

UNITED STATES BANKRUPTCY COURT

DISTRICT OF SOUTH DAKOTA

ROOM 211

FEDERAL BUILDING AND U.S. POST OFFICE

225 SOUTH PIERRE STREET

PIERRE, SOUTH DAKOTA 57501-2463

IRVIN N. HOYT
BANKRUPTCY JUDGE

TELEPHONE (605) 224-0560
FAX (605) 224-9020

January 6, 1999

John A. Schlimgen, Esq.
Counsel for Plaintiffs-Debtors
Post Office Box 966
Sioux Falls, South Dakota 57101-0966

Michael C. Fink, Esq.
Counsel for Defendants-Third Party Plaintiffs
Post Office Box 444
Bridgewater, South Dakota 57319

Roger R. Gerlach, Esq.
Counsel for Third Party Defendants
Post Office Box 544
Salem, South Dakota 57058-0544

Subject: *Elliott v. Ziegmann, et al. (In re Elliott)*,
Adversary No. 98-4027;
Chapter 7; Bankr. No. 97-40901

Dear Counsel:

Upon the United States Trustee's motion, the Chapter 11 bankruptcy case of Kenneth E. Elliott and Marlys Havard-Elliott was converted to a Chapter 7 case on January 5, 1999. Because of that conversion and also in light of the jurisdictional issues raised in the briefs of the Ziegmanns and Mr. Bunkers, I conclude that it is in the best interest of all parties and the bankruptcy estate for this Court to abstain under 28 U.S.C. § 1334(c)(1), as applied to Bankruptcy Court through 28 U.S.C. § 157(a), from further jurisdiction over the storage tank-related counts of the Second Amended Complaint and the Third-party Complaint.

As discussed in the briefs, the South Dakota Department of Water and Natural Resources, through S.D.C.L. Ch. 34A-13, has the authority to oversee the cleanup and disbursement of clean-up funds. Any dispute among the parties, including the bankruptcy estate, over cleanup costs can be addressed through state administrative procedures or by the state courts. The Bankruptcy Court cannot render a more prompt decision nor claim a greater expertise in this area of law than can the state. The subject property is no longer necessary for a reorganization since the case has been converted to Chapter 7. The Chapter 7 Trustee can work

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Total notices mailed: 7

Plaintiff Elliott, Kenneth PO Box 221, Salem, SD 57058

Plaintiff Elliott, Marlys Havard PO Box 221, Salem, SD 57058

Aty Schlimgen, John A. PO Box 966, Sioux Falls, SD 57101-0966

3rd Party Bunkers, Gerald A. 3800 S. Lewis Ave., Sioux Falls, SD 57103

Aty Gerlach, Roger R. PO Box 544, Salem, SD 57058-0544

Aty Fink, Michael C. PO Box 444, Bridgewater, SD 57319

Intereste Lovald, John S. Box 66, Pierre, SD 57501