

Robbins, Susanne

From: Joyce, Jim L. <Jim.Joyce@klgates.com>
Sent: Monday, October 27, 2014 4:04 PM
To: Robbins, Susanne
Cc: Baird, Stanford
Subject: RE: Request for Liability Clarification (Prime Equipment Company, IHS ID# NONCD0002835)
Attachments: RA-#3137626-v1-Request_for_Liability_Clarification_(with_attachments).pdf

Ms. Robbins:

Thank you for your letter of September 22 (the "Reply Letter") regarding the Prime Equipment Company site in Wilmington (the "Property," IHS ID# NONCD0002835). As you will recall, the Request for Liability Clarification I submitted on September 11 (the "Request Letter") provided detailed information regarding conditions at the Property and stated that my client Wells Fargo holds a security interest in the Property. The Request Letter sought clarification that Wells Fargo would not be a responsible party for contamination related to the Property in the event that it acquired the Property under these conditions. A copy of the Request Letter and its supporting documentation is provided for reference.

The Reply Letter refers to General Statute 130A-310.7 generally and to the Brownfields Program. I appreciate that the IHS Branch may not have made a final determination as to the Responsible Party for this site, and am familiar with the Brownfields Program and the process for determining eligibility for that program. However, these items do not address the specific information and request made in the Request Letter.

As a reminder, the Request Letter asked for clarification that Wells Fargo would be exempt from liability under G.S. 130A-310.7 for one or both of two reasons: the off-site source of the contamination and the secured creditor position of Wells Fargo. Regarding the second issue in particular, Wells Fargo holds a security interest in the Property. It is my understanding that, pursuant to G.S. 130A-310.7(a)(4), Wells Fargo would not be a responsible party if it takes title to the Property pursuant to this security interest, and its successors in title would not be considered responsible parties. In other words, the Request Letter asks for confirmation of Wells Fargo's exception from liability, and does not request information regarding the Branch's determination of a responsible party. Please confirm this understanding.

Please feel free to contact me if you have any questions or require any further information.

Regards,
Jim

James L. Joyce
K&L Gates LLP
Tel: 919 743 7336
Fax: 919 516 2137

From: Robbins, Susanne [<mailto:susanne.robbins@ncdenr.gov>]
Sent: Wednesday, September 24, 2014 4:07 PM
To: Joyce, Jim L.
Subject: RE: Request for Liability Clarification (Prime Equipment Company, IHS ID# NONCD0002835)

Mr. Joyce,
You should receive our response via mail in the next few days. It went out Monday afternoon.

Thank you,

Sue Robbins, Hydrogeologist
IHSB, Superfund Section
NC Division of Waste Management
Wilmington Regional Office
(910) 796-7411

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From: Joyce, Jim L. [<mailto:Jim.Joyce@klgates.com>]
Sent: Wednesday, September 24, 2014 3:06 PM
To: Robbins, Susanne
Cc: Baird, Stanford
Subject: FW: Request for Liability Clarification (Prime Equipment Company, IHS ID# NONCD0002835)

Ms. Robbins:

This e-mail follows up on my voice message to you of a few minutes ago. I am reaching out to check on the status of the attached request for clarification related to the Prime Equipment Company site (IHS ID NONCD0002835), which request was sent to your office earlier this month.

Any information that you can provide would be helpful. Please let me know if you have any questions. Thank you.

James L. Joyce
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jim.joyce@klgates.com

From: Joyce, Jim L.
Sent: Friday, September 12, 2014 9:31 AM
To: 'susanne.robbs@ncdenr.gov'
Cc: 'charlotte.jesneck@ncdenr.gov'; Stanford D. Baird (stanford.baird@klgates.com); Gardner, John
Subject: Request for Liability Clarification (Prime Equipment Company, IHS ID# NONCD0002835)

Ms. Robbins:

Please find attached a request for clarification regarding liability for tetrachloroethene ("PCE") contamination at 1020 North Front Street, Wilmington, New Hanover County, which site is identified by the IHSB as Prime Equipment Company, ID No. NONCD0002835.

Please let me know if you have any questions regarding this request. I look forward to hearing from you.



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