

Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Western Regional Office • 436 Dwight Street, Springfield MA 01103 • 413-784-1100

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November 10, 2016

City of Holyoke
Office of Planning and Community Development
20 Korean Veterans Plaza #406
Holyoke, MA 01040

Attn: Debbie Opperman, Senior Project Manager

Re: Holyoke
123 Pine Street
RTN 1-20114
Petroleum Release
M.G.L. c. 21E

**LETTER OF RESPONSIBILITY FOR
MUNICIPALITY WITH EXEMPT STATUS
M.G.L. c. 21E, 310 CMR 40.0000**

Dear Ms. Opperman:

On November 3, 2016, the Department of Environmental Protection (the "Department") received a Release Notification Form (RNF) for property known as the former Alpine Apartments at 123 Pine Street in Holyoke, Massachusetts. The RNF indicates that soil at the subject location (the site) contains elevated levels of petroleum hydrocarbons. In light of this information, the Department wishes to ensure that you are aware of your rights and responsibilities under the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, M.G.L. c. 21E, and the Massachusetts Contingency Plan (MCP), 310 CMR 40.0000

The cleanup of disposal sites is governed by the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, M.G.L. c. 21E, which is implemented through regulations promulgated by the Department. These regulations are referred to as the Massachusetts Contingency Plan, (the MCP), 310 CMR 40.0000.

The purpose of this letter is to ensure that you (as used in this letter, the term "you" refers to the **City of Holyoke**) are aware of your rights and responsibilities under M.G.L. c. 21E. The Department also wishes to ensure that the cleanup is conducted in accordance with the MCP. This letter and the attached information are intended to assist the City in deciding what actions to take in response to the conditions that are present at this disposal site.

According to information available to the Department, the site was taken by the City of Holyoke for non-payment of taxes. The City, as the owner, will not be considered a Potentially Responsible Party (PRP) with liability for response action cost and damages under M.G.L. c. 21E. To maintain exempt status and not be considered a PRP, the City must continue to satisfy the conditions detailed in M.G.L. c. 21E paragraph 5. Specifically, your attention is directed to the requirements in **Subsection (d) of the definition of "Owner" or "Operator" in M.G.L. c.21E, §2.**

For your convenience, enclosed are the relevant excerpts of M.G.L. c. 21E, §2. Also enclosed is a Summary of Liability intended to provide the City with information about liability under Chapter 21E. You should be aware that the City might have claims against third parties for damages, including claims for contribution or reimbursement for the costs of cleanup. Such claims do not exist indefinitely but are governed by laws that establish the time allowed for bringing litigation. The Department encourages the City to take any action necessary to protect any such claims it may have against third parties. In addition the City, in its efforts to assess and cleanup this property may be eligible to apply for and receive additional funding under the Commonwealth and the United States Environmental Protection Agency's Brownfield programs.

RELEASE INFORMATION

The Release Notification Form indicates that soil at the site is contaminated with petroleum hydrocarbons.

RESPONSE ACTIONS AND APPLICABLE DEADLINES

The City of Holyoke as owner of the site, and as a Municipality with Exempt Status, (reference Subsection (d) of the Definition of "Owner" or "Operator" in M.G.L. c. 21E §2) is, with few exceptions, not required to conduct cleanup or response actions for this site. However, should you lose your exempt status or choose to perform response actions and/or conduct cleanup of the site, such response actions and cleanup must adhere to the MCP. The following are some of the applicable dates, and MCP requirements and deadlines that will be invoked and must be satisfied should you choose to conduct response actions and cleanup at the site:

- The date upon which the Department was notified of a release at the site was **November 3, 2016**. This date will be the baseline for calculating compliance of this disposal site with the deadlines contained in the MCP, unless otherwise provided by the Department.
- The MCP requires responsible parties and any other person undertaking response actions to perform Immediate Response Actions in response to sudden releases, Imminent Hazards and Conditions of Substantial Release Migration. Such persons must continue to evaluate the need for Immediate Response Actions and notify the Department immediately if such a need exists.
- Unless otherwise provided by the Department, parties performing cleanup in accordance with the MCP have one year from the date of notifying the Department of a release of oil and or hazardous material pursuant to 310 CMR 40.0300 or from the date the Department issues a NOR, whichever occurs earlier, to file with the Department one of the following submittals: (1) a completed Tier Classification Submittal; or (2) a Permanent Solution Statement.

- No disposal site will be deemed to have had all the necessary and required response actions taken for it unless and until all substantial hazards presented by the release and/or threat of release have been eliminated and a level of no significant risk exists or has been achieved in compliance with the MCP.

PROCEDURES TO FOLLOW TO UNDERTAKE RESPONSE ACTIONS

Although you are not required, the Department encourages you to complete preliminary and/or comprehensive response actions at the site to achieve a temporary or permanent solution. **If you elect to voluntarily undertake response actions at this disposal site, you must notify the Department in writing of your intent to conduct response actions and conduct such response actions in compliance with the requirements of the MCP.** In accordance with 310 CMR 40.0170(2), you must obtain all necessary permits and approvals before undertaking a response action. Please be advised that although the City of Holyoke has municipal exemption status under M.G.L. c.21E (reference Subsection (d) of the Definition of "Owner" or "Operator" in M.G.L. c. 21E §2), if the City decides to perform response actions at this site, the City is responsible for annual compliance assurance fees payable under 310 CMR 4.00.

DISCONTINUED RESPONSE ACTIONS

As a Municipality with Exempt Status, the extent to which you complete the MCP process is voluntary. Pursuant to 310 CMR 40.0170(10), if you undertake response actions, you may discontinue such response actions without being deemed by the Department as having acquired liability under M.G.L. c. 21E solely on the basis of having voluntarily conducted such response actions and without being deemed in noncompliance with future deadlines, provided that you:

- (a) notify the Department in writing of your intent to discontinue response actions at the site prior to the running of an applicable deadline and surrender or transfer the Permit you possess, if any, for the site;
- (b) submit a Status Report to the Department informing the Department of the status of the work conducted at the site at the time of providing the notice required by 310 CMR 40.0170(10); and
- (c) do not cause or contribute to the release at the disposal site or cause the release, or the disposal site, to become worse than it otherwise would have been had such response actions not been performed.

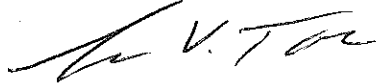
You must employ or engage a LSP to manage, supervise or actually perform all response actions which you intend to undertake at this disposal site. You may obtain a list of the names and addresses of LSPs by contacting the Board of Registration of Hazardous Waste Site Cleanup Professionals by telephone at (617) 556-1091 or via the following internet link: <http://public.dep.state.ma.us/LSP/lspsearch.htm>.

Please note that as of January 1, 2009, all submittals for this release that require an LSP Opinion must be submitted through e-DEP, MassDEP's electronic document and form submittal repository. For more information on electronic submittal of forms and reports, please visit MassDEP's website, <http://www.mass.gov/eea/agencies/massdep/service/online/edep-online-filing.html>.

If you have further questions, please contact David Slowick at (413) 755-2246. All future correspondence and communications regarding this disposal site should reference **RTN 1-20114**.

*Letter of Responsibility
City of Holyoke
123 Pine Street
RTN 1-20114
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Sincerely,



Eva V. Tor
Deputy Regional Director
Bureau of Waste Site Cleanup

EVT/das/kmn
/1-20114 Holyoke LOR

Encl: Summary of Liability

e-cc: Holyoke:
Health Department
Mayor's Office

Denise Andler