



west virginia department of environmental protection

Office of Environmental Remediation
601 57th Street SE
Charleston, WV 25304
Phone: 304-926-0455

Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
dep.wv.gov

February 27, 2015

Certified Mail #91 7199 9991 7034 3257 1284

Mr. Mark Welch
Chief Restructuring Officer
Freedom Industries
1015 Barlow Drive
Charleston, WV 25311

RE: Revised Voluntary Remediation Program Application, VRP Project # 15017
Freedom Industries, Charleston, Kanawha County

Dear Mr. Welch:

A review has been completed of the Revised Voluntary Remediation Program Application submitted February 23, 2015 for Freedom Industries (Freedom) in Charleston, WV. The West Virginia Department of Environmental Protection (WVDEP) has determined that the application is satisfactory; therefore, the application is accepted subject to some additional minor correction. WVDEP is requesting clarification and/or additional information for the following items – these items must be addressed before the Voluntary Remediation Agreement (VRA) is finalized:

1) Financial Capability

WVDEP is satisfied that sufficient financial documentation has been submitted to ensure that Freedom will complete the voluntary remediation process. However, WVDEP will require further discussion regarding the expected costs during the negotiation of the VRA. In particular, WVDEP will be requesting clarification of estimates provided for ongoing remediation and additional site assessment. No estimate was provided for any possible monitoring needs during and following remedial action, so WVDEP is requesting this be determined.

2) NAICS Code

Additional information is needed to demonstrate that the NAICS Code chosen in the application is the same as that being reported to the bankruptcy court. The revised application still contained a code that does not match the bankruptcy reports.

3) Clarification of Site Area

WVDEP expects clarification of what constitutes the site acreage during the site assessment process, not at the end of the project during negotiation of any Land Use Covenant. Note that the site acreage in the site survey differs from that in the property deed and tax map. WVDEP must ensure that any area that requires investigation is addressed during the site assessment phase of the project.

4) Distance to WVAVC Water Intake

Distance to the West Virginia American Water Company (WVAVC) intake on the Elk River must be more accurately determined. WVDEP was able to get a better estimate from a map than the 7000 foot estimate provided in the revised application.

Replacement pages for the application hard copies as well as an updated copy on disk must be submitted within 31 days (i.e., prior to finalization of the VRA).

You should now also proceed with the next steps of the program:

A) Preparation and Negotiation of the Voluntary Remediation Agreement

The Voluntary Remediation and Redevelopment Act (VRRRA) states that the parties are to negotiate a Voluntary Remediation Agreement (VRA) within thirty-one (31) days of the acceptance of the application. WVDEP expects the VRA to be finalized within 31 days without extension, in the public interest and based on Freedom's statements of limited financial resources. The template for the VRA is available on the Voluntary Remediation Program's webpage (<http://www.dep.wv.gov/dlr/oer/voluntarymain/Pages/default.aspx>) under the template section. Please submit a draft of the VRA to me via email for discussion and concurrence prior to signing and submitting for WVDEP signature.

B) Establishment of the Public Repository

Public participation requirements include the establishment of the Public Repository for all current and future information associated with the site. The Public Repository for the project should be established at this time. The county or municipal clerk for the project community should designate the location of the repository based on the site location; a public library or the County Clerk's office are common locations.

C) Circulation of the Public Notice

The Public Notice Checklist is available on the Voluntary Remediation Program's webpage under the template section. Complete the checklist and submit a draft public notice to me via email for review. WVDEP expects the public notice to be published within the 31-day time period for negotiation of the VRA. Once the public notice is finalized, WVDEP will publish in the newspaper local to the site.

If necessary, you may request example public notices through the Freedom of Information Act (FOIA) process by contacting the WVDEP Public Information Office at DEPFOIA@wv.gov.

D) Execution of the Initial Site Visit

Please contact me to arrange an initial site visit. During the site visit, we will observe pertinent site features and confirm or identify areas of potential environmental concern so that these may be appropriately addressed under the VRA and associated work plans. A WVDEP risk assessor will be present to discuss any potential risk assessment issues; WVDEP requests that your project risk assessor or associated representative also attends.

Thank you for your participation in the Voluntary Remediation Program. We look forward to your involvement in the program, with the common goal of securing a Certificate of Completion for the site so that the property will remain in productive and protective use for the citizens of West Virginia. If you have any questions, please contact me by phone at 304-926-0499, ext. 1265 or email at David.W.Long@wv.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dave Long", with a stylized flourish at the end.

Dave Long
Project Manager

cc: Ira Buchanan, LRS
Charleston File # 15017

ec: Patty Perrine, Interim Program Manager, WVDEP/OER