

HARRIS BEACH PLLC
ATTORNEYS AT LAW

99 GARNSEY ROAD
PITTSFORD, NY 14534
(585) 419-8800

JOSEPH D. PICCIOTTI

DIRECT: (585) 419-8629
FAX: (585) 419-8815
JPICCIOTTI@HARRISBEACH.COM

March 22, 2012

Via Federal Express

Bart Putzig
Hazardous Waste Remediation Bureau
New York State Department of Environmental Conservation
Region 8
6274 East Avon-Lima Road
Avon, New York 14414-9519

Geoffrey Laccetti
New York State Department of Health
Bureau of Environmental Exposure Investigation
Flanigan Square
547 River Street
Troy, NY 12180

Re: Notice of Excavation on the Former Ingersoll-Rand Foundry Site, Village of Painted Post, Steuben County, New York
DEC ID Site No.: 851012 Classification C ("the contamination identified at the Site has been properly remediated" in accord New York State Department of Environmental Conservation and the site was de-listed on 9/25/03)

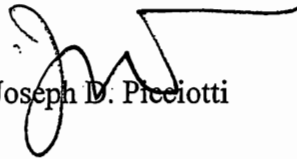
Dear Messrs. Putzig and Laccetti:

In accord with the August 1, 2005 bargain and sale deed (the "Deed") filed for the referenced site, please treat this letter and its enclosures as the notice required to be given to the New York State Department of Environmental Conservation ("DEC") by the referenced site owner that construction activity, including excavation on the site will be undertaken pursuant to the enclosed. Further, in accord with the soil fill management plan for the site as provided for in the Deed, please also treat this letter and enclosures as fulfilling the five (5) day notice requirement under such plan to notify DEC and the New York State Department of Health concerning the intent by the facility operator to initiate excavation activities on the referenced site.

Yesterday I spoke to Mr. Putzig at DEC and at the time my understanding was that construction activities that involved excavation would likely not begin until the beginning of April, but I am told that excavation may begin as soon as the middle of next week or March 28, 2012.

Please call me in accordance with the enclosed if you have any questions.

Sincerely,



Joseph D. Picciotti

JDP:nac

Enclosures

Jim Charles, Esq DEC counsel

Timothy Schneider DEC Region 8

Bob Drew Hunt Architects, Engineers and Land Surveyors, P.C.

Notice Pursuant to the August 1, 2005 Bargain and Sale Deed for the Former Ingersoll- Rand Foundry Site: Excavation and Construction Pursuant to the Development and Operation of the proposed Transloading Facility

- I. **Site Name:** Transloading Facility on a Former Ingersoll-Rand Foundry Site (the "Site")
- II. **DEC Site ID No.** 851012 Classification C (Identified contamination at the site deemed to have been remediated in accordance with with the applicable requirements and de-listed as of 9/25/03)

II. Contact Information of Person Submitting Notification:

Name: Joseph D. Picciotti, Esq, on behalf of the Site Owner Painted Post Development, LLC and the Village of Painted Post as member of Painted Post Development LLC

Address1: 99 Garnsey Road

Address2: Pittsford, New York 14534

Phone: (585) 419-8800 **E-mail:** jp Picciotti@harrisbeach.com

III. Notification:

As required by the bargain and sale deed for the former Ingersoll-Rand Foundry Site, Steuben County, Painted Post, New York dated August 1, 2005 (the "Deed") (attached to the compendium of exhibits supplied herewith as Exhibit "A" is a copy of the Deed and pertinent attachments to it), this notification is provided pursuant to the Deed under section B subpart 2 requiring notification to the New York State Department of Environmental Conservation ("DEC") in the event of any planned excavation of surface or subsurface soils on the Site. In addition, pursuant to the soil fill management plan and protocol attached and made part of the Deed, please also treat this as notification to DEC and the New York State Department of Health that excavation of surface and subsurface soil associated with the project below may begin at the Site as soon as March 28, 2012.

This further provides notice that as described in more detail below a facility (referred to hereafter as the "Transloading Facility," or "Facility") shall be constructed and operated on a portion of the Site. The operation of the Transloading Facility as described below is one of authorized uses prescribed under the Deed (see section A of the Deed), as the Facility constitutes an industrial use under the Village of Painted Post Zoning Law's classification for the Site, as it will be used to operate a whole sale business and warehousing including the sale of surplus municipal water. In addition, attached as Exhibit "B" to the compendium is the notice issued under the New York State Environmental Quality Review Act of the filing of a negative declaration for

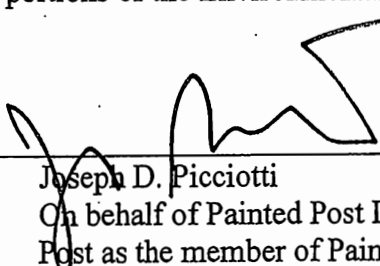
the operation of the Facility on a portion of the Site under a lease agreement with the facility operator.

IV. Description:

As set forth previously, a portion of the Site shall be developed and operated as the proposed Transloading Facility which will include the construction and operation of the following: (i) a filling/metering station and related improvements to be used for filling/metering of railroad cars with surplus water from the Village of Painted Post's Water Distribution System; (ii) the construction and operation of a rail siding on a portion of the Site and related improvements, including rail loading facilities to connect to the existing rail line along Chemung Street adjacent to the Site, and (iii) the acquisition and installation in and around the Site of certain machinery and equipment and other items of tangible property to be used to sell surplus municipal water, with such water to be drawn from Village water wells not located on the Site. See attached to the compendium as Exhibit "C" a copy of the engineering report for the Transloading Facility provided as part of the November 2011 draft Engineering Report issued by Hunt, Architects, Engineers & Land Surveyors, P.C. Moreover, see Exhibit "D" attached to the compendium submitted herewith, a site plan for the Facility.

In addition, in accordance with the Deed, the development, construction and operation of the Transloading Facility shall be undertaken in accordance with the soil fill management plan and shall be undertaken in accordance with other required stormwater control measures which shall be implemented by the Facility operator pursuant to the lease for the Facility to be constructed at the Site, see Exhibit "E" to the compendium (copies of pertinent portions of the lease). Further, attached as Exhibit "F" to the compendium is a copy of pertinent portions of the Environmental Impairment Liability Insurance Policy binder issued for the Site.

Name: _____


Joseph D. Picciotti

On behalf of Painted Post Development, LLC and the Village of Painted Post as the member of Painted Post Development

Dated: March 22, 2012
Pittsford, NY