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December 26, 2007

Mr. William Clarke  
One West Pack Square, Ste. 1100  
P. O. Box 7647  
Asheville, NC 28802

Dear Mr. Clark:

I was surprised at the tone of your letter given the way that your client Mills Gap Road Associates ("MGRA") handled the sale of the former CTS property to The Biltmore Group, LLC, in 1997. At this stage, we don't know what MGRA knew at the time that it bought the CTS property, but we do not believe that it was an innocent purchaser, as that defense to CERCLA/RCRA liability has been defined by statute and the courts. We do, however, know the following:

1. CTS found high levels of TCE in soil on its property in 1987 at the time it was planning to sell the property to MGRA.
2. In 1991 NUS, an EPA contractor, found TCE and a breakdown product, dichloroethylene, on the property, including in the stream outside the fence on the western side of the property, which is part of what was transferred to The Biltmore Group in 1997.
3. NCDENR wrote MGRA on April 21, 1995, referencing the NUS findings and stating that "the site must remain on the Inactive Hazardous Sites Inventory until further investigation is conducted to determine the degree and extent of contamination at the site."
4. It does not appear that MGRA conducted any investigation of the extent of contamination of the property in response to NCDENR's letter.
5. On February 15, 1996, NCDENR sent a letter to MGRA stating that the property was on the February 1996 Inactive Hazardous Waste Sites Priority List.
6. On February 15, 1997, NCDENR sent a letter to MGRA stating that the property was on the February 1997 Inactive Hazardous Waste Sites Priority List.
7. MGRA sold 44.89 acres of the property to The Biltmore Group, LLC, on August 22, 1997. The deed did not contain any notice that the property was used for hazardous substance disposal as required by N.C. Gen. Stat. § 130A-310.8(e).

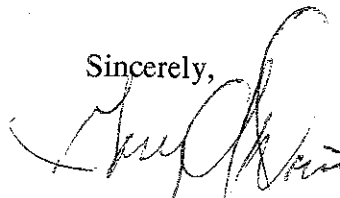
8. MGRA failed to record a Notice of Inactive Hazardous Substance or Waste Disposal Site as required by N.C. Gen. Stat. § 130A-310.8, and was ordered to file the Notice by NCDENR on December 12, 1997.
9. MGRA did not respond to NCDENR's order until August 1998. When the Notice was finally recorded on August 26, 1998, it did not contain the whole CTS property, only the 9 acres inside the fence that had not been sold.
10. That Notice failed to mention TCE and falsely stated, among other things, that "[t]he areas and types of contamination are approximations derived from the best available information at the time of filing."

It is clear that MGRA's failure to record the required notice before sale of 44.89 acres of the property and to include notice in the deed to The Biltmore Group in 1997 prevented notice from appearing in the chain of title for purchasers of property from The Biltmore Group, including several of our clients.

If you have any information that demonstrates that MGRA was an innocent purchaser of the property, then please provide us with that information as soon as possible, so we can take this into consideration prior to filing suit under RCRA. We are also evaluating state law claims against MGRA. If MGRA performed any investigation of the extent of contamination on the whole property and relied upon such an investigation in selling the 44.89 acres without any notice in the deed of the prior hazardous substance disposal, then please provide us with this information.

We realize that CTS is responsible for the actual disposal of the TCE on the property and would be willing to take this into consideration if MGRA would like to discuss a separate settlement with our clients prior to suit being filed. If we do not achieve a settlement, we will pursue all claims that we have against MGRA.

Sincerely,

A handwritten signature in dark ink, appearing to read "Gary A. Davis", written in a cursive style.

Gary A. Davis