

# EXHIBIT 1



## State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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Governor

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Commissioner

Division of Remediation Support  
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8/16/06

### DIRECTIVE AND NOTICE TO INSURERS

EA ID #: PEA060002 - 001463

Site Name: H. P. DELTA, INC. SITE  
Respondents: ROBERT MELECCI, ROB'S SERVICE CENTER, AND H.P. DELTA, INC.  
Location: 439 LAKE AVE  
WOODBRIDGE TWP, NEW JERSEY  
Identifying #: 001463  
UST Case # 04-12-07-1319-21

This Directive and Notice to Insurers is issued pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection (hereinafter "the Department" or "NJDEP") by N.J.S.A. 13:1D-1 et seq. and the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., and duly delegated to the Assistant Director of the Oversight Resources Allocation Element within the Division of Remediation Support pursuant to N.J.S.A. 13:1B-4. This Directive and Notice to Insurers is issued in order to notify the above-captioned Respondents that the Department, pursuant to the Spill Compensation and Control Act, has determined that it is necessary to cleanup and remove discharges, and in order to notify the Respondents that the Department believes them to be responsible for the discharges.

### FINDINGS

1. The H.P. Delta, Inc. site, is located at 439 Lake Ave and is also known as Block 506B, Lot 3, on the Tax maps of the Township of Woodbridge, Middlesex County (hereinafter "the Site"). The Site, and all other areas to which any hazardous substances discharged on the Site have migrated are collectively referenced hereinafter as "the Contaminated Site".
2. H.P. Delta, Inc., whose primary business address is 439 Lake Avenue, Colonia, New Jersey, 07067, currently operates at the Site, and has done so since at least 2003.

3. Robert Melecci whose primary address is 439 Lake Avenue, Colonia, New Jersey, 07067, has owned the property at the Site from February 2, 1983 to present.
4. Rob's Service Center, whose primary business address is 439 Lake Avenue, Colonia, New Jersey, 07067, currently owns the underground storage tanks at the Site, and has done so since at least 2003.
5. On May 11, 2005 a potable well in the vicinity of the Site was sampled. The results of analysis revealed that the well water exceeded the Safe Drinking Water Standards for Methyl Tertiary Butyl Ether (MTBE). Over 40 additional potable wells in the area have since been sampled. Of these wells sampled, several potable wells had exceedances of MTBE and/or benzene.
6. On August 5, 2006, a compliance inspection of the underground storage tank (UST) system located at the Site was conducted. The inspection has revealed gross soil contamination and floating product in each observation well at the site, among other violations.
7. The Department has determined that it is necessary for the Respondents to conduct Departmentally approved investigative and remedial activities at the Contaminated Site in order to fully determine the nature and extent of the problem presented by the discharges. Upon completion of the remedial investigation, it will be necessary to implement a remedial action to address the discharges at the Site.
8. The substances referenced in the paragraphs above are hazardous substances pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11b.
9. Respondents are responsible for the discharges of hazardous substances at the Site which were discharged to the lands and waters of the State.
10. Pursuant to N.J.S.A. 58:10-23.11g.c., Respondents are strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs.
11. Pursuant to N.J.S.A. 58:10-23.11f., whenever any hazardous substance is discharged, the Department may, in its discretion, act to clean up and remove or arrange for the cleanup and removal of such discharge, or may direct any person in any way responsible for the hazardous substance to clean up and remove, or arrange for the cleanup and removal of the discharge.

#### **DIRECTIVE**

12. The Department hereby directs Robert Melecci, Rob's Service Center, and H.P. Delta, Inc. to take the following corrective actions:

A. A receptor evaluation shall be conducted in accordance with N.J.A.C. 7:26E-3.7(e)3i and 4.4(h)3v through ix. The receptor evaluation shall be initiated immediately by conducting the following:

i. A well search shall be conducted in accordance with the format specified by N.J.A.C. 7:26E-Appendix B of all wells located within one (1) mile of the site. All wells identified within the 1 mile radius shall be cross-referenced to and accurately plotted on a scaled map (scale shall be greater than or equal to 1:24,000) in relation to the facility. **The results of the well search shall be submitted within ten (10) days of receipt of this notice.**

ii. A canvass of the area shall be conducted within a 1000 foot radius of the service station site and within 1000 feet downgradient of the known contaminated potable well that is located the farthest away from the Site, which currently is located at 164 Jordan Road. The locations of all wells identified by the canvass shall be plotted on a reduction of a topographic or geoquadrangle map and tax map. **The results of the well canvass shall be submitted to the Department within ten (10) days of receipt of this directive.**

iii. All wells shall be sampled, except monitoring wells identified in the well canvass, **within three (3) days** of identification of such wells as a receptor. The samples shall be analyzed for volatile organic compounds using EPA Method 524.2 Version 4.1 with a forward library search (include targeted analysis for Tertiary Butyl Alcohol (TBA) using EPA Method 524.2 Version 4.1 with the proper detector). Please note, the Method Detection Limits (MDL) must not exceed the Safe Drinking Water Maximum Contaminant Levels for each analyte. If sample dilution is necessary, all analysis prior to dilution must be reported. **Well analytical results shall be forwarded to the Department within thirty (30) days of sample collection.**

iv. For any residents/businesses where information cannot be produced from the canvass, the Respondents shall immediately contact the local water purveyor as well as the Department of Public Works Department that serves the community of Colonia/Woodbridge to determine the status of the water supply for said residents/businesses.

v. For any potable well identified as contaminated with gasoline related compounds that exceed the Safe Drinking Water Maximum Contaminant Levels, **bottled water shall be provided to the resident within 24 hours of receipt of the analytical results. Within seven (7) days of receipt of the analytical results, the impacted residence shall be connected to the public water supply.** If no water supply main exists, Point of Entry Treatment (POET) shall be placed on the well(s) to ensure potability of the water supply and regular maintenance of the POET shall be initiated.

B. Separate phase hydrocarbons identified on the ground water shall be immediately removed using pumping, vapor or vacuum extraction techniques on the observation wells at the Site.

C. A remedial investigation of the ground water contamination shall be completed in accordance with N.J.A.C. 7:26E-4.4, and results shall be submitted in the form of a Remedial Investigation Report within ninety (90) days. As part of this investigation, Respondents shall establish the ground water flow direction and delineate the horizontal and vertical extent of the ground water contaminant plume by installing monitoring wells at the Site (the source) as well as downgradient of the Site. A Remedial Action Workplan (RAW) proposal to remediate the ground water contamination shall be submitted. **On site well installations are required within seven (7) days of receipt of this notice.** Access requests for off-site locations are required to be initiated immediately and the Department shall be copied on all letters sent regarding access requests.

D. A Remedial Investigation of the soil contamination on site shall be completed in accordance with N.J.A.C. 7:26E, and results shall be submitted in the form of a Remedial Investigation Report within ninety (90) days. Delineation shall begin at the current Underground Storage Tank system and continue horizontally and vertically until the full extent of the soil contamination is determined. The identified soil contamination shall be remediated. If the soil contamination will be removed by physical means, the soil shall be stockpiled on plastic and the contaminated soil will be properly disposed at a facility permitted to receive such soil immediately thereafter. If the soil is excavated, post excavation soil sampling shall be conducted in accordance with N.J.A.C. 7:26E-6.4. If in-situ treatment will be utilized, a Remedial Action Work Plan (RAW) proposal to remediate the soil contamination shall be submitted. The Remedial Action Work Plan shall include post remediation soil sampling.

E. An inspection of the tank system shall be conducted, and repairs shall be made to any portion of the tank system that is leaking, fails the tank inspection tests and/or is not properly functioning.

F. A vapor intrusion investigation of surrounding structures shall be performed which begins at the Site and progresses from there, in accordance with the requirements outlined in the Department's October 2005 "Vapor Intrusion Guidance Document".

G. The initial results of the remedial investigation of soil and ground water as well as the vapor intrusion investigation shall be submitted within 30 (thirty) days of receipt of this notice.

**13. Respondents must reply to the Department pursuant to N.J.A.C. 7:26C-4.2(g), regarding its decision to comply with this Directive and Notice to Insurers, within three (3) calendar days after Respondents' receipt of this Directive and**

**Notice to Insurers.**

**NOTICE**

14. The Department has determined, pursuant to N.J.A.C. 7:26C-4.2 (e), that in order to ensure that Respondents perform the remediation required by this Directive and Notice to Insurers in a timely fashion and pursuant to the Technical Requirements for Site Remediation N.J.A.C. 7:26E, Respondents must memorialize their commitment to perform the remediation in an Administrative Consent Order pursuant to N.J.A.C. 7:26C.
15. If Respondents fail to enter into an Administrative Consent Order within thirty (30) calendar days after Respondents' receipt of this Directive and Notice to Insurers, the Department may, at its discretion, conduct the remediation using public funds.
16. Failure to comply with this Directive and Notice to Insurers will increase Respondents' potential liability to the Department in an amount equal to three (3) times the cost of arranging for the cleanup and removal of the discharge and may cause a lien to be placed on Respondents' real and personal property pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11f., including a first priority lien on the property subject of the discharge.
17. Pursuant to N.J.S.A. 58:10-23.11u., the Department may issue an order to require compliance with the Spill Compensation and Control Act. Failure by the Respondents to comply with this Directive may result in the issuance of an order by the Department, which will subject each Respondent to penalties of up to \$50,000 per day and each day of violation constitutes an additional, separate and distinct violation of the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq.

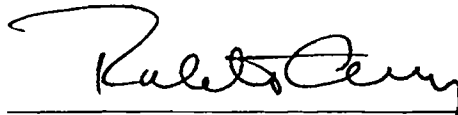
**RESERVATION OF RIGHTS**

18. The Department reserves the right to direct the Respondents to take or arrange for the taking of any and all additional remediation which the Department determines to be necessary to protect the public health and safety or the environment and to seek full reimbursement and treble damages for all costs incurred in taking such additional remediation.
19. Respondents are advised that the discharges referenced in this Directive and Notice to Insurers may also constitute violations of the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and that Respondents may, therefore, be subject to the penalties prescribed for violations of these Acts. The Department reserves all rights and remedies under those Acts as well as any other rights and remedies under any applicable law.

NOTICE TO INSURERS

20. BE ON NOTICE THAT, pursuant to N.J.S.A. 58:10-23.11s., any claims for costs of cleanup or civil penalties by the State and any claim for damages by any injured person, may be brought directly against the bond, insurer or any other person providing evidence of financial responsibility. Respondents are therefore urged to contact such insurers and notify them of the issuance of this Directive and Notice to Insurers.

Date: 8/16/06



Ronald T. Corcory, Assistant Director  
Oversight Resources Allocation Element

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