



Minnesota Pollution Control Agency

520 Lafayette Road North | St. Paul, MN 55155-4194 | 651-296-6300 | 800-657-3864 | 651-282-5332 TTY | www.pca.state.mn.us

December 9, 2013

SCANNED

CERTIFIED MAIL NO. 7007 3020 0000 0959 1476
RETURN RECEIPT REQUESTED

Ms. Sara Vinas
MDW Equity LLC
2760 North University Drive
Hollywood, FL 33024

RE: Order to Investigate and Take Other Corrective Action at Petroleum Tank Release Site
Site: Former Food-n-Fuel, 4020 233rd Avenue Northwest, St. Francis, Anoka County 55070
Site ID#: LEAK00018925

Dear Ms. Vinas:

Pursuant to the Petroleum Tank Release Cleanup Act, Minn. Stat. § 115C.01 through 115C.13 (2012), enclosed is a Commissioner Order (Order) from the Commissioner of the Minnesota Pollution Control Agency (MPCA). Minn. Stat. § 115C.03, subd. 1 (2012) establishes MPCA's justification for issuing this Order from the Commissioner. Please note the Order contains dates by which MDW Equity LLC is required to perform certain acts.

MDW Equity LLC claimed it is financially unable to perform the investigation and remedial actions required at the Site due to the release. The MPCA referred the financial hardship claim to the Minnesota Department of Commerce, Petrofund Division (Petrofund). On October 7, 2013, the Petrofund determined that MDW Equity LLC has documented financial hardship.

As a result of the determination, the MPCA intends to investigate and take corrective action for the tank leak using public funds. Before it can do so, Minnesota state law requires the MPCA to issue the enclosed Order to MDW Equity LLC. In this case, the MPCA understands that MDW Equity LLC will not comply with the enclosed Order. If MDW Equity LLC's financial situation has changed and can complete the cleanup required by the Order using its own funds, please notify the MPCA and the Petrofund immediately.

In order to complete the investigation and to take corrective actions as required, the MPCA will require access to the property. The MPCA requests you sign the enclosed Access Agreement allowing the MPCA and its authorized agents to enter the Site to conduct the required investigation, and if necessary, clean up at the Site. Please return the signed Access Agreement on or before January 15, 2014, to the MPCA at the following address: MPCA, 520 Lafayette Road, St. Paul, MN 55155, Attn: Stephen Frye.

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If you have any questions about this Order, please contact Stephen Frye, Project Manager, at 651-757-2463 or stephen.frye@state.mn.us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stephen Frye', with a long horizontal flourish extending to the right.

Stephen Frye
Project Manager
Petroleum Remediation Section
Remediation Division

SAF:csa

Enclosures

**STATE OF MINNESOTA
POLLUTION CONTROL AGENCY**

In the Matter of the Release of Petroleum from
Tanks Located at:

Former Food-n-Fuel
4020 233rd Avenue North
St. Francis, MN 55070

**FINDINGS OF FACT, CONCLUSIONS,
AND ORDER**

Site ID#: MPCA LEAK #18925

TO: MDW Equity LLC

FINDINGS

The Commissioner of the Minnesota Pollution Control Agency (MPCA) makes the following Findings of Fact:

1. On October 24, 2012, the MPCA received notification of a petroleum storage tank release from underground tanks located at Former Food-n-Fuel, 4020 433rd Avenue North, St. Francis, MN 55070 (Site) from Thatcher Engineering, an environmental consulting firm.
2. MDW Equity LLC:
 - Currently owns the property where the Site is located, based on records from Anoka County, MN;
 - Owned the tanks at the Site as part of an investment property venture;
 - Registered four underground storage tanks at the Site with the MPCA as the owner in October 2005;
 - Owned the leaking tanks during their removal at the Site on October 18, 2012.
3. Soil samples collected beneath the tanks by Thatcher Engineering and analyzed by Pace Analytical indicate that a release of petroleum occurred. The analytical report is dated November 1, 2012.
4. On November 6, 2012, the MPCA sent a letter to MDW Equity LLC requesting MDW Equity LLC to investigate, and if necessary, take corrective action at the Site.
5. After no response to MPCA's November 6, 2012, letter, the MPCA sent letters on January 28, 2013, and on April 15, 2013, requesting MDW Equity LLC investigate, and if necessary, take corrective action at the site.
6. On April 19, 2013, MDW Equity LLC responded to the April 15, 2013, letter by email stating they did not have sufficient funds to pay for an investigation and wished to claim financial hardship.
7. On October 7, 2013, the Petrofund program deemed MDW Equity LLC does not have the financial means to pay for an investigation and/or have the ability to take corrective actions required at the Site.

8. The release of petroleum from tanks located at Former Food-n-Fuel, 4020 233rd Avenue Northwest, St. Francis, MN 55070 constitutes a threat to public health, welfare and the environment, and corrective action is needed.

9. The release constitutes a discharge of a substance or material that if not recovered may cause pollution of the waters of the state.

10. Minn. Stat. § 115C.021 (2012) provides:

Except as provided in subdivisions two to four, a person is responsible for a release from a tank if the person is an owner or operator of the tank at any time during or after the release.

11. No exception in subdivisions two to four applies to MDW Equity LLC.

12. MDW Equity LLC was the owner of the tanks during or after the release discovery.

13. Minn. Stat. § 115C.03, subd. 1 (2012) provides:

If there is a release, the Commissioner may order a responsible person to take reasonable and necessary corrective actions.

CONCLUSIONS

1. Under Minn. Stat. § 115C.021, subd. 1 (2012), MDW Equity LLC is a responsible person with regard to the release of petroleum at Former Food-n-Fuel, 4020 233rd Avenue Northwest, St. Francis, MN 55070.

2. Under Minn. Stat. § 115.061 (2012), MDW Equity LLC has a duty to recover releases of substances that may pollute the waters of the state.

3. The corrective actions required under this Order are reasonable and necessary.

4. Any Findings of Fact that might properly be termed Conclusions and any Conclusions that might properly be termed Findings of Fact are hereby adopted as such.

ORDER

NOW, THEREFORE, pursuant to Minn. Stat. § 115C.03, subd. 1 (2012) IT IS HEREBY ORDERED that MDW Equity LLC take the following corrective actions:

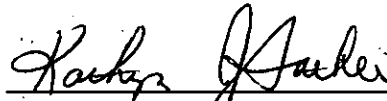
1. Within 10 days after receipt of this Order, retain a consultant registered under Minn. Stat. § 115C.11 (2012) and submit the name of the consultant to the MPCA. Unless directed otherwise, all correspondence with the MPCA shall be directed to Stephen Frye, 520 Lafayette Road, St. Paul, MN 55155.

2. Within 90 days after receipt of this Order, submit a Remedial Investigation and Proposed Corrective Action Design Report (RI Report) that describes the results of the Remedial Investigation and that proposes corrective action as specified in Section V of Attachment A.
3. Within 90 days after receiving notice of MPCA approval of the RI Report, implement the corrective actions specified in that report as approved or modified by the MPCA according to the approved time line.
4. Conduct such additional investigations or corrective actions as determined to be reasonable and necessary by the MPCA.

FAILURE TO COMPLY WITH THIS ORDER may result in legal action being taken to compel MDW Equity LLC to comply with this Order, to recover civil penalties and damages for violation of this Order, or to recover public monies spent by the MPCA in taking corrective action that MDW Equity LLC has been unwilling or unable to take.

Dated: _____

12/6/13



Kathryn J. Sather
Division Director
Remediation Division

