UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NEW YORK 10007-1866

MAR - 3 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Frank Pavia
Harris Beach PLLC
99 Garnsey Road
Pittsford, NY 14534
fpavia@harrisbeach.com

Re: Lower Ley Creek Operable Unit, Onondaga Lake Superfund Site, Onondaga County, New York: Notice of Potential Liability and Request to Perform Remedial Design Activities Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675

Dear Mr. Pavia:

The U.S. Environmental Protection Agency ("EPA") is charged with responding to the release or threatened release of hazardous substances, pollutants, and contaminants into the environment and with enforcement responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601-9675.

EPA has documented the release and threatened release of hazardous substances into the environment at the Lower Ley Creek Operable Unit ("OU") of the Onondaga Lake Site, located in Onondaga County, New York. At the request of the New York State Department of Environmental Conservation ("NYSDEC"), EPA assumed responsibility for this OU in July 2009. EPA has spent and anticipates spending additional public funds to investigate and remediate releases or potential releases of hazardous substances at this OU.

EPA previously notified your client, the Town of Salina, that it is a potentially responsible party ("PRP") at this OU in a letter dated October 30, 2009. In that letter, EPA also requested that your client perform a remedial investigation and feasibility study ("RI/FS") for this OU. Because neither your client nor the other noticed PRPs agreed to perform the RI/FS, EPA performed the work itself, which culminated in the completion of an RI/FS report in January 2014. Based on the results of the RI/FS, EPA issued a Record of Decision ("ROD") on September 30, 2014, wherein it selected a remedy for this OU. By this letter, EPA is now requesting that your client perform the remedial design for the remedy selected in the ROD.

SITE BACKGROUND

This OU consists of the lower two miles of Ley Creek (including the adjacent floodplains) beginning at and including the Route 11 bridge (a.k.a. Brewerton Road) and ending downstream

at Onondaga Lake. This OU also includes an estimated 3.7-acre wetland situated on the southern bank of the Creek and Old Ley Creek Channel, an original section of the Creek before it was widened and redirected during a flood control project in the 1970s. In addition, this OU includes several sections along the banks of the Creek where dredged contaminated sediments were placed during the flood control project.

NOTICE OF POTENTIAL LIABILITY

Under CERCLA, PRPs may be required to perform cleanup actions and/or may be held liable for costs incurred by the federal government in taking response actions at and around sites where there has been a release or a threatened release of hazardous substances. This can include costs incurred performing investigative, planning, removal, and enforcement activities. By this letter, EPA is notifying your client that it is still considered to be a PRP with respect to this OU pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and is providing your client with the opportunity to volunteer to perform the remedial design. Should your client agree to perform or participate in the performance of the remedial design, any such agreement will be memorialized in an administrative order on consent with EPA.

This notice letter is not being provided pursuant to the special notice procedures outlined in Section 122(e) of CERCLA, 42 U.S.C. § 9622(e), because EPA does not believe that those procedures would expedite remedial action at this OU.

REQUEST TO PERFORM RESPONSE ACTION

EPA wishes to determine whether your client is willing to negotiate the performance of the design of the remedy selected in the ROD for this OU. Accordingly, please advise EPA within 14 days of receipt of this letter whether your client would be willing to negotiate in good faith with EPA concerning the performance of the remedial design, with EPA oversight, or whether it would provide funding for such response actions. Any agreement by your client to perform or fund response actions at this OU would need to be memorialized in an administrative consent order issued by EPA under CERCLA. EPA has provided you with an initial draft of such an order and scope of work for the remedial design. Please telephone or email your response to:

Lauren Charney
Assistant Regional Counsel
New York/Caribbean Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
charney.lauren@epa.gov
212-637-3181

with an emailed copy to:

Pamela Tames, P.E.
Central New York Remediation Section
Emergency and Remedial Response Division

U.S. Environmental Protection Agency, Region 2
tames.pam@epa.gov
212-637-4255

If your client declines to participate and EPA performs the work itself, your client may be liable under Section 107(a) of CERCLA to reimburse EPA's costs. Should your client not volunteer to perform or fund the work, EPA also may unilaterally require your client to perform the work pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

Please give the matter addressed in this letter your immediate attention. If you have any legal questions or would like to discuss this matter with EPA, please contact Ms. Charney. Should you have any technical questions regarding this OU, please direct them to Ms. Tames.

Sincerely yours,

Nicoletta Diforte, Deputy Director for Enforcement & Homeland Security
Emergency and Remedial Response Division