



George E. Meyer
Secretary

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Horicon Area Headquarters
N7725 - Hwy. 28
Horicon, Wisconsin 53032
TELEPHONE 414-387-7860
TELEFAX 414-387-7888

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EMERGENCY & REMEDIAL RESPONSE SECTION
DEPT. OF SOLID & HAZRO WASTE

January 12, 1996

File Ref: ERRP - Dodge County

DNR ASSURANCE LETTER

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Mr. Don Gallo
Michael, Best & Friedrich
100 E. Wisconsin Ave.
Milwaukee, WI 53202-4108

Mr. Barry Herring
Pine Tree Beaver Dam, L.L.C.
51 Sherwood Terrace, Suite C.
Lake Bluff, IL 60044

Mr. Charles Swain, Chairman
Dodge County Board of Supervisors
Dodge County Courthouse
Juneau, WI 53039

Subject: Department of Natural Resources Approval of a Thorough Environmental Investigation and Conditions Necessary for Obtaining Purchaser Liability exemption under s.144.765, Stats., relating to the Proposed Sale of a portion of the Monarch Development, 714 N. Spring Street, City of Beaver Dam, Dodge County

Gentlemen:

Pursuant to Attorney Don Gallo's letter dated January 2, 1996, to Pat McCutcheon of the Wisconsin Department of Natural Resources (Department), Attorney Gallo has notified the Department that Pine Tree Beaver Dam, L.L.C. (Pine Tree) intends to purchase a portion of the Monarch Development property located at 714 North Spring Street in the City of Beaver Dam, Dodge County, Wisconsin from Dodge County.

The Monarch Development property (Monarch Development) is described in Document #816420, Volume Cab A, page 257 as recorded on October 20, 1995, by the Dodge County Register of Deeds Office. Specifically, Pine Tree is attempting to purchase Lots 2,6,7 and 8, excluding the railroad corridor (the Property) of the Monarch Development. The purpose of this letter is to provide Pine Tree with the Department's findings and assurances regarding responsibilities and liabilities of the parties under applicable Wisconsin law, including Wisconsin Statutes ss. 144.76 and 144.765 in the event the contemplated transaction involving Pine Tree and Dodge County takes place.

1. Adequacy of Environmental Investigation. Certain investigative activities have been conducted on the Monarch Development, which includes the Property, under the supervision of the Department and in accordance with applicable requirements, including s. 144.76, Stats. These activities are

described in the reports prepared by Eldredge Engineering Associates, Inc. (Eldredge), Keil Environmental Engineering, Inc. (Keil), and Fluid Management, Inc. (FMI). The associated environmental reports (the Reports) are described as follows:

<u>Title</u>	<u>Date</u>	<u>Consultant</u>
Environmental Assessment	10/89	Eldredge
Site Investigation Workplan	7/91	Keil
Site Investigation Report	11/91	Keil
Gasoline UST Investigation Report	6/92	Keil
Free Product Recovery Plan	10/92	FMI
RAP (Petroleum Hydrocarbons)	9/93	FMI
RAP (Non-Petroleum Related Contaminants)	11/93	FMI
Soil Excavation, Disposal and Analysis Plan	3/95	FMI

The Department approves of the scope of the Reports and agrees that, collectively, these Reports constitute a "thorough environmental investigation" of the Property within the meaning of s. 144.765, Stats.

2. Remediation Activities to be Conducted. After reviewing the results of the environmental investigations that are listed in Paragraph 1., the Department has determined that remedial actions are necessary to restore groundwater quality. The various reports show that volatile organic compounds (VOCs) have contaminated the groundwater beneath the Property, and that the groundwater quality does not comply with standards listed in Chap. NR 140, Wis. Adm. Code. Groundwater extraction/treatment and air sparging have been selected as the active remedial measures necessary to bring the site into compliance with Chap. NR 140, Wis. Adm. Code, standards.

The various environmental reports also documented soil contamination at the Monarch Development. Soil removal and vapor extraction of the contaminants were selected as the remedial actions that are necessary to restore soil contamination at the site. Soil removal activities and vapor extraction systems have been or will be conducted or located on the Property. The specific locations and combinations of remedial action activities are described in the FMI September 1993 Remedial Action Plan for the Removal of Petroleum Hydrocarbons, and the FMI November 1993 Remedial Action Plan for the Removal of Non-Petroleum Related Contaminants.

3. Purchaser Liability Exemption. The Department has determined that if Pine Tree obtains title to the property from Dodge County, such contemplated transaction is in good faith and at arm's length, within the meaning of s. 144.765, Stats., and that Pine Tree qualifies as a "purchaser" within the meaning of s. 144.765(1)(c), Stats.

Upon completion of the remedial actions described in paragraph 2 of this letter, pursuant to s. 144.765, Stats., Pine Tree shall have no liability for cleanup or assessment activities under s. 144.76(3), (4) and (7)(b)&(c), Stats., with respect to the existence of a hazardous substance on the Property, the release of which occurred prior to the date of the transfer of the Property from Dodge County to Pine Tree.

4. No Lien for Environmental Costs. If the contemplated transaction between Pine Tree and Dodge County is consummated, the Department agrees that it will not file a lien against the Property for any expenditure made by the Department for investigation and cleanup activities relating to the environmental

contamination on the Property that existed prior to Pine Tree's acquisition of the Property.

5. Contemplated Construction Activities. The Department will not require pre-approval for any construction activity contemplated on the Property, provided however, that any construction activity in the areas requiring remediation, as described in the Reports, must either be done after the remediation is complete or must be performed in such a manner as to avoid interfering with the necessary remediation activities. Any such construction and/or excavation activities shall not constitute activities considered to be inconsistent with the maintenance of the Property within the meaning of s. 144.765(2)(a)5., Stats., if those activities are conducted in compliance with any applicable deed restriction, and such activities shall not form the basis for any clean up or investigation liability on the Property for Pine Tree or any successor or assign under applicable Wisconsin law.

If the remediation activities that are described in paragraph 2 of this letter are conducted, a deed restriction will not be required unless there is significant residual soil contamination that cannot be completely remediated, because it is inaccessible at the present time or is otherwise impracticable to cleanup to soil cleanup standards or the Department case closure guidelines.

6. Applicable Statutory and Regulatory Framework. The Reports have identified groundwater contamination resulting from discharges on the Property. The Department agrees that all remediation required on the Property shall proceed under s. 144.76, Stats., and not under the Federal Resource Conservation and Recovery Act or its Wisconsin counterpart at ss. 144.60 through 144.74, Stats.

7. Successors and Assigns. All of the determinations and statements regarding liabilities made by the Department as described in this letter shall inure to the benefit of Pine Tree and its successors and assigns.

Wisconsin Department of Natural Resources

By: _____

Mark F. Putra
Hydrogeologist

David S. Edwards
Waste Management Specialist

cc: Mayor Steven Sabatke, City of Beaver Dam
Maryann Sumi - AD/5
✓ Darsi Foss - SW/3
SD