HAVE NOT HAD TO PUMP INTO THE BAKER TANK.

OP TECH HAD 2 VAC TRUCKS AT THE BAKER TANKS. THEY WERE CLEANING OUT THE TANK AND TAKING THE REMAINING WATER TO THE JAMESTOWN POTW. THERE WERE 3 GUYS AND ONE PICK UP TRUCK. GARY HOUSE INDICATED THEY COMPLETED ALL THE CLEANOUT BUT COULDN'T DUMP THE FINAL LOAD FROM THE VAC TRUCK BECAUSE A HOSE BROKE. THEY WILL COMPLETE IT ON MONDAY.

11/28/06 FG SITE INSPECTION. 4 BAKER TANKS STILL ON SITE AT FIRE DEPT. DRUM OF CARBON ON SITE ALSO. GARY HOUSE WITH OP TECH SAID THAT THE TANKS ARE ALL CLEANED AND OFF RENTAL. BAKER SHOULD BE PICKING THESE UP SOON.

8:42 AM ON SITE VAC TRUCK WAS ON SITE ALONG WITH A PICK UP TRUCK BUT NO EP&S STAFF OR H&A STAFF WERE ON SITE. THE SEEPS HAD CLEAR LIQUID AND WERE NOT OVERFLOWING TO THE DITCH BUT WERE NOT BEING ACTIVELY VACCED AT THE TIME OF THE SITE VISIT.

12/1/06 FG SITE INSPECTION. EP&S ON SITE, HEAVY RAIN EVENT. WATER FLOWING IN DITCH ADJACENT TO RR TRACKS. EP&S ONLY VACCING FROM TWO SUMPS INSTALLED PREVIOUSLY AND NOT COLLECTING THE DITCH WATER. EP&S SAID THIS WAS THE DIRECTION FROM H&A.

FG CONTACTED H&A WHO SAID THEY WERE PLANNING ON ELIMINATING THE VACCING ENTIRELY TODAY BECAUSE NO SOYBEAN OIL WAS SEEPING. I TOLD H&A THE PERFORMANCE STANDARD WAS CLEAR - THEY HAD TO SHOW THAT NO VOC'S WERE SEEPING FROM THE SITE. IF NOT, THEY HAD TO CONTINUE VACCING OUT ANY WATER IN THE DITCH. IF THEY WERE UNWILLING TO COMPLETE THIS, THE DEPT WOULD.

AFTER MUCH DISCUSSION, H&A AGREED TO HAVE EP&S VAC OFF THE DITCH, FIRST PLACING A DAM TO CONTROL THE WATER. EP&S BEGAN THIS WORK WHILE FG WAS ON SITE. FG COLLECTED A WATER SAMPLE FROM THE SEEP ON SITE.

12/2/06 JFO SITE VISIT. EP&S VACCING OFF THE SUMPS ONLY. WATER WAS OBSERVED TO BE IN THE DITCH.

12/3/06 JFO SITE VISIT. EP&S VACCING OFF THE SUMPS ONLY. FG SPOKE TO RON HUNTINGTON WITH EP&S WHO SAID HE WAS INSTRUCTED BY H&A TO DO THIS. I TOLD RON HUNTINGTON TO DAM UP THE DITCH AND COLLECT THE WATER IN THE DITCH.

JFO CONFIRMED THAT EP&S BEGAN VACCING OFF THE DITCH AND CONTROLLING THE DISCHARGE FROM THE SITE.

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12/7/06 FG SITE INSPECTION. EP&S ON SITE VACUUMING DITCH BECAUSE THE WATER WAS FLOWING. 4 BAKER TANKS ARE STAGED ON SITE. ONE IS NOT FULL.

12/8/06 DKK MTG. W/ MLD, JIM STRICKLAND, OTTO TERTINEK. PROJECT TRANSFERRED TO R9-SOUTH REMEDIAL GROUP FOR MANAGEMENT AND EVALUATION AS SSF "P" SITE.

12/8/06 CONFERENCE CALL W/ DKK, MLD, JIM STRICKLAND, H&A AND MIKE TONE. CONFIRMED TRANSFER OF DEC PROJECT MANAGEMENT. RCRA WILL ALLOW DISCHARGE FROM SEEP OF VOLATILES IF "CONTAINED-OUT" DETERMINATION CAN BE MADE. THIS REQUIRES VOLATILES CONCENTRATIONS IN SEEP TO BE LESS THAN GW STANDARD AND REQUIRES RP TO BE OPERATING UNDER AN APPROVED WORK PLAN, CONSENT ORDER, PERMIT OR SIMILAR MECHANISM. MLD ADVISED RP REPS THAT THEY WOULD HAVE TO ENTER INTO A SSF ORDER TO FULFILL THIS PART OF THE "CONTAINED-IN" MANDATE. MIKE TONE WILL CONSULT WITH JOE RYAN ON THIS. VAC TRUCK REMOVAL OF SEEP DISCHARGES WILL CONTINUE UNTIL APPROVED ALTERNATIVE IS ACHIEVED. CLOSE OUT SPILL SITE ONCE PAYMENT PACKAGES ARE PROCESSED AND ISR IS SUBMITTED.

PIN  
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T & A

COST CENTER  
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CLASS: CLOSE DATE: MEETS STANDARDS: False