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April 12, 2021

Ms. Christine Haag
Remediation & Redevelopment Program
Department of Natural Resources
101 S. Webster Street
Box 7921
Madison, WI 53707-7921

Re: Laund-O-Rama Laundry & Dry Cleaning Inc.
7527 West Perkins Place
Milwaukee, WI
BRRTS#: 02-41-169683
FID#: 241411170

Dear Ms. Haag:

I am in receipt of your letter of April 6, 2021, with respect to the Laund O Rama Laundry site; see attached. PLEASE REMOVE ME FROM YOUR MAILING LIST ON THIS SITE for the reasons stated in my previous letter request to you dated October 29, 2020, which I have also attached.

Thank you.

Very truly yours,

von BRIESEN & ROPER, s.c.



David J. Edquist

DJE:tmb

Enclosure

cc: Binyoti Amungwafor (via email)

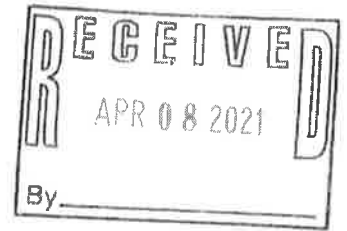


April 6, 2021



001523

DAVID EDQUIST
VON BRIESEN & ROPER SC
411 E WISCONSIN AVE
MILWAUKEE WI 53202



Subject: Vapor Intrusion – Short Term Risks for Trichloroethylene Vapors, Vapor Intrusion Pathway Assessment, and Immediate and Interim Actions

LAUND O RAMA LAUNDRY & DRY CLEANING INC
7527 W PERKINS PL, MILWAUKEE, WI
BRRTS# 02-41-169683, FID# 241411170

Dear Sir or Madam:

This letter is being sent to all Responsible Parties (RPs) that currently have an active contamination response site on the Department of Natural Resources (DNR's) Bureau for Remediation and Redevelopment Tracking System (BRRTS). It reiterates and enhances information about vapor intrusion risk that has been previously provided to you by DNR, either in a letter sent by DNR in 2011 regarding assessment of the vapor pathway or in your responsible party letter if your case was opened after 2011. Recent studies indicate that vaporized trichloroethylene (TCE) in indoor air is more toxic than previously understood and the risk posed by TCE vapors requires an immediate response when women of child-bearing years are present.

The purpose of this letter is to communicate three points related to vapor intrusion:

- 1. TCE poses short-term risks to human health that justify accelerated assessment, investigation and mitigation of the vapor intrusion pathway.**
2. Assessment of the vapor intrusion pathway is part of the investigation process and should be assessed as early as possible and routinely re-assessed throughout the life of a project.
3. Immediate and interim actions may be necessary early in the site investigation process to protect human health from contaminated vapors.

We encourage you to discuss this information with your environmental consultant. The DNR believes the health risks of TCE vapors are serious enough that it should be one of *the first things* evaluated as part of a site investigation, especially at sites where contamination may impact sensitive populations. RPs should be diligent about screening for TCE in vapors as early in the site investigation process as possible, to determine if immediate actions are warranted to reduce harmful exposure.

Unfortunately, many RPs and consultants wait until late in the site investigation process, or even at case closure, before taking steps to assess the presence of vapors and any needed mitigation efforts. We are encouraging you to do this as one of the first steps in your site investigation.



Health Risk

All volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), some metals (e.g., mercury) and methane have the potential to create harmful vapors with varying degrees of toxicity. Some compounds produce an odor, such as gasoline, but many do not, making expedited assessment critical to identifying exposure. Preferential pathways such as sewers allow vapors to travel long distances from the source in multiple directions, increasing the possibility of exposure to humans. Additional information on the human health hazards from vapor intrusion can be found by going to dnr.wi.gov, search “Vapor” and go to the “Health” tab.

The VOC, trichloroethylene (TCE), poses a short-term (i.e., acute) health risk in indoor air at certain concentrations that justifies expedited assessment, investigation and mitigation as immediate or interim actions (USEPA, 2014; Makris et al., 2016). As discussed in DNR vapor intrusion guidance (see below), quickly identifying demographics is a key component of the risk assessment. This is supported by the Department of Health Services. TCE also poses a long-term (i.e., chronic) health risk.

TCE is a chlorinated solvent commonly used as a parts washer and degreaser of metal equipment. It is also used for spot cleaning and found in household items such as aerosols. TCE is also a breakdown product of tetrachloroethylene (PCE or “perc”). PCE is a chlorinated solvent used in commercial and industrial businesses such as dry cleaners, metal plating, paper mills, etc. When released to the environment, PCE, TCE (either as a source or a breakdown product) and other contaminants readily migrate through soil, groundwater and subsurface air.

Authority – Assessments and Interim and Immediate Actions

Assessment of the vapor intrusion pathway is a critical part of an environmental investigation. Wisconsin Administrative Code (Wis. Admin. Code) Chapter NR 716 outlines the requirements for investigation of contamination in the environment. Specifically, Wis. Admin. Code § NR 716.11(3)(a) requires the field investigation “determine the nature, degree and extent, both areal and vertical, of the hazardous substances or environmental pollution in **all** affected media,” which includes sub-surface and indoor air. In addition, Wis. Admin. Code § NR 716.11(5) specifies that the field investigation include an evaluation of the “potential pathways for migration of the contamination, including drainage improvements, utility corridors, bedrock and permeable material or soil along which **vapors**, free product or contaminated water may flow.”

A vapor intrusion pathway assessment may demonstrate that an immediate or interim action is required under Wis. Admin. Code ch. NR 708. Wis. Admin. Code § NR 708.05(2) states “for hazardous substance discharges that pose an **imminent threat to public health, safety or welfare** or the environment, responsible parties shall conduct all necessary emergency immediate actions.” Under Wis. Admin. Code § NR 708.11(1), appropriate interim actions must be taken when “necessary to... **minimize any threat to public health, safety or welfare** or the environment” and could include “constructing a temporary engineering control, such as low permeability cover, or **installing and operating a vapor mitigation system**” per Wis. Admin. Code § NR 708.11(2)(d).

Immediate and interim actions, such as installation of a vapor mitigation system, can be taken to interrupt human exposure. **However, interim actions are not acceptable long-term remedies.** Wis. Admin. Code chs. NR 722, 724 and 726 address required cleanup actions to address the sources of contamination. More specifically, Wis. Admin. Code § NR 726.05(8)(b)1, states a site is not eligible for closure until “**a remedial action has been conducted and reduced the mass and concentration of volatile compounds to the extent practicable.**”



Guidance and Evolution of Vapor Intrusion Science

The DNR publishes guidance to help RPs and their consultants comply with the requirements in Code. *Addressing Vapor Intrusion at Remediation & Redevelopment Sites in Wisconsin*, RR-800 (v. January 2018) can be found at <https://dnr.wi.gov/files/PDF/pubs/rr/RR800.pdf>. **As noted above, the presence of TCE may present specific concerns related to demographics. Section 3.4.1 of DNR's guidance discusses the need to quickly identify demographics and prioritize action when TCE is the contaminant of concern. Section 7.1 discusses potentially appropriate immediate actions necessary to limit exposure.**

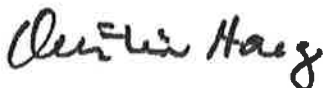
The science of vapor intrusion continues to rapidly evolve. The mechanics of vapor intrusion and risks to human health are being continually researched and discussed on a national and international level. This constant increase in knowledge requires the vapor intrusion pathway to be routinely reassessed throughout the life of a project until case closure. Therefore, in addition to RR-800, the DNR provides videos, fact sheets and additional guidance on vapor intrusion on its website. Go to dnr.wi.gov and search "Vapor." Technical resources developed by other government and private sources are included.

The DNR will continue to update its resources to incorporate advances in science on assessment, investigation and mitigation options, to partner with local and state health departments on the risks to human health, and to routinely communicate with environmental consultants on these advances.

If you have questions regarding this letter, please contact the assigned DNR Project Manager or DNR Site contact:

BINYOTI AMUNGWAFOR
414-708-5874
binyoti.amungwafor@wisconsin.gov

Sincerely,



Christine Haag
Program Director
Remediation & Redevelopment Program

Copy to Consultant(s) on Record

TAGLaw International Lawyers

David J. Edquist
Direct Telephone
414-287-1372
dedquist@vonbriesen.com

October 29, 2020

Ms. Christine Haag
Remediation & Redevelopment Program
Department of Natural Resources
101 S. Webster Street
Box 7921
Madison, WI 53707-7921

Re: Laund-O-Rama Laundry & Dry Cleaning Inc.
7527 West Perkins Place
Milwaukee, WI
BRRTS#: 02-41-169683
FID#: 241411170

Dear Ms. Haag:

I am responding to your letter of October 27 regarding this dry cleaner site, a copy of which is attached.

You apparently sent this to me because I previously represented one of the co-owners of the property, Mr. Harold Pentler. I have not represented Mr. Pentler since approximately 2001, and it is my understanding that Mr. Pentler passed away in 2014. I have no further information regarding Mr. Pentler and I ask that you remove my name from the mailing list for RPs at the site.

I am copying Binyoti Amungwafor on this letter, whom you have identified as the assigned DNR project manager at the site, via email.

Very truly yours,

von BRIESEN & ROPER, s.c.



David J. Edquist

Ms. Christine Haag
Remediation & Redevelopment Program
Department of Natural Resources
October 29, 2020
Page 2

DJE:tmb

Enclosure

cc: Binyoti Amungwafor (via email)

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
101 S. Webster Street
Box 7921
Madison WI 53707-7921

Tony Evers, Governor
Preston D. Cole, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



October 27, 2020

BRRTS # 0241169683
FID # 241411170
Site Status: OPEN
Date Site Closed:

von Briesen & Roper, s.c.

OCT 29 2020

Received



DAVID EDQUIST
VON BRIESEN & ROPER SC
411 E WISCONSIN AVE
MILWAUKEE WI 53202

Subject: Status of Dry Cleaner Environmental Response Fund (DERF),
Environmental Responsibility and DERF Eligibility for Emerging Contaminants
LAUND O RAMA LAUNDRY & DRY CLEANING INC
7527 W PERKINS PL, MILWAUKEE, WI

Greetings:

This letter is being sent to all Responsible Parties (RPs) and applicants, agents and payees for the Dry Cleaner Environmental Response Program/Fund (DERF) that currently have an open contamination site and select closed contamination sites on the Department of Natural Resources (DNR) Bureau for Remediation and Redevelopment Tracking System (BRRTS).

The purpose of this letter is to provide you with four pieces of information:

1. DNR recently recalculated projected dates for payment of claims previously submitted for reimbursement from DERF. A spreadsheet of claims in queue for reimbursement and projected payment dates is available at dnr.wi.gov/aid/DERF.html under the "Fund stats" tab in the document titled "Reimbursement Requests Pending";
2. There is currently a **projected wait time of more than 10 years** after receipt of new claims prior to payment and there is no guarantee funds will be available to pay new claims prior to the sunset date of June 30, 2032;
3. Responsibility for investigation and cleanup of environmental contamination is independent from the status of claims for reimbursement from DERF; and
4. Costs associated with emerging contaminants, such as perfluoroalkyl and polyfluoroalkyl substances (PFAS), are not eligible expenses for reimbursement of claims under DERF.

Financial Viability of DERF in Critical Condition

In late 2019, DNR projected an annual 9% to 12% decline in DERF revenue through the sunset date of June 30, 2032, based on a reducing trend of active dry cleaners in the industry. This steady decline in part explains the funding shortfall and anticipated 10 year wait to receive payment on submitted claims as calculated in 2019. The history of DERF and explanation of the funding source is explained in an Attachment to this letter for your reference.

Actual revenue for DERF in fiscal year 2020 (which ended June 30, 2020) is less than what was projected in 2019. Recent calculations showed an actual 17.26% decline in revenue this fiscal year compared to last fiscal year. DNR will

not know the long-term effect of the COVID-19 pandemic on the dry cleaner industry for some time and if there will be additional businesses closing, which may affect the already limited revenue for DERF even further. DNR will monitor actual revenue and re-evaluate the projected revenue decline in 2021. DNR will continue to update the estimated payment date for claims waiting to be paid as information on revenue is received.

DNR's authority to implement DERF is limited by statute, and DNR does not have authority to make statutory changes. The DNR will have no statutory authority to make payments when the funding source is exhausted, regardless of eligibility or whether a claim was received prior to the 2032 sunset date. Thus, it is impossible to guarantee that previously submitted claims or future submitted claims will be reimbursed.

Additional information on pending reimbursement requests, payments by site, program revenue, projected revenue decline and more can be found at dnr.wi.gov/aid/DERF.html under the "Fund stats" tab.

Legal Responsibilities for Investigation and Cleanup of Environmental Contamination

RPs are reminded that the responsibility to investigate and clean up environmental contamination is independent of the status of DERF or claims already submitted that are in line for reimbursement. 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 this state, Wis. Stat. § 292.11(3). If DERF is not available to reimburse claims, RPs are still responsible to take the actions necessary.

Emerging Contaminant Investigation and Cleanup Activities Not Eligible for Reimbursement under DERF

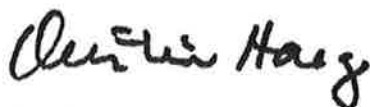
Wisconsin Administrative Code ("Wis. Admin. Code") § NR 169.03 clarifies DERF applies to contamination of a discharge of a "dry cleaning product". Wisconsin Statute ("Wis. Stats.") §292.65 (1) (e) defines a dry-cleaning product as a "hazardous substance used to clean apparel or household fabrics..." Eligibility for expenses hinges on this definition.

On August 17, 2020, the DNR issued a state-wide letter to RPs for all open sites regarding emerging contaminants in general. Specifically, perfluoroalkyl and polyfluoroalkyl substances (PFAS) may be of concern at sites resulting from contamination from dry cleaners. As RPs work with their consultants on site investigation scoping at open sites to determine if their site needs to perform an investigation for PFAS or other emerging contaminants, it is important to clarify that PFAS is not a product used to clean. Therefore, costs incurred relating to the investigation or cleanup of this hazardous substance are not eligible expenses under Wis. Admin. Code ch. NR 169 (DERF).

The DNR appreciates the efforts to restore the environment at this site. If you have any questions regarding this site, please contact the assigned DNR Project Manager or DNR Site contact:

BINYOTI AMUNGWAFOR
(414) 708-5874
binyoti.amungwafor@wisconsin.gov

Sincerely,



Christine Haag
Program Director
Remediation & Redevelopment Program

Attachment

ATTACHMENT

The Dry Cleaner Environmental Response Program (DERP) and Fund (DERF) was created in 1997 Wisconsin Act 27 to provide financial assistance awards for reimbursement of certain eligible costs of investigation and cleanup of contamination from dry cleaning solvents at certain dry-cleaning facilities. Eligible claimants to the program had to have submitted a Potential Claim Notification by the deadline of August 30, 2008. There were applications to enter DERP from 230 locations. There are currently 107 open contamination sites and 114 closed contamination sites with the remaining locations not tied to an identified release to the environment. The program and fees have a statutory sunset of June 30, 2032, (35 years after creation) per Wis. Stats. § 292.65 (14) and Wis. Admin. Code § NR 169.31 (2).

DERP is funded by license fees paid quarterly by every operator of an active dry-cleaning facility that include:

- 2.8% of the gross receipts from the previous three months for dry cleaning;
- solvent product fee of \$5 per gallon of perchloroethylene (“perc”); and
- solvent product fee of \$0.75 per gallon of non-perc products.

These fees are collected quarterly by the Department of Revenue (DOR) and transferred to the DNR to administer the program. At the start of this program, there were 350 licensed dry cleaners in the state. That number dropped to 135 in 2020.

Initially, claims for reimbursement were paid immediately after being audited by DNR. Due to the significant levels of contamination from the historical dry-cleaning industry, complexity in investigating and cleaning up chlorinated solvents and a decline in the revenue funding source, a waiting period to pay claims developed in 2006. The following changes took place to repair the fund:

- In 2008, the license fee increased from 1.8% to 2.8% of gross receipts.
- In 2009, a loan of \$6.2 million from the Environmental Fund was obtained.

No other legislative changes have occurred. Compounding the issue is the general decline in demand for dry cleaners resulting in a decline in the revenue that funds the grant program, as discussed in the letter above.

Additional information on pending reimbursement requests, payments by site, program revenue, projected revenue decline and more can be found at dnr.wi.gov/aid/DERF.html under the “Fund stats” tab. This website is updated periodically.

