September 17, 2015

New York City Office of Environmental Remediation
City Voluntary Cleanup Program
c/o Shaminder Chawla
100 Gold Street, 2nd Floor
New York, NY 10038

Re: VCP # 15CVCP088K
E-Designation # 14EHAN305K
843-847 Lexington Avenue
Remedial Action Work Plan (RAWP) Stipulation List

Dear Mr. Chawla:

Environmental Business Consultants hereby submits a Remedial Action Plan (RAWP) Stipulation List for the Site to the New York City Office of Environmental Remediation (OER) on behalf of 843 Lexington Holdings LLC. This letter serves as an addendum to the RAWP to stipulate additional content, requirements, and procedures that will be followed during the site remediation. The contents of this list are added to the RAWP and will supersede the content in the RAWP where there is a conflict in purpose or intent. The additional requirements/procedures include the following Stipulation List below:

1. The criterion attached in **Appendix 1** will be utilized if additional petroleum containing tank or vessel is identified during the remedial action or subsequent redevelopment excavation activities. All petroleum spills will be reported to the NYSDEC hotline as required by applicable laws and regulations. This contingency plan is designed for heating oil tanks and other small or moderately sized storage vessels. If larger tanks, such as gasoline storage tanks are identified, OER will be notified before this criterion is utilized.

2. A pre-construction meeting is required prior to start of remedial excavation work at the site. A preconstruction meeting for 843 Lexington was held on September 8, 2015 at the offices of OER and was attended by OER, the developer representative, EBC, and the excavation/general contractor.

3. A Historic Fill Transfer and Disposal Notification Form to each disposal facility and a pre-approval letter from all disposal facilities will be provided to OER prior to any soil/fill material removal from the site. The Historic Fill Transfer and Disposal Notification Form template is attached in **Appendix 2**. Documentation specified in the RAWP - Appendix 3 - Section 1.6 "Materials Disposal Off-Site" will be provided to

OER. If a different disposal facility for the soil/fill material is selected, OER will be notified immediately.

4. Signage for the project will include a sturdy placard mounted in a publically accessible right of way to building and other permits signage will consist of the NYC VCP Information Sheet (attached **Appendix 3**) announcing the remedial action. The Information sheet will be laminated and permanently affixed to the placard.

5. If the site contains hazardous waste that will be excavated and disposed of offsite, OER can work with the development team to seek an exemption for your property from the $130/ton state Hazardous Waste Program Fee. To qualify for an exemption, the site must be enrolled in the city Voluntary Cleanup Program; hazardous waste must result from remedial action set forth in a cleanup plan approved by OER; and OER must oversee the cleanup. It is the applicant's responsibility to notify the OER Project Manager, copying supervising Project Manager and Shaminder Chawla, before hazardous waste is shipped from the site. Unless the Department of Environmental Conservation is notified before waste is shipped from the site, you may not receive an exemption from the fee. The exemption does not cover, and you remain liable for, the Special Assessment on Hazardous Waste (established by ECL§ 27-0923) which charges a fee of up to $27 per ton for hazardous waste generated that is due at the State Department of Taxation and Finance 30 days after the end of the quarter in which the waste was generated. **Appendix 4** includes additional information about the Exemption for Hazardous Waste Program Fee.

6. Collection and analysis of five end-point samples from the bottom of the excavation to evaluate the performance of the remedy with respect to attainment of Track 4 SCOs. A map indicating end-point sampling locations is attached in **Appendix 5**. Samples will be analyzed for contaminants of concern (PCE, TCE, arsenic, barium, mercury, copper, and SVOCs).

7. OER requires parties seeking City Brownfield Incentive Grants to carry insurance. For a cleanup grant, both the excavator and the trucking firm(s) that handle removal of soil must carry or be covered under a commercial general liability (CGL) policy that provides $1 million per claim in coverage. OER recommends that excavators and truckers also carry contractors pollution liability (CPL) coverage, also providing $1 million per claim in coverage. The CGL policy, and the CPL policy if obtained, must name the City of New York, the NYC Economic Development Corporation, and Brownfield Redevelopment Solutions as additional insured. For an investigation grant, an environmental consultant must be a qualified vendor in the BIG program and carry $1 million of professional liability (PL) coverage. A fact sheet regarding insurance is attached as **Appendix 6**.

8. Daily reports will be provided during active excavation work. If no work is performed for extended time period, daily report frequency will be reduced to weekly basis. Daily report template is attached in **Appendix 7.**

9. Monthly reports will be provided by the owner/developer after excavation work is completed for the duration of the construction period. Monthly report template is attached in **Appendix 8**.

10. Trucking log sheets will be utilized as trucks are transported from sites, and completed logs should be attached to the Remedial Action Report (RAR) as an appendix. The goal of this log is to clearly document the destination of material leaving the site, the parties responsible for its transfer, and other pertinent details. The trucking log template is provided in **Appendix 9**.

Sincerely,

ENVIRONMENTAL BUSINESS CONSULTANTS

Kimberly Somers
Project Manager

Cc: Shana Holberton, NYCOER

Appendix 1

Generic Procedures for Management of Underground Storage Tanks
Identified under the NYC VCP

Prior to Tank removal, the following procedures should be followed:

- Remove all fluid to its lowest draw-off point.
- Drain and flush piping into the tank.
- Vacuum out the "tank bottom" consisting of water product and sludge.
- Dig down to the top of the tank and expose the upper half.
- Remove the fill tube and disconnect the fill, gauge, product, vent lines and pumps. Cap and plug open ends of lines.
- Temporarily plug all tank openings, complete the excavation, remove the tank and place it in a secure location.
- Render the tank safe and check the tank atmosphere to ensure that petroleum vapors have been satisfactorily purged from the tank.
- Clean tank or remove to storage yard for cleaning.
- If the tank is to be moved, it must be transported by licensed waste transporter. Plug and cap all holes prior to transport leaving a 1/8 inch vent hole located at the top of the tank during transport.
- After cleaning, the tank must be made acceptable for disposal at a scrap yard, cleaning the tanks interior with a high pressure rinse and cutting the tank in several pieces.

During the tank and pipe line removal, the following field observations should be made and recorded:

- A description and photographic documentation of the tank and pipe line condition (pitting, holes, staining, leak points, evidence of repairs, etc.).
- Examination of the excavation floor and sidewalls for physical evidence of contamination (odor, staining, sheen, etc.).
- Periodic field screening (through bucket return) of the floor and sidewalls of the excavation, with a calibrated photoionization detector (PID).

<u>Impacted Soil Excavation Methods</u>

The excavation of the impacted soil will be performed following the removal of the existing tanks. Soil excavation will be performed in accordance with the procedures described under Section 5.5 of Draft DER-10 as follows:

- A description and photographic documentation of the excavation.
- Examination of the excavation floor and sidewalls for physical evidence of contamination (odor, staining, sheen, etc.).
- Periodic field screening (through bucket return) of the floor and sidewalls of the excavation, with calibrated photoionization detector (PID).

Final excavation depth, length, and width will be determined in the field, and will depend on the horizontal and vertical extent of contaminated soils as indentified through physical examination (PID response, odor, staining, etc.). Collection of verification samples will be performed to evaluate the success of the removal action as specified in this document.

The following procedure will be used for the excavation of impacted soil (as necessary and appropriate):

- Wear appropriate health and safety equipment as outlined in the Health and Safety Plan.

- Prior to excavation, ensure that the area is clear of utility lines or other obstructions. Lay plastic sheeting on the ground next to the area to be excavated.
- Using a rubber-tired backhoe or track mounted excavator, remove overburden soils and stockpile, or dispose of, separate from the impacted soil.
- If additional UST's are discovered, the NYSDEC will be notified and the best course of action to remove the structure should be determined in the field. This may involve the continued trenching around the perimeter to minimize its disturbance.
- If physically contaminated soil is present (e.g., staining, odors, sheen, PID response, etc.) an attempt will be made to remove it, to the extent not limited by the site boundaries or the bedrock surface. If possible, physically impacted soil will be removed using the backhoe or excavator, segregated from clean soils and overburden, and staged on separated dedicated plastic sheeting or live loaded into trucks from the disposal facility. Removal of the impacted soils will continue until visibly clean material is encountered and monitoring instruments indicate that no contaminants are present.
- Excavated soils which are temporarily stockpiled on-site will be covered with tarp material while disposal options are determined. Tarp will be checked on a daily basis and replaced, repaired or adjusted as needed to provide full coverage. The sheeting will be shaped and secured in such a manner as to drain runoff and direct it toward the interior of the property.

Once the site representative and regulatory personnel are satisfied with the removal effort, verification of confirmatory samples will be collected from the excavation in accordance with DER-10.

Appendix 2

Historic Fill Transfer and Disposal Notification Form

Historic Fill & Soil Disposal Notification Form
New York City Office of Environmental Remediation

Date: _____

To operators and representatives of disposal facilities:

The New York City Office of Environmental Remediation (OER) operates several environmental remediation regulatory programs in New York City that manage light to moderately contaminated properties that are planned for redevelopment. These projects commonly involve the removal of historical fill and soil from properties for development and other purposes. As with any government regulatory program, lawful transport and disposal of historic fill and soil is mandatory. It is also our highest priority.

Disposal facilities, recycling facilities and clean fill facilities (collectively, receiving facilities) for historic fill and soil may be located in New York or neighboring states. Our research has indicated a wide range of facility types and a complex set of regulatory requirements and obligations for a receiving facility operation exist within each jurisdiction. Receiving facilities are required to comply with applicable laws and regulations and may operate under state and local authority via permits, licenses, registrations, agreements and other legal instruments that dictate requirements for the material they can receive. Operating requirements may include adherence to applicable chemical standards, guidance levels, criteria, policy or other bases to determine the suitability for receipt of historical fill or soil at a receiving facility. Such requirements may also specify sample frequency, location, sampling method, chemical analytes, or analytical methods. Receiving facility soil/fill sampling requirements often differ from standard remedial investigation protocol performed in the original environmental study of the property.

Given the variability of data requirements for receiving facilities, the wide range of receiving facility types, and the complexity of regulatory requirements and obligations, OER is seeking to assist government regulators and facility operators and their technical representatives to achieve compliance with regulatory requirements for disposal of historic fill and soil at receiving facilities for projects we administer. Further, we seek to ensure that all of the data and information that is developed in OER's regulatory programs (for instance, site environmental history and soil chemistry) is available to government regulators and to facility managers.

This document provides formal notification from OER of the availability of environmental information regarding the physical and chemical content of historical fill and soil that is proposed for transfer to a disposal, recycling or clean fill facility from a property located at:

[Site address, borough, New York]
[OER Site #]

The above referenced property has undergone regulated environmental investigation and is the subject of remedial action work plan under the authority of OER. All environmental data and information generated during this regulatory process is available online in OER's Document Repository listed below. OER reserves the right to share this information with applicable state regulators.

http://www.nyc.gov/html/oer/html/document-repository/document-repository.shtml

Note: when logged on, select the borough for the site (listed in the address above) and scroll through the list and select the address for the site (listed above). All documents are available in PDF format.

According to New York State DER-10 Technical Guidance for Site Investigation and Remediation, historical fill is non-indigenous fill material deposited on a property to raise its topographic elevation. The origin of historical fill is unknown but it is commonly known to contain ash from wood and coal combustion, slag, clinker, construction debris, dredge spoils, incinerator residue, and demolition debris. Historic fill is a regulated solid waste in the State of New York. Prior to making a determination regarding the suitability of historic fill or soil from this property for disposal at this receiving facility, **we strongly recommend that you review all of the data and information available for this property in our Document Repository** listed above. The repository includes:

- A Phase 1 history of use of the property;
- A Remedial Investigation Report for the property which includes:
    - Boring logs that describe physical observations of the historical fill material made by a trained environmental professional;
    - Chemical data for grab samples of historical fill collected during the remedial investigation;
- A Remedial Action Work Plan for the property.

An excerpt from the Remedial Investigation Report (below) describes the chemical composition of historical fill and soil for this property is characterized in the Remedial Investigation Report as follows. Note that this summary represents data for the entire property and may not represent the actual material proposed for transfer to this receiving facility:

"[insert soil, groundwater, and soil vapor sampling bullet from **Summary of the Work Performed under the Remedial Investigation]"**

"[insert soil, groundwater, and soil vapor analytical results bullet from **Summary of Environmental Findings]"**

We have also attached a map of historical fill and soil sampling locations, summary tables of chemical analyses of historical fill and soil and boring logs. [attach PDF versions of (1) figure of map of soil sample locations; (2) table of soil sample results; and (3) boring logs]

If you have any questions, please contact Horace Zhang at (212) 788-8484 or Hzhang@dep.nyc.gov for more information.

Appendix 3

NYC VCP Signage

NYC Voluntary Cleanup Program

843-847 Lexington Avenue
Site #: 15CVCP088K

This property is enrolled in the New York City Voluntary Cleanup Program for environmental remediation. This is a voluntary program administered by the NYC Office of Environmental Remediation.

For more information,
log on to: www.nyc.gov/oer

Or scan with smart phone:

If you have questions or would like more information,
please contact:

Shaminder Chawla at (212) 442-3007
or email us at brownfields@cityhall.nyc.gov

Appendix 4

Hazardous Waste Fee Exemption Fact Sheet

planNYC

NYC Office of Environmental Remediation

Exemption from the Hazardous Waste Program Fee

If your site is enrolled in the city Voluntary Cleanup Program and contains hazardous waste that will be excavated and disposed of offsite, OER can work with your development team to exempt your property from the $130/ton state Hazardous Waste Program fee. This exemption does not cover, and you remain liable for, the Special Assessment on Hazardous Waste (established by ECL§ 27-0923).

To qualify for an exemption from the Hazardous Waste Program Fee:

1. A site must be enrolled in the city Voluntary Cleanup Program;
2. Hazardous waste must result from remedial action set forth in a cleanup plan approved by OER; and
3. OER must oversee the cleanup.

Process for obtaining a Hazardous Waste Program Fee exemption:

For each VCP site, OER will submit three certifications to the New York State Department of Environmental Conservation (DEC):

1. OER will prepare a Notice of Potential Generation after a soil test shows a site contains hazardous waste. To prepare this Notice, you must provide your OER project manager with:

   - the site's EPA generator ID number;
   - the date of the soil test confirming hazardous waste;
   - the amount of hazardous waste in tons that you anticipate shipping offsite; and
   - the anticipated dates for the start and completion of remediation.

   DEC must receive this form **before** hazardous waste is shipped from your site. Otherwise your claim for an exemption may be denied.

2. After hazardous waste has been removed from the site, OER will distribute a Certification of Hazardous Waste Generation to your project team which when filled out documents how the hazardous waste was managed. Once completed, it must be signed by the generator (or site owner) and the site's Qualified Environmental Professional and returned to your OER project manager with a copy to Shana Holberston sholbertson@dep.nyc.gov and Mark McIntyre mmcintyre@cityhall.nyc.gov.

3. OER will then issue a Certification of Remedial Action that Generated Hazardous Waste to DEC representing OER's approval of how a site managed its hazardous waste.

Upon OER's submission of the last two certifications to DEC, the agency will issue a written statement exempting an individual site from the Hazardous Waste Program Fee. OER will then notify the project of the exemption.

For further information, please contact:

Shana Holberton
Program Manager
(212) 788-3220
SHolberton@dep.nyc.gov

or

Mark McIntyre
General Counsel
(212) 788-3015
MMcintyre@cityhall.nyc.gov

Contact OER to confirm that you are using the most updated version of this guidance.

Ongoing Obligations:

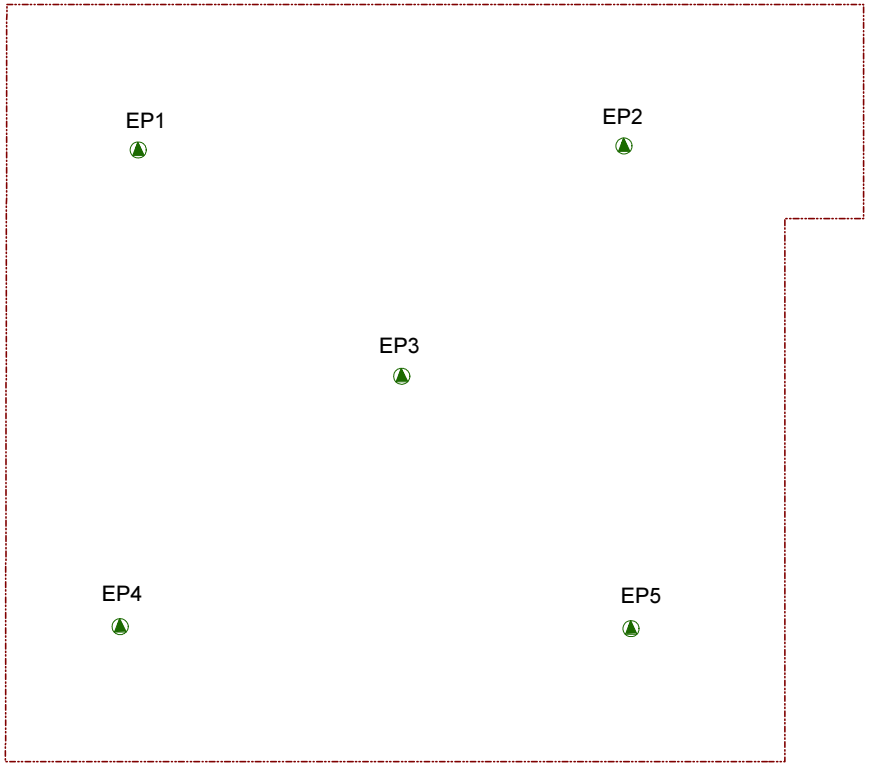
Regardless of the Hazardous Waste Program Fee exemption, parties must:

- File a Hazardous Waste Annual Report with DEC by March 1 of each year if your site generated 15 tons of hazardous waste or more in the relevant calendar year. For details, see http://www.dec.ny.gov/chemical/8770.html To set forth the basis for an exemption from the Hazardous Waste Program Fee, put an X in the Exempt Remedial box in Box H of Section 1 of the Waste Generation and Management (GM) form and in the Comments Box (at the bottom of the form) include "New York City Voluntary Cleanup Program, VCP Site Number_____}"; and

- Make quarterly payments of the Special Assessment on Hazardous Waste to the state Department of Taxation and Finance. For details see: http://www.tax.ny.gov/bus/haz/hzrdwste.htm

Appendix 5

End-Point Sampling Map



KEY:

Property Boundary

End Point Sample Location

SCALE:

0 10 20

Scale: 1 inch = 20 feet

EBC
Environmental Business Consultants
Phone 631.504.6000
Fax 631.924.2870

Figure No. **6**

Site Name: Redevelopment Project

Site Address: 843 Lexington Avenue, Brooklyn, NY

Drawing Title: End Point Sampling Plan

Appendix 6
BIG Program Insurance Fact Sheet

FACT SHEET – BIG PROGRAM INSURANCE REQUIREMENTS

Investigation Grants – for a developer or site owner to be eligible for a BIG investigation grant, its environmental consultant(s) must be:

- a Qualified Vendor in the BIG Program; and
- maintain Professional Liability (PL) insurance of $1M per claim and annual aggregate.

Cleanup Grants – for a developer or site owner to be eligible for a BIG cleanup grant:

- Its general contractor or excavation/foundation contractor hired to perform remedial work must maintain Commercial General Liability (CGL) insurance of at least $1M per occurrence and $2M in the general aggregate. It is recommended that the general contractor or excavation/foundation contractor also maintain a Contractors Pollution Liability policy (CPL) of at least $1M per occurrence.

- Its subcontractors who are hired by the general contractor etc. to perform remedial work at a site, including soil brokers and truckers, must also maintain a CGL policy in the amount and with the terms set forth above. It is recommended that subcontractors also maintain a CPL policy in the amount and with the terms set forth above.

  The CGL policy, and the CPL policy if in force, must list the city, EDC and BRS as additional insureds, include completed operations coverage and be primary and non-contributory to any other insurance the additional insureds may have.

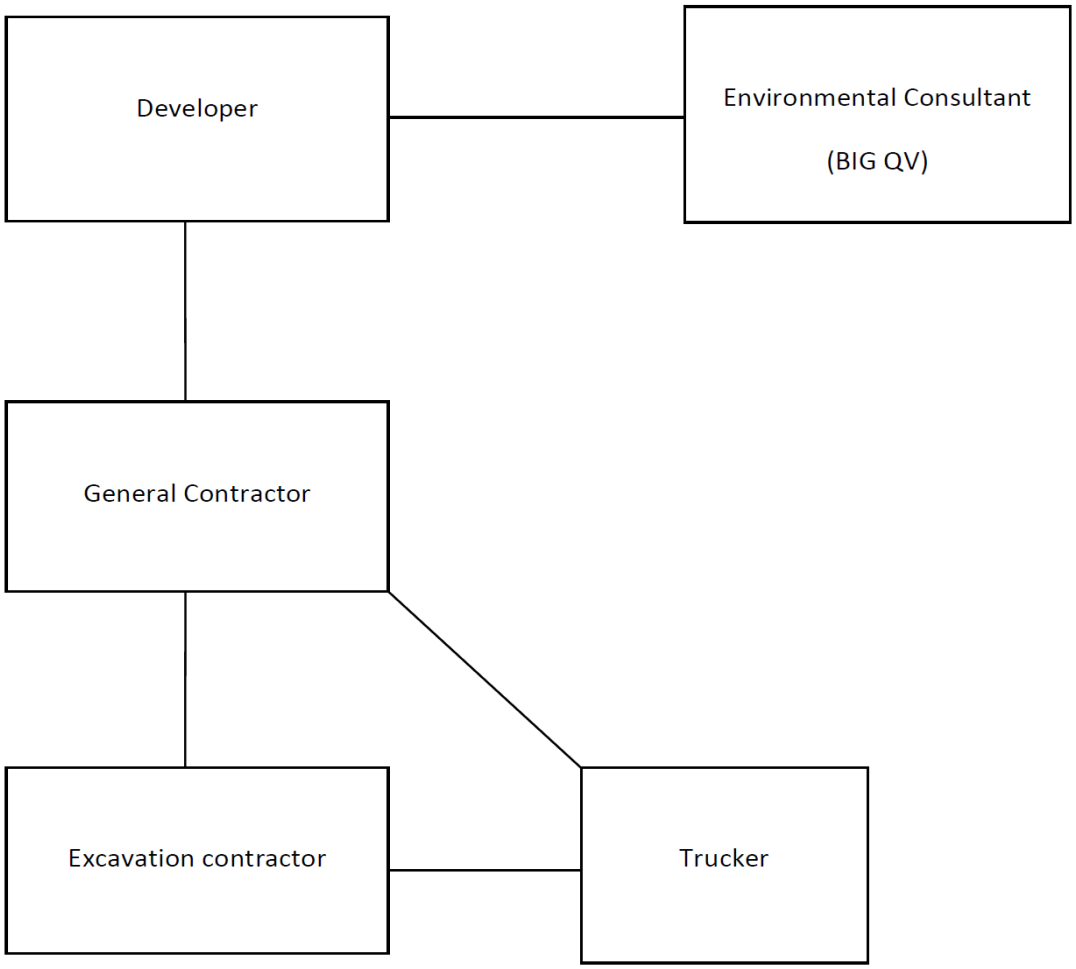
- Its environmental consultant(s) hired to oversee the cleanup must be:
  a. a BIG Qualifed Vendor; and
  b. maintain Professional Liability (PL) insurance of $1M per claim and annual aggregate.

If, in the alternative, the developer hires its environmental consultant to perform the cleanup, the environmental consultant must maintain CGL insurance in the amount and with the terms set forth above. It is recommended that the environmental consultant also maintain CPL coverage in the amount and with the terms set forth in the first two bulleted items listed above.

A schematic presenting the contractual relationships described above appears on page 2. Parties who must be named as Additional Insureds on Cleanup Grant insurance policies (CGL and CPL) are presented on page 3.

Example of Contractual Relationships for Cleanup Work

The Office of Environmental Remediation's Voluntary Cleanup Plan program requires applicants to identify the parties who are engaged in active remediation of their sites including: the General Contractor hired to remediate and/or the excavation contractor hired to excavate soil from the site and the trucking firm(s) that remove soil from the site for disposal at approved facilit(ies).



The chart above shows contractual relationships that typically exist for projects that are enrolled in the Voluntary Cleanup Program.

BIG Program Additional Insureds

The full names and addresses of the additional insureds required under the Required CGL Policy and recommended CPL Policy are as follows:

"City and its officials and employees"
New York City Mayor's Office of Environmental Remediation
253 Broadway, 14th Floor
New York, NY 10007

"NYC EDC and its officials and employees"
New York City Economic Development Corporation
110 William Street
New York, NY 10038

"BIG Grant Administrator and its officials and employees"
Brownfield Redevelopment Solutions, Inc.
739 Stokes Road, Units A & B
Medford, NJ 08055

Appendix 7

Daily Report Template

Generic Template for Daily Status Report

Instructions

The Daily Status Report submitted to OER should adhere to the following conventions:

- Remove this cover sheet prior to editing.
- Remove all the red text and replace with site-specific information.
- Submit the final version as a Word or PDF file.

Daily Status Reports

Daily status reports providing a general summary of activities for each day of *active remedial work* will be emailed to the OER Project Manager by the end of the following day. Those reports will include:

- Project number and statement of the activities and an update of progress made and locations of work performed;
- Quantities of material imported and exported from the Site;
- Status of on-Site soil/fill stockpiles;
- A summary of all citizen complaints, with relevant details (basis of complaint; actions taken; etc.);
- A summary of CAMP excursions, if any;
- Photograph of notable Site conditions and activities.

The frequency of the reporting period may be revised in consultation with OER project manager based on planned project tasks. Daily email reports are not intended to be the primary mode of communication for notification to OER of emergencies (accidents, spills), requests for changes to the RAWP or other sensitive or time critical information. However, such information will be included in the daily reports. Emergency conditions and changes to the RAWP will be communicated directly to the OER project manager by personal communication. Daily reports will be included as an Appendix in the Remedial Action Report.

DAILY STATUS REPORT

Prepared By: Enter Your Name Here

WEATHER	Snow		Rain		Overcast		Partly Cloudy	x	Bright Sun	
TEMP.	< 32		32-50		50-70	x	70-85		>85	

VCP Project No.:	14CVCP000M	E-Number Project No.:	14EHAN000M	Date:	01/01/2014
Project Name:	Name or Address				

Consultant: Person(s) Name and Company Name	Safety Officer: Person(s) Name and Company Name
General Contractor: Person(s) Name and Company Name	Site Manager/ Supervisor: Person(s) Name and Company Name

Work Activities Performed (Since Last Report):
Provide details about the work activities performed.

Working In Grid #: A1, B1, C1

Samples Collected (Since Last Report):
No samples collected or provide details

Air Monitoring (Since Last Report):
No air monitoring performed or provide details
Prestart Conditions – PID = 0.0 ppm, Dust = 0.000
High Conditions – PID = 0.0 ppm, Dust = 0.000

Problems Encountered:
No problems encountered or provide details

Planned Activities for the Next Day/ Week:
Provide details about the work activities planned for the next day/ week.

									Example:	
Facility # Name/ Location Type of Waste Solid Or Liquid	Facility # Name Location Type of Waste Solid *Or* Liquid		Facility # Name Location Type of Waste Solid *Or* Liquid		Facility # Name Location Type of Waste Solid *Or* Liquid		Facility # Name Location Type of Waste Solid *Or* Liquid		# # # # # # # Clean Earth Carteret, NJ petroleum soils Solid	
(Trucks, Cu.Yds. Or Gallons)	Trucks	Cu. Yds. *Or* Gallons	Trucks	Cu. Yds. *Or* Gallons	Trucks	Cu. Yds. *Or* Gallons	Trucks	Cu. Yds. *Or* Gallons	Trucks	Cu. Yds.
Today									5	120
Total									25	600

NYC Clean Soil Bank		Receiving Facility: Name/ Address (Approved by OER)			
Tracking No.:	13CCSB000				
Today	Trucks 5	Cu. Yds. 25	Total	Trucks 120	Cu. Yds. 600

Site Grid Map

Insert the site grid map here

Photo Log

Photo 1 – provide a caption	Insert Photo Here – Photo of the entire site
Photo 2 – provide a caption	Insert Photo Here – Photo of the work activities performed
Photo 3 – provide a caption	Insert Photo Here – Photo of the work activities performed

Appendix 8

Monthly Report Template

WEEKLY/MONTHLY STATUS REPORT

Prepared By: Enter Your Name Here

VCP Project No.:	14CVCP000M	E-Number Project No.:	14EHAN000M	Date:	01/01/2014

Project Name:	Name or Address

Project Updates (Since Last Report):
Provide details about the work activities performed.

Problems Encountered:
No problems encountered or provide details

Planned Activities for the Next three months:
Provide details about the future work activities.

Photo Log

Photo 1 – provide a caption	Insert Photo Here – Photo of the entire site
Photo 2 – provide a caption	Insert Photo Here – Photo of the work activities performed

Photo 3 – provide a caption	Insert Photo Here – Photo of the work activities performed

Appendix 9

Soil Disposal and Trucking Log Sheet

Shipment Date	Manifest Number	Transporter Name/Truck Name	License Plate	On-Site Location (approx. depth)	Off-Site Disposal Facility	Tonnage
8/25/2013	66357	ABC Trucking/201	NJ-AP458	WC-1(0-8')	Jones Landfill	32.90