



March 28, 2016

Mr. Terry Van Engen
Collins State Bank
302 East Towne Drive
Random Lake, WI 53075

Subject: Lender Liability Clarification and Current Environmental Conditions for the Campbellsport Self Serve Property, 104 N Railroad St., Campbellsport, WI 53010
Tax Parcel #s: V02-13-18-99-OP-225-00 & V02-13-18-99-OP-230-00
BRRTS #: 07-20-576750

Dear Mr. Van Engen:

On February 3, 2016, the Wisconsin Department of Natural Resources ("DNR") received your request, along with the required \$700 fee, for a lender liability clarification letter. The purpose of this letter is to provide Collins State Bank with the requested clarification of environmental liabilities related to the Campbellsport Self Serve property, located at 104 N Railroad St, Campbellsport, Wisconsin, in Fond du Lac County ("the Property").

It is DNR's understanding that Collins State Bank intends to acquire the Property through the foreclosure process to enforce a security interest in the Property. Collins State Bank certified that it took possession of the Property on December 18, 2015. Attached Figure 1, Site Layout, includes a map of the Property.

Request

The application, dated February 2, 2016, submitted on your behalf by Endpoint Solutions, requested a determination from the DNR on whether Collins State Bank is eligible for the lender liability exemption identified in Wis. Stat. § 292.21, with respect to the Property.

Documents Provided

The following documents were submitted with your request:

- *Lender Liability Exemption Environmental Assessment Tracking Form*, DNR Form 4400-196, prepared by Endpoint Solutions, dated February 2, 2016;
- *Technical Assistance, Environmental Liability Clarification or Post-Closure Modification Request*, DNR Form 4400-237, prepared by Endpoint Solutions, dated February 2, 2016;
- *Phase I Environmental Site Assessment*, prepared by Endpoint Solutions, dated January 25, 2016; and
- A copy of the current deed to the Property, recorded July 31, 2013.

Property Information

The Property consists of two contiguous commercial parcels, totaling approximately 0.69 acre, that were formerly used as a gas station and convenience store. Since the Property owner declared bankruptcy, the gas station and convenience store are not currently operating, but the structures still remain on-site. The Property is surrounded by Railroad Street, Meyer Street, and residential and commercial properties.

Collins State Bank has a security interest in the Property and is currently in the process of acquiring the Property through foreclosure as collateral. Collins State Bank reported taking possession of the Property as of December 18, 2015.

Summary of Environmental Conditions at the Property

A Phase I Environmental Site Assessment (“ESA”) was completed on January 25, 2016. The 2016 Phase I ESA documented current conditions of the Property and any recognized environmental conditions (“RECs”). The Phase I ESA is in compliance with Wis. Stat. § 292.21(1)(c)(2). The Phase I ESA will also comply with the time deadlines specified in Wis. Stat. § 292.21(1)(c)(1)(d) if Collins State Bank acquires the Property through enforcement of a security interest.

Identified Environmental Conditions

The following RECs were identified by Endpoint Solutions in the 2016 Phase I ESA:

- The Property is the location of a closed Leaking Underground Storage Tank (“LUST”) case with residual soil and groundwater contamination that extends into the Railroad Street right-of-way. Due to the closed regulatory status of the LUST case, no further assessment is recommended at this time.
- Endpoint Solutions was unable to rule out the potential of a petroleum release in the vicinity of the current Underground Storage Tanks (“USTs”) and dispensers since the closure date of the LUST case. Based on the location of the UST system in the same location as the former UST system, lack of reported spills or releases, and the passing of periodic tank system tightness testing, no further assessment is recommended at this time.

Endpoint Solutions also noted in the 2016 Phase I ESA some containers with known contents, a drum of investigative waste/soil cuttings, active USTs, and petroleum products in connection with Property use.

Sampling of Environmental Media

Endpoint Solutions previously completed a Phase I ESA on the Property on February 20, 2013, with follow-up sampling in May 2013 to evaluate environmental concerns. The additional follow up work is documented in a June 12, 2013, assessment report. The former environmental assessment work is included in the 2016 Phase I ESA. Between the 2013 Phase I ESA, additional 2013 environmental assessment work, and the 2016 Phase I ESA, sampling the soil cuttings in the drum and UST system evaluation was addressed. Following is a specific summary of environmental activities conducted.

Two 5-gallon pails of roofing tar and one partially full 5-gallon container of diesel was observed on-site. There was one 55-gallon drum of investigative waste still on the Property from the former LUST case. The soil was sampled from the drum during the environmental assessment in 2013 and was determined to not be contaminated with petroleum compounds. Endpoint Solutions recommended proper management and/or disposal. For UST system evaluation, five USTs remain on the Property: one 1,000-gallon kerosene, one 2,000-gallon diesel, one 6,000-gallon mid-grade gasoline, one 6,000-gallon premium grade gasoline, and one 12,000-gallon regular gasoline along with associated dispensers and underground piping. Based on a recent inventory report from May 13, 2015, documenting petroleum products remain in the USTs and the Department of Agriculture, Trade, and Consumer Protection (“DATCP”) Storage Tank Database listing the USTs as In Use, petroleum products remain in the USTs at the Property. Endpoint Solutions recommended the petroleum products be removed from the USTs and the USTs be registered as Temporarily Out-of-Service.

The former LUST case on the Property is Campbellsport Self Service, BRRTS # 03-20-170268. The DNR was notified of a petroleum release from the UST system on September 5, 1997. A remedial excavation consisting of removal of approximately 37 cubic yards of soil was completed in the dispenser area west of the building. The

LUST case was closed on July 23, 2002, with residual soil and groundwater contamination. Residual soil contamination, documented in a deed restriction, is located within the former dispenser areas. Residual groundwater contamination, documented in the DNR GIS Registry database, is primarily located west of the building in the former dispenser areas and within the Railroad Street right-of-way.

In summary, environmental sampling of investigative waste/soil in the 55-gallon drum was conducted at the Property during the 2013 environmental assessment. No additional unknown containers/wastes or visual impacts were observed during the site inspection conducted as part of the 2016 environmental assessment, so no additional environmental sampling was warranted to satisfy the sampling requirements in Wis. Stat. § 292.21(1)(c)(2)(h) and (i).

General Lender Liability Exemption Conditions and Limitations

Under Wisconsin's Hazardous Substance Discharge Law (the "Spill Law"), Wis. Stat. § 292.11, a person who "possesses, controls or causes" a hazardous substance discharge is liable for taking necessary investigative and cleanup actions. Wis. Stat. § 292.21 provides a liability exemption for lenders.

A lender is not subject to Wis. Stat. §§ 292.11(3), (4) or (7)(b) or (c) and is not liable under Wis. Stat. Chapters 281, 285, 289, 291, or 293 to 299 for a discharge of a hazardous substance that occurred before the lender takes title, possession or control of the Property through enforcement of a security interest in the Property, as long as statutory conditions are satisfied. Wis. Stat. § 292.55(1)(d)(1) authorizes the DNR to issue letters concerning potential liability for environmental pollution.

The lender must satisfy all conditions identified in Wis. Stat. § 292.21 to qualify for the lender liability exemption, including but not limited to the following provisions:

- The lender does not intentionally or negligently cause a new discharge of a hazardous substance or exacerbate an existing discharge.
- The lender notifies the DNR of any known discharge of a hazardous substance.
- The lender conducts an environmental assessment of the Property that includes all the elements identified in Wis. Stat. § 292.21(1)(c)(2). The environmental assessment is conducted not more than 90 days after the date the lender acquires title to, or possession or control of, the Property, and the lender files a complete copy of the environmental assessment with the DNR not more than 180 days after the date the lender acquires title to, or possession or control of, the Property.
- If a discharge of a hazardous substance occurs on or after the date on which the lender acquires title to, or possession or control of, the Property, the lender implements an emergency action under Wis. Admin. § NR 708.05 in response to the discharge of the hazardous substance.
- For a hazardous substance discharged on or after the date on which the lender acquires title to, or possession or control of, the Property, the lender does not engage in the operation of a business at the Property, complete work in progress or take other actions associated with conducting the conclusion of the borrower's business (Wis. Stat. § 292.21(1)(c)(1)).
- The lender agrees to allow the DNR and any party that possessed or controlled or caused the hazardous substance discharge, and their consultants or contractors, to enter the real Property to take action to respond to the discharge.
- The lender agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge.
- The lender agrees to any other condition that the DNR determines is reasonable and necessary to ensure that DNR or another person can adequately respond to the discharge.

Lender Liability Determinations Related to the Property

The DNR has reviewed the request and other documents submitted by Endpoint Solutions on your behalf on February 3, 2016. Based on the information Endpoint Solutions provided, with respect to the Property, the DNR believes that Collins State Bank has conducted the statutorily required environmental assessment, within the appropriate timeframes, and meets the conditions of an exempt lender as identified in Wis. Stat. § 292.21 if the lender takes title to, or has exercised possession or control over, the Property through enforcement of a security interest. Further, the DNR agrees to exercise enforcement discretion at the Property under Wisconsin's Hazardous Waste Management Laws, regarding the provisions of Wis. Stat. ch. 291 and rules promulgated under that chapter if the Property is acquired in a statutorily prescribed manner.

Based on information provided to DNR by Endpoint Solutions on your behalf, the DNR makes the following site-specific liability determinations related to the Property:

1. Collins State Bank has stated it has possession or control of the Property as of December 18, 2015. Collins State Bank intends to acquire the Property through enforcement of a security interest in the Property and conducted the required environmental assessment within the appropriate statutory timeframe.
2. Collins State Bank provided a copy of the completed environmental assessment report to the DNR not more than 180 days after the date of acquiring title to, possession, or control of the Property, as evidence that there was no known discharge to the property other than a previously-reported petroleum release associated with a former closed LUST case.
3. Collins State Bank has not intentionally or negligently caused a new hazardous substance discharge at the Property.
4. Collins State Bank has met the requirements for an environmental assessment under Wis. Stat. §§ 292.21(1)(c)(1)(d) and (1)(c)(2)(a) through (i), including the requirement that an environmental assessment be conducted not more than 90 days after the date of acquiring title to, possession, or control of the Property. This environmental assessment report was completed on January 25, 2016, and Collins State Bank reports possessing the property on December 18, 2015.
5. If Collins State Bank acquires the Property through enforcement of a security interest and continues to meet all of the conditions for liability exemption eligibility that are listed in Wis. Stat. § 292.21, Collins State Bank will not be held responsible under Wisconsin's Hazardous Substance Spill Law, Wis. Stat. § 292.11, for hazardous substance discharges which were present on the Property prior to Collins State Bank acquiring title to, or possession and control of, the Property. If contamination is later discovered that was not revealed by the environmental assessment, Collins State Bank will not be subject to Wis. Stat. §§ 292.11(3), (4), or (7)(b) or (c) and will not be liable under Wis. Stat. ch. 281, 285, 289, 291, or 293 to 299 for a discharge of a hazardous substance on the Property as long as Collins State Bank continues to comply with the requirements of Wis. Stat. § 292.21(1)(c) and does not cause a new hazardous substance discharge or exacerbate an existing discharge on the Property.

The DNR will not hold Collins State Bank liable for the investigation or cleanup of the Property under either the state's Spill Law or Hazardous Waste Laws, if the following requirements are satisfied:

- Collins State Bank's method of acquiring title to, or possession, or control of real property is through the enforcement of a security interest;

- Collins State Bank properly manages any containerized hazardous waste materials in accordance with Wis. Admin. ch. NR 660;
- The discharge of a hazardous substance was not caused by an action taken by Collins State Bank, or by a failure of Collins State Bank to act;
- Collins State Bank agrees that any material or environmental media generated at the Property (e.g., contaminated soil generated as part of trenching for utilities) will be managed in accordance with applicable state and federal laws; and
- Collins State Bank complies with any continuing obligations and/or environmental monitoring and maintenance requirements associated with the Property. Continuing obligations include:
 - Groundwater contamination is present at or above Wis. Admin. ch. NR 140 enforcement standards.
 - Residual soil contamination exists that must be properly managed should it be excavated or removed.
- Collins State Bank does not engage in the completion of work in progress or other actions associated with conducting the conclusion of the borrower's business.

This response letter is based on information you provided to DNR and relates only to the state's lender liability exemption. The DNR makes no determination for other persons or entities concerning the presence or absence of hazardous substances on the Property.

Collins State Bank understands that a lender liability exemption, and the hazardous waste enforcement discretion decision by DNR, will continue throughout Collins State Bank's ownership of the Property, but is not transferable to future owners.

Non-Exempt Obligations Regarding Underground Storage Tanks

Please note that this letter does not exempt any lender from existing state or federal requirements for underground storage tank responsibilities at the Property, including, but not limited to Wis. Admin. ch. ATCP 93. If you have questions regarding these requirements, you should contact the Weights and Measures program at the Department of Agriculture Trade and Consumer Protection at (608) 224-4942 or by email to datcpweightsandmeasures@wi.gov. The program's website is located here: http://datcp.wi.gov/consumer/weights_and_measures/Storage_Tank_Regulations/.

Federal Liability Information

To determine what specific actions would satisfy the federal lender liability requirements under CERCLA, we advise that you contact either Thomas Krueger at (312) 886-0562 or by email to Krueger.Thomas@epamail.epa.gov, or John Tielsch at (312) 353-7447 or by email to Tielsch.John@epamail.epa.gov. Their mailing address is U.S. EPA REGION 5, Office of Regional Counsel (C-14J), 77 W. Jackson Blvd., Chicago, IL 60604-3590. The U.S. EPA should be able to provide you with guidance on whether your current and proposed actions concerning the Property are consistent with the federal CERCLA secured creditor liability exemption conditions.

Public Database of Properties

The Department maintains a public database of information about contaminated and remediated properties that is available at <http://dnr.wi.gov/topic/Brownfields/clean.html>. To view this data, go to the "BRRTS on the Web"

link to access information about the Property and this activity. The Bureau for Remediation and Redevelopment Tracking System (BRRTS) identification number for this activity is included at the top of this letter.

If you have any questions or concerns regarding this letter, please contact Tauren Beggs at (920) 662-5178 or by email to Tauren.Beggs@wisconsin.gov.

Sincerely,



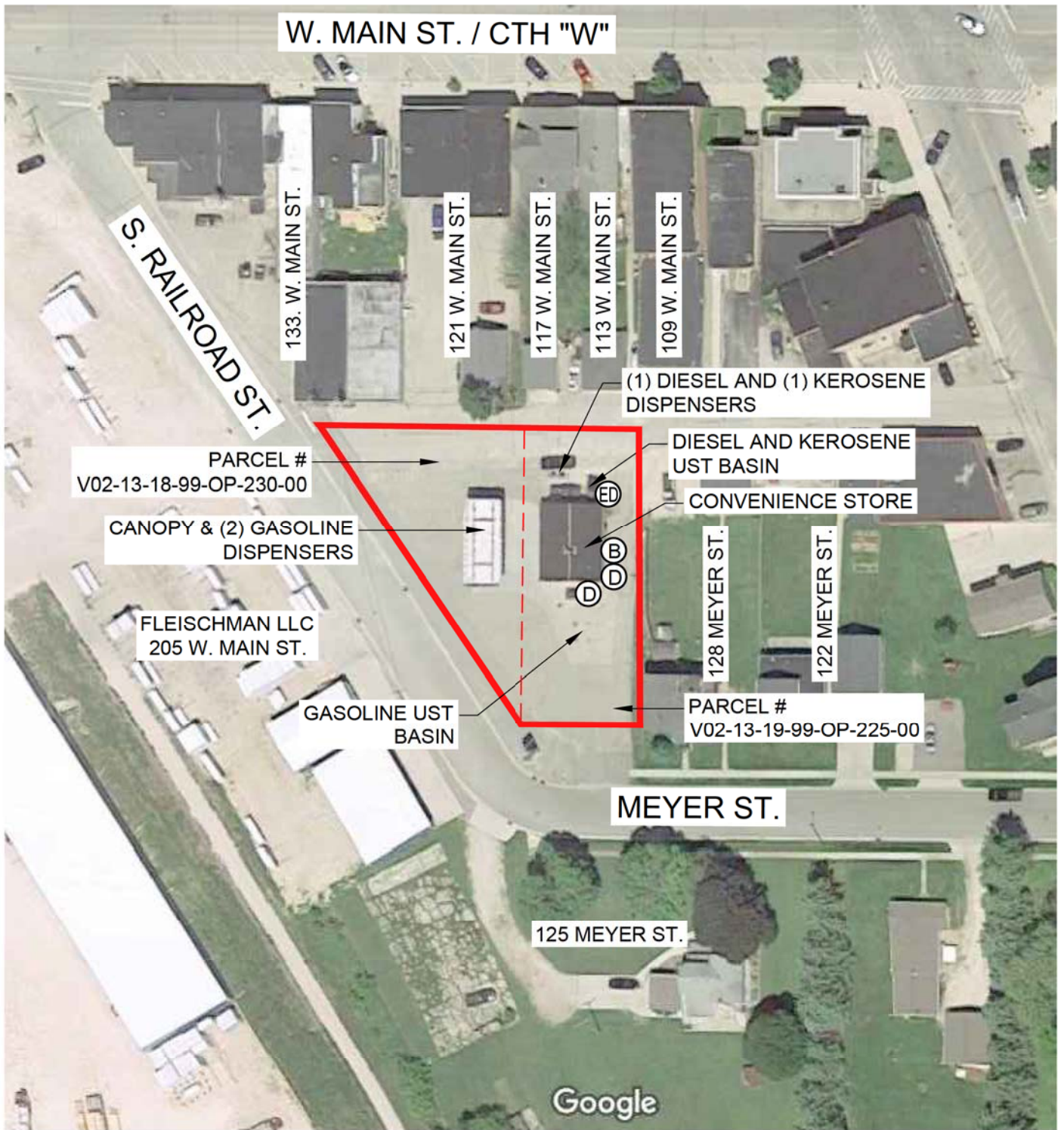
Roxanne N. Chronert
Team Supervisor

Northeast Region, Remediation and Redevelopment Program

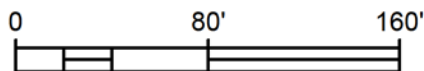
Attachment: Figure 1, Site Layout

cc: Robert Cigale – Endpoint Solutions (electronic copy)
Brian Romans – Krawczyk, Duginski & Rohr (electronic copy)
Molly Schmidt - DNR CO-RR/5 (electronic copy)
Tauren Beggs - DNR NE LRT (electronic copy)
Tom Verstegen – DNR NE (electronic copy)

FIGURE 1 - SITE LAYOUT



- SUBJECT PROPERTY
- Ⓧ NON HAZARDOUS DRUMS
- Ⓛ (2) BUCKETS ROOFING TAR
- Ⓧ EMPTY DRUM



SITE LAYOUT

104 SOUTH RAILROAD STREET
CAMPBELLSPORT, WISCONSIN 53010

Endpoint Solutions

6871 S. Lover's Lane
Franklin, WI 53132

Phone: (414) 427-1200

Fax: (414) 427-1259

DRAWN BY: NWD

DATE: 01/22/16

REVIEWED BY: RAC

PROJECT NO: 231-002-002

Figure 2