



July 1, 2021

MR JAMES PEONTKE
PO BOX 2150
WOODRUFF WI 54568

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

SUBJECT: **NOTICE OF NON-COMPLIANCE: Action Required by July 31, 2021**
Notice of Potential Deed Affidavit per Wis. Admin. Code § NR 728.11
Ken Francois Property, 1870 State Highway 47, Lac du Flambeau, Wisconsin
BRRTS #03-64-104379

Dear Mr. Peontke:

This letter is to notify you that the Department of Natural Resources' (DNR) Remediation and Redevelopment Program believes you are out of compliance with Wisconsin Statutes (Wis. Stat.) chapter 292 and Wisconsin Administrative Code (Wis. Admin. Code) chapters NR 700 through NR 754. On December 11, 2020, the DNR notified you of your responsibilities to investigate the degree and extent of contamination and clean up the above-referenced site. That letter is attached for your reference.

On June 27, 1996, the DNR was notified of a hazardous substance discharge at the above-referenced site. The discharge was discovered during the removal of a 2,000-gallon underground storage tank from the site. That same day, a responsible party (RP) letter was sent to Ken Francois, the property owner at the time of the release notification. A tank system site assessment report was submitted to the DNR on September 5, 1996. The DNR sent letters to Mr. Francois requesting status updates on May 5, 2005 and December 9, 2008; no response was received by the DNR. On March 24, 2016, the DNR was notified that Mr. Francois died on June 21, 2015. On December 11, 2020, an RP letter was sent to you as the current property owner. On March 3, 2021, you received a request for status update letter. You called Carrie Stoltz, the project manager for this site on April 1, 2021 and discussed the site background and the need for an investigation. You stated you would call a consultant for a quote. On June 8, 2021, Ms. Stoltz called and asked for an update. The connection was not clear, so she stated she would call back in a few minutes. When Ms. Stoltz called again, your phone went to voicemail, so she left a message but did not receive a return call. To date our information indicates that you have not hired a consultant or submitted a work plan for a site investigation, as was required in the December 11, 2020 RP letter.

NOTICE OF NON-COMPLIANCE

Please be aware that the DNR may initiate enforcement action against you for failure to comply with Wis. Stat. ch. 292. Your legal responsibilities are defined both in Wis. Stat. ch. 292 and Wis. Admin. Code chs. NR 700 - 754 and are also described in the December 11, 2020 letter. Wis. Stat. § 292.11(3), also known as the hazardous substances spill law, states:

RESPONSIBILITY. A person who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge to the air, lands, or waters of the state.

Guidance for meeting statutory requirements is available in code. Wis. Admin. Code chs. NR 700 - 754 establish requirements for emergency and interim actions, public information, site investigations, design and operation of remedial action systems, and case closure. Ch. NR 708 includes provisions for immediate actions in response to limited contamination. Wis. Admin. Code ch. NR 140 establishes groundwater quality standards for contaminants that reach groundwater.

Notice of Potential Deed Affidavit

If you elect not to move forward with the necessary response actions at your site, the DNR intends to file a deed affidavit on the Property per Wis. Admin. Code § NR 728.11(2), which states:

Where the department has information to demonstrate that the source of contamination is on the property and the property owner or other responsible party has failed to take adequate response action, the department may record an affidavit at the office of the register of deeds for the county in which the property is located...

This affidavit would provide notice to the public, and any prospective purchaser, of the existing contamination and the environmental liability associated with the Property.

Response Requested

The DNR is requesting that within 30 days from date of letter, **by July 31, 2021**, you provide written documentation a consultant has been hired and a site investigation work plan will be submitted. This information should be submitted to the Project Manager for the Site at the following address:

Carrie Stoltz
Remediation and Redevelopment Program
Department of Natural Resources
107 Sutliff Avenue
Rhineland, WI 54501

Please understand the Site appears to be out of compliance and will remain out of compliance until you fulfill all applicable statutory and administrative code requirements. Failure to take the actions required by Wis. Stat. ch. 292 to address this contamination will cause the DNR to take appropriate enforcement action.

Additionally, with regard to the potential deed affidavit, you must respond by July 31, 2021 and either indicate that the Property will be promptly investigated and remediated in compliance with applicable statutes and rules, or provide information which clearly demonstrates that there is no environmental contamination on the Property (Wis. Admin. Code § NR 728.11(2)(a)).

If you have questions, please do not hesitate to contact Carrie Stoltz by phone at (715) 360-1966 or email at Carrie.Stoltz@Wisconsin.gov. You can also contact me at (715) 208-4004 or by email at Christopher.Saari@Wisconsin.gov. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher A. Saari". The signature is fluid and cursive, written in a professional style.

Christopher A. Saari
Northern Region Team Superior
Remediation and Redevelopment Program

Enclosures:

- Responsible Party Letter, DNR, December 11, 2020
- Request for Status Update Letter, DNR, March 3, 2021

cc: Carrie Stoltz – DNR Rhinelander (via email)