



State of New Jersey

Department of Environmental Protection

Bureau of Underground Storage Tanks
401 East State Street
P.O. Box 433
Trenton, NJ 08625-0433
Phone #: 609-292-8761
Fax #: 609-777-4285

Mark N. Mauriello
Acting Commissioner

DEC 01 2009

Jon S. Corzine
governor

Mr. Salvatore and Yolanda LaRusso
Byram Holding
175 Fairfield Avenue
Unit 5A
West Caldwell, NJ 07006

Re: **No Further Action Letter and Covenant Not to Sue**

Remedial Action Type: Unrestricted Use for the Areas of Concern: Former gasoline UST system (2-4,000 gallon Unleaded gasoline USTs, 1-10,000 gallon leaded gasoline UST), Kerosene Spill and No other Areas

Byram Holding formerly "Byram Transmission"

Block 219 Lot 10

242 Route 206

Andover Township, Sussex County

Preferred ID: 009491, Activity Reference Number: USR000001

Case ID: 90-08-29-1526

KCSL # NJL600060164; NJD9865855

Communication Center # 90-08-29-1526, UST # 0094917,

Well Permit # 22-40595, 22-40596, 22-40597, 22-40598,

Dear Mr. LaRusso:

The No Further Action (NFA) Letter, dated October 16, 2009, was sent to the wrong address and referenced an incorrect company name.

Enclosed is a revised Area of Concern NFA for the property at 242 Route 206 in Andover Township. I hope this resolves all of the issues regarding our issuance of the NFA.

If you have any questions, please contact me at (609) 292-1183.

Sincerely,

Donald Cramer, Acting Section Chief
Bureau of Underground Storage Tanks

c: Robert LaRusso



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Dear Mr. LaRusso:

Pursuant to N.J.S.A. 58:10B-13.1 and N.J.A.C. 7:26C, the New Jersey Department of Environmental Protection (Department) issues this No Further Action Letter and Covenant Not to Sue for the remediation of the **area(s) of concern** specifically referenced above so long as Byram Transmission did not withhold any information from the Department. This action is based upon information in the Department's case file and Byram Transmission's: final certified report dated December 31, 2008. In issuing this No Further Action Letter and Covenant Not to Sue, the Department has relied upon the certified representations and information provided to the Department. To remain in compliance with the terms of this No Further Action Letter and to maintain the benefits of the Covenant Not to Sue, Byram Transmission as well as each subsequent owner, lessee and operator must comply with the conditions noted below.

By issuance of this No Further Action Letter, the Department acknowledges the completion of a Remedial Investigation and Remedial Action pursuant to the Technical Requirements for Site Remediation (N.J.A.C. 7:26E) for the areas of concern: Former gasoline UST system (2-4,000 gallon Unleaded gasoline USTs, 1-10,000 gallon leaded gasoline UST), Kerosene Spill and No other areas. The Department reserves its rights to require any person responsible for the contamination at the site to address Natural Resource Injuries.

The Department reserves, and this No Further Action Determination is without prejudice to, all rights against Byram Transmission with respect to liability for costs, injunctive relief, and damages (including primary and compensatory restoration damages) for injury to, destruction of, or loss of natural resources and for the costs of any natural resource assessments. The Department further reserves, and this No Further Action Determination is without prejudice to, all rights against Byram Transmission with respect to liability for costs, injunctive relief, and damages related to MTBE contamination, and this letter in no way limits any potential liability for any and all costs, injunctive relief, and damages available to the Department being sought in the United States District Court for the District of New Jersey, in the case captioned NJDEP et al. v. Amerada Hess Corp. et al., C.A. No. 3:07-5284, and now currently pending in the United States District Court for the Southern District of New York, captioned as In Re; Methyl Tertiary Butyl Ether ("MTBE") Products Liability Litigation, MDL No. 1358.

CONDITIONS

Pursuant to N.J.S.A. 58:10B-12o, Byram Transmission and any other person who was liable for the cleanup and removal costs, and remains liable pursuant to the Spill Act, shall inform the Department in writing within 14 calendar days whenever its name or address changes. Any notices submitted pursuant to this paragraph shall reference the above case numbers and shall be sent to: Bureau of Case Assignment and Initial Notice - Case Assignment Section, Oversight Resources Allocation Element, P.O. Box 434, Trenton, N.J. 08625-0434.

Well Decommissioning

Pursuant to N.J.S.A. 58:4A, Byram Transmission shall properly decommission all monitoring wells installed as part of a remediation that will no longer be used for ground water monitoring. A New Jersey licensed well driller shall decommission the wells in accordance with the requirements of N.J.A.C. 7:9D-3.1 (et seq.). After the well has been decommissioned by a New Jersey licensed well driller, the well driller is required to submit a copy of the decommissioning report on your behalf to the Bureau of Water Systems and Well Permitting. Please note that only a New Jersey licensed well driller may perform this work. More information about regulations regarding the maintenance and decommissioning of wells in New Jersey can be found at <http://www.nj.gov/dep/watersupply/> For a list of New Jersey licensed well drillers, click on the "reports" button in the left column and select "access the well permit reports." Questions can be emailed to wellpermitting@dep.state.nj.us "

COVENANT NOT TO SUE

The Department issues this Covenant Not to Sue (Covenant) pursuant to N.J.S.A. 58:10B-13.1. That statute requires a Covenant not to sue with each no further action letter. However, in accordance with N.J.S.A. 58:10B-13.1, nothing in this Covenant shall benefit any person who is liable, pursuant to the Spill Compensation and Control Act (Spill Act), N.J.S.A. 58:10-23.11, for cleanup and removal costs and the Department makes no representation by the issuance of this Covenant, either express or implied, as to the Spill Act liability of any person.

The Department covenants, except as provided in the preceding paragraph, that it will not bring any civil action against:

- (a) the person who undertook the remediation;
- (b) subsequent owners of the subject property;
- (c) subsequent lessees of the subject property; and
- (d) subsequent operators at the subject property;

for the purposes of requiring remediation to address contamination which existed prior to the date of the final certified report Remedial Investigation Report Dated December 31, 2008, for the real property at the **areas of concern** identified above, payment of compensation for damages to, or loss of, natural resources, for the restoration of natural resources in connection with the discharge on the property, or payment of cleanup and removal costs for such additional remediation.

Pursuant to N.J.S.A. 58:10B-13.1d, this Covenant does not relieve any person from the obligation to comply in the future with laws and regulations. The Department reserves its right to take all appropriate enforcement for any failure to do so.

The Department may revoke this Covenant at any time after providing notice upon its determination that any person with the legal obligation to comply with any condition in this No Further Action Letter has failed to do so.

This Covenant, which the Department has executed in duplicate, shall take effect immediately once the person who undertook the remediation has signed and dated the Covenant in the lines supplied below and the Department has received one copy of this document bearing original signatures of the Department and the person who undertook the remediation.

By: Salvatore LaRusso
Signature: Salvatore La Russo
Yolanda La Russo
Title: Owner
Dated: 12/8/09

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION

By: Donald Cramer
Signature: Donald Cramer
Title: Acting Section Chief
Dated: OCT 16 2009

NOTICES

Direct Billing

Please be advised that in accordance with the "Department Oversight of the Remediation of Contaminated Sites" (N.J.A.C. 7:26C), Byram Transmission is required to reimburse the Department for oversight of the remediation. The Department will be issuing a bill within the next four months.

Thank you for your attention to these matters. If you have any questions, please contact Gary Slater at (609)633-7009.

Sincerely,



Donald Cramer, Acting Section Chief
Bureau of Underground Storage Tanks

c: Sussex County Dept. of Health
Municipal Clerk
James Chenard, Geo Solutions
Gary Slater, BUST