



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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October 23, 2003

Harvey & Brett Donaldson
110 West Cecil Street
Neenah, WI 54956

SUBJECT: Donaldson's One Hour Cleaners, 110 W. Cecil St., Neenah, WI
WDNR ERP Case #: 02-71-110797

Dear Messrs. Donaldson:

The purpose of this letter is to summarize the items discussed during a meeting on October 22, 2003. Brett Donaldson, Mark Foht of Northern Environmental, Bruce Urben, Robin Schmidt and I attended this meeting. The meeting was held to communicate the Department's position on several issues in regard to the release of chlorinateds at Donaldson's One Hour Cleaners (Site).

Role of Responsible Party

A responsible party letter was sent on October 23, 1996 that outlines your responsibility for investigating and remediating the release from the Site. While Northern Environmental has signed an agent agreement with you to fund the work, this agent agreement is voluntary and it is important to note that you are legally responsible to assure that the investigation and remediation are performed in accordance with the ch. NR 700 series.

The Department has also met with you on several occasions to discuss the Dry Cleaners Environmental Response Fund (DERF) Program. As you are aware, this program provides financial assistance to dry cleaners for the investigation and remediation of dry cleaning products associated with their facilities. However, there is a reimbursement cap of \$500,000 per site. The Department recently clarified that your responsibility to comply with the code requirements for investigation and remediation do not end when the financial cap in DERF is reached. You remain legally responsible for the completion of the investigation and remediation at this facility regardless of the status of DERF monies.

The Department does have a process to evaluate a person's ability to pay for investigation and remediation of contaminated sites. If the DERF cap is reached on this site and you believe you are unable to pay for further activities, you may request an evaluation. This evaluation includes an asset search and a review of all pertinent tax records.

Investigation of Groundwater

At this time, the horizontal and vertical extent of the groundwater plume is not defined. Investigation of the groundwater plume is complicated by the size of the plume, fractured bedrock and multiple flow directions. In addition, it also appears that the contamination from the facility may be co-mingling with a second chlorinated source.



The Department is currently working to evaluate this possibility. Further delineation of groundwater south of Langley Boulevard may cease temporarily while the Department works to resolve this issue. However, investigation into the horizontal and vertical extent of the plume to the southwest must be performed prior to closure. Continued investigation should not delay evaluation of remedial action options.

The character of the plume is also not known at this time, primarily due to the fact that the plume has not been monitored under steady-state conditions (when the groundwater pumping system is not operating and influencing flow direction and water table level). It is important to perform a cost-effective investigation, however, it is also important to collect consistent, quarterly data.

Recently, the quarterly June 2003 sampling event was not performed. The approved monitoring plan for this site should continue to be followed until an alternative monitoring plan is reviewed and approved by the Department. Neglecting to collect consistent, quarterly data may result in an extended investigation period and subsequently higher costs to you. During our meeting, Mark Foht agreed to submit a proposal for an amended monitoring schedule after receipt of the December 2003 groundwater data.

Investigation of Soil

The soil contamination to the north is currently not understood. As discussed during our meeting, the data is confusing and needs further investigation. I agreed to talk with Roxanne Nelezen Chronert as to any possible spills that took place at or near the intersection of Cecil Street and Commercial Avenue. Mark Foht agreed to look into the pitch of the utilities and view any video of the sanitary that the City may have. It was also agreed that further investigation into the extent of soil would take place this fall. In addition, calculations on the partitioning coefficient may be submitted to help evaluate the increase in soil contamination in Cecil Street.

Investigation of Air

The Department received an electronic proposal on October 13, 2003 to install a radon mitigation system in the home north of the Site across Cecil Street (109 W. Cecil) and the home west of the Site (116 W. Cecil) and monitor the system exhaust in lieu of additional sampling. During our meeting, the Department informed you that presumptive remedies are not eligible in the DERF program. Soil gas sampling is necessary to either verify the air pathway is an issue of concern or rule the pathway out. It was also stated that if you are not willing to perform the soil gas sampling, it will be performed by the Department with environmental fund monies and applied to your deductible, as required by statute.

I again offered to approach the issue with the homeowners where there is a concern along with Chuck Warzecha with the Department of Health and Family Services (DHFS). During our meeting, Brett Donaldson agreed to respond to the Department by Friday, October 24, 2003 with a response as to what action will be taken to further the investigation into the air pathway. It was also agreed that Chuck Warzecha, Mark Foht and I will all go to the homes together to discuss the issue with the homeowner and evaluate the most cost-effective way to collect the necessary data.

Later in the afternoon on October 22, 2003, Mark Foht contacted me and stated that Brett Donaldson has agreed to move forward with the soil gas sampling. I am currently working to arrange a time for Chuck Warzecha, Mark Foht and I to meet with the homeowners.

Evaluation of Remedial Action

A significant amount of the source area contamination in soil and groundwater has been removed through excavation and implementation of an interim groundwater / soil vapor extraction and treatment system. It is the Department's understanding that the groundwater / soil vapor extraction and treatment system stopped operating on September 3, 2003 when it needed repair. When Northern Environmental visited the Site on September 16, 2003, the system was left off and not repaired.

Initially, it appeared to the Department that shut down of the existing system took place prior to Department approval. However, based on our conversation during the meeting in regard to an e-mail sent to Mark Foht on August 26, 2003, it appears that there was a miscommunication. Currently, post shut down monitoring is taking place per the Department's direction. It should be noted that the current shut down is temporary and will be evaluated through post shut down monitoring.

During our meeting, it was agreed that a status update is to be submitted to the Department after the December 2003 quarterly sampling event data is received. Since an operation and maintenance (O&M) report was last submitted in February 2003, the December 2003 data should be submitted with an O&M report. A time frame for submittal of a Remedial Action Options Report (RAOR) for long-term remedial action at the Site should also be included in the O&M report. The Department anticipates the O&M report will be submitted by January 26, 2004.

As discussed, please note that natural attenuation does not appear to be an appropriate remedy for this Site and long term monitoring to evaluate this as a final remedy is likely not cost effective at this time. Please reference the guidance, *Understanding Chlorinated Hydrocarbon Behavior in Groundwater: Investigation, Assessment and Limitations of Monitored Natural Attenuation*, for further information. The RAOR should serve to identify appropriate remedies for this Site.

Continued Reporting

The Department clarified that quarterly status updates and semi-annual O&M reports are required during system operation. Since the system is currently shut down on a temporary basis, O&M reports can be submitted annually. As stated above, the next O&M report should be received in January 2004. If the existing system is turned on again, or another active remediation begins, your consultant must submit O&M reports semi-annually.

Role of Environmental Consultant vs. Agent

Ch. 292.65(4)(k), Wis. Stats., allows the responsible party to enter into an agent agreement under which the agent acts as the responsible party for the purpose of conducting the investigation and cleanup of the site. In this situation, Northern Environmental has been acting as your agent for the purpose of conducting the site investigation. In addition, ch. NR 169, Wis. Adm. Code requires that the responsible party obtain a minimum of three bid proposals for implementation of a selected remedial action, as approved by the Department in the RAOR. This means that a site investigation report and RAOR in which a final remedy is selected must be submitted to the Department for approval.

Currently, Northern Environmental is your agent who is also a consultant bidding on work at the Site. The Department believes that Northern Environmental faces a significant potential conflict of interest. Your interest in obtaining the best work at the most economical price will not always

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coincide with the interest of a consultant bidding to obtain a contract at the most profitable price.

Because of these competing interests, it may be difficult for an employee of Northern Environmental to act as your agent in your best interest when selecting a bid for work, which Northern Environmental hopes to obtain. You should discuss this potential conflict of interest with Northern Environmental along with ways to resolve or prevent it. To that end, you and Northern may decide to temporarily sever your principal/agent relationship while the bidding process occurs.

Please note that the Department must approve the bid accepted by the responsible party, or their agent, prior to entering into a contract with the bidder. The selected bidder must be justified based on a qualification based selection system, which includes qualifications as well as responsible costs.

Hopefully the meeting on October 22, 2003 and this follow-up letter serve to clarify several important on-going issues at this Site. If you have any additional questions, please call me at the number below. I look forward to receiving the O&M report in January 2004 that includes the December 2003 groundwater data, additional soil information, a proposal for an amended monitoring schedule and a timeframe for RAOR submittal.

Sincerely,



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Electronic Copy: M. Föht – Northern Environmental
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