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September 1, 2023

Mr. Graham Stevens
Connecticut Department of Energy and Environmental Protection
79 Elm St.
Hartford, CT 06106
Sent by Email: Graham.Stevens@ct.gov

Re: Comments by Members of Subcommittees 6 and 10, and EPOC on Draft Regulatory Language for PEPs

Dear Mr. Stevens,

Kropp Environmental Contractors, Inc. (KEC) presents this letter with regard to the Draft Regulatory Language pertaining to Permitted Environmental Professionals (PEPs). KEC was a member of Subcommittee 4 – Immediate Removal Actions, participated in the Phase II Drafting Team that summarized the Topical Subcommittee Concept papers, and was a member of Subcommittee 10 – Draft Regulatory Language for PEPs.

I appreciate the opportunity to work together with Connecticut DEEP staff and other industry leaders, including environmental consultants, Licensed Environmental Professionals (LEPs), engineers, scientists, realtors, and attorneys, whom all provide different perspectives into the handling of emergency spill responses, long-term remediation, site compliance, and the transfer of real property.

We are aware that the number of volunteers that the DEEP could invite to this program was limited, and that the Department has conducted outreach to obtain a variety of viewpoints, including from spill contractors. On several occasions I reached out to my counterparts, including other spill clean-up contractors, environmental consultants, remediation contractors, petroleum tank removal and installation contractors, and public and private utility organizations.

I often shared with many, the concepts that were being discussed and negotiated by subcommittee members. I was fortunate enough to be placed on three subcommittees that dealt with the initial response of a release. The issues discussed may have waivered slightly from that topic but ultimately the discussions have dealt with the initial first release. As we know, change can bring challenges.

While we generally support the Department's proposal on PEPs, after discussions with other industry leaders outside of the subcommittee platform, we believe that it may be too limiting of PEPs, and there are additional considerations that we would like the Department to take into account when formulating the new release-based regulations. We have collectively agreed to only

address four major considerations. I have outlined them below in hopes of providing more clarity regarding our position.

1) Limitations of Permitted Environmental Professionals Regarding Category of Releases

In consideration of the comments submitted by members of Subcommittee 6, Subcommittee 10, the Environmental Professionals of Connecticut, and the Connecticut Bar Association dated August 8, 2023, KEC provides the following comments specific to the topics highlighted below:

These comments, also endorsed by the other undersigned emergency spill response contractors and organizations, strongly request of the CT DEEP to broaden the allowable responsibilities of Permitted Environmental Professionals (PEPs), as proposed by the Department in draft regulatory language. If the role of PEPs is limited as proposed in the August 8, 2023 comments, it would unreasonably limit emergency spill response actions by PEPs in the event of a spill, when time is of the essence. This is also compounded by the notion that LEPs may not always be immediately available during the onset of emergency spill response actions for the majority of spill occurrences, which occur 24-hours a day, 365-days a year. There appears to be a lack of understanding of the work currently being performed and the volume and timing of incidents and work being performed. In many circumstances, quickly removing a release and restoring a site to preexisting conditions is critical, and the proposed PEP certification provisions will facilitate that work.

2) Releases that Impact Groundwater

A PEP should not be unreasonably restricted from certifying that a release of oil or petroleum that impacts groundwater has satisfied the cleanup standards when that PEP has identified a release, potential receptors, and promptly mitigated and recovered of free-product in the event of a release that impacts groundwater. Additionally, it may be unknown at the immediate time of emergency spill response mobilization that a particular release impacts groundwater. In the case of spills requiring immediate excavation, it is at this crucial time when most free-product may be available for recovery, in addition to other response actions, that can occur simultaneously under the direction and certification of a PEP. The release volume, as discussed further below, may have no bearing on the amount of the release actually impacting groundwater with consideration of type of spill, the spill location, or the media on which the release occurred. Excluding PEPs from certification, in the instance of groundwater impacts, establishes a seriously missed opportunity to efficiently and effectively initiate spill clean-up and remediation.

3) Volume Limitations for Releases Subject to Certification

A PEP should not be unreasonably restricted from certifying a release has satisfied the cleanup standards based on volume alone when that PEP has identified a release, potential receptors, and

promptly mitigated and recovered free-product and impacted soil. The total, estimated or known, volume of a release does not necessarily correlate with a volume that may impact soil, groundwater, or surface water. Emergency spill response is complex and varied, and actual volumes that will impact soil or water resources will be majorly dependent on the media which the release occurred, existing containment, or other site features that ultimately have a primary influence on the nature of the deployed spill response actions. In all reality, excluding PEPs from certification, strictly based on estimated or known release volume is counterintuitive to any effective and timely spill clean-up and remediation.

4) Releases that Impact Surface Water

A PEP should not be unreasonably restricted from certifying a release has satisfied the cleanup standards when that PEP has identified a release, potential receptors, and promptly mitigated and recovered free-product in the event of a release that impacts surface waters, including wetlands or other riparian areas where the soil interacts with nearby surface waters. At the immediate time of emergency spill response mobilization, it may not be known that a particular release has impacted or will impact a surface water. Additionally, no assumptions can be made that a particular release is a relatively small or large volume, in consideration of the specific receiving water type and size, and overall watershed area. In the case of spills requiring immediate excavation, it is at this crucial time when most free-product may be available for recovery, in addition to other response actions, that can occur simultaneously under the direction of a PEP. Spill response actions that are on or adjacent to surface waters are incredibly time-sensitive, with respect to curtailing the release, containing the release, and recovering free-product. Successful deployment of these initial actions, such as prompt boom deployment, receptor identification, and spill site characterization, under the direction and certification of a PEP, will have immense impacts on the extent of the overall impact to the surface waters. Excluding PEPs from certification involving releases that impact surface waters establishes another seriously missed opportunity to efficiently and effectively initiate spill clean-up and remediation, given the delicate nature of surface waters which are used for private and public recreation and are inhabited by a plethora of flora and fauna. A strict reliance on LEP certification in this instance is contradictory to emergency spill response, when a LEP may not be immediately available and time is of the utmost importance.

We are all hopeful that the newly changed regulation will foster further growth and prosperity to the residents and businesses of Connecticut, without compromising on the protection of public health and the environment.

Please find the below signatures from various stakeholders that support the comments outlined above. The endorsing parties possess a cumulative wealth of expertise, many individually have experience spanning multiple decades within the field.

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Please feel free to contact me at 860-642-9952 should you have any questions or comments regarding this correspondence.

Respectfully submitted,



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Kropp Environmental Contractors, Inc.

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Mr. Ted Ayers
Service Manager

AP Marquardt Trucking
Mr. Richard Marquardt
President

Clean Harbors, Inc.
Mr. Fernando Centeno
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D.W. Transport & Leasing, Inc.
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Enviroshield, Inc.
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Vice President

HOP Energy LLC.
Mr. Richard Johnson Jr.
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Services, LLC.
Mr. Gary Berube
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Service Station Equipment, Inc
Mr. Martin McKinney
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Mr. Charles W. Grant III
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Willimantic Waste Paper Co., Inc.
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