



April 8, 2005

Mr. Leo Mullin
Cost Recovery Expert
USEPA Region III
3HS12
1650 Arch Street
Philadelphia, PA 19103-2029

Re: Request for Comfort Letter for
property located at 1516
Cleveland Ave. SW, Roanoke
VA, owned by Evans Paint Inc.,
also known as Official Tax
Map Number 1321325

Dear Mr. Mullin:

As we have previously discussed, the City of Roanoke is requesting a comfort letter regarding the potential purpose of the above-referenced property. It is the city's intention that the comfort letter would contain a discussion of the protections and responsibilities that would be afforded to a bona fide prospective purchaser through the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

Should you have additional questions regarding this request, please contact me at (540) 853-1173.

Sincerely,

Paul J. Truntich Jr., M.S., REM
Environmental Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029



MAY 17 2005

Paul J. Truntich Jr., M.S., REM
Environmental Administrator
City of Roanoke
215 Church Avenue, SW
Roanoke, VA 24011

Re: Evans Paint Property, 1516 Cleveland Avenue, SW, Roanoke, Virginia

Mr. Truntich:

This letter is in response to your letter dated April 8, 2005, in which you requested a comfort letter concerning a potential purchase of a certain parcel of property identified in the City of Roanoke's Tax Assessor's Office as tax parcel 1321325 (the "Property").

The Property comprises 1.68 acres and is known to the U.S. Environmental Protection Agency ("EPA") as the Evans Chemical Site ("Site"). With this letter, EPA intends to provide a discussion of the protections and responsibilities afforded to a bona fide prospective purchaser by the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA")¹, 42 U.S.C. §§ 9601 *et seq.*, should someone choose to acquire the Property.

The Evans Chemical Site is an abandoned warehouse that is located in Roanoke, Virginia. The Site operated as a paint manufacturing facility that ceased operations in 1992. The area is considered industrial in nature. Adjacent to the area is residential housing and the Roanoke River is approximately 100 yards away from the Site. In May 2000, a Removal Assessment was performed and it identified approximately 750 drums located in the warehouse. Drums marked "flammable liquid", "Flammable solid", "corrosive" and "oxidizer" were observed. In addition, specific chemicals such as diacetone alcohol, ammonium hydroxide, sodium hydroxide, chromium oxide and mercury were observed. As a result of the risk presented by these materials, a removal response action was conducted. The result was the removal of the drums and material contained in a tank. EPA's removal response action addressed the imminent and/or substantial environmental threats that were created by the abandonment of the drums within the warehouse.

A pre-remedial investigation was performed to determine if the site qualifies as a candidate for listing to the National Priorities List ("NPL"). The NPL is a list of the worst hazardous waste sites that are eligible for federal dollars for cleanup or long term remediation

¹The full text of the legislation that is relevant to the prospective purchaser exemption from liability is available at www.epa.gov/swerosps/bf/sbrabra.htm or <http://thomas.loc.gov>.

under CERCLA. The investigation involved the collection of soil samples on-Site and the collection of surface water and sediment samples from the Roanoke River. The results of the investigation revealed the presence of PCB concentrations in the soils on-Site and PCB concentrations in sediment samples up- and down stream of the Roanoke River. These results also indicated that the PCB contamination detected in the Roanoke River is more attributable to other sources of contamination than from the Evans Chemical Site. Based on the information currently known to EPA, EPA does not anticipate taking any further response actions at the Site.

Although EPA believes that the Property no longer poses an imminent and/or substantial threat at this time, it would be appropriate for an owner of the Property to exercise appropriate care by taking reasonable steps to prevent releases with respect to the residual hazardous substance contamination found at the Property. Based on the existing information that is known by EPA, this would include, but not be limited to, the following activities:

- a. Provide full cooperation and access to the Site to those authorized to conduct response actions, including authorized representatives of EPA and the Virginia Department of Environmental Quality (“VaDEQ”);
- b. Enroll in the Virginia Voluntary Compliance Program and complete any additional response actions or studies as required by VaDEQ;
- b. Unless additional response actions are taken under the direction of VaDEQ, allow only commercial / industrial uses for the Property;
- c. Notify VaDEQ in writing upon discovery of conditions at the Site which may adversely affect or interfere with the implementation, protectiveness, or effectiveness of the response activity that was completed at the Site; and
- d. Provide appropriate notices including deed and title notices and land use restrictions.

Provided a purchaser takes these reasonable steps and meets the other obligations that are discussed in the statute as necessary to maintain the status of a bona fide prospective purchaser, EPA would not seek any enforcement action against the subsequent purchaser and EPA would not seek in this specific situation any claim under a windfall lien under Section 107(r) of CERCLA, 42 U.S.C. § 9607(r).

Furthermore, since the information you provided indicates that the fair market value of the Property is substantially less than the combined value of the past due real property taxes and the existing judgment on the Property, if the amount paid at a sheriff sale of the Property that may occur as a result of the unpaid real property taxes is less than the combined value of these two claims, EPA would not seek any claim it would have against the Property pursuant to Section 107(l) of CERCLA, 42 U.S.C. § 9607(l).

This letter does not provide a release from CERCLA liability, but only provides information with respect to “reasonable steps” a person may take based on the information EPA has available to it. This letter is based on the nature and extent of contamination known to EPA at this time. If additional information regarding the nature and extent of hazardous substance contamination at the Property becomes available, additional actions may be necessary to satisfy the “reasonable steps” criterion. In particular, if new areas of contamination are identified, you should ensure that reasonable steps are undertaken. As the Property owner, a person should be aware of the condition of the Property so that reasonable steps can be taken with respect to any hazardous substance contamination at or on the Property.

Please further note that the bona fide prospective purchaser provision has a number of conditions in addition to those requiring the Property owner to take reasonable steps. These can be found in the text of the legislation in Section 101. Taking reasonable steps and fulfilling the other conditions are continuing obligations of the bona fide prospective purchaser. A purchaser will need to assess whether the purchaser satisfies each of the statutory conditions of the bona fide prospective purchaser provision and continues to meet the applicable conditions.

EPA hopes this information is useful to you. If you have any questions, or wish to discuss this letter, please feel free to contact Leo J. Mullin at (215) 814-3172.

Sincerely,


Abraham Ferdas, Director
Hazardous Site Cleanup Division