



MARYLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard • Baltimore MD 21230

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Martin O'Malley
Governor

Robert M. Summers, Ph.D.
Secretary

December 8, 2014

Anthony G. Brown
Lieutenant Governor

CERTIFIED MAIL

Christine Benjamin, Chief of Staff
Montgomery County Department of Economic Development
111 Rockville Pike, Suite 800
Rockville, Maryland 20850

Re: Voluntary Cleanup Program – No Further Requirements Determination
Former Washington Suburban Sanitary Commission (WSSC) Compro Facility Property
2201 Industrial Parkway
Silver Spring, Maryland 20904

Dear Ms. Benjamin:

The Voluntary Cleanup Program (“VCP”) of the Maryland Department of the Environment (“Department”) has completed a review of the application package submitted for the 110.92-acre Former Washington Suburban Sanitary Commission (WSSC) Compro Facility property located at 2201 Industrial Parkway in Silver Spring, Montgomery County, Maryland. The Department approves the application and the property for participation in the VCP and reconfirms the inculpable person status of Montgomery County Department of Economic Development for this property pursuant to Title 7, Subtitle 5 of the Environment Article, Annotated Code of Maryland (1996).

The Department has also determined there are no further requirements related to the investigation or remediation of controlled hazardous substances or oil identified in the environmental assessments at the Former Washington Suburban Sanitary Commission (WSSC) Compro Facility property provided it is used for restricted residential (Tier 1B), restricted commercial (Tier 2B) restricted industrial (Tier 3B), or restricted public recreational areas (Tier 4B) purposes in the future and compliance is maintained with the land use requirements set forth in the enclosed No Further Requirements Determination (“NFRD”). In accordance with Section 7-506(i)(1) of the Environment Article, the enclosed NFRD must be recorded in the land records of Montgomery County within 30 days of receipt. Upon completion of the recording requirement, you are requested to submit written verification to Art O’Connell, Chief, State Assessment and Remediation Division that the process has been completed and include a copy of the completed Owner’s Certification and Statement of Intent found on Page 7 of the NFRD. If the recording process for the NFRD is not initiated within 30 days of receipt, the NFRD shall become void in accordance with Section 7-506(i)(2) of the Environment Article.

If the enclosed NFRD becomes void because of failure to initiate the recording process within 30 days of receipt or it is lost, misplaced or otherwise not available for recording purposes, a replacement NFRD may be obtained from the Department upon request. Please do not return the original NFRD document to the Department.



In accordance with Maryland law, please note that issuance of the NFRD does not prevent the Department from: 1) taking action against any person to prevent or abate an imminent and substantial endangerment to the public health or the environment at the eligible property; 2) taking action against a responsible person concerning previously undiscovered contamination; or 3) requiring additional cleanup for future activities at the site that result in contamination by controlled hazardous substances or oil. This NFRD will not remain valid if use of the property is inconsistent with restricted residential, restricted commercial, restricted industrial or restricted public recreational areas use purposes, compliance with the land use requirements is not maintained, or if the NFRD was obtained through fraud or material misrepresentation.

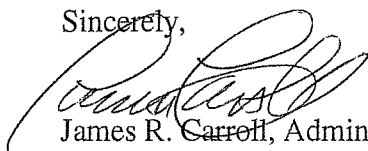
If the property owner wants to alter a record of determination in the land records for an eligible property, the owner shall obtain approval from the Department and submit a \$2,000 fee in accordance with Section 7-506.1(c) of the Environment Article. In addition, the owner will be responsible for the cost of any necessary further remediation of the property to the appropriate standard.

Please note that all participants in the Voluntary Cleanup Program are charged a \$2,000 fee upon issuance of a NFRD conditioned on certain uses of the property or on the maintenance of certain conditions. The Department will therefore issue an invoice under separate cover for payment of the \$2,000 fee to the "Voluntary Cleanup Fund."

It is important to the Department that you fully understand the terms and conditions of the NFRD, particularly the land use controls and requirements, prohibition on the use of groundwater beneath the property, and the requirement to forward a copy of the NFRD to a one-call system as defined in Section 12-101 of the Public Utility Companies Article. Accordingly, you are requested to complete the enclosed one-page Certification and return it to Art O'Connell, Chief, State Assessment and Remediation Division within ten (10) days of receipt of this letter.

Thank you for participating in the VCP. If you have any questions or comments, please do not hesitate to call Irena Rybak, the project manager at 410-537-3493.

Sincerely,



James R. Carroll, Administrator
Land Restoration Program

Enclosures

cc: Vickie L. Gaul, Esq., Montgomery County Office of the County Attorney
Mr. David M. Leety, Arc Environmental, Inc.
Ms. Uma S. Ahluwalia, Montgomery County Department of Health and Human Services
Mr. Robert E. Young, Maryland Department of Assessments and Taxation
Mr. Horacio Tablada
Mr. Saeid Kasraei
Ms. Barbara H. Brown
Mr. Art O'Connell
Ms. Irena Rybak
Ms. Ann Goddard (w/o enclosures)



MARYLAND DEPARTMENT OF THE ENVIRONMENT

Land Management Administration Voluntary Cleanup Program

No Further Requirements Determination

Date of Issue: December 8, 2014

Name: Former Washington Suburban
Sanitary Commission (WSSC)
Compro Facility
Address: 2201 Industrial Parkway
Silver Spring Maryland, 20904
Tax Map KQ22, Parcel P565,
Parcel: Subdivision I

Name: Montgomery County Department of
Economic Development
Contact: Christine Benjamin, Chief of Staff
Status: Inculpable Person

This No Further Requirements Determination is issued pursuant to Maryland law authorizing a Voluntary Cleanup Program for properties contaminated by controlled hazardous substances or oil (Section 7-501 et seq. of the Environment Article, Annotated Code of Maryland).

The Maryland Department of the Environment, hereinafter referred to as “the Department,” determines it has no further requirements related to the investigation of controlled hazardous substances or oil identified at the 110.92-acre Former Washington Suburban Sanitary Commission (WSSC) Compro Facility property located at 2201 Industrial Parkway, Silver Spring, Montgomery County, Maryland, if the property is used for restricted residential (Tier 1B), restricted commercial (Tier 2B), restricted industrial (Tier 3B) or restricted public recreational area (Tier 4B) purposes and compliance is maintained with the land use requirements specified herein.

THE MARYLAND DEPARTMENT OF THE ENVIRONMENT CERTIFIES THAT:

The Department may not bring an enforcement action against Montgomery County Department of Economic Development at the eligible property.

Montgomery County Department of Economic Development is released from further liability for the environmental cleanup of the contamination identified in the environmental assessments on the property submitted as part of the complete Voluntary Cleanup Program application package. Pursuant to Section 7-506 of the Environment Article, Annotated Code of Maryland, the environmental assessments on the property submitted as part of the complete Voluntary Cleanup Program application package are intended to adequately investigate all areas of contamination and potential sources of contamination at the property.

Montgomery County Department of Economic Development is not subject to a contribution action instituted by a responsible person for the contamination identified in the environmental assessments

of the property.

This No Further Requirements Determination does not:

1. Subject to the provisions of Section 7-505 of the Environment Article, Annotated Code of Maryland, prevent the Department from taking action against any person to prevent or abate an imminent or substantial endangerment to the public health or the environment at the above property;

2. Remain in effect if the No Further Requirements Determination is obtained through fraud or material misrepresentation;

3. Affect the authority of the Department to take any action against a responsible person concerning undiscovered contamination; or

4. Affect the authority of the Department to require additional cleanup for future activities at the site that result in contamination by hazardous substances or oil.

LAND USES

Tier 1 (Residential): Planned use of the property that allows exposure and access by all populations including infant, children, elderly, and infirmed populations.

- **A (Unrestricted):** No land use controls are imposed on the property. Tier 1A properties typically include single and multi-family dwellings.
- **B (Restricted):** One or more land use controls are imposed as a condition of residential use of the property. Tier 1B properties typically include hospitals and health care facilities, education facilities, day care facilities, playgrounds and other recreational areas.

Tier 2 (Commercial): Planned use of the property that allows exposure and access by the general public, workers, and other expected users, including customers, patrons, or visitors. Commercial purposes allow access to the property and duration consistent with a typical business day. Tier 2 properties typically include shopping centers, retail businesses, vehicle service stations, medical offices, hotels, office space, religious institutions and restaurants.

- **A (Unrestricted):** No land use controls are imposed on the property for commercial use.
- **B (Restricted):** One or more land use controls are imposed as a condition of commercial use of the property.

Tier 3 (Industrial): Planned use of the property by workers over the age of 18, adult workers and construction workers, and other potential expected users. Industrial purposes allow access to the property at a frequency and duration consistent with a typical business day. Tier 3 properties

typically include manufacturing facilities, maritime facilities, metal working shops, oil refineries, chemical and other material plants.

- **A (Unrestricted):** No land use controls are imposed on the property for industrial use.
- **B (Restricted):** One or more land use controls are imposed as a condition for industrial use of the property.

Tier 4 (Public Recreational Areas): Planned use of the property that allows exposure and access by all populations for recreational uses. The sub-categories for recreational use of a property state the exposure frequency and duration. Approved property uses are restricted based on the frequency designated below.

- **High Frequency Use:** A high frequency public recreational area is any area that is available for recreational use by all populations at the highest potential exposure frequency (youth, child, adult, senior, etc.). Examples may include, but are not limited to, playgrounds, day care facilities, schools, golf courses, and picnic areas. The frequency of visits by all populations is 250 days per year or less.
- **Medium Frequency Use:** A moderate frequency use public recreational area is any area that is available for recreational use by all populations but the frequency of use is less than a high frequency use public recreational area. Such areas may be restricted through the use of fencing, permitting requirements, or other similar restrictions that prevent or hinder unimpeded access to the recreational area. Examples include, but are not limited to, outdoor aquatic facilities, athletic facilities, dog parks, and limited access parks. The frequency of visits by all populations is 182 days per year or less.
- **Low Frequency Use:** An open space public recreational use area is defined as any area where access and use is restricted by a combination of: (a) Covenants or other legal restrictions that prohibit the use of the property where such use may impair the flora and fauna in the open space; and (b) Physical environmental barriers impede the use of the open space, including but not limited to swamps, marshes, dense vegetation, and areas with steep inclines that limit the use of open space. The frequency of visits by all populations is 52 days per year or less.
- **A (Unrestricted):** No land use controls are imposed on the property for public recreational uses of the property.
- **B (Restricted):** One or more land use controls are imposed as a condition for public recreational uses of the property.

LAND USE CONTROLS

Land use controls means any restriction or control that serves to protect human health and the environment by limiting use of or exposure to any portion of the property, including water

resources. These controls may include:

- **Engineering controls:** remedial actions directed toward containing or controlling the migration of contaminants through the environment. These include, but are not limited to, stormwater conveyance systems, slurry walls, liner systems, caps, leachate collection systems, pump and treat systems, and groundwater recovery systems.
- **Institutional controls:** legal or administrative tools designed to prevent or reduce human exposure to remaining contamination and to prevent activities that may result in increased exposure to or spread of such contamination.

If this No Further Requirements Determination is conditioned on the permissible use of the property for certain purposes, it shall become void if it is not recorded in the land records of the local jurisdiction within 30 days following receipt of the No Further Requirements Determination.

This No Further Requirements Determination is not conditioned on the use of the property for certain purposes.

This No Further Requirements Determination is conditioned on the use of the property as indicated below:

- Restricted Residential (Tier 1B) purposes;
- Restricted Commercial (Tier 2B) purposes;
- Restricted Industrial (Tier 3B) purposes; or
- Restricted Public Recreational Areas (Tier 4B) purposes.

LAND USE REQUIREMENTS

The restricted residential, restricted commercial, restricted industrial or restricted public recreational area use of the property requires the property owner to maintain compliance at all times with the following requirements:

Groundwater Use

There shall be no use of the groundwater beneath this property for any purpose.

DEPARTMENT NOTIFICATION

All notifications to the Department required herein shall be in writing and addressed to the attention of the Chief, State Assessment and Remediation Division, Land Management Administration, Maryland Department of the Environment, currently located at 1800 Washington Boulevard, Baltimore, Maryland 21230.

ONE-CALL SYSTEM NOTIFICATION

If this No Further Requirements Determination is conditioned on certain uses of the property or on the maintenance of certain conditions, the participant shall send a copy of this document to a one-call system, as defined in Section 12-101 of the Public Utility Companies Article. The copy of this No Further Requirements Determination should be sent within 30 days of the effective date to the attention of MISS UTILITY, c/o General Manager, currently located at 7223 Parkway Drive, Suite 100, Hanover, Maryland 21076.

The obligation for the participant to send a copy of the No Further Requirements Determination does not negate the obligation of the owner, as defined in Section 12-101(f) of the Public Utility Companies Article, to become a member of the one-call system under Title 12 of the Public Utility Companies Article. Additional information may be obtained by calling 410-712-0056.

TRANSFER OF OWNERSHIP

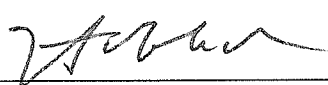
If ownership of the property or any portion thereof is transferred, the property owner shall notify the Department at least five (5) business days prior to the transfer. In addition, any successor in interest must submit a written certification to the attention of the Chief, State Assessment and Remediation Division, Land Management Administration, Maryland Department of the Environment that the successor in interest has a copy of this No Further Requirements Determination, including the land use requirements for the property.

The owner of the property and any successors in interest in the property subject to this No Further Requirements Determination shall continue to be protected from liability in the event of any violation of the conditions placed on the use of this property, provided the owner of the property and any successors in interest did not cause or contribute to the violation.

This No Further Requirements Determination does not prevent the Department from taking action against any person who uses the property for any use other than the use specified herein.

If an owner of the property wants to change the use of the property to a new use that is consistent with the appropriate planning and zoning authority of the appropriate county or municipality, the owner is responsible for the cost of cleaning up the property to the appropriate standard as determined by the Department.

ANY OTHER USE OF THE PROPERTY OR FAILURE TO MAINTAIN COMPLIANCE WITH THE LAND USE REQUIREMENTS SPECIFIED HEREIN SHALL RESULT IN THIS DETERMINATION BEING VOIDED FOR THE CURRENT HOLDER OF THE DETERMINATION AND FOR ANY OTHER PERSON WITH OWNERSHIP OR CONTROL OF THIS PROPERTY. THIS PROVISION SHALL NOT APPLY TO A PRIOR HOLDER OF THE DETERMINATION WHO HAS TRANSFERRED THE PROPERTY AND RETAINS NO INTEREST IN THE PROPERTY.



Horacio Tablada, Director
Land Management Administration


12/8/14

Date

STATE OF MARYLAND, County OF Baltimore, TO WIT:

I HEREBY CERTIFY, that on this 8th day of December, 2014 before me, the undersigned Notary Public of said State, personally appeared Horacio Tablada, who acknowledged himself to be the Director, Land Management Administration, Maryland Department of the Environment, known to me to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained as the duly authorized Director of said Administration by signing his name as Director of said Administration.

WITNESS my hand and Notarial Seal.



Notary Public

My Commission Expires: July 27, 2018

OWNER'S CERTIFICATION AND STATEMENT OF INTENT

I, _____, as the current owner of the property identified in this No Further Requirements Determination, hereby intend that the restrictions on the use of the Former Washington Suburban Sanitary Commission (WSSC) Compro Facility property, as well as the land use requirements set forth in this No Further Requirements Determination, shall run with the land and are binding on all successors and assigns.

_____ Date _____ Property Owner

STATE OF MARYLAND, _____ OF _____, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, 2014 before me, the undersigned Notary Public of said State, personally appeared _____, who acknowledged himself to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same by signing his name.

WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires: _____

CERTIFICATION

I HEREBY CERTIFY that I have received the No Further Requirements Determination issued to Montgomery County Department of Economic Development by the Maryland Department of the Environment, Voluntary Cleanup Program, on December 8, 2014 for the 110.92-acre Former Washington Suburban Sanitary Commission (WSSC) Compro Facility property located at 2201 Industrial Parkway, Silver Spring, Maryland 20904.

I FURTHER CERTIFY that I have read the No Further Requirements Determination and understand the use of the property for restricted residential (Tier 1B), restricted commercial (Tier 2B), restricted industrial (Tier 3B) or restricted public recreational areas (Tier 4B) purposes, the prohibition on the use of groundwater beneath the property for any purpose, and the requirement to forward a copy of the No Further Requirements Determination to a one-call system as defined in Section 12-101 of the Public Utility Companies Article.

Date

Christine Benjamin, Chief of Staff
Montgomery County Department of Economic
Development
111 Rockville Pike, Suite 800
Rockville, Maryland 20850

Please return within ten (10) days to:

Art O'Connell, Division Chief
State Assessment and Remediation Division
Land Management Administration
Maryland Department of the Environment
1800 Washington Boulevard, Suite 625
Baltimore, Maryland 21230