pennsylvania
DEPARTMENT OF ENVIRONMENTAL PROTECTION

June 6, 2022

Ms. Anne Garr, Esq.
Hilco Redevelopment Partners
111 S. Wacker Drive, Suite 3000
Chicago, IL 60606

Re: Site Characterization Report/Remedial Action Plan Disapproval
Storage Tank System Release June 23, 2021
Facility ID No. 51-33620
Incident No. 56446
Phila Ref Point Breeze Proc Area
3144 West Passyunk Avenue
City of Philadelphia
Philadelphia County

Dear Ms. Garr:

The Department of Environmental Protection (DEP) has reviewed the documents titled "Site Characterization Report – Tank Group 01", dated February 2022 and received on February 21, 2022, and "Remedial Action Plan – Tank Group 01"dated April 2022 and received on April 7, 2022 for the release referenced above. The documents were prepared by Terraphase Engineering and submitted as a Site Characterization Report (SCR) and Remedial Action Plan (RAP) as required by 25 Pa. Code Section 245.310 and Section 245.311, respectively. You selected the nonresidential Statewide health standard (SHS) as the remediation standard for soil and groundwater.

In accordance with 25 Pa. Code Section 245.311(b), DEP disapproves the SCR and RAP based on the following:

1. Complete Aboveground Storage Tank (AST) Closure Reports were not submitted as part of the SCR, so the sources of contamination could not be determined or confirmed as required by 25 Pa. Code Section 245.309(a) and (b)(3), as referenced by 25 Pa. Code Section 245.310(a).
2. A statement certifying that a site-specific plan was implemented in accordance with Occupational Safety and Health Administration (OSHA) requirements in 29 Code of Federal Regulations (CFR) 1910.120 was not included in the SCR, as required by 25 Pa. Code Section 245.310(a)(11).
3. Site characterization was not complete as required by 25 Pa. Code Section 245.309(b), as referenced by 25 Pa. Code Section 245.310(a)(12). AST Closure samples were not consistently collected from the appropriate depths, resulting in incomplete soil delineation at the 1-foot and 3-foot intervals in select locations at all four tank areas. In addition, soil delineation was not complete for lead or 1,2-dibromoethane (1,2-EDB) around tanks PB-663, PB-666, or PB-668. Lastly, potential impacts to groundwater were not sufficiently evaluated.
4. Groundwater contour maps were not included as required by 25 Pa. Code Section 245.310(a)(16).

5. Contaminant distribution maps were not included for soil as required by 25 Pa. Code Section 245.310(a)(22).
6. The disposition of characterization wastes was not documented as required by 25 Pa. Code Section 245.310(a)(24) as disposal documentation was missing from the AST Closure Reports.
7. A future remedy option of managing impacted soil consistent with the approved Soil Management Plan is not a Statewide health standard remedy and does not satisfy the requirements of 25 Pa. Code Sections 245.310(a)(30).
8. The future vapor intrusion exposure pathway was not addressed, as required by 25 Pa. Code Sections 245.309(c)(12), as referenced by 25 Pa. Code Section 245.310(a), and 245.310(a)(32).
9. DEP cannot fully evaluate the RAP until and approvable SCR is submitted. However, DEP notes the following: The RAP does not sufficiently explain how the proposed remedial action will meet the selected Statewide health standard as required by 25 Pa. Code Section 245.311(a)(4).
    a. The proposed synthetic precipitation leaching procedure (SPLP) sampling has not been conducted to determine the soil specific SHS for each COC, and to know if this is a viable approach. The proposed limits of excavation may change pending the SPLP results. In addition, the alternative remedy of soil management consistent with the approved Soil Management Plan is a site-specific standard remedy and cannot be used for sites where Statewide health standards are selected.
    b. It is not clear to PADEP if these lead impacts in soil to be addressed by Evergreen include impacts to Tank Group 1 since the impacts in that specific area were not known at the time of the execution of the agreement.
    c. A plan to address 1,2 EDB and benzo(a)pyrene impacts is needed.
    d. The vapor intrusion pathway was not considered as part of the remedy selection.
10. Soil lithology was not described for PB-672-11 in accordance with 25 Pa. Code Section 245.310(a)(14).
11. The potential for surface water impacts were not evaluated as part of this report in accordance with 25 Pa. Code Section 245.310(a)(29).
12. The area of impacted soil with respect to ecological assessment under SHS was not evaluated in accordance with 25 Pa. Code Section 245.310(a)(28).

In addition to the above deficiencies, additional clarification is needed for the following item:

1. Addressing the presence of obvious contamination in field observations, but not reporting the condition to PADEP or sampling each location where it was observed.

Based on this disapproval, you should correct the deficiencies and submit a revised SCR/RAP in keeping with 25 Pa. Code Section 245.311(b)(4).

Any person aggrieved by this action may appeal the action to the Environmental Hearing Board (Board), pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. § 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A. The Board's address is:

Environmental Hearing Board
Rachel Carson State Office Building, Second Floor
400 Market Street
P.O. Box 8457
Harrisburg, PA 17105-8457

TDD users may contact the Environmental Hearing Board through the Pennsylvania Relay Service, 800.654.5984.

Appeals must be filed with the Board within 30 days of receipt of notice of this action unless the appropriate statute provides a different time. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

A Notice of Appeal form and the Board's rules of practice and procedure may be obtained online at http://ehb.courtapps.com or by contacting the Secretary to the Board at 717.787.3483. The Notice of Appeal form and the Board's rules are also available in braille and on audiotape from the Secretary to the Board.

IMPORTANT LEGAL RIGHTS ARE AT STAKE. YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD AT 717.787.3483 FOR MORE INFORMATION. YOU DO NOT NEED A LAWYER TO FILE A NOTICE OF APPEAL WITH THE BOARD.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST BE FILED WITH AND RECEIVED BY THE BOARD WITHIN 30 DAYS OF RECEIPT OF NOTICE OF THIS ACTION.

If you have any questions, please contact Lisa Strobridge, PG by email at lstrobridge@pa.gov or by telephone at 484.250.5796.

Sincerely,

Ragesh R. Patel

Ragesh R. Patel
Regional Manager
Environmental Cleanup and Brownfields

cc: Ms. Ranford, Philadelphia Department of Public Health
Philadelphia L&I
Ms. Connolly, Hilco Redevelopment Partners
Mr. Jeray, Hilco Redevelopment Partners
Mr. Long, Terraphase
Mr. Scala, Terraphase
Mr. Glass
Mr. Staron
Ms. Strobridge