



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Central Regional Office • 8 New Bond Street, Worcester MA 01606 • 508-792-7650

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By Certified Mail/
Return Receipt Requested

October 6, 2016

Anthony M. Detarando
President
Incom, Inc.
294 Southbridge Road
Charlton, Massachusetts 01507

Re: 294 Southbridge Road, Charlton, MA
RTN-2-0019678
Request for Site Access Authorization: 294 Southbridge Road, Charlton,
Massachusetts 01507

**THIS IS AN IMPORTANT NOTICE. FAILURE TO TAKE
ADEQUATE ACTION IN RESPONSE TO THIS NOTICE COULD
RESULT IN SERIOUS LEGAL CONSEQUENCES**

Dear Mr. Detarando:

The Massachusetts Department of Environmental Protection ("MassDEP") has been notified of written requests by Tighe & Bond, Inc. ("Tighe & Bond") for authorization to temporarily access the property located at 294 Southbridge Road in Charlton Massachusetts in order to complete certain statutory and regulatory response actions necessary for the assessment and cleanup of contaminants detected at 165 Barefoot Road, Southbridge, Massachusetts (the "Site"). Tighe & Bond, as the Licensed Site Professional of Record on behalf of Casella Waste Systems, Inc. ("Casella") has requested that you, as operator of the property located at 294 Southbridge Road, (the "Property"), authorize Tighe & Bond to temporarily access the Property in order to complete certain statutory and regulatory response actions necessary for the assessment and cleanup of contaminants detected the Site. Tighe & Bond's response actions are

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governed by the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, M.G.L. c. 21E ("Chapter 21E" or M.G.L. c. 21E") and the Massachusetts Contingency Plan ("MCP"), 310 CMR 40.0000 et seq.

MassDEP is responsible for administering Chapter 21E and the MCP. Section 8 of Chapter 21E enables MassDEP to authorize persons conducting response actions to enter private property for the purpose of conducting cleanup activities in response to releases of oil or hazardous materials to the environment. The process that MassDEP follows in responding to requests for site access authorization is set forth in the MCP at 310 CMR 40.0173. In compliance with the requirements of 310 CMR 40.0173, Tighe & Bond has submitted a request to MassDEP seeking its assistance for site access on to the Property, and this request has been forwarded to you with an opportunity to respond directly to MassDEP. As of this date, MassDEP has received no response from you regarding this matter, which has prompted the issuance of this correspondence.

By way of background, Tighe & Bond is presently conducting an environmental investigation at the Site as required by MassDEP under the direction of Licensed Site Professional ("LSP") Jeffrey L. Arps (LSP No. 4589), and the MCP for Release Tracking Number ("RTN") 2-0019678. As part of on-going response actions Tighe & Bond, on behalf of Casella, has proposed to perform the following response actions:

- Conduct an initial one-day site visit to view the property and identify surface features, and photo-document potential environmental conditions such as evidence of waste disposal or waste containers. If waste containers are identified, screening level information such as photoionization detector readings from container headspace and/or sampling of container contents may be performed. The initial site visit would also be used to identify potential locations for test borings and/or groundwater monitoring wells. If soil conditions are favorable, soil gas sampling may be performed.
- If viable test boring/monitoring well locations are identified, Tighe & Bond would subsequently identify those locations and provide details regarding access, the type of drilling equipment and well completion information. If wells are installed, Tighe & Bond will collect groundwater elevation information and collect groundwater quality samples from the monitoring wells following installation. The soil boring, well installation and sampling are expected to take five days.

It is essential that you cooperate with Tighe & Bond in this effort. It is in the best interests not only of the surrounding neighborhood, but also for the Town of Charlton itself that these response actions move ahead as planned without delay. It is MassDEP's understanding that the parties have been unable to reach an agreement with respect to Tighe & Bond's repeated requests for access.

While MassDEP believes that site access matters are best resolved by direct discussions between the party seeking access and the owner/operator of the property to which access is sought, MassDEP has, and will participate in activities geared toward gaining access when efforts by the party seeking access have not been successful. MassDEP will so participate because it believes that access to property in order to conduct necessary response actions is of

utmost importance to the proper and effective implementation of environmental laws in this Commonwealth.

Accordingly, MassDEP hereby requests that you comply with the following timelines relative to resolving your access issues with Foster Wheeler:

1. On or before 5:00 P.M. on October 21, 2016, communicate to MassDEP regarding the status of your efforts to resolve the access issues currently existing between you and Tighe & Bond; and
2. On or before 5:00 p.m. on November 4, 2016, communicate to MassDEP that you granted access to Tighe & Bond to enter the Property under terms and conditions set forth in a written access agreement to be mutually negotiated, agreed to and executed by the parties.

MassDEP will not act upon gaining access to the Property until after the close of business November 4, 2016. This timeframe should provide ample opportunity for the parties to discuss and resolve this matter. However, as stated previously, MassDEP considers access to be an extremely important matter and, should the parties be unable to agree upon an access arrangement on or before, MassDEP will take appropriate action to ensure that necessary response actions proceed in a timely manner. Pursuant to 310 CMR 40.0173, such MassDEP action may include one or more of the following:

1. Issue a Notice of Responsibility and/or an Order to you under M.G.L. c. 21E, §§ 9 or 10 requiring you to perform the required response actions;
2. Take or arrange for the performance of response actions. Should MassDEP do so, you may be liable for up to three (3) times all response action costs incurred by MassDEP. Under M.G.L. c. 21E, liability is "strict," meaning that it is not based upon fault, but solely on your status as the owner of the Property. Liability is also joint and several, meaning that you may be liable to the Commonwealth for all costs incurred, regardless of the existence of other liable parties. 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 your clients;
3. Seek and execute an administrative search warrant;
4. Provide written authorization to any person to enter a site, vessel or location with the consent of the owner or operator;
5. Issue a Request for Information to you; and/or
6. Any other action authorized by M.G.L. c. 21E, the MCP or any other law.

In closing, MassDEP continues to believe that access issues currently existing between the parties can be promptly resolved if both you and Tighe & Bond enter into negotiations in good faith and with the attitude that all access issues can, and will, be resolved. MassDEP stands ready to assist either party toward this end. Please contact me at 508-767-2889 if you would like to discuss this matter further.

Sincerely,



John Beling
Senior Regional Counsel

ecc: Southbridge Fire Department
Charlton Fire Department
Southbridge Board of Health
Charlton Board of Health
Sam Nicolai, Casella Waste Systems, Inc.
Tracy Markham, Southbridge Recycling and Disposal Park, Inc.
Jeffrey L. Arps, LSP
Gary Magnuson, CMG Environmental, Inc.
Mark Baldi, DEP/CERO/BWSC
Kevin Daoust, DEP/CERO/BWSC
Database entry, DEP/CERO/BWSC