

**STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION**



DISAPPROVAL

December 28, 2004

Curt M. Richards
Vice President
Olin Corporation
P.O. Box 248
Charleston, TN 37310

RE: Notification of Noncompliance
Supplemental Investigation
Non-Public Properties Study Area
Hamden, Connecticut
Consent Order No. SRD-128

Dear Mr. Richards:

On October 7, 2004, Ms. Shannon Pociu of my staff notified Mr. Raymond Horn of your office of the requirement for Olin to provide written notice of noncompliance in accordance with paragraph B.24 of Consent Order No. SRD-128. This request was made because at that time, Olin had not yet sampled any of the groundwater monitoring wells installed at the non-public properties portion of the site. According to the Work Plan approved by the Department on April 23, 2004, the first round of groundwater sampling was scheduled to occur in July 2004, and Olin was approximately three (3) months out of compliance with the approved schedule.

In addition, the schedule in the approved Work Plan called for Olin to submit an Interim Report on the Isolated Fill Inspection and Initial Boring Results to the Department by October 23, 2004. The Interim Report was to have summarized the results of initial borings, sampling, and visual reconnaissance inspections done in parts of the non-public properties study area where isolated fill may be present and include recommendations for further investigation, if warranted. This deliverable was not received by the Department when it was due, and Olin did not provide any verbal notification to the Department that the report would be late or give reasons for the delay. According to paragraph B.24, a Respondent is required to notify the Department as soon as it becomes aware that it did not or may not comply with any requirement of the consent order or any document required under the consent order.

On October 29, 2004, the Remediation Section of the Department of Environmental Protection received a letter from Mr. Horn dated October 27, 2004, regarding "Notification of Deviation from Schedule." In accordance with paragraph B.24, written notification of noncompliance must be submitted within 5 days of a Respondent providing verbal notification of

noncompliance to the Department. This notification was provided three weeks after the Department reminded Olin of the requirement. Further, the notification letter contained no explanation as to why submission of Interim Report on the Isolated Fill Inspection and Initial Boring Results was delayed. The Department has reviewed the letter explaining the reasons for noncompliance and finds both the explanation and proposed schedule for achieving compliance unacceptable and is hereby disapproved.

1. Monitoring Well Installation and Supplemental Waste Fill Characterization. The explanation provided for the delay in completing monitoring well installations is unacceptable. The Department is aware that an access agreement acceptable to the residents represented by Attorney Andrew Rainer was provided to Olin months before Mr. Horn's October 27, 2004 letter. We are also aware that neither Mr. Horn nor Olin's attorney responded to the proposed access agreement for 4 weeks. Paragraph B.18 of the Consent Order states that Respondents must use "best efforts to secure access to the site." Such efforts shown in communicating with the residents' attorney can in no way be described as "best efforts."
2. Groundwater Sampling. The Department disputes the statement that "the majority of the wells will be installed by the end of October." As of July 20, 2004, Olin reported that 20 of the 29 proposed monitoring wells had been installed. For almost three months, no additional progress installing monitoring wells was made until late October 2004 when four wells were installed between October 21 and 26, and one well was installed on November 4. Olin has not yet obtained access from three private property owners to install the four remaining monitoring wells. Clearly, the majority of the wells were installed by the end of July 2004, and there is no good reason why those wells were not sampled in a timely fashion. The Department will not excuse Olin from the delay in sampling the groundwater monitoring wells.

Since the summer, Department staff has inquired on numerous occasions of both Olin and its consultant, Malcolm Pirnie, Inc., as to when the monitoring wells would be sampled. During the previously mentioned phone conversation between Ms. Pociu and Mr. Horn on October 7, Ms. Pociu requested that Olin sample all wells that had been installed by the end of that month. The monitoring wells were not sampled until late November 2004.

The Department acknowledges the necessity of having all three Respondents conduct quarterly groundwater monitoring on the same schedule. However, considering the expedited nature and high priority of this project, there is no acceptable excuse for Olin not keeping to the schedule in the approved Work Plan. If Olin were concerned about consistency with the Work Plan, it should have directed its consultant to complete the first quarter of groundwater sampling of 20 of the 29 monitoring wells in July or August 2004, as close as possible to Olin's approved schedule, rather than to wait for the nine remaining wells to be installed or for sampling events scheduled by other responsible parties in late November.

3. Isolated Fill Borings. The notification letter states that access was denied at only one of the properties proposed for isolated fill borings and that Olin considered “this task to be satisfactorily completed.” Given this information, the Department cannot understand why the Interim Report on the Isolated Fill Assessment was not submitted on October 23, 2004 in accordance with the schedule in the approved Work Plan.
4. Proposed Schedule. The Department finds the proposed schedule of a four-month delay for the submission of all report deliverables containing groundwater data to be unacceptable, and therefore, the proposed schedule is disapproved and must be revised. The interim report containing Recommendations for Surface Water Monitoring must be submitted by January 17, 2005. If subsequent rounds of groundwater sampling yield data that would change the recommendations for surface water monitoring, then an additional interim report with additional surface water monitoring recommendations must be submitted within 30 days of completion of that sampling event.

The Supplemental Investigation Report must be submitted by March 23, 2005, in accordance with the schedule approved in the Work Plan. All groundwater data collected by that date must be included in the Supplemental Investigation Report. The results of subsequent groundwater sampling rounds must be submitted to the Department within 30 days of completion of each sampling event. The fourth quarter groundwater sampling report must also include an evaluation of all groundwater data collected during the Supplemental Investigation.

Nothing in this disapproval shall affect the Commissioner’s Authority to institute any proceeding, or take any other action to prevent or abate pollution, to recover costs and natural resource damages, and to impose penalties for violations of law including but not limited to violations of any permit issued by the Commissioner. If at any time the Commissioner determines that the approved actions have not fully characterized the extent and degree of pollution, the Commissioner may institute any proceeding, or take any action to require further investigation. This disapproval relates only to pollution or contamination identified in the above referenced plan.


In addition, nothing in this determination shall relieve any person of his or her obligations under applicable federal, state and local law.

No provision of this disapproval and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken pursuant to this disapproval will result in compliance.

Mr. Curt Richards
Disapproval – Notification of Noncompliance
Page 4 of 4

If you have any questions pertaining to this matter, please contact Shannon W. Pociu of my staff at (860) 424-3546.

Sincerely,



Elsie Patton
Acting Director
Planning and Standards Division
Bureau of Waste Management

EP:SWP

cc: Raymond Horn, Olin Corporation
Kenneth E. Cichon, Malcolm Pirnie, Inc.
Harold Moritz, Malcolm Pirnie, Inc.
Douglas Cohen, Brown Rudnick Berlack Israels LLP
Mayor Carl Amento, Town of Hamden
David Silverstone, Regional Water Authority
John M. Looney, AAG
Shannon Pociu, DEP
Terry Iacone, DEP
Meg Harvey, DPH
Kevin Hood, ERI

Sent Certified Mail
Return Receipt Requested

7002 2030 0006 5676 1944