



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL
DIVISION OF AIR AND WASTE MANAGEMENT
391 LUKENS DRIVE
NEW CASTLE, DELAWARE 19720-2774

WASTE MANAGEMENT SECTION
SITE INVESTIGATION &
RESTORATION BRANCH

TELEPHONE: (302) 395-2600
FAX: (302) 395-2601

November 17, 2009

Mr. George Haggerty, Assistant General Manager
New Castle County, Department of Land Use
87 Read's Way
New Castle, DE 19720

**RE: Former Hercules (AKA Delaware National) Golf Course Technical Assistance
Project (DE-1323)**

Dear Mr. Haggerty:

The purpose of this letter is the fulfillment of Paragraph II.D.3.e (Stage V) of the Memorandum of Understanding between the Delaware Department of Natural Resources & Environmental Control and the Government of New Castle County (March 2007) regarding the remediation of the contamination present at the Delaware National Golf Course—Hercules Road Property. A copy of the MOU is attached.

DNREC has reviewed the Completion Report (November 12, 2009) submitted by BrightFields Environmental on behalf of Toll Brothers, Inc. DNREC has determined that the tasks required by the Remedial Action Work Plan have been performed to the technical and substantive standards of the Hazardous Substance Cleanup Act, 7 Del.C.9101.

With this letter, the only outstanding DNREC commitment under the MOU is the review of lot by lot sampling results after bulk grading of the site.

Sincerely,

Stephen F. Johnson, PE
Site Investigation & Restoration Branch

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pc: Timothy Ratsep, DNREC
Andrew Semon, Toll Brothers
Lee DePersia, BrightFields

Delaware's good nature depends on you!

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MEMORANDUM OF UNDERSTANDING
BETWEEN THE
DELAWARE DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL
CONTROL
AND THE GOVERNMENT OF
NEW CASTLE COUNTY, DELAWARE

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I. PURPOSE

- A. The Delaware Department of Natural Resources and Environmental Control – Site Investigation and Restoration Branch (“DNREC-SIRB”) and the New Castle County Government (“NCC”) enter into this Memorandum of Understanding (“MOU”) in order to facilitate the remediation of the contamination present at the Delaware National Golf Course – Hercules Road Property (tax parcels 08-026.00-052 and 08-033.00-001) (“Hercules”).

II. BACKGROUND

- A. DNREC-SIRB and NCC enter into this initiative to ensure the protection of the public health and the environment. Both agencies recognize that a key factor to meet these goals is to exercise their authorities to assure appropriate evaluation and remediation of Hercules.
- B. Since July 1990, DNREC-SIRB has been addressing sites with releases of hazardous substances under the Delaware Hazardous Substances Cleanup Act (“HSCA”), 7 Del.C.9101; however, HSCA explicitly excludes “[t]he appropriate application of fertilizer and pesticide”. DNREC-SIRB has not found any information that would indicate the misapplication of fertilizers and/or pesticides at Hercules, therefore, DNREC has determined that Hercules cannot legally be considered a HSCA release site; however, Hercules is contaminated as a result of decades of pesticide and/or fertilizer applications.
- C. DNREC-SIRB recognizes that NCC does not have the authority or expertise to soundly review and comment on environmental reports regarding the contamination at Hercules.

D. Despite the lack of HSCA authority, NCC and DNREC-SIRB seek to protect public health and the environment by using DNREC-SIRB's technical oversight and assistance. This will be achieved by implementing the following strategic goals:

1. The technical standards to be used for the protection of human health and the environment by DNREC-SIRB will be identical to what is applied to any HSCA regulated site in Delaware, even though DNREC has determined Hercules is not a HSCA site.
2. DNREC-SIRB agrees to oversee the remediation of Hercules consistent with the standards and normal practices employed by DNREC-SIRB. DNREC-SIRB will provide technical assistance, oversight and comments to NCC and Toll Brothers regarding the investigation and remediation of Hercules and whether or not the technical and substantive requirements of HSCA are met by the remediation. Toll Brothers will maintain the responsibility for the actual remediation in conjunction with BrightFields.
3. DNREC-SIRB agrees to provide the following specific types of technical assistance and oversight to ensure that investigation and remediation procedures are followed to ensure the protection of human health and the environment:
 - a. Stage I: DNREC-SIRB has already reviewed the Remedial Investigation prepared by Toll Brothers' consultant, BrightFields Inc., and determined that it was technically sufficient to proceed to the next step of the remediation process.
 - b. Stage II: A proposed Remedial Action Plan was then reviewed by DNREC-SIRB and offered for public review. DNREC-SIRB agrees to host and/or participate in public forums designed to answer questions about the remediation process.
 - c. Stage III: DNREC-SIRB will review the Final Remedial Action plan and determine whether it meets the substantive technical requirements of HSCA.
 - d. Stage IV: DNREC-SIRB will review the Remedial Action Work Plan.
 - e. Stage V: DNREC-SIRB will review the completion report for general site work as soon as the work and that report are completed. Upon completion of the remedy DNREC-SIRB will not be providing a certificate of completion of remedy as is generally the case under HSCA. Instead, upon completion of

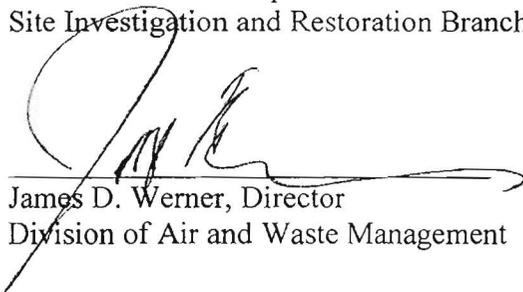
the remedy DNREC-SIRB agrees to provide documentation stating that the site is cleaned up to the technical and substantive standards of HSCA

- f. Stage VI: DNREC-SIRB will review lot by lot sampling results after the bulk grading of all or a portion of the site.
- 4. In every stage of the review process DNREC-SIRB will be determining whether the technical and substantive requirements of HSCA are met and if they are met will provide documentation to NCC that the technical and substantive standards of HSCA have been met for that stage.

III. BASIS

- A. This agreement has been developed by mutual cooperation and consent between DNREC-SIRB and NCC. DNREC-SIRB costs will be paid under a separate agreement by Toll Brothers.
- B. Nothing in this Agreement relates to or affects any authorities available to either agency except for those explicitly stated. Both parties reserve all rights under any other applicable laws or regulations.

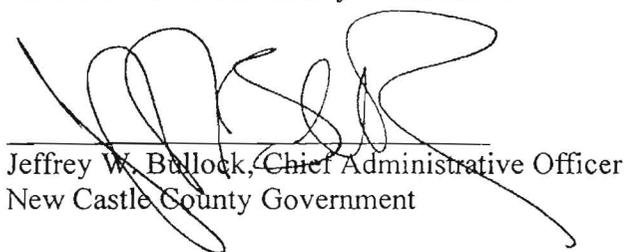
For the Delaware Department of Natural Resources and Environmental Control –
Site Investigation and Restoration Branch:



James D. Werner, Director
Division of Air and Waste Management

21 MAR 2007
Date

For the New Castle County Government:



Jeffrey W. Bullock, Chief Administrative Officer
New Castle County Government

3.21.07
Date