

MANKO | GOLD | KATCHER | FOX LLP

AN ENVIRONMENTAL AND ENERGY LAW PRACTICE

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Admitted in PA and NJ

September 15, 2017

Via Electronic and First-Class Mail

Dustin A. Armstrong
Environmental Protection Specialists
Environmental Cleanup and Brownfields
Pennsylvania Department of Environmental Protection
Southeast Regional Office
2 East Main Street
Norristown, PA 19401

Re: Bishop Tube

Dear Dustin:

On behalf of Constitution Drive Partners, L.P. (“CDP”), this letter responds to your letter dated September 5, 2017 addressed to Guy Wolfington of CDP.

In the letter, you indicate that the Pennsylvania Department of Environmental Protection (the “Department”) plans no further review or comment on Revision 2 of the Remediation Scope of Work (“SOW”) previously submitted by Environmental Standards Inc. (“ESI”) on behalf of CDP relating to a pending Industrial Sites Reuse Program (“ISRP”) grant application. Putting aside the fact that Mr. Wolfington never described the ISRP application as “dormant,” please note that, as you are aware, CDP is presently evaluating necessary modifications to the proposed redevelopment project, and therefore CDP will contact the Department in the future with an updated SOW if and when CDP seeks to pursue ISRP grant funding for the revised redevelopment project.

Your letter also includes three document requests, which you indicate are necessary to assist the Department in compiling the administrative record to support a remedial response action to be selected by the Department for the former Bishop Tube Site (“Site”).

It is worth pointing out to the Department again that CDP is not a responsible party at the Site, that CDP did not cause or contribute to the release of hazardous substances at the Site, and that in fact CDP entered into a Consent Order and Agreement (“COA”) with the Department prior to acquiring the Site, which COA provided CDP with liability protection relating to the hazardous substances released at the Site by prior owners and operators of the Site. Further,

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**Partner responsible - Bruce S. Katcher*



CDP previously partnered with the Department to design, install and operate for a period of time an air sparge/soil vapor extraction (“AS/SVE”) remediation system at the Site, which still constitutes the only remedial action that has taken place at the Site in the past decade. Despite mischaracterizations by certain members of the public in recent months concerning CDP’s role at the Site, CDP has been and remains an innocent party who has endeavored to successfully redevelop and remediate this brownfield Site, and return the Site to productive use.

The remainder of this letter responds to the Department’s three document requests.

Request No. 1: Documentation regarding the types and kinds of hazardous substances/materials containing hazardous substances, or any other material which were disposed of, stored, spilled or released into the soil, groundwater or surface waters at the Site. Please use specific chemical names rather than generic terms, such as “solvents” or “liquid waste”. Please also describe the manner and the location which any of the above materials were disposed of, stored, spilled, or released into the soil, groundwater or surface waters on the Property.

Response:

As the Department is aware, other than certain interior building demolition activities and the investigatory and remedial activities referenced in this letter, CDP has not undertaken any activities at the Site since it acquired the Site in 2005 subsequent to entering into the COA with the Department. As such, CDP did not dispose of, store, spill or release into the soil, groundwater or surface water, any hazardous substances or materials during its ownership of the Site.

As the Department is also aware, however, a trespassing and vandalism event occurred at the Site on March 16, 2011 in connection with abandoned transformers previously located at the Site. This trespassing and vandalism event resulted in the release of certain transformer oils from the vandalized transformers. Although CDP did not cause this release, in conjunction with the Department and East Whiteland Township, CDP took immediate steps to contain and remediate the release, which activities are documented in the Act 2 Final Report dated June 14, 2011 that was submitted on behalf of CDP to the Department, and which demonstrated attainment with residential Statewide Health Standards under Act 2. This Act 2 Final Report was approved by the Department by letter dated July 29, 2011. CDP presumes that the Act 2 Final Report and Department approval letter are contained in the Department’s files, eFACTS No. 617200.

Request No. 2: Documentation regarding the approximate date such hazardous substances/materials, containing hazardous substances, or any other material were disposed of, stored, spilled or released on the Property.

Response:

Please see CDP's response to Request No. 1 above, which is incorporated herein by reference.

Request No. 3: *Documentation associated with any investigation or remediation activities performed by CDP on the Property.*

Response:

The Department has already received copies of all data or documentation relating to any investigation or remediation activities performed at the Site by or on behalf of CDP. Specifically, the Department has already received all documentation relating to the installation and operation of the AS/SVE system (in fact the Department partnered with CDP in the design and installation of the system), and this documentation is contained in the Bishop Tube Seventy-Two Hour Operation Report dated December 10, 2010, which report was approved by the Department by letter dated December 22, 2010. We presume these documents are also in the Department's files.

As noted above, the Department has already received the June 14, 2011 Act 2 Final Report relating to the transformer oil spill.

In connection with CDP's efforts to secure the ISRP funding, CDP conducted additional soil characterization activities of the three soil hot spot areas at the Site, which data was described and contained in the ESI Revision 2 Remediation SOW dated April 25, 2017 that was previously submitted to the Department.

Finally and most recently, ESI conducted certain sampling of surface water in connection with the Department's investigation of observed leaks from a pipe crossing the stretch of Little Valley Creek adjacent to the Site. All of the data collected by ESI was similarly previously submitted to the Department by email from Stephen Brower of ESI dated August 22, 2017.

Please feel free to contact me should you have any further questions.

Sincerely,



Jonathan H. Spergel
For MANKO, GOLD, KATCHER & FOX, LLP

JHS/pa

cc: Mr. Guy Wolfington (Via Electronic Mail)
Mr. Jerry O'Connor (Via Electronic Mail)
Mr. Steven Brower (Via Electronic Mail)
Robert Schena, Esquire (Via Electronic and First-Class Mail)