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December 13, 2006

John K. Urda, Assistant Regional Attorney
New York State Department of Environmental Conservation
Division of Legal Affairs, Region 2
47-40 21st Street
Long Island City, New York 11101-5407

Re: Penta One LLC

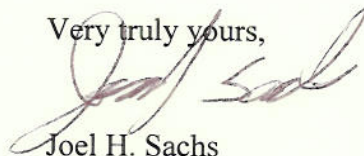
Dear John:

Pursuant to our recent discussion, I am pleased to enclose herein two sets of the Stipulation and Corrective Action Plan as signed by our client. Please have the Stipulation executed by the appropriate official and the Department and then return one set to our office. We will assume that the milestones will not commence running until we receive a fully executed Stipulation.

Also, you will recall that I had requested that the Department make a modification in paragraph 4 of the Stipulation in regard to the Department's right to pursue claims against the Respondent for violations of the Navigation Law or the ECL in regard to this situation. At that time, you indicated to me that after discussing this matter with Lou Oliva, Esq., the Department as a matter of policy could not change this paragraph, but that if our client satisfactorily performed the remediation, the Department would not pursue penalties regarding any potential contamination on its site or offsite.

In any event, thank you for your assistance in finalizing this agreement. Best wishes for a happy holiday season.

Very truly yours,



Joel H. Sachs

JHS/sb

Encl.

cc: Stuart Rubinfeld
Ben Korman
Michael McEachern

9900/01/311529 V1 12/13/06




NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

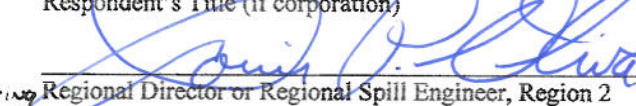
STIPULATION PURSUANT TO SECTION 17-0303 OF THE ENVIRONMENTAL
CONSERVATION LAW AND SECTION 176 OF THE NAVIGATION LAW BY:
Penta One Realty LLC, Respondent Spill No. 05-51708

1. The Department of Environmental Conservation is the agency responsible for the cleanup and removal of discharges of petroleum pursuant to Article 12 of the Navigation Law and Article 17 of the Environmental Conservation Law.
2. Respondent has agreed to clean up and remove a discharge of petroleum which occurred on February 1, 2005 at 173 East 156th Street, Bronx, New York (the "Site") by taking the steps and according to the conditions set forth in the Corrective Action Plan attached to this Stipulation.
3. Respondent and its employees, servants, agents, lessees, sublessees, successors, and assigns hereby waive any right to pursue reimbursement of monies expended by Respondent prior to the Termination Date as against the State of New York or the New York Environmental Protection and Spill Compensation Fund (the "Spill Fund"), and agree to indemnify and hold harmless the Spill Fund from any and all legal or equitable claims, suits, causes of action, or demands whatsoever with respect to the Site that any of same has or may have as a result of Respondent's entering into or fulfilling the terms of this Stipulation with respect to the Site.
4. This Stipulation does not affect the Department's right to pursue any claims that the Department may have against Respondent, including but not limited to, claims for alleged violations of the Navigation law or the Environmental Conservation law. This Stipulation does not affect any defenses that Respondent may have to any such claims.
5. Respondent, without admitting liability, consents to the issuance of this Stipulation, waives the right to notice and hearing with respect to the issuance and entry of this Stipulation as provided by law, and agrees to be bound by the terms of this Stipulation, including any attachments thereto.
6. This Stipulation is equivalent to an order pursuant to ECL §17-0303 and a directive pursuant to NL §176 and is enforceable as such.
7. The Corrective Action Plan may be modified in writing as may be agreed between the parties. The Corrective Action Plan may be modified by the Department in the same manner as a Department permit. In the event of a conflict between the terms of this Stipulation and any Corrective Action Plan submitted pursuant to this Stipulation, the terms of this Stipulation shall control over the terms of the Corrective Action Plan(s).
8. The effective date of this Stipulation is the date it is signed by the Department. This Stipulation shall terminate when the Department issues a written determination that no further remedial activities are required with respect to the petroleum discharge at the Site (the "Termination Date").

12/12/06
Date


Respondent's Signature*
Stuart Rubinfeld, Managing Member
Respondent's Title (if corporation)

12/18/06
Date


Acting Regional Director or Regional Spill Engineer, Region 2

*NOTE:: If stipulation is with a corporation, the respondent must be an official, authorized corporate representative.

2006 DEC 19 AM 4:08

NYSDOEN REGION 2

Corrective Action Plan for Spill No. 05-51708

1. If liquid phase hydrocarbons are present in groundwater, Respondent shall immediately conduct gauging and recovery visits on a weekly basis until a permanent remediation system is installed and operating.
2. If additional delineation is necessary, within 20 days of execution of this agreement, the Respondent must submit to the DEC for review and approval an Investigation Plan (IP) proposal to install additional groundwater monitoring wells as feasible and necessary to complete the delineation of soil and groundwater contamination both on-site and off-site.
3. Within 60 days of DEC approval of proposal referenced in paragraph 2 above Respondent shall initiate access requests as needed. The NYSDEC shall assist the Respondent in communicating access requests to off site property owners as necessary. Access terms may require modification to the scope of work. Delays or revisions that are beyond the control of the Respondent, including but not limited to (a) failure to obtain access to a property after using reasonable efforts to do so (b) access provided only on condition of payment in excess of reasonable and customary amounts for such access (c) or delays resulting from weather.
4. Within 120 days of the effective date of this Order, Respondent shall submit to the Department, for its approval, an Investigation Summary Report (ISR) that completely delineates soil and groundwater contamination both on-site and off-site.
5. Within 60 days of receipt of DEC approval of Investigation Summary Report, Respondent shall prepare and submit a Remedial Action Plan (RAP) to the DEC. The RAP shall detail the work proposed to remediate, as necessary, contaminated media identified in the ISR and include an implementation schedule. The RAP shall also include, as applicable, an Operation, Maintenance and Monitoring Plan (OMMP) in complying with pertinent sections of the DER-10 Technical Guidance for Site Investigation and Remediation drafted 12/25/02. The NYSDEC shall either approve or disapprove the plan and specifications in writing. If the submittal is disapproved, the NYSDEC shall specify any deficiencies and required modifications in writing. Within 30 days of receipt of the NYSDEC's disapproval notice, the Respondent shall submit a revised RAP which addresses the NYSDEC's comments correcting all deficiencies identified in the disapproval notice. Should the Respondent require additional time to complete the required task a written request for extension may be submitted to the NYSDEC.
6. Within 30 days of receipt of the NYSDEC's notice of approval of the revised RAP referenced in paragraph 5 the Respondent shall commence work in accordance to the implementation schedule contained within the RAP.
7. The approved RAP shall be made part of the stipulation agreement between Respondent and the NYSDEC.
8. The deadlines set forth above may be modified as agreed by the parties. Any further modifications to this Corrective Action Plan must be approved in advance by the NYSDEC.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

STIPULATION PURSUANT TO SECTION 17-0303 OF THE ENVIRONMENTAL
CONSERVATION LAW AND SECTION 176 OF THE NAVIGATION LAW BY:

Penta One Realty LLC, Respondent

Spill No. 05-51708

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Stuart Rubinfeld, Managing Member
Respondent's Title (if corporation)

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Regional Director or Regional Spill Engineer, Region 2

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