

PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

CONTAMINATED SITE REMEDIATION & REDEVELOPMENT PROGRAM

Notice to Receive Interested Party Comments on Proposed Modifications to the Direct Oversight Requirements for the Macarthur Petroleum & Solvent Co. Site at 126 Passaic Street in Newark City, Essex County, Department Program Interest Number 005673.

Take notice that the New Jersey Department of Environmental Protection (“Department”) hereby gives notice of proposed modifications to the requirements of direct oversight under N.J.S.A. 58:10C-27(c) and N.J.A.C. 7:26C-14.2(b) (“Direct Oversight”). The Department is providing public notice of the proposed modifications in accordance with the Site Remediation Reform Act (“SRRA”) at N.J.S.A. 58:10C-27(g)(2), and upon the determination that the adjustments set forth herein are in the public interest, protective of public health and safety, and the environment.

The property referenced above, and all other areas where hazardous substances discharged therefrom have come to be located (“Site”), is in Direct Oversight because the party responsible for conducting the remediation of the Site has violated one or more statutory, mandatory, and/or expedited site-specific remediation timeframes established pursuant to SRRA: specifically, failure to submit a light non-aqueous phase liquid (“LNAPL”) interim remedial measure (“IRM”) report by the mandatory timeframe of March 1, 2012; and failure to submit a Remedial Investigation Report (“RIR”) by the mandatory timeframe of March 1, 2019. To address these violations, and demonstrate that adjustments to Direct Oversight are protective of public health and safety, and the environment, and are in the public interest, Fast Oil Co. (“Ordered Party”) has agreed to execute a consent judgment (“Consent Judgment”) whereby it will return to compliance by, among

other things: (a) retaining a licensed site remediation professional (“LSRP”); (b) submitting a public participation plan; (c) submitting an LSRP-certified remediation cost review; and (d) posting a remediation funding source (“RFS”) (excluding a self-guarantee) to financially guarantee the completion of the remediation within the timeframes established by the Consent Judgment. In addition, the Ordered Party has agreed to pay a penalty to resolve past remediation-timeframe violations. Under the terms of the Consent Judgement, the following proposed adjustments to Direct Oversight would be made:

- 1) Within 24 months of the effective date of the Consent Judgment, with no extensions, the Ordered Party shall implement an LNAPL IRM and submit to the Department an LNAPL IRM report prepared pursuant to N.J.A.C. 7:26E-1.10;
- 2) Within 30 months of the effective date of the Consent Judgment, with no extensions, the Ordered Party shall submit to the Department an RIR, pursuant to N.J.A.C. 7:26E-4.9, based upon an RI of the Site conducted pursuant to N.J.A.C. 7:26E-4;
- 3) If the above due dates are met, additional proposed Direct Oversight adjustments are earned as follows:
 - a) The Ordered Party may proceed with the remediation without prior Department approval;
 - b) The Ordered Party may pay annual remediation fees pursuant to N.J.A.C. 7:26C-4.3(a) in lieu of Direct Oversight costs;
 - c) The Ordered Party does not have to submit a feasibility study to the Department;

- d) The Ordered Party does not have to submit a receptor evaluation pursuant to N.J.A.C. 7:26C-14.2(b)(2)(iv);
 - e) The Ordered Party shall maintain an RFS in the form of a letter of credit, line of credit, surety bond, a remediation trust fund, or an environmental insurance policy pursuant to N.J.A.C. 7:26C-5 in an amount equal to the LSRP-certified detailed remediation cost review;
 - f) The Ordered Party does not have to submit a Direct Oversight remediation summary report; and
 - g) The Ordered Party may select the protective remedial actions (“RAs”) for the Site pursuant to N.J.A.C. 7:26C and N.J.A.C. 7:26E.
- 4) Within five years of the effective date of the Consent Judgment, the Ordered Party shall complete the implementation of all RAs and apply for all applicable remedial action permits (“RAPs”) for the Site.
- 5) Within 60 days of receiving all applicable RAPs for the Site, the Ordered Party shall submit to the Department a final RA report pursuant to N.J.A.C. 7:26E-5.8 and a Response Action Outcome (“RAO”) for the Site pursuant to N.J.A.C. 7:26C-6.2, based upon the implementation of RAs at the Site in accordance with N.J.A.C. 7:26C and N.J.A.C. 7:26E.

Should the Ordered Party fully comply with the terms of the Consent Judgement, additional adjustments to Direct Oversight under #3 above may be granted, allowing the case to proceed in a manner consistent with the intent of SRRA and the LSRP program, with the exception that the Ordered Party shall continue to post an RFS. The RFS is based on an annual remediation cost review certified by an LSRP, and is required until the remediation is completed with the LSRP

retained to complete the remediation issuing either: (a) an unrestricted use RAO; or (b) either a limited restricted use or restricted use RAO that includes requirements to comply with an approved RAP.

However, if the Department determines, in its sole discretion, that the Order Party has failed to materially comply with any provision of the Consent Judgment, or that any submission is incomplete or otherwise insufficient, the Department may apply for a court order to address such failure or defective submission.

- 1) Court orders sought pursuant to this paragraph may include, but shall not be limited to, any of the following relief, either singly, or in combination:
 - a) The Ordered Party shall not make any disbursements from the RFS without the Department's prior written approval pursuant to N.J.A.C. 7:26C-14.2(b)(6);
 - b) The Ordered Party shall submit to the Department a feasibility study of potential alternatives for each area of concern at the Site, as the Department directs and pursuant to N.J.A.C. 7:26C-14.2(b)(3) and U.S. Environmental Protection Agency, "The Feasibility Study: Detailed Analysis of Remedial Action Alternatives," (March 1990) OSWER 9355.3-01FS4, NTIS: PB90-272675INX;
 - c) The Ordered Party shall submit to the Department a receptor evaluation pursuant to N.J.A.C. 7:26C-14.2(b)(2)(iv);
 - d) The Ordered Party shall maintain an RFS in the form of a remediation trust fund pursuant to N.J.A.C. 7:26C-5 in an amount equal to the LSRP-certified detailed remediation cost review;

- e) The Ordered Party shall submit to the Department a Direct Oversight remediation summary report, pursuant to N.J.A.C. 7:26C-14.2(b)(2)(v); and
- f) The Ordered Party shall, as the Department directs, implement each RA at the Site, pursuant to N.J.A.C. 7:26C-14.2(b)(4).

Based on the Consent Judgement, and there being no known impacts to public health at this time, the Department concludes that these modifications to the requirements of Direct Oversight are in the public interest and are protective of public health and safety. With the Ordered Party agreeing to the Consent Judgement, which includes a financial commitment established as an RFS, Department resources are best utilized by allowing this matter to proceed under an LSRP who is obligated to ensure the remediation is protective of public health and the environment.

In accordance with SRRA at N.J.S.A. 58:10C-27(g)(2), the information above serves as the Department's written determination of, and rationale for, the proposed modifications to the requirements of Direct Oversight. The action set forth herein shall not be effective until at least 60 calendar days from the date of this notice.

Nothing in this public notice affects the potential liability and obligations of the Ordered Party, or any other person, to the State Trustee, the Department, or its Commissioner, regarding natural resource injuries or damages.

A copy of the Department's files concerning the Site is available for review by contacting the Office of Record Access, NJDEP, PO Box 420, Mail Code 401-06Q, Trenton, NJ 08625-0420 or via e-mail at records.custodian@dep.nj.gov.

Interested persons may submit written comments on the proposed adjustments to Direct Oversight to Stephen Bogan, Enforcement Manager, NJDEP, Contaminated Site Remediation &

Redevelopment, Bureau of Enforcement and Investigation, 401 East State Street, P.O. Box 420 - Mail Code 401-06U, Trenton, NJ 08625-0420, or electronically at Stephen.Bogan@dep.nj.gov.

All comments must be submitted within 30 calendar days of the date of this public notice. The Department will consider all comments received and may decide to withdraw or withhold consent to the proposed adjustments to Direct Oversight if comments disclose facts or considerations that show that the adjustments to Direct Oversight are inappropriate, improper, inadequate, or not protective of public health and safety and the environment.

The Consent Judgment will not be effective unless and until it is executed by a New Jersey Superior Court judge, and all parties to the civil lawsuit entitled New Jersey Department of Environmental Protection, et al. v. Fast Oil Co., et al., ESX-C-183-21 (Ch. Div. Oct. 8, 2021). Any execution of the Consent Judgment shall take place following the 60-calendar-day period following the posting of this notice.