



# 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

May 21, 2009

Mr. Steve and Ms. Sue Peltó  
MMT Heating and Cooling  
5501 Miller Trunk Highway  
Hermantown, MN 55811

Ms. Deb Otto  
Members Coop Credit Union  
215 North 40<sup>th</sup> Avenue West  
Duluth, MN 55807

RE: Petroleum Storage Tank Release Liability  
Site: Café Latte, former Junction Food-n-Fuel, 5493 Miller Trunk Highway, Hermantown  
Site ID#: LEAK00003534

Dear Mr. and Ms. Peltó and Ms. Otto:

Under Minn. Stat. § 115C.021, subd. 1, (2008), a person is a responsible person for a release from a tank if that person owned or operated the tank any time during or after the release. If a person comes into possession of property where there has been a release after the tanks have been removed that person is not a responsible person under the statutory definition and the Minnesota Pollution Control Agency (MPCA) cannot order that person to take corrective action under Minn. Stat. Ch. § 115C (2008).

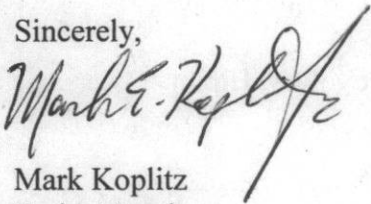
Liability is further limited for lenders. Minn. Stat. § 115C.021, subd. 4 (2008) provides that a mortgagee is not responsible for a release from a tank solely because the mortgagee becomes an owner of real property where the tank is located through foreclosure or receipt of a deed in lieu of foreclosure.

If future development of the site or the surrounding area is planned, it should be assumed that petroleum contamination may be present. State law requires that persons properly manage contaminated soil and water they uncover or disturb - even if they are not the party responsible for the contamination. For some properties, special construction may also be needed to prevent the further spreading of the contamination and/or to prevent petroleum vapors from entering buildings or utility corridors. The MPCA Petroleum Brownfields Program can assist with reviews and approvals of Development Response Action Plans required to address environmental risk from petroleum contamination. If contamination is encountered during development work, contact the MPCA immediately.

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This letter represents the views of the MPCA and is based upon information disclosed to the MPCA as of the date hereof. Depending on your circumstances, it may or may not be construed as releasing any person from liability under state or federal laws. Please be advised that the determination made in this letter is subject to the disclaimers found in Attachment A. If you have questions concerning your particular situation, the MPCA recommends that you discuss your concerns with your legal counsel. If you have any questions pertaining to this letter please call me at 651-757-2502.

Sincerely,



Mark Koplitz  
Project Leader  
Petroleum and Closed Landfill Section  
Remediation Division

MEK:tf

Enclosure

ATTACHMENT A  
DISCLAIMERS  
Site ID: LEAK00003534

1. Reservation of Authorities

The MPCA Commissioner reserves the authority to take any appropriate actions with respect to any release or other conditions at the Site. The MPCA Commissioner also reserves the authority to take such actions if the voluntary party does not proceed in the manner described in this letter or if actions taken or omitted by the voluntary party with respect to the Site contribute to any release or create an imminent and substantial danger to public health and welfare or the environment.

2. No MPCA Assumption of Liability

The MPCA, its Commissioner and staff do not assume any liability for any release or other conditions at the Site or for any actions taken or omitted by the voluntary party with regard to the release or other conditions at the Site, whether the actions taken or omitted are in accordance with this letter or otherwise.

3. Letter Based on Current Information

All statements, conclusions and representations in this letter are based upon information known to the MPCA Commissioner and staff at the time this letter was issued. The MPCA Commissioner and staff reserve the authority to modify or rescind any such statement, conclusion or representation and to take any appropriate action under this authority if the MPCA Commissioner or staff acquires information after issuance of this letter that provides a basis for such modification or action.

4. Disclaimer Regarding Use or Development of the Property

The MPCA, its Commissioner and staff do not warrant that the Site is suitable or appropriate for any particular use.