



North Carolina Department of Environment and Natural Resources
Division of Waste Management

Pat McCrory
Governor

Dexter R. Matthews
Director

John E. Skvarla, III
Secretary

December 16, 2013

Sent Via E-mail and USPS

Tom McKittrick
Forsite Development, Inc.
5320 Old Pineville Road
Charlotte, NC 28217
tom@forsiteinc.com

Subject: Letter of Eligibility
Former Yorkshire Americas Site
1602 North Main Street
Lowell, NC 28092
Brownfields Project Number: 17056-13-036

Dear Mr. McKittrick:

The North Carolina Department of Environment and Natural Resources (DENR) has received and reviewed the Brownfields Property Application (BPA) received on November 14, 2013 and the additional information submitted via email on December 9 and 13, 2013. This application was submitted on behalf of Lowell Investments I, LLC as a Prospective Developer seeking a brownfields agreement regarding the subject site. Upon review of the BFA and additional information with respect to the requirements of the Brownfields Property Reuse Act of 1997, DENR has determined that this project is eligible for entry into the North Carolina Brownfields Program and for continued evaluation for a Brownfields Agreement.

We understand that the property was formerly a dye manufacturing and packaging facility. This property was the subject of a previous Brownfields application that did not go through the final steps of the Brownfields process. The property was subject to an EPA Region 4 Administrative Order to conduct emergency response activities at the site including overpack/staging of drums containing hazardous substances, segregating and properly packaging unknown materials, conducting an inventory of all containers on site, and properly characterizing, transporting and disposing of waste in accordance with applicable laws in 2009 - 2010.

Contemporaneously with these activities, the Division of Waste Management filed a bankruptcy claim for this site. The settlement received by the Division from the Chemtura Corporation bankruptcy was based on a negotiated, detailed estimate of future environmental cleanup costs for the Lowell site, largely comprised of costs associated with the investigation and remediation of contaminated groundwater.

The Division has agreed to conduct a limited sampling program at the groundwater discharge areas near the site property boundaries to gain a better understanding of the range of likely costs associated with appropriate long-term groundwater remedies. However, based on our knowledge of this property, we do believe that additional assessment will be necessary to evaluate potential on-site sources of contamination such as that associated with the historic filter press locations, and possibly other areas.

The next step in the Brownfields process is to conduct a detailed technical review to evaluate the remaining data gaps. We will contact you regarding the scope of that additional assessment to establish that the property is or can be made suitable for the intended reuse, as required by statute.

No technical documents were submitted with your application. Historical site information from the files of DENR's Division of Waste Management will be utilized during the evaluation process. Please forward any additional pertinent information or data you may have or can acquire for our evaluation. This should include reports from other DENR agencies or regional offices.

Because risk management decisions may vary depending on the nature of the redevelopment, it will be important that DENR review the locations of the various elements of your planned redevelopment as they become available. Please forward any maps or drawings indicating these details, even if they are only preliminary or conceptual.

Pending execution of a Brownfields Agreement, eligibility is provisional. You do not have the protections such an agreement offers unless and until it is executed. Thus, you operate at the site pending conclusion of a Brownfields Agreement at the risk of jeopardizing your eligibility and/or becoming a party responsible for the contamination at the site if an agreement is not finalized. This makes it very much in your interest to consult closely with the Project Manager regarding any planned site activities prior to agreement finalization.

If a party other than the Prospective Developer will own the Brownfields property at the conclusion of the brownfields process, the final document (which gets recorded at the Register of Deeds' office) must be signed not only by the Prospective Developer but by that owner. Failure by the Prospective Developer to ensure, by the time Brownfields Agreement negotiations are complete, the willingness to sign of any such party, and to provide DENR the exact name, e-mail address, telephone number and U.S. mail address of the party (along with signatory/signatory's title in the case of an entity) will retard, and could prevent, the Brownfields Agreement taking effect.

If the Prospective Developer does not actually buy the property for redevelopment, it loses its eligibility for the Brownfields Program. That means the Prospective Developer itself, not an affiliate or any other party.

Lowell Investments I, LLC
December 16, 2013

DENR is pleased about the potential for public benefit offered by the reuse of the former Yorkshire Americas property, and looks forward to working with you to advance this brownfields redevelopment project. If you have questions about this correspondence or require additional information, please feel free to contact Sharon Eckard, your Project Manager, by phone at 919.707.8379 or by email at sharon.eckard@ncdenr.gov.

Sincerely,



Linda M. Culpepper
Deputy Director
Division of Waste Management

cc: Project File
ec: Bruce Nicholson, DENR
Sharon Eckard, DENR