



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

File  
Admin Record  
Ash Landfill

MAR 11 2009

Mr. Stephen M. Absolom, Commander Representative  
**Seneca Army Depot Activity (SEDA)**  
5786 State Route 96  
PO Box 9  
Romulus, NY 14541-0009

00646



Re: Seneca Army Depot Activity Superfund Site - Ash Landfill (SEADs 3, 6, 8, 14 and 15)  
Operable Unit: Determination Pursuant to CERCLA 120(h)(3)(B)1) that Remedial Action is  
Operating Properly and Successfully

Dear Mr. Absolom:

The U. S. Environmental Protection Agency (EPA) has been advised by letter dated June 6, 2008 from Parsons, Inc. (Parsons), written on behalf of the United States Army (Army), that the Army has determined that the remedial action for the Ash Landfill (SEADs 3, 6, 8, 14 and 15) Operable Unit (OU) at the Seneca Army Depot Activity in Seneca County New York (SEDA), is in place and operating properly and successfully (OPS) in accordance with the requirements of Section 120(h)(3) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §9620(h)(3). Parson's letter provided a narrative discussion based on data and analysis contained in reports and documents cited in their letter. Separately, by letter dated February 26, 2009, you, Mr. Stephen M. Absolom, Installation Manager of SEDA, certified that, based on a thorough review, the information, data and analysis provided in Parson's June 6, 2008 letter was true and accurate and that, to the best of your knowledge, the remedy at the Ash Landfill OU is operating properly and successfully in accordance with CERCLA Section 120(h)(3)(B).

Under Section 120(h)(3) of CERCLA, property transfer deeds for federal property are required to include a covenant warranting that all remedial actions necessary to protect human health and the environment with respect to any hazardous substance remaining on the property have been taken before the date of transfer, and that any additional remedial action found to be necessary after the date of transfer shall be conducted by the United States. Where long-term remedial actions are necessary, CERCLA also provides that the covenant can be given if the construction and installation of an approved remedial design has been completed, and the remedy has been demonstrated to EPA to be operating properly and successfully. Thus, ongoing requirements for groundwater treatment, monitoring, and/or other operation of a remedy which has been demonstrated to be operating properly and successfully do not preclude the transfer of the property.

EPA has reviewed the Army's determination and supporting documents in accordance with EPA's "Guidance for Evaluation of Federal Agency Demonstrations that Remedial Actions are Operating Properly and Successfully under CERCLA Section 120(h)(3)" (Interim-August 1996) and the "Final Guidance for Institutional Controls and Property under CERCLA Section 120(h)(3)(A), (B) or (C)" (January 2000). The determination that a remedy is operating properly and successfully is a precondition to the deed transfer of federally owned property in accordance with Section 120(h)(3). A federal agency can transfer real property subject to Section 120(h)(3) by deed once a remedial action has been constructed and installed but before the cleanup objectives have been met, provided that the federal agency can demonstrate to EPA that the remedial action is operating properly and successfully.

EPA hereby approves the Army's OPS demonstration. In connection with its approval, EPA has reviewed Parson's June 6, 2008 letter and certain of the documents referred to therein, including The Annual Report and One-Year Review for the Ash Landfill submitted by the Army to EPA in March 2008 (Annual Report), the Technical Memorandum and related design report, and such other documentation referred to in Parson's letter as EPA deemed necessary, and EPA has also reviewed the LUC Remedial Design (January 2009 Addendum to December 2006 LUC RD) for the Ash Landfill. Please note, however, that EPA's approval of this OPS demonstration is made without any independent investigation or verification of the information used to support it. EPA expressly reserves all rights and authorities related to information that may be incorrect or that may not have been contained in the Army's documentation.

The Army's request as submitted for EPA approval is based on the following:

1. Installation and successful operation of three dual biowall systems (A1/A2, B1/B2, C1/C2) to address volatile organic compounds (VOCs) in groundwater that exceed New York State Department Conservation's (NYSDEC's) Class GA groundwater standards.
2. Construction and establishment of a 12-inch vegetative cover over the Ash Landfill and the Non-Combustible Fill Landfill (NCFL) to prevent ecological receptors from coming into direct contact with the underlying soils contaminated with metals and polycyclic aromatic hydrocarbons (PAHs).
3. Excavation and disposal of Debris Piles A, B and C.
4. Re-grading of the Incinerator Cooling Water Pond to promote positive drainage.
5. Implementation and enforceability of Land Use Controls.

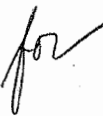
As part of the remedial action post-closure effort for the Ash Landfill OU, a long-term groundwater monitoring (LTM) is being performed as required by the ROD. The Annual Report provided an assessment of the results for the 2007 LTM year. The Annual Report presented an analysis of the remedial action's compliance with the requirements of the system operating

properly and successfully.

Documentation of this OPS demonstration and approval should be included in your permanent administrative record for this site and incorporated into any Finding of Suitability derived for the purpose of transferring property to third parties. This will assure that such third parties, as well as the community and future users, have access to the information used in this process. If you have any questions about this letter, please contact Ms. Angela Carpenter of my staff at (212) 637-4435.

Sincerely,



for  Walter Mugdan, Director  
Emergency and Remedial Response Division

cc: D. Desnoyers, NYSDEC  
K. Gupta, NYSDEC  
T. Heino, Parsons  
A. Abernathy, USEPA, FFRRO