



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor
George E. Meyer, Secretary
William R. Selbig, Regional Director

Northeast Region Headquarters
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May 6, 1999

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
CASETRACK ID: 99-NEEE-006
BRRTS ID: 03-24-189660

Attorney John C. Koch
PO Box 307
Berlin, WI 54923-0307

SUBJECT: Environmental Contamination On Property Located In the NE¼ of the NE¼,
Section 14, T14N, R12E, Town of Manchester, Green Lake County, Wisconsin

Dear Attorney Koch:

In a letter dated June 16, 1998, the Department of Natural Resources (Department) notified the estate of Leonard J. Holloway ("the Estate") that we believe the Estate is responsible under s. 292.11, Wisconsin Statutes (Hazardous Substance Spills Law), for environmental contamination on property owned by the Estate. This property is located at W3345 HWY 73, NE¼ of the NE¼, Section 14, T14N, R12E, Town of Manchester, Green Lake County, Wisconsin. On January 25, 1999, the Department received a written response from you as representative of the Estate which indicated that the Estate has no funds to pay for investigation or remediation activities at the property. This response included a detailed summary of the Estate's financial resources.

In a second letter dated March 12, 1999, you were notified that the Department had determined that recording of an affidavit is necessary based on your response to the initial letter. Because the Estate cannot proceed with the required work, the Department intends to record an affidavit on the property deed as soon as practicable. A copy of the affidavit the Department intends to record is attached to this letter.

The Department will proceed with recording the affidavit unless the estate responds within thirty (30) days of receipt of this letter indicating that the contamination will be promptly investigated and remediated in compliance with applicable statutes and rules or provides information which clearly demonstrates that there is no environmental contamination on the property or that it intends to appeal the Department's determination.

The Department has made the finding that petroleum product discharged to the Estate property, which is located at W3345 HWY 73, Town of Manchester, Green Lake County, is the source of soil and groundwater contamination in the vicinity. The Department has concluded that petroleum products and their constituents are "hazardous substances" as defined in s. 292.01(5), Wis. Stats. The Department believes that removal or treatment of the petroleum contaminated soil is required on the property under the authority of s. 292.11, Wis. Stats.

Attorney John C. Koch
May 6, 1999
Page 2

As the Department believes that petroleum contamination currently found in the soil on the property referred to above will continue to discharge into the environment, subsequent purchasers of the property could be held responsible for clean-up costs under s. 292.11, Wis. Stats. The recording of an affidavit is necessary to protect future owners and/or operators of this property by notifying them that contamination remains which has not been properly addressed according to chs. NR 700 to 726, Wisconsin Administrative Code.

NOTICE OF APPEAL RIGHTS

If you believe that you have the right to appeal the Department's decision to record the attached affidavit and would like to request a contested case hearing to prevent the recording of a deed affidavit, you are required to file a written request for a contested case hearing with the Department within 30 days after the date this letter is received. All hearing requests shall be filed either by delivery to the Office of the Secretary of the Department of Natural Resources at 101 South Webster Street, Madison, Wisconsin 53703, or by certified mail addressed to the Office of the Secretary, Department of Natural Resources, PO Box 7921, Madison, Wisconsin 53707-7921.

All requests for a contested case hearing must be made in accordance with s. NR 2.05(5), Wis. Adm. Code, and must identify the grounds for the petition.

If you would like to request judicial review, you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department, pursuant to ss. 227.52 and 227.53, Wis. Stats. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

This notice is provided pursuant to s. 227.48(2), Wis. Stats.

Dated at Green Bay, Wisconsin, this 5th day of May, 1999.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES
By:



David A. Hildreth
Region Air and Waste Leader

bcc: J. Doelger - NER
B. Urben - NER
K. Mc Knight - Oshkosh
J. Renville - LS/5

Document Number

AFFIDAVIT

Legal Description of the Property:

Real estate, situated in the County of Green Lake and State of Wisconsin, to-wit:

Commencing at the Northwest corner of lot number One (1), block Two (2), in the village of Manchester, Wisconsin running thence South sixty (60) feet, thence East forty-eight (48) feet, thence North sixty (60) feet, thence West forty-eight (48) feet, to place of beginning according to a recorded plat of said village of Manchester in office of Register of Deeds of said Green Lake County, as described in Volume 119, Page 19, Green Lake County Register of Deeds.

DRAFT

Recording Area

Name and Return Address:

Kevin P. McKnight
WI Department of Natural Resources
Oshkosh Service Center
PO Box 2565
Oshkosh, WI 54903

STATE OF WISCONSIN)

COUNTY OF GREEN LAKE)

Parcel Identification Number (PIN)

I, Kevin P. McKnight, being first duly sworn, state that:

1. I am a Hydrogeologist, employed by the Wisconsin Department of Natural Resources (herein after "the Department") at its Oshkosh Service Center, 905 Bayshore Drive, City of Oshkosh, Winnebago County, Wisconsin.
2. I have knowledge of the facts herein set forth and believe the same to be true.
3. The Department has determined that petroleum product discharged to the Holloway property, which is located at W3345 HWY 73, NE¼ of the NE¼, Section 14, T14N, R12E, Town of Manchester, County of Green Lake, and which has the above captioned legal description, has contaminated soil in the vicinity. The property is listed as owned by Leonard J. and Verna Holloway, on the most recent deed at the Green Lake County Register of Deeds.
4. The Department believes that removal or treatment of the contaminated soil, and/or groundwater monitoring, are required on the property under the authority of s. 292.11(3), Wisconsin Statutes.
5. On June 16, 1998, the Department sent a letter to the heir of deceased Leonard J. Holloway, Mr. John Holloway, which advised him of the statutory requirement to restore the environment at that location. On July 20, 1998, the Department received a written response from Attorney John C. Koch which advised that Leonard J. Holloway's estate (hereinafter "the Estate") is the responsible party.
6. On January 5, 1999, the Department sent a letter to Attorney Koch which requested that the Estate hire an environmental consultant by February 9, 1999. On January 25, 1999, the Department received a written response from Attorney Koch which advised and included documentation that the Estate has no funds with which to conduct investigation or remediation activities at the Holloway property.
7. On March 12, 1999, the Department sent a certified letter to Attorney Koch, advising him that an affidavit of contamination would be recorded. This determination was based on the January 25, 1999, letter from Attorney Koch. Attorney Koch's letter indicated that the Estate is financially unable to proceed with investigation and/or remediation of the petroleum contaminated soil and/or groundwater on the property.
8. On May 6, 1999, the Department sent a certified letter to Attorney Koch, as attorney for the Estate, which advised the Estate that an affidavit of contamination would be recorded on the property deed.

AFFIDAVIT

In Re: Property Locate in the
Town of Manchester, Green Lake County,
Described above:

9. Because the Department believes that petroleum product currently found in the soil on the property with the above legal description, will continue to discharge into the environment, subsequent purchasers of the property could be held responsible for investigation and clean-up costs under s. 292.11(3), Wisconsin Statutes.

DRAFT

Kevin P. McKnight

Subscribed and sworn to before me this _____ day of _____, 1999.

Notary Public, State of Wisconsin

My commission expires on: _____

This document was drafted by the Wisconsin Department of Natural Resources.