

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
South Central Region Headquarters
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December 14, 2011

Mr. Thomas Kinney and Mr. Peter Adam
1550 La Follette Street
Fennimore, WI 53809

Subject: Site Occurrence Classification – Additional Site Work Required
Schirz Property, 1175 Lincoln Avenue, Fennimore
BRRTS Activity Number: 03-22-17097

Dear Mr. Kinney and Mr. Adam:

The Wisconsin Department of Natural Resources (WI DNR) was notified on September 5, 1997 that petroleum soil contamination had been detected at the site listed above. The WI DNR responded with a letter dated September 19, 1997 which provided information regarding the need to identify the extent and clean up the contamination at the property. That letter requested that necessary clean up plans be submitted to address the contamination to Department standards. On September 8, 2008, the WI DNR issued a new responsible party letter as we had learned the ownership of the property had changed hands. This letter provided information regarding the need to identify the extent and clean up the contamination at the property. To date, we have not received follow up information addressing the extent of contamination and/or documentation of clean up being performed on this site.

I contacted you by phone on December 13, 2011. In our conversation, I introduced myself as the project manager taking over this site from the prior incumbent. I explained that my review of the file showed that the site had been opened for over 14 years. Soil contamination exists on the east side of the building and is believed to be due to the presence of two (2) former heating oil tanks. The first tank allegedly leaked so a second tank was installed. Soil contamination was found in the vicinity of the tanks at a depth of 6 to 8 feet below ground surface. We do not know if the contamination extends to bedrock or to the water table. Both tanks were reportedly filled with a sand slurry when they were abandoned in place. The file shows that a deed affidavit was filed in August 2005. We discussed the hiring of an environmental consultant to do a limited site investigation with the goal of bringing the site to closure. I am attaching a list of consultants to this letter.

Your responsibilities under Section 292.11 of the Wisconsin Statutes, commonly referred to as the Spill Law, require you to determine the extent of contamination, clean up and properly dispose of contaminants until the site is deemed closed by the Department. These activities should occur in a timely manner. It is the responsibility of the Department to ensure that this action occurs. The minimum requirements and conditions that shall be met before the WDNR may determine that a case related to a specific site is eligible for closure are found in ch. NR 726 Wis. Adm. Code. With the completion and submittal of information pertaining to the above, the site can be reviewed for closure. Fees associated with closure are found in ch. NR 749 Wis. Adm. Code.

This letter describes the legal responsibilities of a person who is responsible under section 292.11, explains what you need to do to investigate and clean up the contamination, and provides you with information environmental consultants.



Legal Responsibilities:

Your legal responsibilities are defined both in statute and in administrative codes. The hazardous substances spill law, Section 292.11 (3) Wisconsin Statutes, states:

- **RESPONSIBILITY.** 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 the state.

Wisconsin Administrative Code chapters NR 700 through NR 749 establish requirements for emergency and interim actions, public information, site investigations, design and operation of remedial action systems, and case closure. Chapter NR 708 includes provisions for immediate actions in response to limited contamination. Wisconsin Administrative Code chapter NR 140 establishes groundwater standards for contaminants that reach groundwater.

Steps to Take:

The longer contamination is left in the environment, the farther it can spread and the more it may cost to clean up. Quick action may lessen damage to your property and neighboring properties and reduce your costs in investigating and cleaning up the contamination. To ensure that your cleanup complies with Wisconsin's laws and administrative codes, you should hire a professional environmental consultant who understands what needs to be done. These are the first three steps to take:

1. Within the next **30 days**, by January 14, 2012, you should submit written verification (such as a letter from the consultant) that you have hired an environmental consultant. If you do not take action within this time frame, the WDNR may initiate enforcement action against you.
2. Within the next **60 days**, by February 14, 2012, your consultant should submit a work plan and schedule for the investigation. The consultant must comply with the requirements in the NR 700 rule series and should refer to WDNR technical guidance documents. To facilitate prompt agency review of your reports, your consultant should use the site investigation and closure formats which are available on-line at <http://dnr.wi.gov/org/aw/rr>
3. Within 30 days of completion of the site investigation, you or your consultant must provide a brief report at least every 90 days as required by s. NR 724.13 (3), Wis. Adm. Code. Quarterly reports need only include one or two pages of text, plus any relevant maps and tables. Should conditions at your site warrant, we may require more frequent contacts.
4. Sites where discharges to the environment have been reported are entered into the Bureau for Remediation and Redevelopment Tracking System ("BRRTS"), a version of which appears on the WDNR's internet site. You may view the information related to your site at any time (<http://botw.dnr.state.wi.us/botw/Welcome.do>) and use the feedback system to alert us to any errors in the data.

If you want a formal response from the agency on a specific submittal, please be aware that a review fee is required in accordance with ch. NR 749, Wis. Adm. Code. If a fee is not submitted with your reports, you should proceed under the advice of your consultant to complete the site investigation to maintain your compliance with the spills law and chapters NR 700 through NR 749. **Do not delay the investigation of your site by waiting for an agency response.** We have provided detailed technical

