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March 1, 2012

Mr. Steven Beckman MacDonald, Illig, Jones & Britton, LLP 100 State Street, Suite 700 Erie, PA 16505-1459

Re.

Site Characterization Report/Remedial Action Plan

Milk Transport, Inc.

Primary Facility No. 43-27468

99 Cranberry Road

Pine Township, Mercer County

Dear Mr. Beckman:

On February 13, 2012, the Department of Environmental Protection (Department) met with you and Moody & Associates (Moody) to discuss the Department's February 3, 2012, disapproval of the Site Characterization Report (SCR) and Remedial Action Plan (RAP) for the Milk Transport, Inc. facility located in Pine Township, Mercer County. A copy of the Department's February 3, 2012, letter is enclosed. During our meeting, we discussed several items associated with the Department's disapproval letter. This letter responds to those discussion items and supersedes the Department's February 3, 2012, letter.

One of the issues you raised was the timing of the Department's response to the SCR and RAP and whether or not the Department missed the deemed approval date for the review of the SCR and RAP submittals. The requirement found at 25 Pa. Code §245.310(d) only requires the Department to respond to SCRs within 60 days of receipt of reports submitted pursuant to §245.310(b) (relating to when interim remedial actions have remediated the site). There is no time requirement for the Department to approve SCRs submitted pursuant to Section 245.303(a). Therefore, for sites selecting the state-wide health standard for which interim actions have not remediated the site, the Department's past and current practice is to review and act upon the SCR concurrent with the review of the RAP. In this case, 25 Pa. Code §245.311(e) requires the Department to complete its review of the RAP within 60 days of the Department's receipt of the RAP.

The Department has confirmed the RAP was hand delivered to the Department at 4:12 p.m. on December 2, 2012. The Department did not act upon the SCR and RAP until February 3, 2012. As you have pointed out, by operation of 25 Pa. Code §245.311(e), the RAP should be considered to be deemed approved.

However, the Department's concerns with respect to proper site characterization and the proper evaluation of vapor intrusion issues (See comments 1 and 2 in the February 3, 2012, letter) need to be properly addressed in order for Milk Transport to properly remediate the site and obtain the

Department's approval of a Remedial Action Completion Report for the site. The Department would appreciate your prompt attention to those issues since the results of the additional site characterization and evaluation of vapor intrusion issues may have an impact on the selected remedy for the site.

Moody and the Department did agree that Moody would address several of the Department's concerns (Items 3, 4, 6, and 7) through minor revisions/clarifications to current and future reports. More specifically, Moodys agreed to include a technical justification for not including sampling results for Well ID 132104. In addition, Moodys also stated that it would clarify the appropriate remedial standard chosen throughout the reports, include a reference to the company's health and safety plans, and include a reference to the analytical methods used for sample testing.

With respect to Item 5 of the February 3, 2012, letter, the Department continues to have concern that the selected remedial option for the site will need to be re-evaluated once the additional site characterization and vapor intrusion issues have been evaluated. As we discussed, it is the NWRO's objective to critically review proposed remedial activities to ensure that sites are being remediated in a cost-effective and timely manner and DEP will be looking for more supporting information with respect to the remedial technology options considered in future submittals.

In regard to Item 8 (the need for a remediation system to have a professional engineer's seal), the Department believes a professional engineer approval is required for the design of groundwater treatment systems included in Remedial Action Plans. Section 2 of the Engineer, Land Surveyor and Geologist Registration Law, Act of May 23, 1949, P.L. 913, as amended, 63 P.S. §§131-158.2 ("Registration Act"), defines the "practice of engineering" as: "...the application of the mathematical and physical sciences for the design of public or private buildings, structures, machines, equipment, processes, works or engineering systems....", 63 P.S. §149.

While pre-manufactured units may simplify site work, the pre-built system still needs to be connected to on-site piping and wiring that requires additional design. For example; the specifications of piping (schedule, diameter, etc....) all need to be designed on a site-by-site basis to ensure the proper function of the system. If you have a 15 hp vacuum pump that needs to recover from 10-10 ft. deep wells 100 feet away, you may have a different pipe size than one with 1 well 10 feet way at 25 ft. deep. The trench specs are also a design consideration. This work meets the definition of practice of engineering in the Registration Act.

This approach is consistent with the Department's "Policy on Meeting the Requirements of the 1996 Amendments to the Engineer, Land Surveyor and Geologist Registration Law," Doc. No. 012-2000-01, June 1, 1998. An appendix to this policy contains a guide to help Department personnel determine when a P.G. or P.E. stamp is required. The appendix indicates that the following submittals may require preparation by both a registered professional geologist and professional engineer:

- Remedial Action Plans for Storage Tank Cleanups
- Remedial Action Plans for soil and/or groundwater contamination
- NPDES Permit applications for groundwater treatment systems
- Feasibility studies proposing groundwater remediation
- Designs of groundwater remediation systems, which include pump and treat, interceptor trenches, chemical treatment barriers, etc.

Accordingly, the Department will require that remedial action plans proposing groundwater treatment systems contain the approval of a professional engineer.

The Department looks forward to working with you and Moodys towards proper remediation and closure of this site.

Sincerely,

Eric A. Gustafson

Regional Manager

Environmental Cleanup and Brownfields Program

Enclosure

EAG:lsl



February 3, 2012

CERTIFIED MAIL NO.7011 1570 0000 9053 3651

Mr. Steven Beckman MacDonald Illig Attorneys 100 State Street, Suite 700 Erie, PA 16505-1459

Re:

Site Characterization Report/Remedial Action Plan

Milk Transport, Inc.

Primary Facility No. 43-27468

99 Cranberry Road

Pine Township, Mercer County

Dear Mr. Beckman:

The Department of Environmental Protection (Department) has received and reviewed the October 14, 2011, document titled, "Site Characterization Report" (SCR) and the December 2, 2011, report titled, "Remedial Action Plan" (RAP) for the property located at 99 Cranberry Road, Pine Township, Mercer County, PA. The report was prepared by Moody & Associates, Inc. (Moody) and submitted to the Department in accordance with the Land Recycling and Environmental Remediation Standards Act (Act 2) and the Storage Tank and Spill Prevention Act (Act 32).

The Department notes the following deficiencies in the SCR and RAP and disapproves each in accordance with the provisions of 25 Pa. Code §§245.310(c)(4) and 245.311(c)(4) of the Department's Corrective Action Regulations:

- 1. Based on a review of the SCR and RAP, the Department has determined that further site characterization is warranted. The horizontal extent of contamination has not been fully delineated down-gradient of the on-site structure. In order to assess potential impacts to human health and the environment posed by releases at this facility, you should now make arrangements to implement and report further site characterization activities in accordance with applicable provisions of 25 Pa. Code §245.309.
- 2. The potential for vapor intrusion in the on-site structure(s) was not characterized in accordance with the Department's guidance document titled, "Vapor Intrusion into Buildings from Groundwater and Soil under the Act 2 Statewide Health Standard" as required by updates to 25 Pa. Code Chapter 250 that became effective January 8, 2010. The Department acknowledges that the SCR and RAP propose completion of these tasks. However, the vapor intrusion assessment is necessary for a complete site characterization.

A scope of work and schedule of implementation for submission of a revised Site Characterization Report and Remedial Action Plan addendum should be submitted within 30 days.

Any person aggrieved by this action may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. §7514, and the Administrative Agency Law, 2 Pa. C.S.A. Chapter 5A, to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, 717.787.3483. TDD users may contact the Board through the Pennsylvania Relay Service, 800.654.5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at 717.787.3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST REACH THE BOARD WITHIN 30 DAYS. YOU DO NOT NEED A LAWYER TO FILE AN APPEAL WITH THE BOARD.

IMPORTANT LEGAL RIGHTS ARE AT STAKE, HOWEVER, SO YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD 717.787.3483 FOR MORE INFORMATION.

Thank you for your cooperation in working with the Department in the remediation of this site. If you need additional information regarding this matter, please contact the Department at 814.332.6648.

Sincerely,

Eric A. Gustafson

Regional Manager

Environmental Cleanup

cc: Moody and Associates, Inc.

NWRO File through John O'Hara/Andrew Sepos/Kammy Halterman

EG:JO:trs