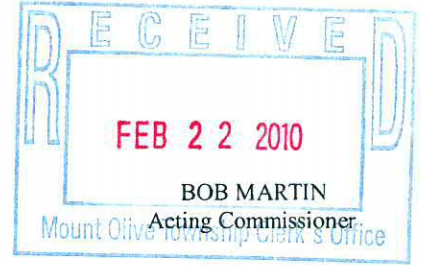




C

State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION



CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

Unregulated Heating Oil Tank Program
401 East State Street, 6th floor
P.O. Box 028
Trenton, NJ 08625-0028
Phone #: 609-292-1251
Fax #: 609-777-1914

cc: Admin Bldg. Health

February 8, 2010

Benjamin Appelbaum
27 Bennington Drive
Flanders, NJ 07836

Re: Area of Concern: One 550-gallon #2 Heating Oil Underground Storage Tank System
Unrestricted Use - No Further Action Letter and Covenant Not to Sue
Block 7400, Lot 35
27 Bennington Drive
Mount Olive, Morris County
Program Interest #: 516108, Activity Number: CSP100001
Communications Center Number: 09-06-24-1128-43

Dear Mr. Appelbaum:

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 specifically referenced above, except as noted below, so long as you did not withhold any information from the Department. This action is based upon information in the Department's case file and your final certified report dated January 12, 2010. 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 area of concern specifically referenced above and no other areas.

NO FURTHER ACTION CONDITIONS

As a condition of this No Further Action Determination pursuant to N.J.S.A. 58:10B-12o, you 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 your name or address changes. Any notices submitted pursuant to this paragraph shall reference the above case numbers and shall be sent to: Site Remediation Program, P.O. Box 28, Trenton, NJ 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;
- (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 [Remedial Action Report dated January 12, 2010] for the real property at the area of concern identified above, payment of compensation for damages to, or loss of, natural resources, for the restoration of natural resources in connection with the discharge on the property, 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.

Benjamin Appelbaum

By: _____

Signature: _____

Title: _____

Dated: _____

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: Kenneth J. Kloo

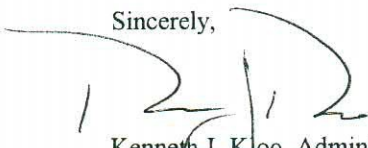
Signature:  _____

Title: Administrator, Office of Brownfield Reuse

Dated: Feb 8, 2010

Thank you for your attention to these matters. If you have any questions, please contact Gary Sanderson, Program Coordinator, at (609) 633-0544.

Sincerely,


Kenneth J. Kloo, Administrator
Office of Brownfield Reuse

- c: Municipal Clerk, Mount Olive
- Mark Annis, Anco Environmental Svcs Inc
- Frank Wilpert, Mt. Olive Township Health Department
- Howard Steinberg, Morris County Office of Health Management
- Gary Sanderson, NJDEP/OBR/Unregulated Heating Oil Tank Program