

**THIS FILE IS
CLOSED**

ENCLOSED DATED MATERIAL

From: 8/7/2001
To: 8/22/2002

**MORE RECENT MATERIAL
IN OTHER FILE**

Jerry Banks

08/22/2002 08:22 AM

To: Polkpolkim@aol.com
Subject: Crystal Springs Cleanup

The Legal staff has contacted the Board of Contractors and Borg Warner concerning your question regarding a contractors license. Since this is requirement of the Board of Contractors and not the MS Dept. of Environmental Quality, we have advised Borg Warner to contact the Board and determine if they and/or Martin/Slagle are required to hold a contractors license. We have been advised by the Board that they are investigating the matter. Regarding the cleanup at Crystal Springs, the cleanup is proceeding slower than we would like but not because of the contractors. Delays have been caused due to the first contractor selected to do the work declining the job, the Department working with Kuhlman to accomodate a plant expansion which has now been indefinitely postponed due to the economy, and legal concerns. The work is progressing under a plan approved by both the U.S. Environmental Protection Agency and the Department. Additionally, the staff has and will continue to ensure that the citizens of Crystal Springs are protected, during the already completed areas of remediation and the future remediation.



STATE OF MISSISSIPPI
DAVID RONALD MUSGROVE, GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
CHARLES H. CHISOLM, EXECUTIVE DIRECTOR

MEMORANDUM

TO: Kuhlman Electric Site File
FROM: Tony Russell *TR*
DATE: August 21, 2002
SUBJECT: Site Visit

I met with Chuck Peel and conducted a site visit at the above referenced site on August 21, 2002, to observe the work that has been accomplished since the last visit. Progress is being made but rain still continues to slow the progress. All of Area A has been excavated and backfilled.

They are presently working on backfilling area B with gravel. They have shut down future digging as the excavation contractor was given a two week dismissal notice on Friday, August 16, 2002. I have not been told who the new contractor will be or when the excavation work will begin again.

We rode around the drainage ditch area and he went over the areas that were in need of additional sampling. Chuck plans to have the samplers back in these areas this afternoon and tomorrow. They were still working on getting access to the McPherson property.

K:\Shared\UCSS\Tony\Kuhlman Electric\Kuhlman site vist 8-21-02.rtf

Jerry Banks
08/19/2002 03:14 PM

To: Tony Russell/HW/OPC/DEQ@DEQ
cc:
Subject: environmental cleanup in crystal springs: pcb removal



Polkpolkim@aol.com
08/17/2002 09:54 AM

To: Linda_Vaught@deq.state.ms.us
cc:
Subject: environmental cleanup in crystal springs: pcb removal

TO WHOM IT MAY CONCERN:

There is a cleanup at the Kuhlman plant in Crystal Springs, Ms. The company doing the cleanup is Martain and Slagle/ Borg Warner. First of all niether company is from the state of Ms. and second niether has a contractors licence. With any job there is a work order on how the job is to be done word for word on what is to be put where and the consequences of not doing so. Normally i would not get involved in something like this but considering that the contamination of the soil with pcbs's in this area is so great and the illnesses caused by these pcb's have such a high percentage here, i have cause to be greatly concerned about the way this job is being run. Surrounding the cleanup site are neighborhoods full of children being exposed to these deadly pcb's. They are playing in their yards only a few feet away from areas covered with plastic and surrounded by orange fences. Martin and Slagle has done everything in their power to drag this cleanup out; !! ine their pockets without any concern for the families and helpless children having to live by this daily. They do nothing by the rulebook and more than likely has contaminated the rest of crystal springs in their efforts to screw anybody and everybody they can. Please inform me of any measures i can take to have these people investigated for their careless efforts in removing this cantaminated area. As a last effort i will cantact the media and local papers to inform the people of Ms. how our DEQ has not done anything to control what kind of heartless people are allowed to operate an important cleanup such as this. Everything is not about money, it is about the safety of our children and other individuals, especially when threatened with such a horrible thing as pcb's. Please email me information about anything i can do, or anyone i can contact to rectify this situation i have documantation to backup my concerns and grievences. Thank you ever so much.

sincerely; a concerned citizen,

Kim Polk {polkpolkim@aol.com}



STATE OF MISSISSIPPI
DAVID RONALD MUSGROVE, GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
CHARLES H. CHISOLM, EXECUTIVE DIRECTOR

MEMORANDUM

TO: Kuhlman Electric Site File
FROM: Tony Russell *TR*
DATE: August 1, 2002
SUBJECT: Site Visit

I conducted a site visit at the above referenced site on August 1, 2002, to observe the work that has been accomplished since the last visit. Some progress has been made. The site is being divided up into segments i.e. Area A. They are presently working on excavating the contaminated soil from around a pecan tree in Area A. All of Area A has been excavated and backfilled except for the area around the pecan tree.

The largest stockpile onsite has been removed from Area B. All that is left to do in this area is grade a few inches off the surface and then backfill. Anastasia is out this week and they plan to have her fax a map to the Plaintiff's attorneys on Monday laying out the next area that will be remediated.

It has been raining every evening at the site which has slowed the progress of the removal. The Plaintiff attorneys continue to require additional samples which has also cost them several days of down time.

They are having to hand-auger to get the samples on the railroad property along the drainage channel. The Geoprobe rig sampler was not being used as the soil sample would not stay in the sample tube.

K:\Shared\UCSS\Tony\Kuhlman Electric\Kuhlman site vlst 8-1-02.rtf



STATE OF MISSISSIPPI
DAVID RONALD MUSGROVE, GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
CHARLES H. CHISOLM, EXECUTIVE DIRECTOR

July 23, 2002

Mr. John Zvolensky
President and CEO
Kuhlman Electric Corporation
101 Kuhlman Boulevard
Versailles, KY 40383

Dear Mr. Zvolensky:

Please find enclosed a copy of Mississippi Commission on Environmental Quality Order No. 4449-02 concerning the continuing assessment and remediation of the Kuhlman Electric Corporation property in Crystal Springs, Mississippi. I believe, and it is our intent, that this Order merely memorializes the current working agreement among Kuhlman, BorgWarner, and the Mississippi Department of Environmental Quality concerning the remediation of this property.

Please feel free to contact me or, if you prefer a technical contact, Tony Russell of MDEQ's staff, if you have further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Chuck D. Barlow".

Chuck D. Barlow
General Counsel

CDB/sas

Enclosure

cc: Scott E. Schang, Esq.
Tom Lupo, Esq.
Kelli Dowell, Esq.
~~Tony Russell~~
Pamela Layton
Mona Varner
Staff File
ECED File

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO. **4449 02**

KUHLMAN ELECTRIC CORPORATION
ATTN: JOHN ZVOLENSKY
PRESIDENT AND CEO
101 KUHLMAN BOULEVARD
VERSAILLES, KENTUCKY 40383

RESPONDENT

ORDER

The above-captioned cause came before the Executive Director of the Mississippi Department of Environmental Quality (MDEQ) this day for consideration under the authority of Miss. Code Ann. § 49-2-13 (Rev. 1999), and the Executive ~~Director, having heard and considered information presented by MDEQ staff,~~ having determined that an Administrative Order should be issued prefatory to any evidentiary hearing, and without making any final adjudication of fact or law, finds as follows:

1.

The Respondent, Kuhlman, is subject to Miss. Code Ann. §§ 17-17-1, *et seq.*, and §§ 49-17-1, *et seq.*, and the rules and regulations of the Mississippi Commission on Environmental Quality (Commission).

2.

Kuhlman operates the facility located at 101 Kuhlman Drive, Crystal Springs, MS 39059 ("site").

3.

On April 20, 2000, MDEQ was notified that a substance had been unearthed during an excavation for a building expansion at the site. Laboratory samples collected of the substance revealed the presence of polychlorinated biphenyls (PCBs) and several chlorinated benzenes.

4.

Pursuant to an indemnity agreement, BorgWarner, Inc. mobilized to the site on May 8, 2000 to begin investigating the extent of the contamination. The initial investigation showed widespread on-site contamination and that surface run-off from the site has impacted neighboring residential and commercial properties. Surface run-off also has impacted a drainage ditch leading to Lake Chautauqua.

5.

During the course of the investigation begun on May 8, 2000, BorgWarner, Inc. discovered that residents in the area received contaminated soil from Kuhlman during the late 1990's. BorgWarner has remediated the contaminated soils from the residences located adjacent to the site.

6.

A Remediation Work Plan has been submitted and approved by MDEQ and the US Environmental Protection Agency for remediating the contaminated soil at the site.

A Drainage Channel PCB Assessment Work Plan has also been submitted and approved by MDEQ for assessing the contamination along the drainage channel between the site and Lake Chautauqua.

7.

Premises considered, MDEQ has concluded that the site remediation and channel assessment are necessary and appropriate.

IT IS, THEREFORE, ORDERED as follows:

- A. Respondent shall implement the Revised Remediation Work Plan (RWP) dated November 2001 as approved by MDEQ and the US Environmental Protection Agency (EPA).
- B. Respondent shall not deviate from the approved RWP without approval from MDEQ and, when necessary under federal law, EPA.
- C. Respondent shall submit a detailed closure report within 120 days of completion of the RWP.
- D. Respondent shall implement the Drainage Channel PCB Assessment Work Plan dated August 2001 as approved by MDEQ.
- E. Respondent shall not deviate from the approved drainage channel assessment plan without approval from MDEQ and, when necessary under federal law, EPA.
- F. Respondent shall submit a detailed report of findings within 60 days of completion of the drainage channel assessment.

- G. Respondent shall submit a detailed work plan for remediating the drainage channel within 90 days of completion of the drainage channel assessment.
- H. Respondent shall submit within 60 days of the date of this Order a work plan for groundwater assessment beneath the site.

8.

This Order does not address fines, penalties, other sanctions, further removal and/or remedial actions and/or future violations of environmental laws, rules and regulations. Nothing contained in this Order shall limit the rights of MDEQ to take enforcement or other actions against Respondents for violations addressed herein, violations not addressed herein, fines, penalties, other sanctions, further removal and/or remedial actions and/or future violations of environmental laws, rules and regulations.

9.

If aggrieved by this Order, Kuhlman may request a hearing before the Commission by filing a sworn petition with the Commission within thirty (30) days after the date of this Order in the manner set forth in Miss. Code Ann. § 49-17-41 (Rev. 1999).

ORDERED, this the 22nd day of July, 2002.

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

BY: Charles H. Chisolm
CHARLES H. CHISOLM
EXECUTIVE DIRECTOR
MISSISSIPPI DEPARTMENT OF
ENVIRONMENTAL QUALITY



STATE OF MISSISSIPPI
DAVID RONALD MUSCROVE, GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
CHARLES H. CHISOLM, EXECUTIVE DIRECTOR

MEMORANDUM

TO: Kuhlman Electric Site File
FROM: Tony Russell *TJR*
DATE: July 22, 2002
SUBJECT: Site visit

I met with Chuck Peel on July 19, 2002, to observe the amount of soil that had been removed so far from the plant site. They had completed the two foot by two foot excavation along the southern property boundary. They were working on removing soil from Area A; however, they are presently being held up due to requests from the Plaintiffs attorneys to gather additional soil samples from Area B. Area B is the next area that will be remediated after Area A is remediated. They are having to give Plaintiffs attorneys a 72 hour notice prior to moving another area to dig.

The excavated areas had been backfilled with clay gravel. There is some contaminated soil remaining around a pecan tree that will have to be removed. If they are unable to remove the soil, they will remove the tree along with the contaminated soil.

K:\Shared\UCSS\Tony\Kuhlman Electric\Kuhlman site visit 7-19-02.rtf

AULTMAN, TYNER, RUFFIN & YARBOROUGH, LTD.

A PROFESSIONAL LAW CORPORATION
 ATTORNEYS AND COUNSELORS AT LAW
 315 HEMPHILL STREET (39401)
 POST OFFICE DRAWER 750
 HATTIESBURG, MS 39403-0750
 TELEPHONE: (601) 583-2671
 FACSIMILE: (601) 583-2677

FACSIMILE TRANSMITTAL SHEET

TO: MEG McALISTER, ESQ./
 DOUG MERCIER, ESQ. (601) 355-9191

FROM: Daphne M. Lancaster, Esq.

DATE: July 18, 2002

FAX NO: Total No. of Pages (w/cover): 2

RE: Kellum v. Kuhlman Electric Corporation, et al

ORIGINAL TO FOLLOW BY U.S. MAIL _____

NOTES/COMMENTS:

We are now in receipt of Plaintiffs' Notice of Election for Soil Sampling with regard to Area B. Unfortunately, we must also note what we view as a number of violations of Judge Pickard's June 24, 2002 Order by Plaintiffs' agents and resolve some confusion on plaintiffs' part.

First, on July 17, 2002, the day after BorgWarner's required 72-hour notice that it would enter a new zone, and without the required 36-hour notice of plaintiffs' intended sampling locations, a colleague from your office and your consultants appeared at the Kuhlman Electric Company site and demanded access for observation and sampling. We also had received no word of their intended presence. We again raise the concern that this approach unnecessarily distracts resources and time and causes increased expense and delay in the cleanup.

In the future, please coordinate the expected arrival time of your colleague(s) and consultants at the property with me. We are confident that this can be done in a manner that will add efficiency to compliance with the Order.

Second, under paragraph 10 the June 24th Order states: That Plaintiffs shall have thirty-six (36) hours from receipt of said notice to notify Defendants whether they require any additional sampling in the area of the remediation site, which is the subject of BorgWarner's notice, and the location(s) therein where said sampling is to occur. Although Plaintiffs' notice does list some certain locations (DP-157, DP-159, DP-164, DP-177, DP-179, and DP-220), sampling frequency and intervals are not specified. Further, the statement concerning sampling at "such other locations as plaintiffs' environmental technical staff shall designate on site." is beyond the scope

and spirit of this Order and we object to this additional, unspecified sampling. We have and have always been prepared to coordinate sampling in specifically designated locations.

Third, it is apparent that there is some confusion on plaintiffs' part as to remediation activities. There is no "utility trench" in Area B. This trench was to be constructed after this zone was entered as part of the KEC plant expansion project, which you know has been cancelled. Further, Area B is not to be excavated, as the concentrations are below regulatory clean-up levels. The only thing to be removed from Area B is Stockpile #1 and a slight soil cover. You have stated numerous times, including the day of the June 24th hearing, that Plaintiffs did not want any samples from Stockpile #1. Accordingly, we are proceeding with its removal.

In addition, Plaintiffs' notice provides for samples to be taken between 6 inches and 8 feet. I call this to your attention due to the provision regarding use of the geoprobe and the expenses associated therewith. Any costs incurred in relation to the geoprobe and its crew, including standby time, will be charged to the Plaintiffs at the rate of \$1500.00 per day, in accordance with the Order. While we do not accept the unannounced appearance on site as a constructive precedent, given plaintiffs' presence at the site yesterday we arranged for and have had a geoprobe standing by for your designated sampling activities all day today.

Finally, since your representatives did not reappear at the site today, we suggest conducting the sampling activities in Area B, as per your notice, on Friday, July 19, at 8:30 am CST. This may also allow your representatives to avoid staying into Saturday. Our crews will be working all day Saturday and we certainly would object to any suggestion that we further defer remediation activities until Monday solely to conduct the specified sampling.

Please advise.

Thank you.

DAFINE M. LANCASTER, ESQ.

cc: Tom Lupo, Esq. (312/269-8869)
Stephanic Bransfield (312/322-8621)
Anastasia Hamel (586/497-4089)
Chuck Russell, Esq. (601) 961-5349
Tony Russell (601) 961-5300

DAVID NUTT & ASSOCIATES, P.C.

666 North Street, Suite 102A
 Jackson, MS 39202
 Telephone: (601) 355-9122
 Fax: (601) 355-9191

FACSIMILE TRANSMITTAL SHEET

TO: _____ **FAX NUMBER:** _____

Tom Tyner/Daphne Lancaster	(601) 583-2671 2677
Anastasia Hamel	(586) 497-4089
Robert Martin	(828) 669-5289
Chuck Barlow	(601) 961-5349
Tony Russell	(601) 961-5300
Randy Horsak	(281) 497-1676

CC: Harold J. Barkley, III, Esq. (662) 369-6075
 Mark Pearson, Esq. 969-5582
 Harold J. Barkley, Jr., Esq. 355-8544

FROM: Douglas G. Mercier

RE: KUHLMAN CORPORATION **DATE:** July 17, 2002

THIS TRANSMITTAL CONTAINS 3 **PAGES, INCLUDING THIS COVER SHEET.**

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY

NOTES/COMMENTS:

See Attached Notice of Plaintiffs' Election for Additional Soil Sampling

THE ORIGINAL WILL NOT BE SENT BY UNITED POSTAL SERVICE.

The information contained in this facsimile message is legally privileged and confidential information intended only for the use of the designated recipient. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this document is strictly prohibited. If you have received this facsimile in error, please notify us immediately by telephone and return this original message to us at the address above via United Postal Service. Thank you.

IN THE CIRCUIT COURT OF COPIAH COUNTY, MISSISSIPPI

PAUL KELLUM, *et al.*

PLAINTIFFS

VS.

CIVIL ACTION NO. 2001-0313 thru 2001-0324

KUHLMAN CORPORATION, *et al.*

DEFENDANTS

NOTICE OF PLAINTIFFS' ELECTION FOR SOIL SAMPLING

TO: Tom Tyner/Daphne Lancaster	Facsimile: (601) 583-2671
Anastasia Hamel	Facsimile: (586) 497-4089
Robert Martin	Facsimile: (828) 669-5289
Chuck Barlow	Facsimile: (601) 961-5349
Tony Russell	Facsimile: (601) 961-5300
Randy Horsak	Facsimile: (281) 497-1676

The Plaintiffs, by and through counsel, hereby notify Defendants that, prior to commencement of remediation, Plaintiffs require additional soil sampling in the area described and identified as "Area B" in the BorgWarner, Inc., 11:09 a.m. (Eastern Time), July 16, 2002, *NOTICE OF REMEDIATION*. Plaintiffs require six (6) soil samples along the "UTILITY TRENCH" identified in "Area B" at locations exhibiting apparent staining or odor at depths between six inches and eight feet or at such other locations as Plaintiffs' environmental technical staff shall designate on site. Plaintiffs also require soil samples between the depths of six inches and eight feet at the following locations identified on "Figure 3" of the map prepared for BorgWarner, Inc., by Martin & Slagle, as follows: DP-157; DP-159; DP-164; DP-177; DP-179; and DP-220. Plaintiffs' environmental technical staff shall be present for all sampling activity.

Respectfully submitted,


DOUGLAS C. MERCIER,
Attorney for Plaintiffs



Fax

BorgWarner Inc.
11955 East Nine Mile Road
Warren, Michigan 48089

From: Anastasia Hamel		To: Distribution List Below	
Of: BorgWarner Inc.		Of:	
Phone: (586) 497-4503		Fax:	
Fax: (586) 497-4089		RE: Attached Notice of Remediation	
<p>Meg McAlister and Doug Mercier Randy Horsack at 3TM International, Inc. Daphne Lancaster Tom Lupo Chuck Barlow, MDEQ Tony Russell, MDEQ</p>		<p>Fax: 601-355-9191 Fax: 281-497-1676 Fax: 601-583-2677 Fax: 312-269-8869 Fax: 601-961-5349 Fax: 601-961-5300</p>	
<p>This facsimile contains information which (a) may be legally privileged, proprietary in nature or otherwise protected by law from disclosure, and (b) is intended only for the use of the addressee(s) named above. If you are not the addressee or the person responsible for delivering this to the addressee(s), you are hereby notified that any disclosure, copying, distributing or use of this facsimile is prohibited and may constitute an invasion of the privacy of the addressee(s). If you have received this facsimile in error, please telephone us (collect) immediately so that we can arrange for the retrieval of the facsimile at no cost to you.</p>			
Date: July 16, 2002		Number of page(s) in this fax including cover <u>4</u>	

Original will be sent via: Mail OR Overnight Courier Will Not Be Sent X

IN THE CIRCUIT COURT OF COPIAH COUNTY, MISSISSIPPI**PAUL KELLUM, ET AL****PLAINTIFFS****VERSUS****CAUSE NO. 2001-0313 THRU 2001-0324****KUHLMAN CORPORATION; KUHLMAN
ELECTRIC CORPORATION; BORG-WARNER,
INC.; DAVID RODGERS and THE MISSISSIPPI
DEPARTMENT OF ENVIRONMENTAL QUALITY****DEFENDANTS****NOTICE OF REMEDIATION**

TO: Meg McAlister and Doug Mercier	Fax: 601-355-9191
Randy Horsack at 3TM International, Inc.	Fax: 281-497-1676
Daphne Lancaster	Fax: 601-583-2677
Tom Lupo	Fax: 312-269-8869
Chuck Barlow, MDEQ	Fax: 601-961-5349
Tony Russell, MDEQ	Fax: 601-961-5300

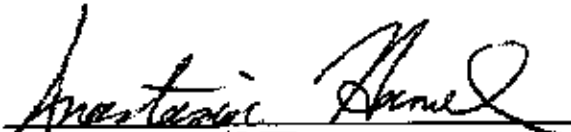
PLEASE TAKE NOTICE that, in accordance with the Court's Order of June 24, 2002 in the above referenced matter, the Defendants, BorgWarner Inc. and Kuhlman Electric Corporation, shall commence remediation activity on the area identified below no sooner than seventy-two (72) hours from the date and time of this notice. In the event that Plaintiffs do not designate any samples to be taken from the area described below within thirty-six (36) hours of the date and time of this notice, as required in the Court's Order of June 24, 2002, said remediation activity will commence.

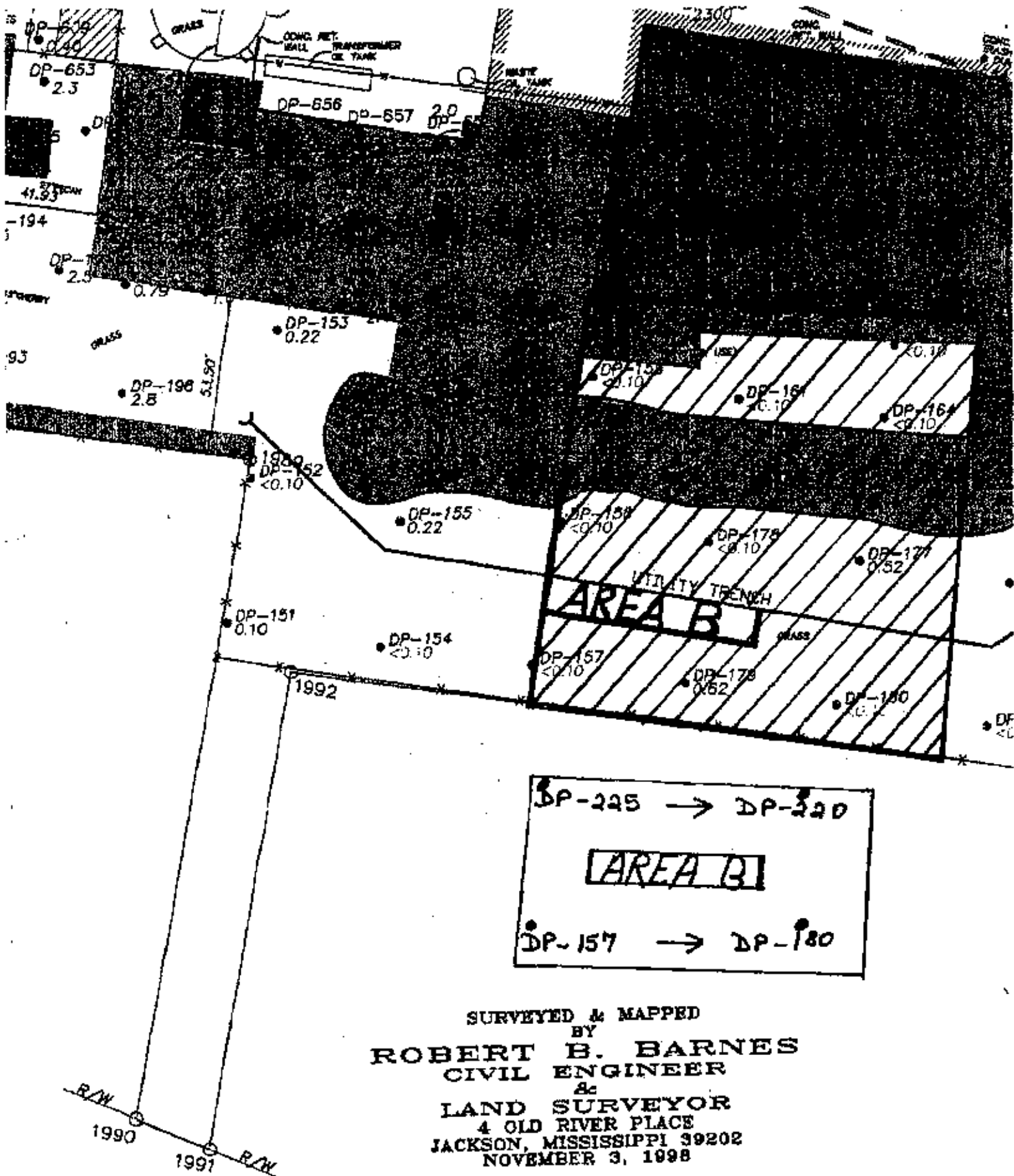
AREA SUBJECT TO REMEDIATION NOTICE:

Area B as described in the attached sketch.

THIS the 16th day of July, 2002 at 10:00 am.

**BORGWARNER INC. and
KUHLMAN ELECTRIC CORPORATION**

By: 
ANASTASIA HAMEL
Director, Environmental Programs
BorgWarner Inc.



DP-225 → DP-220
AREA B
 DP-157 → DP-180

SURVEYED & MAPPED
 BY
ROBERT B. BARNES
 CIVIL ENGINEER
 &
 LAND SURVEYOR
 4 OLD RIVER PLACE
 JACKSON, MISSISSIPPI 39202
 NOVEMBER 3, 1998

ATTORNEYS FOR PLAINTIFFS:

DAVID NUTT & ASSOCIATES
Mary E. McAlister, MSB No. 2170
Douglas G. Mercier, MSB No. 9510
666 North Street, Suite 102-A
P.O. Box 1039
Jackson, MS 39215-1039
Telephone: (601) 355-9122
Facsimile: (601) 355-9191

Harold J. Barkley, III, MSB No. 8647
Attorney at Law
P.O. Box 44
Aberdeen, MS 39730
(662) 369-7819

Harold J. Barkley, Jr., MSB No. 2008
Todd Johns, MSB No. 9587
P.O. Box 55849
Jackson, MS 39296-5849
(601) 355-6661

Mark L. Pearson, MSB No. 8748
Attorney at Law
P.O. Box 3873
Jackson, MS 39207-3873
(601) 948-6822



STATE OF MISSISSIPPI
DAVID RONALD MUSGROVE, GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
CHARLES H. CHISOLM, EXECUTIVE DIRECTOR

June 21, 2002

Via Facsimile

Mary E. McAlister, Esq.
Doug Mercier, Esq.
David Nutt & Associates
P.O. Box 1039
Jackson, MS 39215-1039

Thomas W. Tyner, Esq.
Daphne Lancaster, Esq.
Aultman, Tyner, Rufin & Yarborough
P.O. Drawer 750
Hattiesburg, MS 39403-0750

Thomas D. Lupo, Esq.
Jennifer K. Fardy, Esq.
Seyfarth & Shaw
Suite 4200
55 East Monroe Street
Chicago, IL 60603-5803

Dear Counsel:

Please consider this effort to resolve the ongoing discovery dispute between the Plaintiffs and the non-MDEQ Defendants. I have heard a considerable amount of discussion from both sides of this issue, in which MDEQ is not directly involved. In order to avoid the hearing on the Plaintiffs' Motion for Contempt, I offer the following solution:

1. All samples requested by MDEQ and all samples requested to date by the Plaintiffs as listed in Plaintiffs' Notice of Service of Plaintiffs' Designated Sampling Points would be taken next Tuesday, June 25, 2002. Note that these samples will be taken by Borg Warner personnel using Borg Warner's equipment, but representatives of the Plaintiffs will be allowed to observe the sampling. All samples will be split with the Plaintiffs. The samples requested by MDEQ also will be split with MDEQ.
2. Prior to June 25, 2002, Plaintiffs will provide documentation to the non-MDEQ Defendants that the Plaintiffs' representatives who will be on site during the June 25, 2002 sampling event are OSHA certified to participate in such activities, such as by providing proof of current OSHA 40-hour hazardous materials training status of the individuals or substantially equivalent certification.

3. After this June 25 sampling event, Borg Warner will notify Plaintiffs five working days prior to the beginning of remediation at any portion of the Kuhlman plant site. "Working days" are defined as Monday through Friday, excluding federal holidays. The notification can be given by reference to the site remediation work plan (November 2001) approved by MDEQ and EPA. Once this notification is given, the Plaintiffs will have two working days to inform the Defendants whether Plaintiffs wish to take further additional samples on that part of the property and to inform Defendants of the specific location and depth at which those samples are to be taken. Borg Warner then may, at its option, agree to take the samples using its personnel and equipment at a cost to be agreed upon between the parties or may inform the Plaintiffs that the Plaintiffs will be required to use their own personnel and equipment. The sampling will occur on the day prior to the intended onset of remediation at that portion of the property, as contained in the five-day notification required above, weather permitting, or on the next day, if weather does not permit. In either case, Plaintiffs will be required to provide to the non-MDEQ Defendants, prior to the onset of any sampling event, documentation to the non-MDEQ Defendants that the Plaintiffs' representatives who will be on site are OSHA certified to participate in such activities, such as by providing proof of current OSHA 40-hour training status of the individuals. If the Plaintiffs use their own personnel and equipment, Plaintiffs also will be required to provide the non-MDEQ Defendants documentation that the Plaintiffs' representatives carry comprehensive general liability (or are bonded for the work to be performed) and worker's compensation insurance at a level of coverage standard for the industry and/or required by law.
4. For all sampling allowed by this agreement, if Plaintiffs intend to analyze any sample for constituents other than PCB's, dioxins, and/or furans, Plaintiffs will inform the Defendants of the list of intended constituents to be analyzed prior to the sampling event, so that the Defendants may, if they wish, have their split of the same sample analyzed for the same constituents. In this way, the Plaintiffs are not limited in their sampling parameters, but the Defendants are not required to bear the burden of additional analysis where none is necessary.
5. Other than as described in paragraphs 1 and 3 above, Kuhlman/Borg Warner would not be required to allow Plaintiffs' representatives onto the Kuhlman plant site without further Order of the Court.

Please note that it will be very difficult for me to attend a hearing on Monday. I will be glad to discuss this proposal with you. You may contact me at 601-961-5076.

Sincerely,



Chuck D. Barlow
General Counsel

cc: Jerry Banks



STATE OF MISSISSIPPI
DAVID RONALD MUSCROVE, GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
CHARLES H. CHISOLM, EXECUTIVE DIRECTOR

MEMORANDUM

TO: Kuhlman Electric Site File
FROM: Tony Russell *TR*
DATE: July 10, 2002
SUBJECT: Soil sampling event

I met with Chuck Peel on July 9, 2002, to observe and collect split soil samples. The following sampling locations were sampled: DP- 27, 39, 65, 82, 104, 137, 143, 163, 179, 209, 642 and 676. The samples were collected with a geoprobe rig from the 0 to 2 foot interval. The sample was transferred to an aluminum pan, thoroughly mixed with a potato smasher/spoon and then transferred into sample containers (4 oz for PCB sample and 8 oz for dioxins). The samples collected by representatives of BorgWarner will be analyzed for both PCBs and dioxins. MDEQ will analyze all their splits for PCBs at their lab in Pearl. Then select 4 samples that will be sent off for dioxin analysis.

These soil samples are 12 of the 14 samples that MDEQ required BorgWarner to collect and conduct a correlation test between PCBs and dioxins. Sample DP-112 was collected earlier and sample DP-150 will be collected at a later date as the sampling location is beneath a pile of dirt at this time.

Digital photos were taken of the sampling event and are located on the k drive under /shared/ucss/Tony/Kuhlman Electric.

K:\Shared\UCSS\Tony\Kuhlman Electric\Kuhlman soil sampling event 7-9-02.rtf



STATE OF MISSISSIPPI
DAVID RONALD MUSGROVE, GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
CHARLES H. CHISOLM, EXECUTIVE DIRECTOR

MEMORANDUM

TO: Kuhiman Electric Site File
FROM: Tony Russell *TR*
DATE: June 28, 2002
SUBJECT: Site visit dated June 27, 2002

I met with Chuck Peel to observe the sampling being conducted for the Plaintiffs attorneys. BorgWarner (BW) representatives collected the soil samples, the samples were taken to a covered area where the samples were mixed and then the soil sample was split by both parties.

Sample locations 692 and 695 were sampled from the 0 to 6 inch interval. The samples were collected with a hand auger after the concrete was removed with a jack-hammer. The samples were placed in a bowl and then taken to the covered area. After the rocks were removed from the sample, the soil was thoroughly mixed. After the soil was mixed, the Plaintiffs representatives collected their sample from the bowl, then BW representatives collected their sample. The BW sample was sealed with a custody seal prior to placing in ice chest. The Plaintiffs sample was **not** sealed with a custody seal prior to placing in ice chest.

The sampling event was filmed by the Plaintiffs representatives and both sides took photographs during the sampling event.

I departed from the site after observing the collection of sample 692.

The samples that DEQ has required BW to collect for correlation purposes are to be collected during the week of July 8.

AULTMAN, TYNER, RUFFIN & YARBOROUGH, LTD.

A PROFESSIONAL LAW CORPORATION
 ATTORNEYS AND COUNSELORS AT LAW
 315 HEMPHILL STREET (39401)
 POST OFFICE DRAWER 750
 HATTIESBURG, MS 39403-0750
 TELEPHONE: (601) 583-2671
 FACSIMILE: (601) 583-2677

FACSIMILE TRANSMITTAL SHEET

TO: **MEG McALISTER, ESQ./**
DOUG MERCIER, ESQ. (601) 355-9191
RANDY HORSACK/
3TM INTERNATIONAL (281) 497-1676
ANASTASIA HAMEL (586) 497-4089
ROBERT MARTIN (828) 669-5289
CHUCK BARLOW, ESQ. (601) 961-5349
TONY RUSSELL (601) 961-5300
DAVID BARFIELD, ESQ. (601) 968-9425

FROM: Daphne M. Lancaster, Esq.

DATE: June 28, 2002

FAX NO: Total No. of Pages (w/cover): 1

RE: Kellum v. Kuhlman Electric Corporation, et al

ORIGINAL TO FOLLOW BY U.S. MAIL _____

NOTES/COMMENTS:

Please accept this letter as written confirmation of Doug Mercier's voicemail message advising that Plaintiffs do NOT wish to obtain any samples from the area designated in the Defendant's Notice of Remediation dated June 26, 2002. As such, remediation activity in said area will commence today.

Thank you.



DAPHNE M. LANCASTER, ESQ.

cc: Tom Lupo, Esq. (312/269-8869)
 Stephanie Bransfield (312/322-8621)
 Chuck Peel (601/892-6987)

Lorri Andronis
Assistant to the Vice President & General Counsel
Phone: 312-322-8543
Fax: 312-322-8621

BORGWARNER INC.

200 South Michigan Avenue
Chicago, IL 60604

Fax

To: Tony Russell	From: On behalf of ANASTASIA HAMEL
Fax: 601-961-5300	Pages: 4 Incl. cover
Phone:	Date: 6/26/2002
Re: NOTICE OF REMEDIATION	CC:

Urgent For Review Please Comment Please Reply Please Recycle

• **Comments**

PLEASE SEE ATTACHED.

NOTE: This facsimile contains information which (a) may be legally privileged, proprietary in nature or otherwise protected by law from disclosure, and (b) is intended only for the use of the addressee(s). You are hereby notified that any disclosure, copying, distributing or use of this facsimile is prohibited and may constitute an invasion of the privacy of the addressee(s). If you have received this facsimile in error, please telephone us (collect) immediately so that we can arrange for the retrieval of the facsimile at no cost to you.

CONFIDENTIAL

IN THE CIRCUIT COURT OF COPIAH COUNTY, MISSISSIPPI

PAUL KELLUM, ET AL

PLAINTIFFS

VERSUS

CAUSE NO. 2001-0313 THRU 2001-0324

**KUHLMAN CORPORATION; KUHLMAN
ELECTRIC CORPORATION; BORG-WARNER,
INC.; DAVID RODGERS and THE MISSISSIPPI
DEPARTMENT OF ENVIRONMENTAL QUALITY**

DEFENDANTS

NOTICE OF REMEDIATION

**TO: Meg McAlister and Doug Mercer
Randy Horsaek and 3TM International, Inc.
Chuck Barlow and Tony Russell**

**Fax: 601-355-9191
Fax: 281-497-1676
Fax: 601-961-5349
Fax: 601-961-5300**

PLEASE TAKE NOTICE that, in accordance with the Court's Order of June 24, 2002 in the above referenced matter, the Defendants, Borg Warner, Inc. and Kuhlman Electric Corporation, shall commence remediation activity on the area identified below no sooner than seventy-two (72) hours from the date and time of this notice. In the event that Plaintiffs do not designate any samples to be taken from the area described below within thirty-six (36) hours of the date and time of this notice, as required in the Court's Order of June 24, 2002, said remediation activity will commence.

AREA SUBJECT TO REMEDIATION NOTICE:

As described in the attached sketch.

THIS the 26th day of June, 2002 at 8:00 am.

02 08:01

From-BORG WARNER

3123228621

T-166 P.003/004 F-277

FROM : KUHLMAN SITE

PHONE NO. : 16818926987

JUN 25 2002 10:55 AM

**BORGWARNER INC. and
KUHLMAN ELECTRIC CORPORATION**

By:



ANASTASIA HAMEL

**Director, Environmental Programs
BorgWarner Inc.**