



# Minnesota Pollution Control Agency

September 21, 1998

Mr. Robert Fisher  
Bokers Incorporated  
3104 Snelling Avenue  
Minneapolis, Minnesota 55406

RE: Petroleum Storage Tank Release Investigation and Corrective Action  
Site: Bokers Incorporated, 3104 Snelling Avenue, Minneapolis  
Site ID#: LEAK00008345

Dear Mr. Fisher:

## Notice of Release

The Minnesota Pollution Control Agency (MPCA) has been informed that a release of petroleum has occurred from storage tank facilities which you own and/or operate. We appreciate your timely notification so this site can be handled in an efficient manner.

## Legal Obligations

Federal and state laws require that persons legally responsible for storage tank releases notify the MPCA of the release, investigate the release and, if necessary, clean up the release. A person is considered legally responsible for a tank release if the person owned or operated the tank either during or after the release, unless specifically exempted under the law. If you believe that you are not legally responsible for this storage tank release, please contact the project manager listed below.

If you are not legally responsible for the release, but hold legal or equitable title to the property where the release occurred, you may volunteer to take corrective action. Responsible persons and volunteers who take corrective action may be eligible for reimbursement for a major portion of the costs of corrective action. The legislature has established the Petroleum Tank Release Cleanup Account to reimburse responsible persons and volunteers. The account is administered by the Petro Board which is part of the Minnesota Department of Commerce. Final decisions regarding the amount of reimbursement are made by the Petro Board. All questions about eligibility and reimbursement should be directed to the Petrofund staff at 651/297-1119 or 651/297-4203.

## Request to Take Corrective Action

The MPCA staff requests that you take steps to investigate and, if necessary, clean up the release in accordance with the enclosed MPCA fact sheets. The site investigation must fully define the extent and magnitude of the soil and/or ground water contamination caused by the release. A report (excavation report and/or remedial investigation/corrective action design (RI/CAD) which details the results of the investigation or concludes that excavation was sufficient to clean up the release must be submitted to this office within 10 months of the date of this letter. Please refer to MPCA fact sheets for information pertaining to the amount of work needed at the petroleum release site(s).

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Mr. Robert Fisher  
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September 21, 1998



Sites with free product (free-floating petroleum), drinking water supply impacts, surface water impacts, indoor vapor impacts, fire or explosion hazards, or ground water impacts which pose a significant threat to public health or the environment, are considered high priority for staff review. If one or more of these situations apply to your site, an RI/CAD report must be submitted within 90 days. In addition, if you know or discover that there is free-product from a well, excavation, or borehole, you must notify the MPCA within 24 hours and IMMEDIATELY begin interim free product recovery.

If you have not already done so, the MPCA recommends that you hire a qualified consulting firm registered with the Petrofund staff that has experience in conducting petroleum release site investigations and in proposing and implementing appropriate corrective actions. A list of registered contractors and consultants is available from the Petrofund staff. The MPCA reserves the right to reject proposed corrective actions if the requirements of the site investigation have not been fulfilled. Please note that, under Minn. R. 2890 (Supp. 1997), you must solicit a minimum of two competitive proposals on a form prescribed by the Petro Board to ensure that the consulting costs are reasonable. Questions about bidding requirements should be directed to Petrofund staff.

**Required Response**

MPCA staff requests a response to this letter within 30 days. Please tell us whether you intend to proceed with the requested work. If you do not respond within this time frame, the MPCA staff will assume that you do not intend to comply, in which case the MPCA Commissioner may order you to take corrective action. Failure to cooperate with the MPCA in a timely manner may result in reduced reimbursement from the Petro Board. See Minn. R. 2890 (Supp. 1997). The enclosed fact sheets will provide you with the information necessary to complete a successful investigation and cleanup. If you have any questions concerning this letter or need additional information, please contact me at 651/297-8577. Please reference the above LEAK # in all correspondence. If you are calling long distance, you may reach the MPCA St. Paul office by calling 1-800/657-3864.

Sincerely,  


Stacey Hendry-VanPatten  
Project Manager  
Site Remediation  
Metro District

SHV:kh

Enclosures

cc: Dave Ziemer, Minneapolis Pollution Control Division  
Greg Lie, Hennepin County Solid Waste Officer  
Scott Laphom, Arcadis, Gerharty and Miller, Minneapolis

INVOICE

Customer Name

PAGE 1

Remit to:  
 MN POLLUTION CONTROL AGENCY  
 FISCAL SERVICES  
 520 LAFAYETTE ROAD NORTH  
 ST. PAUL MN 55155-4194

BOKERS INC

Customer Number

0000010114

Invoice Number

R32-34300000872

Invoice Date

08/27/96

Amount Due

390.00

Due Date

09/26/96

Amount Enclosed

Bill to:

BOKERS INC  
 3104 SNELLING AVE S  
 MPLS MN 55406

Method of Payment: (Check Appropriate Box)

Check  Money Order

Please write INVOICE No. on front of check or Money Order. DO NOT MAIL CASH

Please check if address has changed.  
 Write correct address on back of stub and enclose with payment.

Please detach the above stub and return with your remittance payable to: MN POLLUTION CONTROL AGENCY

The State of Minnesota

INVOICE

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Federal Tax ID: 41-6007162

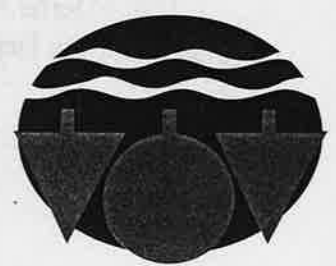
Customer Number	Billing Code	Orig. Inv. Date
0000010114	32PA	

Customer Name	Invoice Number	Invoice Date	Due Date
BOKERS INC	R32-34300000872	08/27/96	09/26/96

Ref Line No.	DESCRIPTION	Date of Service	No. of Units	Unit of Measure	Unit Price	CHARGES/CREDIT
01	TECHNICAL ASSISTANCE ATTN: ROBERT FISHER RE: LEAK00008345, BOKERS IN, MPLS EXPEDITED REVIEW OF LEAK SITE FILE, GENERAL LIABILITY AND CLOSURE LETTER	07/01/96	6.50	HRS	60.000	390.00
INVOICE TOTAL:						390.00

IF YOU HAVE ANY QUESTIONS, PLEASE CALL: 612/297-8499  
 CONTACT: LINDA CARROLL

# Minnesota Pollution Control Agency



August 6, 1996

Mr. Robert Fisher

Boker's, Incorporated

3104 Snelling Avenue

Minneapolis Minnesota 55406

RE: Petroleum Tank Release Site File Closure

Site: Lot adjacent to and northeasterly of Boker's, Incorporated, Minneapolis

Site ID#: LEAK00008345

Dear Mr. Fisher:

We are pleased to let you know that the Minnesota Pollution Control Agency (MPCA) Tanks and Emergency Response Section (TERS) staff has determined that your investigation has adequately addressed the petroleum contamination at the site listed above. Based on the information provided, the TERS staff has closed the release site file.

Closure of the file means that the TERS staff does not require any additional investigation and/or cleanup work at this time or in the foreseeable future. Please be aware that file closure does not necessarily mean that all petroleum contamination has been removed from this site. However, the TERS staff has concluded that any remaining contamination, if present, does not appear to pose a threat to public health or the environment.

The MPCA reserves the right to reopen this file and to require additional investigation and/or cleanup work if new information or changing regulatory requirements make additional work necessary. If you or other parties discover additional contamination (either petroleum or nonpetroleum) that was not previously reported to the MPCA, Minnesota law requires that the MPCA be immediately notified.

You should understand that this letter does not release any party from liability for the petroleum contamination under Minn. Stat. ch. 115C (1994) or any other applicable state or federal law. In addition, this letter does not release any party from liability for nonpetroleum contamination, if present, under Minn. Stat. ch. 115B (1994), the Minnesota Superfund Law.



Mr. Robert Fisher

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August 6, 1996

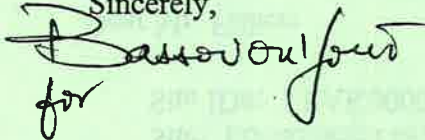
Because you performed the requested work, the State may reimburse you for a major portion of your costs. The Petroleum Tank Release Cleanup Act establishes a fund which may provide partial reimbursement for petroleum tank release cleanup costs. This fund is administered by the Department of Commerce Petro Board. Specific eligibility rules are available from the Petro Board at 612/297-1119 or 612/297-4203.

If future development of this property or the surrounding area is planned, it should be assumed that petroleum contamination may still be present. If petroleum contamination is encountered during future development work, the MPCA staff should be notified immediately.

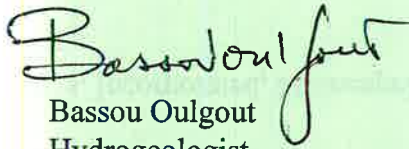
For specific information regarding petroleum contamination that may remain at this leak site, please call the TERS File Request Program at 612/297-8499. The "Leak/Spill and Underground Storage Tank File Request Form" (TERS Fact Sheet #3.35) must be completed prior to arranging a time for file review.

Thank you for your response to this petroleum tank release and for your cooperation with the MPCA to protect public health and the environment. If you have any questions regarding this letter, please call Lauralin Kania at 612/297- 8600 or Bassou Oulgout at 612/297-8597.

Sincerely,



Lauralin Kania  
Project Manager  
VPIC Program  
Tanks and Emergency Response Section



Bassou Oulgout  
Hydrogeologist  
VPIC Program  
Tanks and Emergency Response Section

LMK:BO:dms

cc: Karen Nordby, Environmental Inspector, Minneapolis  
Merry Keefe, City Clerk, Minneapolis  
Thomas Dickinson, Fire Chief, Minneapolis  
Greg Lie, Hennepin County Solid Waste Officer  
Tom Maertens, Braun Intertec Corporation, Mendota Heights  
Minnesota Department of Commerce, Petrofund Staff



# Minnesota Pollution Control Agency

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August 6, 1996

Mr. Robert Fisher  
Boker's, Incorporated  
3104 Snelling Avenue  
Minneapolis Minnesota 55406

RE: Petroleum Storage Tank Release Liability

Dear Mr. Fisher:

Under Minn. Stat. § 115C.021 (1992), the general rule is that a person is "responsible" for a release from a tank if that person owned or operated the tank during or after the time of the release. As the Minnesota Pollution Control Agency interprets this rule, if a person comes into possession of property after the tanks have been removed, that person is not a "responsible person" and cannot be ordered to take corrective action under Minn. Stat. 115C (1994).

Liability is further limited for lenders. Minn. Stat. § 115C.021, subd. 4 (1992) provides that mortgagees that foreclose or receive a deed in lieu of foreclosure are not responsible persons even if the tanks are present. However, the definition of "owner" implies that a mortgagee that forecloses on property with tanks may be considered a responsible person if the mortgagee fails to complete the cleanup as a "volunteer." See Minn. Stat. § 115C.02, subd. 8 (1992).

Chapter 115C created a fund that can be used by responsible persons and "volunteers" to help fund the cost of corrective action (the Petroleum Tank Release Cleanup Account or Petrofund). A volunteer is a person who has legal or equitable title in the contaminated property who is not a responsible person [Minn. Stat. § 115C.09, subd. 3b (1992)]. A responsible person or a volunteer who take corrective action can receive reimbursement for 90 percent of corrective action costs under \$250,000 and 75 percent of costs over \$250,000. See Minn. Laws 1993, ch. 341, Art. 1, sec. 12. As a result, it is fair to say that, unless there are compliance issues, in the majority of cases, the liability of a responsible person, volunteer, or a lender will be limited to ten percent of the costs of cleanup. Some costs are ineligible, and certain cost control requirements must be complied with. See Minn. Rules ch. 2890 (rules of the Petroleum Tank Release Compensation Board or Petro Board). Mortgagees are not subject to reductions by the Petro Board. See Minn. Stat. § 115C.09, subd. 3b(c) (1992). The Petroleum Tank Release Cleanup Account is continually funded. See Minn. Stat. § 115C.08, subd. 2 (as amended by Minn. Laws 1993, ch. 341, Art. 1, sec. 8).

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Mr. Robert Fisher

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This letter represents the views of the Minnesota Pollution Control Agency. It should not be construed as releasing any person from liability under state or federal laws. If you have questions concerning your particular situation, the Minnesota Pollution Control Agency recommends that you discuss your concerns with legal counsel.

If you have any questions pertaining to this letter please call me at 612/297-8600.

Sincerely,

*for Lawrence Fisher*

Laurie M. Kania

Project Manager

Voluntary Petroleum Investigation and Cleanup  
Tanks and Emergency Response Section

LMK:dms



# Minnesota Pollution Control Agency

520 Lafayette Road North  
Saint Paul, Minnesota 55155-4194

April 1996

## Voluntary Petroleum Investigation and Cleanup Program Application/Request for Assistance Form

### Fact Sheet 5.3

Complete this form to request assistance from the Minnesota Pollution Control Agency (MPCA) staff in the Voluntary Petroleum Investigation and Cleanup (VPIC) Program. If you have any questions about the services offered by the VPIC Program or this form, please contact Laurie Kania at 612/297-8600 or Bassou Oulgot at 612/297-8597. The MPCA can also be reached toll free at 1-800/657-3864.

Mail or fax the completed form to: Laurie Kania  
VPIC Program  
Minnesota Pollution Control Agency  
520 Lafayette Road North  
St. Paul, Minnesota 55155-4194  
fax: 612/297-8676

#### Applicant\*

Name Boker's, Inc.

~~Organization~~ Attention: Robert Fisher

Address 3104 Snelling Avenue

City Minneapolis

State MN ZIP code 55406

Telephone 612/729-9365

State Taxpayer ID 8782454

Federal Employer ID 41-0947742

Social Security # \_\_\_\_\_

(if an individual)

#### Subject Property

Bokers Inc.

Name Lot adjacent to and northeasterly of

Address 3104 Snelling Avenue

City (or Township) Minneapolis

ZIP code 55406 County Hennepin

MPCA ID # LEAK 00008345

#### Current Property Owner (if different from applicant)

Name \_\_\_\_\_

Organization \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_ ZIP code \_\_\_\_\_

\* The applicant is the individual seeking technical assistance and/or a liability assurance letter from the VPIC Program. The applicant is responsible for payment of MPCA costs to provide services as requested by application.

(continued on back)



**Applicant's Interest**

- Property owner
- Considering purchasing property
- Responsible party (as defined under Minn. Stat. 115C)
- Mortgagee interest in property
- Renting or leasing property
- Other (explain)

**Service applicant is requesting**

- Expedited review of a petroleum contamination investigation and/or cleanup.  
MPCA ID# LEAK0000 8345
- Review of a development response action plan.  
MPCA ID# LEAK0000 \_\_\_\_\_
- Leak site Tank Removal Verification letter.  
MPCA ID# LEAK0000 \_\_\_\_\_
- Leak site File Closure Confirmation letter.  
MPCA ID# LEAK0000 8345
- Off-site Tank Release Determination letter.  
Suspected source MPCA ID# LEAK0000 \_\_\_\_\_
- General Liability letter. (letter stating that Boker's, Inc. is not a "responsible party")
- Other technical assistance not specified above (please describe on a separate sheet).

**Authorization and Agreement to Pay for Services**

I hereby request the MPCA VPIC staff to provide services to me and the company/organization I represent, as requested by this application. I understand that if an expedited review of a leak site is the required service, VPIC staff will retain review authority until the site file is closed or until the date they receive a written request from me to cease VPIC review. I understand that I will be billed for these services at the rate of \$60.00 per hour and that I am required by Minn. Stat 115C.03, subd. 9 (as amended by Minn. laws, 1994) to reimburse the MPCA for the Agency's costs, as determined by the MPCA Commissioner. I further understand that legal or administrative action may be initiated against me by the State of Minnesota if I do not reimburse the MPCA.

I hereby agree to pay the costs of the MPCA to provide services to the applicant as requested in this application. Furthermore, I hereby certify that I have the authority to submit this application on behalf of the applicant named herein.

BOKER'S, INC.

Name By Robert Fisher  
Title Plant Manager

Signature Robert Fisher  
Date 7-23-96