



State of New Jersey

Christine Todd Whitman
Governor

Department of Environmental Protection

Robert C. Shinn, Jr.
Commissioner

APR 08 1998

Mr. Scott D. Heller, General Counsel
Heller-Jersey City, L.L.C.
525 River Road
Edgewater, NJ 07020

Re: Entire Site Restricted Use No Further Action Letter For Soils and Covenant Not to Sue
Ryerson Steel, Hudson County Chromate Site #117
440 Route 440
Jersey City, Hudson County
Block: 1285 Lots: 7 and 7A
KCSL #: NJL000001172

Dear Mr. Heller:

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) has made a determination that no further action is necessary for the remediation of the site as specifically referenced above, except as noted below, so long as Heller-Jersey City, L.L.C. did not withhold any information from the Department. This action is based upon information in the Department's case file and Heller-Jersey City, L.L.C. final certified report, dated February 25, 1998. In issuing this No Further Action Determination and Covenant Not to Sue, the Department has relied upon the certified representations and information provided to the Department.

By issuance of this No Further Action Determination, 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 entire site. Based on a review of the site specific information submitted, the Department finds that Heller-Jersey City, L.L.C. has met the objectives of the of N.J.A.C. 7:26E.

NO FURTHER ACTION CONDITIONS

As a condition of this No Further Action Determination Heller-Jersey City, L.L.C. as well as each subsequent owner, lessee and operator (collectively "Successors") shall comply with each of the following:

Name and Address Changes

Pursuant to N.J.S.A. 58:10B-12, Heller-Jersey City, L.L.C. and the Successors shall inform the Department in writing whenever its name or address changes, within 14 calendar days after the change.

Deed Notice

Pursuant to N.J.S.A. 58:10B-13a, Heller-Jersey City, L.L.C. and the Successors shall ensure that the Deed Notice filed on March 24, 1998 (Instrument Number 2527), with the Hudson County Register of Deeds is complied with a Restricted Use NFA including maintenance of applicable engineering controls. As stated in the final Remedial Action Report, Hudson County Register of Deeds is running approximately 90 days behind with regard to recording deeds. Heller-Jersey City, L.L.C. shall notify the Department in writing of the location where the deed notice can be found at

(i.e., reference recording book and page numbers located at the county office) once that information becomes available.

Pursuant to N.J.S.A 58:10B-13h, an owner of a property on which a Deed Notice has been recorded shall notify any person who intends to excavate on the site of the nature and location of any contamination existing on the site and of any conditions or measures necessary to prevent exposure to contaminants.

Monitoring of Compliance

Pursuant to N.J.S.A. 58:10B-13.1, Heller-Jersey City, L.L.C. and the Successors shall conduct monitoring for compliance and effectiveness of the institutional and engineering control(s) specified in this document and submit a certification to the Department every two years in writing that the institutional and engineering control(s) are being properly maintained and continue to be protective of public health and safety and the environment. Any such certification shall include the information relied upon to determine that no changes have occurred.

COVENANT NOT TO SUE

The Department issues this Covenant Not to Sue 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 the following:

- (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, for the real property at the site identified above, or payment of cleanup and removal costs for such additional remediation.

The person who undertook the remedial action, and each subsequent owner, lessee and operator, during that person's ownership, tenancy or operation, shall maintain those controls and conduct periodic compliance monitoring in the manner the Department requires.

Any person who may benefit from this Covenant is barred from making a claim against the Spill Compensation Fund, N.J.S.A. 58:10-23.11i, and the Sanitary Landfill Facility Contingency Fund, N.J.S.A. 13:1E-105, for any costs or damages relating to the remediation covered by this Covenant. The corresponding statutes and their implementing regulations will control all other claims against these funds.

Any person who may benefit from this Covenant is barred from making a claim against the Spill Compensation Fund, N.J.S.A. 58:10-23.11i, and the Sanitary Landfill Facility Contingency Fund, N.J.S.A. 13:1E-105, for any costs or damages relating to the remediation covered by this Covenant if the Department requires additional remediation in order to remove the institutional control. The corresponding statutes and their implementing regulations will control all other claims against these funds.

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 either:

- (a) any person with the legal obligation to comply with any condition in this No Further Action Letter has failed to do so; or
- (b) any person with the legal obligation to maintain or monitor any engineering or institutional control has failed to do so.

This Covenant Not to Sue, which the Department has executed in duplicate, shall take effect immediately once the person who undertook the remediation has signed and dated the Covenant Not to Sue in the lines supplied below and the Department has received one copy of this document with original signatures of the Department and the person who undertook the remediation.

Heller-Jersey City, L.L.C.

By: *Heller Management Corp.*

Name: *Scott D. Heller* *Scott D. Heller*

Signature: *Scott D. Heller*

Title: *Executive Vice President*

Dated: *April 14, 1998*

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION

Name: Bruce Venner

Signature: *Bruce Venner*

Title: Bureau Chief, Bureau of Federal Case Management

Dated: *4/8/98*

NOTICES

This No Further Action Determination specifically does not address the required implementation of a ground water investigation and ground water remedial action at the site. This aspect is being addressed by the Bureau of Federal Case Management under an Administrative Consent Order with AlliedSignal, Inc.

Off-site Contamination

Please be advised that pollution in the ground water at this site exists above the Ground Water Quality Standards (N.J.A.C. 7:9-G), which will limit ground water use at this site. It has been determined that this contamination is from the source related to this site. This ground water contamination is being addressed under Case #NJL000005017 (AlliedSignal, Inc.)

Order of Magnitude

Please be advised that this No Further Action Determination is based on the implementation and completion of the Remedial Action Workplan and any addenda in accordance with the terms of the 5/12/97 Department approval. Hexavalent chromium, arsenic, copper, zinc, lead, thallium, benzo(a)anthracene and benzo(a)pyrene exist on site above the current soil remediation criteria. In addition, total chromium, antimony, arsenic, cadmium, lead, mercury and nickel exist on site above the current ground water remediation criteria

Direct Billing

Please be advised that pursuant to the Procedures for Department Oversight of the Remediation of Contaminated Sites (N.J.A.C. 7:26C et seq) Heller-Jersey City, L.L.C. 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 Frank Faranca at (609) 984-4071.

Sincerely,



Bruce Venner, Bureau Chief
Bureau of Federal Case Management

Enclosure: USGS Quad maps

- c: Betty Kearns, Jersey City Engineering Department
- Frank Faranca, NJDEP/DRPSR/BFCM
- Terry Sugihara, NJDEP/DPFSR/BEERA
- David VanEck, NJDEP/DPFSR/BGWPA
- G. Schlosser, DAG
- John Defina, NJDEP/ Bureau of Planning & Systems
- NJDEP-Environmental Claims Administration
- James Wong, AlliedSignal, Inc.