



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

**290 BROADWAY
NEW YORK, NY 10007-1866**

AUG - 8 2016

Scott Heck, Borough Manager
Borough of Ringwood
60 Margaret King Avenue
Ringwood, New Jersey 07456

Dear Mr. Heck:

I am writing to encourage the Borough to decide whether it will move forward with the proposed recycling center on the O'Connor Disposal Area (OCDA) portion of the Ringwood Mines Superfund site. It is essential that we have a timely resolution on this matter.

As you know, in June, 2014 the U.S. Environmental Protection Agency (EPA) issued a Record of Decision (ROD) selecting a remedy for three portions of the site, including the OCDA. The EPA's selected cleanup remedy for the OCDA was excavation and off-site disposal of contaminated soil followed by site restoration.

The Borough then proposed the construction of a recycling center on the OCDA as an end use for this portion of the site. It is EPA's policy that a remedy should be consistent with the local desired end use whenever possible. The EPA therefore was required to identify the Contingency Remedy of capping the OCDA for the purpose of construction of a new Ringwood Borough Recycling Center on that parcel of land. The EPA's ROD stated that the Contingency Remedy would be adopted contingent upon Ringwood Borough fulfilling certain specified conditions within six months after the date of the ROD. These included submission of: (1) detailed engineering plans for the new Recycling Center; (2) financial assurance(s) indicating that sufficient funds will be available for construction of the Recycling Center; and (3) assurances and supporting documentation indicating that the construction of the Contingency Remedy, including the Recycling Center, can and will be completed within either a shorter or, at least within a comparable timeframe than it would take to implement the selected remedy.

The Borough fulfilled those conditions within the specified time period, and on April 15, 2015, the EPA issued an Explanation of Significant Differences (ESD) identifying the Contingency Remedy as the remedial alternative to be designed and implemented for the OCDA. The EPA thereafter entered into an administrative consent order with Ford Motor Company and Ford is now designing the various elements of the EPA's ROD, including design of the Contingency Remedy for the OCDA. Ringwood Borough declined to be a party to that Order and on October 1, 2015 the EPA therefore issued to Ringwood Borough a unilateral administrative order requiring the Borough to coordinate and participate with Ford in connection with the Remedial Design work. The Borough thereafter advised the EPA that the Borough would comply with the Order.

On May 18, 2016 the Ringwood Borough Council passed a resolution suspending work on the Recycling Center pending receipt of further information about possible contamination of groundwater by 1,4-dioxane from the OCDA. This resolution followed the discovery, in 2015, of 1,4-dioxane in groundwater, with the higher concentrations being found in wells near the Peters Mine Pit portion of the Ringwood Mines Superfund site.

Since passage of the May 18 Borough Council resolution, you and I and our respective legal counsel have spoken on several occasions about the basis and implications of the resolution. As a practical matter, the Borough's resolution has, to date, had no impact on the work being carried out by Ford under the administrative consent order, and Ford has advised the EPA that there has been no failure on the part of the Borough to provide any necessary cooperation or coordination with respect to that design since the passage of the resolution.

The EPA recently received validated analytical data for the most recent round of groundwater sampling, which included samples taken from a number of new monitoring wells installed since the time 1,4-dioxane was identified in the groundwater near the Peters Mine Pit. These data can be viewed at: <https://semspub.epa.gov/work/02/351658.pdf>. The EPA expects to receive a report from Ford's consultant summarizing the data in August. Consistent with earlier sampling results, these recent results show that 1,4-dioxane is present in low concentrations in the groundwater samples collected from wells near the Peters Mine Pit area, with the highest concentrations of 1,4-dioxane being found in the deep water within the Peters Mine air shaft. The detected concentrations from all but one of the wells sampled in or adjacent to the OCDA are below the New Jersey interim standard for 1,4-dioxane in drinking water. The results for one shallow well (OB-17) located adjacent to the southern end of the OCDA show concentrations of 1,4-dioxane above the New Jersey interim standard, but the OCDA does not appear to contribute significantly to the 1,4-dioxane present in groundwater and surface water at the site. As the EPA has previously stated, the concentrations of 1,4-dioxane detected at the Ringwood Mines site present no risk to human health or the environment.

The next round of groundwater sampling will be conducted this month at these monitoring wells. We anticipate that the results of this August round of sampling will be available in October, 2016.

On July 1, Ringwood Borough was presented with a petition requesting that the Council enact a proposed ordinance that would prohibit construction of a Recycling Center on the OCDA. The petition was submitted under New Jersey's Optional Municipal Charter Act (N.J.S.A. 40:69A-1, et seq.). It is our understanding that the Borough determined that the petition carries the requisite number of signatures as specified in that law. It is our further understanding that, under the law, the Borough Council was obliged to consider the proposed ordinance during two successive meetings; the first of those meetings occurred on July 19, and the second occurred on August 2 2016. By the time of the second meeting the Council was to have decided either to enact the proposed ordinance or decline to do so.

We understand that at the August 2 meeting the Borough Council did not vote to enact the proposed ordinance. According to media reports the Council concluded the proposed ordinance may contain legal flaws that would make it impossible for the Borough to carry out the ordinance.

This leaves unanswered the questions of whether the proposed ordinance will be placed on the November 8, 2016 ballot for Ringwood Borough voters to consider, and whether or not the Borough will proceed with building the Recycling Center on the OCDA. In order to timely move forward with remedial action, a final decision must soon be made on whether or not the Borough will build its Recycling Center on the OCDA. This letter is to advise that under the following circumstances, the EPA will take the specified actions:

If the proposed ordinance is placed on the ballot for consideration by Ringwood Borough voters on November 8, 2016, and if the proposal receives a majority of the votes cast, it will be deemed to be enacted and will be binding upon the Borough. In that case the Contingency Remedy will no longer be viable and the EPA will promptly issue a further ESD identifying the original selected remedy (excavation and off-site disposal of contaminated soil from the OCDA) as the remedy to be designed and implemented for the OCDA.

If the proposed ordinance is placed on the ballot for consideration by Ringwood Borough voters on November 8, 2016, and if the proposal does not receive a majority of the votes cast, then the EPA requires that the Borough Council make a final decision by no later than November 22, 2016 whether or not to proceed with construction of the Recycling Center on the OCDA.

If the proposed ordinance is *not* placed on the ballot for consideration by Ringwood Borough voters on November 8, 2016, then EPA also requires that the Borough Council make a final decision by no later than November 22, 2016 whether or not to proceed with construction of the Recycling Center on the OCDA.

Under either scenario #2 or #3, above, depending on the Borough Council's decision (or lack thereof) by November 22, 2016, the EPA will take the following specified action:

If, by November 22, 2016 the Borough decides to proceed with the Recycling Center on the OCDA, then the Contingency Remedy will remain in place and the EPA will require that its design and construction continue to proceed on schedule.

If, by November 22, 2016 the Borough decides to abandon its plans for a Recycling Center on the OCDA, then the EPA will promptly issue an ESD cancelling the Contingency Remedy and reverting to the underlying preferred remedial alternative for the OCDA.

If, by November 22, 2016 the Borough has not made a final decision regarding the Recycling Center on the OCDA, this will demonstrate to the EPA that the Borough is no longer committed to construction of the Recycling Center at the OCDA, consistent with the conditions for selection of the Contingency Remedy, including the condition that the Recycling Center be constructed within the same or shorter timeframe for construction of the originally-selected remedy, and the EPA will promptly issue an ESD cancelling the Contingency Remedy and reverting to the underlying preferred remedial alternative for the OCDA.

As you know, EPA seeks to proceed with the remediation of the OCDA as quickly as possible and wishes to avoid unnecessary delays. It is my goal, by spelling out the above scenarios, to clarify the necessary next steps and avoid such delays.

Please do not hesitate to contact me at 212-637-4390 if you have any questions or wish to discuss this matter further.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Walter Mugdan', with a long horizontal flourish extending to the right.

Walter Mugdan, Director
Emergency & Remedial Response Division

cc: Joe Gowers, U.S. EPA Region 2, Emergency & Remedial Response Division
Frank Cardiello, Esq., U.S. EPA Region 2 Office of Regional Counsel
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