



Saskatchewan
Environment
and Resource
Management

Deputy Minister

3211 Albert Street
Regina, Canada
S4S 5W6

#32

December 7, 1995

FAXED
Dec 7/95

Mr. Barry Daku
Chief Executive Officer
Dairy Producer's Co-operative Limited
P.O. Box 560
425 Winnipeg Street
REGINA SK S4P 3A5

Dear Mr. Daku:

This is further to your correspondence of November 30, 1995, addressed to the Honourable Dwain Lingenfelter, and our meetings of December 1 and December 5. After a full review and consideration of the surrounding circumstances, it is my interpretation of *The Environmental Management and Protection Act* ("EMPA") that the legislation does not permit the minister to provide you, as you have requested, with a definitive statement absolving Dairy Producers Co-operative Limited ("DPCL") and its merging partner of liability with respect to the current DPCL site. I am able, however, to provide you with the following letter of comfort.

The Regina property of DPCL, which was formerly the site of an oil refinery operated by Imperial Oil Limited ("Imperial") has not been identified by Saskatchewan Environment and Resource Management ("SERM") as a site in a document entitled "Action on Contaminated Sites". This document identifies certain sites within the province that are either under current action, require future action, or require further study. The DPCL site is not one of these.

When dealing with potentially contaminated sites, SERM's policy is to work cooperatively with those who are potentially responsible for clean-up, as required by EMPA. SERM and the potentially responsible persons discuss the extent of remedial work necessary, based on an assessment of the degree of risk posed by the contaminant, and formulate a remediation plan which takes into account the business needs and business cycles of the participants. We believe that this approach is in the interest of all parties involved.

.... 2

Barry Daku
Page 2
December 7, 1995

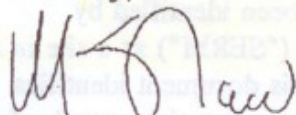
The issuance of a clean-up order under EMPA is viewed by SERM as a last resort. The discretion to proceed by way of a clean-up order remains with the minister responsible for SERM. The minister must consider whether there are immediate health or environmental concerns associated with the site and would consider other circumstances including how a company has managed the site in the past.

In terms of allocation of responsibility for the cost of remedial work, the thrust of EMPA is that the "polluter pays". As a result, SERM first looks to the party who contaminated a property by its activities to bear the responsibility for the clean-up. SERM may look to other parties where there are factors which strongly indicate that they should bear some or all of the responsibility.

We understand that a concern has been expressed with respect to criminal and quasi-criminal sanctions imposed on directors, officers and employees of a company that acquires contaminated land. Although the discretion to prosecute under EMPA remains with the Public Prosecutions Branch in the Department of Justice, EMPA does not provide for the imposition of fines and penalties on directors, officers and employees through the mere act of acquiring potentially contaminated property.

I trust this sufficiently clarifies the approach used by SERM and alleviates any concerns that you may have.

Yours truly,



Michael Shaw
Deputy Minister of
Environment and Resource Management