

SCANNED

Holbrook 3-2459  
3 philipp Rd.

Holbrook



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
METROPOLITAN BOSTON – NORTHEAST REGIONAL OFFICE  
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

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Secretary

KERRY HEALEY  
Lieutenant Governor

ROBERT W. GOLLEDGE, Jr.  
Commissioner

**FALVEY STEEL CASTINGS INC**  
**3 PHILIPP ROAD**  
**HOLBROOK, MA 02343-**

**Attn: FRANK FALVEY**

November 2, 2005

**RTN: 3-0024519**

Site Name: 3 PHILIPP RD  
City: HOLBROOK  
Date of Release Notification: 12/24/2004  
Release Type: 120 DY  
Oil and Hazardous Material

**RE: Deadline Approaching**

Dear FRANK FALVEY,

**This is a reminder that 12/24/2005 is the one-year deadline for you to submit important information to the Department of Environmental Protection (DEP).**

You are listed in DEP's records as a "potentially responsible party" (PRP). This means that DEP has reason to believe that you are responsible for cleaning up the release of oil and/or hazardous materials at the disposal site (the site) listed above. The Massachusetts Contingency Plan (the MCP), 310 CMR 40.0000, requires that, as a PRP, you submit important information to DEP about this disposal site within one year of notification to DEP of the release. **This one-year deadline is about to expire.**

The MCP allows one-year from the time DEP was notified of, or discovered this release or threat of release, for you to complete certain investigations and/or cleanup actions at this site. Specifically, within this one-year period, the MCP requires you to submit to DEP one of the following documents:

- Response Action Outcome (RAO) Statement, or
- Tier Classification Submittal.

If your property is downgradient of the source of the release you may (but are not required to) file a Downgradient Property Status (DPS) Submittal, instead of an RAO Statement or Tier Classification Submittal. A complete and properly supported DPS Submittal *stops* the regulatory clock for cleanup of the site, but only for the person who submitted it. However, even if you file a DPS Submittal, you are still obligated to perform certain response actions to prevent direct contact with contaminants or to address other time critical site conditions.

As of the date of this letter, DEP has not received any of the above-listed submittals (see the attachment for more information about each of these submittals). You should have already employed a Licensed Site Professional (LSP) to investigate and cleanup the release at this site. LSPs are professionals licensed by the Commonwealth of Massachusetts to manage, supervise, direct, and/or oversee site investigations and cleanups. Your LSP can help you learn more about your specific obligations for your site. If you have not retained an LSP, you will need to hire one to prepare and submit an RAO or Tier Classification. A list of LSPs may be obtained through the Internet at <http://www.mass.gov/dep/cleanup/licensed.htm>, or by calling the LSP Board at (617) 556-1091.

**Please note that if you fail to submit an RAO Statement or Tier Classification Submittal to DEP by the deadline mentioned above:**

- This site will be deemed by default a Tier ID Disposal Site. Unless you fall within limited exceptions, you will be assessed a Tier ID Annual Compliance Fee of \$4,000 (\$2,000, if you are a certified homeowner) for response actions that you carried out the first year. You will also be assessed an additional \$4,000 (\$2,000, if you are a certified homeowner) each year thereafter, until you submit a Tier Classification to classify the site and change the fee category.
- Enforcement actions may be initiated against you through DEP's Civil Administrative Penalty Regulations (310 CMR 5.00). The law provides for administrative penalties of up to \$25,000 per day for certain violations of the MCP. **If you fail to file an RAO Statement or Tier Classification Submittal you may be issued a Notice of Noncompliance (NON) by DEP. If you don't comply with the NON, you will be subject to a penalty of \$1,000 per day until such time as you comply with the MCP.** Therefore, it is in your best interest to provide DEP with one of the required submittals before your one-year deadline expires.

If you elect to address a Release Condition as part of Comprehensive Response Actions planned for a site that has already Tier Classified under a different Release Tracking Number (RTN), you must notify DEP using the appropriate submittal before the one-year deadline of the Release Condition. If you can submit an Immediate Response Action (IRA) Completion Statement prior to the deadline date, the linkage should be noted on that transmittal form (BWSC105). If an IRA Completion Statement either cannot be submitted by the deadline date, or is not applicable, a Tier Classification Transmittal Form (BWSC107) must be submitted noting the linkage. Future Comprehensive Response Actions must occur according to the deadlines applicable to the earliest RTN (the primary RTN). If an ongoing IRA is required to address the Release Condition, the appropriate IRA submittals are still required.

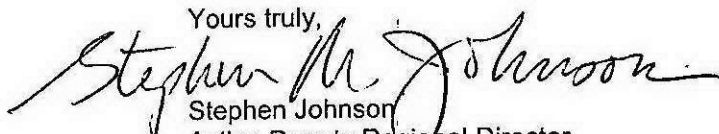
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You and your LSP may obtain copies of all DEP forms and applications through the DEP web site: <http://www.mass.gov/dep/cleanup/approvals/forminfo.htm>, or by contacting your DEP regional service center.

Enclosed please find the "MCP First Year Compliance Fact Sheet". It explains in more detail the information you must submit to DEP by the site's one-year deadline to comply with the MCP. If you have any other questions, please contact Paegan Deering at (617) 654-6660 (or 978-694-3382 after 11/10/2005).

Please Note: Effective November 14, 2005 the new location of MassDEP's Northeast Regional Office will be: 205B Lowell Street Wilmington, MA 01887, and the new main number will be (978) 694-3200.

Yours truly,

  
Stephen Johnson  
Acting Deputy Regional Director  
Northeast Regional Office  
Bureau Waste Site Cleanup

Enclosure: MCP First Year Compliance Fact Sheet  
cc: Data Entry/File



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**HOLBROOK CHEMICAL CORP  
C/O HAMPDEN COLOR  
1 PARKER PLAZA  
FORT LEE, NJ 07024-**

**Attn: PHILIP BENHEIM**

November 2, 2005

**RTN: 3-0024519**

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City: HOLBROOK  
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Oil and Hazardous Material

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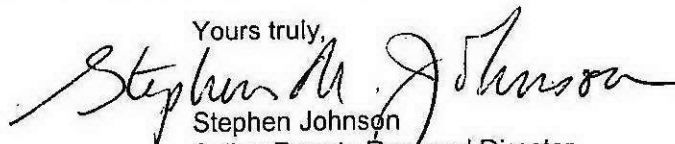
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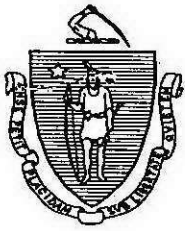
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Acting Deputy Regional Director  
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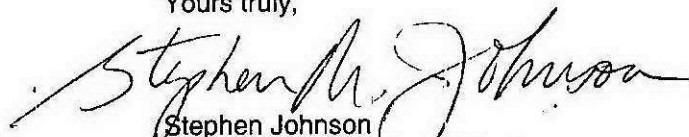
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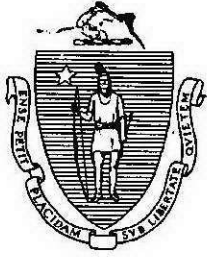
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Acting Deputy Regional Director  
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## Massachusetts Contingency Plan (MCP) First Year Compliance Fact Sheet

The Massachusetts Oil and Hazardous Materials Release, Prevention and Response Act (M.G.L. c.21E) and the Massachusetts Contingency Plan (the MCP), 310 CMR 40.0000, contain the requirements and timeframes for completing the cleanup of releases. The progress of all cleanups is tracked to see if required information is being submitted to DEP on time. DEP staff audit a percentage of MCP submittals to make sure that response actions are scientifically and technically sound and that cleanups are protective and are in compliance with the MCP. Please read the following information carefully. It will help explain what you must do to comply with the MCP and c. 21E.

### **1. Why does DEP think I am responsible for the cleanup at this site?**

At some point during the past year, DEP was notified of a release of oil and/or hazardous material at your property. You are listed in DEP's records as the person who is responsible for cleaning up this release. For example, at the time you or another party notified DEP that the release occurred, you either informed DEP that you accepted responsibility for the cleanup or you were sent a "Notice of Responsibility" (NOR) by DEP informing you that you were responsible for the release. In any case, DEP has reason to believe that you are an owner, operator, generator, transporter, disposer, or person who is otherwise responsible for the release at the subject property (referred to as the "site"). This means that, under Section 5 of M.G.L. Chapter 21E, you are a *Potentially Responsible Party* (PRP) and you are liable for response action costs associated with the release. As a PRP, you are required to conduct and complete certain response actions outlined in the MCP to clean up the release of oil and/or hazardous materials expeditiously.

### **2. Why are the MCP submittal deadlines important?**

Timely MCP submittals to DEP inform both DEP and the public that the site's environmental problems are being addressed and that cleanup is being conducted. It is in your best interest to conduct response actions properly and to provide DEP with the required submittals and information about your site's cleanup by the deadlines set in the MCP to avoid violation notices and penalties. If you fail to provide DEP with the required submittals by your site's one-year deadline, you will be violating the MCP and your site will be deemed Tier ID and DEP will assess you a \$4,000 fee for the first year and each year thereafter. If that happens, you and your LSP should classify your site to return to compliance and change the fee category. DEP may initiate enforcement action to get your site into compliance through DEP's Civil Administrative Penalty Regulations, 310 CMR 5.00. You could also be assessed a significant penalty if you fail to return to compliance.

### **3. What do I have to do by the site's one-year deadline to stay in compliance with the MCP?**

Your first step is to contact your Licensed Site Professional (LSP) to find out the status of your site.

- ☐ If you believe the cleanup at your site has been completed, ask your LSP to prepare and submit a **Response Action Outcome (RAO) Statement** [310 CMR 40.1000], as soon as possible, or by your one-year deadline. If you submit an RAO Statement more than 120 days after the date of notification and before the site is tier classified, you must also pay DEP an RAO Compliance Fee of \$1,200; or
- ☐ If more environmental studies or cleanup are needed and you will not be able to submit the required reports before the one-year deadline, ask your LSP to complete the work necessary to file a **Tier Classification Submittal**.

The information obtained from a *Phase I Initial Site Investigation* is used to score/classify a site as *Tier I* or *Tier II* [310 CMR 40.0480 and 40.0500]. Sites scoring at or above 350 points or meeting certain inclusionary criteria are classified Tier I. All other sites are classified as Tier II. Tier I sites are further sub-classified as *Tier IA, IB, or IC*. For

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[Continue reading the back of this page.]

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DEP on the World Wide Web: <http://www.mass.gov/dep>

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## First Year MCP Compliance Fact Sheet

Tier I sites, you must also include a *Tier I Permit Application* and pay a Permit Application Fee of \$3,550 (\$500, if you are a certified homeowner). Tier II sites do not require a Permit or Permit Application Fee. If a site is proactively Tier Classified within one-year of notification, DEP will not assess an Annual Compliance Assurance Fee for the first year. After a site is Tier Classified, Comprehensive Response Actions must be undertaken to assess and clean up the site under the direction of a *Licensed Site Professional (LSP)*. You will also be assessed an Annual Compliance Assurance Fee for each year based on the Tier Classification of your site on each annual Status Date. These fees range from \$800 to \$5,000 per year (see item 5 below).

- ❑ If site studies prove that contamination migrated onto your property from an upgradient property, you may (but are not required to) have your LSP prepare and submit a **Downgradient Property Status** [310 CMR 40.0180] form and supporting documentation to DEP. If you file a DPS submittal that complies with 310 CMR 40.0000, deadlines for most cleanup work will be put on hold for you unless DEP rejects your submittal. However, you will be responsible for any serious problems on your property (such as direct contact hazards) if the party responsible for the contamination refuses to deal with them. Your LSP can explain this requirement in more detail. You must also pay DEP a DPS Compliance Fee of \$1,600 if the submittal is made prior to the one-year deadline. If you submit the DPS after the one-year deadline without Tier Classifying your site, you will be assessed \$4,000 Tier ID fees for each applicable year.

### 4. Are there any other submittals required during the site's first year that I should be aware of?

Several other submittals are required before the site's one-year deadline, depending on the nature of the release. As with any submittal requirement, if you fail to provide DEP with a submittal at all or fail to provide submittals on time, you will not be in compliance with the MCP. You could be assessed a significant penalty if you fail to comply. The following is a list of several key submittals. Consult your LSP and the MCP for an explanation of all of your compliance obligations.

- ❑ Within sixty (60) days of your notifying DEP of the release condition, or within sixty (60) days of your receipt of a Notice of Responsibility (NOR) from DEP, you should have submitted a **Release Notification Form (RNF)** to DEP [310 CMR 40.0333 and 40.0336]. If you have not submitted an RNF to DEP, do so immediately.
- ❑ If you notified DEP of a release requiring an **Immediate Response Action (IRA)**, you should have submitted an **IRA Plan** to DEP by now, unless you have completed your IRA or your cleanup is completely finished.
- ❑ If your IRA is completed but you have more work to do to complete your cleanup, you must submit an **IRA Completion Statement** [310 CMR 40.0427] within 60 days of completion of the IRA, and Tier Classify or submit a Downgradient Property Status Submittal by your site's one-year deadline. However, if your cleanup is completely finished, you may submit an RAO by the site's one-year deadline with the required \$1,200 fee.
- ❑ If you are still conducting Immediate Response Actions, make sure you are submitting **IRA Status Reports**. An IRA Status Report must be submitted to DEP within 120 calendar days of the date you notified DEP of the need to perform an IRA, unless an IRA Completion Report or an RAO is received by DEP within this 120-day period [310 CMR 40.0425(1)]. Additional Status Reports must be submitted to DEP every six months thereafter, until you submit an IRA Completion Statement or RAO.

### 5. What happens after the first year when a Response Action Outcome (RAO) is not submitted?

If you submit a Tier Classification by the one-year deadline you have up to five years to complete the assessment and cleanup and submit an RAO Statement. During this five year period there are specific deadlines for each phase of work that you should discuss with your LSP. Additionally, you will be assessed an Annual Compliance Assurance Fee for each year based on your one year deadline (also known as the Status Date). The annual fee ranges from \$800 to \$5,000 per year and is based on your site classification or status (e.g., Tier IA, IB, IC, ID, Tier II or Phase V) on your Annual Status Date. The fees are billed to you by DEP for each billable year until and including the year that the final RAO is submitted. However, if you do not submit either an RAO or Tier Classification by the one-year deadline, your site will be deemed Tier ID by default and you will be assessed a \$4,000 Tier ID fee for the first year and each year thereafter. You must then classify your site to return to compliance and change the fee category. Additional fee information is available at <http://www.mass.gov/dep/cleanup/approvals/fees.htm>.

### 6. Where can I get a copy of the MCP and Fee regulations?

The MCP, 310 CMR 40.0000, may be viewed at <http://mass.gov/dep/cleanup/lawsrule.htm>. Copies of the MCP and fee regulations, 310 CMR 4.00, may be purchased at the State Book Store in the State House (617-727-2834). The forms discussed above are available by contacting your consultant, LSP, the regional DEP Service Center, or through the DEP web site <http://www.mass.gov/dep/cleanup/approvals/trforms.htm>.



# Falvey Steel Castings ~~INC~~ SCANNED

P.O. BOX 425  
HOLBROOK, MA 02343  
(781) 767-6210/(800) 447-4256  
Fax: (781) 767-6218

December 22, 2004

Mr. Kingsley Ndi  
Commonwealth of Massachusetts  
Department of Environmental Protection  
One Winter Street  
Boston, Massachusetts 02108

RECEIVED

DEC 24 2004

RE: Release Notification Form  
3 Philipp Road  
Holbrook, Massachusetts

DEP  
NORTHEAST REGIONAL OFFICE

Dear Mr. Ndi:

Pursuant to Section 40.0300 of the Massachusetts Contingency Plan (MCP), enclosed please find a Release Notification Form (RNF) for the above referenced project site. The Reportable Concentration (RC) exceedance identified upon the enclosed RNF were identified during subsurface assessment activities conducted by a prospective purchaser, Three Philipps Road, LLC ("TPR"), in August of 2004. Based upon the results that were obtained from this scope of work, TPR withdrew from the Purchase and Sale agreement and provided the results from the due diligence assessment to both the owner and current operator of the property, which are identified below.

<u>Property Owner</u>	<u>Current Operator</u>
Holbrook Chemical Corp. ("Holbrook") Castings, Inc. ("FSC") c/o Hampden Color Post Office Box 558 Springfield, MA 01101	Falvey Steel 3 Philipp Road Holbrook, MA

Please be advised that this submittal has been prepared by FSC as the current operator of the property, tenant at will and innocent and potentially eligible tenant pursuant to the provisions of 310 CMR 40.0000. It should be noted that FSC, a distributor of cutting heads for rock crushing operations, does not use, store or handle hazardous materials as a part of its operations, does not utilize the underground or aboveground storage tank systems on the property, and it is our understanding that the

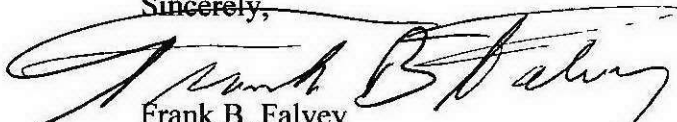
release conditions that have been identified are consistent with Holbrook's operational practices at the site by Holbrook, prior to the commencement of FSC's tenancy. Additionally, FSC has not caused or contributed to the release, has not acted or failed to act to cause the release to become worse, and has not caused a new exposure to the release. Further, FSC provides this notification pursuant to its obligations as both a current operator and potential eligible tenant pursuant to G.L. c. 21E, §2(e)(1)(B) and §7.

While we acknowledge FSC's status as a current operator and potential eligible tenant at the property, FSC has no control over the property because it is owned by Holbrook, nor has FSC conducted any activities related to the conditions that are associated with former usage of the site. Accordingly, a notice of responsibility should be directed to Holbrook and potentially the prior owners of the property and not FSC.

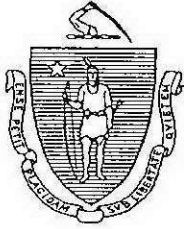
Our title research indicates that the property was originally owned by The Portland Chemical Works, Incorporated of Portland, Connecticut, which conveyed the property to Holbrook in approximately 1960. Holbrook operated at the property between approximately 1960 and 1998. FSC did not commence its tenancy at the property until 1998. FSC actually leases the property from One Phillips Road Corporation ("OPRC"). The President of OPRC is reportedly Philipp E. Bendheim. The President of Holbrook is reportedly Charles E. Bendheim who we believe is related to Philipp Bendheim. The address for OPRC provided by the Massachusetts Secretary of State's Office is 1 Phillip Road, Holbrook, Massachusetts 02343 and the address provided for Phillip Bendheim is 1 Parker Place, Fort Lee, New Jersey 07024. We understand that Holbrook and Phillip Bendheim are represented locally by Attorney Richard E. Gentili of Bartlett Hackett and Feinberg, P.C., 10 High Street, Suite 920, Boston, Massachusetts 02110. 617/422-0200

Upon your review of this submittal, we would appreciate the opportunity to discuss this matter in further detail.

Sincerely,

  
Frank B. Falvey  
President

IRIS,  
The town of Holbrook does not own 3 Phillip RD. It is in  
Taxtile (meaning they haven't paid the taxes for the  
property for a few years) They belong Holbrook  
Chemical Corp. If you read the above paragraph  
it would lead us to believe the PRPs are  
Charles E. Bendheim Philipp Bendheim  
as well as the CORP  
as pres of Holbrook corp.



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

MITT ROMNEY  
Governor

KERRY HEALEY  
Lieutenant Governor

ELLEN ROY HERZFELDER  
Secretary

ROBERT W. GOLLEDGE, Jr.  
Commissioner

January 12, 2005

Holbrook Chemical Corp.  
c/o Hampden Color  
P. O. Box 558  
Springfield, MA 01101

RE: **Holbrook**  
3 Philipp Road  
RTN 3-24519

Attention: Charles E. Bendheim

**NOTICE OF RESPONSIBILITY PER M.G.L. c.21E & 310 CMR 40.0000,  
the MCP**

THIS IS AN IMPORTANT NOTICE. FAILURE TO TAKE ADEQUATE ACTION IN  
RESPONSE TO THIS NOTICE COULD RESULT IN SERIOUS LEGAL  
CONSEQUENCES.

Dear Mr. Bendheim:

Information contained in a Release Notification Form (RNF) submitted to the Department of Environmental Protection (the Department or DEP) on December 24, 2004 and submitted by Holbrook Chemical Corp. indicates that there is or has been a release of oil and/or hazardous material at the above-referenced property which exceeds a "120 day" reporting threshold (310 CMR 40.0315) and which requires one or more response actions.

Based on this information, the Department has reason to believe that the subject property or portion(s) thereof is a disposal site as defined in the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, M.G.L. c. 21E, and the Massachusetts Contingency Plan, 310 CMR 40.0000 (the MCP). M.G.L. c. 21E and the MCP govern the assessment and cleanup of disposal sites.

The purpose of this notice is to inform you of your legal responsibilities under state law for assessing and/or remediation of the subject release. For purposes of this notice, the terms and phrases used herein shall have the meaning ascribed to them by the MCP

This information is available in alternate format. Call April McCabe, ADA Coordinator at 1-617-556-1171. TDD Service - 1-800-298-2207.

DEP on the World Wide Web: <http://www.mass.gov/dep>

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unless the text clearly indicates otherwise.

### **STATUTORY LIABILITIES**

The Department has reason to believe that you (as used in this letter, "you" refers to Holbrook Chemical Corp.) are a Potentially Responsible Party (a PRP) with liability under M.G.L. c. 21E, § 5, for response action costs. Section 5 makes the following parties liable to the Commonwealth of Massachusetts: current owners or operators of a site from or at which there is or has been a release/threat of release of oil or hazardous material; any person who owned or operated a site at the time hazardous material was stored or disposed of; any person who arranged for the transport, disposal, storage or treatment of hazardous material to or at a site; any person who transported hazardous material to a transport, disposal, storage or treatment site from which there is or has been a release/threat of release of such material; and any person who otherwise caused or is legally responsible for a release/threat of release of oil or hazardous material at a site.

\_\_\_\_\_  
This liability is "strict", meaning it is not based on fault, but solely on your status as an owner, operator, generator, transporter or disposer. It is also joint and several, meaning that you may be liable for all response action costs incurred at the site, regardless of the existence of any other liable parties.

The MCP requires responsible parties to take necessary response actions at properties where there is or has been a release or threat of release of oil and/or hazardous material. If you do not take the necessary response actions, or fail to perform them in an appropriate and timely manner, the Department is authorized by M.G.L. c. 21E to have the work performed by its contractors. By taking such actions, you can avoid liability for response action costs incurred by the Department and its contractors in performing these actions, and sanctions, which may be imposed for failure to perform response actions under the MCP.

You may be liable for up to three (3) times all response action costs incurred by the Department. Response action costs include, without limitation, the cost of direct hours spent by Department employees arranging for response actions or overseeing work performed by persons other than the Department or their contractors, expenses incurred by the Department in support of those direct hours, and payments to the Department's contractors. (For more detail on cost liability, see 310 CMR 40.1200.)

The Department may also assess interest on costs incurred at the rate of twelve percent (12%), compounded annually. To secure payment of this debt, the Commonwealth may place liens on all of your property in the Commonwealth. To recover the debt, the Commonwealth may foreclose on these liens or the Attorney General may bring legal action against you.

In addition to your liability for up to three (3) times all response action costs incurred by the Department, you may also be liable to the Commonwealth for damages to natural resources caused by the release. Civil and criminal liability may also be imposed under M.G.L. c. 21E, § 11, and civil administrative penalties may be imposed under M.G.L. c. 21A, § 16 for each violation of M.G.L. c. 21E, the MCP, or any order, permit or approval issued thereunder.



### **NECESSARY RESPONSE ACTIONS**

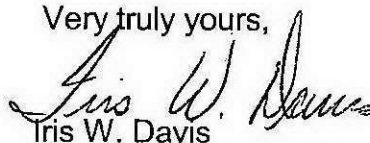
The subject site shall not be deemed to have all the necessary and required response actions taken unless and until all substantial hazards presented by the site have been eliminated and a level of No Significant Risk exists or has been achieved in compliance with M.G.L. c. 21E and the MCP. In addition, the MCP requires persons undertaking response actions at disposal sites to perform Immediate Response Actions (IRAs) in response to "sudden releases", Imminent Hazards and Substantial Release Migration. Such persons must continue to evaluate the need for IRAs and notify the Department immediately if such a need exists.

It is important to note that you must dispose of any Remediation Waste generated at the subject location in accordance with 310 CMR 40.0030 including, without limitation, contaminated soil and/or debris. Any Bill of Lading accompanying such waste must bear the seal and signature of an LSP or, if the response action is performed under the direct supervision of the Department, the signature of an authorized representative of the Department.

The Department encourages parties with liabilities under M.G.L. c. 21E to take prompt action in response to releases and threats of release of oil and/or hazardous material. By taking prompt action, you may significantly lower your assessment and cleanup costs and avoid the imposition of, or reduce the amount of, certain permit and annual compliance fees for response actions payable under 310 CMR 4.00.

If you have any questions relative to this notice, you should contact Iris Davis at the letterhead address or (617) 654-6542. All future communications regarding this release must reference the Release Tracking Number (RTN) 3-24519 contained in the subject block of this letter.

Very truly yours,



Iris W. Davis

Risk Reduction Chief

Bureau of Waste Site Cleanup

cc: Holbrook Health Department, by electronic mail

DEP database NOR/file





COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

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KERRY HEALEY  
Lieutenant Governor

ELLEN ROY HERZFELDER  
Secretary

ROBERT W. GOLLEDGE, Jr.  
Commissioner

RECEIVED

JAN 2 2005

January 12, 2005

Holbrook Chemical Corp.  
c/o Hampden Color  
P. O. Box 558  
Springfield, MA 01101

NORTHEAST REGIONAL OFFICE

RE: Holbrook  
3 Philipp Road  
RTN 3-24519

RECEIVED

JAN 2 2005

Attention: Charles E. Bendheim

DEP  
NOTICE OF RESPONSIBILITY PER M.G.L. c.21E & 310 CMR 40.0000,  
the MCP  
NORTHEAST REGIONAL OFFICE

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DEP on the World Wide Web: <http://www.mass.gov/dep>

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781-767-6210  
800-647-4256  
Frank B.  
Falvey  
Falvey Steel Castings Inc.

unless the text clearly indicates otherwise.

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This liability is "strict", meaning it is not based on fault, but solely on your status as an owner, operator, generator, transporter or disposer. It is also joint and several, meaning that you may be liable for all response action costs incurred at the site, regardless of the existence of any other liable parties.

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**NECESSARY RESPONSE ACTIONS**

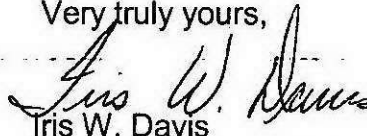
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Very truly yours,



Iris W. Davis

Risk Reduction Chief

Bureau of Waste Site Cleanup

cc: Holbrook Health Department, by electronic mail

DEP database NOR/file

## **Deering, Paegan (DEP)**

---

**From:** Lambert, Astar (DEP)  
**Sent:** Wednesday, February 02, 2005 2:14 PM  
**To:** Deering, Paegan (DEP)  
**Subject:** Holbrook Chemical Corp

Hi Paegan!

Iris said you would be able to find out if this company still exists:

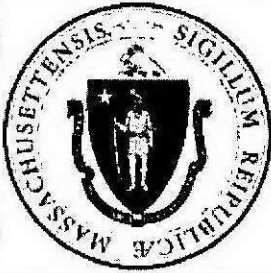
**Holbrook Chemical Corp.**  
**C/o of Hampden Color**

**President: Charles E Bendheim**

Thanks,  
Astar

-----  
For Use in Intra-Agency Deliberations

Astar Lambert  
DEP BWSC-NERO  
617/654-6544



**The Commonwealth of Massachusetts**  
**William Francis Galvin**

Secretary of the Commonwealth  
 One Ashburton Place, Boston, Massachusetts 02108-1512  
 Telephone: (617) 727-9640

**HOLBROOK CHEMICAL CORP. Summary Screen**



Help with this form

[Request a Certificate](#)

The exact name of the Domestic Profit Corporation: HOLBROOK CHEMICAL CORP.

Entity Type: Domestic Profit Corporation

Status: InActive

Identification Number: 042273527

Date of Organization in Massachusetts: 10/24/1960

Date of Revival: 04/16/1985

Date of Involuntary Dissolution: 10/19/1983

Current Fiscal Month / Day: 09 / 30

Previous Fiscal Month / Day: 00 / 00

The location of its principal office in Massachusetts:

No. and Street: PHILLIPS ROAD

City or Town: HOLBROOK

State: MA

Zip: 02343

Country: USA

If the business entity is organized wholly to do business outside Massachusetts, the location of that office:

No. and Street:

City or Town:

State:

Zip:

Country:

The name and address of the Registered Agent:

Name:

No. and Street:

City or Town:

State:

Zip:

Country:

The officers and all of the directors of the corporation:

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code	Expiration of Term
PRESIDENT	CAHRLES H. BENDHEIM	10 COLUMBUS CIR., NEW YORK CITY, NY USA 10 COLUMBUS CIR., NEW YORK CITY, NY USA	
TREASURER	JACK C. BENDHEIM	10 COLUMBUS CIR., NEW YORK CTIY, NY USA 10 COLUMBUS CIR., NEW YORK CTIY, NY USA	



SECRETARY	WILLIAM KELLS	PHILIPP RD., HOLBROOK, MA USA PHILIPP RD., HOLBROOK, MA USA
-----------	---------------	--

business entity stock is publicly traded: ☐

The total number of shares and par value, if any, of each class of stock which the business entity is authorized to issue:

Class of Stock	Par Value Per Share Enter 0 if no Par	Total Authorized by Articles of Organization or Amendments		Total Issued and Outstanding Num of Shares
		Num of Shares	Total Par Value	
No Stock Information available online. Prior to August 27, 2001, records can be obtained on microfilm.				

☐ Consent    ☐ Manufacturer    ☐ Confidential Data    ☐ Does Not Require Annual Report  
☐ Partnership    ☐ Resident Agent    ☒ For Profit    ☐ Merger Allowed


**Note: There is additional information located in the cardfile that is not available on the system.**

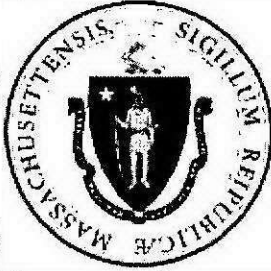
Select a type of filing from below to view this business entity filings:

ALL FILINGS	▲
Administrative Dissolution	■
Annual Report	■
Application for Reinstatement	■
Application For Revival	▼

Comments

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 Help



# The Commonwealth of Massachusetts William Francis Galvin

Secretary of the Commonwealth  
One Ashburton Place, Boston, Massachusetts 02108-1512  
Telephone: (617) 727-9640

SCANNED

## HAMPDEN COLOR AND CHEMICAL CO Summary Screen



Help with this form

[Request a Certificate](#)

The exact name of the Domestic Profit Corporation: HAMPDEN COLOR AND CHEMICAL CO

Entity Type: Domestic Profit Corporation

Status: Active

Identification Number: 041413860

Date of Organization in Massachusetts: 08/28/1924

Date of Revival: 11/24/1998

Date of Involuntary Dissolution: 08/31/1998

Current Fiscal Month / Day: 12 / 31

Previous Fiscal Month / Day: 00 / 00

The location of its principal office in Massachusetts:

No. and Street: 126 MEMORIAL DRIVE

City or Town: SPRINGFIELD

State: MA

Zip: 01101

Country: USA

If the business entity is organized wholly to do business outside Massachusetts, the location of that office:

No. and Street:

City or Town:

State:

Zip:

Country:

The name and address of the Registered Agent:

Name: RICHARD WATROBA

No. and Street: 126 MEMORIAL DR.,

City or Town: SPRINGFIELD

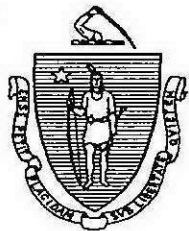
State: MA

Zip: 01101

Country: USA

The officers and all of the directors of the corporation:

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code	Expiration of Term
PRESIDENT	Attn: PHILIP E. BENDHEIM c/o Hampden color P.O. Box 558	1 PARKER PLAZA, FT. LEE, NJ USA 1 PARKER PLAZA, FT. LEE, NJ USA	
TREASURER	PHILIP E. BENDHEIM Springfield	1 PARKER PLAZA, FT. LEE, NJ USA 1 PARKER PLAZA, FT. LEE, NJ USA	



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

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MITT ROMNEY  
Governor

KERRY HEALEY  
Lieutenant Governor

ELLEN ROY HERZFELDER  
Secretary

ROBERT W. GOLLEDGE, Jr.  
Commissioner

Add to  
file  
\* New PRP

April 13, 2005

Falvey Steel Castings Inc  
P.O. Box 425  
Holbrook, MA 02343

RE: **Holbrook**  
3 Philipp Road  
RTN 3-24519

Attention: Frank B. Falvey

**NOTICE OF RESPONSIBILITY PER M.G.L. c.21E & 310 CMR 40.0000,  
the MCP**

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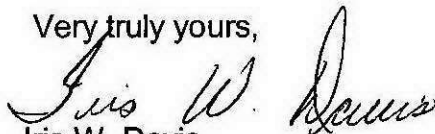
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It is important to note that you must dispose of any Remediation Waste generated at the subject location in accordance with 310 CMR 40.0030 including, without limitation, contaminated soil and/or debris. Any Bill of Lading accompanying such waste must bear the seal and signature of an LSP or, if the response action is performed under the direct supervision of the Department, the signature of an authorized representative of the Department.

The Department encourages parties with liabilities under M.G.L. c. 21E to take prompt action in response to releases and threats of release of oil and/or hazardous material. By taking prompt action, you may significantly lower your assessment and cleanup costs and avoid the imposition of, or reduce the amount of, certain permit and annual compliance fees for response actions payable under 310 CMR 4.00.

If you have any questions relative to this notice, you should contact Iris Davis at the letterhead address or (617) 654-6542. All future communications regarding this release must reference the Release Tracking Number (RTN) 3-24519 contained in the subject block of this letter.

Very truly yours,



Iris W. Davis  
Risk Reduction Chief  
Bureau of Waste Site Cleanup

cc: Holbrook Health Department, by electronic mail

DEP database NOR/file



CUSHING & DOLAN, P.C.  
ATTORNEYS AT LAW  
24 SCHOOL STREET  
SUITE 300  
BOSTON, MA 02108-5113  
TEL. (617) 523-1555  
FAX (617) 523-5653  
EMAIL: LCUSHING@CUSHINGDOLAN.COM  
WWW.CUSHINGDOLAN.COM

3 Philipp Rd  
Hollbrook  
SCANNED  
24519

LEO J. CUSHING  
KEVIN N. DOLAN

\*ALSO ADMITTED NEW HAMPSHIRE BAR  
\*\*ALSO ADMITTED PENNSYLVANIA BAR  
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ANNMARIE HEAVEY  
JAMES M. TIERNEY  
CATHERINE E. ALOISI  
EARLE D. SOLANO  
PAULA C. BARTLETT

May 2, 2005

Iris W. Davis  
Executive Offices of Environmental Affairs  
Department of Environmental Protection  
One Winter Street  
Boston, MA 02108

RE: Notice of Responsibility per Mass. General Law 21E and 310 CMR 40.00,  
The MCP

Dear Ms. Davis:

As we discussed, I represent Falvey Steel Castings, Inc. hereinafter ("Falvey") in connection with the above-referenced matter. Please be advised that we would like to request a meeting with you as soon as possible to discuss this matter.

As we also discussed, Falvey is a tenant on the subject premises and has never generated hazardous material. The "discharge" requiring notification came to our attention as we were conducting environmental tests as part of our due diligence to possibly purchasing the property. As a result of our discovery we terminated the Purchase and Sale Agreement and were told by our LSP that we were required to notify you if the owner either refused or failed to notify you. We notified the owner who in fact has either refused or otherwise failed to notify you.

It appears that the Notice of Responsibility should be sent to a necessary party and actual owner of the property.

• NORWOOD  
TEL. (781) 278-9901  
FAX (781) 278-9911

• WILMINGTON  
TEL. (978) 988-1222  
FAX (978) 988-1223

• WESTBOROUGH  
TEL. (508) 870-1666  
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• CHESTNUT HILL  
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FAX (617) 264-4445

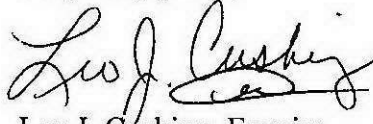
Iris W. Davis  
May 2, 2005  
Page 2

I have enclosed a copy of my client's letter dated December 22, 2004, which specifies the title history of the property and the actual generator of the contamination. Specifically, the address for One Phillips Road Corporation is One Phillips Road, Holbrook, MA 02343 and the address provided for the individual owner is Philip Benheim, One Parker Place, Fort Lee, NJ 07024. Also, both Holbrook and Philip Benheim are represented locally by Attorney Richard E. Gentile of Bartlett, Hackett and Feinberg, P.C., 10 High Street, Suite 920, Boston, MA 02110.

I look forward to speaking with you relative to this matter. Should you have any questions or need additional information, please do not hesitate to contact me.

Thank you.

Very truly yours,



Leo J. Cushing, Esquire

LJC:mcc

Enclosures

cc: Frank Falvey, Sr.  
Adam Brodsky, Esq.

**Falvey Steel Castings Inc. SCANNED**

P.O. BOX 425  
HOLBROOK, MA 02343  
(781) 767-6210/(800) 447-4256  
Fax: (781) 767-6218

December 22, 2004

Mr. Kingsley Ndi  
Commonwealth of Massachusetts  
Department of Environmental Protection  
One Winter Street  
Boston, Massachusetts 02108

RE: Release Notification Form  
3 Philipp Road  
Holbrook, Massachusetts

Dear Mr. Ndi:

Pursuant to Section 40.0300 of the Massachusetts Contingency Plan (MCP), enclosed please find a Release Notification Form (RNF) for the above referenced project site. The Reportable Concentration (RC) exceedance identified upon the enclosed RNF were identified during subsurface assessment activities conducted by a prospective purchaser, Three Philipps Road, LLC ("TPR"), in August of 2004. Based upon the results that were obtained from this scope of work, TPR withdrew from the Purchase and Sale agreement and provided the results from the due diligence assessment to both the owner and current operator of the property, which are identified below.

<u>Property Owner</u>	<u>Current Operator</u>
Holbrook Chemical Corp. ("Holbrook") Castings, Inc. ("FSC") c/o Hampden Color Post Office Box 558 Springfield, MA 01101	Falvey Steel 3 Philipp Road Holbrook, MA

Please be advised that this submittal has been prepared by FSC as the current operator of the property, tenant at will and innocent and potentially eligible tenant pursuant to the provisions of 310 CMR 40.0000. It should be noted that FSC, a distributor of cutting heads for rock crushing operations, does not use, store or handle hazardous materials as a part of its operations, does not utilize the underground or aboveground storage tank systems on the property, and it is our understanding that the

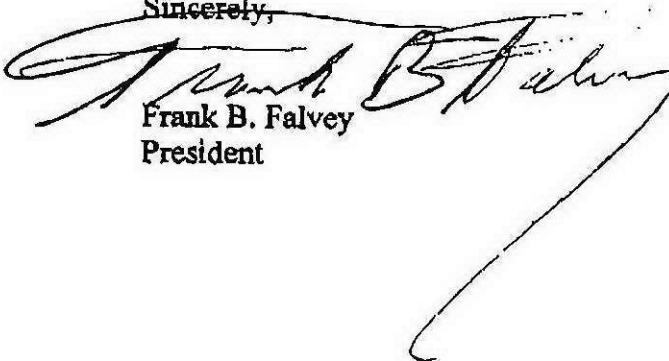
release conditions that have been identified are consistent with Holbrook's operational practices at the site by Holbrook, prior to the commencement of FSC's tenancy. Additionally, FSC has not caused or contributed to the release, has not acted or failed to act to cause the release to become worse, and has not caused a new exposure to the release. Further, FSC provides this notification pursuant to its obligations as both a current operator and potential eligible tenant pursuant to G.L. c. 21E, §2(e)(1)(B) and §7.

While we acknowledge FSC's status as a current operator and potential eligible tenant at the property, FSC has no control over the property because it is owned by Holbrook, nor has FSC conducted any activities related to the conditions that are associated with former usage of the site. Accordingly, a notice of responsibility should be directed to Holbrook and potentially the prior owners of the property and not FSC.

Our title research indicates that the property was originally owned by The Portland Chemical Works, Incorporated of Portland, Connecticut, which conveyed the property to Holbrook in approximately 1960. Holbrook operated at the property between approximately 1960 and 1998. FSC did not commence its tenancy at the property until 1998. FSC actually leases the property from One Phillips Road Corporation ("OPRC"). The President of OPRC is reportedly Philipp E. Bendheim. The President of Holbrook is reportedly Charles E. Bendheim who we believe is related to Philipp Bendheim. The address for OPRC provided by the Massachusetts Secretary of State's Office is 1 Phillip Road, Holbrook, Massachusetts 02343 and the address provided for Phillip Bendheim is 1 Parker Place, Fort Lee, New Jersey 07024. We understand that Holbrook and Phillip Bendheim are represented locally by Attorney Richard E. Gentilli of Bartlett Hackett and Feinberg, P.C., 10 High Street, Suite 920, Boston, Massachusetts 02110.

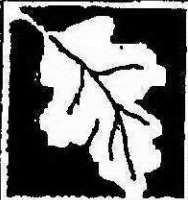
Upon your review of this submittal, we would appreciate the opportunity to discuss this matter in further detail.

Sincerely,



Frank B. Falvey  
President





Massachusetts Department of Environmental Protection  
Bureau of Waste Site Cleanup

BWSC103

RELEASE NOTIFICATION & NOTIFICATION  
RETRACTION FORM

Release Tracking Number

☐ - ☐

Pursuant to 310 CMR 40.0335 and 310 CMR 40.0371 (Subpart C)

F. CERTIFICATION OF PERSON REQUIRED TO NOTIFY:

1. I, Frank Falvey, attest under the pains and penalties of perjury (i) that I have personally examined and am familiar with the information contained in this submittal, including any and all documents accompanying this transmittal form, (ii) that, based on my inquiry of those individuals immediately responsible for obtaining the information, the material information contained in this submittal is, to the best of my knowledge and belief, true, accurate and complete, and (iii) that I am fully authorized to make this attestation on behalf of the entity legally responsible for this submittal. I/the person or entity on whose behalf this submittal is made am/is aware that there are significant penalties, including, but not limited to, possible fines and imprisonment, for willfully submitting false, inaccurate, or incomplete information.

2. By: Frank Falvey

Signature

3. Title: Pres4. For: Falvey Steel Castings

(Name of person or entity recorded in Section D)

5. Date: 12/23/04

mm/dd/yyyy

☐ 6. Check here if the address of the person providing certification is different from address recorded in Section D.

7. Street: \_\_\_\_\_

8. City/Town: \_\_\_\_\_

9. State: \_\_\_\_\_

10. ZIP Code: \_\_\_\_\_

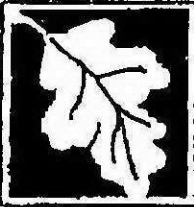
11. Telephone: \_\_\_\_\_

12. Ext.: \_\_\_\_\_

13. FAX: \_\_\_\_\_

YOU MUST LEGIBLY COMPLETE ALL RELEVANT SECTIONS OF THIS FORM OR DEP MAY  
RETURN THE DOCUMENT AS INCOMPLETE. IF YOU SUBMIT AN INCOMPLETE FORM, YOU  
MAY BE PENALIZED FOR MISSING A REQUIRED DEADLINE.

Date Stamp (DEP USE ONLY:)



**Massachusetts Department of Environmental Protection**  
**Bureau of Waste Site Cleanup**

**BWSC103**

**RELEASE NOTIFICATION & NOTIFICATION  
 RETRACTION FORM**

Release Tracking Number

☐ - ☐

Pursuant to 310 CMR 40.0335 and 310 CMR 40.0371 (Subpart C)

**A. RELEASE OR THREAT OF RELEASE LOCATION:**

1. Release Name/Location Aid: \_\_\_\_\_

2. Street Address: 3 Philipp Road

3. City/Town: Holbrook

4. ZIP Code: 02343-0000

**B. THIS FORM IS BEING USED TO:** (check one)

☒ 1. Submit a Release Notification

☐ 2. Submit a Retraction of a Previously Reported Notification of a release or threat of release including supporting documentation required pursuant to 310 CMR 40.0335 (Section C is not required)

(All sections of this transmittal form must be filled out unless otherwise noted above)

**C. INFORMATION DESCRIBING THE RELEASE OR THREAT OF RELEASE (TOR):**

1. Date and time of Oral Notification, if applicable: \_\_\_\_\_ Time: \_\_\_\_\_ ☐ AM ☐ PM  
 mm/dd/yyyy hh:mm

2. Date and time you obtained knowledge of the Release or TOR: 08/24/2004 Time: \_\_\_\_\_ ☐ AM ☐ PM  
 mm/dd/yyyy hh:mm

3. Date and time release or TOR occurred, if known: \_\_\_\_\_ Time: \_\_\_\_\_ ☐ AM ☐ PM  
 mm/dd/yyyy hh:mm

Check all Notification Thresholds that apply to the Release or Threat of Release:  
 (for more information see 310 CMR 40.0310 - 40.0315)

**4. 2 HOUR REPORTING CONDITIONS**

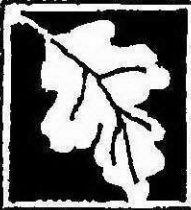
- ☐ a. Sudden Release
- ☐ b. Threat of Sudden Release
- ☐ c. Oil Sheen on Surface Water
- ☐ d. Poses Imminent Hazard
- ☐ e. Could Pose Imminent Hazard
- ☐ f. Release Detected in Private Well
- ☐ g. Release to Storm Drain
- ☐ h. Sanitary Sewer Release (Imminent Hazard Only)

**5. 72 HOUR REPORTING CONDITIONS**

- ☐ a. Subsurface Non-Aqueous Phase Liquid (NAPL) Equal to or Greater than 1/2 Inch
- ☐ b. Underground Storage Tank (UST) Release
- ☐ c. Threat of UST Release
- ☐ d. Release to Groundwater near Water Supply
- ☐ e. Release to Groundwater near School or Residence
- ☐ f. Substantial Release Migration

**6. 120 DAY REPORTING CONDITIONS**

- ☒ a. Release of Hazardous Material(s) to Soil or Groundwater Exceeding Reportable Concentration(s)
- ☐ b. Release of Oil to Soil Exceeding Reportable Concentration(s) and Affecting More than 2 Cubic Yards
- ☐ c. Release of Oil to Groundwater Exceeding Reportable Concentration(s)
- ☐ d. Subsurface Non-Aqueous Phase Liquid (NAPL) Equal to or Greater than 1/8 Inch and Less than 1/2 Inch



**Massachusetts Department of Environmental Protection**  
**Bureau of Waste Site Cleanup**

BWSC103

**RELEASE NOTIFICATION & NOTIFICATION  
 RETRACTION FORM**

Release Tracking Number

 - 

Pursuant to 310 CMR 40.0335 and 310 CMR 40.0371 (Subpart C)

**C. INFORMATION DESCRIBING THE RELEASE OR THREAT OF RELEASE (TOR): (cont.)**

7. List below the Oils (O) or Hazardous Materials (HM) that exceed their Reportable Concentration (RC) or Reportable Quantity (RQ) by the greatest amount.

O or HM Released	CAS Number, if known	O or HM	Amount or Concentration	Units	RCs Exceeded, if Applicable (RCS-1, RCS-2, RCGW-1, RCGW-2)
SEE ATTACHED					

☒ 8. Check here if a list of additional Oil and Hazardous Materials subject to reporting is attached.

**D. PERSON REQUIRED TO NOTIFY:**

1. Check all that apply: ☐ a. change in contact name ☐ b. change of address ☐ c. change in the person notifying

2. Name of Organization: \_\_\_\_\_

3. Contact First Name: \_\_\_\_\_

4. Last Name: \_\_\_\_\_

5. Street: \_\_\_\_\_

6. Title: \_\_\_\_\_

7. City/Town: \_\_\_\_\_

8. State: \_\_\_\_\_

9. ZIP Code: \_\_\_\_\_

10. Telephone: \_\_\_\_\_

11. Ext: \_\_\_\_\_

12. FAX: \_\_\_\_\_

☐ 13. Check here if attaching names and addresses of owners of properties affected by the Release or Threat of Release, other than an owner who is submitting this Release Notification (required).

**E. RELATIONSHIP OF PERSON TO RELEASE OR THREAT OF RELEASE:**

☒ 1. RP or PRP ☐ a. Owner ☒ b. Operator ☐ c. Generator ☐ d. Transporter

☐ a. Other RP or PRP Specify: \_\_\_\_\_

☐ 2. Fiduciary, Secured Lender or Municipality with Exempt Status (as defined by M.G.L. c. 21E, s. 2)

☐ 3. Agency or Public Utility on a Right of Way (as defined by M.G.L. c. 21E, s. 5(j))

☐ 4. Any Other Person Otherwise Required to Notify Specify Relationship: \_\_\_\_\_

**Table 1.0 Summary of Oil and/or Hazardous Materials Identified at****Site Location: 3 Philipp Road, Holbrook, MA**

Oil/HM Release	Oil/HM	Case #	Amount or Concentration	Unit	Reportable Concentration or Exceedance, if applicable
Bis (2-Ethylhexyl)phthalate	X	00117-81-7	140,000	mg/kg	RCS-1 - 100 mg/kg
Beryllium	X	07440-41-7	1.2	mg/kg	RCS-1 - 0.7 mg/kg
Lead	X	07439-92-1	450	mg/kg	RCS-1 - 300 mg/kg
C <sub>11</sub> -C <sub>22</sub> Aromatics	X	NA	5830	mg/kg	RCS-1 - 200 mg/kg



CUSHING & DOLAN, P.C.

ATTORNEYS AT LAW

24 SCHOOL STREET

SUITE 300

BOSTON, MA 02108-5113



Iris W. Davis  
Executive Offices of Environmental Affairs  
Department of Environmental Protection  
One Winter Street  
Boston, MA 02108



**CUSHING & DOLAN, P.C.**

ATTORNEYS AT LAW  
24 SCHOOL STREET, SUITE 300  
BOSTON, MA 02108-5113  
TEL. (617) 523-1555  
FAX (617) 523-5653  
WWW.CUSHINGDOLAN.COM

**SCANNED**

LEO J. CUSHING  
KEVIN N. DOLAN

\*ALSO ADMITTED NEW HAMPSHIRE BAR  
\*\*ALSO ADMITTED PENNSYLVANIA BAR  
\*\*\*ALSO ADMITTED LOUISIANA BAR  
\*\*\*\*ALSO ADMITTED ILLINOIS BAR

*talk to Veena*

\*ANN M. CUSHING  
GLEN F. SUTHERLAND  
\*\*TODD E. LUTSKY  
\*\*\*\*FRANK J. SALERNO  
ALICIA M. CHAMPAGNE  
\*KIMBERLY MARCHAND  
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JANICE A. WILSON  
JAMES M. TIERNEY  
CATHERINE E. ALOISI  
PAULA C. BARTLETT  
MICHAEL C. HACKETT  
MELISSA S. CONOVER

**FAX COVER SHEET**

TO: Iris W. Davis, Risk Reduction Chief FAX: 617 292 5850  
COMPANY: EOEA - DEP RE: NOR Response  
FROM: Michael C. Hackett, Esq. DATE: July 8, 2005

\*\*\*\*\*

Dear Iris:

Attached per your request please find a copy of our May 2, 2005 correspondence with respect to the 3 Phillip Rd., Holbrook, MA matter.

Best regards,

Michael C. Hackett

Number of Pages including cover: 9

**\*\*\*\*CONFIDENTIALITY NOTICE\*\*\*\***

The information and documents transmitted by this telecopy are privileged and contain confidential information intended only for the person(s) named above. Any other distribution, copying or disclosure is strictly prohibited. If you have received this telecopy in error, please notify us immediately by telephone and return the original to us without making a copy.

WILMINGTON (978) 988-1222 TEL (978) 988-1223 FAX	WESTBOROUGH (508) 870-1666 TEL (508) 870-1818 FAX	NORWOOD (781) 278-9901 TEL (781) 278-9911 FAX	CHESTNUT HILL (617) 264-7999 TEL (617) 264-4445 FAX
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*reg@bostonbusinesslaw.com*

**CUSHING & DOLAN, P.C.**

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SUITE 300

BOSTON, MA 02108-5113

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LEO J. CUSHING  
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PAULA C. BARTLETT

May 2, 2005

Iris W. Davis  
Executive Offices of Environmental Affairs  
Department of Environmental Protection  
One Winter Street  
Boston, MA 02108RE: Notice of Responsibility per Mass. General Law 21E and 310 CMR 40.00,  
The MCP

Dear Ms. Davis:

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Iris W. Davis  
May 2, 2005  
Page 2

*Benfile*  
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I look forward to speaking with you relative to this matter. Should you have any questions or need additional information, please do not hesitate to contact me.

Thank you.

Very truly yours,

*Leo J. Cushing*  
Leo J. Cushing, Esquire

*422 617 0200*  
LJC:mcc

Enclosures

cc: Frank Falvey, Sr.  
Adam Brodsky, Esq.

One Parker place.  
Fort Lee, NJ 07024.

their Reg. Agent.  
corp. Service Company  
84 State Street  
02109.

Accept legal  
of 1 Philip Road.



# Falvey Steel Castings Inc.

P.O. BOX 425

HOLBROOK, MA 02343

(781) 767-6210 / (800) 447-4256

Fax: (781) 767-6218

December 22, 2004

Mr. Kingsley Ndi  
Commonwealth of Massachusetts  
Department of Environmental Protection  
One Winter Street  
Boston, Massachusetts 02108

RE: Release Notification Form  
3 Philipp Road  
Holbrook, Massachusetts

Dear Mr. Ndi:

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**Property Owner**

**Current Operator**

Holbrook Chemical Corp. ("Holbrook")  
Castings, Inc. ("FSC")  
c/o Hampden Color  
Post Office Box 558  
Springfield, MA 01101

Falvey Steel

3 Philipp Road  
Holbrook, MA

Please be advised that this submittal has been prepared by FSC as the current operator of the property, tenant at will and innocent and potentially eligible tenant pursuant to the provisions of 310 CMR 40.0000. It should be noted that FSC, a distributor of cutting heads for rock crushing operations, does not use, store or handle hazardous materials as a part of its operations, does not utilize the underground or aboveground storage tank systems on the property, and it is our understanding that the

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FALVEY STEEL CASTINGS

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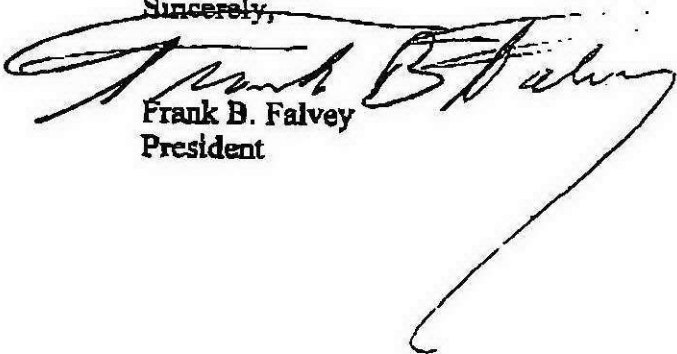
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Upon your review of this submittal, we would appreciate the opportunity to discuss this matter in further detail.

Sincerely,



Frank B. Falvey  
President

**Massachusetts Department of Environmental Protection  
Bureau of Waste Site Cleanup****BWSC103****RELEASE NOTIFICATION & NOTIFICATION  
RETRACTION FORM**

Release Tracking Number

☐ - ☐

Pursuant to 310 CMR 40.0335 and 310 CMR 40.0371 (Subpart C)

**F. CERTIFICATION OF PERSON REQUIRED TO NOTIFY:**

1. I, Frank Falvey, attest under the pains and penalties of perjury (i) that I have personally examined and am familiar with the information contained in this submittal, including any and all documents accompanying this transmittal form, (ii) that, based on my inquiry of those individuals immediately responsible for obtaining the information, the material information contained in this submittal is, to the best of my knowledge and belief, true, accurate and complete, and (iii) that I am fully authorized to make this attestation on behalf of the entity legally responsible for this submittal. I/the person or entity on whose behalf this submittal is made am/is aware that there are significant penalties, including, but not limited to, possible fines and imprisonment, for willfully submitting false, inaccurate, or incomplete information.

2. By: Frank Falvey

Signature

3. Title: Pres4. For: Falvey Steel Castings

(Name of person or entity recorded in Section D)

5. Date: 12/23/04

mm/dd/yyyy

☐ 6. Check here if the address of the person providing certification is different from address recorded in Section D.

7. Street: \_\_\_\_\_

8. City/Town: \_\_\_\_\_ 9. State: \_\_\_\_\_ 10. ZIP Code: \_\_\_\_\_

11. Telephone: \_\_\_\_\_ 12. Ext: \_\_\_\_\_ 13. FAX: \_\_\_\_\_

**YOU MUST LEGIBLY COMPLETE ALL RELEVANT SECTIONS OF THIS FORM OR DEP MAY  
RETURN THE DOCUMENT AS INCOMPLETE. IF YOU SUBMIT AN INCOMPLETE FORM, YOU  
MAY BE PENALIZED FOR MISSING A REQUIRED DEADLINE.**

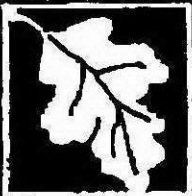
Date Stamp (DEP USE ONLY:)

DEC-27-2004 12:32

FALVEY STEEL CASTINGS

7817676218

P. 05



**Massachusetts Department of Environmental Protection**  
**Bureau of Waste Site Cleanup**

BWSC103

**RELEASE NOTIFICATION & NOTIFICATION**  
**RETRACTION FORM**

Release Tracking Number

 - 

Pursuant to 310 CMR 40.0335 and 310 CMR 40.0371 (Subpart C)

**A. RELEASE OR THREAT OF RELEASE LOCATION:**

1. Release Name/Location Aid: \_\_\_\_\_

2. Street Address: 3 Philipp Road3. City/Town: Holbrook4. ZIP Code: 02343-0000**B. THIS FORM IS BEING USED TO:** (check one)☒ 1. Submit a Release Notification☐ 2. Submit a Retraction of a Previously Reported Notification of a release or threat of release including supporting documentation required pursuant to 310 CMR 40.0335 (Section C is not required)

(All sections of this transmittal form must be filled out unless otherwise noted above)

**C. INFORMATION DESCRIBING THE RELEASE OR THREAT OF RELEASE (TOR):**1. Date and time of Oral Notification, if applicable: \_\_\_\_\_ Time: \_\_\_\_\_ ☐ AM ☐ PM  
mm/dd/yyyy hh:mm2. Date and time you obtained knowledge of the Release or TOR: 08/24/2004 Time: \_\_\_\_\_ ☐ AM ☐ PM  
mm/dd/yyyy hh:mm3. Date and time release or TOR occurred, if known: \_\_\_\_\_ Time: \_\_\_\_\_ ☐ AM ☐ PM  
mm/dd/yyyy hh:mmCheck all Notification Thresholds that apply to the Release or Threat of Release:  
(for more information see 310 CMR 40.0310 - 40.0315)**4. 2 HOUR REPORTING CONDITIONS**

- ☐ a. Sudden Release
- ☐ b. Threat of Sudden Release
- ☐ c. Oil Sheen on Surface Water
- ☐ d. Poses Imminent Hazard
- ☐ e. Could Pose Imminent Hazard
- ☐ f. Release Detected in Private Well
- ☐ g. Release to Storm Drain
- ☐ h. Sanitary Sewer Release (Imminent Hazard Only)

**5. 72 HOUR REPORTING CONDITIONS**

- ☐ a. Subsurface Non-Aqueous Phase Liquid (NAPL) Equal to or Greater than 1/2 Inch
- ☐ b. Underground Storage Tank (UST) Release
- ☐ c. Threat of UST Release
- ☐ d. Release to Groundwater near Water Supply
- ☐ e. Release to Groundwater near School or Residence
- ☐ f. Substantial Release Migration

**6. 120 DAY REPORTING CONDITIONS**

- ☒ a. Release of Hazardous Material(s) to Soil or Groundwater Exceeding Reportable Concentration(s)
- ☐ b. Release of Oil to Soil Exceeding Reportable Concentration(s) and Affecting More than 2 Cubic Yards
- ☐ c. Release of Oil to Groundwater Exceeding Reportable Concentration(s)
- ☐ d. Subsurface Non-Aqueous Phase Liquid (NAPL) Equal to or Greater than 1/8 Inch and Less than 1/2 Inch

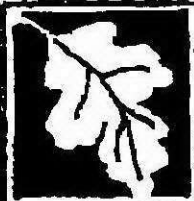


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FALVEY STEEL CASTINGS

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P.06



**Massachusetts Department of Environmental Protection**  
**Bureau of Waste Site Cleanup**

BWSC103

**RELEASE NOTIFICATION & NOTIFICATION**  
**RETRACTION FORM**

Release Tracking Number

☐ - ☐

Pursuant to 310 CMR 40.0335 and 310 CMR 40.0371 (Subpart C)

**C. INFORMATION DESCRIBING THE RELEASE OR THREAT OF RELEASE (TOR): (cont.)**

7. List below the Oils (O) or Hazardous Materials (HM) that exceed their Reportable Concentration (RC) or Reportable Quantity (RQ) by the greatest amount.

O or HM Released	CAS Number, If known	O or HM	Amount or Concentration	Units	RCs Exceeded, if Applicable (RCS-1, RCS-2, RCGW-1, RCGW-2)
SEE ATTACHED					

☒ 8. Check here if a list of additional Oil and Hazardous Materials subject to reporting is attached.

**D. PERSON REQUIRED TO NOTIFY:**

1. Check all that apply: ☐ a. change in contact name ☐ b. change of address ☐ c. change in the person notifying

2. Name of Organization: \_\_\_\_\_

3. Contact First Name: \_\_\_\_\_

4. Last Name: \_\_\_\_\_

5. Street: \_\_\_\_\_

6. Title: \_\_\_\_\_

7. City/Town: \_\_\_\_\_

8. State: \_\_\_\_\_

9. ZIP Code: \_\_\_\_\_

10. Telephone: \_\_\_\_\_

11. Ext: \_\_\_\_\_

12. FAX: \_\_\_\_\_

☐ 13. Check here if attaching names and addresses of owners of properties affected by the Release or Threat of Release, other than an owner who is submitting this Release Notification (required).

**E. RELATIONSHIP OF PERSON TO RELEASE OR THREAT OF RELEASE:**

☒ 1. RP or PRP ☐ a. Owner ☒ b. Operator ☐ c. Generator ☐ d. Transporter

☐ a. Other RP or PRP Specify: \_\_\_\_\_

☐ 2. Fiduciary, Secured Lender or Municipality with Exempt Status (as defined by M.G.L. c. 21E, s. 2)

☐ 3. Agency or Public Utility on a Right of Way (as defined by M.G.L. c. 21E, s. 5(j))

☐ 4. Any Other Person Otherwise Required to Notify Specify Relationship: \_\_\_\_\_

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FALVEY STEEL CASTINGS

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**Table 1.0**      **Summary of Oil and/or Hazardous Materials Identified at**

**Site Location: 3 Philipp Road, Holbrook, MA**

Chemical Name	Q	H	CAS#	Amount or Concentration	Unit	Reportable Concentration or Reference, if applicable
Bis (2-Ethylhexyl)phthalate		X	00117-81-7	140,000	mg/kg	RCS-1 - 100 mg/kg
Beryllium		X	07440-41-7	12	mg/kg	RCS-1 - 0.7 mg/kg
Lead		X	07439-92-1	450	mg/kg	RCS-1 - 300 mg/kg
C <sub>11</sub> -C <sub>22</sub> Aromatics	X		NA	5830	mg/kg	RCS-1 - 200 mg/kg



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

SCANNED

MITT ROMNEY  
Governor

KERRY HEALEY  
Lieutenant Governor

ELLEN ROY HERZFELDER  
Secretary

ROBERT W. GOLLEDGE, Jr.  
Commissioner

July 20, 2005

Holbrook Chemical Corp.  
c/o Hampden Color  
1 Parker Plaza  
Fort Lee, NJ 07024

RE: **Holbrook**  
3 Philipp Road  
RTN 3-24519

Attention: Philip E. Benheim

**NOTICE OF RESPONSIBILITY PER M.G.L. c.21E & 310 CMR 40.0000,  
the MCP**

THIS IS AN IMPORTANT NOTICE. FAILURE TO TAKE ADEQUATE ACTION IN  
RESPONSE TO THIS NOTICE COULD RESULT IN SERIOUS LEGAL  
CONSEQUENCES.

Dear Mr. Bendheim:

Information contained in a Release Notification Form (RNF) submitted to the Department of Environmental Protection (the Department or DEP) on December 24, 2004 and submitted by Holbrook Chemical Corp. indicates that there is or has been a release of oil and/or hazardous material at the above-referenced property which exceeds a "120 day" reporting threshold (310 CMR 40.0315) and which requires one or more response actions.

Based on this information, the Department has reason to believe that the subject property or portion(s) thereof is a disposal site as defined in the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, M.G.L. c. 21E, and the Massachusetts Contingency Plan, 310 CMR 40.0000 (the MCP). M.G.L. c. 21E and the MCP govern the assessment and cleanup of disposal sites.

The purpose of this notice is to inform you of your legal responsibilities under state law for assessing and/or remediation of the subject release. For purposes of this notice, the terms and phrases used herein shall have the meaning ascribed to them by the MCP

This information is available in alternate format. Call April McCabe, ADA Coordinator at 1-617-556-1171. TDD Service - 1-800-298-2207.

DEP on the World Wide Web: <http://www.mass.gov/dep>

Printed on Recycled Paper

unless the text clearly indicates otherwise.

### **STATUTORY LIABILITIES**

The Department has reason to believe that you (as used in this letter, "you" refers to Holbrook Chemical Corp.) are a Potentially Responsible Party (a PRP) with liability under M.G.L. c. 21E, § 5, for response action costs. Section 5 makes the following parties liable to the Commonwealth of Massachusetts: current owners or operators of a site from or at which there is or has been a release/threat of release of oil or hazardous material; any person who owned or operated a site at the time hazardous material was stored or disposed of; any person who arranged for the transport, disposal, storage or treatment of hazardous material to or at a site; any person who transported hazardous material to a transport, disposal, storage or treatment site from which there is or has been a release/threat of release of such material; and any person who otherwise caused or is legally responsible for a release/threat of release of oil or hazardous material at a site.

This liability is "strict", meaning it is not based on fault, but solely on your status as an owner, operator, generator, transporter or disposer. It is also joint and several, meaning that you may be liable for all response action costs incurred at the site, regardless of the existence of any other liable parties.

The MCP requires responsible parties to take necessary response actions at properties where there is or has been a release or threat of release of oil and/or hazardous material. If you do not take the necessary response actions, or fail to perform them in an appropriate and timely manner, the Department is authorized by M.G.L. c. 21E to have the work performed by its contractors. By taking such actions, you can avoid liability for response action costs incurred by the Department and its contractors in performing these actions, and sanctions, which may be imposed for failure to perform response actions under the MCP.

You may be liable for up to three (3) times all response action costs incurred by the Department. Response action costs include, without limitation, the cost of direct hours spent by Department employees arranging for response actions or overseeing work performed by persons other than the Department or their contractors, expenses incurred by the Department in support of those direct hours, and payments to the Department's contractors. (For more detail on cost liability, see 310 CMR 40.1200.)

The Department may also assess interest on costs incurred at the rate of twelve percent (12%), compounded annually. To secure payment of this debt, the Commonwealth may place liens on all of your property in the Commonwealth. To recover the debt, the Commonwealth may foreclose on these liens or the Attorney General may bring legal action against you.

In addition to your liability for up to three (3) times all response action costs incurred by the Department, you may also be liable to the Commonwealth for damages to natural resources caused by the release. Civil and criminal liability may also be imposed under M.G.L. c. 21E, § 11, and civil administrative penalties may be imposed under M.G.L. c. 21A, § 16 for each violation of M.G.L. c. 21E, the MCP, or any order, permit or approval issued thereunder.

**NECESSARY RESPONSE ACTIONS**

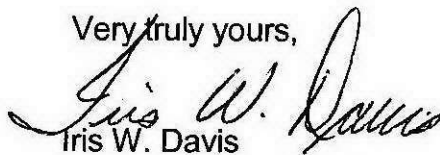
The subject site shall not be deemed to have all the necessary and required response actions taken unless and until all substantial hazards presented by the site have been eliminated and a level of No Significant Risk exists or has been achieved in compliance with M.G.L. c. 21E and the MCP. In addition, the MCP requires persons undertaking response actions at disposal sites to perform Immediate Response Actions (IRAs) in response to "sudden releases", Imminent Hazards and Substantial Release Migration. Such persons must continue to evaluate the need for IRAs and notify the Department immediately if such a need exists.

It is important to note that you must dispose of any Remediation Waste generated at the subject location in accordance with 310 CMR 40.0030 including, without limitation, contaminated soil and/or debris. Any Bill of Lading accompanying such waste must bear the seal and signature of an LSP or, if the response action is performed under the direct supervision of the Department, the signature of an authorized representative of the Department.

The Department encourages parties with liabilities under M.G.L. c. 21E to take prompt action in response to releases and threats of release of oil and/or hazardous material. By taking prompt action, you may significantly lower your assessment and cleanup costs and avoid the imposition of, or reduce the amount of, certain permit and annual compliance fees for response actions payable under 310 CMR 4.00.

If you have any questions relative to this notice, you should contact Iris Davis at the letterhead address or (617) 654-6542. All future communications regarding this release must reference the Release Tracking Number (RTN) 3-24519 contained in the subject block of this letter.

Very truly yours,



Iris W. Davis

Risk Reduction Chief

Bureau of Waste Site Cleanup

cc: Holbrook Health Department, by electronic mail

DEP database NOR/file



## Deering, Paegan (DEP)

From: Deering, Paegan (DEP)  
Sent: Friday, February 03, 2006 2:40 PM  
To: 'reg@bostonbusinesslaw.com'  
Subject: Holbrook, 3 Philipp Road

Holbrook, 3 Philipp Road  
Release Tracking Number 3-24519

Mr. Gentile:

Please inform Mr. Benhein that MassDEP received a report of contamination on the above referenced property. The report was received in December of 2004 based on a 21E assessment of the property. MassDEP regulations (21E) provide one year to Tier Classify the site or close the site with a Response Action Outcome Statement.

I am in the process of composing a Notice of Noncompliance for the site and note that Mr. Benhein may never have received a Notice of Responsibility for the site.

Please ask Mr. Benhein to contact me to discuss the property.

I am attaching a link to our web site so that Mr. Benhein may familiarize himself with our Bureau of Waste Site Cleanup process. <http://www.mass.gov/dep/bwsc/>

Thank you,

Paegan Deering  
Environmental Analyst  
MassDEP  
Northeast Region  
205B Lowell Street  
Wilmington, MA 01887

phone (978)-694-3382  
fax (978)-694-3499

~~File~~

abutts Baird  
McGuire

2/4  
✓ ST said to call Falvey and  
request report. Secretary will  
Unites contact lawyers for report  
Falvey says property foreclosed by Town  
Holbrook, MA - Town Hall  
781-767-4312  
Brownfields x3390 JoAnn