

Khatri, Paresh, Env. Health

From: Jason Duda [jduda@broadbentinc.com]
Sent: Thursday, March 25, 2010 5:31 PM
To: Khatri, Paresh, Env. Health
Cc: mherrick@broadbentinc.com
Subject: BP Station #771 - Offsite Property Access
Attachments: 783 Rincon Avenue Livermore CA Access Agreement Final.doc

Hello Paresh.

After our phone conversation earlier today, I researched some more aspects of the offsite property access issues at BP Station #771 and wanted to share my findings with you. Firstly, the access agreement form that was originally sent to the shopping center owner is included as an attachment. Secondly, you had asked how much money the legal representative of the shopping center owner had asked for and I believe I found the answer in some email correspondence between BP legal and their attorney. They have apparently asked for \$2,500 to cover property access and legal fees. BP agreed to pay them no more than \$1,500 but that was not accepted. The property owners attorney also proposed a revised property access agreement. However, we were not provided with this property access agreement to review. The attorney also mentioned that the owners of the shopping center are planning to refinance the property in the near future and they stipulated that any environmental work relating to the shopping center must be conducted and completed by December 2010 or else further legal action could be brought against BP. It looks as though BP is currently not willing to accept their terms so I guess we are at a stalemate. I am anticipating that we will wait for a response to your letter before completely moving away from attempting offsite property access.

I also found an as-built drawing which depicts the product lines and it appears that we may be able to move the proposed boring (to collect a sample beneath the USTs) onsite and avoid the property access issue. Please let me know when you send off the letter to the property owner and keep me posted on their response. Thank you Paresh. Take care.

Jason R. Duda • Project Scientist



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Atlantic Richfield Company
(a BP affiliated company)



P.O. Box 1257
San Ramon, California 94583
Phone: (925) 275-3801

June 11, 2009

Mr. Richard Rathbun
Livermore Center, LLC.
c/o Rathbun Properties
318 Diablo Road, Suite 240
Danville, CA 94523

Re: Request for Access to Property located at 783 Rincon Avenue Livermore, California.

Dear Mr. Rathbun:

BP West Coast Products LLC (“BP”) is conducting an environmental investigation associated with Atlantic Richfield Oil Company Service Station #771 located at 899 Rincon Avenue, Livermore, California, Alameda County Assessors Parcel Number (APN) 98-351-5.

As part of our investigation, BP is requesting access to your property located at 783 Rincon Avenue, Livermore, California (“Property”), APN 98-351-6-5 in order for BP and/or its environmental consultants to perform certain environmental activities which BP at its sole discretion chooses to perform. Such activities may include sampling, assessment, inspection, monitoring, installation of equipment, operation and maintenance of equipment, and remediation activities (“Activities”).

In their December 12, 2008 letter, Alameda County Environmental Health (ACEH) requested submittal of a site conceptual model and soil and water investigation work plan. The work plan was requested to collect post remediation verification samples and to address any data gaps that are identified within the site conceptual model. In their May 15, 2009 letter, ACEH approved the soil and ground-water investigation work plan. Copies of the ACEH letters have been attached for your review.

Proposed Activities include installation of two ground-water monitor wells and one angled soil boring to approximate depths of 40 feet (wells) and 43 feet (angled soil boring) below ground surface using a hollow stem auger drilling technology. Drawing 1 (attached) depicts the proposed well and boring locations on your Property. The wells and soil boring will be installed to collect soil and ground-water samples. The soil boring will be properly abandoned the same day immediately following sampling activities. A Property Access Agreement form which will allow BP and/or its representative access to your property for the installation and sampling of wells and temporary soil boring is included with this letter.

BP shall conduct its Activities so as to minimize any disruption to your property.

If you agree to let BP and its contractor conduct its Activities at the Property, BP will do the following:

- BP will perform its Activities at no cost to you.
- BP shall use reasonable efforts during its Activities to minimize interruption to the business or use of the Property.
- Except in case of an emergency, BP's environmental consultants will contact you (within seven days) prior to entering the Property to commence work
- BP will repair any damage to the Property that may occur as a result of its Activities at the Property, including but not limited to restoration of the surface areas of the Property to their pre-drilling conditions, removal of equipment, and proper well closure.
- Upon your written request, BP agrees to provide you with the results of analytical testing performed by BP regarding its Activities at the Property and copies of all reports submitted to the appropriate State Agency. BP shall provide this information as a courtesy only. Use of any of the information contained in these documents is at your sole risk.
- BP will indemnify you from any third party claims that arise out of BP's negligence associated with the Activities performed by BP on the Property.
- Neither this Access Agreement nor the Activities on the Property are an admission against BP's interests or an assumption of liability or waiver of any rights by BP.
- This Access Agreement will terminate once BP removes all of its wells and soil boring located on the Property and receives a No Further Action letter or similar Closure Letter from the appropriate State Agency.

If you agree with the terms of this letter, please indicate your approval by signing and dating one of the copies of this letter in the spaces provided below. Please return one copy to me in the enclosed envelope within 14 days of the date of this letter. If you have any questions or require further information regarding this request, please contact me at (925) 275-3801.

Regards,



Paul Supple
Environmental Business Manager,
Atlantic Richfield Company, a BP-affiliated company
For BP West Coast Products LLC

Enclosures: ACEH Letters; Drawing 1; Return Envelope

Mr. Richard Rathbun
June 11, 2009
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I own the property located at 783 Rincon Avenue, Livermore, CA (APN 98-351-6-5) and agree to give BP access to this property to perform a site investigation under the terms set forth in this letter.

Property Owner signature / Title

Printed name of Property Owner

Date of authorization

Telephone number