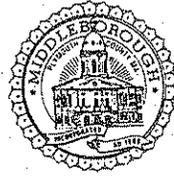


HEARINGS, MEETINGS, LICENSES
2-6-12

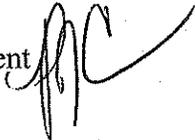


Town of Middleborough

CONSERVATION COMMISSION

MEMORANDUM

TO: Board of Selectmen

FROM: Patricia J. Cassady, Conservation Agent 

DATE: February 1, 2012

RE: Update on Rockland Industries (255 Plymouth Street)

Attached you will find several documents related to the recent clean up at the Rockland Industries site, 255 Plymouth Street. The clean up was to remove contaminated soil near the foundations of two of the former buildings.

At the Citizens Environmental Health Impact Committee meeting on January 31, 2012 it was discussed that the Department of Environmental Protection (DEP) was suppose to test the soil that was removed as well as the soil in the hole after the known material was removed. This did not occur according to an email from Gerard Martin of DEP's Bureau of Waste Site Clean up (see attached). Although the committee is pleased that the contaminated material was removed they wonder how we know that all the contaminated material was removed if no testing occurred.

Please read through the documents attached and let me know if you have any questions or concerns.

Thank you

pjc

Patricia Cassady

File

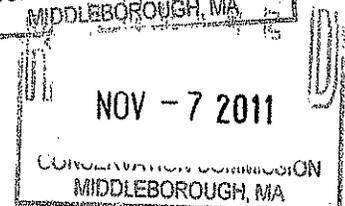
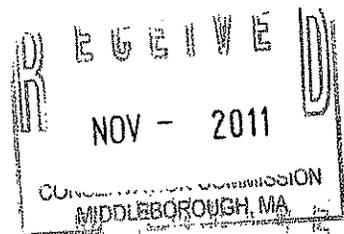
From: Tom Sylvia [tsylvia@esm-inc.com]
Sent: Monday, November 07, 2011 11:40 AM
To: Patricia Cassady
Cc: Joe Callahan
Subject: Rockland Industries

Three things I think we should ask the commissioner:

1. Groundwater samples have not been collected from many key groundwater monitoring wells in more than a decade. **We request that MassDEP require the PRP to conduct a comprehensive groundwater monitoring event.** We would like to compare the result to historic results to determine if attenuation is occurring or if unknown sources are continuing to release contaminants causing concentrations to increase.
2. The IRA plan submitted by Roux on February 2, 2009 obligated the PRP to complete excavation of the NAPL area. The proposed schedule (see page 22 of the revised IRA Plan Modification) specified that the excavation would be completed in the Spring of 2009. Roux estimated that the excavation would take 10 days and within 10 days of completion they would install replacement monitoring wells. 40.020(11) "*RPs, PRPs, and Other Persons conducting Immediate Response Actions shall do so in conformance with all conditions and deadlines or any oral or written approval granted by the Department pursuant to 310 CMR 40.0420*". Clearly the PRP has not met this obligation and **we request that the Department take enforcement actions.**
3. The second part of the revised IRA Plan Modification was additional monitoring and ecological risk assessment of the re-graded swale. The monitoring clearly shows: standing surface water has not been eliminated, the surface water contains VOCs, and the source of the VOCs is groundwater (upward gradient confirmed and groundwater beneath the swale contains high concentrations of VOCs). This confirms that there is a condition of substantial release migration. MassDEP and the Town of Middleboro vigorously opposed the re-graded swale option selected by Roux in their Phase III evaluation. Since the monitoring data clearly shows the MassDEP and the Town of Middleboro were correct that the re-grading would be ineffective **we request that MassDEP take enforcement actions.**

TES

FILE



11/7/2011

Meeting Minutes 11/7/2011 called to order at 7p

Attendees: See attached sign in sheet

Senator Pacheco opened the meeting by saying how pleased he is to have everyone at the meeting. Senator Pacheco is currently chairing the environmental committee. Sen. P. also said the commissioner would have an announcement to make about the site when he spoke.

^{o&D&P}
Commissioner Ken Kimmell Spoke about holding the responsible party's feet to the fire, since the site has been going on for a long time. It is very important to protect the health of the citizens guided by science and Law. The RP (responsible party or applicant will be designated by RP in the future of these minutes) must conform to the law about cleanup regarding ground water, wells, air quality, and wetlands. The contamination does not appear to be migrating. Since we know the direction of the migration we know it is not going off site the RP has to have the majority of the site cleaned by 12-31-2011, or the DEP will clean it up and bill the RP. The RP is looking for a temporary solution to the clean up.

^{o&D&P}
Gerard Martin Some cleanup has been done but not enough and they have been fined if they did not do it. They have torn down all but one building. The private wells are clean, and there has been bioassay done of the critters, including the earthworms. Although only one building is left the slabs for 2, 3 and 4 are still there. The building 2 site shows chlorobenzene and petroleum. At this time there has been nothing detected in Purchase brook, the filter beds are discharging into the wetlands and the contamination is confined to the property. The water that is on the property does not meet ground water standards Standard 1 is drinking water quality, standard 2 could impact the indoor quality of air in a building. There is an ecological risk in the area of the drainage swale of the former lagoon. These exceed the upper concentration limit of Non-aqueous Phase liquid (NAPL) near the former building 2.

^{o&D&P}
Millie Garcia Serrano expressed her appreciation for the work of the citizens; on 10/25/2011 the DEP sent a letter with the interim established deadline of 12/31/2011 in the NAPL area this will include:

1. Installing and maintaining surveillance
2. Clearing of brush
3. Excavation of 300 sq feet to a depth of 18 ft
4. Testing of backfill
5. Contaminated soil will be transported off site
6. Groundwater will be stored off site.

There would be installation of monitoring wells and decontaminated liquids would be transported off site.

The DEP will be issuing a notice of responsibility and asking for an access agreement. If this is not completed the DEP will seek treble damages.

There will be a filing of a Class C Response Action Outcome (RAO) for a temporary solution, which is subject to Mass DEP standards with 5-year reviews. Site wide monitoring will be in the spring of 2012. If granted a Class C temporary solution the RP needs to continually look for future solutions to achieve a permanent solution for this Tier 1 site. The RP would only be granted a conditional solution, which could have a

more aggressive monitoring schedule. The RP needs to look for new technology and the DEP will also monitor for new technologies and some times there is a cost problem involved in this. If access is not granted the DEP can get a warrant to allow them access, which would involve the court system.

Senator Pacheco has been driven by the CEHIC and additional concerns. We are moving forward with or without the owners permission and or help. The RP must meet a certain level of need and the legislative delegation is committed to this. The court thought it could be worked out but it could not be so we need to return to the original plan.

Bill Straus Steps were set out-communication went to the RP either clean it up or the government will do it with severe penalties.

Q/A

Suzanne Dube-Would there be any town responsibility or liability? Comm. Kimmell said there would be no liability to the town.

Russell Enos - Is it Rockland industries or Strier^a Realty Trust who owns the property? That is a legal issue that will be dealt with.

Bob Lessard- If the company walks away is there a way the town would not be gifted with the land? There is protection for the town if they take contaminated property. The timeline is for the land to be cleaned up by 12/31/11. There is a deed restriction saying that there is a potential for indoor air contamination if a building is put on that site.

Al Rullo- Thank the senator and the Commissioner for coming and looks forward to completion of the cleanup of the site.

Cheryl Silvia- Spoke about how proud Vic Silvia (her father) would be of the work. Environmental concerns are so important, in order to find a cure for ALS we need to find the cause. People should be held responsible Rockland industries/Strier should have "their feet held to the fire" Can the RP avoid the 12/31/11 deadline, who will be the watchdog? How will the people know if it has been done? The DEP will monitor the work.

Steve McKinnon- 300'X20' down at the former building 2 site could this be expanded if the surrounding areas are contaminated? DEP will monitor and the RP needs to notify DEP 72 hours in advance of testing.

Allin Frawley-Thanked everyone and stated if the site owner doesn't do it and the DEP doesn't do it by 12/31/11 he will be calling each week to monitor.

Cathleen Salley - How do the citizens keep informed? The information will be sent to the Selectman, Town Manager, and CEHIC, we should know in a week or so if the RP is working on the project or not. The worst possible scenario is that the DEP will go to court for access to the site.

Roy Silvia- Concerned about the contamination, we need 100% assurance that this site will be cleaned up. Comm. Kimmell guaranteed IT WILL BE DONE.

Millie Garcia Serrano- significant information is available to point us in the right direction. Money is coming from the Environmental Bond Bill.

Perry Little-asked about using technology such as ground survey with ground penetrating radar to look for hidden barrels. Comm. Kimmell said that GPR is better in small areas there are tracking problems in larger areas.

Kitty McDonald- The deadline of 12/31/11 will give till the end of the week to see if they are going to do the work.

Bill Eaton- Soil will go out as Hazardous Waste Material stored in above ground storage of several different types.

Bill Callahan-The town appreciates the involvement of the commissioner and the senator hopefully they will do what they say they will. New wells will be based on NEW DATA. What will the groundwater show after the excavation? The last full sampling was done in 2001. When this is all finished the perimeter wells will stay. The RP will also have to submit a monitoring plan.

Trisha Cassady- After the floods of 2 years ago she was out and monitoring and there was a chemical smell in the area and that is what concerned her. If there is a smell like that we should call the DEP.

Russell Enos- If a well shows trace amounts of contaminants will there be follow-up and should they expand the area with further wells. Can the wells show if there is a potential exposure pathway?

Christine Legere- How much will it cost? There is no cost estimate.

Bill Napolitano-With a cap to the brook, the water was flowing backward should that be revisited? We will be better informed.

Marion Silvia- Thanked everyone this is the first time in 44 years she feels there is progress.



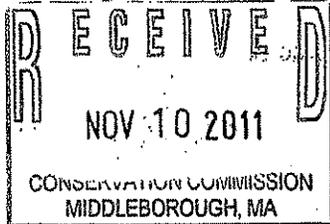
Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

DEVAL L. PATRICK
Governor

TIMOTHY P. MURRAY
Lieutenant Governor



RICHARD K. SULLIVAN JR.
Secretary

KENNETH L. KIMMELL
Commissioner

October 25, 2011

Steven Striar
Rockland Industries, Inc.
405 Washington Street
Braintree, Massachusetts 02184

RE: **MIDDLEBOROUGH**
Release Tracking Numbers 4-0000111; 4-
0016549 & 4-0015303
255 Plymouth Street
**WORK SCHEDULE APPROVAL / INTERIM
DEADLINE**

Dear Mr. Striar:

The Massachusetts Department of Environmental Protection, Bureau of Waste Site Cleanup (MassDEP or the Department), is tasked with ensuring the timely assessment and cleanup of oil and hazardous material releases pursuant to Massachusetts General Laws Chapter 21E (Chapter 21E). The law is implemented through regulations known as the Massachusetts Contingency Plan, (310 CMR 40.0000, *et seq.* - the MCP). For decades, MassDEP has been providing oversight of response actions performed at the above-referenced disposal site located at 255 Plymouth Street, in Middleborough, Massachusetts (the Site). MassDEP has assigned Release Tracking Numbers (RTNs) 4-0000111, 4-0016549 and 4-0015303 to the Site.

On February 2, 2009, MassDEP received a document titled Immediate Response Action Plan Modification for NAPL Condition and Potential Condition of Substantial Release Migration for the Site. The IRA Plan Modification was prepared and submitted on your behalf by Roux Associates, Inc. to update and modify an IRA Plan that was submitted to MassDEP on July 9, 2004; and conditionally approved by MassDEP on November 24, 2004.

The response actions proposed in the IRA Plan Modification were designed to address the light non-aqueous phase liquid (LNAPL) that remains in the subsurface as measured in two Site monitoring wells at thicknesses exceeding the Upper Concentration Limit (UCL); and to assess whether the volatile organic compounds (VOCs) detected in surface water samples collected from the re-graded drainage swale constitute a Condition of Substantial Release Migration (SRM), a Substantial Hazard and/or Significant Risk to the Environment. The response actions, as proposed in the IRA Plan Modification, are summarized below:

1. NAPL Area – Installation and maintenance of erosion and sedimentations controls; preparation of lined temporary soil and backfill material stockpile areas; clearing of grass, brush and surface debris from the work area; excavation of soils from an area measured as approximately 300 square feet to a depth of approximately 18 to 20 feet below ground surface (bgs); placement of

excavated soils (approximately 200 cubic yards (cy)) into temporary stockpiles or directly into vehicles; off-site transport and disposal of the excavated soils; groundwater pumping, storage and off-site disposal as necessary; backfilling and grading of the excavated area; installation of two replacement monitoring wells; transportation and off-site disposal of decontamination fluids (if generated); removal and off-site transport and disposal of erosion control measures and tracking pad materials; and periodic gauging of the replacement wells.

2. Re-graded Drainage Swale Area – Installation of three piezometers to evaluate the interaction between groundwater and surface water; gauging the depth to groundwater and the depth to surface water in the piezometers six times over a period of six months; collection of surface water samples and groundwater samples two times from the three locations; and conducting an Ecological Risk Characterization, consisting of evaluating concentrations of contaminants of concern (COCs) in existing surface water and shallow soil data and from earthworms and adjacent soils in five locations of the re-graded drainage swale area.

On April 23, 2009, MassDEP issued a written conditional approval of the IRA Plan Modification. MassDEP acknowledges the following documents have been submitted detailing the status of the above IRA activities, as required by the MCP and MassDEP's approval:

- *Combined Immediate Response Action Status Report for NAPL Condition and Potential Condition of Substantial Release Migration (July 2010 – December 2010)*, received by MassDEP on December 30, 2010 (the December 2010 Status Report); and,
- *Combined Immediate Response Action Status Report for NAPL Condition and Potential Condition of Substantial Release Migration (January 2011 – June 2011)*, received by MassDEP on June 30, 2011 (the June 2011 Status Report).

According to information provided in the December 2010 Status Report, also prepared by Roux Associates, the response actions in the area of the re-graded drainage swale have been conducted as proposed and it has been concluded that even though groundwater is discharging to the surface water, and concentrations of volatile organic compounds (VOCs) in the surface water are attributable to groundwater, the concentrations of VOCs detected in the surface water do not pose a significant risk to the environment. Furthermore, as stated in the Status Report, the 2001 conclusion that a Condition of No Significant Risk of harm to human health associated with the soil, sediment and surface water still applies at the Site and no further response actions are necessary in the vicinity of the re-graded drainage swale. MassDEP has not made a determination as to whether any additional response actions are necessary in the vicinity of the re-graded drainage swale area and will not do so until such time as all of the proposed response actions, Site monitoring and risk evaluation are complete and based on current data. Therefore, MassDEP cannot complete the evaluation of the impact to the drainage swale area until the site-wide sampling referenced below is completed.

Based on information provided in the June 2011 Status Report, the response actions proposed in the NAPL Area, as described in the IRA Plan Modification and summarized above, have not yet been conducted, but are to be conducted prior to December 31, 2011. It also states that, following completion of the excavation, Site-wide groundwater sampling will be conducted.

WORK SCHEDULE APPROVAL / INTERIM DEADLINE

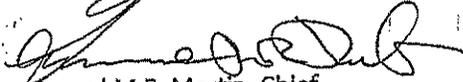
Pursuant to its authority under 310 CMR 40.0167, MassDEP hereby approves the work schedule as proposed in the June 2011 Status Report, and establishes December 31, 2011 as an Interim Deadline for the completion of the remedial actions proposed for the NAPL area. Please note that this deadline applies to the response actions to address the NAPL area, and does not apply to the additional groundwater sampling that will occur after the work in the NAPL Area is complete. It is MassDEP's opinion that the additional sampling should be conducted in the Spring of 2012 to allow for a sufficient amount of time to effectively evaluate the remedial actions. Please also note that all of the conditions of MassDEP's prior written approval of the IRA Plan Modification remain in effect. *

MassDEP's decision to establish one or more Interim Deadlines in accordance with 310 CMR 40.0167 is not subject to M.G.L. c.30A or any other law governing adjudicatory proceedings.

Be advised that, in addition to the specific response action requirements mentioned in this notice, you are responsible for all additional response actions required by Chapter 21E, which may be necessary to complete the cleanup of this Site in accordance with the MCP. The subject Site shall not be deemed to have had all of the necessary and required response actions taken unless and until a level of "No Significant Risk" exists, or has been achieved, in compliance with Chapter 21E and the MCP.

Please contact Molly Cote at the letterhead address, by telephone at 508.946.2792 or by email at molly.cote@state.ma.us if you have any questions related to this notice. Please reference the Release Tracking Numbers, RTN 4-0000111; 4-0016549 & 4-0015303 in any written correspondence regarding the Site.

Sincerely,



Gerard M.R. Martin, Chief
Compliance & Enforcement Section
Bureau of Waste Site Cleanup

M/MC/lg

W:\BWSC\Document Archive\4-0000111.Middleborough.JNTLET.APWRIT.10-25-2011

CERTIFIED MAIL # 7010 0780 0000 6738 2717
RETURN RECEIPT REQUESTED

ec: Charles Cristello – Middleborough Town Manager
ccristello@middleborough.com

Jeanne Spaulding – Middleborough Board of Health
jspaulding@middleborough.com

Middleborough Conservation Commission
pdelaney@middleborough.com

Neil Ram – LSP
nram@rouxinc.com

DEP-SERO ATTN:

Millie Garcia-Serrano, Deputy Regional Director
Rebecca Tobin, Regional Counsel
Deneen Simpson, Regional Enforcement
Molly Cote, Project Manager
Lara Goodine, BWSC – Data Entry [C&E INTLET] [IRA APWRIT]

cc: Francis Whitty
269 Plymouth Street
Middleborough, MA 02346

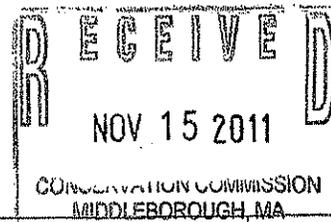
Russell Enos
267 Plymouth Street
Middleborough, MA 02346

Middleborough Public Library
Information Repository
102 North Main Street
Middleborough, MA 02346
ATTN: Betty Brown

DEP – SERO: Regional Enforcement Office



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs



Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

DEVAL L. PATRICK
Governor

TIMOTHY P. MURRAY
Lieutenant Governor

RICHARD K. SULLIVAN JR.
Secretary

KENNETH L. KIMMELL
Commissioner

November 10, 2011

Striar Realty Trust
405 Washington Street
Braintree, Massachusetts 02184

RE: MIDDLEBOROUGH
Release Tracking Number 4-0000111
255 Plymouth Street
NOTICE OF RESPONSIBILITY / NOTICE OF
RESPONSE ACTION / REQUEST FOR SITE
ACCESS / INTERIM DEADLINE

FAILURE TO TAKE ADEQUATE ACTION IN RESPONSE TO THIS NOTICE COULD RESULT IN SERIOUS LEGAL CONSEQUENCES.

Striar Realty Trust:

The Massachusetts Department of Environmental Protection, Bureau of Waste Site Cleanup (MassDEP or the Department), is tasked with ensuring the timely assessment and cleanup of oil and hazardous material releases pursuant to Massachusetts General Laws Chapter 21E (Chapter 21E). MassDEP has determined that there have been one or more releases of oil and/or hazardous material at the above referenced property. The investigation and cleanup of such releases is governed by the Massachusetts Oil and Hazardous Materials Release Prevention and Response Action Act (M.G.L. c. 21E), and the regulation adopted thereunder, known as the Massachusetts Contingency Plan (the MCP; 310 CMR 40.0000). M.G.L. c. 21E, and the MCP required the performance of response actions to prevent harm to human health, safety, public welfare and the environment which may result from this release or threat of release and govern the conduct of response actions.

For decades, MassDEP has been providing oversight of response actions performed at the above-referenced disposal site located at 255 Plymouth Street, in Middleborough, Massachusetts (the Site). MassDEP has assigned Release Tracking Number (RTN) 4-0000111 to the Site. MassDEP has reason to believe that "you", (as used in this notice "you" refers to the Striar Realty Trust), among others, are a Potentially Responsible Party (PRP) with liability under M.G.L. c.21E § 5 for response action costs. The purpose of this Notice is to inform you of your legal responsibilities under State law for assessing and or remediating the release at this property. For purposes of this Notice of Responsibility / Notice of Response Action / Request for Site Access Authorization (this Notice), the terms and phrases used herein shall have the meaning ascribed to such terms and phrases by the MCP unless the context clearly indicates otherwise.

STATUTORY LIABILITY

The following is a summary of your responsibility and liability under M.G.L. c. 21E:

You are hereby advised that MassDEP has reason to believe that you are a Potentially Responsible Party (a PRP) with liability under M.G.L. c. 21E § 5, for the response action costs. Section 5 makes the following parties liable to the Commonwealth of Massachusetts: current owners or operators of a site from or at which there is or has been a release/threat of release of oil or hazardous material was stored or disposed of; any person who arranged for the transport, disposal, storage or treatment of hazardous material to or at a site; any person who transported hazardous material to a transport, disposal, storage or treatment site from which there is or has been a release/threat of release of such material; and any person who otherwise caused or is legally responsible for a release/threat of release of oil or hazardous material at a site

The liability is "strict", meaning it is not based on fault, but solely on your status as owner, operator, generator, transporter or disposer. It is also joint and several, meaning that you may be liable for all response action costs incurred at the site, regardless of the existence of any other liable parties.

The MCP requires responsible parties to take necessary response actions at properties where there is or has been a release or threat of release of oil and/or hazardous material. If you do not take the necessary response actions, or fail to perform them in an appropriate and timely manner, MassDEP is authorized by M.G.L. c. 21E §4 to have the work performed by its contractors, and, by M.G.L. c. 21E §8 to enter any site and areas proximate thereto at reasonable times, and upon reasonable notice, to undertake assessment, containment and removal actions in order to address the subject release. Should you take the necessary response actions at the subject Site, you can avoid liability for response action costs incurred by MassDEP and its contractors in performing these actions, and any sanctions which may be imposed for failure to perform response actions under the MCP.

 You may be liable for up to three (3) times all response action costs incurred by MassDEP. Response action costs include, without limitation, the cost of direct hours spent by MassDEP employees arranging for response actions or overseeing work performed by persons other than MassDEP or their contractors, expenses incurred by MassDEP in support of those direct hours, and payments to MassDEP's contractors. (For more detail on cost liability, see 310 CMR 40.1200.)

If you cannot perform the response actions, you must submit a notice of financial, technical or legal inability as described in 310 CMR 40.0172 to secure yourself with a defense to treble damages. You may obtain information regarding the Financial Inability program and an application package by writing to the Financial Inability Program Coordinator, Mass-DEP – Bureau of Waste Site Cleanup, One Winter Street, 7th Floor, Boston, Massachusetts 02108-4747 or by calling 617-348-4055. Even if you have a defense to treble damages, you will still be obligated to complete response actions that you are able to perform and continue to be liable for costs and damages. MassDEP may also assess interest on costs incurred at the rate of twelve percent (12%), compounded annually. To secure payment of this debt, the Commonwealth may place liens on all of your property in the Commonwealth. To recover the debt, the Commonwealth may foreclose on these liens or the Attorney General may bring legal action against you.

In addition to your liability for up to three (3) times all response action costs incurred by MassDEP, you may also be liable to the Commonwealth for damages to natural resources caused by the release. Civil and

criminal liability may also be imposed under M.G.L. c. 21E, § 11, and civil administrative penalties may be imposed under M.G.L. c. 21A, § 16 for each violation of M.G.L. c. 21E, the MCP, or any order, permit or approval issued thereunder.

IDENTIFICATION OF OTHER POTENTIALLY RESPONSIBLE PARTIES

MassDEP has identified other Potentially Responsible Parties (PRPs) associated with this Site. As mentioned above, M.G.L. c. 21E liability is "strict", meaning it is not based on fault, but solely on a person's status as an owner, operator, generator, transporter or disposer. It is also joint and several, meaning that a person may be liable for all response action costs incurred at the site, regardless of the existence of any other liable parties. In light of this, an NORA has also been sent to the following:

Steven Striar, President – Rockland Industries, Inc.
405 Washington Street, Braintree, Massachusetts 02184

RESPONSE ACTIONS REQUIRED

Additional response actions are required at the Site to eliminate any substantial hazards and/or achieve a Condition of No Significant Risk. This includes, but is not limited to, response actions that have been proposed at the Site to address an area of the Site where non-aqueous phase liquid (NAPL) is present above the upper concentration limits established in the MCP, and to address ecological risk in the wetland area of the Site. These response actions were previously approved by MassDEP are summarized below:

NAPL Area – Installation and maintenance of erosion and sedimentations controls; preparation of lined temporary soil and backfill material stockpile areas; clearing or grass, brush and surface debris from the work area; excavation of soils from an area measured as approximately 300 square feet to a depth of approximately 18 to 20 feet below ground surface (bgs); placement of excavated soils (approximately 200 cubic yards (cy)) into temporary stockpiles of directly into vehicles; off-site transport and disposal of the excavated soils; groundwater pumping, storage and off-Site disposal as necessary; backfilling and grading of the excavated area; installation of two replacement monitoring wells; transportation and off-Site disposal of decontamination fluids (if generated); removal and off-Site transport and disposal of erosion control measures and tracking pad materials; and periodic gauging of the replacement wells.

Site wide – Additional monitoring of groundwater, surface water and sediments and additional ecological risk evaluation.

COMPLIANCE DEADLINES AND REQUIREMENTS FOR NOTIFICATION OF YOUR INTENT TO CONDUCT REQUIRED RESPONSE ACTIONS

This Notice provides notice to you that MassDEP intends to conduct response actions at the subject Site unless you agree to do so in accordance with the terms and conditions of this notice pursuant to Section 4 of M.G.L. c. 21E and 310 CMR 40.0101(1)(d) and 40.0171(1), MassDEP is authorized to take or arrange for response actions required to abate the release and/or threat of release of oil and/or hazardous material.

MassDEP will begin initiating the response actions unless you submit the required submittals by the Interim Deadlines established herein. In accordance with 310 CMR 40.0160, this Notice provides you with the opportunity to conduct the response actions as described in this Notice by the Interim

Deadlines established herein. Pursuant to 310 CMR 40.1220, MassDEP is authorized to recover the costs associated with the response actions from you. You may also be liable for up to three times the response action costs incurred by MassDEP.

To demonstrate that you are willing and able to conduct response actions in compliance with the statute, regulations and other requirements you must provide the following to MassDEP:

1. Assurance of sufficient financial resources (see 310 CMR 40.0170[6]) to conduct the work;
2. The name and qualifications of the persons involved in the performance of response actions at the Site;
3. A detailed schedule for the proposed work; and,
4. Notice that the work will commence, to be provided a minimum of 72 hours prior to mobilization.

MassDEP will conduct the response actions described below unless you submit the necessary information to address items 1 through 4 above in writing by 5:00 P.M. on Friday, November 25, 2011 and MassDEP determines, in writing, that you are able to conduct the response actions.

The date and time established for the above submittals is an enforceable Interim Deadline established pursuant to 310 CMR 40.0167. MassDEP's decision to establish one or more Interim Deadlines in accordance with 310 CMR 40.0167 is not subject to Chapter 30A or any other law governing adjudicatory proceedings.

RESPONSE ACTIONS MASSDEP INTENDS TO TAKE IF YOU FAIL TO ACT

Because the response actions necessary to address the release and/or threat of release at the Site have not been conducted to date, pursuant to 310 CMR 40.0101(1)(d) and 40.0171, MassDEP intends to perform response actions at the Site unless you promptly demonstrate to MassDEP's reasonable satisfaction that you will comply with the deadlines and time periods for taking such actions imposed by Chapter 21E, 310 CMR 40.0000 and/or any order, permit or approval issued by MassDEP.

Until such time as MassDEP is persuaded that you will conduct the necessary response actions in compliance with the statute, regulations and other requirements, MassDEP is proceeding to perform or make arrangements to perform response actions at this site pursuant to 310 CMR 40.0101(1)(d) and 40.0171(1). The proposed response actions are described below. Chapter 21E, Section 4, authorizes MassDEP to take or arrange for such response actions. Chapter 21E, Section 8, specifically authorizes MassDEP to enter any site and areas proximate thereto at reasonable times, and upon reasonable notice, to undertake assessment, containment and removal actions pursuant to Chapter 21E, Section 4.

The procedures you must take to persuade MassDEP that you will conduct response actions in compliance with the statute, regulations and other requirements are also outlined in detail in this Notice.

Unless the necessary documentation is submitted to MassDEP by November 25, 2011, as detailed above, and the response actions described above have commenced by November 30, 2011, MassDEP intends to initiate response actions at the Site, including, but not limited to, the following:

1. Performance of site preparation and excavation of soil in the NAPL Area;
2. Collection of surface water, sediment, soil and/or groundwater samples at the Site;
3. Analysis of collected samples by a Massachusetts certified laboratory; and,
4. Additional human health and ecological risk assessment.

MassDEP has not determined an estimated cost for the above-referenced activities.

REQUEST FOR SITE ACCESS AUTHORIZATION

Pursuant to 310 CMR 40.0166, MassDEP seeks your authorization to access the Site for the purposes of performing the response actions described herein. A document titled, "Commonwealth of Massachusetts, Massachusetts Department of Environmental Protection, Access and Consent to Enter Property Agreement" is enclosed with this Notice. If it is your intent to provide MassDEP access to the Site to conduct the proposed response actions, the enclosed Access Authorization should be executed by both Trustees and returned to MassDEP, in the enclosed, self-addressed, stamped envelope no later than Friday, November 25, 2011.

Please contact Molly Cote at the letterhead address, by telephone at 508.946.2792 or by email at molly.cote@state.ma.us if you have any questions related to this notice. Please reference the Release Tracking Numbers, RTN 4-0000111 in any written correspondence regarding the Site.

Sincerely,



Gerard M.R. Martin, Chief
Compliance & Enforcement Section
Bureau of Waste Site Cleanup

M/MC/lg

Enclosures: 4-0000111 Request for Access (including return envelope)

CERTIFIED MAIL # 7010 0780 0000 6738 2854
RETURN RECEIPT REQUESTED

W:\BWSC\Document Archive\4-0000111.Middleboro.NOR.NORA.INTLET.11-10-2011

ec: Charles Cristello – Middleborough Town Manager
ccristello@middleborough.com

Jeanne Spaulding – Middleborough Board of Health
jspaulding@middleborough.com

Middleborough Conservation Commission, Patricia Cassidy
pcassady@middleborough.com

MassDEP-Boston

ATTN: Commissioner Ken Kimmell
Kristin LaCroix, Director – Technical & Financial Support

MassDEP-SERO

ATTN: Millie Garcia-Serrano, Deputy Regional Director
Rebecca Tobin, Regional Counsel
Deneen Simpson, Regional Enforcement
Molly Cote, Project Manager
Attn: Lara Goodine, BWSC – Data Entry [C&E INTLET] [NOR NORA]

Neil Ram – LSP

nram@rouxinc.com

Paul Feldman, Esq.

pfeldman@davismalm.com

Suzanne Dube

Sdube_mba07@yahoo.com

cc: Francis Whitty
269 Plymouth Street
Middleborough, MA 02346

Russell Enos
267 Plymouth Street
Middleborough, MA 02246

Middleborough Public Library, Information Repository
ATTN: Betty Brown
102 North Main Street
Middleborough, MA 02346

Regional Enforcement Office

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION

ACCESS AND CONSENT TO ENTER PROPERTY AGREEMENT

Steven Striar and Soozen Tribuna, Trustees – Striar Realty Trust, Owner
255 Plymouth Street, Middleborough, Massachusetts
RTN #4-0000111

Statutory Authority: The Massachusetts Department of Environmental Protection, its employees, agents, and/or contractors (collectively "MassDEP") require access to a parcel of land, identified below, for the purpose of performing certain investigative, removal, response and/or remedial actions pursuant to the authority of M.G.L. c. 21E, §§ 4 and 8. Through execution of this Access And Consent to Enter Property Agreement ("Agreement"), the Striar Realty Trust ("Owner") acknowledges MassDEP's authority to enter the property pursuant to M.G.L. c. 21E, §8 to perform activities to protect the public health, safety, welfare and the environment, and will allow MassDEP access to this parcel of land to perform these activities in accordance with the terms and conditions set forth below.

Property Description: The parcel of land covered by this Agreement is located at 255 Plymouth Street in Middleborough, Massachusetts and is referenced in a Deed recorded on May 6, 1966 in the Plymouth County Registry of Deeds at Book 3291 Page 580. The parcel of land is a "Site" in accordance with M.G.L. c. 21E and the Massachusetts Contingency Plan, 310 CMR 40.0000 et seq. (the "MCP"), and is identified by MassDEP Release Tracking Number, RTN: 4 - 0000111.

Scope of Work: The activities to be performed by MassDEP will be undertaken in accordance with M.G.L. c. 21E and the MCP. The scope of work proposed by MassDEP may include, but may not be limited to, the following activities in order to investigate, address and/or eliminate any risks to public health, safety, welfare and the environment associated with the release or threat of release of oil and/or hazardous materials at the Site:

NAPL Area near former building #2 – Site preparation including installation and maintenance of erosion and sedimentations controls; preparation of lined temporary soil and backfill material stockpile areas; clearing or grass, brush and surface debris from the work area; excavation of soils from an area measured as approximately 300 square feet to a depth of approximately 18 to 20 feet below ground surface (bgs); placement of excavated soils (approximately 200 cubic yards (cy)) into temporary stockpiles of directly into vehicles; off-site transport and disposal of the excavated soils; groundwater pumping, storage and off-Site disposal as necessary; backfilling and grading of the excavated area; installation of two replacement monitoring wells; transportation and off-Site disposal of decontamination fluids (if generated); removal and off-Site transport and disposal of erosion control measures and tracking pad materials; and periodic gauging of the replacement wells.

Site-wide – Sampling groundwater monitoring wells, gauging monitoring wells, surface water sampling and soil and/or sediment sampling if deemed necessary..

Timing and Duration of Work Activities: The work activities described above will begin on or after November 30, 2011. MassDEP will provide reasonable advance notice to the Owner of the exact date and time for the commencement of work activities. It is anticipated that work activities will be between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, or as mutually agreed upon by MassDEP and the Owner. Depending upon the results of initial work activities, MassDEP may need to return to the Site to perform additional monitoring on a quarterly basis and the Owner acknowledges through execution of this Agreement MassDEP's right to return and access the Site to perform any required additional or periodic work activities. MassDEP will provide reasonable advance notice to the Owner of the specific date(s) and time(s) for the performance of any additional or periodic work activities.

Term of Agreement: It is anticipated that all work associated with this Agreement, excluding any/all additional or periodic work activities such as groundwater, surface water and/or sediment sampling will be completed by MassDEP by no later than November 30, 2012. With respect to MassDEP's ongoing work activities, MassDEP will continue to access the Site to perform these activities until such time as MassDEP determines that such activities are no longer required. MassDEP will provide reasonable advance notice to the Owner of the specific date(s) and time(s) for the performance of these additional or periodic work activities.

Availability of Sampling Results/Reports: All public documents relating to the proposed work activities, including all sampling analysis data and related reports, may be reviewed electronically, through access to MassDEP's website at: <http://www.mass.gov/dep/cleanup/index.htm> and searching the "Searchable Waste Site List" by the RTN referenced above. In addition, pursuant to 310 CMR 40.1403(10), the Owner will be provided with a copy of all analytical data and related reports generated as a result of this project within thirty (30) days of the date the sample results are issued to MassDEP by the analytical laboratory.

Site Responsibility/Certificate(s) of Insurance: In executing this Agreement, the Owner understands that MassDEP will exercise reasonable efforts to minimize disruption of the usual, daily activities at the Property while performing work activities under this Agreement, and will make reasonable efforts to restore the areas of the Site where the work activities occurred to its prior condition. Upon execution of this Agreement, the Owner may obtain upon request a Certificate of Insurance from each MassDEP contractor who will be performing work on the Site. The Owner will otherwise continue to be responsible for all other liability and insurance obligations related to the Site.

No Conveyance of Property Interest: In executing this Agreement, the Owner understands that this Agreement is not intended to convey an interest in property to MassDEP.

Access Authorization: By executing this Agreement below, the Owner hereby grants access to MassDEP, its employees, authorized agents and/or contractors to enter the Site for the purpose of performing the above-referenced work activities.

Requirement of Written Revocation of Access: In executing this Agreement, the Owner also acknowledges and agrees that, in the event that the Owner seeks to revoke this Agreement, the Owner shall provide MassDEP with a written notice revoking this Access Agreement at least forty-eight (48) hours prior to MassDEP's cessation of work activities.

STRIAR REALTY TRUST

Steven Striar, Trustee
Striar Realty Trust, Owner
405 Washington Street, Suite 202
Braintree, MA 02184

Date: _____

Soozen Tribuna, Trustee
Striar Realty Trust, Owner
405 Washington Street, Suite 202
Braintree, MA 02184

Date: _____

Patricia Cassady

From: Martin, Gerard (DEP) [gerard.martin@state.ma.us]
Sent: Tuesday, January 24, 2012 2:28 PM
To: Patricia Cassady; Ridings, Courtland (DEP); Cote, Molly (DEP)
Cc: Garcia-Serrano, Millie (DEP); Johnston, David (DEP)
Subject: RE: Rockland Site in Middleborough
Attachments: middleboro little gm.pdf; middleboro whitty gm.pdf

*Forward
to others*

Tricia,

MassDEP is not preparing our own report on the work that was conducted, we are providing Rockland Industries' LSP with the information we collected (field notes, photographs, volume of soil transported, disposal location, etc) so that they can prepare the appropriate MCP submittal, either an Immediate Response Action (IRA) Status report or IRA Completion report for submittal to MassDEP. If they submit an IRA Completion Report, Rockland Industries is required to notify the Board of Selectmen and Board of Health that the report is available for review and because this is a Public Involvement Plan (PIP) site, all documents are placed in the Information Repository at the Town Library and notices of availability are sent to the Town and the mailing list.

The soil was not tested as part of this work. This excavation was conducted to remove soil that was thought to be the source of the Non-Aqueous Phase Liquid (NAPL) measured in some of the monitoring wells in this area. To determine whether or not the excavation was successful Rockland Industries will install monitoring wells and take measurements over a period of time (which will be discussed in the upcoming submittal) to determine whether NAPL is still present or not.

In addition, MassDEP will be requesting that Rockland Industries perform additional surface water and sediment sampling in the swale area later this spring to determine if those efforts were successful as well.

We also understand that there are there are some that still believe that buried drums exist at the site. MassDEP believes that based on the amount of subsurface assessment work conducted at the site, if there were buried drum that contributing to the groundwater contamination at the site they would have been identified. The letters to the letters to the residents explaining this in more detail are attached to this email.

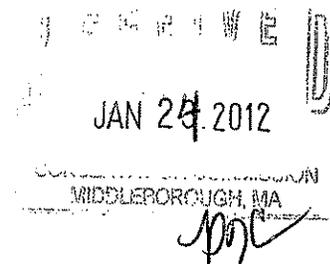
I hope this helps. Please let me know if there is anything else you need.

Sincerely,

Gerard Martin, Chief
 Compliance and Enforcement Section
 Bureau of Waste Site Cleanup

Massachusetts Department of Environmental Protection
 20 Riverside Drive
 Lakeville, Massachusetts 02347

508 946-2799



From: Patricia Cassady [mailto:pcassady@middleborough.com]
Sent: Tuesday, January 24, 2012 11:54 AM
To: Ridings, Courtland (DEP); Cote, Molly (DEP); Martin, Gerard (DEP)
Subject: Rockland Site in Middleborough

Hi All,

I was just wondering if a report was completed yet regarding the results of the NAPL area removal. Is there information on testing the soil?

Will the swale area be dealt with next?

Also, there are people who still believe that there are barrels buried on site.

Thanks,

Tricia

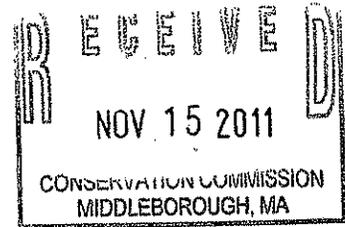
Patricia Cassady
Conservation Agent
Middleborough Conservation Commission
20 Centre Street, 2nd Floor (Bank Building)
Middleborough, MA 02346

508-946-2406

pcssdy@middleborough.com

11-14-11
269 Plymouth St.
Middleboro, MA 02346

DEP Southeast Regional Office
20 Riverside Dr.
Lakeville, MA 02347



To Whom It May Concern:

As Key Petitioner for the Rockland Industries Site, I regret that a prior commitment prevented me from attending the recent open meeting held on 11-7-11. I know that my interests were well represented by Russell Enos and others in attendance.

However, it behooves me to once again assert that simply removing the contaminated earth and other chemical contaminants from the drainage swale and well sites, albeit a great step towards finally cleaning this site, does not adequately address other critical issues.

For years, I have requested that the existing concrete slabs, both those exposed and under roof, be investigated. I once proposed horizontal drilling to remove core samples. That request was ignored and the claim by Rockland Industries was that it was too expensive and unnecessary. I absolutely disagreed and have expressed that sentiment for years.

I and others feel sure that there are chemicals trapped beneath them that must be addressed. The record will show that at some time in the recent past, a corner of one of those slabs was removed and a release occurred. The response was simply to leave well enough alone and cap that corner. That doesn't address the problem.

That only proved that there were chemicals beneath those slabs that should have been investigated and not winked by as unimportant. Leaving well enough alone may be the easier, softer way for now, but what about the future?

I understand there is some "recreational" plan proposed for the site. Good grief, does the Commonwealth and the Town of Middleborough want to pass along this danger to the future? As long as the focus remains on the drainage swale, the rest of the site is being ignored.

I urge DEP to be thorough and look to the future. If chemicals were, as witnesses have asserted, been dumped into floor drains in some of these buildings, the risks remain.

Please consider the record. A release occurred after a slab was disturbed. That proves that there are contaminants there. If left in place and the site is allowed to be used for any purpose and not thoroughly cleaned, what might happen due to erosion or re-grading of perimeter soils? What might happen when these concrete slabs deteriorate over time and as a result of weather conditions such as freeze-thaw, crack and crumble releasing

whatever is hidden beneath them? What might happen if five or ten years down the road a current or future owner comes in and decides to demolish these building and slabs to make room for development and no one is monitoring the site or is ignorant of the history?

Can we as citizens and you as regulators and guardians of the public health and safety take that risk? Please consider a truly thorough site cleanup that will insure the health and safety of all, now and in the future. Address these buildings and slabs. Do the right thing, please.

Respectfully yours,

Francis F. Whitty

Key Petitioner



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

CB

Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

DEVAL L. PATRICK
Governor

TIMOTHY P. MURRAY
Lieutenant Governor

RICHARD K. SULLIVAN JR.
Secretary

KENNETH L. KIMMELL
Commissioner

RECEIVED
JAN 24 2012
COMMUNITY COMMISSION
MIDDLEBOROUGH MA
mc

COPY

December 29, 2011

Francis Whitty
269 Plymouth Street
Middleborough, Massachusetts 02346

RE: MIDDLEBOROUGH
Rockland Industries, Inc.
Release Tracking Number 4-0000111

Dear Mr. Whitty:

The Massachusetts Department of Environmental Protection (MassDEP) is in receipt of your letter, dated November 14, 2011, regarding the above-referenced Site. Your letter identifies concerns you have relative to the assessment and cleanup actions at the site, but more specifically as to potential future uses of the Site. On behalf of our Commissioner Kimmell, I acknowledge your concerns and further respectfully offer a response to your letter.

In your letter, you state that the planned Immediate Response Action (IRA) does not address the site in a comprehensive fashion, further you specifically request that additional assessment be conducted underneath the concrete slabs that exist at the Site, an issue that MassDEP acknowledges you have raised in the past. MassDEP does not disagree that the planned IRA does not address the site comprehensively. The intent of the IRA is to focus on a specific condition that, if addressed, would serve to mitigate a limited volume of contaminated soil at the site.

Based on the information that MassDEP has evaluated over the years, it is likely that there is contamination beneath the foundations of the former buildings on the property given the site's past history and uses. However, given the presence of the existing foundations (or concrete slabs) acting as a barrier, there is no direct route of exposure to those contaminants by trespassers or workers on the site at this time.

As you know, MassDEP held a Public Meeting on November 7, 2011 at the Middleborough Public Library which centered on the MassDEP's intent to execute a removal action (embodied by an IRA), whereby contamination adjacent to the concrete slab area would be excavated and disposed off-site. I am pleased to report that during the course of this removal activity on the week of December 26th, MassDEP and its

Contractors did not observe Non-Aqueous Phase Liquid (NAPL) during the excavation. Post excavation monitoring in this area, which will be conducted by Rockland Industries, will provide more information for consideration by the property owner in the event they decide to implement an AUL.

As for the foreseeable future use of the Site, considering that it is a private property, MassDEP cannot regulate or impose its future land use (e.g., residential, commercial/industrial, recreational). However, should there be a change in the current land use, it is likely that the property owner will need to either file a deed restriction known as an Activity and Use Limitation (or AUL) or perform more assessment and cleanup at the site that conforms to a different land use. An AUL is a legal instrument that provides notice to future owners and the public, and once placed on the property it will serve to protect the public health by prohibiting certain uses. MassDEP has learned that in the near future, the current property owner intends to file an Activity and Use Limitation for the site.

As stated in the *Supplemental Phase II Comprehensive Site Assessment* prepared by Roux Associates, "an Activity and Use Limitation (AUL) will be placed on the property to prohibit agricultural use and residential contact with soil, sediment and on-site surface water at the Site. The risk characterization also assumes that an AUL will be placed on the Rockland Industries site to require construction of sub-slab venting systems or a vapor barrier for the construction of new buildings at the site."

Further, it is anticipated that the AUL will specify that any future work at the Site that may disrupt those concrete slabs or any soils located beneath them be conducted under the direction of a Licensed Site Professional in accordance with the MCP. The AUL would also prohibit use of the property as a residence, school, daycare or recreational facility (among other uses) without additional assessment and/or cleanup. Because an AUL is a restriction placed on the deed for the property, any future owner would be aware of these restrictions and/or requirements that run with the property's ownership.

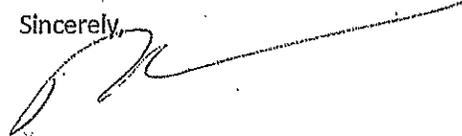
In summary, the presence of contaminants under the building slabs does not currently pose a risk to human health because the slabs act as a physical barrier and given dispersion into the outdoor ambient air, the concentrations are not significant enough to cause an impact to public health. However, should there be a change in the property's foreseeable future use public health would need to be protected through a deed restriction, as is allowed by the Commonwealth's laws and regulations governing Activity and Use Limitation or via additional site assessment and cleanup commensurate with end use.

Given the fact that parties across the Commonwealth can avail themselves to the filing of deed restrictions through an AUL, MassDEP does not have the authority to require Rockland Industries to conduct the activities that you recommend in your letter. Please note, however, that MassDEP consistently audits all AUL instruments filed and recorded for sites like the former Rockland Industries. MassDEP's auditing program serves to ensure that AUL instruments are filed in compliance with applicable laws and regulations.

Release Tracking Number 4-0000111: F. Whitty Response

Failure to follow said laws and regulations may result in high level enforcement and invalidation of the AUL instrument. In closing, I thank you for your letter. Please feel free to contact me at (508) 946-2708 if you have any further questions regarding this Site.

Sincerely,



David Johnston
Regional Director

DJ/rr

cc: Ken Kimmell, Commissioner
Millie Garcia-Serrano, Deputy Regional Director, BWSC-SERO.
Gerard Martin, Chief, Compliance & Enforcement, BWSC-SERO