

## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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

Northeast Region Headquarters  
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February 22, 2002

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
BRRTS # 03-39-168015  
CASETRACK ID: #2001-NEEE-046

Terry Berndt  
PO Box 6  
Oxford, Wisconsin 53952

**SUBJECT: Inadequate Progress**

Dear Mr. Berndt:

On August 1, 2001, the Department of Natural Resources issued you a Notice of Violation (NOV) for failing to address a known release of a petroleum compounds to the environment on property owned by you located at 115 W. Ormsby Street, Oxford, Marquette County, Wisconsin (Site).

Under correspondence dated December 22, 1998, the Department advised you of your responsibility to address the contamination at the Site. As being the responsible party, you were advised that these actions were required to comply with s. 292.11(3), Wisconsin Statutes, also known as the hazardous substance spill law. Section 292.11(3), Wis. Stats. states:

A person who possesses or controls a hazardous substance, which is discharged, 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 this state.

The August 1, 2001 NOV scheduled an enforcement conference with you to discuss the contamination and immediate restoration of the Site. You failed to show for this meeting. We have spoken on the telephone on several occasions since that time, with your verbal assurances that you would address the contamination by early winter. As of this date, you have not provided the Department with any Site investigation plans demonstrating your verbal sincerity to address the contamination.

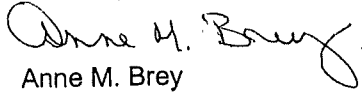
Though the Department has been quite flexible in allowing you time to secure PECFA funding, it is unacceptable that you have failed to begin to address the contamination by this time. **No later than March 15, 2002, the Department requests that you hire a qualified environmental consultant and submit a Site investigation work plan to the attention of Mr. Kevin McKnight at 625 East County Highway Y, Suite 700, Oshkosh, Wisconsin 54901-9731.**

Section 292.11(3), Wis. Stats. requires that a person who possesses or controls a hazardous substance which is discharged shall take the actions necessary to restore the environment to the extent practicable. The Department construes your failure to conduct an appropriate cleanup of the petroleum contamination at the Site as failure to take appropriate action. Be advised that violations of s. 292.11(3), Wis. Stats. are enforceable under s. 292.99, Wis. Stats. Section 292.99, Wis. Stats. provides for forfeitures of not more than \$5,000 for each violation with each day of continuing violation being a separate offense. If you fail to address the contamination by March 15, 2002, the Department will consider additional enforcement actions, including a referral to the Department of Justice.

Terry Berndt  
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If you have any technical questions about this matter, contact Ms. McKnight; Department Hydrogeologist, at (920) 424-7890. If you have any questions concerning this letter, feel free to contact me at (920) 492-5863.

Sincerely,



Anne M. Brey  
Environmental Enforcement Specialist

Enc.

cc: K. McKnight - NER  
V. Lorenz / B. Urban - NER  
J. Renville - LS/5  
RR/3