

information was required to complete its analysis of Mr. Joyce's ability to pay for the Site's cleanup. On April 24, 2019, EPA sent Mr. Joyce a follow-up request for information under Section 104(e)(2) of CERCLA. EPA received Mr. Joyce's response on July 3, 2019, and was again not able to make an ability-to-pay determination because the response was incomplete.

On September 19, 2019, EPA met with Mr. Joyce and his counsel, Richard DeMarco, to discuss EPA's ability-to-pay process, including the requirement that Mr. Joyce provide EPA with all requested financial information that had not yet been submitted. For instance, Mr. Joyce had not submitted several years of tax returns and related schedules. Without this information, EPA cannot comply with its guidance on ability-to-pay determinations and would not be able to make a settlement offer that would be approved by Agency senior management and the Department of Justice.

At the September 19, 2019 meeting, Mr. Joyce committed to cooperating with EPA and to providing the missing financial information. To that end, Mr. Joyce's accountant, Richard Volpe, has been in contact with EPA's financial analyst, Harry Steinmetz, about the missing information. Mr. Steinmetz reports that there is still a lot of time-consuming work for Mr. Volpe to do. This task is difficult because it involves reviewing eight years of records and reconstructing Mr. Joyce's income and losses for each of these years.

In addition to these financial matters, the parties have begun negotiating an Environmental Covenant for the Site property under the Pennsylvania Uniform Environmental Covenants Act, Act No. 68 of 2007, 27 Pa. C.S. §§ 6501-6517 ("UECA"). The proposed Environmental Covenant would be part of any final settlement of the United States' CERCLA claims and would provide notice to a prospective purchaser or future owner that the Site has been used for PCB waste disposal. This notice would be consistent with the requirements of 40 C.F.R.

761.61(a)(8), which EPA identified as an applicable or relevant and appropriate requirement (“ARAR”) in its March 5, 2018 Action Memorandum. In addition, the proposed Environmental Covenant would describe any activity and use limitations required at the Site, including, among others, some disposal and upkeep requirements set forth in 40 C.F.R. Part 761. EPA has recently received recommended changes to the proposed Environmental Covenant from Mr. DeMarco. EPA is currently evaluating the proposed changes and expects to provide Mr. DeMarco with a response soon.

Respectfully submitted,



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