



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Matthew J. Frank, Secretary
John Gozdziwski, Regional Director

Ashland Service Center
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October 23, 2009

MR FRANK BUTLER
MR STEVEN RUSNAK
PO BOX 191
BUTTERNUT WI 54514

FILE COPY

Subject: Petroleum Contamination at Steve's Corner Bar, 200 Main Street, Butternut, Wisconsin
WDNR BRRTS #03-02-199424

Dear Messrs. Butler and Rusnak:

The Department of Natural Resources' Remediation and Redevelopment Program (the Department) recently reviewed the case file for the above named site and determined that the information is not current. The Department was notified on September 23, 1998 of petroleum contamination encountered during the removal of two underground storage tanks from this property. The Department then notified Mr. Rusnak on October 12, 1998 of his responsibilities to investigate the degree and extent of contamination and clean up the site.

Based on property information obtained from Ashland County, you are listed as co-owners of the above described site. Therefore, the following legal requirements apply to both of you. 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.

Since the time that the Department originally sent the notification of responsibilities to Mr. Rusnak, we have not received any substantive evidence that the necessary investigative or remedial actions have been conducted at this site.

Therefore, the Department is requesting that within 45 days, by **December 7, 2009**, you provide a summary of investigative and cleanup work that has been performed on this site to date. The summary should also include a proposed timeline for completing any investigative and/or remedial actions that might be needed to bring this case to closure. This summary should be submitted in writing to me at the above address.

It appears that this case might be eligible for participation in the Department of Commerce's Petroleum Environmental Cleanup Fund Act (PECFA) program. PECFA funds can be used to reimburse responsible parties for their costs to investigate and clean up contamination from eligible petroleum tank systems. More information about the PECFA program can be obtained by calling (608) 264-8765 or through the Department of Commerce's web site at http://www.commerce.state.wi.us/ER/pdf/pecfa/ER-PECFA-ERS10083%28Info%29_REV_7-07.pdf. However, because PECFA operates as a reimbursement program, responsible parties generally have to have an initial source of funding (e.g., a line of credit from a bank) available to pay the investigation and cleanup costs, and then seek reimbursement of those costs. In situations where the responsible party cannot come up with the initial funding needed to begin the investigation and cleanup, PECFA does offer a second alternative, the PECFA agent.

An agent means a person or organization (i.e., environmental consulting firm) designated by the responsible party to act on behalf of the responsible party in conducting the investigation and cleanup. The agent is responsible for paying for the cleanup and submitting the claims for PECFA reimbursement. The reimbursement checks are then issued in the name of the responsible party and the agent, and mailed to the agent. This alternative eliminates the need for a responsible party to secure a line of credit from a bank to pay the investigation and cleanup costs. More information about the PECFA agent process can be found at <http://commerce.wi.gov/ER/ER-PECFA-Agents.html>, or by calling (608) 264-8765.

You should note that failure to take the actions required by s. 292.11, Wis. Stats., to address this contamination might lead me to recommend that this case be reviewed for Department enforcement actions. One possible action involves the Department recording a notice of residual contamination on the property's deed under section NR 728.11, Wis. Adm. Code. The deed notice would inform any potential purchaser of the property of the presence of the contamination, and this notice would remain in effect until the contamination has been addressed. For more environmentally serious situations, the Department has the ability through our stepped enforcement process to take additional enforcement actions, up to and including referral of the case for prosecution by the Department of Justice. Such referrals will result in court-stipulated actions and monetary forfeitures.

If you have any questions concerning this letter or the project in general, please do not hesitate to write or call me at 715-685-2920. I can also be reached by e-mail at Christopher.Saari@Wisconsin.gov. Thank you for your attention to this matter.

Sincerely,



Christopher A. Saari
Hydrogeologist

cc: David Blair – Department of Commerce
Dennis Legler – Department of Commerce