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June 25, 2021

Via Email – derweb@dec.ny.gov and hoosickwatersupply@dec.ny.gov

Ian Beilby, P.E.
Project Engineer
625 Broadway
Albany, New York 12233-7013

**Re: Saint-Gobain McCaffrey Street Superfund Site No. 442046 Operable Unit 02:
Municipal Water Supply**

Dear Mr. Beilby:

Our law firm represents the Village of Hoosick Falls (the “Village”) in matters arising from the presence of PFOA contamination in the Village, including the Village water supply

In order to fully assess the content of the Proposed Remedial Action Plan (“PRAP”), the Village has retained the services of Sterling Environmental Engineering (“Sterling”). Sterling has reviewed the PRAP and the relevant data, as well as the Municipal Water Supply Study (“MWSS”) prepared on behalf of the responsible parties, Saint-Gobain Performance Plastics and Honeywell International (the “Companies”). A copy of Sterling’s Report is provided herewith. Also provided herewith is a letter from Village Mayor Robert Allen. Mayor Allen’s letter provides further insight as to this matter particularly from the perspective of a leader who has dealt with the PFOA crisis for several years.

As discussed in Sterling’s Report, the Village endorses the preferred remedy identified in the PRAP of developing the “LaCroix/Wysocki” wells as the Village’s new primary water source. The Village’s endorsement of the preferred remedy is conditioned on the Companies undertaking the measures identified by Sterling that will assure the reliability, protection and security of the new water supply. In the event that the Record of Decision (“ROD”) endorses the preferred remedy and a further Consent Order is executed by the Department, the responsible parties must be required to perform all the measures identified by Sterling.

Of crucial importance to the Village is that implementation of the remedy will require long-term costs. Those costs must be fully identified, reasonably calculated and addressed as soon as possible. The 2016 Order on Consent by which the Department required the Companies to install the GAC system at the Village’s water treatment plant left to the Village the task of working out with the Companies the coverage of the costs associated with maintenance and operation of the GAC system. Consequently, in the years following the 2016 Consent Order, the Village has negotiated and entered into a series of agreements with the

Companies under which the Village has been reimbursed for its costs.

Under the preferred remedy, additional water system-related costs will be inevitable. Incremental costs associated with the implementation of the remedy will occur on a regular and permanent basis¹. To be clear, all of the costs associated with the remedy, including all long-term costs associated with operation and maintenance of all new and existing infrastructure required to address PFAS contamination must be covered by the Companies.

The costs that can be reasonably anticipated are as follows:

- 1. Maintenance and operation of the GAC system on a permanent basis.** To date, operation of the existing GAC system has imposed approximately \$70,000 in annual costs on the Village. These costs cover (a) the Village Personnel who attend to the GAC System on a daily basis, (b) heating the GAC building and (c) the electricity to operate the GAC system. As noted, the Village and the Companies have executed a series of agreements under which the Companies have reimbursed the costs incurred to date. Going forward, an arrangement must be established so that the Village is not permanently in the position of having to repeatedly seek relief from the Companies.
- 2. Carbon replacement and GAC system repair and/or replacement.** To date, the Companies have borne the costs for changing out the carbon in the GAC system, as the carbon has been expended in the process of removing PFOA and other PFAS compounds. Implementation of the proposed remedy will likely reduce the frequency of carbon change out as the new water sources do not exhibit detectable levels of PFAS compounds. Nonetheless, permanent use of the GAC systems will require removal and replacement of spent carbon. Moreover, it can be reasonably anticipated that other components of the GAC systems will require repair and/or replacement, as the system will be in operation over a period of several decades. The use of any mechanical or technological system to address an environmental problem over a period of several decades inevitably entails risk and uncertainty as to the adequacy, durability and longevity of the technology. All of the costs and expenses which may arise for repairing and/or replacing the GAC system must be borne by the Companies.

¹ We are aware that the PRAP includes both capital costs and "Annual Costs" for all of the remedial options considered by the Department. Those cost figures appear to have been lifted from the "Municipal Water Supply Study" report prepared by ERM and CHA as consultants to Saint-Gobain and Honeywell. It is not clear that the annual costs are inclusive of the costs the Village has borne for operation of the GAC system and the building in which it is located. Given the actual experience of operating and maintaining the GAC system since 2016, at a minimum calculation of total costs for all reasonable planning periods should be consistent with and based upon the actual experience to date.

3. **New wells and pipeline.** Under the preferred remedy, new wells and a new pipeline will be required. The capital costs for those improvements will be borne by the Companies. In addition, all of the incremental operational and maintenance costs for those improvements must be identified, reasonably calculated, and borne by the Companies.²

As noted, given the time periods that can be reasonably anticipated for operation of the remedy, it is a virtual certainty that carbon change outs will be necessary and that the entire GAC system may need replacement. Further, the building in which the GAC system is housed will require maintenance, repair and possibly replacement as the system is in use for a period of several decades. Notwithstanding the size and current financial status of Saint-Gobain Performance Plastics³ and Honeywell, there is no certainty that either or both companies will continue in existence fifty or one-hundred years from now. For this reason, the Village will be seeking a final resolution of all cost issues with the companies. The Department should recognize the legitimacy of the Village's concerns and take all reasonable actions to assist in the resolution of the cost and contingent cost issues.

In light of the foregoing, in conjunction with implementing the remedy, the Department should require the Companies to perform a full analysis of the costs for operating the remedy as part of the Village water supply system on a permanent basis. That analysis should include a projection of costs over various planning periods, including thirty (30), fifty (50), and one-hundred (100) years. That analysis can serve as the basis for establishing a final and permanent arrangement between the Village and the Companies.

In considering the points raised in this letter, we respectfully urge that the Department consider the unique, but not unprecedented problems associated with PFOA contamination. PFOA has been dubbed the "forever chemical." The reason for this designation is well-known. PFOA appears to be wholly resistant to processes of chemical or bio-degradation. We are aware that in most instances, the costs of Superfund remedies are calculated based on a thirty year planning period. But there is no reason why that practice should apply here. It is more likely that PFOA and other PFAS components will have a continuing presence in the Village's environment. It is likely that the Village will still be dealing with PFOA fifty years and perhaps as long as a century from now.

² Here again, it is not clear how the values set forth in the PRAP and originally expressed in the "Municipal Water Supply Study" were developed.

³ The ultimate "parent" of Saint-Gobain Performance Plastics is "Compagnie de Saint-Gobain" an entity that dates back to 1665 and the reign of Louis XIV. By contrast the company now known as Saint-Gobain Plastics (formerly "Furon") has existed for approximately fifty years and does not enjoy an equivalent record of longevity.

The analysis we request is a necessary first step towards the goal of achieving a permanent settlement between the Companies and the Village. The Village seeks an outcome in which it is not forever in the role of supplicant seeking relief from the Companies, while coping with the risks and uncertainties associated with dependence on the Companies.

We respectfully suggest that the Department consider the Village's requests in relationship to the State's policy of promoting environmental justice. Through no fault of its own, the Village of Hoosick Falls has been burdened with environmental blight and contamination. A century ago Hoosick Falls was a community of over 8000 residents with a variety of active industrial facilities and other businesses. By the beginning of the present century, most of the industry was gone and few substantial businesses remained. The Village's population has dwindled to less than 3500, as generations have grown up and departed seeking opportunity elsewhere. The Teflon⁴ related industries that developed in the Village beginning in the mid-twentieth century have left a legacy of wide-spread contamination and adverse health effects. One major corporation after another has extracted value out of the Village and left little behind except contaminated soils, contaminated water and the designation of several parcels as Superfund Sites. The Village's ability to attract both new residents and employers has suffered as a result.

Justice demands that the Village is not put at any further financial disadvantage in conjunction with the implementation of site remedies. The Village should be held harmless from the costs arising from the contamination caused by others and deserves to be fully covered for all possible costs that may ever arise from the contamination.

We are prepared to meet with the Department to discuss in detail the points raised in this letter and the matters detailed in Sterling's Analysis.

Respectfully,

GILCHRIST TINGLEY, P.C.

By: 

David A. Engel

⁴ We recognize that Teflon is a trademarked name owned by DuPont and applies to the "PTFE" products produced only by DuPont. We apply that term here as a shorthand description for all PTFE-related industries.



**Village of Hoosick Falls Comments to Proposed Remedial Action Plan (PRAP)-
Saint-Gobain McCaffrey Street Operable Unit 02, Municipal Water Supply
June 3, 2021**

Sterling Environmental Engineering, P.C. (STERLING) was retained by the Village of Hoosick Falls (Village), New York to review and provide expert analysis of the April 2021 Proposed Remedial Action Plan (PRAP) for the Saint-Gobain McCaffrey Street Site (Operable Unit 02 (OU-02), Municipal Water Supply) - Site No. 442046 located in the Village of Hoosick Falls, Rensselaer County, New York.

BACKGROUND

NYSDEC has proposed a remedy after reviewing the site investigations and evaluating the five remedial options originally set forth in the Municipal Water Supply Study (MWSS) report which was prepared by ERM et al. on behalf of Saint Gobain Performance Plastics (Saint Gobain) and Honeywell International (Honeywell) pursuant to a 2016 Order on Consent issued by NYSDEC. That Order required that Saint Gobain and Honeywell perform an Alternate Water Source Study for the purpose of locating a new water source for the Village.

The Alternate Water Source Study culminated in the issuance of the MWSS identified five (5) water supply options in the following categories:

1. A new groundwater source from wells just south of the Village (without Granular Activated Carbon (GAC) treatment [Option 1A] or with GAC treatment [Option 1B];
2. Connection via a pipeline to the Tomhannock Reservoir as a new surface water source.
3. Connection to the existing City of Troy municipal system via a pipeline from a location in the hamlet of Cropseyville;
4. Continued use of the existing Village Water Supply wells #3 and #7, with the existing GAC system; and,
5. Continued use of the existing Village wells #3 and #7, with GAC treatment and continued operation of the groundwater extraction IRM at McCaffrey Street.

A screening process was conducted after the potential water sources in each category were identified to evaluate the best potential Remedial Action (RA) option. All RA options, as presented, protect public health as required while conforming to applicable drinking water Standards, Criteria and Guidelines (SCGs). The next six (6) "primary balancing criteria" (Long-term Effectiveness and Permanence, Reduction of Toxicity, Mobility or Volume, Short-term Impacts and Effectiveness, Implementability, Cost-Effectiveness, and Land Use) were used to compare the overall advantages and disadvantages of the RA alternatives.

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Remedial Action Option 1B (new groundwater source with GAC treatment) best satisfies the threshold criteria of protecting public health while achieving compliance with applicable SCGs. Based on the available information presented from application of the screening criterion, Option 1B is the best available water source alternative.

The remedy proposed for OU-2 includes:

- Development of two new groundwater supply wells at existing test wells located south of the Village which would be converted to serve as the primary production wells.
- Construction of a water transmission line from the new production wells to the Village water treatment plant along public rights-of-way.
- Continued use of the existing GAC treatment system to ensure compliance with drinking water standards.
- Provisions to meet backup supply requirements by maintaining a minimum of one of the existing Village supply wells since a third well would be required to provide redundancy in the case of an outage of either or both of the identified primary new production wells.
- Implementation of a Site Management Plan (SMP) for long-term maintenance of the selected remedy.

ANALYSIS

The hydrogeologic investigations (Appendix C - Municipal Water Supply Study for the Village of Hoosick Falls, New York; August 2019) and aquifer testing of the new supply wells (LaCroix and Wysocki test wells) demonstrate that the identified groundwater supply source (Lower Aquifer) is a reliable water supply source option that can meet the Village's quantity requirements. Significantly, in comparison to the identified "surface water" sources, the LaCroix/Wysocki test wells can be developed and placed in service on a reasonably expedited basis.

The Supplemental Hydrogeologic Investigation Report (Supplemental Investigation), a technical memorandum prepared by ERM on November 13, 2020, provides useful but limited analysis of the critical stratigraphy of the area ("Data Gap Area") located between the PFAS-impacted Village wellfield to the north and the proposed new supply wells to the south.

Our professional opinion is that additional information needs to be obtained and analyzed to confirm the full dimensions and extent of the critical site stratigraphy in the "Data Gap Area" to assure that the quality of the new groundwater supply source will not be adversely impacted by migration of PFAS contamination from the area of the present Village wellfield.

We note that the extent to which the new groundwater supply sources were analyzed was reportedly limited based on the ability to obtain access to various parcels in the relevant area. NYSDEC should not accept this limitation and take whatever steps may be required to obtain access to all relevant areas to fully assess the "Data Gap Area".

While the design stage of the LaCroix/Wysocki test wells is being implemented, we strongly recommend that areas east, southeast, and south of the location of the primary new supply alternative be explored to identify additional new groundwater supply sources in the Lower Aquifer for the purpose of securing a safe and reliable local source to serve as the backup water supply. This approach is preferred to continued reliance on current supply wells #3 and #7 which have high levels of PFAS contaminants and will likely remain heavily contaminated for the foreseeable future. Given the resistance of PFOA to both

biodegradation and chemical breakdown and the extent of the contamination in the vicinity of the current Village wellfield, wells #3 and #7 should be regarded as permanently contaminated.

Technical review of the aquifer testing presented in Appendix C (Hydrogeologic Report) reveals that the pumping tests were conducted with no hydrogeologic data collected between the southern limits of the current Village wellfield and the primary test well LaCroix. The distance between current supply wells and the LaCroix test well is approximately 3,700 feet (0.7 mile). The closest observation points during pumping of the LaCroix test well was monitoring well EPA-GW-02, located east of the Hoosic River, and observation wells GWI-3 or GWI-4, located west of the Hoosic River (citation: ERM, Figure 7 - Aquifer Test Monitoring Wells, May 2019), we strongly recommend that NYSDEC require the installation of sentry or sentinel wells in the “Data Gap Area,” besides well couplets GWI-B/MW-08B&C and GWI-B/MW-09A&B). Monitoring and sampling of the sentry wells will allow the development of an understanding of the (1) critical site stratigraphy, (2) evaluate drawdown effects (i.e., gradient levels in potentiometric surface), and (3) long-term groundwater quality impacts due to sustained pumping by the LaCroix and Wysocki wells.

We strongly recommend that an additional 72-hour constant rate pumping test of the new production wells be performed once these additional observation points have been installed and evaluated. A monitoring program be undertaken to ensure that the new local groundwater supply source, as proposed, is secure, safe and reliable going forward.

ERM’s Geologic Cross Section E-E’ (page 81 of the Supplemental Investigation) indicates the confining unit (Clay & Silt) is approximately 25 feet thick (15 to 40 feet below ground surface (bgs)) at new monitoring well couplet GWI-B/MW-09A&B. Review of boring logs, provided in Appendix B of the Supplemental Investigation, reveals that the glaciolacustrine clay and silt zone may not be as impermeable, continuous and thick as presented. In fact, clayey silts are only prevalent at 15 to 18 feet bgs and 22.5 to 28.5 feet bgs while the remainder is either silt, sandy silt or sandy gravel. In our opinion, if the critical site stratigraphy of the Data Gap Area is similar to the subsurface geology and hydrogeology in the vicinity of Village wells #3 and #7, there may be a risk of migration of contamination into the area at which the new supply wells will be developed.

The report of the presence of 530 ng/L of PFOA in shallow or upper groundwater at monitoring well GWI-09A (page 83 of the Supplemental Investigation) is of concern with regard to potential impacts to the underlying aquifer (Lower Aquifer) since this sampling location is approximately halfway between the existing supply wells and the proposed new source (LaCroix/Wysocki test wells). As noted, the lack of data from the Data Gap Area during the aquifer testing and the limited geologic information (critical site stratigraphy) or groundwater quality data in the Data Gap Area must be addressed prior to implementation of the new supply option so that all uncertainties as to the reliability of the new source are minimized.

With respect to the adequacy of the yield of the proposed new wells, the Lower Aquifer was mapped as being 30 feet thick yet it is less than 20 feet (approximately 28.5 feet bgs to 46 feet bgs) based on the submitted boring log for GWI-09A/B. An explanation as to this apparent discrepancy should be provided to calculate the affects to the storativity and transmissivity of the Lower Aquifer as it relates to the development of the proposed new groundwater supply source.

On a related topic, we note that to date, Village wells #3 and #7 have not only been a supply source for the Village but those wells have also served a remedial function by removing contaminated groundwater for treatment of PFAS chemicals via the existing GAC filter system. The continued remedial benefit of the use of Village wells #3 and #7 should not be set aside. Accordingly, we recommend that within the context of the OU-01 RI/FS an analysis of the permanent use of wells #3 and #7 for remedial purposes should be undertaken and that such analysis should include an assessment of whether “remedial” pumping at those

Village wells on a permanent basis will serve to retard or inhibit any migration of PFAS contamination in the direction of the proposed LaCroix/Wysocki test wells. Under this scenario wells #3 and/or #7 would require the installation and operation of a new GAC system properly sized to the pumping rate determined to be appropriate for remedial purposes.

CONCLUSION

Based upon our review of the MWSS, the PRAP, supporting documentation and discussions above, our conclusions are as follows:

1. The development of the existing LaCroix/Wysocki test wells as proposed under Option 1B, represents the best available option to immediately serve as the Village water supply. Additionally, further investigations should be undertaken to identify a location for development of an additional (backup) supply source for the Village in the uncontaminated area south and upgradient of the current Village wellfield. The Village should not have to rely upon a heavily contaminated water source when clean sources are readily available and capable of development in a timely manner.¹
2. Prior to the development of the LaCroix/Wysocki test wells as the new potable water source, further investigation of the “Data Gap” area, as discussed above, must be undertaken to assure the security of the new water supply source.
3. Prior to placing the LaCroix/Wysocki test wells in service, routine rigorous testing of sentry or sentinel wells must be undertaken to determine if any possibility exists that PFAS contamination is migrating towards the new water supply wells.
4. It is crucial that the GAC system at the Village’s water treatment plant remain in place and in operation to fully assure that no PFAS contamination is present in the Village’s distribution system. The GAC system is an extra measure of protection for the users of the Village drinking water system.
5. As discussed above, it appears that on a going forward basis, the likely best use for Village wells #3 and #7 will be for remedial purposes to inhibit the migration of PFAS contamination in the direction of the LaCroix/Wysocki test wells.

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¹ Sterling acknowledges that many public water suppliers must rely on contaminated sources because no better option is readily available. That circumstance does not apply here. Further, given the nature of PFOA and the extent of the contamination in the Village, there is virtually no prospect that the Villages’ present water source will be remediated or rehabilitated in the foreseeable future.



Mayor: Robert Allen
Deputy Mayor: Robert Ryan

Trustees: Deb Alter, Rober Decker, Kevin O'Malley,
Craig Pine

June 25th, 2021

VIA EMAIL

Ian Beilby
Project Engineer, NYS DEC
625 Broadway
Albany, NY 12233-7013

Village of Hoosick Falls comments on Proposed Remedial Action Plan

The implementation of a new and permanent water source for the Village of Hoosick Falls will be both a key milestone that the community has yearned for, and a signal that the Village is finally emerging from the stain of contamination that has sullied our name. As we sit on the precipice of this crucial decision, I feel it necessary to speak not just to the technical aspects of this decision, but also to the magnitude of what is at stake.

The Village's legal counsel and experts (Environmental Attorney David Engel, Mark Millspaugh and his staff at Sterling Environmental Engineering, and Village Attorney Andrew Gilchrist) have used their experience and expertise to review all available data and weigh in on many aspects of this decision according to the Village's interest. To summarize a few major points:

- The local groundwater source (the LaCroix/Wysocki wells) in conjunction with the permanent usage of the GAC Filtration system, is the best available option identified in the PRAP.
- The limited available data points to the likelihood that the upstream and upgradient location of the proposed new wells, combined with the clay layer that separates the lower aquifer from the contaminated upper aquifer, will prevent PFOA contamination at the Saint-Gobain McCaffrey Street facility and other surface locations from migrating into the new wells. However, more testing and analysis must be done to fully confirm this essential and foundational belief.
- A remedy that includes any permanent reliance on the existing contaminated aquifer as the primary or backup source is not a full and complete remedy. Accordingly, the new wells should be developed while the location of a third well is identified and ultimately developed as well.
- Expenses relating to installation, operation, and maintenance on a permanent basis must be fully analyzed and addressed, so that the Village, as a victim of this PFAS disaster, does not end up bearing any expenses arising from the implementation of the remedy.

Due to the complexity and time related to PFAS contamination and remediation, we request that the Department require three measures to be undertaken immediately and concurrently:

1. The Wysocki/LaCroix wells should be declared the choice, and the design phases should commence.
2. At the same time, sentry wells should be installed in the “data gap area” (see Sterling comments, pages 2 and 3), and a new pump test should be implemented to complete the data that is needed and confirm the viability of the Wysocki/LaCroix wells.
3. Simultaneously, an immediate search should begin for a third well to develop (either as a new primary well or as a new back-up well), heading in the same direction away from the Village.

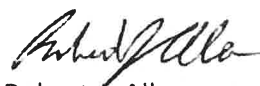
Implementation of these three measures will get us closer to what our Village and its people deserve: a definitively safe groundwater source, complete with primary and backup wells, that is separate from the contaminated aquifer and far away from one of the most PFOA-contaminated locations in the country.

Additionally, the Record of Decision must endorse the Village’s position that no detectable levels of PFAS chemicals will ever be allowed or tolerated in the Village’s water system. Despite the recent adoption of the 10ppt MCLs for PFOA and PFOS, that value should not apply in Hoosick Falls. Our community has been subjected to extraordinary levels of PFAS contamination over an extended period of time. Zero exposure going forward is crucial; the concept of remediation applies not just to water and soil, but to Hoosick residents as well.

Nearly 7 years ago, the residents and families of Hoosick Falls began a long, painful, and at times all-consuming journey to understand the damage and implication of PFOA contamination. It drove many of us to become well versed in water contamination, drinking water regulations, the review of scientific and health-related studies and research, and the uses of PFAS chemicals in our society, leading to our experiences and expertise being shared at conferences, Congressional hearings, and in other PFAS-contaminated communities. It has helped advance progress on water contamination and PFAS-related issues across the nation. To its credit, the state of New York became a leader in responding to the PFAS crisis when it declared PFOA and PFOS as hazardous substances, eventually setting MCLs.

Hoosick Falls can become an example to other contaminated communities by demonstrating that recovery is possible. However, it must be understood that full recovery requires that those who were responsible for the problem in the first place bear all of the costs for the remedy, and that no costs are left to fall on the Village and its residents.

Sincerely,



Robert J. Allen

Mayor, Village of Hoosick Falls