



(C)

cc: Admin
F. De Tero

State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Brownfields Remediation & Reuse Element
Northern Bureau of Field Operations
7 Ridgedale Avenue, 2nd Floor
Cedar Knolls, NJ 07927-1112
Phone: 973-631-6401
Fax: 973-656-4440

JON S. CORZINE
Governor

LISA P. JACKSON
Commissioner

August 7, 2008

Patsy Montello
2 Orchard Street
Budd Lake, NJ 07828

Re: **No Further Action Letter and Covenant Not to Sue**
Unrestricted Use for the 550 Gallon No. 2 Fuel Oil Underground Storage Tank (UST)
Montello Residence
2 Orchard Street
Mount Olive Township, Morris County
Block 3309, Lot 18
Program Interest #: 449475
Activity Reference Number: BFO070001
Communications Center Number: 07-06-06-1249-49
NBFO File #: 14-27-248

Dear Mr. Montello:

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) issues this No Further Action Letter and Covenant Not To Sue for the remediation of the area of concern specifically referenced above, except as noted below, so long as Patsy Montello did not withhold any information from the Department. This action is based upon information in the Department's case file and Patsy Montello's final certified report dated September 12, 2007. In issuing this No Further Action Letter and Covenant Not to Sue, the Department has relied upon the certified representations and information provided to the Department. To remain in compliance with the terms of this No Further Action Letter and to maintain the benefits of the Covenant Not to Sue, Patsy Montello as well as each subsequent owner, lessee and operator must comply with the conditions noted below.

By issuance of this No Further Action Letter, 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 550 Gallon No. 2 Fuel Oil UST only, and no other areas. Post excavation soil sample analytical results were below the cleanup criteria developed for the site. Ground water was neither encountered nor evaluated.

NO FURTHER ACTION CONDITIONS

As a condition of this No Further Action Letter pursuant to N.J.S.A. 58:10B-12o Patsy Montello and any other person who was liable for the cleanup and removal costs, and remains liable pursuant to the Spill Compensation and Control Act, shall inform the Department in writing within fourteen (14) calendar days whenever its name or address changes. Any notices submitted pursuant to this paragraph shall reference the above case numbers and be sent to: Office of Initial Notice and Case Assignment - Case Assignment Section, Oversight Resources Allocation Element, 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 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 (Remedial Action Report Dated September 12, 2007) for the real property at the area of concern identified above, including 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 the 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 Letter 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.

**MONTELLO RESIDENCE
2 ORCHARD STREET**

By: Patsy Montello

Signature: _____

Title: _____

Dated: _____

**NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

By: Yacoub E. Yacoub

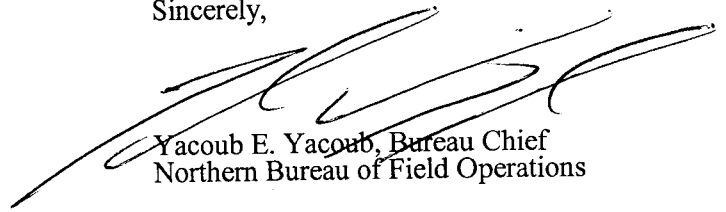
Signature: _____

Bureau Chief, Northern Bureau of Field Operations

Dated: 08-07-08

Thank you for your attention to these matters. If you have any questions, please contact, Ralph Rodrigues at (973) 656-4430.

Sincerely,



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

c: Frank P. Wilpert, Mt. Olive Township Health Department
Mt. Olive Township Municipal Clerk
Ralph Rodrigues, Case Manager
Patricia Miller, Aim Tank Services, Inc.
File # 14-27-248