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April 24, 2000

BY FACSIMILE AND REGULAR MAIL

Mr. Terence J. Tierney, Esq.  
Department of Attorney General  
150 South Main Street  
Providence, RI 02903

Mr. Robert Wagner, Esq.  
Department of Environmental  
Management  
235 Promenade Street  
Providence, RI 02903

Dear Messrs Tierney and Wagner:

On behalf of my clients in the litigation regarding the Springfield Street schools, I am writing to express concerns about several health related issues related to the Springfield Street schools, about the process for informing the community about environmental hazards associated with the construction of an elementary school on Gordon Avenue, and to provide comments on the proposed remedy for the Gordon Avenue School site.

Please share this letter with the appropriate officials of the Department of Environmental Management, and have the appropriate officials respond in writing (either directly or through you) to the concerns stated herein. Also, kindly forward a copy of DEM's Remedial Decision Letter regarding the Gordon Avenue school. I presume such a letter has been issued since construction work at Gordon Avenue has started.

1. Concerns Regarding Springfield Street Schools

The Springfield Street schools have been in operation for several months. Site work at the middle school was recently "completed." We have noticed a build up of water on the grounds of the middle school just off to the left of the front of the building. There is usually a puddle of water there, even when there has not been rain for several days. Water also accumulates in puddles behind the Springfield Street wing of the middle school (left side), and also in the rear of the middle school behind the gymnasium. We have enclosed photos of the areas where there has been an accumulation of water. We are concerned that hazardous substances in the contaminated soil are leaching into these ponds, and request that DEM test the standing water for presence of VOCs and metals.

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We are also concerned about odors coming from the exhaust pipe of the soil gas removal system at the elementary school building. In the past month I have been to the elementary school site at least three times with different groups of people. Each time we have smelled an odor downwind from the pipe leading from the soil gas removal system. The odor is a sweet odor, which some liked to decaying wet grass, others to wet moss. We have always smelled the odor when standing downwind (and not upwind) of the exhaust pipe. We request that air samples from the pipe be tested for presence of VOCs, SVOCs, hydrogen sulfide and methane, and that the filters in the soil gas removal system be sampled and changed.

Finally, we are concerned about areas where grass has not grown in on the hillside next to the elementary school parking lot. These areas may be break-throughs of contaminated soil, and we request that DEM test those areas for presence of metals and VOCs.

## 2. Concerns Regarding Gordon Avenue School

We have concerns regarding both the process relating to the Gordon Avenue School site investigation and public notice requirements regarding the results of said investigation, and the process for soliciting public comment on the proposed remedy for the site. We also have substantive comments on the proposed remedy.

As to the process issues, the City continues to violate DEM's Remediation regulations and the public participation requirements of the Industrial Properties Remediation and Reuse Act, R.I.G.L. §23-19.14-5. Specifically, the City has not:

- \* Notified all abutting property owners and tenants that a site investigation was to begin on the Gordon Avenue school site (Remediation Regulations, §7.07(A), R.I.G.L. §23-19.14-5(1));
- \* Notified all abutting property owners and tenants that a site investigation was completed (Remediation Regulations, §7.07(B), R.I.G.L. §23-19.14-5(3));
- \* Provided said abutting property owners and tenants with the findings of the site investigation, and any proposed remedy that includes on-site treatment and/or containment of hazardous materials (Remediation Regulations, §7.07(B)); and
- \* Established a public review and comment period for interested parties to submit comments regarding the technical feasibility of any proposed remedial alternative that includes on-site treatment or containment of hazardous materials on the Gordon Avenue site.

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These deficiencies were also present during DEM's review of the Springfield Street schools. If DEM ignores these deficiencies, it is sending a clear signal that Providence and other government entities do not have to comply with the agency's regulations.

We also have several concerns regarding the use of the Gordon Avenue site for an elementary school, and the City's evaluation of environmental hazards present on that site.

First, we object to another elementary school being sited on land that is contaminated with hazardous materials. The City clearly believes that brownfield sites can and should be remediated by building schools on them, and this policy we cannot condone or agree with. Children are more vulnerable than adults to the harmful effects of exposure to hazardous materials, and subjecting them to possible contact with hazardous materials cannot be considered sound policy. We specifically request DEM to consider, pursuant to its mandate to consider environmental equity issues for low income and racial minority populations, whether using the Gordon Avenue site for an elementary school is an appropriate use of that site.

Second, we have several concerns about the City's site investigation for Gordon Avenue, and its proposed remedy to contain hazardous materials on the site.

The site investigation report suggests that the source of many of the contaminants (such as petroleum products and freon) was from vehicles parked on the site. Given that the site was used to manufacture wire, and that the site investigation revealed the presence of underground storage tanks, it is far more likely that the source of contamination in the soil was leaks from the storage tanks, not from vehicles. Another likely source of VOCs and SVOCs is from spilled solvents used in the manufacturing of wire and not from automobiles in a parking lot.

The site investigation report's findings as to levels of hazardous materials is misleading to those who do not normally read such reports. For example, the reporting of average and median concentrations of hazardous substances on page 10 of the site investigation report is totally meaningless. DEM and the public need to know what the highest levels of contaminants are to accurately assess the hazards and devise a remediation plan for those hazards. Similarly, on page 2 of the February 21, 2000 letter from ATC to DEM, a copy of which was distributed to the public at a meeting on March 30th, ATC reported the concentration of contaminants in parts per million whereas the standards are reported in parts per billion. Unless the reader notices this discrepancy, it appears that the level of contaminants reported in parts per million was much less when compared to the regulatory standard reported in parts per billion.

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The February 21st letter also reveals a discrepancy with the soil gas test results obtained by MyKroWaters and those obtained by Con-Test Labs. The MyKroWaters tests had a detection limit from one to two parts per million, and only six VOCs were reported with no detectable concentrations of six VOCs were reported. Yet, Con-Test found VOCs at levels in excess of 1-2 parts per million for three of these six VOCs. This discrepancy strongly suggests that the soil gas testing performed by MyKroWaters is not accurate. Furthermore, ATC's conclusion on page 12 of the site investigation, that "Volatile organic compounds were generally not identified in subsurface soil samples or groundwater samples" is misleading, and inaccurate, since SVOCs were found in several soil samples in excess of the Method One Direct Exposure Criteria (Table 3, Soil Analytical Results) and SVOCs do volatilize; and VOCs were found in the soil gas, which further shows that hazardous substances are volatilizing.

ATC failed to conduct tests to accurately measure the amount of arsenic present on the site. In the February 21st letter, ATC states that the method detection limit for arsenic was 5 mg/kg (or 5 ppm). However, the safety standard under the Method 1 Direct Exposure Criteria is 1.7 ppm. Thus, the tests cannot accurately assess whether arsenic is present at levels in excess of the Method One Direct Exposure Criteria.

Third, regarding the proposed remedy (beyond objecting to the use of the site for a school), we have the following comments:

1. When soil excavation and compaction activities are planned, flyers should be distributed to all residents within a one block radius of the site. The flyers should warn residents to keep their windows closed, since soil dust will be airborne during those activities.
2. Officials of the St. Michael's school (which directly abuts the site) should be notified, and instructed to keep children indoors and the windows closed during the day when soil excavation and compaction activities are in progress. Excavation and compaction activities should cease one hour before the school day starts (and resume 15 minutes after school starts), and should cease an hour before children are released (and resume a half hour after children are dismissed from school.)
3. Soil excavation and compaction activities should be suspended on any day that wind gusts in excess of 25 MPH are forecasted.
4. The proposed cover layer of soil is too thin. Instead, the clean fill cover should be 4 to 6 feet thick, not 6 inches or 2 feet thick. Moreover, a polypropylene barrier should be placed between

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the clean fill and contaminated soil to prevent contaminants from being brought to the surface.

5. Underground pipes and wires should not run through contaminated soil. Instead, all underground lines should be placed in areas where clean fill is deposited, so that in the future, contaminated soil is not released when repairs have to be effectuated on underground pipes or wires.

6. That abutting residents and the St. Michael's School officials be provided with the name and telephone number of a contact person at DEM to report complaints to regarding construction activities at the site (including failure to use water to control dust or reports of soil dust coming off the site).

Finally, I note that I was present at the site on April 18, 2000 at the end of the work day. I observed piles of dug out concrete blocks stockpiled on the site, and that the piles were higher than the perimeter fencing adjoining the St. Michael's School site. Not only do these piles invite children to play on them, but soil on these piles will blow into the adjoining school yard. No piles should be higher than the fencing, which has a non-transparent fiber or plastic barrier attached to it.

Very truly yours,

  
Steven Fischbach  
Staff Attorney

cc: Kevin McHugh, Esq.  
Mindy Lubber, Environmental Protection Agency

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