New York State Department of Environmental Conservation
Division of Environmental Remediation
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FEB 04 2014

Joe Martens
Commissioner

John Privitera
McNamee, Lochner, Titus & Williams, P.C.
677 Broadway
Albany, New York 12207-2503

Re: Frost Street Sites
Site Nos. 130043I, 130043L, and 130043M

Dear Mr. Privitera:

Commissioner Martens has asked me to respond to your letter regarding the following three inactive hazardous waste disposal sites; the Former Autoline Automotive Corp Site, Site No. 130043I, the 89 Frost Street Site, Site No. 130043L, and the Former Applied Fluidics Site, Site No. 130043M. These three sites are collectively referred to as the Frost Street Sites and are located in the New Cassel Industrial Area ("NCIA") in the Town of North Hempstead, Nassau County. Your letter to the New York State Department of Environmental Conservation (DEC) requests that DEC delay enforcement of DEC's remedial decisions and expenditure of State funds for these sites until after the United States Environmental Protection Agency (EPA) makes a decision on its approach for Operable Unit 1 (OU1) of the New Cassel/Hicksville Groundwater Contamination National Priorities List Site (the NPL Site) and references earlier letters which make the same request.

Since the date of your letter, the EPA has issued a Record of Decision (ROD) for OU1. The ROD was issued on September 30, 2013. DEC considers your request to delay work at the Frost Street Sites, either under State Superfund or under order, without merit.

It is clear from the OU1 ROD that the EPA expects DEC to oversee individual response actions at facilities upgradient of OU1 of the NPL Site. Specifically, the RODs states:

> "Individual facilities within the NCIA are considered to be among the sources of groundwater contamination for OU1. Response actions which are addressing sources of contamination in the NCIA are being conducted at those upgradient facilities, and they continue to be overseen by NYSDEC under its state hazardous waste cleanup program. The on-going, State-authorized response actions at the NCIA facilities are not part of this OU1, although the successful completion (i.e., source control or cleanup) of addressing the source area(s) at the upgradient individual NCIA facilities, under NYSDEC oversight are anticipated and was assumed in evaluating the potential for attaining the objectives of the selected remedial alternative in this ROD."

Consequently, DEC will not accept further delay in the work required by the Respondents under the fully executed Orders on Consent for OU2 of the Frost Street Sites dated January 23, 2003, respectively (the "Orders") to the extent modified in the Agreement. Further, the New York State Office of the Attorney General has been notified regarding your clients' failure to comply with the Agreement. Meanwhile, DEC is proceeding with the state-funded work at the Frost Street Sites.

In summary, DEC again directs the Respondents under the Orders to resume all work required by the Orders as modified in the Agreement. This work requires, but is not limited to:

- Providing an updated schedule to DEC within 15 days of receipt of this letter for constructing the in-well vapor stripping systems at the Frost Street Sites. The schedule must include, but not be limited to: constructing and starting-up the in-well vapor stripping systems, submitting a Site Management Plan, submitting a deed restriction for DEC approval, filing the approved deed restriction, and submitting a Final Engineering Report. The schedule must show completion of the work at an equal or faster pace than the schedule included in the approved design.
- Constructing the in-well vapor stripping systems, as detailed in the approved remedial design.
- Conducting all activities required in the "Final Engineering Report and Operation, Maintenance and Monitoring Plan" for the air sparge/soil vapor extraction (AS/SVE) system, including timely submission of required reports to the Department.
- Repairing the inoperable portions of the AS/SVE system.
- Submitting monthly progress reports that meet the requirements of the Orders.
- Notifying DEC's project manager ten working days before any field work begins.

DEC expects your clients to fully cooperate with DEC's implementation of the portion of the groundwater treatment remedy from 150-250 feet bgs, including providing access to all property needed to construct, operate, maintain and monitor the groundwater treatment systems pursuant to, but not limited to, ECL 27-0915, 27-1309 and 27-1313(8).

Nothing contained herein constitutes a waiver by DEC of any rights under applicable state and federal law or the relevant Consent Orders, nor does it constitute a release of any party from obligations under those same laws or the relevant Consent Orders.

Please contact my office at (518) 402-9706 if there are any questions.

Sincerely,

Robert W. Schick, P.E.
Director
Division of Environmental Remediation

ec: Fred Werfel
Jennifer Lapoma, EPA
Jacquelyn Nealon, DOH
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