

Edgewater readies legal action over pollution during Veterans Field rehab

AUGUST 12, 2014, 7:03 PM LAST UPDATED: TUESDAY, AUGUST 12, 2014, 7:03 PM

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Print

EDGEWATER — Borough officials have announced plans to sue “all responsible parties” over new contaminants inadvertently brought onto Veterans Field during soil remediation that was halted last year.

Monday’s council vote to proceed with litigation came the same night officials authorized spending \$24,800 for additional soil testing and introduced an ordinance to raise the price tag of the Veterans Field project to \$13.7 million. The \$4-million increase, which would require issuing more bonds, will be voted on at the next meeting.

The borough and Waterside Construction, which trucked in contaminated crushed concrete, have been in mediation for months. They are at odds over issues such as how much of the contaminants presently onsite was the result of the contractor’s actions, said Timothy Corrison, special counsel to the borough. Before Waterside began work, the field already had traces of polychlorinated bipheynyls, a cancer-causing chemical.

“Waterside violated the sanctity of the public trust by improperly disposing of PCB waste materials at Veterans Field,” Corrison said. “They believe that others are partly responsible. That is ultimately what will be litigated.”

A spokesman for developer Fred Daibes, who owns Waterside, declined to comment on potential litigation. “However, Waterside continues to be willing to participate in mediation and hopes to reach an amicable settlement among all of the parties,” spokesman Alan Marcus wrote in an email.

In addition to Waterside, Corrison said the complaint he plans to file in federal court this week will name as defendants Daibes and several of his entities; Alcoa, the aluminum plant whose former site on River Road was the source of the tainted concrete,

and TERMS Environmental Services, Inc., the borough's former environmental consultant that officials said let Waterside slip past inspection.

A spokeswoman for Alcoa declined to comment on Tuesday, saying the company had not been served with legal papers. TERMS' attorney could not immediately be reached for a comment.

The council's decision to sue comes three weeks after TERMS filed a complaint against Edgewater, claiming it's owed \$202,145.46 for work it did as the borough's former environmental consultant. Fired in May, TERMS has notified the borough of its intent to also sue for alleged wrongful termination.

The council severed ties with TERMS after questioning the firm's competence in allowing Waterside to introduce new contaminants to Veterans Field.

In its tort claim notice to the borough last month, TERMS accused the council of bowing to pressure from Waterside by terminating TERMS' contract because it had reported the contractor's actions. In an October 2013 letter to the borough, TERMS stated that Waterside ignored a mandate to test all materials brought onsite.

Representatives for Waterside at the time said they believed the concrete was clean, given that the state Department of Environmental Protection previously allowed contractors to reuse material from the Alcoa site. Borough officials also have said that Waterside told them that TERMS approved the material — a claim the environmental firm denies.

Corrison said Waterside agreed to reimburse most of the money that TERMS is seeking to recoup, but that the contractor hasn't made the payment.

"We also believe that TERMS did act in a negligent manner regarding their supervision of the testing of the fill materials," Corrison said. "As a result, we will vigorously defend that suit and make them a party in the suit we're about to file."

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