

Borski, Jennifer - DNR

From: Hansen, Kody C - DNR
Sent: Wednesday, April 17, 2019 1:20 PM
To: donacraig@gmail.com; Peter van Houwelingen; bdonaldson@donaldsonscleaners.com
Cc: Borski, Jennifer - DNR
Subject: ACTION REQUESTED: Donaldson - May 1, 2019
Attachments: 20190417_Donald_ECSSL.pdf

Good afternoon all,

First, thank you for attending the Enforcement Conference yesterday on behalf of H&J Investments, LLC and Donaldson's One Hour Cleaners, Inc.

- Craig and Peter: Please consider the attached summary of the Enforcement Conference your copy. If you require a hard copy, please let me know and I can mail you one.
- Brett: The attached will be sent in the mail later this afternoon. Please be advised that the letter requests a written response from DOHC by May 1, 2019.

Thanks again for attending the Enforcement Conference and I hope you have a great rest of your day.

Sincerely,

Kody

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Kody Hansen

Environmental Enforcement Specialist – Bureau of Law Enforcement

Wisconsin Department of Natural Resources

Phone: 920-360-6320

kody.hansen@wisconsin.gov





April 17, 2019

Brett Donaldson
Donaldson's One Hour Cleaners, Inc.
1166 Westowne Drive
Neenah, Wisconsin 54956

2019-NEEE-Donaldson's One Hour Cleaners, Inc
BRRTS # 02-71-110797
Winnebago County

Subject: **Enforcement Conference Summary Letter**

Dear Mr. Donaldson:

The Department of Natural Resources (DNR) would like to thank the representatives of H&J Investments, LLC (H&J) and Donaldson's One Hour Cleaners, Inc. (DOHC), for meeting on April 16, 2019 to discuss the March 29, 2019 Notice of Violation (NOV). The purpose of this letter is to summarize the conversations that occurred.

A brief background was provided by the companies.

DOHC: Mr. Brett Donaldson worked for Mr. Harvey Donaldson at the Site doing business as Donaldson's One Hour Cleaners. DOHC was created by Mr. Brett Donaldson in 2001 and purchased the assets, business name, and inherited the customer base from Donaldson's One Hour Cleaners. DOHC was a tenant in the building but no longer operates at the Site.

H&J: H&J owns the property located at 110 West Cecil Street, Neenah, Winnebago County, WI (Site). H&J holds the estate of Ms. Janice Donaldson and the point of contact is Mr. Craig Donaldson.

DOHC provided the circumstances that gave rise to the NOV.

DOHC purchased the company known as "Donaldson's One Hour Cleaners" that operated a dry cleaner at the Site. In the purchase, DOHC acquired the rights to the name and the assets of the company. Because the company is a new entity, it did not acquire the liability associated with the alleged environmental contamination or the responsibility to take action to restore the environment to the extent practicable per s. 292.11, Wis. Stats. DOHC maintains this same position as initially communicated to DNR in 2013 following receipt of the letter of responsibility issued by DNR to DOHC; H&J is the responsible party as it owns the Site but no longer has funds to continue the environmental work. H&J has met with the City of Neenah to pursue alternative funding for building demolition and the environmental work, but the City has limited options with DNR maintaining that DOHC is a responsible party.

DOHC's legal counsel has had numerous exchanges with DNR staff but has yet to obtain the legal basis behind the DNR's decision. Specifically, DOHC's legal counsel is asking for the citation that indicates a successor to a causer is a responsible party.

DNR staff responded to DOHC's questions and statements.

In 2013 the Remediation and Redevelopment (RR) Program received DOHC's concern that it wasn't a responsible party. In response, the RR Program consulted its attorney and the Department of Justice (DOJ). After a legal review of the facts, the DNR and DOJ jointly determined DOHC succeeded the company that caused a

release of a hazardous substance and a responsible party under s. 292.11, Wis. Stats. This determination was submitted in writing to DOHC's legal counsel, and the DNR maintains this position. Please be advised that the DNR considers H&J to be in possession and control of the Site and a responsible party. Even though the DNR has determined there are two responsible parties, DNR is pursuing action from DOHC as the causer of the alleged discharge.

DOHC and the DNR discussed enforcement and a plan moving forward.

The DNR and DOHC have a legal disagreement that DOHC is a responsible party. If the disagreement continues, the DNR could seek a referral to DOJ which would allow a judge's ruling to dictate the actions necessary to return to compliance. The DNR also has the authority to issue an order that would require action, but this option would depend on the resolution of the responsible party disagreement. The DNR appreciates DOHC's expressed willingness to submit a response to the Enforcement Conference. The DNR will consider its enforcement options and make a decision shortly after DOHC's response is received. Regardless of the decision that is made, DOHC will be advised of the decision in writing.

By May 1, 2019, please submit to me by mail (2984 Shawano Avenue, Green Bay, Wisconsin 54313) or email (kody.hansen@wisconsin.gov) a signed letter indicating the following:

- 1. Any details regarding insurance for the Site, the dry-cleaning operations at the Site and involvement by an insurance company in the environmental investigation, mitigation and/or remedial efforts.**
- 2. A written statement explaining why DOHC believes it is not a responsible party per s. 292.11, Wis. Stats.**
- 3. Any clarifications or disagreements related to this letter.**
- 4. Any additional information DOHC would like considered in the DNR's enforcement decision.**

If you have any questions please contact me, Kody Hansen, at (920) 360-6320. Thank you for your time and attendance at the Enforcement Conference.

Sincerely,

A handwritten signature in black ink, appearing to read "Kody Hansen", with a long horizontal flourish extending to the right.

Kody C. Hansen
Environmental Enforcement Specialist

Cc: Jennifer Borski – DNR
Roxanne Chronert – DNR
Craig Donaldson – H&J Investments, LLC
Peter van Houwelingen – Corporate Legal Counsel, Ltd