

JANE SWIFT
Governor

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Metropolitan Boston – Northeast Regional Office

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BOB DURAND
Secretary

LAUREN A. LISS
Commissioner

OCT 10 2002

Cambridge Electric Light Co.
2421 Cranberry Highway
Wareham, MA 02571
Attn: Stephen Wood

Re: Cambridge – 265 First St.
RTN 3-15243 & 3-15754
Response Action Outcome
Activity and Use Limitation
Interim Deadline

Southern Energy Kendall, LLC
900 Ashwood Parkway, Suite 500
Atlanta, GA 30338

**RAO SCREENING REVIEW
AUL SUMMARY COMPLIANCE REVIEW**

Dear Mr. Wood:

On November 27, 1998, the Department of Environmental Protection (the Department) received a Class A-3 Response Action Outcome (RAO) Statement for RTN 3-15243, a Class B-2 Response Action Outcome (RAO) Statement for RTN 3-15754, and an Activity and Use Limitation (AUL) for both RTNs. On August 5, 1998, the Legislature enacted the "Brownfields Act" which called on the Department to conduct a targeted audit of all sites at which AULs have been implemented in order to ensure that these actions are meeting the requirements of Massachusetts' laws and regulations, including Massachusetts General Law chapter 21E and the Massachusetts Contingency Plan (MCP). The Department's audit of this site consisted of an RAO Screening Review and an AUL Summary Compliance Review.

RESPONSE ACTION OUTCOME (RAO) SCREENING REVIEW

A screening review of the RAO was performed using a standard Department checklist. Examples of the Department's checklists are available on the Internet at <http://www.state.ma.us/dep/bwsc/audits.htm>. The Department is not directing you to undertake further response actions at this time. Please note, however, that the review conducted by the Department was not a comprehensive audit, and the Department reserves the right to conduct a comprehensive audit of the RAO at any time in the future. It is possible that a future audit, if one

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occurs, may identify deficiencies and/or violations of applicable laws and regulations, and may require you to undertake further response actions at the site.

AUL SUMMARY COMPLIANCE REVIEW

Chapter 206 of the Acts of 1998 (The Brownfields Act) requires that the Department conduct an audit of all sites with AULs. In carrying out this mandate, the Department has established special procedures for reviewing AULs recorded on or before October 29, 1999, including the AUL submitted as part of the RAO for your site. Please note that these procedures do not apply to AULs recorded on or after October 30, 1999, and this Summary of AUL Compliance Review should not be relied upon to predict audit results for such AULs.

Applying the procedures described above, the Department has identified an error in the AUL that requires correction. Specifically:

- The AUL does not adequately define what uses and activities are permitted at the site, what uses and activities are restricted, or what obligations and conditions must be maintained at the site.
 - (a) The AUL neither prohibits nor permits residential use. Since the Method 3 risk characterization calculated a significant risk for residential receptors, the AUL must prohibit residential use.
 - (b) The AUL requires maintenance of the pavement and/or stone cover, but does not identify the thickness required for the stone cover. The survey plan identifies two areas as "crushed stone". To ensure the maintenance of a condition of No Significant Risk, the AUL must indicate the depth of the crushed stone cover.
 - (c) While the AUL requires maintenance of the pavement and/or stone cover to prevent exposure to impacted soil immediately beneath the pavement and/or stone cover, it does not require maintenance of the buildings and/or concrete pads. The location of the buildings and concrete pads are identified on the survey plan. If there is impacted soil beneath the buildings and concrete pads, and their presence is necessary to maintain a condition of No Significant Risk, then the AUL must include a provision of their maintenance.
 - (d) The survey plan identifies a gravel area and a dirt area in the northern portion of the AUL area. The Method 3 risk characterization calculated significant risk for current on-site employees due to direct contact with impacted soil. The language of the AUL addresses impacted soil located under the pavement and/or stone cover, but it is not clear if impacted soil is present in the gravel and dirt areas. If it is necessary to limit exposure to soil (surface and/or subsurface) in the gravel and dirt areas, then the AUL must include a provision to prevent exposure to soil in these areas.

Please note that if the configuration of the asphalt, stone cover, concrete pads, buildings and gravel/dirt has changed significantly, a revised sketch plan may be completed to illustrate the current configuration. Delineation of these areas to be maintained is essential to ensure the maintenance of a condition of No Significant Risk.

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To correct this error, an Amendment and Ratification of Notice of Activity and Use Limitation must be implemented within 180 days of the date of this Notice, using the enclosed form and instructions. A revised sketch plan may be attached as Exhibit C to the Amendment and Ratification Form. Please note that the AUL Opinion must be prepared and attached to the Amendment and Ratification Form using Form 114S. Alternatively, you may submit a new RAO Statement within 180 days of the date of this Notice, documenting the achievement of a Class A-1, A-2, or B-1 RAO at the site (i.e. an RAO that does not rely on an AUL to maintain a level of No Significant Risk). This is an enforceable Interim Deadline issued pursuant to M.G.L. c.21E, 310 CMR 40.0167 and 310 CMR 40.1140. If you do not meet this deadline you will be subject to enforcement action by the Department.

On December 31, 1998, Cambridge Electric Light Company sold the 265 First Street property to Southern Energy Kendall, LLC. It is the responsibility of both the former and current property owners to correct the error identified in the AUL. However, the current owner of the property must sign the corrected AUL (Amendment and Ratification).

The Department has prepared forms and detailed instructions for implementing the required AUL corrections. Copies of the forms and instructions are attached, and are available on the Department's AUL Audit Project web page, <http://www.state.ma.us/dep/bwsc/files/audits/aulfix.htm>. This web page will be updated periodically to address any commonly asked questions that arise as a result of AUL audits.

The Department is also offering several training workshops in the next few months. The Department recommends that you (and/or the Licensed Site Professional (LSP)/attorney preparing your AUL corrections) attend one of these workshops if you have questions on how to proceed. The training schedule is also available on the Department's AUL Audit Project web page. To obtain a schedule and/or register for the workshops, contact Thomas Potter, DEP's Statewide Audit Coordinator at (617) 292-5628.

POST AUDIT COMPLETION STATEMENT REQUIRED

When the AUL Error is corrected, you should submit to the Department (attention: BWSC Audit Section) a Post-Audit Completion Statement in accordance with 310 CMR 40.1170, a copy of which is attached.

LICENSED SITE PROFESSIONAL

A copy of this letter has been sent to Michael Pierdinock, LSP # 4078, the LSP-of-Record for the Disposal site.

LIMITATIONS & RESERVATION OF RIGHTS

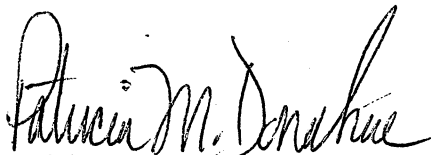
Please note that the screening review conducted by the Department on the RAO was not a comprehensive audit, and the Department reserves the right to conduct a comprehensive audit of the RAO at any time in the future. It is possible that a future comprehensive audit, if one occurs, may identify deficiencies and/or violations of applicable laws and regulations, may require you

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to undertake further response actions at the site, and may invalidate the AUL. The screening review is not a representation by the Department that the RAO complies with M.G.L. c. 21E, 310 CMR 40.0000, or any other laws, regulations, or requirements.

The Department's findings were based upon the accuracy and certainty of the information reviewed during the audit. These findings do not: (1) preclude future audits of past, current, or future actions at the site; (2) apply to actions or other aspects of the site that were not reviewed in the audit; (3) in any way constitute a release from any liability, obligation, action or penalty under M.G.L. c. 21E, 310 CMR 40.0000, or any other laws, regulations, or requirements. The Department retains authority to take or arrange, or to require any Responsible Party or Potentially Responsible Party to perform any response action authorized by M.G.L. c. 21E, which the Department deems necessary to protect health, safety, public welfare, or the environment.

Sincerely,



Patricia M. Donahue
Chief, Audit Section
Bureau of Waste Site Cleanup

Filename: Nlhowes/P:/Letters/scnof3-15243
Scnoafv6_[05_31_01]

Attachments:

Audit Follow-Up Plan Transmittal Form & Post-Audit Completion Statement (BWSC-111)
AUL Amendment and Ratification Form and Instructions
Activity & Use Limitation (AUL) Opinion Form (BWSC-114S)

cc:

Cambridge Board of Selectmen/Chief Municipal Officer
Cambridge Board of Health/Health Department
Cambridge Zoning Code Enforcement Official
Cambridge Building Inspector
Michael Pierdinock, LSP-of-Record (LSP #4078) Lightship Engineering,
36 Cordage Park Circle, Suite 312, Plymouth, MA 02360
Thomas M. Potter, Audit Coordinator, DEP-Boston
NERO/Data Entry/RAO/TSAUD

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Consent Communication #4

A communication was received from Commonwealth of Massachusetts, Department of Environment Protection, regarding Cambridge-265 First St., RTN 3-15243 & 3-15754, Response Action Outcome Activity and Use Limitation Interim Deadline.

In City Council October 28, 2002

**REFERRED TO THE CITY
MANAGER.**