



State of New Jersey

Department of Environmental Protection

Christine Todd Whitman
Governor

Robert C. Shinn, Jr.
Commissioner

Bureau of Underground Storage Tanks
P.O. Box 433
401 East State Street
Trenton, N.J. 08625-0433
Fax (609)633-1454

Mr. Daniel Winters
PO Box 387
~~581 Rahway Avenue~~
Union, NJ 07083 - 0087

Re: Area of Concern: 2,000 Gallon Gasoline Underground Storage Tank
Limited Restricted Use
No Further Action Letter and Covenant Not to Sue
Allied Building Supplies
101 West Elizabeth Avenue
Block 254 Lot 10
Linden, Union County
Case #93-06-24-1425
UST #0129486
KCSL # NJL600081798
Closure #C93-2092.

NOV 16 1998

Dear Mr. Winters:

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 of concern as specifically referenced above, except as noted below, so long as Allied Building Supplies did not withhold any information from the Department. This action is based upon information in the Department's case file and Allied Building Supplies' final certified report dated August 26, 1998. 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 Investigation and Remedial Action pursuant to the Technical Requirements for Site Remediation (N.J.A.C. 7:26E) for the 2,000 gallon Gasoline Underground Storage Tank and no other areas.

NO FURTHER ACTION CONDITIONS

As a condition of this No Further Action Determination Allied Building Supplies as well as each subsequent owner, lessee and operator (collectively "Successors") shall comply with each of the following:

Name and Address Changes

Pursuant to N.J.S.A. 58:10B-12, Allied Building Supplies and the Successors shall inform the Department in writing whenever its name or address changes, within 14 calendar days after the change.

Well Sealing

Pursuant to N.J.S.A. 58:4A, Allied Building Supplies and the Successors shall properly seal all monitoring wells installed as part of a remediation that will no longer be used for ground water monitoring. A certified and licensed well driller shall seal the wells in accordance with the requirements of N.J.A.C. 7:9-9. The well abandonment forms shall be completed and submitted to the Bureau of Water Allocation. Please call (609) 984-6831 for forms and information.

Monitoring of Compliance

Pursuant to N.J.S.A. 58:10B-13.1, Allied Building Supplies and the Successors shall conduct monitoring for compliance and effectiveness of the institutional control specified in this document and submit a certification to the Department biennially in writing that the institutional control is being properly maintained and continues to be protective of public health and safety and the environment. Any such certification shall include the information relied upon to determine that no changes have occurred.

CLASSIFICATION EXCEPTION AREA (CEA) AND WELL RESTRICTION AREA (WRA)

Because concentrations of contaminants remain above the Ground Water Quality Standards, N.J.A.C. 7:9-6 et seq., a CEA and WRA are required, at this time, as institutional controls.

This CEA and WRA are based, in part, on the aquifer and contaminant data and evaluations provided in the above referenced report and/or case file. The CEA and WRA is the area defined by the property boundary and identified on the enclosed map. Any special conditions or restrictions for water use within the WRA will be administered by the Department's Bureau of Water Allocation.

This CEA and WRA apply to benzene, toluene, ethylbenzene and xylenes only. All other constituent standards apply within the CEA. All constituent standards (N.J.A.C. 7:9-6) apply at the designated boundary. All designated ground water uses within this area are suspended for the duration of the CEA. Pursuant to N.J.A.C. 7:9-6.4, "designated use" means a present or potential use of ground water within a ground water classification area as determined by N.J.A.C. 7:9-6.5. Pursuant to N.J.A.C. 7:9-6.5, this area is presently designated as Class II-A. The primary designated use for Class II-A ground water is potable water; secondary uses include agricultural and industrial water.

The duration of the CEA and WRA is set at three years from the date of this letter. This is greater than the predicted duration for contaminant degradation in the above referenced report. The Ground Water Quality Standards that apply to the compounds of concern are: benzene 1 ppb; toluene 1000 ppb; ethylbenzene 700 ppb and xylenes 1000 ppb. Should concentrations of contaminants reach their respective criteria prior to the CEA and WRA expiration date as demonstrated through ground water sampling, the Department will consider any requests to terminate the CEA and WRA. However, the expiration of the three year period prior to contaminant concentrations reaching the Ground Water Quality Standards would not constitute approval to utilize the ground water for its designated purposes. Compliance with the Ground Water Quality Standards may be determined by Allied Building Supplies by demonstrating that the Ground Water Quality Standards have been met for the referenced constituent(s) through ground water sampling from monitoring well: MW-1. Please note that Allied Building Supplies has the option of maintaining these wells for sampling purposes or sealing these wells and utilizing an acceptable method of ground water sampling to demonstrate compliance with the Ground Water Quality Standards. Compliance may be determined by Allied Building Supplies at the termination of the CEA and WRA or sooner. The Department's evaluation of the ground water sampling results, to determine compliance with the Ground Water Quality Standards, would be through a Memorandum of Agreement (MOA) or other oversight document, executed between Allied Building Supplies and the Department.

COVENANT NOT TO SUE

The Department issues this Covenant Not to Sue 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 the following:

- (a) the person who undertook the remediation;
- (b) subsequent owners of the subject property;
- (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 the final certified report for the area of concern specifically referenced above, or payment of cleanup and removal costs for such additional remediation.

Any person who may benefit from this Covenant is barred from making a claim against the Spill Compensation Fund, N.J.S.A. 58:10-23.11i, and the Sanitary Landfill Facility Contingency Fund, N.J.S.A. 13:1E-105, for any costs or damages relating to the remediation covered by this Covenant. All other claims against these funds will be controlled by the corresponding statutes and their implementing regulations.

Allied Building Supplies, and each subsequent owner, lessee and operator, during that person's ownership, tenancy or operation, shall maintain those controls and conduct periodic compliance monitoring in the manner the Department requires.

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 either:

- (a) any person with the legal obligation to comply with any condition in this No Further Action Letter has failed to do so; or
- (b) any person with the legal obligation to maintain or monitor any engineering or institutional control has failed to do so.

This Covenant Not to Sue, which the Department has executed in duplicate, shall take effect immediately once the person who undertook the remediation has signed and dated the Covenant Not to Sue in the lines supplied below and the Department has received one copy of this document with original signatures of the Department and the person who undertook the remediation.

Name: Daniel Winters

Signature: _____

Title: _____

Dated: _____

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION

Name: Kevin F. Kratina

Signature: Kevin F. Kratina

Title: Chief, Bureau of Underground Storage Tanks

Dated: NOV 16 1998

NOTICES

Bureau of Field Operation's Case Assignment

This No Further Action Determination specifically does not address the 550 gallon fuel oil underground storage tank. Allied Building Supply was notified of the case transfer to the Bureau of Field Operation's Case Assignment Section by letter on December 8, 1994.

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 (application enclosed) or otherwise. Please direct all correspondence to:

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

Direct Billing

Please be advised that pursuant to the Procedures for Department Oversight of the Remediation of Contaminated Sites (N.J.A.C. 7:26C et seq.) Allied Building Supplies 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 Bill Brown, Case Manager at (609) 777-1386.

Sincerely,



Kevin F. Kratina, Chief
Bureau of Underground Storage Tanks

enclosures: Memorandum Of Agreement Package
CEA USGS Quad and Site Location Map

- c: Kevin Kratina, BUST
- Board of Health, Linden
- Municipal Clerk, Linden (CEA)
- CEHA Agency, Union County
- Case Manager
- Section Chief, (BFO\CAS)
- County Planning Board (CEA)
- NJDEP-Bureau of Water Allocation
- NJDEP-John Defina, Bureau of Planning & Systems (CEA)
- NJDEP-Environmental Claims Administration (CEA)