

CAMPBELL, ARELLANO & RICH

ATTORNEYS AT LAW
P.O. BOX 11899
CHARLOTTE AMALIE
SAINT THOMAS
U.S. VIRGIN ISLANDS 00801

JOSEPH BRUCE Wm. ARELLANO
CAROL ANN RICH

OF COUNSEL:
ROGER L. CAMPBELL

ST. THOMAS OFFICE:
NO. 4A & B KONGENS GADE
CHARLOTTE AMALIE
TELEPHONE: 809/774-4858
TELECOPIER: 809/776-8442

ST. JOHN OFFICE:
SCANDIC EXECUTIVE OFFICES
MONGOOSE JUNCTION
CRUZ BAY
TELEPHONE: 809/693-8655

November 14, 1994

Ms. Caroline Kwan
New York-Caribbean Superfund Branch
USEPA Region II
Jacob K. Javitz Federal Building
26 Federal Plaza
New York, N.Y. 10278

Re: Phase II Remedial Investigation Tutu Wells Site
October 1994 (Draft)

Dear Ms. Kwan:

On behalf of Ramsay Motors, Inc., we offer the following comments on the draft Phase II Remedial Investigation report, ("RI"). Our comments were presented orally at the meeting in St. Thomas on November 2-3, 1993.

The overall objective of the Phase II RI is described in Section 1.1 as follows: "[T]o identify and characterize the potential sources, the horizontal and vertical extent, the rate and direction of transport, and the potential migration pathways for petroleum hydrocarbon constituents and chlorinated VOCs in soils and groundwater at the Tutu wells site." Section 1.1 Purpose, at page 1-2.

The stated purpose of Section 5.1 is "to define where impacted soils exist, and to evaluate whether each individual property is a potential source of petroleum hydrocarbon constituents and chlorinated VOCs to ground water".

The stated purpose in Section 5.1 is not entirely consistent with the overall goal as set forth in Section 1.1., at least with respect to the treatment of "impacted soils". It is not clear why the exercise of defining where "impacted soils exist", without more, is useful in furthering the stated overall goals of identifying sources and migration pathways.

The criteria in Section 5.1 for identifying where an "impact" to soil exists do not include any criteria for determining when the level or frequency of an "impact" to soil is sufficient to identify a site as a possible source of groundwater contamination, or to identify the existence of a potential migration pathway in site soils that may be

future source of groundwater contamination, or to identify some other risk to human health or the environment.

Particularly with respect to Btex and BNAs, the criteria do not address what minimum concentrations in site soils may trigger the concerns which the RI was intended to address, where there is no corresponding documented impact to groundwater. Although EPA has not yet issued soil cleanup objectives for the Tutu Wells site, there are criteria available which provide a framework within which to define "impact" in a fashion that bears more of a relationship to the actual risk presented by the constituent levels present at a particular site. Moreover, there should be some attempt to address this issue if the RI is going to include the list of impacted properties which now appears in Section 5.1.12.1 at pages 5-28, through 5-30.

Based upon the criteria at pages 5.3 through 5-5, Ramsay Motors is identified as a property impacted by Btex, MTBE and BNA compounds, along with the Curriculum Center, Tutu Esso, Western Auto and others. Although there are scattered references to the concentrations detected at the various properties in Sections 5.1.2 to Section 5.1.11, the summary section does not differentiate between those properties with maximum concentrations well below known recommended soil cleanup objective levels, and those with concentrations at levels certain to far exceed any objective that is ultimately established for the Tutu Wells site.

For example, the Ramsay property is identified as being "impacted" by Btex, because benzene and ethylbenzene were detected in two soil samples. The samples referred to are HB-2 and HB-5 (both taken from soil beneath the paved service area, near the closed UST):

HB-2 (4.5")
Benzene 17J ppb
Ethylbenzene 290 ppb
Xylenes (total) 7 ppb

HB-5 (2.3")
Benzene N.D.
Ethylbenzene 190J ppb
Xylenes (total) N.D.

The New York State DEC soil cleanup objectives (Revised 1/24/94)¹, for these contaminants are:

Benzene	60 ppb
Ethylbenzene	5,500 ppb
Xylenes	1,200 ppb

1. Supplied by CDM.

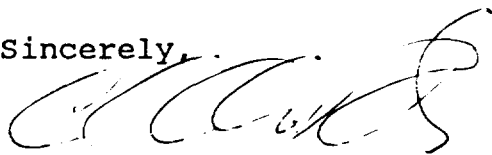
These minimum levels are based upon the overall objective of ensuring the cleanup of soils to levels that pose no risk to human health, and no potential risk as a source of future migration to groundwater.

A similar analysis should be applied to the "impacts" by Btex, MTBE and BNAs identified at Ramsay at and several other properties within the Tutu Wells site, particularly where there has been no corresponding documented impacts to groundwater from the constituents identified in site soils.

Ramsay is concerned that several property owners or operators located within the Tutu Wells site will find themselves on a list of "impacted" sites based upon detection levels that do not even remotely approach the minimum level of concentration necessary to trigger the problems the RI was intended to address. This is unfair, inappropriate, and potentially damaging to the businesses or individuals involved.

We therefore suggest that the term "impact" should be re-defined to bear some scientifically demonstrable relationship to the stated goals referenced above. The decision to identify properties which are so impacted should then be same based upon those criteria. The result will be a shorter, but more useful list of properties with "impacted" soils.

Sincerely,



Carol Ann Rich, Esq.

CAR/bel

cc: All PRP Group Members
Andrew Prashack, Esq.