Modification actions taken after GIS REGISTRY INFORMATION obligations were applied.

SITE NAME:	A P NONWEILER CO I Refer to BOTW for further inform	atior
BRRTS #:	02-71-119534	
CLOSURE DATE:	01/23/2003	
STREET ADDRESS:	3321 COUNTY HWY A	
CITY:	OSHKOSH	
SOURCE PROPERTY GPS COOF WTM91 projection):	RDINATES (meters in X= 637753 637752 Y= 399781	399788
OFF-SOURCE CONTAMINATION	Yes X No	
SOIL CONTAMINATION >GENER RCL:	X Yes No	
	SEE DEED RESTRICTION	
CONTAMINATION IN RIGHT OF V	WAY: X No	
DOCUMENTS NEEDED:	nal closure letter issued	
Closure Letter, and any condition	ding legal description, for all affected properties	
	portion of the recorded plat map (if referenced in the	
County Parcel ID number, if used	d for county, for all affected properties	
topographic map or plat map in suf	roperties within contaminated site boundaries on USGS fficient detail to permit the parcels to be located easily vater standards are exceeded, the map must also include stable wells within 1200' of the site.	
boundaries, contaminant sources, if paper copy) This map shall also highway and railroad rights-of-way boundaries of groundwater contam	ted properties, showing buildings, roads, property utility lines, monitoring wells and potable wells. (8.5x14", show the location of all contaminated public streets, in relation to the source property and in relation to the nination exceeding ch. NR 140 ESs and soil contamination site-specific residual contaminant levels.	
Tables of Latest Groundwater Ar	nalytical Results (no shading or cross-hatching)	
Isoconcentration map(s), if requirements is soconcentration map should have	Results (no shading or cross-hatching) nired for site investigation (SI) (8.5x14" if paper copy). have flow direction and extent of groundwater lable, include the latest extent of contaminant plume	
GW: Table of water level elevation present	ons, with sampling dates, and free product noted if	
maps if maximum variation in flo	irection/monitoring well location map (should be 2 by direction is greater than 20 degrees) of contamination exceeding generic or site-specific	

Geologic cross-sections, if required for SI. (8.5x14' if paper copy)	x
RP certified statement that legal descriptions are complete and accurate	X
Copies of off-source notification letters (if applicable)	
Letter informing ROW owner of residual contamination (if applicable)(public, highway	
or railroad ROW)	
Copy of (soil or land use) deed restriction(s) or deed notice if any required as a	v
condition of closure.	_^_



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor Scott Hassett, Secretary Ronald W. Kazmierczak, Regional Director Oshkosh Service Center 625 E. County Road Y, Suite 700 Oshkosh, WI 54901 Telephone 920-303-5424 FAX 920-424-4404 TTY 920-492-5912

January 23, 2003

Mr. Mark Nonweiler A.P. Nonweiler P.O. Box 1007 Oshkosh, WI 54902

SUBJECT:

Final Case Closure for

A.P. Nonweiler, 3321 North Shore Drive (CTH A), Oshkosh

WDNR BRRTS ID # 02-71-119534 (Toluene & Xylene Investigation Only)

Dear Mr. Nonweiler:

On October 7, 2002 your site as described above was reviewed for closure by the Northeast Region Closure Committee. This committee reviews environmental remediation cases for compliance with state laws and standards to maintain consistency in the closure of these cases. In a letter dated November 11, 2002, you were notified that the Closure Committee had granted conditional closure to this case.

On January 23, 2003 the Department received correspondence indicating that you have complied with the conditions of closure. The conditions included a soil deed restriction, cap maintenance plan and a monitoring plan. Based on the correspondence and data provided, it appears that your case has been remediated to Department standards in accordance with s. NR 726.05, Wis. Adm. Code. The Department considers this case closed and no further investigation, remediation or other action is required at this time.

Your site will be listed on the DNR Remediation and Redevelopment GIS Registry of Closed Remediation Sites. Information that was submitted with your closure request application will be included on the registry. To review the sites on the GIS Registry web page, visit http://gomapout.dnr.state.wi.us/org/at/et/geo/gwur/index.htm

Please be aware that this case may be reopened pursuant to s. NR 726.09, Wis. Adm. Code, if additional information regarding site conditions indicates that contamination on or from the site poses a threat to public health, safety or welfare, or the environment.

The Department appreciates your efforts to restore the environment at this site. If you have any questions regarding this letter, please contact me at (920) 424-0399.

Sincerely,

Kathleen M. Sylvester, Hydrogeologist Remediation & Redevelopment Program

cc: Case File - OSH

Bruce Urben - NER

Dave Nemetz, Liesch Environmental, 6000 Gisholt Drive, Suite 203, Madison, WI 53713





State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Scott McCallum, Governor
Darrell Bazzell, Secretary
Ronald W. Kazmierczak, Regional Director

Oshkosh Service Center 625 E. County Road Y, Suite 700 Oshkosh, WI 54901 Telephone 920-303-5424 FAX 920-424-4404 TTY 920-492-5912

November 11, 2002

Mr. Mark Nonweiler A.P. Nonweiler P.O. Box 1007 Oshkosh, WI 54902

SUBJECT:

Conditions of Closure for

A.P. Nonweiler, 3321 North Shore Drive (CTH A), Oshkosh

WDNR BRRTS ID # 02-71-119534 (Toluene & Xylene Investigation Only)

Dear Mr. Nonweiler:

On October 7, 2002, the Northeast Region (NER) Closure Committee reviewed your request for closure of the case described above. The NER Closure Committee reviews environmental remediation cases for compliance with state rules and statutes to maintain consistency in the closure of these cases. After careful review of the closure request, the NER Closure Committee has determined that the Toluene & Xylene contamination on the site from the former product tank area on the west side of the property located at 3321 North Shore Drive (CTH A), Oshkosh appears to have been investigated and remediated to the extent practicable under site conditions. This case has been remediated to Department standards in accordance with s. NR 726.05, Wis. Adm. Code and will be closed when the following conditions are satisfied:

DEED RESTRICTION FOR SOIL CONTAMINATION

To close this site, the Department requires a deed restriction be signed and recorded to address the issue of the remaining soil contamination associated with the site. The purposes of the restriction are as follows: 1) to maintain a surface barrier over the remaining soil contamination to prevent it from impacting human health and the environment, and 2) to require that the owner of the property investigate the degree and extent of residual contamination that is currently inaccessible, if structural impediments that currently exist on the property are removed.

The Deed Restriction for filing is attached. Please review it for accuracy and if you have any questions please contact me immediately so I can make the appropriate modifications with concurrence of the Department's legal counsel. If the restriction is accurate you must file it with the Winnebago County Register of Deeds within 30 days. Once dated and filed with the County, you must submit a complete copy of the recorded document, with the recording information stamped on it, to me. Please be aware that if a deed restriction is recorded for the wrong property because of an inaccurate legal description that you have provided, you will be responsible for recording corrected documents at the Register of Deeds Office to correct the problem.

MONITORING WELL MAINTENANCE PLAN

NR 141.25(1)(b) Wisc. Admin. Code states "Any permanent groundwater monitoring well no longer being used to gather information on a geologic or groundwater properties shall be abandoned within 60 days after its use has been discontinued." The monitoring wells and piezometers at this site will be allowed to stay in place



considering the following justifications:

- 1. The wells are located in an extremely confined area and difficulties of well installation
- 2. Monitoring well MW-B has an exceedance of the NR 140 Enforcement Standard for Benzene and the wells are needed to monitor groundwater conditions for the LUST site identified as WDNR BRRTS ID #03-71-306024. This site will correspondingly be added to the Department's GIS Registry.
- 3. Monitoring well MW-C is required to stay in place in order for the chlorinated solvent investigation to continue.

The monitoring wells at the site must be properly maintained. Frequent and regular inspections of the integrity of the monitoring well seals are required along with annual groundwater measurements. Any necessary repairs must be made immediately. This is very important in order to prevent further contaminant migration. Please provide a detailed schedule of inspections with a date-stamped photograph of each well.

The well maintenance schedule must be followed and written verification documents kept at the property for as long as the deed restriction and wells remain in place. Documents must be made available to the Department upon request.

In summary, within 30 days please provide the Department with the following items:

- 1. A copy of the recorded and filed deed restriction; and
- 2. A Well Maintenance Plan.

When the above conditions have been satisfied, please submit a letter (with copies of the appropriate documentation) to let me know that applicable conditions have been met, and your case will be closed. Your site will be listed on the DNR Remediation and Redevelopment GIS Registry of Closed Remediation Sites. Information that was submitted with your closure request application will be included on the registry. To review the sites on the GIS Registry web page, visit http://gomapout.dnr.state.wi.us/org/at/et/geo/gwur/index.htm.

Please be aware that the case may be reopened pursuant to s. NR 726.09, Wis. Adm. Code, if additional information regarding site conditions indicates that contamination on or from the site poses a threat to public health, safety, or welfare or to the environment.

Please note that this closure applies <u>only</u> to contamination from the Toluene & Xylene product tanks. The gasoline tank contamination identified as WDNR BRRTS ID #03-71-306024 remains an open case. In addition, there remains an on-going chlorinated solvent investigation in the area; monitoring well MW-C will need to be made accessible to the responsible party(ies) of that investigation.

We appreciate your efforts and cooperation to restore the environment at this site. If you have any questions regarding this letter, please contact me at (920) 424-0399.

Sincerely,

Kathleen M. Sylvester, Hydrogeologist Remediation & Redevelopment Program

cc.

Case File - OSH

Dave Nemetz, Liesch Environmental, 6000 Gisholt Drive, Suite 203, Madison, WI 53713

DEED RESTRICTION

Declaration of Restrictions

In Re: The South Four Hundred (400) feet of that part of the South West ¼ of the North East ¼ of Section One (1) Township Eighteen (18) North, of Range Sixteen (16) East, in the Town of Oshkosh, lying east of the Easterly line of right-of-way of the Chicago and North Western Rail Road Company and West of the Westerly line of County Trunk Highway "A", excepting therefrom the North Three Hundred Sixty (360) feet of the South Four Hundred (400) feet of the East Three Hundred Eight (308) feet of said South West ¼ of the North East ¼, subject to rights granted over and across the South Forty (40) feet of the East Three Hundred Eight (308) feet of said South West ¼ of the North East ¼, now in the 15th Ward, City of Oshkosh, Winnebago County, Wisconsin.

Recording Area
Name and Return Address
• •
15-1960-7400
Parcel Identification Number

STATE OF WISCONSIN) ss COUNTY OF WINNEBAGO)

WHEREAS, **NONWEILER INVESTMENTS LLC** is the owner of the above-described property.

WHEREAS, one or more **Toluene and Xylene** discharges have occurred on this property, and as of **September 11, 1997** when soil samples were collected on this property, **Toluene and Xylene**-contaminated soil remained on this property at the following location: inaccessible areas beneath the building as identified on the attached Figure 1.

WHEREAS, it is the desire and intention of the property owner to impose on the property restrictions which will make it unnecessary to conduct further soil remediation activities on the property at the present time.

NOW THEREFORE, the owner hereby declares that all of the property described above is held and shall be held, conveyed or encumbered, leased, rented, used, occupied and improved subject to the following limitation and restrictions:

Structural impediments existing at the time of clean-up, the building, as identified on Figure 1, made complete investigation and remediation of the soil contamination on this property impracticable. If the structural impediments on this property that are described above are removed, the property owner shall

conduct an investigation of the degree and extent of Toluene and Xylene contamination. To the extent that contamination is found at that time, the Wisconsin Department of Natural Resources shall be immediately notified and the contamination shall be properly remediated in accordance with applicable statutes and rules. If currently inaccessible soil near or beneath the structural impediments on the property is excavated in the future, the soil must be sampled and analyzed, may be considered solid or hazardous waste if residual contamination remains and must be stored, treated and disposed in compliance with applicable statutes and rules.

The paved surfaces and the building foundation that exist on the abovedescribed property on the date that this restriction is signed form a cap or barrier that must be maintained in order to prevent direct contact with residual soil contamination that might otherwise pose a threat to human health. These structures are also required in order to minimize the infiltration of water and prevent additional groundwater contamination that would violate the groundwater quality standards in ch. NR 140, Wis. Adm. Code. The paved surfaces and the building foundation shall be maintained on the above-described property in the locations shown on the attached map, labeled "Figure 1" unless another barrier, with an infiltration rate of 10⁷ centimeters per second (cm/sec) or less, is installed and maintained in their place. The existing structures, and any replacement barrier with an infiltration rate of 107 cm/sec or less, shall be maintained on the above-described property in compliance with the "Cap Maintenance Plan" dated June 2002, that was submitted to the Wisconsin Department of Natural Resources by Mark Nonweiler, as required by section NR 724.13(2), Wis. Adm. Code (1999)

In addition, the following activities are prohibited on any portion of the above-described property where an impervious cap has been placed or where impervious surfaces exist (Figure 1), unless prior written approval has been obtained from the Wisconsin Department of Natural Resources or its successor or assign: (1) Excavating or grading of the land surface; (2) Filling on capped areas and areas with impervious surfaces; (3) Plowing for agricultural cultivation; and (4) Construction or installation of a building or other structure with a foundation that would sit on or be placed within the cap or impervious surface.

This restriction is hereby declared to be a covenant running with the land and shall be fully binding upon all persons acquiring the above-described property whether by descent, devise, purchase or otherwise. This restriction inures to the benefit of and is enforceable by the Wisconsin Department of Natural Resources, its successors or assigns. The Department, its successors or assigns, may initiate proceedings at law or in equity against any person or persons who violate or are proposing to violate this covenant, to prevent the proposed violation or to recover damages for such violation.

Any person who is or becomes owner of the property described above may request that the Wisconsin Department of Natural Resources or its successor issue a determination that one or more of the restrictions set forth in this covenant is no longer required. Upon the receipt of such a request, the Wisconsin Department of Natural Resources shall determine whether or not the restrictions contained herein can be extinguished. If the Department determines that the restrictions can be extinguished, an affidavit, attached to a copy of the Department's written determination, may be recorded by the property owner or other interested party to give notice that this deed restriction, or portions of this deed restriction, are no longer binding.

By signing this document, Mark Nonweiler asserts that he or she is duly authorized to sign this document on behalf of Nonweiler Investments LLC.

IN WITNESS WHEREOF, the owner of the property has executed this Declaration of Restrictions, this ______ day of ______, 20____.

Signature: ______

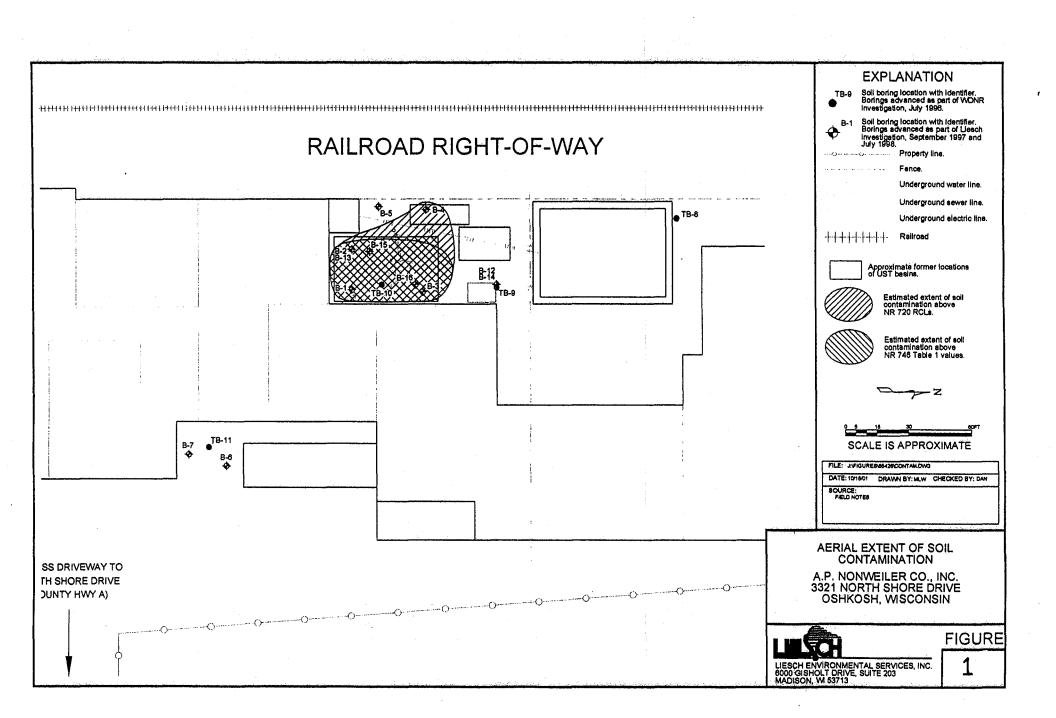
Printed Name: Mark Nonweiler ______

Title: ______

Subscribed and sworn to before me this _____ day of ______, 2002.

Notary Public, State of ______, 2002.

This document was drafted by the Department of Natural Resources with data provided by Liesch Environmental Services Inc.

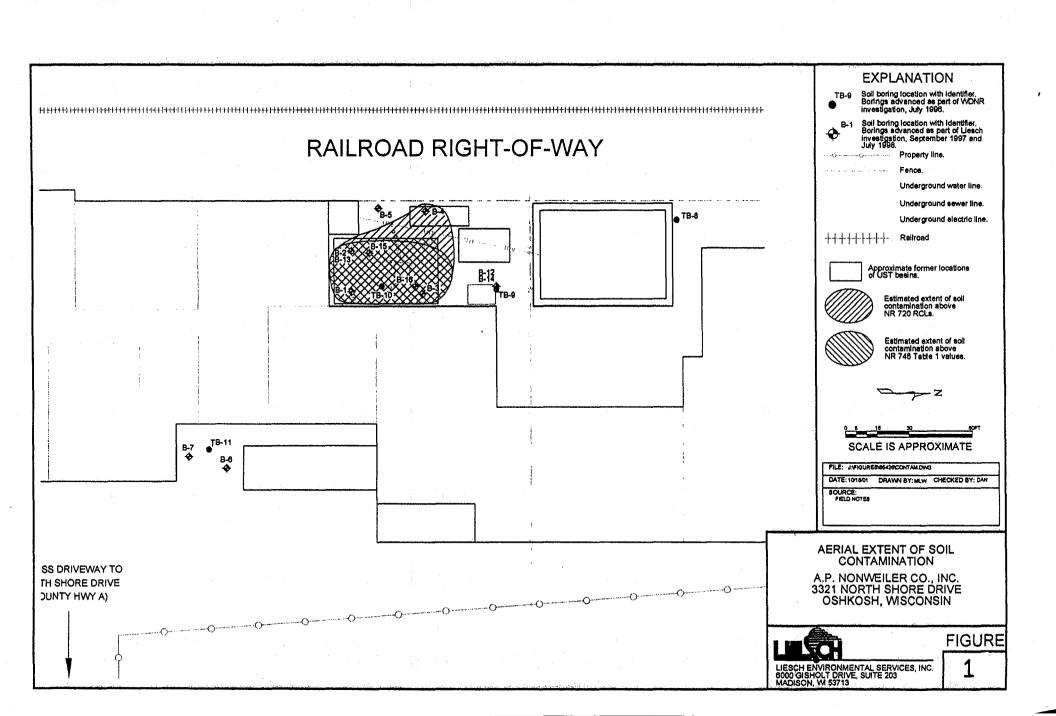


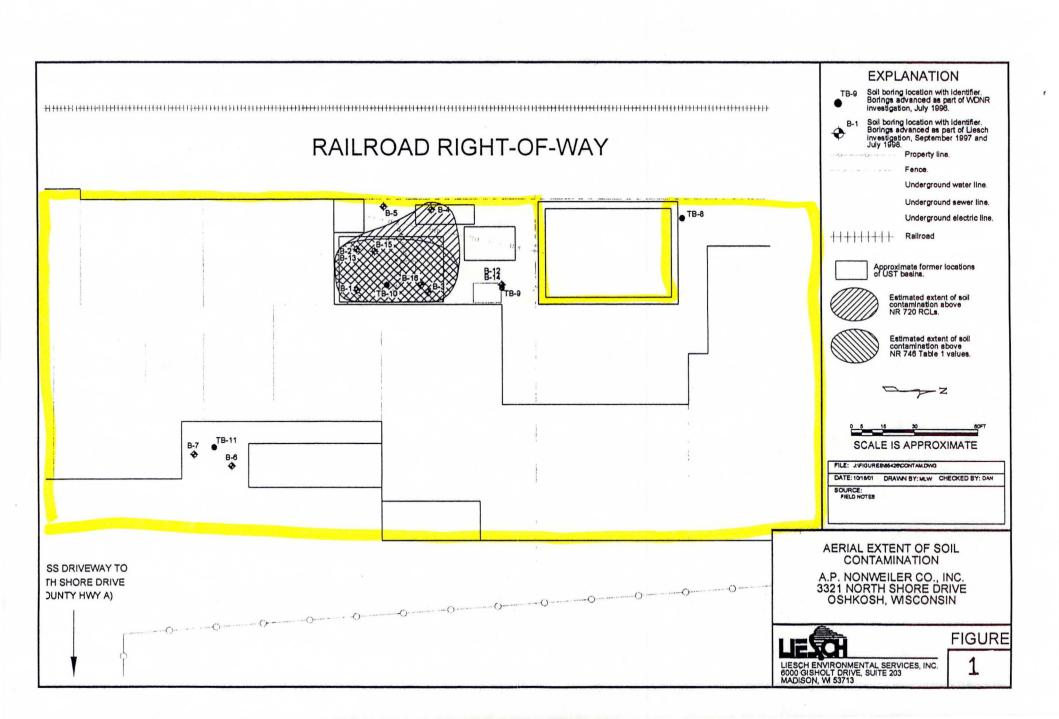
This plan addresses soil contamination remaining at the A.P. Nonweiler facility located at 3321 North Shore Drive in Oshkosh, Wisconsin (the Site). The plan is in response to the utilization of a soil performance standard per NR 720.19(2) and 724.13(2). Soil containing ethylbenzene, toluene, and xylenes exists at the Site above NR 720 generic residual contaminant levels. A pavement cap (see photograph) will be maintained to cover this soil (see attached map). At a minimum, an inspection of the cap will be made once per year in the month of May to document the condition of the pavement, note cracks and deterioration, and delineate areas needing repair. Inspections will also be conducted on an as needed basis due to abnormal wear or emergency situations. Currently, the person responsible for such inspections is Mr. Mark Nonweiler. A written record of inspections and repairs will be maintained. Repairs may include sealing of cracks, section replacement, or wholesale repaving.

j:\6542601\CAPmaintenance.doc



Photograph 1
Drilling of PZ-A (boring B-18), looking South.
(September 15, 1999)







Document Number

QUIT CLAIM DEED

Jacqueline L. Nonweiler and Mark Nonweiler, each an undivided one-half interest as tenants in common, quit-claims to Nonweiler Investments LLC the following described real estate in Winnebago County, State of Wisconsin:

1161835

REGISTER'S OFFICE WINNEBAGO COUNTY, WI RECORDED ON

12-28-2001 12:45 PK

SUSAN VINNINGHOFF REGISTER OF DEEDS

> 11.00 \$15S 1

RECORDING FEE TRANSFER FEE # OF PAGES

Recording Area

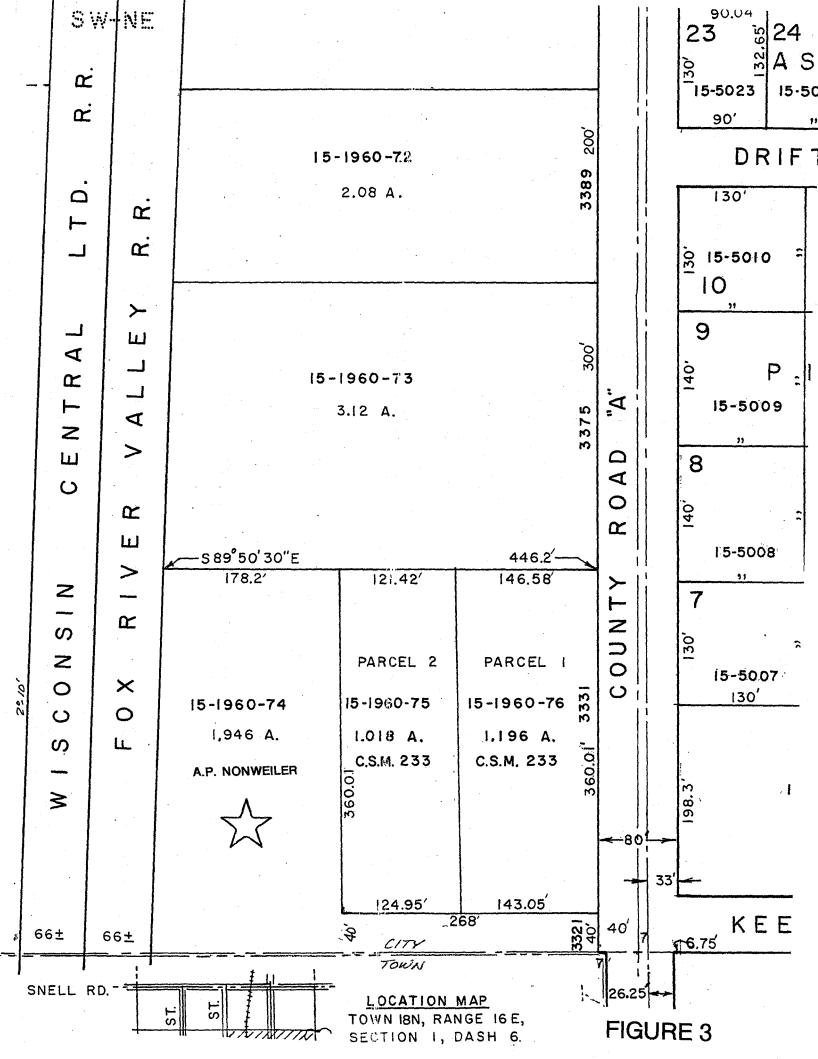
Name and Return Address

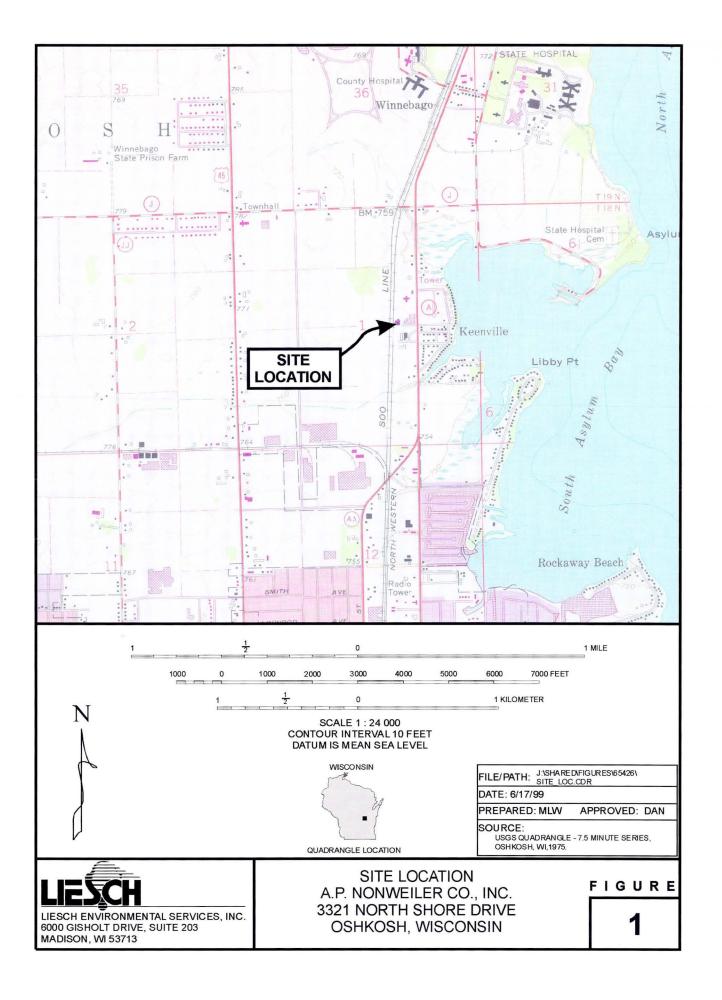
Attorney James J. Williamson P.O. Box 886 Oshkosh, W! 54903-0886

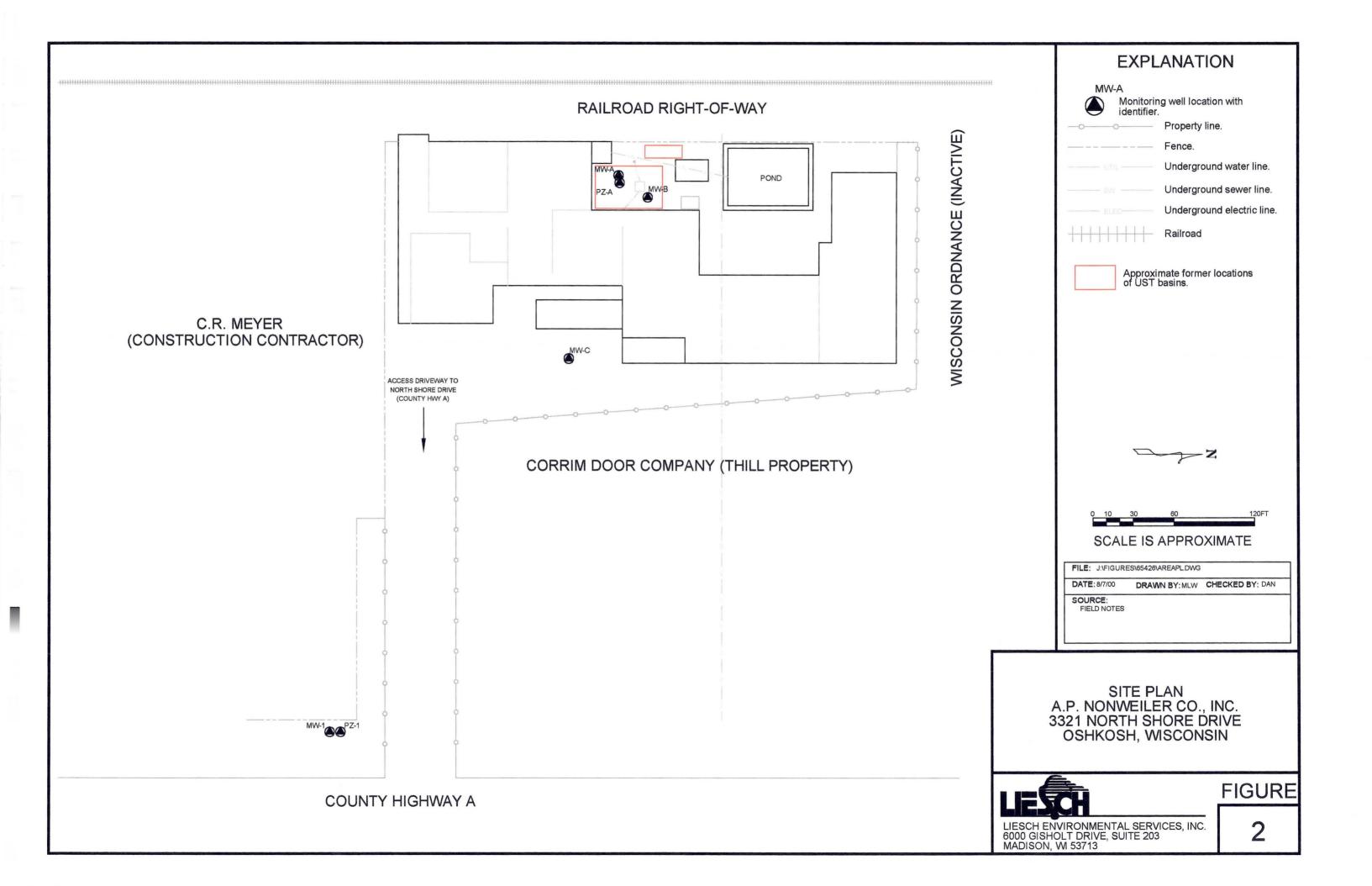
15-1960-7400 (Parcel Identification Number)

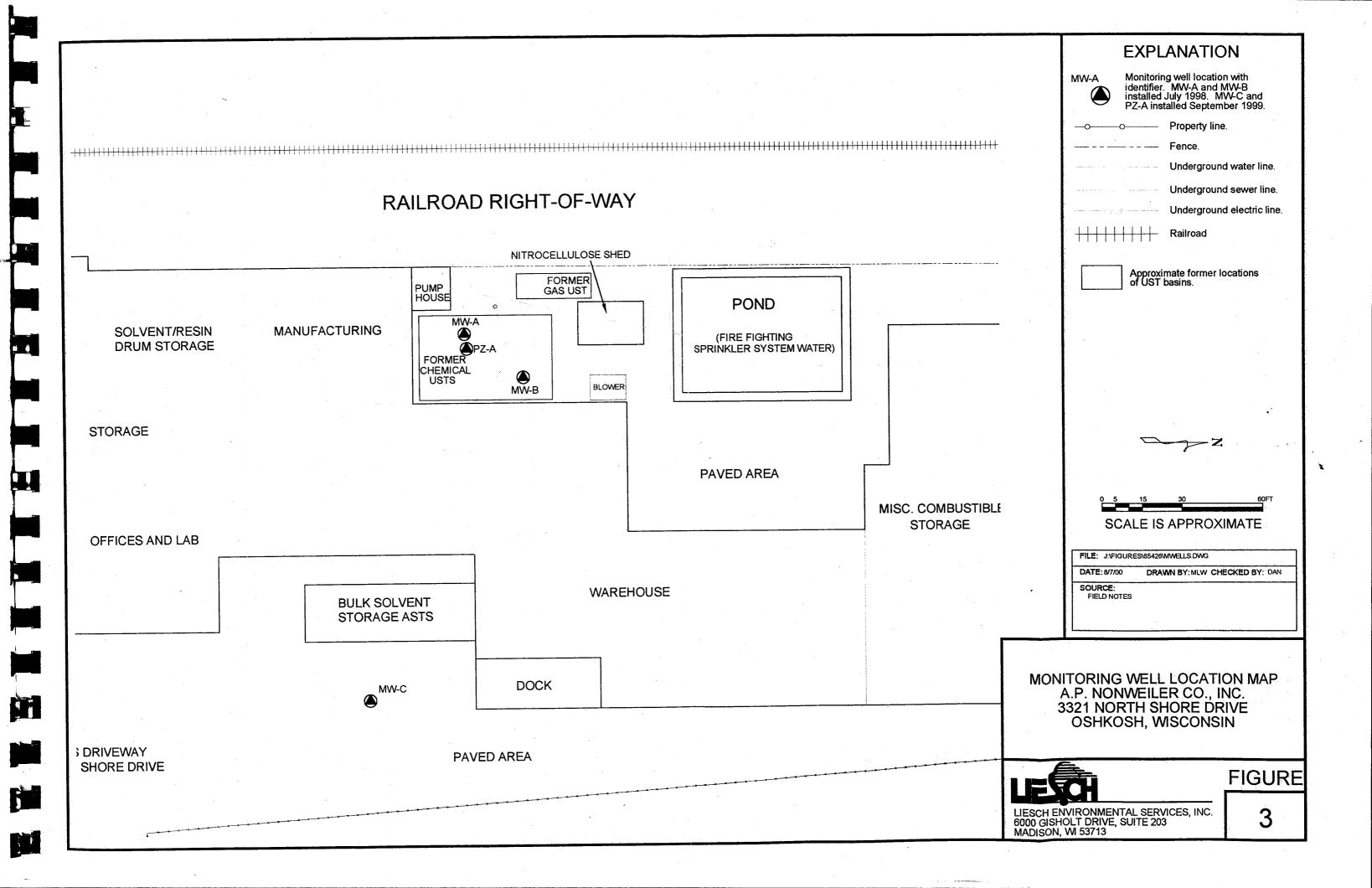
The South Four Hundred (400) feet of that part of the South West 1/4 of the NORTH EAST 1/4 of Section One (1) Township Eighteen (18) North, of Range Sixteen (16) East, in the Town of Oshkosh, lying east of the Easterly line of right-of-way of the Chicago and North Western Rail Road Company and West of the Westerly line of County Trunk Highway "A", excepting therefrom the North Three Hundred Sixty (360) feet of the South Four Hundred (400) feet of the East Three Hundred Eight (308) feet of said South West 1/4 of the North East 1/4, subject to rights granted over and across the South Forty (40) feet of the East Three Hundred Eight (308) feet of said South West 1/4 of the North East 1/4, now in the 15th Ward, City of Oshkosh, Winnebago County, Wisconsin.

This is not homestead property.	Dated this 12 day of Merch, 2001
	*Mark Norweiler
AUTHENTICATION	ACKNOWLEDGMENT
authentiqued this 13th day of April , 20	STATE OF WISCONSIN WINNEBAGO COUNTY Personally came before me this day of March, 2001 the above named Jacqueline L. Nonweiler and Mark Nonweiler to me known to be the person(s) who executed the foregoing instrument and acknowledge the same.
type or print name	signature type or print name
TITLE: MEMBER STATE BAR OF WISCONSIN (If not,authorized by § 706.06, Wis. Stats.)	Notary Public Winnebago County, Wisconsin. My commission is permanent. (If not, state expiration date:, 20)
THIS INSTRUMENT WAS DRAFTED BY Attorney James J. Williamson P.O. Box 2808	*Names of persons signing in any capacity should be typed or printed below their signatures.









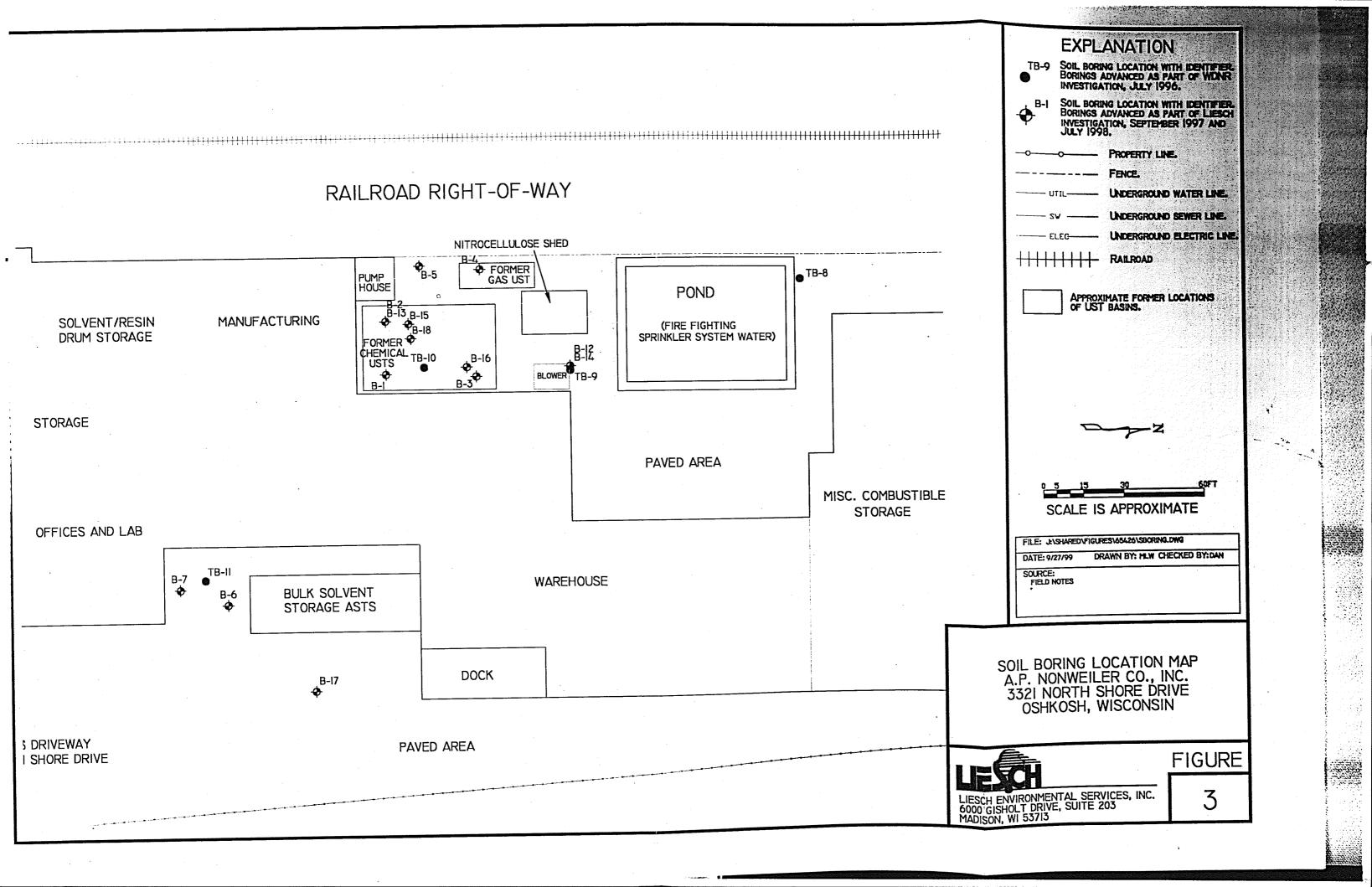


Table 1
Most Recent Groundwater Laboratory Analytical Results

A.P. Nonweiler Oshkosh, Wisconsin

	DATE	UNITS	MW-A	FD	PZ-A	MW-B	MW-C	Trip	PAL	ES
Volatiles (Petroleum)				-						
BENZENE	7/11/2001	μg/L	0.824	<0.8	<0.16	11.6	2.19	<0.16	0.5	5
n-BUTYLBENZENE	7/11/2001	μg/L	<1.20	<1.20	<0.24	<1.20	<0.24	<0.24		-
sec-BUTYLBENZENE	7/11/2001	μg/L	<0.95	<0.95	<0.19	<0.95	<0.19	<0.19	-	-
ETHYLBENZENE	7/11/2001	μg/L	3.19	3.12	<0.5	<2.50	<0.5	0.552*	140	700
ISOPROPYLBENZENE	7/11/2001	μg/L	<0.85	<0.85	<0.17	<0.85	<0.17	<0.17	-	<u>.</u>
METHYL TERT BUTYL ETHER	7/11/2001	μg/L	7.67	7.63	<0.30	<1.50	< 0.30	<0.30	12	60
TOLUENE	7/11/2001	μg/L	240	231	0.437*	193	<0.40	0.546*	200	1,000
TRIMETHYLBENZENES (total)	7/11/2001	μg/L	<2.85	<2.85	<0.57	<2.85	<0.57	<0.57	96	480
XYLENES (total)	7/11/2001	μg/L	15.3	13.0	<0.57	<2.85	<0.57	0.999*	1,000	10,000
Volatiles (Chlorinated)										
cis-1,2-DICHLOROETHENE	7/11/2001	μg/L	<1.25	<1.25	<0.25	<1.25	2.46	<0.25	7	70
VINYL CHLORIDE	7/11/2001	μg/L	<1.95	<1.95	<0.39	<1.95	1.99	<0.39	0.02	0.2

NOTES:

Only analytes detected in concentrations above method detection limits are listed on this table.

Blank cell indicates analysis not conducted.

FD Field Duplicate (for MW-A)

* Result between limit of detection and limit of quantification

Below method detection limit
 PAL NR 140 preventive action limit
 ES NR 140 enforcement standard

- No PAL or ES established μg/L micrograms per liter (parts per billion)

Results in italics indicate contaminant above the current PAL

Results in **bold** indicate contaminant above the current ES

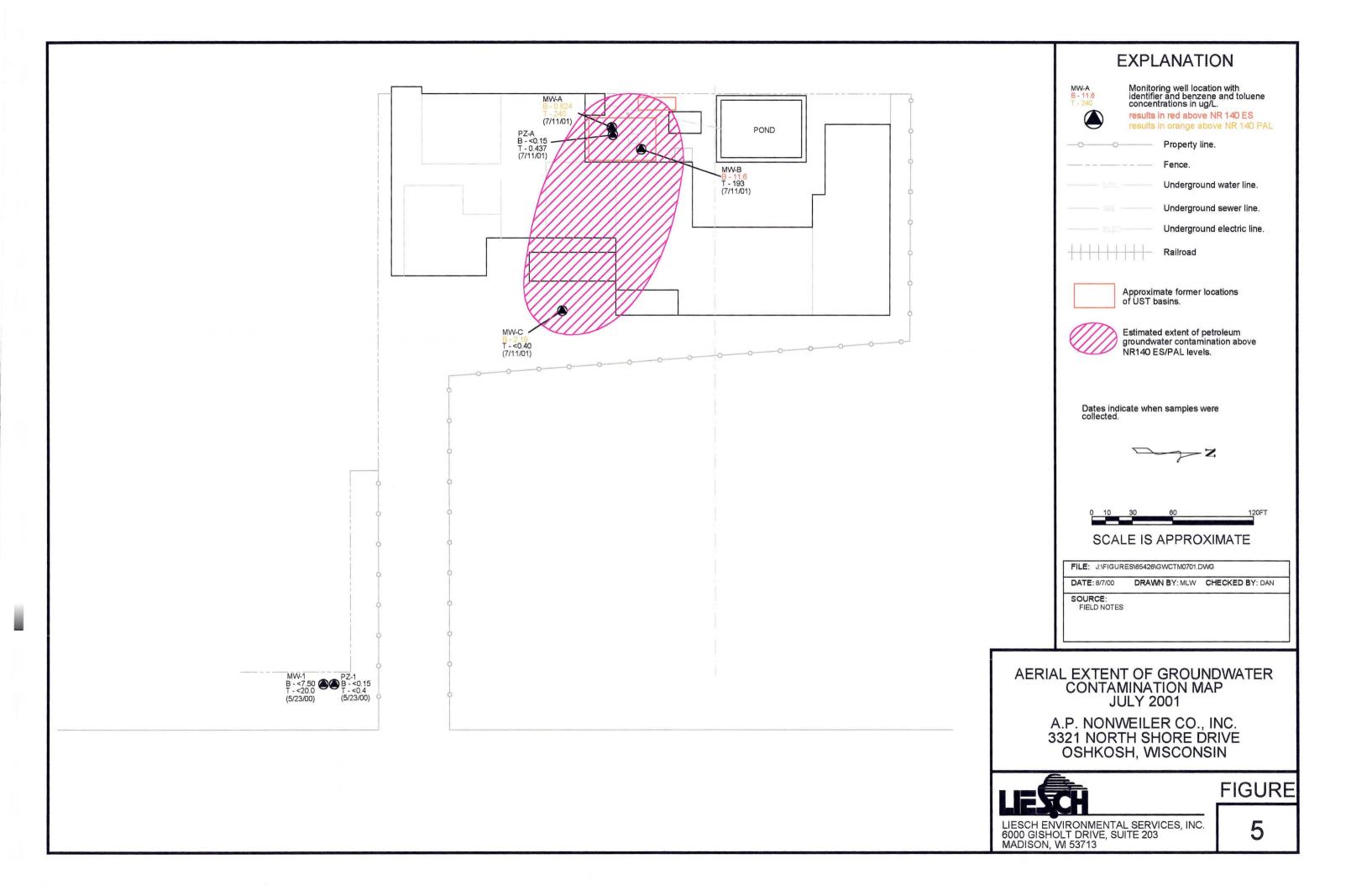
Table 4
Historical Groundwater Elevations

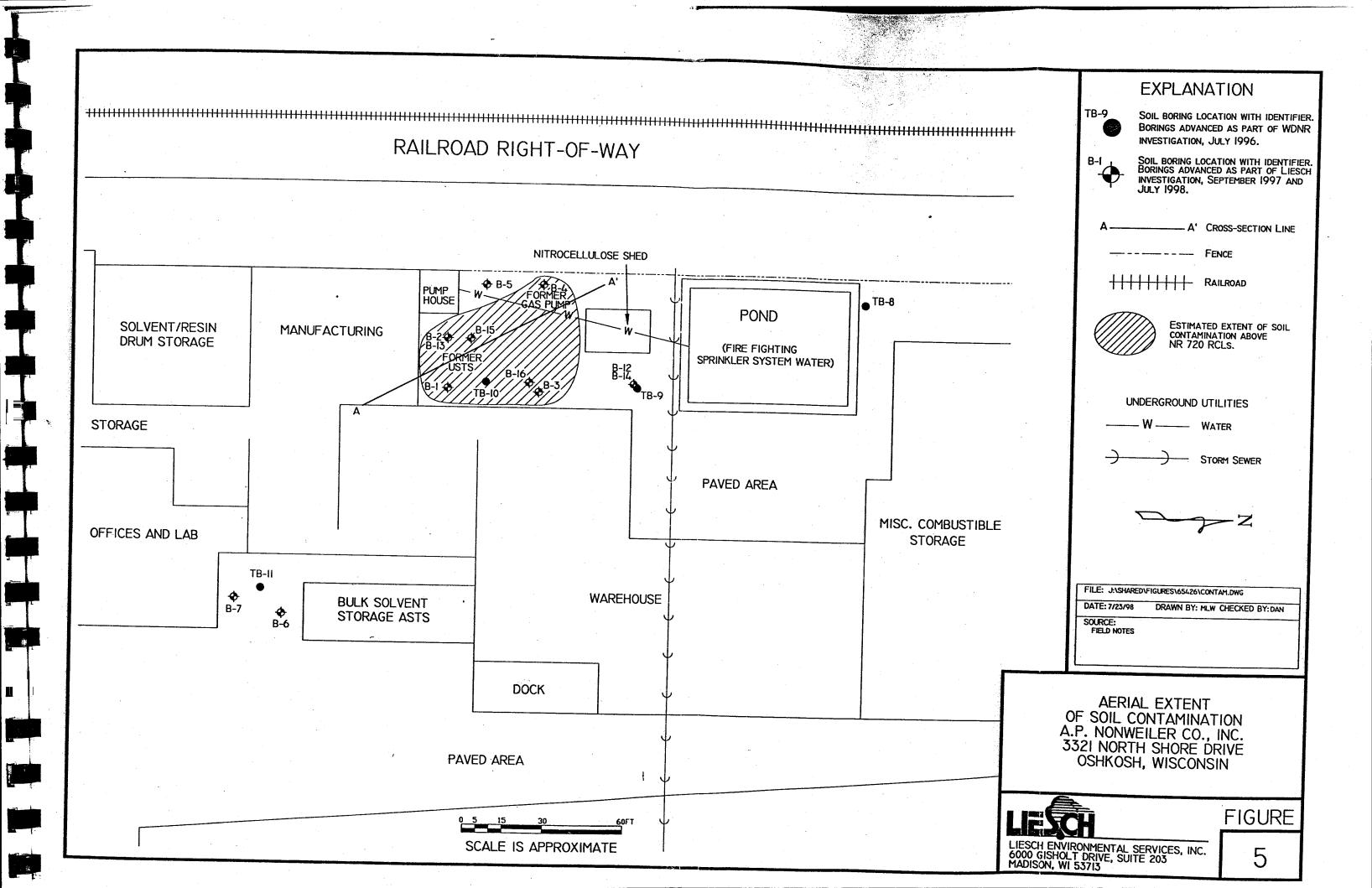
A.P. Nonweiler Oshkosh, Wisconsin

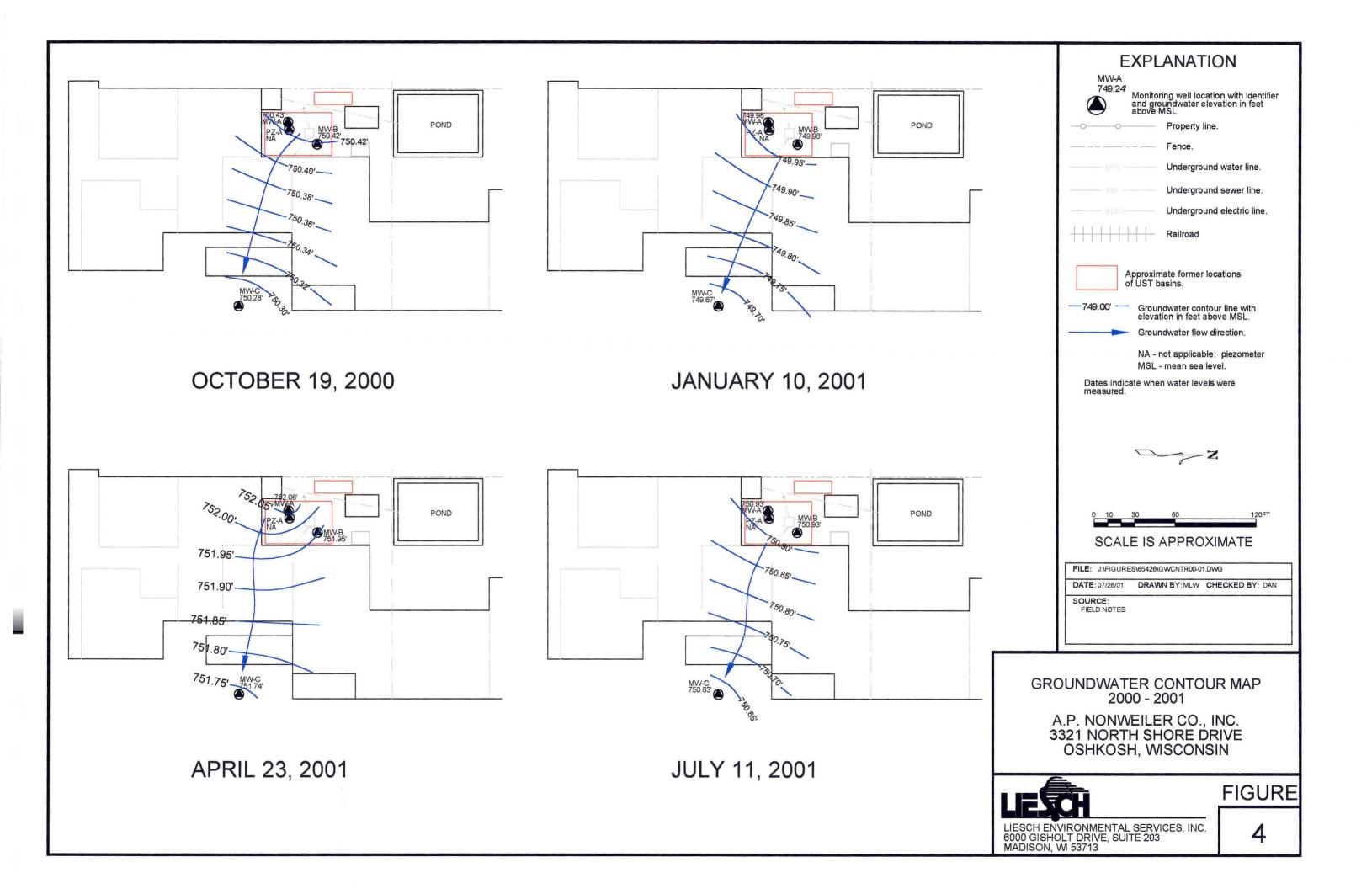
DATE	MW-A	MW-B	MW-C	MW-1
screen top>	740.09	740.17	739.74	742.46
screen bottom>	730.09	730.17	729.74	732.46
7/23/1998	751.32	751.05	NI	
10/21/1998	749.91	748.93	NI	
9/20/1999	749.24	749.30	749.29	
5/23/2000	751.21	751.14	751.08	749.44
10/19/2000	750.43	750.42	750.28	
1/10/2001	749.98	749.98	749.67	
4/23/2001	752.06	751.95	751.74	
7/11/2001	750.93	750.93	750.63	

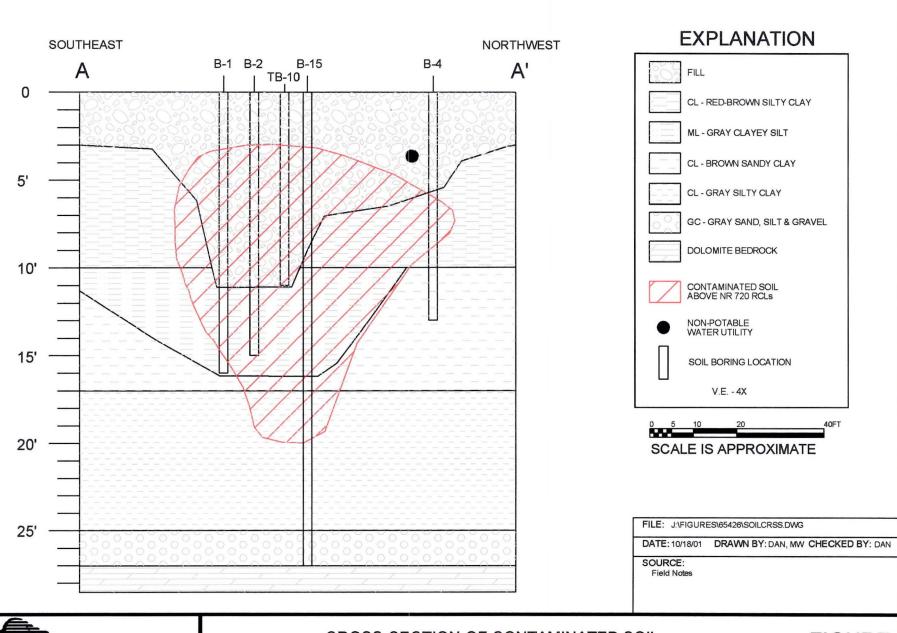
NOTES:

All elevations according to National Geodetic Vertical Datum of 1929. NI = Not installed yet.









LIESCH ENVIRONMENTAL SERVICES, INC. 6000 GISHOLT DRIVE, SUITE 203 MADISON, WI 53713

CROSS-SECTION OF CONTAMINATED SOIL A.P. NONWEILER CO., INC. 3321 NORTH SHORE DRIVE OSHKOSH, WISCONSIN

FIGURE

5

CERTIFICATION OF PROPERTY DESCRIPTION

15-1960-7400 (Parcel Identification Number)

The South Four Hundred (400) feet of that part of the South West 1/4 of the NORTH EAST 1/4 of Section One (1) Township Eighteen (18) North, of Range Sixteen (16) East, in the Town of Oshkosh, lying east of the Easterly line of right-of-way of the Chicago and North Western Rail Road Company and West of the Westerly line of County Trunk Highway "A", excepting therefrom the North Three Hundred Sixty (360) feet of the South Four Hundred (400) feet of the East Three Hundred Eight (308) feet of said South West 1/4 of the North East 1/4, subject to rights granted over and across the South Forty (40) feet of the East Three Hundred Eight (308) feet of said South West 1/4 of the North East 1/4, now in the 15th Ward, City of Oshkosh, Winnebago County, Wisconsin.

I, Mark Nonweiler, hereby certify that, to the best of my knowledge, the above legal description is complete and accurate for all property within or partially within the contaminated site's boundaries that have groundwater contamination exceeding Wisconsin Administrative Code ch. NR 140 enforcement standards at the time that regulatory closure was requested.

Mark Nonweiler

Nata .

J:\6542601\ITEM-F.doc

WELL MAINTENANCE PLAN

This plan addresses the ongoing maintenance of monitoring wells located at the A.P. Nonweiler facility located at 3321 North Shore Drive in Oshkosh, Wisconsin. The plan was developed to comply with provisions in Wisconsin Administrative Code NR 141. At a minimum, a surface inspection of the integrity of the monitoring well seals will be made on a quarterly basis. Once per year in the month of May, a detailed inspection will be made and water levels will be measured. Inspections will also be conducted on an as needed basis due to abnormal wear or emergency situations. Any necessary repairs will be made immediately upon discovery. Currently, the person responsible for such inspections is Mr. Mark Nonweiler. A written record of yearly inspections (including date-stamped photographs of each well) and any repairs will be maintained and will be available to the Department of Natural Resources upon request.

J:\6542601\WELLmaintenance.doc

19.00

5

1217004

REGISTER'S OFFICE WINNEBAGO COUNTY, 1

RECORDED ON 12-04-2002 02:44 PK SUSAN VINNINGHOFF

REGISTER OF DEEDS

RECORDING FEE

Transfer fee



Document Number

DEED RESTRICTION

Declaration of Restrictions

In Re: The South Four Hundred (400) feet of that part of the South West ¼ of the North East ¼ of Section One (1) Township Eighteen (18) North, of Range Sixteen (16) East, in the Town of Oshkosh, lying east of the Easterly line of right-of-way of the Chicago and North Western Rail Road Company and West of the Westerly line of County Trunk Highway "A", excepting therefrom the North Three Hundred Sixty (360) feet of the South Four Hundred (400) feet of the East Three Hundred Eight (308) feet of said South West ¼ of the North East ¼, subject to rights granted over and across the South Forty (40) feet of the East Three Hundred Eight (308) feet of said South West ¼ of the North East ¼, now in the 15th Ward, City of Oshkosh, Winnebago County, Wisconsin.

Recording Area
Name and Return Address
322 | Couple PL A.
Oshkosh, B; 5490 |
MARK NONWEILER

Parcel Identification Number

STATE OF WISCONSIN)
) ss
COUNTY OF WINNEBAGO)

WHEREAS, <u>NONWEILER INVESTMENTS LLC</u> is the owner of the above-described property.

WHEREAS, one or more **Toluene and Xylene** discharges have occurred on this property, and as of **September 11, 1997** when soil samples were collected on this property, **Toluene and Xylene**-contaminated soil remained on this property at the following location: inaccessible areas beneath the building as identified on the attached Figure 1.

WHEREAS, it is the desire and intention of the property owner to impose on the property restrictions which will make it unnecessary to conduct further soil remediation activities on the property at the present time.

NOW THEREFORE, the owner hereby declares that all of the property described above is held and shall be held, conveyed or encumbered, leased, rented, used, occupied and improved subject to the following limitation and restrictions:

Structural impediments existing at the time of clean-up, the building, as identified on Figure 1, made complete investigation and remediation of the soil contamination on this property impracticable. If the structural impediments on this property that are described above are removed, the property owner shall

conduct an investigation of the degree and extent of Toluene and Xylene contamination. To the extent that contamination is found at that time, the Wisconsin Department of Natural Resources shall be immediately notified and the contamination shall be properly remediated in accordance with applicable statutes and rules. If currently inaccessible soil near or beneath the structural impediments on the property is excavated in the future, the soil must be sampled and analyzed, may be considered solid or hazardous waste if residual contamination remains and must be stored, treated and disposed in compliance with applicable statutes and rules.

The paved surfaces and the building foundation that exist on the abovedescribed property on the date that this restriction is signed form a cap or barrier that must be maintained in order to prevent direct contact with residual soil contamination that might otherwise pose a threat to human health. These structures are also required in order to minimize the infiltration of water and prevent additional groundwater contamination that would violate the groundwater quality standards in ch. NR 140, Wis. Adm. Code. The paved surfaces and the building foundation shall be maintained on the above-described property in the locations shown on the attached map, labeled "Figure 1" unless another barrier, with an infiltration rate of 107 centimeters per second (cm/sec) or less, is installed and maintained in their place. The existing structures, and any replacement barrier with an infiltration rate of 107 cm/sec or less, shall be maintained on the above-described property in compliance with the "Cap Maintenance Plan" dated June 2002, that was submitted to the Wisconsin Department of Natural Resources by Mark Nonweiler, as required by section NR 724.13(2), Wis. Adm. Code (1999)

In addition, the following activities are prohibited on any portion of the above-described property where an impervious cap has been placed or where impervious surfaces exist (Figure 1), unless prior written approval has been obtained from the Wisconsin Department of Natural Resources or its successor or assign: (1) Excavating or grading of the land surface; (2) Filling on capped areas and areas with impervious surfaces; (3) Plowing for agricultural cultivation; and (4) Construction or installation of a building or other structure with a foundation that would sit on or be placed within the cap or impervious surface.

This restriction is hereby declared to be a covenant running with the land and shall be fully binding upon all persons acquiring the above-described property whether by descent, devise, purchase or otherwise. This restriction inures to the benefit of and is enforceable by the Wisconsin Department of Natural Resources, its successors or assigns. The Department, its successors or assigns, may initiate proceedings at law or in equity against any person or persons who violate or are proposing to violate this covenant, to prevent the proposed violation or to recover damages for such violation.

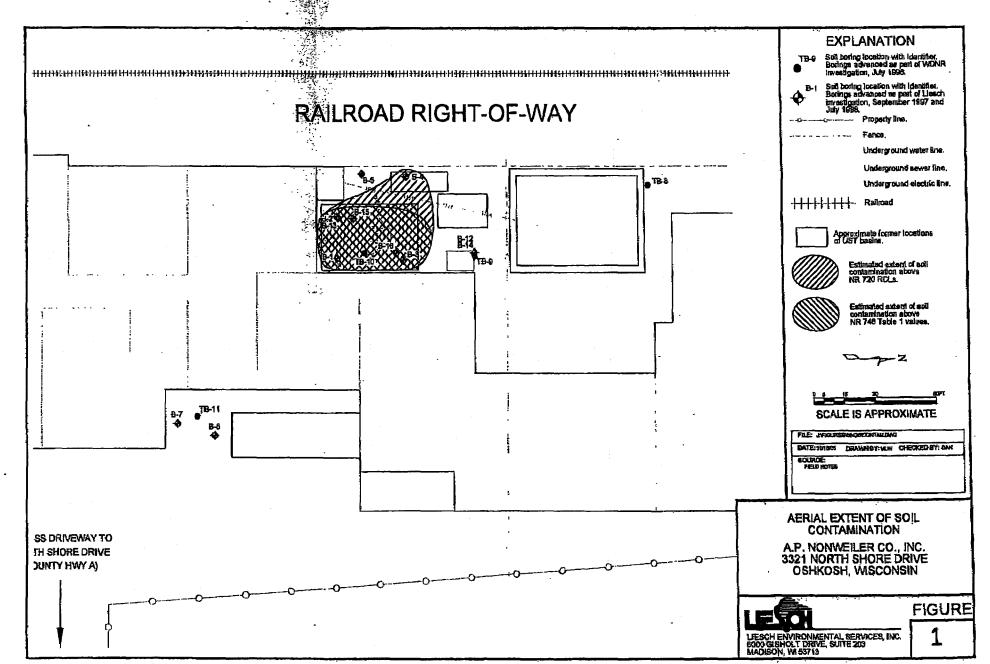
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Notary Public, State of <u>wisconsin</u>
My commission 10/22/2006

Any person who is or becomes owner of the property described above may request that the Wisconsin Department of Natural Resources or its successor issue a determination that one or more of the restrictions set forth in this covenant is no longer required. Upon the receipt of such a request, the Wisconsin Department of Natural Resources shall determine whether or not the restrictions contained herein can be extinguished. If the Department determines that the restrictions can be extinguished, an affidavit, attached to a copy of the Department's written determination, may be recorded by the property owner or other interested party to give notice that this deed restriction, or portions of this deed restriction, are no longer binding.

By signing this document, <u>Mark Nonweiler</u> asserts that he or authorized to sign this document on behalf of <u>Nonweiler Inve</u>	
IN WITNESS WHERE THE owner of the property has executed	uted this
Declaration of Restrictions, this <u>04</u> day of <u>Declaration</u>	, 20 <u>62</u> _
Signature: William 1	
Signature:	
Printed Name: Mark Nonweiler	
Title: President	
Subscribed and sworn to before me	
this 4th day of Discombire, 2002.	

This document was drafted by the Department of Natural Resources with data provided by Liesch Environmental Services Inc.

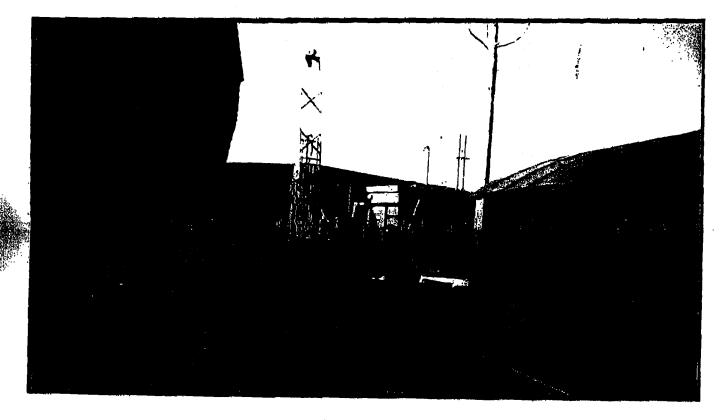


CAP MAINTENANCE PLAN

JUNE 2002

This plan addresses soil contamination remaining at the A.P. Nonweiler facility located at 3321 North Shore Drive in Oshkosh, Wisconsin (the Site). The plan is in response to the utilization of a soil performance standard per NR 720.19(2) and 724.13(2). Soil containing ethylbenzene, toluene, and xylenes exists at the Site above NR 720 generic residual contaminant levels. A pavement cap (see photograph) will be maintained to cover this soil (see attached map). At a minimum, an inspection of the cap will be made once per year in the month of May to document the condition of the pavement, note cracks and deterioration, and delineate areas needing repair. Inspections will also be conducted on an as needed basis due to abnormal wear or emergency situations. Currently, the person responsible for such inspections is Mr. Mark Nonweiler. A written record of inspections and repairs will be maintained. Repairs may include scaling of cracks, section replacement, or wholesale repaving.

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Photograph 1
Drilling of PZ-A (boring B-18), looking South.
(September 15, 1999)

Table 1A Soil Screening and Soil Laboratory Analytical Results September 11, 1997 A.P. Nonweiler

Oshkosh, Wisconsin

ANALYTE	B-1	B-1	B-2	B-2	B-3	B-3	B-3	B-4	B-4	B-5	B-6	B-7	B-7	RCL
	7'-9'	11'-13'	9'-10'	13'-15'	1'-3'	3'-5'	11'-13'	7'-9'	9'-11'	3'-5'	1'-3'	9'-11'	11'-12'	
				HEAI	SPACE	READING	3S (vppm)			<u> </u>		•		
Organic Vapor Meter (OVM)	>2,000	48.9	>2,000	61.7	145.9	17.9	34.6	48.0	10.5	3.7	18.8	10.0	3.9	-
					PETROL	EUM (mg	/kg)						,	
Diesel Range Organics (DRO)	<10	<10	<10	<10	390	29	<10	<10	<10	<10	<10	<10	<10	100
Gasoline Range Organics (GRO)	190	<10	610	83	4,100	81	32	43	<10	<10	15	<10	<10	100
					VOLAT	ILES (μg/l	kg)							,
Benzene	<1,300	<25	<500	<250	<2,500	<250	<25	<25	<25	<25	34	<25	<25	5.5
n-Butylbenzene	<1,300	<25	<500	<250	30,000	2,300	<25	270	<25	93	230	<25	<25	-
sec-Butylbenzene	<1,300	<25	<500	<250	3,000	<250	<25	25	<25	26	<25	<25	<25	· <u>-</u>
Ethylbenzene	3,400	36	1,700	630	280,000	3,500	570	460	<25	45	100	<25	<25	2,900
Isopropylbenzene	<1,300	<25	<500	<250	9,400	710	<25	490	<25	30	<25	<25	<25	-
Naphthalene	<1,300	<25	<500	<250	<2,500	750	<25	120	<25	<25	280	<25	<25	-
n-Propylbenzene	<1,300	<25	<500	<250	19,000	1,300	<25	1,100	<25	100	77	<25	<25	
Tetrachloroethene	<1,300	<25	<500	<250	<2,500	<250	<25	<25	<25	<25	<25	110	<25	_
Toluene	160,000	410	330,000	110,000	<2,500	<250	27,000	<25	360	<25	87	210	29	1,500
1,2,4-Trimethylbenzene	1,400	43	1,300	370	40,000	6,600	<25	3,100	<25	220	180	<25	<25	-
1,3,5-Trimethylbenzene	<1,300	26	830	260	20,000	3,200	<25	1,400	<25	150	170	<25	<25	
Xylenes (total)	19,300	4,260	15,400	5,100	822,000	50,420	1,830	33,032	79	490	540	<25	<25	4,100
					META	LS (mg/kg	;)							
Lead (total)	14	13	10	15	509	830	13	15	10	15	49	19	13	50

Note:

Only analytes detected in concentrations above method detection limits are listed on this table.

Dates indicate when samples were collected.

vppm = vapor parts per million mg/kg = milligrams per kilogram

μg/kg = micrograms per kilogram
RCL = NR 720 generic residual contaminant levels

-= Not established

bold = Above RCL

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Table 1B A.P. Nonweiler

3321 North Shore Drive, Oshkosh, Wisconsin Soil Laboratory Analytical Results June 1998 and July 1998

	B-12	B-15	B-15	B-16	FD	B-16	RCL
	9'-11'	17'-19'	21'-23'	15'-17'	B-16 (15'-17')	17'-19'	
FIELD SCREENING							
Photoionization Meter (vppm)	0.0	386	48.4	23.9	NA	4.7	-
VOLATILES (ppb)							
Ethylbenzene	<25	35*	<25	<25	<25	<25	2,900
Toluene	<25	8,200	990	37*	42*	27*	1,500
Total Xylenes	<50	310	<50	<50	<50	<50	4,100
METALS (ppm)							
Lead	9.68	5.32	5.73	5.17	6.20	4.24	50

Notes:

Only contaminants detected in concentrations above method detection limits are listed on this table.

Dates indicate when samples were collected (June 30, 1998 for B-12; July 15, 1998 for B-15 and B-16).

Blank cell indicates analysis not performed.

RCL = NR 720 residual contaminant levels which represent the concentrations of contaminants that can remain in soil.

- < = below method detection limits
- * = value between limit of detection and limit of quantification
- = no RCL established

ppm = parts per million = mg/kg

 $ppb = parts per billion = \mu g/kg$

Bold indicates contaminant above RCL

