



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

Donald R. van der Vaart
Secretary

May 28, 2015

Mr. Jacob Dinkins
Bracken Mountain Builders
P. O. Box 63
Brevard, NC 28712

Subj: Liability Protection for Sites in the
Drycleaning Solvent Cleanup Act (DSCA) Program

Mr. Dinkins,

Thank you for the inquiry today with regard to DSCA Site #DC880001 (Rainbow Cleaners) in Brevard. I would like to update you about the Smith properties which are the locations of 3 DSCA groundwater monitoring wells (MW-9, MW-10, MW-15). The groundwater beneath each of the Smith parcels is contaminated from the drycleaner solvent release. Since the properties have been affected from the solvent release, they are considered part of the "Site" and will be afforded all of the liability protections under the jurisdiction of the DSCA Program. In accordance with our statutes, as long as the Petitioner (James McIntosh) complies with the Assessment Remediation Agreement, the liability protection will apply to the site. The statutes further state that the liability protection also applies to the following:

- i. Any future owners of the contamination site;
- ii. A person who occupies the contamination site;
- iii. A successor or assign of any person to whom the liability protection applies; and
- iv. Any lender or fiduciary that provides financing to the petitioner to pay the petitioner's financial obligations under GS 143-215.104F.

This essentially means that as long as we have a Petitioner in good standing for the site, liability protection will be provided to the Petitioner, property owners, and occupants/tenants of the "contamination site". According to our rules, the definition of contamination site includes the entire area of contamination, not just the property that housed the drycleaning operations. So the DSCA liability protection extends to any adjacent properties that have been impacted by the drycleaning solvent contamination.

If the properties were to be redeveloped in the future, I do not envision Land Use Restrictions other than a 2C Notice which does not allow the use of the contaminated groundwater. It should be noted that the liability protection provided by DSCA does not include protection against third-party claims. Please feel free to contact me at 919.707.8367 if you have additional questions regarding the DSCA Program.

Jay W. King, Project Manager
Division of Waste Management, NCDENR