



State of New Jersey

Department of Environmental Protection

Division of Remediation Management & Response
Northern Bureau of Field Operations
2 Babcock Place
West Orange NJ 07052

James E. McGreevey
Governor

Bradley M. Campbell
Commissioner

April 1, 2004

Leigh Otterlei
1117 North Main Street
Aberdeen, SD 57401

Re: Unrestricted Use No Further Action Letter and Covenant Not to Sue
Area of Concern: **One (1) 550 Gallon #2 Heating Oil Underground Storage Tank.**
Block: 36 Lot: 1
165 Lindbergh Road
East Amwell Township / Hunterdon County
Memorandum of Agreement dated March 29, 2004
Preferred ID: 224523
Case Number: 04-02-26-1431-44

Dear Ms Otterlei:

Pursuant to N.J.S.A. 58:10B-13.1 and N.J.A.C. 7:26C, the New Jersey Department of Environmental Protection (Department) makes a determination that no further action is necessary for the remediation of the area(s) of concern specifically referenced above, except as noted below. This action is based upon information in the Department's case file and Leigh Otterlei's final certified report dated March 23, 2004. In issuing this No Further Action Determination and Covenant Not to Sue, the Department has relied upon the certified representations and information provided to the Department.

By issuance of this No Further Action Determination, the Department acknowledges the completion of a Remedial Action pursuant to the Technical Requirements for Site Remediation (N.J.A.C. 7:26E) for the area(s) of concern, and no other areas. A groundwater investigation was required and results from the Area of Concern were in compliance with the Ground Water Quality Standard (N.J.A.C. 7:9-6) for #2 fuel oil parameters. The potable well was tested and the results showed coliform and tetrachloroethene above the Ground Water Quality Standard. The Department reserves its rights to require any person responsible for the contamination at the site other than Leigh Otterlei to address Natural Resource Injuries.

As a condition of this No Further Action Determination pursuant to N.J.S.A. 58:10B-12o, Leigh Otterlei and any other person who was liable for the cleanup and removal costs, and remains liable pursuant to the Spill Act, shall inform the Department in writing within 14 calendar days whenever its name or address changes. Any notices submitted pursuant to this paragraph shall reference the above case numbers and shall be sent to: Director, Division of Remediation Management and Response, P.O. Box 28, Trenton, N.J. 08625.

COVENANT NOT TO SUE

The Department issues this Covenant Not to Sue (Covenant) pursuant to N.J.S.A. 58:10B-13.1. That statute requires a Covenant not to sue with each no further action letter. However, in accordance with N.J.S.A. 58:10B-13.1, nothing in this Covenant shall benefit any person who is liable, pursuant to the Spill Compensation and Control Act (Spill Act), N.J.S.A. 58:10-23.11, for cleanup and removal costs and the Department makes no representation by the issuance of this Covenant, either express or implied, as to the Spill Act liability of any person.

The Department covenants, except as provided in the preceding paragraph, that it will not bring any civil action against:

- (a) the person who undertook the remediation;
- (b) subsequent owners of the subject property;

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NOTICES

Due to the presence of tetrachloroethene from an unknown source unrelated to the investigated area or concern, this aspect is being transferred to the Bureau of Risk Management, Initial Notice and Case Assignment.

Pursuant to the Procedures for Department Oversight of the Remediation of Contaminated Sites (N.J.A.C. 7:26C) you may have an opportunity to remediate the site, or portion of the site, on a voluntary basis under a Memorandum of Agreement (see <http://www.state.nj.us/dep/srp/volclean/>) or otherwise. Please direct all correspondence to:

New Jersey Department of Environmental Protection
Bureau of Risk Management, Initial Notice and Case Assignment
Case Assignment Section
Attention: Section Chief
401 East State Street - 5th Floor
P.O. Box 434
Trenton, NJ 08625-0434

Please be advised that in accordance with the "Department Oversight of the Remediation of Contaminated Sites" (N.J.A.C. 7:26C), Leigh Otterlei is required to reimburse the Department for oversight of the remediation. The Department will be issuing a bill within the next four months.

Thank you for your attention to these matters. If you have any questions, please contact Steven Mason at (973) 669-3974.

Sincerely,



Yacoub E. Yacoub, Bureau Chief
Northern Bureau of Field Operations

c: Local Health Department
Craig Wilkinson, Hill Environmental Group, Inc
NFO File #

- (c) subsequent lessees of the subject property; and
- (d) subsequent operators at the subject property;

for the purposes of requiring remediation to address contamination which existed prior to the date of March 23, 2004 Remedial Action for the real property at the area(s) of concern identified above, payment of compensation for damages to, or loss of, natural resources, or payment of cleanup and removal costs for such additional remediation.

Pursuant to N.J.S.A. 58:10B-13.1d, this Covenant does not relieve any person from the obligation to comply in the future with laws and regulations. The Department reserves its right to take all appropriate enforcement for any failure to do so.

The Department may revoke this Covenant at any time after providing notice upon its determination that any person with the legal obligation to comply with any condition in this No Further Action Determination has failed to do so.

This Covenant, which the Department has executed in duplicate, shall take effect immediately once the person who undertook the remediation has signed and dated the Covenant in the lines supplied below and the Department has received one copy of this document bearing original signatures of the Department and the person who undertook the remediation.

By: Leigh Otterlei

Signature: 

Title: Manager

Dated: 4/15/04

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: Yacoub E. Yacoub

Signature: 

Title: Bureau Chief

Dated: 4/2/05