



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor
George E. Meyer, Secretary
Gloria L. McCutcheon, Regional Director

Southeast Region Headquarters
2300 N. Dr. ML King, Jr. Drive, Box 12436
Milwaukee, Wisconsin 53212-0436
TELEPHONE 414-263-8500
FAX 414-263-8716
TDD 414-263-8713

November 3, 1998

File Ref. FID#241977010

RR/ERP

Ms. Kimberly Grimm
Continental Properties Company, Inc.
P.O. Box 220
Menomonee Falls, WI 53052

SUBJECT: Liability for soil or groundwater contaminated by an off-site source
Property at 1811 W. Silver Spring Drive (Junge Property)
Glendale, Wisconsin

Dear Ms. Grimm:

Purpose

The Department of Natural Resources ("the Department") has recently reviewed your request for an off-site exemption letter for the property located at 1811 W. Silver Spring Drive (the Junge Property), further described in Attachment A, which will be referred to in this letter as "the Property." You have requested that the Department determine whether Continental 87 Fund LLC, upon purchase of the Property, is exempt from sections 292.11(3), (4) and (7)(b) and (c), Wis. Stats. (commonly known as the "Hazardous Substance Spill Law"), with respect to the existence of hazardous substances in the soil or groundwater, specifically tetrachloroethylene, trichloroethylene and the associated breakdown daughter compounds, that you believe are migrating onto the Property from an off-site source.

Determination

As you are aware, section 292.13(2), Wis. Stats., requires the Department, upon request, to issue a written determination regarding a liability exemption for a person who possesses or controls property that has been contaminated by an off-site source, when certain conditions are met. In order to make this specific determination, the Department has reviewed the reports listed in Attachment B to this letter. Based upon this information, and in accordance with section 292.13(2), Wis. Stats., the Department makes the following determinations regarding the presence of chlorinated volatile organic compounds in soil and groundwater located on the Property, which are associated with an apparent off-site discharge of tetrachloroethylene and trichloroethylene:

1. The hazardous substance discharge of tetrachloroethylene and trichloroethylene, and associated breakdown products, originated from a source on property that is not possessed or controlled by Continental 87 Fund LLC.
2. Continental 87 Fund LLC did not possess or control the hazardous substances tetrachloroethylene, trichloroethylene or their breakdown products on the property on which the discharge originated.
3. Continental 87 Fund LLC did not cause the discharge of tetrachloroethylene, trichloroethylene, or the breakdown products found on the Property.

4. Continental 87 Fund LLC will be exempt from the requirements of s. 292.11(3), (4) and (7)(b and c), Wis. Stats., for the soil or groundwater contamination on the Property, caused by the discharge of tetrachloroethylene, trichloroethylene or breakdown products, provided:
 - a. Continental 87 Fund LLC does not take possession or control of the property on which the discharge originated, and
 - b. Continental 87 Fund LLC maintains compliance with the other exemption conditions listed below.

Exemption Conditions

The Department's determinations, as set forth in this letter, are subject to the following conditions being complied with, as specified in Sec. 292.13(1) and (1m), Wis. Stats:

1. The facts upon which the Department based its determinations are accurate and do not change.
2. Continental 87 Fund LLC agrees to allow the following parties to enter the property to take action to respond to the discharge: the Department and its authorized representatives; any party that possessed or controlled the hazardous substance or caused the discharge; and any consultant or contractor of such a party.
3. With respect to soil contamination only, Continental 87 Fund LLC agrees to take one or more specified actions directed by the Department if the Department determines that the actions are necessary to prevent an imminent threat to human health, safety or welfare or to the environment, after the Department has made a reasonable attempt to notify the party who caused the hazardous substance discharge about that party's responsibilities to investigate and clean up the discharge.
4. Continental 87 Fund LLC agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge.
5. Continental 87 Fund LLC agrees to any other condition that the Department determines is reasonable and necessary to ensure that the Department and any other authorized party can adequately respond to the discharge.

The Department may revoke the determinations made in this letter if it determines that any of the requirements under sections 292.13(1) or (1m), Wis. Stats., cease to be met. The determinations made in this letter apply only to the chlorinated volatile organic compounds tetrachloroethylene, trichloroethylene and associated breakdown products, and do not apply to other unrelated volatile organic compounds or poly-nuclear aromatic hydrocarbons found on the Property.

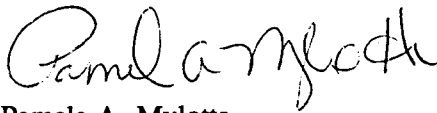
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Continental Properties Company, Inc.

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Future property owners are also eligible for the exemption under section 292.13, Wis. Stats., if they meet the requirements listed in that statute section. The determinations in this letter regarding a liability exemption, however, only apply to Continental 87 Fund LLC, and may not be transferred or assigned to other parties. The Department will provide a written determination to future owners of this property, if such a determination is requested in accordance with the requirements of section 292.13(2), Wis. Stats.

If you have any questions or concerns regarding this letter, please contact me (at 414-263-8758) or Attorney Judy Ohm (at 608-266-9972).

Sincerely,



Pamela A. Mylotta
Hydrogeologist, Remediation & Redevelopment Program
Southeast Region, Milwaukee Service Center

Attachments

c: Bill Roush - Davis & Kuelthau
Judy Ohm--LS/5
Darsi Foss--RR/3

Ms. Kimberly Grimm
Continental Properties Company, Inc.
ATTACHMENT A

November 3, 1998

Legal Description (from "Off-Site Discharge Exemption Request Application" for Continental 87 Fund LLC for 1811 W. Silver Spring Drive, Glendale, Wisconsin)

Legal Description

A parcel of land in the Northeast 1/4 of Section 31, Town 8 North, Range 22 East, in the City of Glendale, County of Milwaukee, State of Wisconsin, which is bounded and described as follows:

Commencing at a point in the North line of said 1/4 Section, 734.98 feet East of the Northwest corner thereof; running thence South at right angles to said Section line 218 feet to a point; thence East on a line parallel with the North line of said Section, 80 feet to a point; thence North at right angles to said last line 218 feet to a point in the North line of said Section; thence West along the North line of said Section, 80 feet to the place of beginning, excepting those portions thereof described in Document No. 2093314 and Document No. 3565048.

A parcel of land in the Northeast 1/4 of Section 31, Town 8 North, Range 22 East, in the City of Glendale, County of Milwaukee, State of Wisconsin, which is bounded and described as follows:

Commencing at that point in the North line of said 1/4 Section which is 639.98 feet East of the Northwest corner thereof; running thence South at right angles to said Section line 218 feet to a point; thence East on a line parallel to the North line of said 1/4 Section, 95 feet to a point; thence North at right angles to said last line 218 feet to a point in the North line of said 1/4 Section; thence West along the North line of said 1/4 Section, 95 feet to the place of beginning, excepting those portions thereof described in Document No. 2093314 and Document No. 3581062.

Tax Key No. 195-9000
Address: 1811 W. Silver Spring Drive

Ms. Kimberly Grimm
Continental Properties Company, Inc.
ATTACHMENT B

November 3, 1998

LIST OF SUBMITTALS reviewed for the Off-site Exemption Determination for Continental 87 Fund LLC for the property located at 1811 W. Silver Spring Drive, Glendale, Wisconsin.

1. Letter from Continental Properties Company, Inc. to WDNR, dated October 16, 1998, regarding "Continental 87 Fund LLC, Off-Site Source Determination for the Ilmar Junge Property", including a review fee of 500 dollars.
2. Letter from Continental Properties Company, Inc. to WDNR, dated October 30, 1998, providing groundwater elevations for the monitoring wells on the Junge Property.
3. "Phase I Environmental Site Assessment and Asbestos Bulk Sampling and Inspection Survey of Junge & Associates, 1811 West Silver Spring Drive, Glendale, Wisconsin prepared by Graef, Anhalt, Schloemer & Associates, Inc., dated September 1998.
4. "Phase II Environmental Site Assessment, Junge & Associates, 1811 West Silver Spring Drive, Glendale, Wisconsin", prepared by Graef, Anhalt, Schloemer & Associates, Inc., dated October 14, 1998.
5. Site Investigation Report, The Crestwood Area Site, 1720-1800 West Silver Spring Drive, Glendale, Wisconsin, dated March 13, 1998, prepared by HNTB Corporation, for The Glendale Community Development Authority.
6. Letter from Graef, Anhalt, Schloemer & Associates, Inc. to WDNR, dated December 18, 1997, regarding "Request for Written Determination of Off-Site" Sources, Wisconsin Gas Company North Service Center and Vacant Lands Adjacent to the NSC (Parcels A, B, and C).