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VIA Email Only to kinderhooked@earthlink.net

Mr. Ed Simonsen
Chairman
Columbia County Environmental Management Council
401 State St.
Hudson, NY 12534

Dear Ed,

I am writing on behalf of TCI of NY regarding your memo to the Columbia County Board of Supervisors dated June 24, 2013, and titled "Hazardous Substance Process." I ask that you share copies of this letter with other members of the Columbia County Environmental Management Council and that you keep a copy of it in the CCEMC files as part of the permanent record.

Let me begin by saying that my client and I were surprised to read about the memo in the newspaper. We wish that you had extended the basic courtesy of sharing a copy of the memo with us before it was reported in the press. Indeed, we wish that during the course of your assessment and analysis, you had asked to meet with us or sought direct statements from us. At no time have you asked for our input. We note with dismay that we have never been invited by you to attend any of the CCEMC's public or private meetings. Had you met with us, we might have been able to help you avoid the numerous factual and analytical errors in your memo. These errors are not only wrong with respect to the facts; they needlessly and recklessly damage TCI's reputation. More important still, they lead to public policy conclusions that are not in the best interest of the County.

Let me address some of the many errors in your memo.

1. You refer to the fire of August 1, 2012, as an "environmental incident." Fortunately, it was nothing more than a fire. One that was catastrophic for TCI to be sure, but a fire that, according to DEC and EPA analyses, created no measurable contamination in the surrounding air, soil or water. It is wrong to describe the fire as an "environmental incident" when no environmental impact occurred.
2. You state that TCI should have requested "de-chlorination approvals" from the Town of Ghent. The Town requires no such approvals and there is no office or official who is prepared to issue them. The idea that TCI needed such approvals reflects a gross misunderstanding of our business and local laws; it is entirely imaginary.

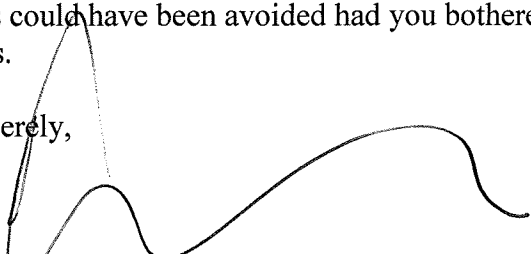
3. The same error as above is made with respect to an imaginary approval process for “PCB reduction.” TCI is governed by EPA and DEC permits. Its former subcontractor, PSS, is governed by EPA permits. No Town or County codes exist with respect to PCB processing. Moreover, the process you refer to is a decontamination process that removes PCBs entirely from mineral oil. It does not “reduce” them; it eliminates them. Your statement here again reflects both a gross misunderstanding of our business and of local ordinances and laws.
4. You assert that Ghent firefighters and residents were exposed to danger due to our alleged negligence. This is a serious claim and it is utterly false. No firefighter or resident was injured in the fire. In fact the fire department was provided in advance of the fire with our SPCC plan, which included a full site plan and layout of the building, including identifying the oil tanks and the equipment used by PSS. The fire department was fully aware of the presence of sodium on the site, and made aware of it again by a member of the TCI staff the night of the fire. The fire department chose a strategy for fighting the fire based on this information. You fail to acknowledge this crucial fact.
5. Throughout your memo, you repeatedly imply that a large volume of PCBs were incinerated and “lofted” into the air. This is simply not the case. Less than 5% of the material on site the night of the fire involved PCBs, and most of that was non-regulated trace amounts. Furthermore, you once again lose sight of the fact that EPA and DEC found no contamination after the fire, indicating beyond doubt that there was very little PCB material on site to begin with.
6. You claim that we did not have appropriate fire detection and suppression systems in place. In fact, we were up to code. Many other businesses in Columbia County do not have fire suppression, and in a lot of these cases the products and substances they house are far more dangerous than mineral oil. Nonetheless, we have committed to installing the most advanced fire suppression system available in our new facility – even though it is not required.
7. You reference an OFPC report to claim that the subcontractor PSS was processing mineral oil with PCB concentrations in excess of allowable limits on our site. This is categorically untrue, and it is not what OFPC said in its report. Rather, OFPC provided a general description of PSS’s business, which it gleaned from a corporate website. It made no attempt to verify PSS’s activities on site at TCI and was not referring to what PSS did on site at TCI. At no time have we ever processed mineral oil in excess of the regulatory threshold of 50 PPM.

Many of your recommendations would produce onerous regulations for Columbia County that needlessly repeat existing DEC and EPA processes. The County likely doesn’t need a second layer of oversight of this nature, and it would be costly, not to mention unnecessary. Other of your recommendations are steps and processes that we already undertake. Had you bothered to speak with us, or anyone charged with regulatory oversight of our business, you would know this. For example, we already are fully permitted by DEC and EPA.

We already maintain a detailed chain of custody of all the equipment we pick up, process and transport. More egregious, however, than these elementary mistakes in your report, are your assertions that our activities were unknown to you and to town officials. Ed, you visited the TCI facilities numerous times over the years, just as town officials and inspectors have done. You had full knowledge of the nature of our operations, but despite the expertise you claim in matters of chemical engineering, you never raised any questions about our operations.

Ed, while we appreciate your responsibility as CCEMC chair, and we welcome public involvement and discussion about our business, your memo is deeply flawed and it does everyone a great disservice. It is rife with inaccuracies, misstatements of fact and general falsehoods about our operations, about local ordinances and about state and federal oversight. This could have been avoided had you bothered to speak with us directly or to at least check the facts.

Sincerely,



William J. Better, Esq.

WJB/dab

cc: Hon. Patrick M. Grattan
Hon. Ronald Knott
Hon. Robert Fitzsimmons