



North Carolina Department of Environment and Natural Resources  
Division of Waste Management

Pat McCrory  
Governor

John E. Skvarla, III  
Secretary

November 6, 2014

Mr. James L. Joyce  
K & L GATES LLP  
4350 Lassiter at North Hills, Suite 300  
P.O. Box 17047  
Raleigh, NC 27619-7047

RE: Prime Equipment Co.  
1020 North Front Street  
Wilmington, New Hanover County  
NONCD 0002835

Dear Mr. Joyce:

This letter is in response to your October 27, 2014 email regarding the subject site ("Site"). Under the Inactive Hazardous Sites Program, a "site" is defined as the property where the source of contamination is located and any additional area which has become contaminated as a result of hazardous substances or waste disposed at the source property. Therefore, the party responsible for contamination at the source property would also be responsible for any additional area that has become contaminated because of the hazardous substances or wastes disposed at the source property. Please note that as stated in my September 22, 2014 letter, the Inactive Hazardous Sites Branch ("Branch") has not made a responsible party determination for this Site or determined if the source(s) of contamination are from on and/or off property.

Regarding your second question, as you know 130A-3107(a)(4) states:

*"... Neither an innocent landowner who is a bona fide purchaser of the inactive hazardous substance or waste disposal site without knowledge or without reasonable basis for knowing that a hazardous substance or waste disposal had occurred nor a person whose interest or ownership in the inactive hazardous substance or waste disposal site is based on or derived from a security interest in the property shall be considered as responsible party...."*

Therefore, if your client's interest/ownership in the Site is solely based on or derived from a security interest, they would not be considered a responsible party per the Statute. However, this would not apply to subsequent owners. Subsequent owners would not have a security interest or be considered an innocent landowner. Therefore, to avoid potential future liability issues they

should contact the Brownfield's Program regarding this Site's eligibility for a Brownfields Agreement as indicated in my September 22 letter. If you have any additional questions please contact me at (910) 796-7411. For questions regarding the Brownfields Program you can contact Bruce Nicholson at (919) 707-8330.

Sincerely,

A handwritten signature in cursive script that reads "Sue Robbins". The letters are fluid and connected, with a prominent loop at the end of the word "Robbins".

Sue Robbins, Hydrogeologist  
Division of Waste Management, NCDENR

cc: Bruce Nicholson, Brownfields Program