

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

HARTFORD PARK TENANTS ASSOCIATION, :
DEBRA A. MARTIN, on behalf of herself and as :
Next friend to her minor child MICHAEL J. MARTIN, :
SHEILA WILHELM, on behalf of herself and as :
Next friend to her minor children MIKAELAH :
WILHELM, JOSHUA WILHELM and RICHARD :
WILHELM, and NICHOLAS J. MARSELLA :
Plaintiffs :

vs. :

C. A. No. 99-3748

RHODE ISLAND DEPARTMENT OF :
ENVIRONMENTAL MANAGEMENT, CITY OF :
PROVIDENCE, RHODE ISLAND, PROVIDENCE :
SCHOOL BOARD, and ALAN SEPE, in his capacity as :
Acting Director of the Department of Public Property of :
The City of Providence :
Defendants :

SECOND ASSENTED TO SUPPLEMENTAL ORDER

To resolve the issue of the Five-Year Review contained in Plaintiffs' Motion to Enforce Side Agreement with Defendant Rhode Island Department of Environmental Management ("DEM"), Plaintiffs and Defendant DEM hereby consent to the entry of the within Second Supplemental Order as follows:

1. On or before October 1, 2011, and every five years thereafter as set forth in paragraph 4 of the Agreed Resolution for Claims dated April 13, 2006 ("Side Agreement"), DEM shall conduct a review of the approved remedial action at the Springfield Street Schools Site ("Site") to assure that human health and the environment are being protected by the remedial action being implemented ("Five-Year Review").
2. The Five-Year Review will commence with DEM's providing written notice to the persons listed in Appendix A of the Side Agreement, and to the general public by posting said notice on DEM's Internet Document Repository for the Site. Said notice shall state that DEM will be conducting a Five-Year Review of the Site, and that persons with specific information relating to the remedy on the Site or with specific environmental concerns about the Site may submit that information or those concerns in writing to DEM, either signed or anonymously. Said written notice shall also specify a contact person along with the person's email address and telephone number, to whom inquiries and information about the review

should be addressed and the date by which interested persons should contact DEM with specific written information or concerns related to the Five-Year Review.

3. Within ninety (90) days after the date specified in the notice sent pursuant to paragraph 2, above, DEM will prepare a draft written report summarizing the findings of the agency's Five Year Review which shall include the following ("Draft Report"):
 - a. **Introduction/Site conditions:** This section shall include a discussion on the Site's history and a synopsis of the contaminants of concern and impacted media at the Site.
 - b. **Historical and Current Document Review:** DEM shall summarize its review of key documents relating to the Site in the agency's file (e.g., site investigation report, any public comments, correspondence, etc.) and data contained in periodic monitoring reports since date of the prior five-year review.
 - c. **Site Visit & Interviews:** DEM shall conduct a site visit to look for any conditions indicating changes in the potential for adverse ecological or human health risks resulting from any impacted site media; interview personnel responsible for maintenance of soil gas systems, monitoring wells, methane meters, etc. and any other persons DEM deems necessary to interview; and summarize the information obtained during the site visit and interviews.
 - d. **Statement of Protectiveness:** DEM shall make a statement stating either that the remedy is functioning as designed and will continue to be protective, or that further steps need to be taken by the City of Providence to restore the protectiveness of the remedy. This statement shall also include answers to the following questions:
 - Is the remedy still functioning as designed?
 - Is there any reason to believe that exposure assumptions, toxicity data and remedial objectives used at time of remedy selection are not still valid?
 - Has any new information come to light that may impact the protectiveness of the remedy?
 - e. **Review Summary/Recommendations:** DEM shall report any significant information that DEM gathers from the site interviews, site visit, and/or document and data review that may impact the protectiveness of the remedial action since the prior Five Year Review and make recommendations (together with implementation timeframes) to address them. These recommendations may include revisions to the remedial actions approved to date by DEM. Also, DEM will indicate how it addressed any issues or concerns raised by persons responding to the written notice sent pursuant to paragraph 2, above.

4. Upon completing the Written Draft, DEM shall send said Draft, along with a written notice seeking comments on said Draft to the City of Providence, to the persons listed in Appendix A of the Side Agreement, and to the general public by posting said Draft and notice on DEM's Internet Document Repository for the Site. The notice regarding the comment period shall specify the date by which written comments must be received by DEM (said comment period to be at least thirty (30) days in duration), the name and address of the person to send comments to and that persons may request that DEM hold a public hearing about the Written Draft. All written comments received must include the name, address and contact information for the person submitting the comment. If requested during the thirty (30) day comment period, DEM shall conduct a public hearing about the Written Draft only and take further comments on the Draft at said hearing.

5. Within sixty (60) days of the latter of the expiration of the comment period or the public hearing (if any hearing is held) DEM will compile the written comments received during the comment period and the comments received at the public hearing as an addendum to the Written Draft, and will include in the addendum DEM's formal and final responses to said comments. The Written Draft and addendum shall comprise the final Five Year Review report. If DEM receives no comments on the Written Draft said Draft shall comprise the final Five Year Review report. DEM shall send the final Five Year Report to the City of Providence, to the persons listed in Appendix A of the Side Agreement, and to the general public by posting said Report on DEM's Internet Document Repository for the Site.

6. Plaintiffs and DEM may agree in writing to extend any of the time periods set forth in this second supplemental order without having to obtain approval from the Court.

7. Unless specifically modified by this second supplemental order the terms of the Side Agreement shall remain in full force and effect.

ENTER:

PER ORDER:

Dated: _____

Dated: _____

Submitted by:

PLAINTIFFS:

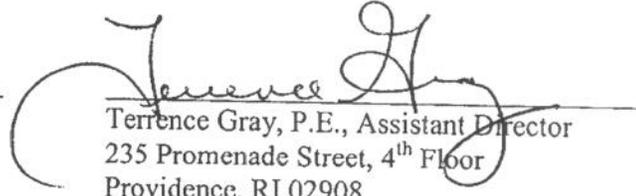
By their attorneys,



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DEFENDANT:

RHODE ISLAND DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT,

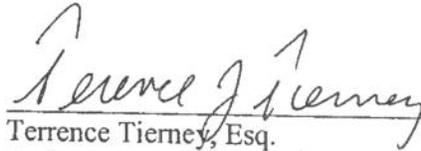


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As approved by counsel:



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