



*United States Attorney
Southern District of New York*

FOR IMMEDIATE RELEASE
September 8, 2011

CONTACT: U.S. ATTORNEY'S OFFICE
HERBERT HADAD, ELLEN DAVIS,
CARLY SULLIVAN, JERIKA RICHARDSON
PUBLIC INFORMATION OFFICE
(212) 637-2600

**UNITED STATES SETTLES SUPERFUND CLAIMS AGAINST
FIVE PARTIES RELATING TO THE RELEASE OF MERCURY
IN THE VILLAGE OF RYE BROOK**

PREET BHARARA, the United States Attorney for the Southern District of New York, announced that the United States lodged a proposed settlement today in White Plains federal court with five parties, who have agreed to pay a total of \$212,750 to the United States for clean-up costs that the U.S. Environmental Protection Agency ("EPA") has incurred since April 2004 in connection with the clean-up of mercury at the Port Refinery Superfund Site (the "Site") in the Village of Rye Brook in Westchester County, New York. The settling parties are Jacob Goldberg & Son, Inc.; Leonard Sherman d/b/a L&B Metals; L&B Metals, Inc.; Poor Charlie & Company; and Alexander Fariello (collectively, the "Settling Defendants").

The settlement partially resolves a lawsuit that the United States brought in April 2010 under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), commonly known as the Superfund statute, to recover clean-up costs incurred by EPA to remove mercury contamination from the Site. Specifically, the settlement resolves the liability of the Settling Defendants who, as the Complaint alleges, are responsible for the costs of the cleanup because they arranged for treatment or disposal of mercury, a CERCLA hazardous substance, at the Site.

According to the Complaint and the settlement agreement, the Settling Defendants were involved in the metal industry as dealers or producers, and sold scrap mercury to Port Refinery, Inc. ("Port Refinery") to be refined at the Site. As the Complaint additionally alleges, during the course of refining and purifying scrap mercury, Port Refinery caused mercury or wastes containing mercury to be spilled or discarded, or otherwise released at the Site.

According to the Complaint and the settlement agreement, although an initial clean-up at the Site had been undertaken from 1991 to 1996, additional mercury releases were discovered near the Site in April 2004, and the EPA immediately began an emergency

action to respond to that mercury release. Since April 2004, the EPA has incurred more than \$7 million in clean-up costs at the Site, in connection with undertaking a variety of investigative and removal activities, including, among other things, (I) testing air, water and soil at the Site for mercury contamination; (ii) excavating and disposing of more than 9,300 tons of mercury-contaminated soil from the Site; (iii) installing air and water filtration systems for residences at the Site; (iv) cleaning up the underground pipes; and (v) demolishing a residence that had significant mercury contamination.

The United States has sued various responsible parties, including the Settling Defendants, to recover the clean-up costs incurred by EPA since April 2004. While the settlement agreement resolves the claims against the Settling Defendants, the United States is continuing to pursue its claims against the five remaining defendants and more than twenty other potentially responsible parties.

Before being considered by the District Court for approval under applicable environmental laws, the settlement agreement will be lodged with the District Court for a period of thirty days to provide public notice and to afford members of the public the opportunity to comment on the settlement.

Mr. BHARARA praised the efforts of EPA on this matter.

The case is being handled by the Office's environmental protection unit. Assistant United States Attorney LI YU is in charge of the case.

11-267

###