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November 20, 2007

Mr. Richard G. Cutter  
Secretary  
CTS Corporation  
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Elkhart, IN 46514

Mr. Fred M Slosman  
General Partner  
Mills Gap Road Associates  
35 Peach Knob Dr.  
Asheville, NC 28804

Mills Gap Road Associates  
c/o Mr. Stan Greenberg  
General Partner  
75 North Market Street  
Asheville, North Carolina 28801

Mr. Richard Green  
Advantage Development Company  
The Biltmore Group, LLC (now dissolved)  
203 Blake Mountain Circle  
Asheville, NC 28803

Mr. John A. Powell, Esq.  
General Partner  
Mills Gap Road Associates  
53 N Market St  
Asheville, NC 28801

Mr. Steven D. Hill  
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The Biltmore Group, LLC (now dissolved)  
129 Ginger Quill Circle  
Biltmore Lake, NC 28715-8908

**CERTIFIED MAIL/RETURN RECEIPT REQUESTED**

**Re: CTS/Mills Gap Road Associates Property, Skyland, NC: Notice of Intent to Sue Under Resource Conservation and Recovery Act for Abatement of Imminent and Substantial Endangerment**

Gentlemen:

We represent residents of Skyland, North Carolina, who reside and/or own property near the former CTS Corporation plant now owned, in part, by Mills Gap Road Associates. The residents listed below hereby place you on notice, pursuant to Section 7002(a)(1)(B) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6972(a)(1)(B), that they intend to file suit against CTS Corporation and Mills Gap Road Associates for abatement of an imminent and substantial endangerment to health and the environment caused by disposal of hazardous waste on the CTS plant property. This notice is provided on behalf of the following persons:

Mr. Robert Aversano 70 Southside Village Asheville, NC 28803	Ms. Patricia Hogan 104 Jasmine Lane Asheville, NC 28803
Mr. & Mrs. Larry & Sandy Boyd 115 Poppy Lane Asheville, NC 28803	Mr. & Mrs. Glen & Gina Horecky 82 Southside Village Asheville, NC 28803
Ms. Laura Carson 103 Poppy Lane Asheville, NC 28803	Ms. Kathy Hoyle 117 Hibiscus Lane Asheville, NC 28803
Mr. & Mrs. Paul & Sheridan Cupp 18 Surrey Run Asheville, NC 28803	Mr. & Mrs. Ronald & Barbara Karpola 117 Trumpet Lane Asheville, NC 28803
Mr. & Mrs. Walter M. & Autumn Dockins 28 Clove Bud Court Asheville, NC 28803	Ms. Sharon Leicht 849 Glen Bridge Road Arden, NC 28704
Mrs. Therese Figura 102 Jasmine Lane Asheville, NC 28803	Mr. & Mrs. Clark & Ola Lisenbee 32 Concord Rd. Asheville, NC 28803
Mr. & Mrs. Edward & Joanna Franks 620 School Road Asheville, NC 28803	Ms. Margaret McAfee 127 Trumpet Lane Asheville, NC 28803
Mr. & Mr. John & Rosemarie Hauser 107 Trumpet Lane Asheville, NC 28803	Mr. Robert Penland 110 Concord Road Asheville, NC 28803
Mr. & Mrs. Robert & Judy Selz 183 Treetops Lane Asheville, NC 28803	Ms. Sherri Brown 110 Concord Road Asheville, NC 28803
Mr. & Mrs. Peter & Pauline Waldburger 108 Jasmine Lane Asheville, NC 28803	

Section 7002(a)(1)(B) of RCRA, 42 U.S.C. § 6972(a)(1)(B), allows affected citizens to bring suit against any person against “any person, . . . including any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage, or disposal facility, who has contributed or who is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may present an imminent and substantial endangerment to health or the environment.” Specifically, toxic chemicals have migrated from hazardous waste disposed of on the CTS property into ground water and surface water on the property of surrounding property owners. Furthermore, hazardous air pollutants have migrated and continue to migrate from the CTS property onto the property of nearby residents causing substantial risk of illness and disrupting their use and enjoyment of their property. CTS Corporation is responsible as the past generator of the hazardous waste and as the past owner of the facility. CTS Corporation is also the present owner of an easement containing contaminated springs on adjacent property. Mills Gap Road Associates is responsible as the present owner of the facility. The former owners of The Biltmore Group, LLC, are responsible as

past owners of part of the CTS property which was developed and sold to some of the persons giving notice of intent to sue.

CTS Corporation generated and disposed of hazardous waste on the property during the time that it operated the CTS plant. That hazardous waste included a hazardous substance, trichloroethylene (“TCE”), which was used as a degreasing solvent in the production of electronics products at the CTS plant. TCE has been found in high concentrations in wells and springs of residents near the CTS property and in streams flowing off the property. The location of the CTS site is at a relative topographic high, and the presence of large amounts of TCE in the soil and ground water poses significant risks to down-gradient wells and springs, because of the recognized propensity of TCE to migrate and the potential energy for dispersal down gradient. This risk poses an imminent and substantial endangerment to public health and the environment, which will be exacerbated by delay or non-action.

Following are levels of TCE found on and off the property in soil, ground water and surface water:

- On August 31, 1987, Law Environmental, Inc., reported to CTS Corporation that it had found TCE at levels from 5 to 53,000 ug/kg in eleven (11) different locations at the Mills Gap Road site.
- On February 22, 1991, NUS Corporation reported to the Environmental Protection Agency (“EPA”) that it had found TCE in the surface water of a stream located west of the CTS building. One sample, located approximately 500 feet west of the CTS building contained 50 ug/kg TCE.
- In 1999, the North Carolina Department of Environment and Natural Resources took water samples from wells and springs located to the northwest and east of the CTS site. TCE was found to be present in the springs east of the CTS site at levels up to 21,000 ppb. A well sample from 110 Concord Road showed 270 ppb TCE. The springs and well continued to be contaminated when sampled again in 2000.
- In 1999 EPA sampled soils on the CTS site and found up to 55,000 ppb TCE.
- In 2001 EPA sampled soils on the CTS site and found up to 830,000 ppb TCE under the factory building.
- In February 2003 samples taken for EPA from off-site springs on the east side of the property showed levels of 130 to 34,000 ppb TCE.
- In 2004 to 2007 samples continued to show contamination of the off-site springs on the east side of the CTS property with TCE. In 2007 streams on the east and west side of the CTS site were determined to be contaminated with TCE.
- On February 16, 2007, a sample of the off-site spring on the east side of the CTS site was found to contain 293,000 ppb TCE.

These levels in ground water and surface water are significantly higher than the National Primary Drinking Water Standard Maximum Contaminant Level of 5 ppb. The Maximum Contaminant Level Goal is 0. TCE in ground water, surface water, soil, and air on and around the CTS property poses a continuing risk of serious harm to public health and the environment.

Even low levels of exposure to TCE pose a significant risk to exposed people. The evidence is strong that it causes cancer in people, and no threshold level of exposure for increased risk of cancer has been determined. *See, e.g.* National Research Council, National Academy of Sciences, *Assessing the Human Health Risks of Trichloroethylene: Key Scientific Issues* (2006). In epidemiological studies, TCE has been determined to cause the following health effects in exposed people. *See* Agency for Toxic Substances and Disease Registry, Camp Lejeune, NC, website ([www.atsdr.cdc.gov/sites/lejeune/chem\\_descriptions.html](http://www.atsdr.cdc.gov/sites/lejeune/chem_descriptions.html)):

In children who were exposed in the womb from their mother drinking water contaminated with TCE:

- Leukemia
- Small for gestational age
- Low birth weight
- Fetal death
- Major heart defects
- Neural tube defects
- Oral cleft defects (including cleft lip)
- Chonal atresia (nasal passages blocked with bone or tissue)
- Eye defects

In people of all ages from drinking water contaminated with TCE:

- Non-Hodgkins lymphoma
- Bladder cancer
- Lung cancer

In workers exposed to TCE:

- Hodgkins disease
- Non-Hodgkins lymphoma
- Cervical cancer
- Kidney cancer
- Liver/biliary cancer
- Ovarian cancer
- Prostate cancer
- Neurological effects (delayed reaction times problems with short-term memory, visual perception, attention, and color vision)

While some contaminated water supplies have been replaced by public water supply in the area around the CTS site, there are several other families in the area who still depend on wells and springs for their water supply. Furthermore, there are numerous people who live in close proximity to the 8.65 acres that are considered by EPA to be the CTS site, including many who live on property that was once part of the CTS site. These families are potentially exposed to TCE vapor migrating from contaminated ground water on or near their property. *See* EPA, OSWER Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater and Soils (Subsurface Vapor Intrusion Guidance) November 2002.

Although EPA, CTS, and Mills Gap Road Associates have entered into an Administrative Order on Consent for onsite removal actions, that Order only addresses a small part of the CTS site


(8.65 acres out of the original 53.54 acres) and does not address ground water contamination. Based upon sampling data, TCE has been found in areas outside the 8.65 acres addressed in the AOC. Furthermore, the high concentrations of TCE found in springs outside the 8.65 acres are indicative of large quantities of TCE in ground water, including the likelihood of non-aqueous phase liquid TCE in fractures and depressions in the bedrock on and around the CTS property. There has been no ground water monitoring plan for determining the extent of the contaminant plume, and no monitoring wells have been installed on or off the CTS property. Unless a cleanup of subsurface TCE and ground water is performed immediately, these high levels of TCE will continue to migrate from the property and contaminate ground water at greater distances from the site.

EPA has taken the position that it does not have authority to address groundwater contamination and require remedial action at the CTS site, because the site is not listed on the National Priority List ("NPL"). This position is contrary to law. EPA has the authority in Sections 104(a)(1), 106(a), and 122(a) of CERCLA, 42 U.S.C. §§ 9604(a)(1), 9606(a), 9622(a), to either take such actions itself, direct responsible parties to take such actions, or permit responsible parties to take such actions as part of a settlement or agreement. If EPA takes these actions, it can recover its response costs under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a). Addressing groundwater contamination and requiring remedial action at the CTS site would be consistent with the National Contingency Plan ("NCP"), even if the site is not on the National Priority List. The NCP at 40 C.F.R. § 300.425(b)(4) states that "[i]nclusion on the NPL is not a precondition to action by the lead agency under CERCLA sections 106 or 122 or to action under CERCLA section 107 for recovery of non-Fund-financed costs or Fund-financed costs other than Fund financed remedial construction costs." 40 C.F.R. § 300.425(b)(2) states that "EPA may also pursue other appropriate authorities to remedy the release, including enforcement actions under CERCLA and other laws. 40 C.F.R. § 300.425(b)(1) states that "[r]emoval actions (including remedial planning activities, RI/FSSs, and other actions taken pursuant to CERCLA section 104(b)) are not limited to NPL sites."

We intend to file suit in ninety days in the U.S. District Court for the Western District of North Carolina and will seek abatement of the imminent and substantial endangerment through a court order directing the responsible parties to immediately determine the extent of ground water contamination on and around the CTS site as part of a remedial investigation and feasibility study and to implement necessary remedies based on this study, with input and oversight from EPA and the public, to remove TCE from the ground water on and around the site, including the entire 53.54 acres formerly owned by CTS and Mills Gap Road Associates and all other properties to which the TCE has migrated.

If you would like to discuss this matter, please contact me as soon as possible, as we intend to file suit as soon as the statutory notice period expires.

Sincerely,



Gary A. Davis

cc: Mr. Michael B. Mukasey  
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