



RHODE ISLAND

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

TDD 401-222-4462

CERTIFIED MAIL

April 30, 2004

Mr. Alan Sepe, Director
Division of City Property
Providence City Hall
25 Dorrance Street
Providence, R.I. 02903

(CASE No.#99-018)
OWM SR 2004-006

RE: Notice of Intent to Enforce
Failure to Comply with Modified Order of Approval dated 2/10/04
Springfield Street Elementary and Middle Schools
Springfield Street Providence R.I.
(Assessor's Plat Map 115, Lots 97, 114-126,132-155, 179-188, 215-218, 234-
237,240-256, 259, 261-283, 309-315)

Dear Mr. Sepe:

Enclosed please find a Notice of Intent to Enforce (NOI) issued to the City of Providence in connection with the hazardous materials releases and the approved Remedial Action Work Plan (RAWP) dated June 4, 1999 for the Springfield Street Schools Property in Providence, Rhode Island.

The Modified Order of Approval (MOA) sent to you on February 10, 2004 requested that the City of Providence submit a draft Environmental Land Usage Restriction (ELUR) for the abovementioned properties by March 15, 2004 for review by the Department as well as record the Modified Order of Approval with the City of Providence Land Evidence Records and return a recorded copy within 5 days. The MOA was issued so as to provide clear timelines for deliverables related to the City of Providence's environmental monitoring requirements, remedial systems operations and maintenance at the elementary and middle school properties on Springfield Street. The monitoring, remediation and maintenance requirements outlined in the City of Providence RAWP were approved by the Department in the June 4, 1999 Order of Approval.

The City of Providence has not responded to or complied with the Department's requests and therefore, the property remains **out of compliance**. As is stated in the NOI, a written response is required within seven (7) days, stating your intentions of complying with the required actions in the time frame indicated. Failure to comply may result in issuance of a

NOI-Springfield Street Schools

formal enforcement action, including an administrative penalty.

Please contact me at (401) 222-2797 extension 7102 if you have any questions concerning your responsibilities; however, communication in any form other than writing shall not be deemed a satisfactory response to this NOI.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeffrey Crawford', written in a cursive style.

Jeffrey Crawford, Principal Environmental Scientist
Office of Waste Management

Enclosure

cc: Terrence Gray, Associate Director
Honorable David N. Cicilline, Mayor of Providence
Leo Hellested, Chief, RIDEM/ Waste Management
Dean Albro, Chief, RIDEM, Office of Compliance & Inspection
Kelly Owens, Supervising Engineer OWM
Brian Wagner, RIDEM/ Legal Services
John C. Simmons, Chief of Administration, Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF WASTE MANAGEMENT
Site Remediation and Restoration Program

IN RE: CITY OF PROVIDENCE
 C/o Alan Sepe
 Division of City Property
 Providence City Hall
 25 Dorrance Street
 Providence, R.I. 02903

Case #99-018
OWM-SR 2004-006

Subject: Failure to Comply with the Modified Order of Approval dated 2/10/04

NOTICE OF INTENT TO ENFORCE

You are hereby notified that, as a result of the release of petroleum products or hazardous materials as identified herein, the Director of the Department of Environmental Management (the "Director") has reasonable grounds to believe that the following Parties have violated certain provisions of the R.I. Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases (the "Remediation Regulations") and/or the Rules and Regulations for Groundwater Quality (the "Groundwater Regulations").

Prompt, complete and continuing compliance with this Notice is required if you wish to stay the commencement of administrative-legal action and/or the assessment of administrative penalties. If you have any questions regarding this Notice, please contact Jeffrey Crawford at (401) 222-2797 x7102.

A. Parties

The following Parties are potentially responsible, in whole or in part, for the violations identified in this Notice:

1. The City of Providence (the "City") is the owner of the property (Plat 115, Lots 97, 114-126, 132-155, 179-188, 215-218, 234-237, 240-256, 259, 261-283 and 309-315) located on Springfield Street in Providence, Rhode Island (the "Site").
2. Alan Sepe is the Acting Director of the Division of City Property and oversees the Site for the City.

B. Circumstances surrounding the Release

1. The property became listed with the Department of Environmental Management's Office

of Waste Management (the "Department") pursuant to Remediation Regulations on or about February 17, 1999 as a result of preliminary soil sampling results from the Site which were confirmed hazardous materials and jurisdictional under the Department's Remediation Regulations on March 10, 1999.

2. The following is a list of documents on file with the Department concerning the environmental conditions at the Site, the Remedy approved by the Department and the post construction quarterly monitoring being performed by the City:

- *Immediate Compliance Order issued to the City of Providence and O. Ahlborg & Sons, Inc. dated March 19, 1999;*
- *Site Investigation Report dated March 25, 1999 by ATC Associates, Inc.;*
- *Additional Groundwater analytical data results dated April 5, 1999;*
- *Remedial Decision Letter dated April 9, 1999;*
- *Remedial Action Work Plan & amendments dated April 2nd, May 3rd and May 9th, 1999 with revisions;*
- *Order of Approval dated June 9, 1999;*
- *ATC Associates First Quarterly Report (September 2001-December 2001) dated January 2000;*
- *ATC Associates Second Quarterly Report (December 2001) received January 24, 2002;*
- *ATC Associates Third Quarterly Report (February 2002) dated April 2000.*
- *ATC Associates Fourth Quarterly Report (June 2002) dated September 2002;*
- *LFR Quarterly Report (September 2002) received October 30, 2002;*
- *LFR Quarterly Report (December 2002) received February 24, 2003;*
- *LFR Quarterly Report (March 2003) received April 14, 2003;*
- *LFR Additional Air Quality Investigation Report (April 25, 2003) dated May 5, 2003 and received May 27, 2003;*
- *LFR Quarterly Report (July 2003) dated October 30, 2003 and received November 3, 2003. (Re-submitted December 1, 2003);*
- *LFR Quarterly Report (November 2003) received December 11, 2003; and*
- *Modified Order of Approval issued February 10, 2004.*

C. **Potential Violations**

Based on the circumstances set forth above, the release of hazardous materials at the site and your inadequate response thereto potentially constitute violations of the following statutes and/or regulations:

Section 11.0 Remedial Action of the Remediation Regulations:

1. Rule 11.02 Proper Operation and Maintenance- The City has failed to operate and maintain all portions, activities and/or operations in accordance with all of the terms and conditions of the Modified Order of Approval dated February 10, 2004 (the "Modified OA").

- a.) As provided in Paragraphs 3 thru 6 of the Modified OA, the City was to submit to the Department a recorded copy of the Modified OA from the

City Land Evidence Records and a draft Environmental Land Usage Restriction ("ELUR") by March 15, 2004. As of the date of issuance of this Notice of Intent to Enforce the City has failed to comply with these provisions of the Modified OA.

b.) The March 30, 2004 Quarterly Monitoring Report received from the City of Providence's contractor LFR dated March 30, 2004 and received April 5, 2004 identifies that two soil gas monitoring wells around the school property perimeter were observed damaged along with additional settling and erosion areas on or about January 19-23, 2004. Pursuant to Paragraphs 1(c) and 1(d) of the Modified OA, these deficiencies were to be corrected within fourteen (14) days of discovery and documentation of the repair work was to be forwarded to the Department within five (5) days of the completion of the repairs.* As of the date of issuance of this Notice of Intent to Enforce the City has failed to comply with these provisions of the Modified OA.

c.) The Quarterly Monitoring Report also identifies exceedances of Carbon Monoxide in 20 of 26 Soil Gas Monitoring Wells (above the Remedial Action Level) around the perimeter of the property along with an exceedance of Hydrogen Sulfide (H₂S) in Soil Gas Monitoring Well WB-8 at 3 times the Remedial Action Level. Pursuant to Paragraphs 1(a), 1(c) and 1(e) of the Modified OA, these deficiencies were to be reported to the Department immediately, be corrected within fourteen (14) days of discovery and documentation of the repair work was to be forwarded to the Department within five (5) days of the completion of the repairs.* As of the date of issuance of this Notice of Intent to Enforce the City has failed to comply with these provisions of the Modified OA.

2. Rule 11.09 Closure and Post Closure- The City of Providence has failed to maintain all post-closure requirements as specified in the Modified Order of Approval dated February 10, 2004.

* **NOTE:** Although it is true that the defective conditions and applicable deadlines passed before the issuance of the Modified OA on February 10, 2004, this fact does not forever relieve the City from its obligation to report and correct such deficiencies in a timely manner. In this case, reasonable compliance with the terms of the Modified OA required the City to report any known defects within fourteen (14) days of its *receipt* of the Modified OA (e.g. on or before February 24, 2004) and to repair those defects within five (5) days thereafter (e.g. on or before March 1, 2004). Despite being allotted an additional month within which to cure these points of non-compliance, as of the date of issuance of this Notice, the City has failed to take appropriate action.

D. **Required Actions**

The following actions are required in order for you to comply with the above- mentioned statutes and/or regulations:

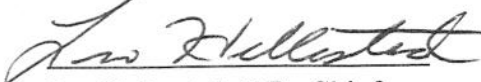
1. Submit a recorded copy of the Modified Order of Approval issued February 10, 2004 by May 12, 2004.
2. Submit the draft Environmental Land Usage Restriction for the Site by May 14, 2004.
3. Provide written correspondence to the Department, by May 14, 2004, documenting all steps that the City has taken to:
 - a. Correct the damaged monitoring equipment;
 - b. Restore the settled and/or eroded areas at the property;
 - c. Respond to the elevated concentrations of Carbon Dioxide and Hydrogen Sulfide in the on-site monitoring wells; and
 - d. Correct any other outstanding points of non-compliance with the Modified OA.
4. If the City has not yet completed the corrective/response actions necessary to resolve the deficiencies outlined in Paragraph D.3, above, then, on or before May 7, 2004, the City shall notify the Department in writing of the steps that will be taken to cure those deficiencies. Unless otherwise approved by the Department in writing, all corrective/response actions shall be completed on or before May 7, 2004.

E. **Assessment of Penalty**

This Notice constitutes a notice of intent to assess an administrative penalty pursuant to R.I. Gen. Laws Chapter 42-17.6, in the event that you fail to comply with this Notice in a timely and satisfactory manner. If the Parties promptly and satisfactorily comply with the requirements of this Notice, the Department will not assess an administrative penalty. However, continued noncompliance will result in the issuance of a Notice of Violation and Order, which will include the assessment of an administrative penalty, which penalty may be as high as \$25,000 per violation for each and every day that violation continues to exist.

Within seven (7) days of receipt of this Notice, you must notify this office in writing of your intent to comply with the above-required actions in the time frame indicated.

FOR THE DIRECTOR:



Leo Hellested, P.E., Chief
Office of Waste Management

Date: ^{30TH} day of April 2004.