



RHODE ISLAND  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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October 23, 2007

Christopher H. Little, Esquire  
Laura J. Bottaro, Esquire  
Little, Medeiros, Kinder, Bulman, & Whitney PC  
72 Pine Street  
Providence, RI 02903

RE: Town of Richmond v. RI DEM and Charbert



Dear Mr. Little and Ms. Bottaro:

The Rhode Island Department of Environmental Management (hereinafter, "Department" or "RIDEM") has reviewed and evaluated your letter of September 6, 2007. We thank you for your concern and insight, but wish to clarify some of the information presented in your letter.

As an initial response to the overall content in the letter, please be assured that the Department agrees completely with the premise that a complete site investigation must be conducted and appropriate remedial measures implemented to address the contamination on and around the Charbert property. That has been our goal since the initial identification of these issues.

The Department was made aware in the February 23, 2007 Technical Memorandum that perchloroethylene (PCE) had been detected above Maximum Contaminant Level (MCLs) during the bedrock groundwater investigation at the Charbert facility and RIDEM has had numerous meetings and conference calls since that time with Charbert and their consultants, GZA Geoenvironmental, to review all data collected and determine the appropriate direction that the bedrock investigation must take. Additional information was also presented in the Bedrock Aquifer Evaluation, Phase III Subsurface Investigation

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October 23, 2007  
Page 3 of 4

Decision Letter on 17 January 2007. Pursuant to the process outlined in the Remediation Regulations, an opportunity for public comment was provided. Charbert was then directed to proceed with preparation of a Remedial Action Work Plan (RAWP) for implementation of the proposed remedial alternatives at the site. Charbert has been conducting pilot studies and submitted the RAWP on October 16, 2007. This RAWP includes, but is not limited to, remediation of the overburden PCE source area, which is the first step in remediating PCE contaminated groundwater, both overburden and bedrock, at the site to reduce groundwater contamination levels to below RIDEM GA Groundwater Objectives. A copy of the RAWP is available at the Clarke Memorial Library for public review.

As to the Third Paragraph on Page Two of your letter, the Department initiated private well sampling in the neighborhood adjacent to the Charbert facility in 2004 to determine any potential impact from the site on private drinking water wells. It was determined at that time that all drinking water wells in the neighborhood abutting the site are overburden wells and that no bedrock wells are in use. Subsequently, based on private well sampling and site investigation results, the Department required Charbert to install and maintain filtration systems in three homes determined to be potentially impacted by the site. Charbert has been maintaining the required filtration systems since January 2005. Charbert has continued to conduct quarterly water testing of these homes and has provided copies this information to the Town and the public repository at the Clarke Memorial Library. Based upon the information provided to the Department to date, there are no other homes in the adjacent neighborhood in Alton that are being impacted by the Charbert facility.

With respect to Charbert's wastewater treatment system, Charbert has been working to identify technologies that both reduce the volume of wastewater and treat the wastewater effectively. The Department issued an Interim Approval to Charbert on July 25, 2007 to construct a Rapid Infiltration Bed (RIB). The construction of the RIB will allow the Department to further evaluate the effectiveness of one of the proposed wastewater disposal system alternatives prior to receiving a final submission from Charbert on their proposed wastewater treatment system. The Department anticipates receiving the final submission from Charbert soon. Upon submission, Charbert will be required to provide public notice and an opportunity for a public meeting to be held at the Richmond Town Hall regarding the proposed wastewater treatment system. Charbert will be required to prepare a written summary of significant comments, criticisms, and new relevant information submitted during the public meeting and provide the summary to the Department within thirty days after the public meeting. The Department will review all of the available information as part of its review of the proposed wastewater treatment system prior to making a final decision. Also, the Department is not aware of any reports or recommendations made by Dr. Eugene Park and it may be helpful for us to receive that information.

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October 23, 2007  
Page 2 of 4

Program, Progress Report #2 provided by Charbert in September, 2007. This submission includes the results of the sampling done by GZA in June (split and analyzed by Mr. Lang) and August 2007. The Department was verbally notified of the June data upon Charbert's receipt of the results and subsequently agreed that the June and August data were related to each other and best evaluated together. As such, the Department considers submittal of the June data and Progress Report #2 to have been submitted in a timely manner. The Department also understands the challenges that the contamination presents and is committed to ensuring that all necessary investigations are conducted in order to adequately characterize the bedrock contamination and institute appropriate remedial measures.

Based on the information provided in the February 23, 2007 Technical Memorandum, initial geophysical data collected from the three on-site bedrock wells indicates that groundwater flow in the bedrock is towards the Wood River (away from the adjacent neighborhood). As such, RIDEM has already required that Charbert proceed with the bedrock site investigation to further characterize bedrock contamination. It is anticipated that this may include additional installation of bedrock monitoring wells throughout the site, as well as additional private well sampling on the west side of the Wood River in Charlestown. The Department is currently seeking access to four properties in that area.

The Third Paragraph on Page One of your September 6 letter states, "The most contaminated area was in the shallow groundwater . . . (GZML 3-1)." The Department wishes to clarify that investigations at the site involve two aquifers, the overburden groundwater aquifer and the bedrock groundwater aquifer, which are separate and distinct aquifers. This distinction is essential to understanding potential groundwater impacts at the Charbert site. Groundwater in GZML 3-1 is bedrock groundwater and, therefore, is not expected to impact nearby overburden wells. The Department required a bedrock groundwater investigation at the site due to the presence of PCE in overburden groundwater and soils and the fact that PCE is a dense non-aqueous phase liquid, is heavier than water, and frequently results in the contamination of underlying bedrock aquifers. Bedrock aquifer contamination is extremely complex and requires detailed and precise investigation methodology. After a thorough review of Charbert's bedrock aquifer investigation work plan, we approved the methodology proposed by Charbert and GZA and believe it will achieve the goal of characterization of the bedrock aquifer.

With respect to the Second Paragraph on Page Two of your letter, the Department has required that Charbert also conduct investigations at the site as required in the Rules and Regulations for Investigation and Remediation of Hazardous Materials Releases (Remediation Regulations), including investigation of both overburden and bedrock groundwater. These investigations are being conducted separately in order to expedite characterization and remediation of contamination. The Department has determined that the overburden investigation for the site is complete and issued an Interim Remedial

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October 23, 2007  
Page 4 of 4

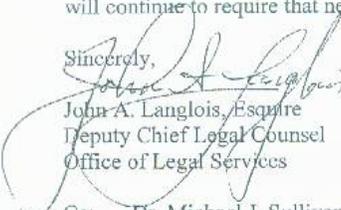
Lastly, the Department takes strong exception to the statement that the August 13, 2004 Notice of Violation and the September 2005 Consent Agreement do not require a complete investigation and remediation to address groundwater contamination. All of the demands set forth in your September 6 letter are addressed in the Consent Agreement between the DEM and Charbert. As you are aware, Richmond refused to execute that Consent Agreement.

The Consent Agreement clearly states in Sections C (4)(q) – (v) that a SIR and subsequent remedial action must be conducted at the site within specifically stated time periods. The Consent Agreement allows these investigations to be conducted in a phased approach because, based upon the Department's extensive experience in these matters, we believe a more thorough investigation can be conducted in this manner and remedial objectives achieved more efficiently.

Based upon the findings of the bedrock investigation, we recommend at this time that the Towns of Richmond and Hopkinton consider discussions with the Rhode Island Department of Health's Office of Drinking Water Quality (June Swallow at 222-6867) to implement restrictions and/or controls on the installation of bedrock wells in the immediate area of the Charbert site pending further characterization of the bedrock contamination.

We are confident that actions taken to date are protective of nearby residents and RIDEM will continue to require that necessary remediation is carried out in a timely manner.

Sincerely,



John A. Langlois, Esquire  
Deputy Chief Legal Counsel  
Office of Legal Services

Cc: Dr. Michael J. Sullivan, Director, RIDEM  
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