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September 28, 2021

By Electronic and First-Class Mail

Mckeown.john@epa.gov

John McKeown, OSC
U.S. Environmental Protection Agency
Emergency Planning and Response Branch
5 Post Office Square, Suite 100 (02-2)
Boston, Massachusetts 02109-3912

Re: Town of Dartmouth Response to Notice of Potential Liability and Invitation to Perform
or Finance Proposed Cleanup Activities for the Bliss Corner Neighborhood

Dear Mr. McKeown:

This firm is counsel to the Town of Dartmouth ("Town"), with respect to the above-referenced matter. This letter responds to the Notice of Potential Liability and Invitation to Perform or Finance Proposed Cleanup Activities ("Notice") in connection with the Bliss Corner Neighborhood. The Town has reviewed the Notice with its counsel and consultants. In short, the Town categorically rejects EPA's suggestion that the Town is somehow an arranger or (even more perplexing) a transporter of hazardous substances to unspecified properties in the Bliss Corner Neighborhood. For that reason and others described below, the Town declines to conduct or fund the Removal Action proposed by EPA.

First, the Bliss Corner Neighborhood is just that, a neighborhood (the parameters of which are not well-defined). A scattered collection of residential properties where varying fill materials were placed here and there over a period of several decades hardly constitutes a "Site" under CERCLA. With no evidence of groundwater contamination, there is no connection between the varying soil contents at each of the specific unique parcels, filled at various times in various ways.

Second, EPA suggests that Removal Management Levels exist at a total of five (5) parcels, yet EPA has refused to identify those five parcels, by location, address, owner, or any other criteria, making it impossible for the Town to adequately assess what is specifically being "requested" in the Notice. The Town has tried to "decode" EPA's opaque property references, through comparison to historical sampling results for the approximately 76 parcels sampled over

Carol Tucker, USEPA

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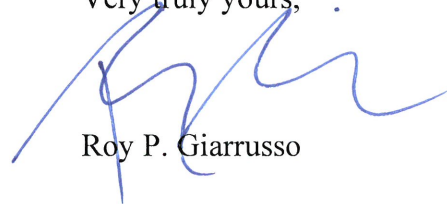
time, but the Town is still left guessing where, exactly, EPA plans to conduct the work. For that reason alone, the Notice fails as a matter of law; it does not provide notice of the work locations.

Finally, EPA provides absolutely no factual or legal basis for suggesting that the Town somehow arranged for, or transported waste to, the five unspecified parcels. The entirety of its “claim” against the Town boils down to the following general statement: “Based on information gathered during investigations of the Site, EPA believes that the Town of Dartmouth is a PRP under Section 107(a) of CERCLA with respect to the Site.” What is the information gathered? In what timeframes are the disposals believed to have occurred (again, for those five parcels)? What are the materials allegedly arranged and transported? The Town is left to assume that EPA directed the contents of this letter at the City of New Bedford, who is known to have brought “ashes and tin cans” among other waste into the Bliss Corner Neighborhood as fill and that EPA simply used that letter as a template for the letter directed at the Town.

Despite the evident frustration at being improperly labeled as PRP, the Town is appreciative of EPA’s willingness and preparedness to address Removal Management Levels at the five parcels. The Town and its residents are the victims in this instance, and the Town values the steps EPA is proposing to take to help protect the health of the Town’s residents. As with MassDEP, the Town will certainly continue to cooperate with EPA in communications and other general support to help the needed work go forward expeditiously.

You may identify me as the Town’s contact for further communications on this issue. Should you or EPA’s counsel have any questions, please do not hesitate to contact me.

Very truly yours, .



Roy P. Giarrusso

cc: Carol Tucker, Chief, Emergency Planning and Response Branch (Tucker.carol@epa.gov)
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