

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

W. MICHAEL SULLIVAN, Director
RHODE ISLAND DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT,

Plaintiff,

v.

CITY OF PROVIDENCE, RHODE ISLAND
By and through its agencies the PROVIDENCE
DEPARTMENT OF PUBLIC PROPERTIES
and the PROVIDENCE SCHOOL
DEPARTMENT,

Defendant.

PROVIDENCE REDEVELOPMENT
AGENCY,

Defendant – Intervenor

YMCA OF GREATER PROVIDENCE

Defendant – Intervenor



C.A. No. 05-2553

CONSENT ORDER (Park Parcel)

This matter came before the Court on March 15, 2006, before the Honorable Daniel A. Procaccini. After hearing thereon, it is hereby:

ORDERED, ADJUDGED AND DECREED:

WHEREAS, the Rhode Island Department of Environmental Management (“RIDEM”) filed a complaint against the City of Providence (the “City”) relating to the City’s development of a public high school at a property located at 333 Adelaide Avenue, Providence, Rhode Island, Providence Tax Assessors Plat 51, Lot 170, Parcel B (“Parcel B”);

WHEREAS, Parcel B is one of four parcels (Parcel A, B, C, and D), including Mashapaug Cove, that together comprise what is known as the “Former Gorham Manufacturing” property, a 37-acre former industrial site at 333 Adelaide Avenue, Providence, Rhode Island (the “Site”). The City, by and through the Providence Redevelopment Agency, is the owner of the entire Site and is a “Responsible Party” pursuant to R.I.G.L §§23-19.14-6 and §3.60 of RIDEM’s “Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases”

(the "Remediation Regulations") and a "Performing Party" pursuant to §3.49 of the Remediation Regulations.

WHEREAS the Site is known to be contaminated with a variety of hazardous chemical compounds relating to its prior use as an industrial manufacturing facility and is listed in the U.S. Environmental Protection Agency's ("EPA's) Comprehensive Environmental Response Compensation and Liability Information System ("CERCLIS") database as EPA ID No. RID982542318;

WHEREAS, the northwestern portion of the Site, adjacent to the Mashpaug Pond includes Parcel D and a portion of Parcel C (the "Park Parcel"). The Park Parcel is delineated and defined on a Map of the Site, which is attached as Exhibit A. The portion of Parcel C included in the Park Parcel is also delineated and identified on this Map;

WHEREAS, the City agrees to undertake certain Removal Actions on the Park Parcel as set forth below;

WHEREAS, the City agrees to complete a comprehensive Site Investigation and Remedial Action on the Park Parcel, pursuant to the Schedule set forth below;

WHEREAS the RIDEM is required, pursuant to R.I.G.L §23-19.14-5(a), to "develop and implement a process to ensure community involvement throughout the investigation and remediation of contaminated sites."

WHEREAS, the neighbors in the Site area and other interested parties seek to continue their involvement in activities relating to the investigation and remediation of the Park Parcel contemplated by this Order;

WHEREAS, Textron, Inc. ("Textron"), a "Responsible Party" under R.I.G.L §§23-19.14-3(m) and 23-19.14-6 and §3.60 of the Remediation Regulations, agreed to remediate contaminated soil and groundwater at the Site pursuant to an April 2001 "Remedial Action Work Plan," approved by RIDEM on October 10, 2001.

NOW, THEREFORE, it is ORDERED:

I. Removal Actions

a. Within sixty (60) days of the date of this Order, the City shall begin excavation and removal of:

(1) The so-called "slag pile" approximately located on the upland portion of Parcels C and/or D, behind Parcel B.

(2) Several piles of material located on the northern portion of Parcel C, behind Parcel A, which are believed to contain soil, solid waste and demolition debris that were removed from Parcel A during its development.

- b. To the maximum extent practical, the Removal Actions shall not interfere with or make the performance of any long-term remedy more difficult, costly, or time consuming.
- c. The City shall complete the above listed Removal Actions on the Park Parcel within 180 days of entry of this Order, and shall submit to RIDEM a comprehensive report describing the adequate completion of the Removal Actions, including detailed information on all activities performed, e.g. any sampling data and results, an inventory of materials removed and a map showing the locations from which drums, barrels, other containers and any solid waste were removed (the "Removal Actions Report").
- d. Within thirty (30) days of its receipt of the Removal Actions Report, RIDEM may issue comments listing any deficiencies in the Removal Actions Report.

II. Site Investigation

The City shall complete a comprehensive Site Investigation of the Park Parcel and Method I Remedial Actions on the Park Parcel for industrial/commercial use in accordance with the Remediation Regulations. The City shall undertake this Site Investigation and any necessary Remedial Actions in accordance with the Scope and Schedule set forth below. It is recognized that the investigatory and remedial work set forth may be performed by Textron.

- a. Within 120 days of entry of the above Consent Order, the City shall complete a site investigation of the Park Parcel and submit a Site Investigation Report ("SIR") to DEM for review and consideration.
- b. The Site Investigation shall meet the requirements of the Remediation Regulations and will be designed to support three permanent remedial alternatives protective of Park Parcel's final use, which is presently identified by the City as industrial/commercial.
- c. The Site Investigation shall include an evaluation of contaminants that have been found on the Site or that are reasonably connected to historic activities on the Site, including at a minimum:

- VOCs (EPA Method 8260)
- SVOCs and PAHs (EPA Method 8270)
- TPH (EPA Method 8100M)
- 13 Priority Pollutant Metals + Barium (EPA Methods 6010/7470)
- Pesticides (EPA Method 8081A)
- PCBs (EPA Method 8082)
- 17 Dioxin / Furan (EPA Method 8290)
- Total Cyanide

- d. In order to speed review and facilitate RIDEM efforts to provide information to the general public, raw data generated during the investigation (e.g., laboratory analytical

data) shall be forwarded in hard copy and electronic format to RIDEM and to the state senator and state representative representing this district, along with an appropriate map or maps illustrating the approximate sampling locations, within seven (7) days of receipt of the data from the laboratory.

- e. The inclusion of historical analytical data in the SIR is permissible provided that the data was properly collected, preserved (if required), and analyzed in accordance with standard laboratory protocols and industry accepted analytical methods and employed detection limits below the applicable RIDEM criteria.
- f. To facilitate the City's site investigation efforts and effective community involvement, RIDEM will provide the City and the state senator and state representative representing this district with a full copy of the Final Report (including all laboratory data, sampling location maps, and other pertinent attachments or supporting documentation) summarizing the site investigation completed by RIDEM and/or its subcontractors in December 2005 within seven (7) days of RIDEM's receipt of the report from its contractor.
- g. If discovered during the course of the site investigation, the City shall properly excavate, handle, store and transport the following materials to an appropriate off-site disposal facility: (1) any contamination found to exceed DEM-established upper concentration limits or "UCLs," (2) any drums, barrels, other containers, as well as any solid waste on-site, (3) any reasonably discrete areas found to contain contaminants in significant exceedance of DEM-established industrial/commercial standards.

III. Final Park Parcel Remedy

- a. The SIR shall include a discussion of no fewer than three (3) final remedial alternatives, and a recommended final remedy for the Park Parcel. The recommended final remedy shall be sufficiently supported by the SIR and detailed as to permit RIDEM to review and, if appropriate, conceptually approve the proposed remedy.
- b. The goal of the proposed final remedy shall be to bring the Park Parcel into compliance with applicable RIDEM-established industrial/commercial standards.
- c. Within sixty (60) days of receipt of the SIR, RIDEM will issue either a Program Letter that provides RIDEM concurrence that the SIR is conceptually complete and conceptual concurrence with the preferred remedial alternative, or a letter outlining deficiencies in the SIR. Within fourteen (14) days of the City satisfactorily addressing the RIDEM comments, if any, RIDEM shall issue a Program Letter for the Park Parcel.
- d. Upon receipt of a Program Letter, the City will complete public notification and participation requirements relative to the SIR and preferred remedial alternative as required by statute, regulation and as set forth in the April 1, 2005, Letter of Responsibility issued to the City by RIDEM for Parcel B. Within thirty (30) days of RIDEM's receipt of the City's proposed Response to Public Comments regarding the

technical feasibility of the preferred remedy proposed for the Park Parcel, RIDEM shall issue either a Remedial Decision Letter approving the SIR and identifying the preferred remedial alternative, or a letter outlining deficiencies in the Response to Public Comments. Within fourteen (14) days of the City satisfactorily addressing the RIDEM comments, if any, DEM shall issue a Remedial Decision Letter for the Park Parcel.

- e. Upon receipt of the Remedial Decision Letter for the Park Parcel, the City shall prepare and submit a RAWP for the Park Parcel outlining the details, scope of work, and timetable associated with implementing the preferred remedy. The timetable for implementing the remedy will be structured in a manner, to the greatest extent practical, to ensure that the RAWP is completed by or before September 2008.
- f. Within sixty (60) days of submission of the RAWP for the Park Parcel, RIDEM shall review the RAWP and provide either a RAWP approval letter or a letter outlining deficiencies in the RAWP. Within fourteen (14) days of the City satisfactorily addressing the RIDEM comments, if any, RIDEM shall issue a RAWP approval to the City for the Park Parcel.
- g. Within 30 days of receipt of RAWP approval for the Park Parcel, the City will initiate the RAWP. The City will use its best efforts to complete the Remedial Action on the Park Parcel by September of 2008, and RIDEM will use its best efforts to take all necessary steps to permit the City to achieve that goal.
- h. Nothing herein shall affect, change, or limit in any way the authority RIDEM has under the Remediation Regulations and any applicable statutes to take or require actions against any party relating to the Site, subject to the provisions in this Consent Order (Park Parcel) and Consent Order (Parcels B & C) affecting the Site.

IV. Public Notice and Comment

All of the applicable Public Notice provisions set forth in the Remediation Regulations apply to the activities set forth in this Order. In addition to these and the public notice provisions set forth in Sections II and III above, the following public notice and comment provisions also apply:

- (1) RIDEM shall hold a public meeting on the second Friday of every month at 12:00 noon at its offices at 235 Promenade Street, or other sites and times during working hours, to answer questions and to brief the public on any sampling, data, reports, actions, and any other pertinent information relating to this Order and investigations and activities at the Site. The City shall not unreasonably deny a request from RIDEM to attend any such public meeting. The first such public meeting shall take place on Friday, May 15, 2006.
- (2) The City shall simultaneously send a copy of this report to the state senator and state representative representing this district, and the Knight Memorial Library.
- (3) All documents submitted to RIDEM by the City shall be accompanied by an electronic copy of the submission in a format susceptible to posting on RIDEM's internet web-site (e.g. PDF.)

(4) RIDEM shall also simultaneously send a copy of its responses, if any, to the City to the state senator and state representative representing this district and the Knight Memorial Library.

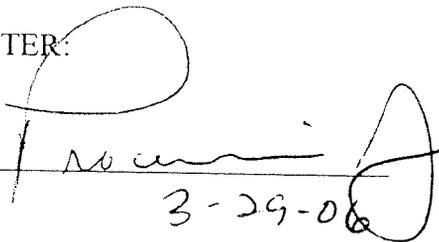
(5) At least seven (7) days prior to the commencement of the Removal Actions provided in this Order, the City shall distribute a flyer written in English and Spanish informing the public that certain Removal Actions and Site Investigation activities are about to take place, that a Barrier has been installed to keep the public off of the Park Parcel, warning the public to stay off the Park Parcel, and providing the names and phone numbers of contact persons for RIDEM and the City's contractor(s) to report complaints or evidence of trespassing on the Park Parcel. The flyer shall be distributed to merchants at the Stop and Shop Plaza, to students attending the Reservoir Avenue Elementary School and the Feinstein High School, and to residents who live adjacent to the Site.

V. Ongoing Involvement of the Court

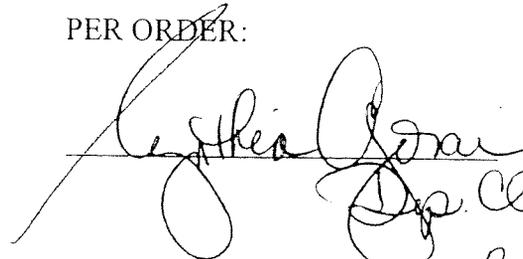
The Court shall retain jurisdiction over the Site and implementation of this Consent Order, and will entertain requests from the parties or from representatives of the public to convene status conferences regarding the implementation of this Consent Order.

ENTERED as an Order of this Court on this 29th day of March, 2006.

ENTER:


3-29-06

PER ORDER:


Cynthia Garcia
Dep. Clerk
3-29-06