EPA Region 5 Records Ctr.
205226

188

HILBRICH, CUNNINGHAM & SCHWERD
Attorneys at Law
6195 CENTRAL AVENUE
PORTAGE, INDIANA 46368
TELEPHONE (219) 762-2224

JOHN FRANCIS HILBRICH
WILLIAM J. CUNNINGHAM
ROBERT M. SCHWERD
MARCE GONZALEZ, JR.
MICHAEL D. DOBOSZ
DANIEL B. VINOVICH
KAREN TALLIAN

LAKE COUNTY
2637 - 45TH STREET
HIGHLAND, INDIANA 46322
TELEPHONE (219) 924-2427
FAX (219) 924-2481

April 15, 1992

Wayde Hartwick
Remedial Project Manager
Mail Code HSRL-6J
U.S. Environmental Protection Agency
Region V
77 West Jackson Boulevard
Chicago, Illinois 60604

RE: Town of Griffith Landfill Status,
American Chemical Services NPL Site,
Griffith, Indiana

Dear Mr. Hartwick:

On April 2, 1992, you had a meeting with Mr. Harry Bhatt of Malcolm Pirnie Associates. It is my understanding from Mr. Bhatt that you had some questions regarding past activities at the ACS site and at the Town of Griffith Landfill, and he has asked me to write you this letter. I know that the EPA is currently reviewing remedial alternatives for the ACS site. As you may know from the record and from my past correspondence, the Town has a longstanding concern as to whether any or all of the landfill is included within the scope of "the ACS site."

As Mr. Bhatt no doubt explained to you, the Town's position is threefold. First, the Town believes that the inactive portion of the landfill has already been closed properly and in conformance with all regulations of the State of Indiana. Second, the only reason that the inactive portion of the landfill was later included in the NPL site are unsubstantiated allegations made by ACS in its original Section 104 Response (see discussion below). Third, the active section of the landfill is currently being operated in compliance with IDEM regulations. According to Malcolm Pirnie's report, which was previously submitted to your office, there is no indication that this section of the landfill has impacted the ACS site.

In connection with the allegations regarding the inactive section of the landfill, I would like to offer some background information. This information is merely a summary of statements and documentation previously submitted by the Town in its original Section 104 Response to EPA's Request for Information. To the best of my knowledge, the Griffith landfill became targeted for inclusion in the ACS site only after certain allegations were made by ACS in its 104 Response. There were three allegations that are relevant here.

1. ACS acknowledged that it buried various drums and possibly even a tank car on its property. Later, Griffith expanded its landfill by purchasing approximately 30 acres of land from ACS. However, this land, purchased in 1980, had been leased by the Town for the prior ten years. Griffith maintains that it never purchased any "disturbed areas" where ACS had done landfilling prior to 1970. In its 104 Response, ACS only alleged that "it is possible that a portion of the landfill area was sold to the Town of Griffith in 1980." If you will review the Town's 104 Response, you will find that Griffith denies having purchased any disturbed land (see the Affidavit of Merle Colby). You will also find, according to the statement by Orville Huff, that the ACS dumping activities took place only in the ACS Off-Site Containment Area. Mr. Huff has worked with Griffith for many years and is an eyewitness to many of the happenings at the landfill and at ACS.

2. The second basis for including parts of the Griffith landfill in the ACS site is set forth in the ACS response to Question No. 20, asking whether ACS disposed of material at Griffith landfill. ACS indicated that it sent "trash and retained samples, approximately 10 gallons per week, by pre-arranged weekly pickups." Apparently, ACS alleged that Griffith picked up hazardous materials from ACS in its regular weekly garbage pickups. However, if you will review the Town of Griffith 104 Response, you will find that Griffith never made any regular pickups from ACS. According to statements from various Town employees, ACS always had private scavenger service. It is only admitted that the Town picked up trash, meaning cardboard boxes and old paper, that was strewn along the edge of the ACS property to maintain cleanliness in the area.

3. The only other indication that Griffith might have been involved were some third-party allegations by ACS relating to the operation at Pazmey/Kapica (see Question and Answer No. 32 in the ACS Response). However, please note that the answer to Question No. 32 is prefaced by a disclaimer stating that ACS has no information concerning the operation of Pazmey, and that the allegations listed in Answer 32 are only based on information

provided by J. Kapica. However, during the discovery process connected with the related Contribution litigation, those allegations have never been substantiated, even by Mr. Kapica. All information that has been collected by the Town contradicts that allegation.

As I explained, the above information is merely a summary of information already provided to EPA, either by the ACS or by the Town's 104 Responses. These Responses clearly document how the landfill was later included within the scope of the site only because of these allegations. The Town's Response also clearly shows that there is no substantiation to those allegations.

For these reasons, we request that the Town of Griffith be deleted from the list of Potentially Responsible Parties at the ACS site. Griffith urges the EPA to remove the landfill from the remediation efforts at ACS under CERCLA, and to allow the Town to operate, monitor, and close its landfill under present IDEM regulations.

Sincerely,

HILBRICH, CUNNINGHAM & SCHWERD

Karen Tallian

Karen Tallian

cc: Harry Bhatt
Stephen Siegal

KT/rag