



# State of New Jersey

Department of Environmental Protection

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MAR 30 2005

**Certified Mail, Return Receipt Requested**

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**Certified Mail, Return Receipt Requested**

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Re: North Brunswick Gulf  
1696 Georges Road  
North Brunswick, Middlesex

Closure #(s) N01-0818, N98-2469; Incident # 01-08-30-1546-07; UST # 0101800; PI # 010180  
SEC # 2

Remedial Investigation Workplan Dated: November 1, 2001, February 14, 2002, March 11, 2002, May 1, 2002, May 20, 2002, September 25, 2002, December 11, 2002, January 6, 2003, January 9, 2003, February 22, 2003, February 26, 2003, March 11, 2003, March 19, 2003, March 25, 2003 and September 15, 2003

Well Search and Stream Classification Report Dated: January 13, 2003

Correspondences: January 3, 2003, January 6, 2003, January 13, 2003, January 15, 2003, (2) January 21, 2003, January 22, 2003, (3) January 27, 2003, (2) January 28, 2003, January 29, 2003, June 5, 2003 and August 25, 2003

Dear Responsible Parties (RPs) and Associated Attorneys:

The New Jersey Department of Environmental Protection (Department) reviews Remedial Investigations (RI) reports at the site for compliance with the Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 *et seq.* (UST Law) and the "Technical Requirements for Site Remediation," N.J.A.C. 7:26E (Technical Regulations). The Department has recently undertaken such a review for the above referenced site. This correspondence contains a summary of the latest site conditions and work completed to date as referenced above details remaining remedial requirements to ensure compliance with the UST Law and the Technical Regulations. Compliance with these requirements should allow the site to proceed to the completion of corrective action and eventual case closure.

Based upon a review of the remedial investigation completed to date, the following requirements shall be addressed as listed in Sections I through VIII below. The results of these remedial requirements shall be submitted as part of a Remedial Action Workplan (RAW) within **ninety (90) days** upon the receipt of this letter. The March 1995 "Guide for the Submission of Remedial Action Workplans" provides the detailed information required for a complete RAW submittal.

## **I. Background**

The referenced site is a gasoline retail service station, which has been dispensing gasoline from 1962. Mr. Lapp Sr. purchased this site from Gulf in 1973 and is currently owner and operator of this site. On August 30, 2001, Environmental Compliance Maintenance, Inc. (ECM) initiated a phase II investigation for a potential buyer of the site. ECM's drilling contractor TerraProb, while installing SB-7, drilled into the northern end of the northern gasoline UST in the tankfield and thus punctured the UST. The punctured UST is designated as tank # I in the RIR of November 2001. The pumping operations were shutdown following the puncture of the UST. AWT Environmental Services, Inc. (AWT) pumped 6,100 gallon of mixture of gasoline and water from the damaged UST at the request of ECM. Subsequently, the owner of the station, Mr. Walter Lapp Sr., owner and operator of North Brunswick Gulf (NBG), called Gulf Oil Company about the UST puncture. Gulf Oil Company sent Mystic, Inc. (Mystic) to remove the contents of the (UST # 2), which was manifold with the damaged tank (UST #1). Mystic, Inc. pumped out a total of 6,100 gallons of mixture of gasoline and water from the tank # 2. The release was reported to the NJDEP Hotline and case # 01-08-30-1546-07 was assigned to the site.

On August 31, 2001, AWT excavated the soil to a depth of 10 ft to assess the damaged UST. A 10 ft deep 4 inch diameter sump was installed near the damaged end of the UST. On September 4, 2001, 0.01 ft. of free product was detected in the sump. The amount of gasoline released was estimated to be 1,500 gallons.

Between December 26, 2001 and February 11, 2002, Environmental Maintenance (EMC), a subcontractor of RedHawk excavated 1,050 tons of soil and pea gravel to remove during the removal of the four USTs. The size of the excavation was 53 ft long by 35 ft wide by 13 ft deep. Approximately 38,330 gallons of impacted water and 500 gallons of free product were pumped from the excavation into a 20,000 gallon on-site holding tank.

On February 11, 2002, remediation of soil and ground water was stopped on account of the discovery that the soil contamination has been extended upgradient beneath the concrete pad and the dispenser island.

ECM's insurance carrier AIG Insurance Company (AIG) hired RedHawk Environmental Consulting Ltd. (RedHawk) to evaluate the subsurface conditions at the site. RedHawk also hired a subcontractor to conduct a part of the ongoing soil and ground water investigation and remediation

## II. Determination of Liabilities

Pursuant to Spill Act, the owner and/or operator of the site are responsible for the cleanup of any gasoline and/or any other hazardous substance spills. The Department's Spill Hotline's notification indicated that at least two gasoline spill (February 21, 1997 and April 14, 1998) were occurred prior to the incident of August 30, 2001. In addition, the phased out gasoline additives have been detected in soil and ground water samples. This information indicates that historical contamination was present in soil and ground water prior to the incident of August 30, 2001. However, the historical contamination and the contamination related to the incident of August 30, 2001 have been commingled and it is not possible for the Department to differentiate the share of the cleanup for each responsible party, involved in this case.

The referenced RPs shall settle their share of cleanup through third party settlement.

The Department has determined that the following parties are liable for the investigation and remediation of soil and ground water contamination detected at the site:

1. Mr. Walter Lapp Sr. (Discharger under Spill Act)
2. Environmental Compliance Maintenance, (Discharger under Spill Act)
3. TerraProbe, Inc., (Discharger under Spill Act)
4. AIG Insurance Company (Insurance carrier for Environmental Compliance Maintenance)

Be advised that the law, P.L. 1997, c.278, entitled the Brownfields and Contaminated Site Remediation Act, has amended how the Department can process requests for Right of Contribution. Due to this change (effective January 6, 1998), any requests will be evaluated as follows: If the contribution defendant or defendants are liable pursuant to the provisions under subsection c. of 8 P.L. 1976, c.141 (C.58: 10-23.11g), the Department will evaluate each request to determine if sufficient information has been submitted to establish each parties responsibility in order to issue a directive. However, due to insufficient information provided by each parties involved in that case, the Department is unable to determine each party's responsibilities to conduct investigation and remediation of contamination detected at the referenced site.

The Brownfield and Contaminated Site Remediation Act, P.L.1997, c.278, no longer allows the Department to assign treble damages against a contribution defendant(s). Instead, the Department may only issue a Directive naming all responsible parties, as per the Spill Act, in an effort to get all responsible parties to participate in the required remedial activities. Please note, though, the promulgation of the Brownfield Act, does not hinder the contribution plaintiff's right to pursue the assignment of treble damages, regardless of the Department's involvement, through a court of law. The decision to allocate the costs of cleanup and removal will be determined by the court. A contribution plaintiff may be granted an award of treble damages by the court from one or more contribution defendants only upon a finding by the court that:

- The contribution defendant is a person who was named on or subject to a directive issued by the Department, who failed or refused to comply with such a directive, and who is subject to contribution pursuant to this subsection;
- The contribution plaintiff gave 30 days notice to the contribution defendant of the plaintiff's intention to seek treble damages pursuant to this subsection and gave the contribution defendant an opportunity to participate in the cleanup;
- The contribution defendant failed or refused to enter into a settlement agreement with the contribution plaintiff; and
- The contribution plaintiff entered into an agreement with the Department to remediate the site.

## III. Tank Information

Based on the information gathered from aerial photographs and from the local residents, ECM/AIG identified two pump islands at the referenced site. One pump island was associated with the former UST system, which was removed on December 27, 2001 and the other pump island was supposed to be located to north of the former pump island.

Conversely, the Department record indicates that four 6,000 gallon gasoline has been in service since April 12, 1976 until their removal on December 27, 2001. On June 15, 2003, three USTs (one 12,000 gallon gasoline, one 6,000 gallon gasoline UST and one 6,000 gallon diesel fuel UST) were installed within the excavation of the former four 6,000 gallon USTs.

#### **IV. Previous Gasoline Discharges**

Two discharges of gasoline from the USTs located at the referenced site were reported to the Department's Spill Hotline on February 21, 1997 and April 14, 1998, respectively. These spills were assigned case numbers 97-2-21-2249-41 and 98-04-14-1037-37. As of this date, NBG did not provide any information concerning the nature, location and amount gasoline that was discharged to the environments on these dates. In addition, it was not indicated whether or not any investigation and the remediation of soil and ground water were conducted following these gasoline spills.

In addition, in 1997, NBG reported to the Middlesex County Health Department that ground water seepage to the ground surface occurred to the south of the tankfield. The Middlesex County Health Department tested the seep water for TPHC and iron. NBG reported the presence of iron in that water samples but did not indicate the result of TPHC analysis.

Therefore, NBG shall provide the Department with detailed information concerning the February 21, 1997 and April 14, 1998 discharges. The information shall include the exact nature of each discharge, the approximate amount and type of product discharged and the areas (on a scaled map) where the discharges were occurred, as well as a description of all actions taken to remediate the discharges, including any sampling data. In addition, ECM/AIG shall submit the analytical results of the seep water, which was analyzed for iron and TPHC by the Middlesex County Health Department in 1997. Additional soil sampling may be required based on the review of that information.

#### **V. Remedial Investigation**

##### **A. Soil**

##### **1. Removal of 550 Gallon Waste Oil Tank by P & R Maintenance, Inc.**

On November 12, 1998, P & R Maintenance submitted a 30 Days Notice to close a 550 gallon waste oil UST and the removal of 80 ft gasoline piping. No reports submitted as of this date indicate whether or not the 550 gallon waste oil UST and 80 ft of gasoline piping were removed from the referenced site. Therefore, NBG shall submit the remedial investigation reports. The Department may require addition soil investigation.

##### **2. Heating Oil UST**

One heating oil UST was abandoned in place. NBG did not indicate the exact size of this UST, the length or location of the associated piping and whether or not any discharge was identified with this abandoned UST. Although, TPHCs have been identified in this area of concern. Therefore, NBG is required to soil sampling in accordance with N.J.A.C. 7:26-3.9 (3).

##### **3. Soil Delineation**

The following compounds were detected above the RDCSCC: Benzene in soil samples TB-7, North Wall, West Wall, D1, D2, D3, N7, N13, N14 and N16, total xylenes in North Wall and West Wall and N7, and lead in TB8. In addition, the following compounds were detected above the IGWSCC: benzene in TB7, Test Pit 1, NW Corner, N1, N2, N3, N5 and N6; xylenes in TB7, Test Pit 2, Test Pit 4, NW Corner, D 1 through D 4, N1, N 2, N 3, N 5, N 6 and N 13 through N 16. Moreover, MTBE was detected above the above the Interim Soil Clean Criteria in soil samples TB 7, TB 8, Test Pit 4, SW-1, SW-4, G 3, North West Corner West Corner and D 3.

Based on the locations of the aforementioned soil samples, it is evident that soil contamination either above the RDCSCC or IGWSCC is located at the various areas on-site. Therefore, all above referenced RPs shall collect soil samples at the location as indicated on the enclosed map for the horizontal delineation of soil contamination detected at the aforementioned locations. In addition, vertical delineation of soil contamination detected at TB 7, TB 8, Test Pit 2, G 3, North Wall, NW Corner, West Wall, D 1 through D 4, N 1, N 3, N 5, N 6, N 7, N 13, N 14 and N16 is required.

Field screening may be utilized to bias sample locations to areas of greatest suspected contamination, but pursuant to N.J.A.C. 7:26E-2.1(b) may not be utilized to verify clean zones. The Department's most recent general guidance on soil contaminant cleanup criteria (May 12, 1999 version) may also be utilized to evaluate when delineation is complete. If contamination is to be remediated during this phase of the investigation, NBG/AIG shall conduct the appropriate post-remedial sampling to confirm the effectiveness of the remedial effort, pursuant to N.J.A.C. 7:26E-6.4.

All the soil samples shall be analyzed for BTEX, MTBE and TBA. The horizontal and vertical delineation samples collected at TB 8 shall additionally be analyzed for lead.

The referenced RPs shall propose remedial measures to remediate soil above the RDCSCC to the Department's Soil Cleanup Guidance. Additionally, any soil contamination above the IGWSCC required to be remediated.

#### **4. Soil Sampling Map**

The referenced RPs shall submit a scaled map indicating the locations of all the soil samples that have been collected at this site above the Department's Guidelines. Please indicate the depth of the soil samples on the map.

#### **5. Backfill Material In Test Pits**

Test Pits (1, 2, 4 and 6) detected contamination in excess of the IGWSCC. All the reports submitted as of this date did not indicate as to whether these Test Pits were backfilled by excavated soil or by clean fill. If these Test Pits were backfilled by clean soil then the referenced RPs shall submit a clean fill certification.

#### **6. Test Pit 3**

All the reports submitted by the referenced RPs did not indicate the analytical results of the soil samples collected from Test Pit 3. Therefore, the analytical results of Test Pit shall be submitted.

### **B. Ground Water**

#### **1. Source Area Well**

The referenced RPs shall install a source area well at the location of soil sample "West Wall" that detected benzene and total xylenes in excess of the RDCSCC and MTBE in excess of the Department's Interim Ground Water Quality Standards for MTBE.

The referenced RPs shall submit boring logs and the monitoring well construction details (Well Certification Forms A and B, enclosed) for all newly installed monitoring wells.

#### **2. Investigation of Perched Water**

Based on the ground water elevation data of MW-4 and the location of the ground water seepage point, located to the south of the tankfield, Walter/HMM has indicated that a perched or elevated ground water was existed at the site and the northwesterly ground water flow migrated the soil and ground water contamination resulted from the incident of August 30, 2001 to the northern side of the tankfield.

Conversely, on the basis of the ground water elevation data of monitoring wells MW-1 through MW-3 and of the subsurface lithology in Test Pits data, ECM/AIG has indicated that the perched water did not exist at the site. To support this determination, ECM/AIG has indicated that ground water was not encountered in Test Pit 4 and Test Pit 6, which dug to depth of 13 ft and 16 ft, respectively and are located adjacent to MW-4. The absence of ground water in Test Pit 4 and Test Pit 6 leads to an assumption that ground water at MW-4 is existed in confined condition and the higher pressure head causes higher water level in MW-4 as compare to the water tables in all the wells in the project area.

Therefore, the referenced RPs shall conduct additional investigation to determine whether or not perched water zone is existed at the site. If all referenced RPs agree on the presence of a perched water, then they shall prepare

cross section and fence diagrams to indicate perched water zone and the underlying aquifer at the site. The referenced RPs shall use all the soil boring logs and wells logs to prepare the cross section and fence diagrams.

### 3. Abandonment of MW-4

On January 13, 2003, ECM/AIG indicated that the bentonite seal of monitoring well MW-4 has been broken and has been sunk to a depth of at least three ft in the ground. ECM/AIG also indicated that due to broken seal, the surface water entering into the well leads to an elevated ground water table, which is not consistent with the water table in the other on-site monitoring well. On January 16, 2003, ECM/AIG contacted the Department to discuss the abandonment of MW-4. The Department advised ECM/AIG that they must either bring the well in compliance or properly abandon it. Assuming the higher cost of repairing MW-4 than installing a new well, ECM/AIG decided to install a replacement well in the vicinity of MW-4.

As of this date, EC/AIG has not informed the Department whether nor not they have abandoned MW-4. Therefore, ECM/AIG shall submit a well abandoned report and shall install a replacement well adjacent to MW-4.

### 4. Ground Water Delineation

On August 30, 2001, ECM collected three grab ground water samples SB-4, SB-6 and SB-7. SB-6 was collected before the UST has punctured on August 30, 2001 and detected Benzene, MTBA and TBA in excess of the GWQS. SB-7 was collected after the UST rupture and detected benzene, MTBE and TBA in excess of the GWQS.

On February 6, 2002, ECM/AIG in order to determine the extent of ground water contamination resulting from the rupture of the gasoline UST on August 30, 2001, collected one ground samples from the excavation of the former tankfield and four ground water samples from temporary wells points 1 through 4 for VO+10 analysis. Ground water sample from the excavation detected BTEX, MTBE and TBA in excess of GWQS. MTBE and TBA were detected in all the temporary wells above the GWQS.

In February 2002, ECM/AIG installed four permanent wells MW-1 through MW-4. Based on the ground water elevation data measured from MW-1 through MW-4, AIG determined a two component ground flow to the south and southwest.

On February 26, 2002, ECM/AIG sampled MW-1 through MW-4 for VO+10 analysis and the subsequent ground water samples collected from these well on March 9, 2002 and October 24, 2002 were analyzed for BTEX, MTBE and TBA. ECM/AIG also conducted the forensic analysis of the ground water samples (MW-1 through MW-4), TW-1, TW-2, TW-3, TW-4, TW-10, TW-13, TW-14, TW-15, TW-16 and ground water from UST excavation. The forensic analysis of these ground water samples was conducted to characterize the ground water contamination and to differentiate the ground water contamination resulted from the rupture of UST on August 30, 2001 and from any other discharges, which occurred prior to August 30, 2001 incident. The results of the forensic analysis of the ground water samples were not validated by the Department's Office of Date Quality for validation.

NBG sampled MW-1 through MW-4 for BTEX, MTBE and TBA. Using the ground water elevation of all the on-site monitoring wells, HMM determined the direction of the ground water flow to the southwest and northwest of the referenced site.

The historical ground water sampling results of MW-1 through MW-4 collected by ECM/AIG and NBG/HMM indicated that:

- On March 9, 2002, the following contaminants were detected in excess of the Ground Water Quality Standards in: MW-1: BTEX, MTBE, TBA, 1,2 dichloroethane, 1,1,2 trichloroethane and total TICs MW-2: benzene, MTBE, TBA, 1,2 dichloroethane and 1,1,2 trichloroethane; MW-3: benzene, MTBE and TBA; MW-4: MTBE and TBA.
- On October 24, 2002, MW-1 and MW-2 detected BTEX, MTBE, TBA and total TICs while MW-3 and MW-4 detected MTBE and TBA in excess of the Ground Water Quality Standards.

- On NBG collected ground water samples MW-1 through MW-4 and two water samples (Water-1 and Water-2) from the UST excavation. The following contaminants were detected in excess of the Ground Water Quality Standards in: MW-1: BTEX the while MW-1 and MW-2 were analyzed at method detection limit above the Ground water Quality Standards for TBA; MW-2: BTEX, MTBE and sample was analyzed at method detection limit above the Ground water Quality Standards for TBA; MW-3: MTBE and TBA; MW-4: MTBE and TBA; and Water-1: benzene, MTBE and TBA,

The historical ground water sampling results of SB-6 confirm that ground water contamination in excess of the GWQS was existed at the site before the incident of August 30, 2001. Therefore, the referenced RPs shall conduct future investigation and remediation of ground water contamination detected at the site. In order to delineate the horizontal extent of the ground water contamination detected beneath the referenced site, the referenced RPs shall install ground water monitoring wells at the following locations:

- Two monitoring wells to the south of MW-3;
- One well to the west of MW-2;
- One well to the west of MW-4;
- At least one well at the location of MW-4;
- And at the locations of N 7 and N 17.

If it is necessary to install wells off-site, the referenced RPs shall provide documentation of written requests seeking access to install said monitoring wells on off-site properties within 30 calendar days of receipt of this correspondence. Please be advised that N.J.S.A. 58:10B, a statute concerning site remediation, provides a cause of action for persons to obtain access to properties not owned by that person for the purpose of conducting remedial activities at that site. For further details, please see N.J.A.C. 7:26C-8.2

The referenced RPs shall submit boring logs and the monitoring well construction details (Well Certification Forms A and B, enclosed) for all newly installed monitoring wells.

#### 5. Vertical Delineation of Ground Water Contamination

The presence of a well located 533 ft east/northeast of the site indicates that the site is located in a ground water used area. Therefore, above referenced RPs shall conduct vertical delineation of ground water contamination detected at the site. A proposal shall be submitted for the vertical delineation of ground water contamination beneath the referenced site.

#### 6. Ground Water Sampling

The referenced RPs shall sample all the existing wells and the newly required wells for volatile organic compounds, methyl tertiary butyl ether (MTBE) and tertiary butyl alcohol (TBA) using EPA Method 624 calibrated for xylenes, with a library search (VO+10) and for total lead using EPA Method 200.8 (ICAP) or EPA Method 200.9 (Graphite Furnace). The SW-846 equivalent for this procedure is ICAP 3010/6010, sample prep 3050/6010 or Graphite Furnace 3020/7421, sample prep 3050/2421.

#### 7. Ground Water Contour Map

The referenced RPs shall draw a contour map by using the ground water elevation of all the existing wells and the newly required wells.

### B. Receptor Evaluation

#### 1. Well Search

A well search report submitted on January 6, 2003 identified a total of 56 wells and two surface water bodies. The usage of these wells are: 25 domestic wells; 18 monitoring wells; one piezometer; one industrial; two public supply well; one well at chicken farm; one well at a garage; one well discontinued; one well with intermittent use; and three well of unknown use.

In addition, two surface water intake stations were also identified at distances of 1,965 ft and 5,150 ft from the storm drain outfall. United Water operates these pumping stations and John Hult of United Water confirmed the location these pumping stations.

Since the closed domestic well to the site is located 533 ft east/northeast of the site, the referenced RPs shall sample this well and conduct well canvassing according with the requirements as indicated in item V-B-2 below.

## 2. Well Canvassing

As ground water contamination has been identified and ground water is used for potable, irrigation, commercial and/or industrial purposes in the vicinity of this site, the referenced RPs are required to canvass the neighborhood to locate all nearby permitted and unpermitted wells. Canvassing shall be conducted within **fourteen (14) days** of the date of this letter, both within the estimated plume of contamination and within 1,000 feet of the known down gradient edge of contamination. NBG/AIG shall plot the locations of all wells identified in the well search and canvassing on a reduction of a topographic or geosquadrangle map.

The referenced RPs shall also sample the nearest down gradient well(s) which are within 1,000 feet of the known down gradient edge of the potential path(s) of the contamination and analyze the samples for volatile organics using **EPA Method 524.2 Version 4.1 with forward library search** (include targeted analysis for TBA using **EPA Method 524.2 Version 4.1** with the proper detector) and for lead. For lead analysis, EPA Method 200.8 or 200.9 shall be used. Please note, the Method Detection Limits (MDL) must not exceed the Maximum Contaminant Levels (MCL) for each analyte. If sample dilution is necessary, all analysis prior to dilution must be reported.

Samples should be collected as close to the pumping well as possible. The sampling location should also be prior to any storage tanks or treatment systems, if possible (ie: an outdoor spigot). If a sample must be collected following passage through a treatment system, then the sample should be collected from a cold water, non-aerated spigot and the type, size and purpose of the treatment unit should be identified on sample sheets and in the field logbook.

A Well Information Form, included as an enclosure, shall be completed for each well sampled and the BSCM case manager shall be notified a minimum of fourteen (14) calendar days prior to the sampling event. Be sure to include the property owner and resident (if applicable) name and address for each well sampled, along with the Block and Lot for the property on which the well is located.

In addition, the following information shall be conveyed when the property owner/resident is initially notified that the well will be sampled:

- The well sampling is required by the Department;
- The well sampling is associated with a specific underground storage tank case (provide complete name, address and case #);
- The Department will provide the sampling results to the property owner/resident within 90 days of the sampling event; and
- If the well owner has any questions concerning the sampling of the well or the associated underground storage tank case, the assigned case manager should be contacted (include both the name and phone number of the case manager).

Sampling shall be conducted within **thirty (30) calendar days** of the date of this letter. The sampling results and a Well Information Form shall be submitted within **forty-five (45) calendar days** from the date on which sampling was conducted and shall be accompanied by the Quality Assurance/Quality Control deliverables prepared per the "Full Laboratory Data Deliverables" format. An electronic version of the of the sampling data shall also be submitted since the Technical Requirements for Site Remediation (N.J.A.C. 7:26E) require that all analytical results of environmental samples be submitted electronically [see 3.13(c)3v]. **Failure to initiate sampling and/or provide the sampling results within the specified timeframes may result in the issuance**

of a notice of violation with penalty assessment. If contamination is found, the Department and the local health official shall be notified immediately.

### C. Ecological Evaluation

A baseline ecological evaluation shall be completed for each contaminated site or area of concern in accordance with N.J.A.C. 7:26E-3.11. This baseline evaluation shall be qualitative in nature and based on site investigation sample results and a site inspection by a person experienced in the use of techniques and methodologies for conducting ecological risk assessment in accordance with EPA guidance. This evaluation shall be used to determine when further sampling and evaluation is required, pursuant to N.J.A.C. 7:26E-4.7.

## VI. Preliminary Assessment and Site Evaluation (PA/SI)

### A. PA/SI for Chlorinated Compounds In Ground Water

Based upon the investigation conducted to date, contaminant(s) which are not related to the material stored in the UST(s) have been detected in ground water samples. Specifically, 1, 2 dichloroethane and 1,1,2 trichloroethene were detected in MW-1 and MW-2. In order to determine whether the source of the contamination is onsite or offsite, a Preliminary Assessment (PA), pursuant to N.J.A.C. 7:26E-3, is necessary. If areas of concern are identified, a site investigation (SI), pursuant to N.J.A.C. 7:26E-3, is also necessary. Any contamination identified onsite above cleanup criteria will require remediation.

At this time, NBG has the option of conducting the PA/SI with BSCM and the current case manager. If NBG does not choose to address the contamination at this time, NBG has the option of deferring this investigation and addressing it at a later date through a Memorandum of Agreement (MOA) with the Department. It should be noted that conducting the PA/SI is a voluntary process whether it is conducted with BSCM or through a MOA.

If NBG has not investigated this "non-UST" contamination at the time the Department issues a no further action (NFA) determination for the regulated UST(s), the NFA will only address the regulated UST(s) and the "non-UST" issue will be referenced as remaining outstanding. The case would remain on the Known Contaminated Site List for the "non-UST" contamination and await assignment until such time that it is determined to be a Department priority or until NBG voluntarily enters into a MOA.

### B. Above Ground Waste Oil Tank

The Phase II Site Assessment Report of November 1, 2001 identified one waste oil AST and one heating oil AST. However, the owner of the gas station indicated that this AST was never used for the storage of waste oil. Therefore, NBG shall clarify the historical contents of the AST, which was reported as waste oil AST in the aforementioned report. In addition, NBG shall indicate whether or not soil sample was conducted to determine any suspected contamination in soil. Please be advised that soil sampling in accordance with the N.J.A.C. 7:26-3.9 shall be required to determine whether or not this AST has had a history of discharge, if NBG wish to include this area of concern in the eventual No Further Action/Convenient not sue letter.

### C. Three Former in Ground Hydraulic Lifts

The Phase II Site Assessment Report of November 1, 2001 identified two center post and one dual post former in ground hydraulic lifts. All the reports submitted as of this date did not indicated whether or not the soil sampling to detect any suspected was ever conducted for these hydraulic lifts. Therefore, NBG shall collect four soil samples from 0-6 inches below the tank invert of each of the three hydraulic lifts pursuant to N.J.A.C. 7:26E-3.9, if NBG wish to include this area of concern in the eventual No Further Action/Convenient not sue letter.

### D. Two Floor drains

On November 1, 2001, ECM submitted a Phase II Environmental Site Assessment Report. This report indicated two four inches floor drains, which were reported to be connected to the on-site historical sanitary sewer. All the reports submitted did not indicates whether soil sampling for these floor drains was ever conducted. Therefore, if historical or recent contamination is present, then soil samples shall be collected for every 15 linear feet of piping within the

native soil, 0-6 inches beneath the piping, in accordance with N.J.A.C. 7:26E-3.9(d)1, if NBG wish to include this area of concern in the eventual No Further Action letter.

#### **E. Catchment Basin in the Rear of the Site**

Phase II Site Assessment report identified one catchment basin in the rear of the building. Therefore, NBG shall collect samples in all affected areas, including the catchment basin in accordance with *N.J.A.C. 7:26E-3.9(c) 4iii*, if NBG wish to include this area of concern in the eventual No Further Action/Convenient not sue letter.

### **VII. Quality Assurance**

- A. All data submitted shall conform to N.J.A.C. 7:26E-2, except where specifically indicated.
- B. In accordance with N.J.A.C. 7:26E-3.13(b) 3, a technical overview is required for any report submission. As part of that overview, a discussion regarding the reliability of the laboratory analytical data shall be included. Please refer to Appendix 2 of the March 1995 "Guide for the Submission of Remedial Action Workplans."
- C. In accordance with N.J.A.C. 7:26E-3.13(c) 3v, a table summarizing all sampling results shall be provided with the report required herein. The table shall be organized by area of concern and shall include sample location, media, sample depth, field and laboratory identification numbers, analytical results, and comparison to applicable remediation standards. The data in the summary table shall be presented both as hard copy and an electronic deliverable using the database format outlined in detail in the current HAZSITE application or appropriate spreadsheet format specified in the Department's Electronic Data Interchange Handbook in effect as of the date the report is prepared. The Electronic Data Interchange Handbook and a copy of the current HAZSITE application software may be obtained from the Department by calling (609) 633-1476.

### **VIII. Administrative Requirements**

#### **A. Certification Requirements**

Effective April 25, 1992, all persons and firms performing tank services on regulated USTs must be certified per N.J.S.A. 58:10A-24.1-8. All work related to any regulated tank service shall be conducted by, or under the immediate on site supervision of an individual certified in the activity being conducted. All documents (tank closure and permit applications, reports, proposals) submitted to the Department shall be prepared and signed by the certified individual responsible for the project.

#### **B. Field Activity Notification**

The referenced RPs shall notify the assigned BSCM Case Manager at least 14 calendar days prior to implementation of field activities. If the referenced RPs fails to initiate sampling within 30 calendar days of the receipt of this letter, any requests for an extension of the required time frames may be denied.

#### **C. Billing**

Effective February 22, 1994, the Department initiated direct billing for the oversight of remedial investigations and remedial actions at regulated UST sites. Documents submitted in accordance with N.J.A.C. 7:26E may help reduce the time necessary for oversight of the above referenced site.

#### **D. Remedial Action Selection**

The referenced RPs shall submit a Remedial Action Selection Report in accordance with N.J.A.C. 7:26E-5. This submission may be included as a part of the RAW. Please note that the Remedial Action Selection Report will satisfy the requirement to submit an Effectiveness Analysis and Certification.

## E. Notifications

Pursuant to N.J.A.C. 7:26E-1.4, the referenced RPs shall notify the municipal clerk of each municipality in which the site is located forty-five calendar days prior to the submission of the remedial action selection report to the Department. The notification shall be in writing and shall include all information specified in N.J.A.C. 7:26E-1.4(d)1 through 10.

It should be noted that if the referenced RPs completes the above requirements, and the data indicate that the remedial investigation has not been completed (i.e., contamination not completely delineated), the referenced RPs shall submit a Remedial Investigation Workplan (RIW) in accordance with N.J.A.C. 7:26E-4.2 within the specified time frame. The RIW shall include a schedule of implementation of the remaining remedial investigation required and the submittal date of the RAW. The referenced RPs also has the option of completing the remaining remedial investigation in accordance with N.J.A.C. 7:26E-4, followed by the submission of the RIR/RAW. If the latter option is selected, the referenced RPs shall notify the Case Manager listed below, in writing, within two weeks prior to the specified time frame referenced above. This notification shall include a generic discussion of activities conducted to date and activities to be conducted, as well as a detailed schedule of implementation, which includes the submission of the RIR/RAW.

Please note, pursuant to N.J.S.A. 58:10A-21 et seq. and N.J.A.C. 7:14B et seq., the owner and operator of the regulated underground storage tanks are strictly liable for compliance with these requirements. In addition, all state regulated USTs, except for heating oil USTs for on-site consumption, are regulated under 40 CFR Part 280. Non-compliance with these federal and state regulations exposes the tank owner and operator to the penalty and liability specified in 40 CFR Part 280, N.J.S.A. 58:10A-21 et seq. and N.J.A.C. 7:14B et seq.

Failure by the referenced RPs to comply with the requirements of {this letter and/or date(s) and title of prior document(s) } to remediate the discharge(s) may increase the referenced RPs potential liability to the Department in an amount equal to three times the cost of conducting the necessary remedial actions and may cause a lien to be placed upon the property of the referenced RPs, pursuant to the Spill Compensation and Control Act N.J.S.A. 58:10-23.11 et seq. (Spill Act). In addition, the Department reserves the right to pursue penalties for the discharge and for failure to submit the outstanding information, from the original due date, pursuant to the Spill Act.

If you require copies of Departmental Guidance Documents or applications, many of these documents are available on the internet at [WWW.STATE.NJ.US/DEP/SRP](http://WWW.STATE.NJ.US/DEP/SRP). If you should have any questions regarding this matter, please contact Mohammad I. Qureshi, Case Manager, of the Bureau of Southern Case Management at (609) 984-4892.

Sincerely,



Joseph Goliszewski, Section Chief  
Bureau of Southern Case Management

- c: Middlesex County Public Health Department  
Dan Toder, Consultant for Tank Owner  
Cynthia DeSousa, Attorney for Tank Owner  
Jill Crosbie, RedHawk Environmental, consultant for Insurance Company (AIG)  
Charlie McGuth, Environmental Maintenance Co.  
Mohammad I. Qureshi, BSCM