

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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May 30, 2003

Mr. Dave Stegmann
Fleming Companies, Inc.
1945 Lakepointe Drive
Lewisville, Texas 75057

SUBJECT: Sentry Food Store, 13425 Watertown Plank Road, Elm Grove, Wisconsin.
WDNR BRRTS #02-68-305014; FID#268513520.

Dear Mr. Stegmann:

We have reviewed the report, "Site Investigation and Closure Request", which was prepared on submitted on your behalf by Northern Environmental. In this report, installation and sampling of two monitoring wells is described. The purpose of installing these wells is to show that chlorinated contamination found in monitoring wells MW-9 is not due to a source on the Sentry property.

Based on the information provided, the department concurs with Northern Environmental recommendation that no further action is required at the Sentry property. As no contamination was found due to a source at the Sentry property, the department rescinds its responsible party letter, and will remove Sentry from the department's tracking system as a responsible party. The site will remain on the tracking system as a property with an off-site exemption. The conditions of the off-site exemption are described below:

Purpose

The Department of Natural Resources ("the Department") has recently reviewed your request for an off-site exemption letter for the property located at 13425 Watertown Plank Road, which will be referred to in this letter as "the Property." You have requested that the Department determine whether you are exempt from sec. 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 a hazardous substance in the soil or groundwater that you believe is migrating onto the Property from an off-site source.

Determination

As you are aware, s. 292.13(2), Wis. Stats., requires the Department to issue upon request, a written determination regarding a liability exemption for a person who possesses or controls property that is contaminated by an off-site source, when certain conditions are met. Specifically,

the Department has reviewed the groundwater and soil sampling data for the Property by Northern Environmental in order to make this determination. Based upon this information and in accordance with section 292.13(2), Wis. Stats., the Department makes the following determinations regarding the presence of solvent contamination in the soil as indicated by soil samples collected in the southwest corner of the Property:

1. The hazardous substance discharge originated from a source on property that is not possessed or controlled by Fleming Company.
2. Fleming Company, did not possess or control the hazardous substance on the property on which the discharge originated.
3. Fleming Company, did not cause the discharge.
4. Fleming Company, will not have liability under the Hazardous Substance Spill Law for investigation or remediation of the soil or groundwater contamination originating from off-site onto the Property, provided that Fleming Company, does not take possession or control of the hazardous substance of the property on which the discharge originated.

Exemption Conditions

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


1. The facts upon which the Department based its determination are accurate and do not change.
2. Fleming Company, 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, Fleming Company, 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. Fleming Company, agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge.
5. Fleming Company, 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.

Future property owners are 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 Fleming Company, 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.

It is my understanding that responsibility for the monitoring wells will be transferred to the owners of the 910 Elm Grove Road property. If this is the case, please submit a copy of the agreement transferring the responsibility of the wells to the department for our case file. If you have any questions or concerns regarding this letter, please contact me at (414) 263-8589.

Sincerely,



Gina Keenan
Hydrogeologist

C: SER case file
Northern Environmental