



## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor  
George E. Meyer, Secretary  
Gloria L. McCutcheon, Regional Director

Southeast Regional Headquarters  
2300 N. Dr. ML King Drive, PO Box 12436  
Milwaukee, Wisconsin 53212-0436  
Telephone 414-263-8500  
FAX 414-263-8483  
TDD 414-263-8713

February 8, 2000

MR. FLOYD BERGGREN  
BERGGREN INVESTMENT COMPANY, LLP  
2979 MAPLE ROAD  
JACKSON, WI 53037

FID#: 241975140  
BRRTS#: 02-41-200169

Subject: Revised case closure letter for 709-733 East Capitol Drive, Milwaukee, WI

Dear Mr. Berggren:

*I agree with your consultant Mr. Pat Patterson/Midwest Engineering Services, Inc. that a deed restriction, not an industrial use restriction as the previous letter indicated, is what was intended for this site. The following is the language of the original letter with the wording industrial use restriction changed to deed restriction in the second paragraph.*

The Department of Natural Resources (WDNR) has reviewed the subject site for case closure. Based on site investigation and groundwater monitoring reports, it appears that petroleum and chlorinated contamination at the site has been adequately investigated in compliance with the requirements of ch. NR 700, Wis. Adm. Code. The contamination appears to be predominantly limited to low-permeability, clay and silt sediments above the shallow water table, which is encountered approximately 10 feet or less below ground surface. No volatile organic compounds (VOCs) were reported above ch. NR 140, Wis. Adm. Code enforcement standards in five rounds of groundwater samples (Sep. 1997 – Oct. 1999) from the six site monitoring wells. Three chlorinated compounds—tetrachloroethene, trichloroethene, and 1,2-dichloroethane—believed to be associated with the former dry cleaning operation at the site were detected in monitoring well MW-1 at concentrations up to twice the ch. NR 140 preventive action limit (PAL) of 0.5 µg/L during the last two sampling rounds (one round each). However, because the mean concentrations of these compounds were below the PAL, a PAL exemption will not be required for groundwater at this site.

The WDNR will grant conditional closure of this case, having determined that no further action is necessary at this time, upon placement of a deed restriction (example enclosed) on the property deed for this site. The deed restriction will specify the legal description of the property and the type, concentration, and location on the property of the remaining soil contamination (both petroleum and chlorinated), and will be recorded at the Register of Deeds Office.

If in the future any contamination is uncovered, it will be the responsibility of the property owner to properly handle and dispose of all contaminated soil and groundwater that does not meet applicable state and federal standards. Furthermore, the case may be reopened pursuant to s. NR 726.09, Wis. Adm. Code, if additional information regarding site conditions indicates that contamination on or from the site poses a threat to public health, safety or welfare, or the environment.

Please submit a draft of the deed restriction for WDNR review and approval, and have all monitoring wells at the site properly abandoned in accordance with ch. NR 141, Wis. Adm. Code. Upon receipt of copies of the final recorded deed restriction for the property and the monitoring well abandonment forms, the case will be tracked as conditionally closed on the BRRTS computer tracking system.

The WDNR appreciates the actions that you have taken to investigate and restore the environment at this site. If you have any questions, please contact me at the letterhead address, (414) 229-0872, or [muells@mail01.dnr.state.wi.us](mailto:muells@mail01.dnr.state.wi.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen D. Mueller", with a long horizontal flourish extending to the right.

Stephen D. Mueller, P.G.  
Hydrogeologist  
Remediation & Redevelopment Program

c: Patrick Patterson – MES  
SER Case File

Document Number

DEED RESTRICTION

Declaration of Restrictions

In Re: [Legal description of the property as it appears on the most recent deed]

STATE OF WISCONSIN )

) ss

COUNTY OF \_\_\_\_\_ )County where document is signed]

Recording Area

Name and Return Address

WHEREAS, \_\_\_\_\_ is the owner of the above-described property.

WHEREAS, one or more [type of contaminant(s)] discharges have occurred on this property. . [Type of contaminant(s)]-contaminated soil remains on this property at the following location(s): [description of location or locations on the property where contamination was, or may have been, left in place]

Parcel Identification Number (PIN)

WHEREAS, it is the desire and intention of the property owner to impose on the property restrictions which will make it unnecessary to conduct further soil remediation activities on the property at the present time.

NOW THEREFORE, the owner hereby declares that all of the property described above is held and shall be held, conveyed or encumbered, leased, rented, used, occupied and improved subject to the following limitation and restrictions:

The property described above may not be used or developed for a residential, commercial, agricultural or other non-industrial use, unless (at the time that the non-industrial use is proposed) an investigation is conducted to determine the degree and extent of [type of contaminant] contamination that remains on the property and remedial action is taken as necessary to meet all applicable non-industrial soil cleanup standards. . If contaminated soil that remains on the property is excavated in the future, it will have to be sampled and analyzed and the treatment or disposal of the soil as a solid or hazardous waste may be necessary.

This restriction is hereby declared to be a covenant running with the land and shall be fully binding upon all persons acquiring the above-described property whether by descent, devise, purchase or otherwise. This restriction inures to the benefit of and is enforceable by the Wisconsin Department of Natural Resources, its successors or assigns. The Department, its successors or assigns, may initiate proceedings at law or in equity

against any person or persons who violate or are proposing to violate this covenant, to prevent the proposed violation or to recover damages for such violation.

Any person who is or becomes owner of the property described above may request that the Wisconsin Department of Natural Resources or its successor issue a determination that one or more of the restrictions set forth in this covenant is no longer required. Upon the receipt of such a request, the Wisconsin Department of Natural Resources shall determine whether or not the restrictions contained herein can be extinguished. If the Department determines that the restrictions can be extinguished, an affidavit, attached to a copy of the Department's written determination, may be recorded by the property owner or other interested party to give notice that this deed restriction, or portions of this deed restriction, are no longer binding.

[Optional Provision, only required if the property is owned by a corporation, partnership or governmental entity] By signing this document, \_\_\_\_\_ asserts that he or she is duly authorized to sign this document on behalf of \_\_\_\_\_ [the property owner].

IN WITNESS WHEREOF, the owner of the property has executed this Declaration of Restrictions, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
My commission \_\_\_\_\_

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