



September 27, 2012

**REMEDIAL DECISION LETTER**

**Case No. 2012-010**

Pieter N. Roos  
Executive Director  
Newport Restoration Foundation  
51 Touro Street  
Newport, RI 02840

RE: Queen Anne Square  
Intersection of Mill, Thames, Spring and Church Streets, Newport, Rhode Island

Dear Mr. Roos:

On November 9, 2011, the Rhode Island Department of Environmental Management (the Department), amended the Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases (the Remediation Regulations). The purpose of these regulations is to create an integrated program requiring reporting, investigation and remediation of contaminated sites in order to eliminate and/or control threats to human health and the environment in an efficient manner. A **Remedial Decision Letter (RDL)** is a formal, written communication from the Department that approves a site investigation, identifies the preferred remedial alternative and authorizes the development of a Remedial Action Work Plan in order to achieve the objectives of the environmental clean-up.

In the matter of the above referenced "Site" (as defined in the Industrial Property Remediation and Reuse Act), the Department's Office of Waste Management (OWM) has the following documents on file pertaining to the environmental conditions at the property submitted on behalf of the City of Newport and the Doris Duke Monument Foundation (DDMF)

1. Memorandum from Sage Environmental, Inc. (Sage), on behalf of the City of Newport and the DDMF, dated February 22, 2012, containing an unsigned *Hazardous Material Release Notification Form* and an environmental sample result information packet;
2. *Hazardous Material Release Notification Form* (Release Notification), signed on February 22, 2012, submitted by the City of Newport, and received by the Department on February 27, 2012;
3. Meeting Summary, Queen Anne Square, Newport, Rhode Island, prepared by Sage, and dated February 24, 2012;

4. Response to Meeting Summary Comments, Queen Anne Square, Newport, Rhode Island, prepared by Sage, and dated March 1, 2012;
5. Summary Report, April 2, 2012 Public Meeting and 10-Day Comment Period, Queen Anne Square (Assessor's Plat 24 Lot 346), Newport, Rhode Island, RIDEM Case No. 2012-10, (Summary Report), prepared by Sage, and dated May 3, 2012;
6. Revised Proposed Scope of Work, Queen Anne Square, Newport, Rhode Island, (SOW), prepared by Sage, and dated June 25, 2012;
7. Site Investigation Report, Queen Anne Square, Plat 24 Lot 346, Newport, Rhode Island, prepared by Sage, and dated August 23, 2012;
8. Letter from Sage to the Department, RE: Queen Anne Square, Newport, Rhode Island, dated August 24, 2012;
9. Abutters Notification, Queen Anne Square, Newport, Rhode Island, prepared by Sage, and dated August 31, 2012; and
10. Letter from Sage to the Department, Re: Queen Anne Square, Newport, Rhode Island, dated September 25, 2012.

Collectively, these documents define "Existing Contamination" at the Site, and fulfill the requirements of a Site Investigation Report (SIR) as described in Rule 7.08 of the Remediation Regulations. In addition, according to our records, public notice was conducted to all abutting property owners, tenants, the City of Newport and all utilities with easements on the property regarding the substantive findings of the completed investigation in accordance with Rules 7.07 and 7.09 of the Remediation Regulations. The opportunity for public review and comment on the technical feasibility of the proposed remedial alternatives commenced on August 31, 2012, and the period closed on September 14, 2012. One comment was received and was responded to by Sage on September 25, 2012, and approved by the Department on September 26, 2012.

The preferred remedial alternative, as stated in the SIR, consists of **limited removal and proper off-site disposal of four locations of impacted regulated soil, grading and encapsulation of remaining contaminated soils, and the implementation of an Environmental Land Usage Restriction (ELUR) on the entire property. A Department approved permeable engineered cap, providing a level of protection equivalent to a minimum of two feet of clean soil, shall be constructed directly on top of existing Site materials. Currently existing or installed Department approved caps (including existing concrete or cobble side walks, asphalt paved driveways or parking areas), which shall not be disturbed through remedial activities or redevelopment of the Site, must be properly maintained and/or repaired as applicable. It is the Department's understanding that Site remedy will be implemented by the Performing Party during a proposed redevelopment of the property. The ELUR to be recorded on the property will restrict certain activities on the entire site and will also ensure that the engineered cap is not disturbed. The ELUR will include a post-construction Soil**

**Management Plan (SMP), which will outline the procedures for managing the soils on site should disturbances below the cap be required.**

The Department hereby approves the SIR, with the above identified preferred remedial alternative, and requires a Remedial Action Work Plan (RAWP) be submitted for review and approval, and implemented, to achieve the objectives of the environmental clean-up, in accordance with the following conditions:

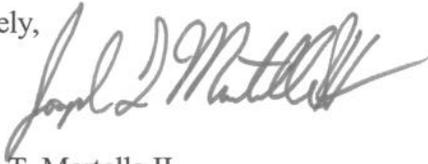
1. In accordance with Sections 8.0 and 9.0 of the Remediation Regulations, a RAWP, a draft ELUR, and an SMP shall be submitted for Department review and approval within ninety (90) days (**December 26, 2012**). The RAWP shall describe all of the technical details, engineer design elements, and schedules associated with the implementation of the proposed remedy. All of the subsections outlined in Section 9.0 of the Remediation Regulations must be included in order to facilitate the review and approval of the RAWP. If an item is not applicable to this Site, simply state that it is not applicable and provide an explanation in the RAWP.
2. Pursuant to Rule 10.02 of the Remediation Regulations, an application fee for Remedial Action Approvals in the amount of one thousand (\$1,000) dollars shall be made payable to the State of Rhode Island General Treasurer and remitted to this Office with submission of the RAWP.
3. Once the Department reviews the RAWP for consistency with Sections 8.0 and 9.0 of the Remediation Regulations, any written comments generated and forwarded as a result of the review(s) shall be incorporated forthwith into a revised RAWP, to be re-submitted for final approval.
4. Upon finalization of the RAWP, the Department will issue a **Remedial Approval Letter (RAL)**, signifying Department approval. All remedial measures required by the Department shall be implemented, in accordance with the approved schedule, to ensure all applicable exposure pathways at the site are appropriately addressed.

**Please be advised that the Department reserves the right to require additional actions under the aforementioned Remediation Regulations at the Property should any of the following occur:**

- A. Conditions at the Site previously unknown to the Department are discovered;
- B. Information previously unknown to the Department becomes available;
- C. Policy and/or regulatory requirements change; and/or
- D. Failure by the DDMF, the City of Newport, or any future holder of any interest in the Property to adhere to the terms and conditions of the Department approved RAWP, schedule, Order, ELUR and/or SMP for the Property.

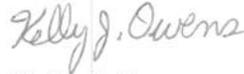
If you have any questions or are in need of any clarification regarding this document, please contact me by telephone at (401) 222-2797, extension 7109 or by e-mail at joseph.martella@dem.ri.gov.

Sincerely,



Joseph T. Martella II  
Senior Engineer  
Rhode Island DEM  
Office of Waste Management

Authorized by,



Kelly J. Owens  
Supervising Engineer  
Rhode Island DEM  
Office of Waste Management

Cc: Terrence D. Gray, P.E., Assistant Director, RIDEM/AW&C  
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Ronald Gagnon, RIDEM/OCTA  
Christopher Walusiak, RIDEM/OCTA  
Hon. Henry F. Winthrop, Newport City Council Chairman/Mayor  
Ms. Jane Howington, Newport City Manager  
Scott D. Wheeler, Newport Department of Public Services  
Joseph J. Nicholson, Jr., Esquire, Newport City Solicitor  
Jeff Moniz, Farrar Associates  
Representative Peter F. Martin, District 75  
Senator M. Teresa Paiva Weed, District 13  
Bruce Clark, Sage