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August 1, 1988

Mr. Stephen J. Lee
Tanks and Spills Section
Hazardous Waste Division
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155

Re: **Rapid Oil Change Sites**

Dear Mr. Lee:

Thank you for your letter of July 1, 1988 relative to the sites discussed with you at the meeting of June 22, 1988 between MPCA, Ashland Oil, Inc., and Rapid Oil Change. You will recall that at the meeting we submitted to you the current investigatory results and set forth proposed plans for further investigation and, where necessary, remedial action at those sites where further action appears warranted.

We appreciated your counsel concerning the perceived necessity of ensuring that the person doing the investigatory/remedial work be the responsible person as defined in Minn. Stat., Chapter 115C, if reimbursement from the Petroleum Tank Release Fund is to be achieved. As a result of this counsel we have undertaken a reevaluation of the ownership history at each site. Based upon that reevaluation it appears that at two of those sites, Ashland cannot be the responsible party because it did not own or operate any gasoline storage tanks on the property on or after its acquisition of those sites. On four additional sites neither Ashland nor Rapid Oil can be responsible parties under Chapter 115C since the gasoline tanks were removed prior to ownership of these sites by either entity.

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MPCA, Hazardous
Waste Division

Mr. Stephen J. Lee
August 1, 1988
Page 2

While it may be that Ashland and/or Rapid Oil may be willing to undertake necessary investigatory and/or remedial action at these sites, there first must be some discussion and understanding with the Agency that full reimbursement as provided under Petroleum Release Tank Fund would be applicable. We would be prepared to discuss this with you at your earliest opportunity.

As to the remaining sites which the investigation to date has forecasted additional site activity, we have instructed our consultant to move forward in accordance with the discussions at our June 22 meeting. This will entail providing to the Agency the scope and schedule for the activities at each of the relevant sites. In this regard it will be helpful if you could provide us with the names of the project leader for each site, as we understand there will not be a single project leader for all of the sites. Our consultant can then work directly with the appropriate project leader at each site to coordinate the necessary activities.

As per normal occurrence and our discussions, at the conclusion of any additional investigation we will provide the Agency with a report of the conclusions and any proposals for remedial action for review by the Agency. In addition should there be any new releases or discovery of previously unknown releases, we will advise the Agency. Neither of these occurrences are expected, however, since the initial investigations were well done based on existing information and no gasoline tanks exist on any of the sites.

With regard to your comments concerning your present view of timeliness in reporting these sites, while we understand that this decision is for the Petroleum Board, we believe that you should fully understand the facts in this matter. After Ashland purchased these sites it had no duty to undertake a testing program. It did so because the Company desired to ensure that these former service station sites would not pose any problem from past activities unassociated with Ashland.

When Ashland received the preliminary contractor's report in December, 1987 it was clear that there were many inconsistencies and the results were inconclusive in many respects. Additional testing was ordered on a number of the sites to obtain more reliable information. Based upon all the data subsequently received, and regardless of the fact that reporting all of the sites was not required, Ashland determined that it would report every site and commissioned its consultant to prepare such a report for the Agency. Before this could be done, the former owners of the sites reported the sites to the Agency. We learned

Mr. Stephen J. Lee
August 1, 1988
Page 3

only later that this reporting covered only 10 sites instead of all sites as was Ashland's intention. At our meeting of June 22, all of the sites were contained in the report submitted to the Agency.

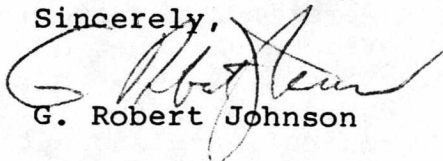
Your discussion to timely notification is referenced to Minn. Stat. § 115C.061. We assume this reference is in error and you meant to cite Minn. Stat. § 115.061. You are aware that this section was designed specifically to allow Agency action at the earliest possible time to deal quickly and effectively with "discharges". Obviously such a scenario is not relevant to any of the sites in question. There was no need for the swift type of action that would prevent a just occurred discharge from entering a waterway.

In fact there was no present discharge at all that was a reportable event for Ashland. To this date we still do not know if there was a discharge falling within Minn. Stat. § 115.061. All we know is that there is contamination at some of the sites which merits further investigation and possibly remediation.

As you know the primary purpose of the Petroleum Fund is to encourage investigations and cleanups. To suggest that Ashland has not acted responsibly and timely in addressing these sites sends exactly the wrong signal to all other similar property owners particularly where, as here, the apparent contamination is not of their making. We trust that ritualistic interpretations of statutory provisions will not be utilized so as to defeat the very purpose of the statute as a whole. Particularly is that the case where, as here, there is an entity which has already demonstrated its continuing commitment and cooperation in addressing the sites in question.

We will await your call to establish a time where we can again meet to go over the site histories and make determinations on responsibilities for purposes of the Petroleum Fund coverage. This will also give us the opportunity to set forth and gain Agency concurrence on a schedule for further investigatory activity.

Sincerely,



G. Robert Johnson

GRJ/mks
cc: Michael Wilder
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