

LITTLE MEDEIROS KINDER
BULMAN & WHITNEY PC



November 6, 2007

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Re: Town of Richmond v. RI DEM and Charbert

Dear Ms. Callam and Mr. Langlois:

I write to respond to your October 1 and October 23 letters. While your correspondence recounts various studies by GZA, the Town of Richmond can hardly applaud Charbert's efforts, as fundamental problems still remain unaddressed at the site three years after DEM issued its Notice of Violation. These problems fall into two main categories. First, despite the appalling levels of PCE and other contaminants found during bedrock well testing this summer, DEM has taken no action and Charbert still is under no deadline to conduct a bedrock aquifer investigation or propose a cleanup remedy. Second, DEM is allowing Charbert to continue using four lagoons (one of which is an illegal wetlands violation) for discharge of contaminated industrial wastewater despite the availability of more appropriate, cost-effective technologies that would minimize pollution to the local environment.

As to the first category, in June 2007, Mr. Lang and GZA found PCE and TCE in groundwater well samples that substantially exceeded drinking water standards. (Even GZA identified PCE at 3,700 ug/L, greatly exceeding the 5 ug/L standard.) In the September 2007 Phase III Report, GZA found VC at 49 ug/L, in excess of the drinking water standards of 2 ug/L, from diffusion bag samplers placed in the Wood River adjacent to the Charbert facility. Charbert's May 2005 SIR admits that PCE and its breakdown products - TCE, DCE, and VC - "have been identified as the primary contaminants of concern in groundwater at the Site." The SIR also "hypothesized" that Charbert has been contaminating groundwater with PCE and its byproducts by cycling contaminated well water through its industrial processes, from which wastewater is dumped into the lagoons and ultimately leached back into the groundwater.

Despite these recent results, DEM has taken no action with regard to the bedrock aquifer SIR. DEM states that it has already required Charbert to "proceed with a

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bedrock site investigation to further characterize bedrock contamination” – something that, while part of the Consent Agreement, is subject to no deadlines or parameters to complete the investigation and implement cleanup. And indeed, while Charbert has conducted an SIR and RAWP for the shallow (overburden) aquifer, no such bedrock investigation or proposed remedy for the bedrock aquifer has been completed in the three years since DEM brought its Notice of Violation. DEM’s suggestion that the Towns of Richmond and Hopkinton place restrictions on bedrock well installations in the surrounding area, pending Charbert’s further characterization of the contamination, just reinforces the need for immediate action.

As to the second issue, Charbert continues to discharge untreated, process wastewater into open-air lagoons in spite of its own findings that the lagoons are leaching contaminants to the groundwater system, and in spite of available technologies that would make this 1960s era technology wholly unnecessary. The Town, at its own cost, has made available to Charbert one of the most highly qualified wastewater technology experts in this region, Dr. Eugene Park, to advise on cost-effective technologies that would eliminate a need for outdoor lagoons. Dr. Park finds the lagoon system “grossly inappropriate.” Both Charbert and DEM have had Dr. Park’s reports since summer 2006, with a supplement provided to Charbert in February 2007. Importantly, Dr. Park has recommended alternatives and feasibility studies, both for disposal of wastewater and recycling of process wastewater, that could greatly reduce the amount of wastewater discharged to the surrounding environment (obviously decreasing any pollution effects).



Under the terms of the Consent Agreement, Charbert is solely required to “investigate” wastewater alternatives but can, at its own discretion, continue using the lagoon system indefinitely. The Consent Agreement also allows Charbert to continue using Lagoon 4, a blatant wetlands violation that was constructed illegally over 20 years ago, until in Charbert’s own discretion it has determined which wastewater technology system it will use in the future. Charbert’s recent interim proposal to DEM would allow it to continue using Lagoons 1-3 for disposal of its wastewater discharge with Rapid Infiltration Beds (RIBs). And once illegal Lagoon 4 is finally “closed” (which closure is not subject to any deadline) Charbert has only proposed to close and restore “that portion of [illegal] Lagoon 4 that lies within the 200-foot riverbank,” leaving one to wonder what will happen to the remaining contaminants in Lagoon 4.

The lagoon/RIB system is problematic for several reasons. Charbert proposes using biological and chemical treatments which would only add new contaminants to the system. This system will always have the air, odor, and overflow problems inherent in an open-air system. Research indicates that the main application for RIBs is disposal of municipal/sanitary wastewater – not industrial wastewater discharge – and that RIBs are less effective in the cold winter months. And Charbert has done nothing to investigate how it could decrease its quantity of discharges by recycling process wastewater. Overall, it appears that Charbert has completely ignored Dr. Park’s recommendations.

Charbert's superficial wastewater "investigations" and "interim proposals" do not solve the main issue about which Town residents are most concerned – Charbert's dumping of untreated, contaminated wastewater into the soils, adjacent rivers, and bedrock aquifer through open-air lagoons that have been the source of odor violations and respiratory problems for Town residents. And in any event, we understand from correspondence sent by Director Sullivan dated October 18, 2007, that Charbert has not proceeded, and does not intend in the near future to proceed, with constructing the RIBs and restoring disturbed wetlands, and is therefore out of compliance with the wastewater and wetlands terms of the Consent Agreement.

Despite the passage of three years since DEM issued its Notice of Violation, the condition of contaminants at the Site remains much the same. The Town will take all actions necessary to protect the welfare of its citizens by requiring Charbert to properly investigate and clean up long-standing pollution at the Site that continues still today.

Sincerely,

Christopher H. Little
Laura J. Bottaro

Enclosures

Cc: David Chopy, RIDEM, OC&I ✓
William DiLibrero, Town Manager, Town of Hopkinton
Cynthia Gianfrancesco, RIDEM, OWM
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