

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of General Counsel

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MEMORANDUM

TO: Andrew Guglielmi, Director, DER
FROM: Alali Tamuno ^{AT} THRU Jennifer Andaloro, Section Chief, Remediation Bureau
RE: Kisco Avenue Groundwater, Site No. 360203
ACCESS AGREEMENT
DATE: June 23, 2022

Attached for the DER Director's signature are three original signature copies of an *Access Stipulation for Purposes Authorized Pursuant to Article 27 of the Environmental Conservation Law* regarding real property located at 41 Kensico Drive, Mt. Kisco, Westchester County, New York (the "Property").

Differences Between the Final and Model Agreement: There are deviations from standard DEC language. Additional language is added to indicate that: DEC will notify the owner of the Property three business days in advance of specified remedial activities, so-called "Approved Activities"; the owner may enter the Property at any time with full access to review the Approved Activities and to inspect, maintain and repair owner's facilities; DEC agrees to indemnify and hold harmless the owner to the extent provided in the Access Stipulation; DEC shall work cooperatively with the owner and ensure that the Approved Activities are conducted in a manner that does not interfere with the occupancy and use of the Property; the owner may serve a written sixty days notice upon the DEC canceling the Agreement; DEC shall not perform any repair or maintenance of vehicles on the Property without the owner's written permission; DEC may not maintain any permanent buildings or structures on the Property; DEC at its cost or expense will restore the Property to its former condition; DEC's obligations to obtain permits for the Approved Activities is as set forth in 6 NYCRR Section 375-1.12; DEC's contractor's insurance requirements and insurance limits are fully set forth in the Access Stipulation and attached as an Appendix to the Access Stipulation; DEC covenants that the Approved Activities will be performed at no cost or expense to the owner; and DEC will give the owner thirty days written notice should DEC determine that additional work is required.

Additional Issues: The owner of the Property is participating in the BCP as a Volunteer with respect to the Former Designs for Leisure, Site No. C360163.

The owner of the Property did not execute the Access Stipulation at the time DEC conducted sampling in relation to the Kisco Avenue Groundwater Site No. 360203 in April 2022. However, the DEC may require access to the Property in the near future if DEC is unable to narrow the source of contamination associated with the Kisco



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Avenue Groundwater Site based on the April 2022 sampling. The current Access Stipulation is effective through August 2023.

Recommendation: I recommend that the DEC execute the Agreement.

ec (w/o attach.):

M. Kilmer

D. Bendell

J. Brown