

UNIVERSITY OF MINNESOTA

Twin Cities Campus

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February 1, 2016

Elizabeth Lincoln, Director
Legislative Reference Library
645 State Office Bldg.
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155-1050

Dear Ms. Lincoln:

Minnesota Statutes Section 137.52 requires the Board of Regents of the University of Minnesota to annually report to the legislature on the University's efforts and the efforts of the United States Department of Defense to remedy environmental impacts associated with the former Gopher Ordnance Works (GOW), a World War II smokeless gunpowder production facility located on the University land in Rosemount, Minnesota. That land is under the cooperative management of the University and the Department of Natural Resources and designated as Vermillion Highlands: A Research, Recreation and Wildlife Management Area.

Past environmental studies by the University and the United States Army Corps of Engineers (Army Corps) have identified the presence of hazardous substances in site soil, the majority of which were initially disposed or otherwise came to be located at the site during the construction, operation, decontamination and/or demolition of GOW. Specific to Vermillion Highlands, these studies have found lead, arsenic and dinitrotoluene in soil near some of the structures associated with former gunpowder processing and storage facilities. The MPCA has requested that the University and the Army Corps complete a Remedial Investigation (RI) of areas of GOW that have not been fully assessed in past studies.

In early 2015, at the MPCA's request, the University advised the MPCA that it would serve as the lead for developing the plans and implementing the RI. The University entered the site into the MPCA's Voluntary Investigation and Cleanup Program in June 2015. Also in June 2015, the University submitted a draft RI Scope of Work to the MPCA identifying areas targeted for investigation and describing the work to be completed in those areas. After incorporating comments by the MPCA, the Department of Health and the Army Corps, the University issued a formal request for proposals for an environmental consultant to complete the RI. The University selected a consultant in December 2015, and will submit a draft RI Work Plan and other project-related documents to MPCA for review and approval at the end of January 2016. The RI planning documents will then be presented to the public for review and comment in March 2016, with the RI field work to be completed in the spring / summer of 2016. The draft RI Report will be submitted to the MPCA in November 2016, followed shortly by a second public meeting to present the RI findings.

Throughout 2015, the University has continued its discussions with the Army Corps, the United States Department of Justice (DOJ) and E. I. DuPont de Nemours and Company, Inc. (DuPont).

The War Department contracted with DuPont during World War II to construct and operate GOW, and the MPCA has designated DuPont a "responsible person" under the Minnesota Environmental Response and Liability Act (MERLA), Minn. Stat. § 115B.01, *et seq.*, for identified releases of hazardous substances at GOW. The DOJ recently advised that it would defend DuPont against claims by the MPCA and the University regarding GOW under an indemnification provision in DuPont's contract with the War Department.

The University and the Army Corps are currently sharing documents and other information and continuing their discussions regarding a process for negotiating an allocation of the costs of investigations and the upcoming RI. In the interest of time and in the spirit of cooperation, the University has chosen not to wait until the conclusion of these negotiations before proceeding with the RI. As a result, the University has advanced (subject to its cost recovery rights) the funds to proceed with the RI. The initial phase of negotiations with the Army Corps will be completed in 2016. The University then anticipates a second phase of negotiations with the Army Corps once the cost of any required remediation of GOW is known. Absent a cost-sharing agreement with the Army Corps for the past and future cost of the investigation and any required remediation, the University will pursue its legal options for recovery of the federal government's and DuPont's shares of past and future response costs.

Sincerely,

A handwritten signature in blue ink, appearing to read "RHPfitzenreuter", written in a cursive style.

Richard H. Pfitzenreuter III
Vice President and CFO

cc: Brian Steeves, Board of Regents, University of Minnesota
Erin Dady, Special Assistant, Office of the President, University of Minnesota
Cynthia Osmundson, Chair, Vermillion Highlands Joint Steering Committee
Pamela Wheelock, Vice President, University Services
William Donohue, General Counsel, University of Minnesota