

AMENDED

Program Application Purchaser Liability Exemption



Please complete an application form for each property that you are requesting DNR review and approval of cleanup actions. This application form should be submitted to the DNR in order to apply for the protection of limited liability under s.144.765, Stats. Protection of limited liability is effective at the completion of a cleanup action, if the purchaser complies with all of the statutory requirements of ss. 144.76 and 144.765, Stats. Personally identifiable information found in this form will be used for no purpose other than the Contaminated Lands Recycling Program. If you have questions about completing this form, please call (608) 261-6424.



Return to: Wisconsin Department of Natural Resources
Emergency and Remedial Response Section
Contaminated Lands Recycling Program
101 S. Webster (SW/3), Box 7921
Madison, WI 53707

General Information:

Property Name (if any): Praefke Brake & Supply Co.*
Address: 133 Oak Street
City, ~~Village or Town~~: West Bend State Wisconsin Zip Code 53095
Property size: 7.05 (acres)

Public Land Survey Coordinates¹:

☐ Quarter See Attachment 3 ☐ Section 13 ☐ Township 11N
☐ Range 19E ☐ County Washington

Department-issued identification number for site or facility: 267083740 267004430

To the best of your knowledge what type of business or businesses have operated at this property in the past?

- | | | | |
|--------------------------------------|--------------------------------------------------------------------------------------------------|---------------------------------------|--------------------------------------------------|
| <input type="checkbox"/> Landfill | <input type="checkbox"/> Pipeline | <input type="checkbox"/> Bulk Plant | <input type="checkbox"/> Coal Gas Manufacturer |
| <input type="checkbox"/> Gas Station | <input type="checkbox"/> Manufacturing | <input type="checkbox"/> Dry Cleaners | <input checked="" type="checkbox"/> Salvage Yard |
| <input type="checkbox"/> Ag. Coop. | <input checked="" type="checkbox"/> Other (explain) <u>various manufacturing/industrial uses</u> | | |

¹ Please attach to this application the most recent Wisconsin County Plat map highlighting location of the property.

* Application filed September 27, 1996. This Amended Application will incorporate new information since September 27, 1996; incorporate changes pursuant to Act 27 and clarify the existing Application. Form F4400-178: 12-94

Property-Specific Information:

Type of Environmental Contamination (check all that apply):

☒ Soil ☒ Groundwater ☐ Sediment ☐ Surface water ☐ Unknown ☐ Other _____

If groundwater is contaminated, do the concentrations attain or exceed any ch. NR 140 groundwater quality?

☒ Yes ☒ PAL ☒ ES
☐ No
☐ Unknown
☐ Substance detected, but no ch. NR 140 standard has been established.

If any environmental work has been conducted to date at the property, please check all that apply:

☒ Environmental Assessment - Phase I ☐ Partial Property Investigation
☒ Thorough Property Investigation ☒ Partial Cleanup of Property
☐ Full Cleanup of Property ☐ DNR Closeout Approved

Who conducted this environmental work?

☐ Former Owner ☐ Current Owner ☒ Other (explain) Seller by Contract with Purchaser

If environmental work must be conducted at the property, who will conduct the following activities:

• Thorough environmental investigation of the property? ☐ Current Owner ☐ Potential Purchaser
• Cleanup to restore the environment? ☐ Current Owner ☐ Potential Purchaser

Known or Suspected Sources of Contamination:

Please check all that apply:

<input type="checkbox"/> Foundry Sand	<input type="checkbox"/> Transformer
<input type="checkbox"/> Underground tank ⁶ or pipeline discharge	<input type="checkbox"/> Industrial accident
<input type="checkbox"/> Landfill	<input checked="" type="checkbox"/> Dumping or burial - ? <i>sewer wastes</i>
<input type="checkbox"/> Above ground tank or pipeline discharge	<input type="checkbox"/> Lagoons
<input type="checkbox"/> Coal gas manufacturing	<input type="checkbox"/> Burning of materials
<input type="checkbox"/> Surface spills or discharge	<input type="checkbox"/> Unknown
<input checked="" type="checkbox"/> Routine industrial operations	<input type="checkbox"/> Other(explain) _____
<input type="checkbox"/> Contaminated building	

⁶ If tanks have been closed, please attach the Closure Assessment Report, if available, which was completed in accordance with DNR guidance.

Known or Suspected Contaminants:

Please check all that apply:

- | | |
|----------------------------------------------------------|-----------------------------------------------------|
| <input type="checkbox"/> Petroleum Products | <input type="checkbox"/> PCBs |
| <input type="checkbox"/> RCRA Hazardous Waste | <input type="checkbox"/> Pesticides |
| <input type="checkbox"/> VOCs | <input checked="" type="checkbox"/> Other (explain) |
| <input type="checkbox"/> Metals | <u>pentachloropheno1 (PCP)</u> |
| <input checked="" type="checkbox"/> Chlorinated Solvents | |

Involvement with Other Regulatory Programs:

Please check the appropriate boxes below if any of the following programs or agencies have been involved with the property in question.

- | | |
|------------------------------------------------------------------|--------------------------------------------------------------|
| <input type="checkbox"/> WDNR Tank Program (LUST) | <input checked="" type="checkbox"/> WDNR Air Program |
| <input type="checkbox"/> WDNR Voluntary Sediment Program | <input checked="" type="checkbox"/> WDNR Waste Water Program |
| <input checked="" type="checkbox"/> WDNR Hazardous Waste Program | <input type="checkbox"/> PECFA Eligible |
| <input checked="" type="checkbox"/> WDNR Solid Waste Program | <input type="checkbox"/> Wisconsin DATCP |
| <input type="checkbox"/> WDNR Site Assessment (CERCLIS) | <input type="checkbox"/> WDNR Water Supply Program |
| <input type="checkbox"/> U.S. EPA National Priorities List Site | |

Is there an enforcement order issued by WDNR, DILHR or DATCP in effect at this property?

- ☐ Yes ☒ No

Date issued: _____ (DY,MM,YR)

Agency: _____

If not, has an enforcement order been issued and complied with in the past?

- ☒ Yes ☐ No

Date issued: 1. 4/20/88
2. 10/10/95 (DY,MM,YR)

Date Compliance Attained: 1. unknown
2. 10/27/97 (DY,MM,YR)

Agency: WDNR

Has a hazardous substance discharge been reported in accordance with s. 144.76(2), Stats, and ch. NR 158 or 705?

- ☒ Yes ☐ No

Date reported: August 8, 1994* (DY,MM,YR)

*Upon WDNR receipt of "An Environmental Investigation Summary Report of a Historical Industrial Property located at 133 Oak Street in West Bend, Wisconsin," dated August, 1994. This date is to the best of Spahis, Inc.'s information and belief; Spahis, Inc.'s predecessor in title reported the contamination.

Ms. Pat Chung
Department of Natural Resources
Southeast Region
2300 N. Dr. Martin Luther King Jr. Dr.
Box 12436
Milwaukee, WI 53212

September 1, 1998

Re: Praefke Brake Property
133 Oak Street, West Bend, Wisconsin
Applicant: Spahis, Inc.

Dear Ms. Chung:

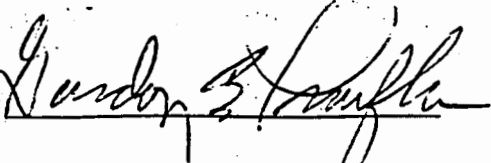
Pursuant to your telephone conference with our legal counsel on August 10, 1998, the undersigned, on behalf of Spahis, Inc. requests a Department of Natural Resources ("DNR") determination that the Praefke Brake property is conditionally eligible to participate in the voluntary party cleanup program pursuant to the recently enacted Act 27. The following is the Company's certification of eligibility, which supplements its amended program application filed on April 3, 1998:

1. I certify that I have read and am familiar with the information on this form and that the information is true, accurate and complete to the best my knowledge.
2. I believe I meet the definition of "voluntary party" pursuant to §292.15 Stats., and I agree that I will provide to the DNR further information to document my status as a "voluntary party," if requested to do so.
3. I hereby request assistance from DNR in reviewing the environmental response actions that have been or will be taken to obtain protection of limited liability, as provided in §292.15 Stats.
4. I recognize that to obtain this limited exemption pursuant to §292.15 Stats., that the environmental response actions taken will need to comply with the applicable provisions of the NR 700 rules series, and will require a Phase I and II environmental assessment to be conducted for the property.

Applicant's name: Gordon Praefke

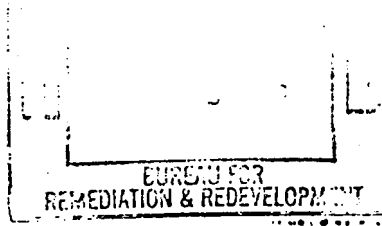
Title: President, Spahis, Inc.

Signature



Date

Sept 3 98



JENNIFER DRURY BUZECKY
DIRECT DIAL (414) 274-3904
JDB@WHDLAW.COM

April 3, 1998

8-53

Ms. Jackie Jarvis
Wisconsin Department of Natural Resources
Bureau for Remediation and Redevelopment
(RR/3)
101 S. Webster Street
Madison, Wisconsin 53707-7921

Re: Amended Application for Purchaser Liability Exemption
133 Oak Street, City of West Bend

Dear Ms. Jarvis:

Praefke Brake & Supply Co. ("Praefke") asks the Department of Natural Resources ("DNR") to review the enclosed Amended Application for the Purchaser Liability Exemption under the recently-enacted provisions of Act 27 and to provide an assurance letter to Praefke that it meets the Act 27 definition of a Voluntary Party.

The property contains two discrete areas of contamination - a pentachlorophenol ("PCP") area and a volatile organic compound ("VOC") area. The original Act 453 application was filed with the DNR on September 27, 1996. The original application requested Act 453 protection only for the geographic area encompassing the PCP contamination. Because DNR said that it could not at that time provide partial geographic protection, the original application was informally put on hold pending the outcome of revisions to Act 453. Praefke now wishes to pursue protection for the entire property, which includes both the VOC and PCP contamination.

The enclosed amended application includes information regarding the VOC contamination and clarifies information regarding the PCP contamination. With respect to the VOC contamination, the "Chlorinated Solvent" box on page 5 of the amended application, Known or Suspected Contaminants, is now checked to reflect such contamination. EnviroAudit stated in its August, 1994 "An Environmental Investigation Summary Report of a

Historical Industrial Property located at 133 Oak Street in West Bend, Wisconsin" ("August 1994 Report") that it believed the source of the VOC contamination to be associated with the past storage of chemicals in building #5 which resulted in past spills or releases.

Praefke believes that it meets the definition of a "Voluntary Party" with respect to the contamination at this site because it did not intentionally or recklessly cause the release of a hazardous substance. Accordingly, Praefke requests that the DNR issue it an assurance letter which states that Praefke meets the Act 27 definition of Voluntary Party. Such assurance letter is consistent with our understanding of how the DNR will implement Act 27 between now and July 1, 1998.

We understand that the DNR is in the process of developing an addendum for Act 453 applications which will ask the applicant to provide and certify information pertaining to its status as a Voluntary Party. We also understand that the procedure the DNR will use to evaluate whether to provide applicants with assurance letters is as follows: (i) the applicant submits an Act 453 application with a cover letter requesting an assurance letter; (ii) the applicant submits the Act 453 application, but does not certify the application; (iii) the DNR will send an addendum to the applicant regarding its Voluntary Party status; (iv) the applicant will certify the addendum; and (v) the DNR will respond as to whether the applicant meets the definition of a Voluntary Party.

With respect to the PCP, the applicant checked "other" on page 4 of the original application for the box describing known or suspected sources of contamination and inserted the word "wood treatment." The term "wood treatment" in the September application refers to the type of contaminant that has been found on the property, not the process by which it was released¹. Accordingly, please review the amended application with the understanding that the source of the PCP contamination was not wood-treatment operations, but most likely a historical spill or release. Thus, page 4 of the amended application now reads "surface spills or discharges." Praefke met the definition of "Purchaser" with respect to the PCP contamination at the time of the original application.

We respectfully request that the DNR process this Application under Act 27 as soon as possible. Praefke Brake previously sent a check with its initial application to the Department for \$250.00 to cover the Application fee.

¹ The August 1994 Report refers to the PCP detected on the property as a "wood treatment" substance. The report indicates that the source of the PCP is most likely from a spill or release associated with former junkyard operations; not from wood-treatment operations.

Should you have any questions, please contact me.

Very truly yours,



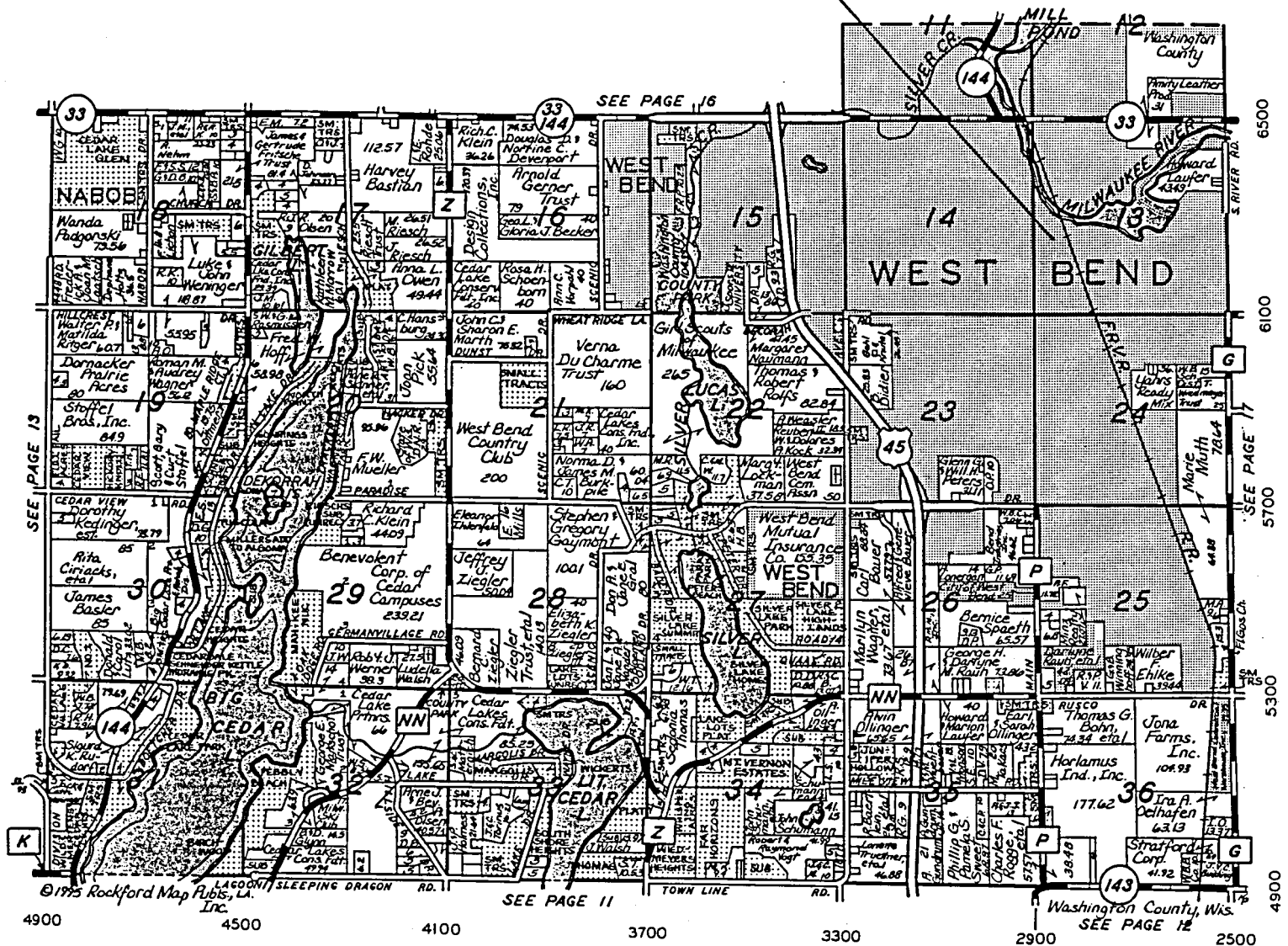
Jennifer Drury Buzecky

JDB/pt/chj

cc: Gordon Praefke (w/encl)
Craig A. Caliendo (w/encl)
Laurie Parsons (w/encl)
Don Gallo (w/encl)

Praefke Brake & Supply

ATTACHMENT #1



Schmidt Funeral Homes

"Our Family Helping Your Family
In Your Time Of Need"

N168 W20135 Main Street - Jackson, Wisconsin 53037
PHONE: (414) 677-4993

629 Cedar Street - West Bend, Wisconsin 53095
PHONE: (414) 334-2301

WEST BEND SAND & STONE INC.

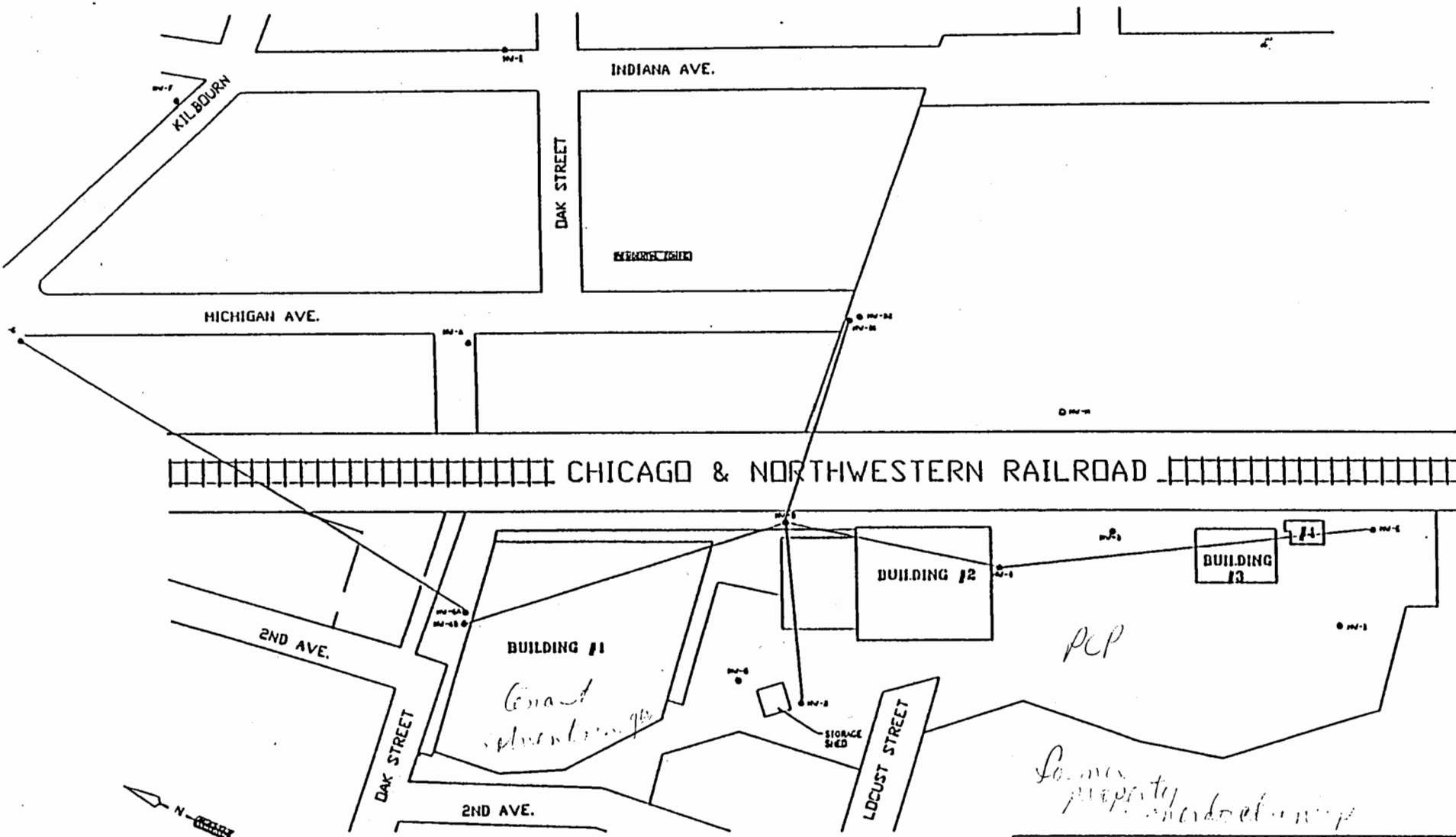
- Washed Sand & Stone
- Pea Gravel
- Road Gravel
- Traffic Bond

P.O. Box 285 - Highway 33 West

334-3284

Shop: 334-0277

ATTACHMENT #2



LEGEND

⊗ - MONITORING WELL LOCATIONS

ENVIROAUDIT[®]LTD



C/P UTILITY SERVICES COMPANY

119 SANFORD STREET

HANDEN, CONNECTICUT

GEOLOGIC CROSS-SECTION
LOCATION MAP

133 OAK STREET, WEST BEND, WISCONSIN

PROJECT # 4-94-010

FIGURE 3-1

Attachment #3

The property for which Purchaser Liability Exemption protection is requested consists of:

1. Parcel A, located in the W ½ of the SW 1/4 of Section 13, Township 11 North, Range 19 East (shown on page 2 of Attachment #3);
2. Parcel B, located in the NW 1/4 of the SW 1/4 of Section 13, Township 11 North, Range 19 East (shown on page 3 of Attachment 3); and
3. An Easement for Ingress - Egress: Together with a 30 foot wide easement for ingress-egress to parcel 'A' over the westerly 30 feet of the following deeds; Volume 319 Page 215 and Volume 463 Page 300 and all of Volume 463 Page 302.

PARCEL A

Being all of Parcels 1, 4 and a portion of Parcel 3, as described in Title Commitment identified as WB 51587, effective date November 16, 1995 and being that part of the West half of the Southwest One - quarter (W 1/2 of the SW 1/4) and the Northwest One - quarter of the Southwest One - quarter (NW 1/4 of the SW 1/4) of Section Thirteen (13), Township Eleven (11) North, Range Nineteen (19) East, City of West Bend, Washington County, Wisconsin and being more particularly described as follows;

COMMENCING at a concrete monument with a brass cap in a manhole that marks the Southwest one - quarter (SW 1/4) of said Section 13; THENCE S 88°52'39" W (bearing based on State plane co-ordinate System, south zone), along the south line of the southwest one-quarter of said Section 13, a distance of 1106.29 feet to the intersection of the westerly right of way line of the Wisconsin Central Limited Railroad Company (a 100.00 foot wide right of way) with the south line of the southwest 1/4 of said Section 13; THENCE N 18°50'21" W, along the said westerly right of way line, a distance of 545.98 feet to a 1" x 24" iron pipe (1" I.P.), set from which a found 2" I.P. bears N 20° 28' W, 0.92 feet and also being the POINT OF BEGINNING; THENCE S 71°09'39" W, along the north line of that parcel as described in Volume 319, Page 215, a distance of 110.00 feet to a 1" I.P. set; THENCE N 18°50'21" W, a distance of 133.15 feet to a 1" I.P., found ; THENCE S 79°22'09" W, a distance of 120.12 feet, to a 1" I.P., set, at the southeast corner of Lot 3 of Highland Circle, a recorded subdivision; THENCE N 33°24'31" W, along the easterly line of said Lot 3 and the easterly line of Lot 2 of said Highland Circle, a distance of 190.80 feet to a 1" I.P., set at the northeast corner of said Lot 2, from which a found 1" I.P. bears N.22°20' E, 0.73 feet; THENCE N 07°18'19" W, along the easterly lines of that Parcel described in Volume 1011, Page 648 and that Parcel described in Volume 335, Page 541, a distance of 100.45 feet to a 1" I.P., set; THENCE N 01°35'31" W, along the easterly line of that Parcel of land described in Volume 192, Page 141, a distance of 136.75 feet to a 1" I.P., set; THENCE N 30°58'21" W, along the easterly line of that Parcel described in Volume 194, Page 173, a distance of 129.55 feet to a railroad spike, set on the apparent south right of way line of Locust Street (a 50' wide right of way), from which a found 1" I.P. bears N 88°05'29" E, a distance of 0.41 feet; THENCE N 88°05'29" E, along the apparent south line of Locust Street, a distance of 56.86 feet to a 1" I.P., set, from which a found 1" I.P. bears N 80°07' E, 2.18 feet; THENCE N 33°10'21" W, a distance of 58.49 feet to a 1" I.P., set on the apparent north right of way of said Locust Street; THENCE S 88°05'29" W, along the apparent north line of said Locust Street and the southerly line of that Parcel as described in Volume 200, Page 509, a distance of 82.67 feet to a found 1" I.P. at the southeast corner of Parcel "A" of Lots 47 thru 107 of the Highlands, a recorded subdivision; THENCE N 01°35'31" W, along the easterly line of said Parcel "A" and the easterly line of those Parcels of Land as described in Volume 365, page 301, Volume 1005, page 471 and Volume 1055, page 98, a distance of 134.93 feet to a 1" I.P., set from which a found 3/4" I.P. bears N 15° E, 1.57 feet; THENCE N 33°10'21" W, along the easterly line of those Parcels of land as described in Volume 1055, page 98 and Volume 754, page 682, a distance of 105.38 feet to a 1" I.P., set; THENCE S 88°05'29" W, along the northerly line of that parcel as described in said Volume 754, page 682, a distance of 64.82 feet to a 1" I.P., set on the easterly right of way of Second Avenue (a 60' wide right of way); THENCE N 01°35'31" W, along the easterly right of way line of said Second Avenue a distance of 63.98 feet to a 1" I.P., set, at an angle point in said right of way from which a found 3/4" I.P., bears N 58° W., 0.62 feet; THENCE N 16°14'21" W, along said easterly right of way line a distance of 217.79 feet to a railroad spike, set on the intersection of said easterly right of way with the southerly right of way of Oak Street (a 80' wide right of way) from which a found 1" I.P. bears S 17°29' W, 2.81 feet; THENCE N 88°05'29" E, along the southerly right of way of said Oak Street a distance of 134.23 feet to a chiseled "x" in concrete, set at the southwest corner of that parcel as described in Volume 591, page 426; THENCE N 01°37'41" W, along the westerly line of that parcel as described in said Volume 591, page 426, a distance of 38.00 feet to a PK nail, set; THENCE N 88°05'29" E, along the south line of a 20' wide exception for watermain as described in said Volume 591, page 426, a distance of 169.59 feet to a 1" I.P., set on the westerly right of way line of the aforementioned Wisconsin Central Limited Railroad Company; THENCE S 18°50'21" E, along the westerly line of said railroad right of way a distance of 1231.16 feet to the point of beginning and containing 7.09 acres of land.

Subject to all rights, reservations, restrictive covenants and easements of record.

PARCEL B

Being all of Parcels 2 and a portion of Parcel 3, as described in Title Commitment identified as WB 51587, effective date November 16, 1995, and being a part of the Northwest One - quarter of the Southwest One - quarter (NW 1/4 of the SW 1/4) of Section Thirteen (13), Township Eleven (11) North, Range Nineteen (19) East, City of West Bend, Washington County, Wisconsin and being more particularly described as follows;

COMMENCING at a concrete monument with a brass cap in a manhole that marks the Southwest one - quarter (SW 1/4) of said Section 13; THENCE S 88°52'39" W (bearing based on State plane co-ordinate System, south zone), along the south line of the southwest one - quarter of said Section 13, a distance of 1106.29 feet to the intersection of the westerly right of way line of the Wisconsin Central Limited Railroad Company (a 100.00 foot wide right of way) with the south line of the southwest 1/4 of said Section 13; THENCE N 18°50'21" W, along the said westerly right of way line, a distance of 1798.05 feet to a 1" x 24" iron pipe (1" I.P.), set and also being the POINT OF BEGINNING; THENCE S 88°05'29" W, along the north line of a 20' wide exception for watermain as described in said Volume 591, page 426, a distance of 163.41 feet to a 1" I.P., set on the easterly right of way line of Second Avenue (a 80.00' wide right of way); THENCE N 01°37'41" W along the easterly right of way line of said Second Avenue, a distance of 262.00 feet to a 1" I.P., set at the northwest corner of Lot 12, Block 33 of the Original Plat to the Village of West Bend; THENCE N 88°05'29" E, along the north line of said Lot 12 and the south line of that Parcel of Lands as described in Volume 635, Page 75, a distance of 82.37 feet to a 1" I.P., set on the westerly right of way line of the aforementioned Railroad right of way; THENCE S 18°50'21" E, a distance of 273.87 feet to the POINT OF BEGINNING and containing 0.74 acres of land. Subject to all rights, reservations, restrictive covenants and easements of record.