UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

NOV 30 2012

REPLY TO THE ATTENTION OF:
C-14J

VIA UPS

Lawrence McCormack
Corporation Counsel
City of Kokomo
100 South Union Street
Kokomo, Indiana 46901

Re: Kokomo Dump Site
1130 South Dixon Road, Kokomo, Howard County, Indiana
Site Spill Identification Number: C564
City of Kokomo's April 13, 2012 Response to General Notice Letter

Dear Mr. McCormack:

Thank you for the letter from the City of Kokomo (the City), dated April 13, 2012, responding to the General Notice letter the U.S. Environmental Protection Agency sent to the City on April 5, 2012, providing the City with an opportunity to perform or fund a removal action at the Kokomo Dump Site at 1130 South Dixon Road, Kokomo, Howard County, Indiana. The City's April 13, 2012 response qualified the City's willingness to participate in the performance or financing of the activities described in the General Notice letter on sufficient participation by other potentially responsible parties (PRPs) and reaching an agreement on the terms of an Administrative Consent Order and said it could not make an informed decision until advised of the amounts of both past and estimated future costs and share of liability assumed by other PRPs.

As discussed in our April 5, 2012 General Notice letter, EPA has documented the release or threat of release of hazardous substances, pollutants and contaminants into the environment from the Kokomo Dump Site and is planning to spend public funds to control and investigate these releases. The City owns and operated a landfill at the Kokomo Dump Site. Among other things, the General Notice letter said EPA has information the City may have owned or operated the Kokomo Dump Site or generated or transported hazardous substances that were disposed of at the Site, and notified the City of its potential liability as a PRP.

Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. §§ 9601-9675, specifically Sections 106(a) and 107(a), PRPs may be required to perform cleanup actions to protect the public health, welfare or the

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environment. Under Section 107(a) of CERCLA, PRPs may be held liable for all costs that EPA incurs (including interest) in responding to any release or threatened release of hazardous substances at the Kokomo Dump Site, unless the PRP can show divisibility or any of the other statutory defenses. PRPs include current and former owners and operators of the Kokomo Dump Site, as well as persons who arranged for treatment and/or disposal of any hazardous substance found at the Kokomo Dump Site, and persons who accepted hazardous substances for transport and selected the site to which the hazardous substances were delivered.

At this time we have not identified other PRPs. Irrespective of whether we do, however, we need to know whether the City, by itself, is willing to perform or finance response activities and reimburse EPA for its costs.

I am enclosing a draft Administrative Settlement Agreement and Order on Consent under Sections 104, 106(a) and 122 of CERCLA (AOC), by which your client would agree to undertake the removal actions determined by EPA to be necessary at the Kokomo Dump Site; the August 13, 2012 Action Memorandum for the Kokomo Dump Site, which, among other things, discusses the release or threatened release of hazardous substances from the Kokomo Dump Site; and a summary of the approximate EPA response costs identified up to September 30, 2012 ($78,563.12). The draft AOC includes provisions on reimbursement of past costs and the costs of overseeing the removal action performed under the AOC, and financial assurance for anticipated costs of the removal. The language and terms of the enclosed draft are subject to Agency review and approval.[1]

If a consent order cannot be promptly concluded, EPA may issue a unilateral order under Section 106 of CERCLA, requiring the City to perform specified work. Under Sections 106 and 107 of CERCLA, the City may be liable for reimbursement of EPA's costs, for statutory penalties and for treble damages for noncompliance with such an order.

Because of the conditions described in the Action Memorandum, EPA believes that response activities at the Kokomo Dump Site must be initiated as quickly as possible. Therefore, EPA does not intend to utilize the special notice procedures available under Section 122(e) of CERCLA.

Please contact me in writing no later than fifteen (15) calendar days after the date of this letter on the City's willingness to perform or finance the activities described in the General Notice letter and response to the attached draft AOC.

If EPA does not receive a timely response, EPA will assume that you do not wish to negotiate a resolution of your potential responsibility in connection with the Site and that you have declined any involvement in performing the response activities.

[1] Please note that the reimbursement provisions may be subject to public comment pursuant to Section 112(i) of CERCLA (and approval by the U.S. Attorney General), because the total U.S. response costs may exceed $500,000.

Please do not hesitate to contact me at (312)886-6630 or gonzalez.maria@epa.gov, if you have any questions or comments on this matter.

Sincerely,

Maria Gonzalez
Associate Regional Counsel

Enclosures
1. Draft AOC
2. Action Memorandum dated August 13, 2012
3. Cost Summary