

3 September 1997

Re: NEPA Technical Inquiry 0131 - Requirements for Further Testing

Dear NEPA Call-In User:

This letter is in response to your July 29, 1997 request for information on the requirements for further testing following a Phase II Environmental Site Assessment (ESA). Specifically, Louis Berger & Associates (LBA) performed a Phase II ESA for the Youngstown, Ohio, Federal Building (Phase II Subsurface Investigation and Interior Building Inspection) in February 1995. The Phase II ESA recommended further sampling and analysis in an area of the site. Because the area in which LBA suggested further testing will be paved over, you would like to know if there is a requirement to perform further testing at the site. GSA has already acquired the site and prepared an environmental assessment (EA) as part of the requirements of the National Environmental Policy Act (NEPA). You submitted the Phase II ESA to NEPA Call-In for review in March 1997 (Technical Inquiry 0057). NEPA Call-In found the report meets minimum American Society for Testing and Materials (ASTM) standard requirements, although some inconsistencies were found.

#### SUMMARY OF FINDINGS

NEPA Call-In contacted the Offices of General Counsel, GSA; the Environmental Protection Agency (EPA); and the State of Ohio Environmental Protection Agency. Each of these organizations stated you are not legally required to perform additional testing, but strongly suggested you do so. Additional testing will determine the extent of contamination, and whether removal is warranted. Further, if environmental concerns associated with the site arise in the future, it will be beneficial for GSA to have already characterized the site and cleaned it up if necessary.

#### DETAILED FINDINGS

NEPA Call-In contacted Senior Assistant General Counsel, Real Property Disposal, Offices of General Counsel, GSA National Office, to determine if GSA requires you to perform additional testing recommended by a Phase II ESA. The Senior Assistant General Counsel stated, to their knowledge, you are not required to perform the additional testing. However, the Senior Assistant General Counsel noted that paving over the areas in question, which may contain contaminated material, could cause environmental concern in the future. The Senior Assistant General Counsel suggested you determine the extent of the contamination now, and determine if remedial action is needed. The Senior Assistant General Counsel also suggested we contact GSA's General Counsel's Office in Region 5 to determine if they would require you to perform the additional testing.

We contacted Assistant Regional Counsel, Offices of General Counsel, GSA Region 5. The Assistant Regional Counsel concurred with the Senior Assistant General Counsel that you are not legally required to perform additional testing. However, the Assistant Regional Counsel also recommended you perform the testing in order to determine the extent of contamination. If environmental concerns arise in the future, GSA would be in a much better position if the area had been tested and, if required, cleaned up.

NEPA Call-In contacted Mr. Andrew Champa, Underground Storage Tank Section, Region V, Environmental Protection Agency (EPA), (312) 886-6136, to determine if there is a Federal requirement to perform further testing if a Phase II ESA recommends it. Mr. Champa stated, to his knowledge, there is no requirement to further investigate environmental conditions at a site based on a Phase II ESA recommendation. He further stated there is also no requirement to perform an ESA as their purpose is to provide information about a site to a potential buyer. However, Mr. Champa recommended you perform the additional testing to discover the extent of the contamination. If further sampling indicates remediation is needed, it will be much easier to clean up the area before it is paved over. Also, if GSA plans to sell the site in the future, a future buyer may require GSA to clean up the contamination. Mr. Champa referred us to the Superfund Division, Region V, EPA for more information.

We then contacted Ms. Wendy Curney, Remedial Branch Chief, Superfund Division, Region V, EPA, (312) 353-6553. Ms. Curney concurred with Mr. Champa and GSA's legal counsel that you are not legally required to perform the recommended testing, but suggested you do so to determine the extent of contamination.

NEPA Call-In contacted Mr. Craig Smith, Regulatory Compliance Specialist, State of Ohio Environmental Protection Agency, (614) 664-2971, to determine if Ohio requires further testing based on a Phase II ESA recommendation. Mr. Smith stated, since there is not legal requirement to perform a Phase I or Phase II ESA, there is no legal requirement to perform further testing recommended by an ESA. However, Mr. Smith stated he would recommend performing additional testing to determine the extent of the contamination.

Finally, NEPA Call-In concurs with the above recommendations to perform additional testing. The potential contamination may pose a threat to the area's groundwater, and the extent of the contamination/threat is unknown. GSA should perform further testing to fully characterize the extent and nature of the contamination. If sampling finds contamination above Resource Conservation and Recovery Act (RCRA) or Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) regulatory thresholds, then removal of the contamination would be required.

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Sincerely,

(Original Signed)

NEPA Call-In Researcher