



pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Southeast Regional Counsel

May 25, 2011

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PROGRAM ECP/HSCA
FAC NAME Bishop Tube Co
COUNTY 15
MUNICIPALITY 925
FILE ID # 407011
FILE TYPE # 100 (Legal)

Re: Bishop Tube HSCA Site

Dear Ben and Joel,

This letter will follow up on two recent communications we have had from consultants to your respective clients concerning the Bishop Tube Site in East Whiteland Township, Chester County. The first of these was a preliminary Remedial Investigation Report and follow-up meeting on March 9, 2011, with Msrs. Fisler and Martin of Roux Associates regarding the progress of the investigation being conducted pursuant to the Consent Decree in the Federal District Court. Our clients are in general agreement that there is need for some additional field work relating to the extent of groundwater contamination and impacts associated with releases of hazardous substances from the Bishop Tube Site. The Department's Project Officer for the Site, Dustin Armstrong, has sent correspondence to Roux with specific comments on the individual sections of the preliminary report and additional recommendations for follow-up action.

The second of these was a letter dated April 20, 2011, from Mr. Miller of Environmental Alliance setting forth technical comments on the Department's prior request that Whitaker and Johnson Matthey (collectively "PRP Group") assume operational responsibility for the Air Sparge/Soil Vapor Extraction (AS/SVE) systems at the Site. Mr. Armstrong is also providing a direct response to Mr. Miller in this regard.

While my client is generally satisfied with the progress that the PRP Group is making in

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the remedial investigation under the federal Consent Decree, I am writing to urge your clients to reconsider their prior refusal and agree to assume operational responsibility for the AS/SVE system.

As you are aware, the Department selected the AS/SVE system as an interim response under HSCA pursuant to an administrative record process conducted from December 16, 2006, through March 16, 2007. The purpose of this interim response was to address extremely high levels of contamination in the subsurface beneath two building areas. Neither Johnson Matthey nor Whitake commented on the potential interim response during the public comment period. Following selection of this interim remedy, the Department worked in partnership with the owner of the Site, Constitution Drive Partners, LLC ("CDP"), to design and construct the system. We were aware at the time that there were potential issues associated with the operational capabilities of this system given the high water table presented beneath the buildings at the Site. The system was designed to avoid or minimize such problems and was designed and constructed by CDP and the Department in an effort to recover contaminant mass from the underlying subsurface. CDP's operations demonstrated a significant capability of the system to remove mass contamination from the subsurface but also revealed that the effectiveness of the system may be maximized by operating it at something less than design capability because of the potential for infiltration of groundwater into the underlying piping network.

The Department subsequently cashed out with CDP in under a Second Amendment to the Prospective Purchaser Agreement in June of 2010 and agreed to be responsible for assuring future operations of the system. The Department's technical staff continue to believe that operation of the AS/SVE system, whether that be at design parameters or through operational adjustments, will continue to remove contaminant mass from the underlying subsurface in both the vadose and unconsolidated sub-vadose zones and thereby meet the overall objectives of the interim response action. Removal of significant mass quantities of contaminants through this system will not only respond directly to the on-site threats associated with such high levels of contamination but will also have the effect of greatly reducing the potential for migration of these pollutants into the groundwater hydrology and consequential re-contamination of the aquifer. Given that contamination of this aquifer from the Bishop Tube Site is already likely impacting the Exceptional Value Little Valley Creek, the Department considers this interim response action to be essential towards addressing the long term impacts to the stream.

Consequently, the Department intends to ensure resumed operation of the system. While we are prepared at this time to authorize Department contractors to operate the system and thereafter seek recovery of those costs through the District Court action, we recognize the cooperative approach that your clients have thus far shown in addressing the serious pollution problems associated with this Site and the potential efficiency of costs associated with direct operation by the PRP Group. As a result, we request that your clients reconsider their initial

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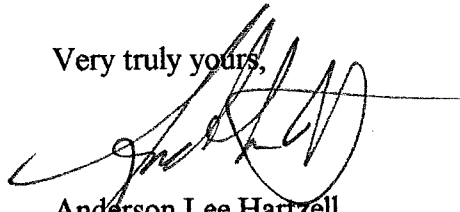
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decision not to accept operational responsibility of the AS/SVE system.

We ask that you respond to this letter within the next thirty days. As I have indicated, Mr. Armstrong has also sent comments to Roux concerning completion of the remedial investigation and has requested a response also within 30 days. We believe that coordination of these activities at the Bishop Tube Site will facilitate an efficient and appropriate coordinated response under the Hazardous Sites Cleanup Act.

Thank you for your attention to this matter.

Very truly yours,



Anderson Lee Hartzell
Regional Supervising Counsel

cc: Mr. Feola
Mr. Sinding
Mr. Patel
Mr. Sheehan
Mr. Armstrong
Mr. Buterbaugh
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