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OHIO EPA/CDO

OHIO E.P.A.

JUN 30 1999

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In The Matter of:

Seitz, Owings & Delora, Inc.
(aka Service Supply Company, Inc.
of Indiana)
151 North Delaware, Suite 1645
Indianapolis, IN 46204

Covenant Not to Sue
Director's Final Findings
and Orders

Regarding the approx. 1.522 acre
property located at
1861 through 1867 (odd only)
McKinley Avenue
Columbus, Franklin County, OH

Pursuant to Ohio Revised Code ("ORC") Chapter 3746 and Ohio Administrative Code ("OAC") Chapter 3745-300, the Director of the Ohio Environmental Protection Agency ("Director") hereby makes the following Findings and issues the following Orders ("Findings and Orders" or "Covenant").

Findings

1. An original No Further Action Letter ("NFA Letter No. 99NFA057") was submitted to the Ohio EPA Division of Emergency and Remedial Response on behalf of Seitz, Owings & Delora, Inc. (aka Service Supply Company, Inc. of Indiana) on April 26, 1999, by Dennis A. Smalley, a Certified Professional (Certified Professional No. CP197) as defined in ORC Section 3746.01(E) and OAC Rule 3745-300-01(A)(8) (the "Certified Professional").
2. NFA Letter No. 99NFA057 describes investigation and/or remedial activities undertaken at the approximately 1.522 acre property located at 1861 through 1867 McKinley Avenue, Columbus, Ohio (the "Property"). An exact legal description of the Property is contained in the warranty deed recorded in Volume 3534, Pages 786-788 at the Franklin County Recorder's Office and is attached hereto as Attachment 1.

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency

By: *Dennis A. Smalley* June 30, 1999

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3. The Certified Professional has verified by affidavit that the investigation and/or remedial activities undertaken at the Property comply with the standards established in ORC Chapter 3746 and OAC Chapter 3745-300, that the Property is eligible to receive a Covenant Not to Sue under the Voluntary Action Program, and that the voluntary action was conducted in compliance with all applicable federal, state and local laws.
4. EA Group, Mentor, Ohio (Certified Laboratory No. CL 0015) is a certified laboratory as defined in ORC Section 3746.01(D) and OAC Rule 3745-300-01(A)(7), whose services were used in support of the NFA for the Property.
5. According to information provided in the NFA, EA Group performed the analyses for which they are certified and qualified, pursuant to ORC Chapter 3746 and OAC Chapter 3745-300, that formed the basis for the issuance of the NFA as determined by the Certified Professional.
6. Based upon the information contained in the NFA, the following investigation and/or remedial activities were undertaken at the Property:
 - a) Completion of a Phase I Property Assessment in accordance with OAC Rule 3745-300-06;
 - b) Completion of a Phase II Property Assessment in accordance with OAC Rule 3745-300-07;
7. No land use restriction has been placed on the Property described in the NFA and, based on the information contained in the NFA, the Property meets the applicable standards for residential land use.
8. Based on the information contained in the NFA, the Director has determined that the issuance of a Covenant Not to Sue for the Property is protective of human health, safety and the environment.

Orders

1. Upon the effective date of these Orders, and subject to the conditions outlined below, the Ohio EPA hereby releases and covenants not to sue Seitz, Owings & Delora, Inc. (aka Service Supply Company, Inc. of Indiana) and its agents, employees, shareholders, officers, directors, successors or assigns, from all civil liability to the State to perform additional investigation and/or remedial activities to address the releases of hazardous substances or petroleum addressed through the Phase I and Phase II Property Assessments completed in accordance with ORC Chapter 3746 and OAC Chapter 3745-300.

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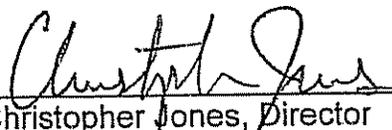
- ENTERED DIRECTOR'S OFFICE
2. The NFA and the Covenant provided in these Findings and Orders may be transferred to any person by assignment or in conjunction with the acquisition of title to the Property.
 3. A summary of the NFA and a copy of these Findings and Orders, including Attachment 1 hereto, shall be filed in the Franklin County Recorder's Office, in the same manner as a deed to the Property.

Conditions of and Limitations on the Covenant

1. This Covenant shall only apply to the approximately 1.522 acre Property described in the NFA, upon which the investigation and/or remedial activities specified in the NFA were conducted.
2. Pursuant to ORC Section 3746.12(B), this Covenant shall remain in effect for as long as the Property to which this Covenant pertains continues to comply with the applicable standards upon which this Covenant is based, as outlined in Finding Nos. 1 through 8 above.
3. This Covenant shall not apply to releases of hazardous substances or petroleum:
 - (a) which occur after the submittal of the NFA to Ohio EPA, or
 - (b) on or emanating from the Property which are not described in the NFA, or
 - (c) for which investigation and/or remedial activities were conducted that were not in compliance with ORC Chapter 3746 or OAC Chapter 3745-300.
4. This Covenant shall not apply to:
 - (a) claims for natural resource damages the State may have pursuant to Sections 107 or 113 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. Sections 9607 and 9613, as amended; or
 - (b) claims the State may have pursuant to Section 107 of CERCLA, 42 U.S.C. Section 9607, as amended, for costs other than those for damages to natural resources, provided that the State incurs those other costs as a result of an action by the United States Environmental Protection Agency; or
 - (c) as otherwise specifically provided in ORC Chapter 3746.

5. Nothing in ORC Chapter 3746 limits the authority of the Director to act under ORC Sections 3734.13 and 3734.20 to 3734.23, or to request that a civil action be brought pursuant to the ORC or common law of the State to recover the costs incurred by Ohio EPA for investigating or remediating a release or threatened release of hazardous substances or petroleum at or from a property where a voluntary action is being or has been conducted under ORC Chapter 3746 and OAC Chapter 3745-300, when the Director determines that the release or threatened release poses an imminent and substantial threat to public health or safety or the environment.
6. Nothing in this Covenant shall be construed to limit and/or waive the Director's authority to revoke this Covenant pursuant to any of the circumstances for revocation of a Covenant, as provided in ORC Chapter 3746 and OAC Chapter 3745-300.

IT IS SO ORDERED:



Christopher Jones, Director
Ohio Environmental Protection Agency

6/28/99
Date

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VOL 3534 PAGE 786

TRANSFER TAX PAID
\$137.50 By ARCH J. WARREN
FRANKLIN COUNTY, AUDITOR

Warranty Deed

19701

To a Corporation

KNOW ALL MEN BY THESE PRESENTS: That Carlos V. Darnell and Virginia M.

Darnell, Husband and Wife

of the City of Columbus, County of Franklin and State of Ohio, in consideration of the sum of

One Dollar and other good and valuable considerations

to them paid by Service Supply Company, Inc. of Indiana a Corporation duly incorporated under the Laws of the State of Indiana

of the City of Indianapolis, County of Marion and State of Indiana, the receipt whereof is hereby acknowledged,

do hereby GRANT, BARGAIN, SELL and CONVEY to the said

Service Supply Company, Inc. of Indiana

its successors and assigns forever, the following REAL ESTATE situated in

the County of Franklin in the State of Ohio and in the

City of Columbus and bounded and described as follows:

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Being in Survey No. 2668 and being part of William Sullivant's Heirs Stone Quarry Reserve, shown on Plat "A", William Sullivant's Heirs Land of record in Complete Record 61, Page 94, Franklin County Records, and being more particularly described as follows:

Beginning, for reference, at a point of intersection of the center line of McKinley Avenue, with the center line of Dry Run; thence with the center line of McKinley Avenue, N. 85° 19' W. 397.76 feet to a point at an angle in said Avenue; thence continuing along the center line of McKinley Avenue, N. 85° 45' W. 30.62 feet to the true place of beginning for this description; thence from said true beginning place, S. 1° 58' E. 559.95 feet to an iron pin in the northerly right-of-way line of the Pennsylvania Railroad, passing an iron pin on line in the south line of McKinley Avenue at 30.17 feet; thence Northwesterly along the right-of-way line of the Pennsylvania Railroad, with a curve bearing to the right, and having a radius of 5679.65 feet to an iron pin, the chord to which bears N. 82° 16' W. 121.02 feet, thence N. 1° 58' W. 552.05 feet to a point in the center line of McKinley Avenue, passing an iron pin on line on the south line of McKinley Avenue at 521.88 feet; thence along the center line of McKinley Avenue, S. 85° 45' E. 120 feet to the true place of beginning, containing 1.522 Acres, more or less, subject to all legal highways and other easements or restrictions shown of record.

0-17
ALL of
146285
COLS,

AUG 3 1976

Received 19... At 2:45 P
Recorded AUG 5 1976 In Franklin County
JAMES A. SCHAEFER, Recorder
Recorder's Fee \$ 4.00

TRANSFERRED
AUG 3 1976
ARCH J. WARREN
AUDITOR
FRANKLIN COUNTY, OHIO

DW 83-76

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LAST TRANSFER: Deed Record Volume 2212, Page 109, 110, and 111.
TO HAVE AND TO HOLD said premises, with all the privileges and appur-
tenances thereunto belonging, to the said

Service Supply Company, Inc. of Indiana
its successors and assigns forever.

And the said Carlos V. Darnell and Virginia M. Darnell

for themselves and their heirs, do hereby covenant with the said

Service Supply Company, Inc. of Indiana
its successors and assigns, that they are lawfully seized of the
premises aforesaid; that the said premises are FREE AND CLEAR FROM ALL INCUM-
BRANCES WHATSOEVER;

Handwritten scribble or signature

and that they will forever WARRANT AND DEFEEND the same with the appurtenances unto the said Service Supply Company, Inc. of Indiana its successors and assigns, against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the said Carlos V. Darnell and Virginia Darnell

who hereby release their respective right of dower in the premises, have hereunto set their hands, this 27th day of July 19 76 .

Signed and acknowledged in presence of

John F. Williams Jr
Ray A. McFadyen

Carlos V Darnell
Virginia M. Darnell

THE STATE OF Ohio , FRANKLIN COUNTY, ss.

BE IT REMEMBERED, That on this 27th day of July , 19 76, before me, the subscriber, a Notary Public in and for said County, personally came the above named

Carlos V. Darnell and Virginia M. Darnell, Husband and Wife

the Grantors in the foregoing Deed, and acknowledged the signing of the same to be their voluntary act and deed, for the uses and purposes therein mentioned.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, on the day and year last aforesaid.

Ray A. McFadyen
RAY A. McFADYEN
ATTORNEY AT LAW
NOTARY PUBLIC, STATE OF OHIO
CHIEF COMMISSIONER

THIS INSTRUMENT WAS PREPARED BY Ray A. McFadyen, Attorney At Law.

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