

Appendix J

Letter dated April 6, 2011 from Odelphi Environmental, Inc.



**Odelpi
Environmental, Inc.**

Environmental Risk Management & Consulting

76 W Ruby Ave, Unit A, Palisades Park, NJ 07650
(201) 943-5000, Fax: (201) 943-5003 www.odelpi.com

April 6, 2011

Mr. Keith J. Lanning
Director of Operations
Livingston Development Corp.
162-20 77th Road
Flushing, NY, 11366

RE: Comment C-10 and DEIS page 4-14 - Comment C-34

Dear Mr. Lanning,

Per your request, I would like to provide my responses to the above-mentioned comments.

- 1. Comment C-10: a protocol for the additional testing specified in the DEIS, a protocol for conducting any potential mitigation, and a procedure for addressing any environmental issues that may not have been previously identified but may be encountered during construction**

New York State Department of Environmental Conservation (NYSDEC) DER-10 Technical Guidance for Site Investigation and Remediation (DER-10) will be utilized as the protocol for any additional testing and any potential mitigation if needed. The applicant will also coordinate with the Nassau County Department of Health and will comply with all requirements thereof concerning site investigation and remediation.

The mitigation is to be achieved through excavation of the subject site to a maximum depth of 10 ft during construction. ODELPHI believe that the level of contamination is minimal that do not warrant specific means of mitigation other than excavation.

Any potential environmental issues that may be encountered during construction and that may not be previously identified can be addressed through coordination between construction planner and environmental professional. Areas of concerns identified at the subject site are AST area and former hydraulic lift area. Removal, demolition and excavation of these AOCs should be done in the presence of environmental professional. Visual inspection and portable analytical equipment should be utilized to assess the condition of the AOCs. For other area that may reveal potential environmental issues during demolition and excavation, construction crews should be briefed to let responsible site person know of any environmental concerns such as discoloration of soil or petroleum-like odor. The work should be stopped until further notice. This procedure could be incorporated into the health and safety plan as environmental hazard concern.

- 2. DEIS page 4-14 – Comment C-34**



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Mitigation of the impacted soil could be achieved through excavation. The excavated soil could be stockpiled on site on PE liner for further testing. The testing result should determine if the stockpiled soil could be classified as hazardous waste or regular fill. The mitigating procedure will follow the NYSDEC DER-10 protocol.

I hope these answers satisfactory to your engineering firm. If you have any further question, concerns, and comments, please let me know.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Casey Oh".

Casey Oh,
Project Manager
Ph. D., CRS, CEM



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LIMITATIONS

The opinion expressed herein is based on the information collected during our study, our present understanding of the site conditions and our professional judgment in light of such information at the time of preparation of this opinion. The report is a professional opinion work, and no warranty is either expressed, implied or made as to the conclusions, advice and recommendations offered in this report.

Our investigation was performed using the degree of care and skill ordinarily exercised, under similar circumstances, by reputable Engineers and Geologists practicing in this or similar localities.

The findings, conclusions and recommendations in this report are considered valid as of the present date. However, changes in the conditions of the property can occur with the passage of time, due to natural process or the works of man on this or adjacent properties. In addition, changes in applicable or appropriate standard may occur. Odelphi Environmental Inc ("Odelphi") is not responsible for conditions found at or beneath the subject property or adjacent properties. Accordingly, portions of this report may be invalidated wholly or partially by the changes beyond our control.

This report is prepared for the exclusive use of the client, and opinions/recommendations contained in this report apply only to conditions existing when services were performed and are intended only for the client, purposes, locations, time frames, and project parameters indicated.

Odelphi is required to contact borrowers and lenders in order to obtain additional information required to complete assignments or clarify concerns identified during completion of their investigations. Odelphi is NOT, however to discuss recommendations for or against future actions with anyone other than an employee of the Client. Failure to adhere to this requirement will result in suspension from our list of approved consultants. This policy shall not apply if Odelphi has received express, written consent from the Client to discuss findings and recommendations related to the specific job at hand, or Odelphi is participating in a conference call or meeting including the Client's professional environmental staff.

This evaluation is prepared strictly and solely based upon previous environmental assessment report referenced earlier. Odelphi's recommendation and conclusion thus cannot be held liable for accuracy since our evaluation is only dependent upon the contents of previous reports done by others.