



March 6, 2022

Mr. Benjamin Brand  
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*Sent via Electronic Mail Only to [bbrand@kellybrandlaw.com](mailto:bbrand@kellybrandlaw.com)*

Subject: Response to January 23, 2023 Request for Retroactive Approval of Terracon Costs Under DERF  
One Hour Martinizing, 1233 South Military Avenue, Green Bay, Wisconsin  
BRRTS #: 02-05-217270

Dear Mr. Brand:

The Department of Natural Resources (DNR) received a letter from you, on behalf of Dr. Qefli Neziri, on January 23, 2023. DNR is providing the following response to the items raised in the letter regarding the environmental remediation of the One Hour Martinizing site (the Site) located at 1233 S. Military Avenue, Green Bay, Wisconsin. DNR's response is an attempt to provide additional insight into rules governing environmental contamination, the Drycleaner Environmental Response Program (DERP), and DNR actions in response to the discharge at the Site.

The original responsible party (RP) for the site was Mr. Peter Fink, who was the original operator of the drycleaner and identified causer of the release of contamination at the Site. Under the Spills Law, Wis. Stat. ch. 292, both the person in possession and control (property owner) and causer of the contamination are responsible for the contamination; however, the DNR works first with the causer to address the contamination. As such, following the death of Mr. Fink in 2007, the focus of responsibility transferred to the owner of the real property, Mr. Mike Nass of Synergy Investors LLC, as the possessor of the contamination at that time. On June 23, 2015, a property transaction occurred, transferring the property and its related contamination; DNR did not become aware of the property transaction until May 18, 2016.

On May 19, 2016, DNR contacted Mr. Nass' consultant whose understanding was that Mr. Nass retained responsibility for the contamination, and on June 1, 2016, Mr. Nass verbally confirmed this with DNR; DNR honors these third-party agreements regarding responsibility as long as progress continues. DNR was aware that vapor sampling was performed at the Site in 2015 and DNR requested submittal of results. DNR did not receive sampling results from Mr. Nass' consultant as he was behind on payments and Mr. Nass did not approve submittal of the report to DNR. In July of 2019, the current DNR project manager for the Site, Ms. Josie Schultz, reviewed the Site file and again contacted Mr. Nass' consultant requesting the 2015 vapor sampling results. DNR received the results on July 31, 2019. The 2015 vapor results indicated vapor risk screening level (VRSL) exceedances for perchloroethylene (PCE) underneath the slab and within the sumps of the Site building, indicating an acute risk to occupants of the building.

Because Mr. Nass remained unresponsive to his consultant and DNR, and Mr. Nass did not cause the release of contamination, responsibility fell to Dr. Neziri, as the current owner of the property. DNR requested a meeting with Dr. Neziri to discuss the status of the Site, explain the complicated history and present Dr. Neziri with the RP letter. This meeting was held at the DNR service station in Green Bay on September 9, 2019. During this meeting, DNR discussed DERP and the status of the Drycleaner Environmental Response Fund (DERF), stating that the current timeframe for reimbursement was greater than five years and that the fund was rapidly depleting. DNR recommended Dr. Neziri enter into an agent agreement with Mr. Nass who was eligible under DERP, which was accomplished, and to perform vapor sampling as soon as possible. DNR also summarized, and provided in writing via electronic mail on September 9, 2019, what was necessary for work to be covered by DERF.

On October 27, 2020, DNR issued a DERF Status Letter to all responsible parties and eligible applicants within DERF, which provided an update for DERF reimbursements. A current spreadsheet of claims in queue for reimbursement and projected payment dates is available at [dnr.wi.gov/aid/DERF.html](http://dnr.wi.gov/aid/DERF.html) under the "Fund stats" tab in the document titled "Reimbursement Requests Pending". This website is routinely updated. Dr. Neziri may contact the DERF Fund Manager, Sandy Chancellor, at 608-720-0122 or [Sandra.Chancellor@Wisconsin.gov](mailto:Sandra.Chancellor@Wisconsin.gov) if he would like additional information on DERF beyond what is available on the website mentioned above.

During the January 17, 2023 conference call with you, Dr. Neziri, and Tim Welch and Brian Kappen of Terracon Consultants, Inc., DNR mentioned that in case an alternative funding source for DERP becomes available in the future, DNR recommends going through the DERP bidding process for the future remedial action. The reason being remedial action is a new milestone in the status of the Site and requires bidding for costs to be eligible for reimbursement. However, continued involvement in DERP remains a choice for Dr. Neziri.

Regarding costs previously incurred by Dr. Neziri, he may submit a written request for variance under Wis. Admin. Code § NR 169.29 for previously incurred immediate action work that did not receive prior concurrence for costs exceeding \$10,000, as required by Wis. Admin. Code § NR 169.11(1)(a)3. Supporting documentation (i.e., detail of actions including consulting, laboratory analysis, etc., and associated costs) should be submitted with the variance request. Any anticipated future immediate action costs should be provided to DNR for pre-approval in accordance with Wis. Admin. Code § NR 169.11(1)(a)3. to be eligible for reimbursement. Any approval by DNR does not guarantee the reimbursement of costs under DERP. Reimbursement is contingent upon availability of funding and a final determination regarding the eligibility of costs at the time of claim review.

The written request for variance and any cost proposals should be sent to me, the DNR project manager for the Site, via email at [josie.schultz@wisconsin.gov](mailto:josie.schultz@wisconsin.gov).

DNR appreciates your efforts to investigate and remediate the Site. If you have any questions or concerns, please feel free to contact me at 920-366-5685 or the email listed above.

Sincerely,



Josie Schultz  
Project Manager – Hydrogeologist  
Remediation and Redevelopment Program  
Wisconsin Department of Natural Resources

Cc: Dr. Qefli Neziri, Innovative Properties Group ([qefnez@yahoo.com](mailto:qefnez@yahoo.com))  
Sandy Chancellor, DERP Fund Manager ([Sandra.Chancellor@Wisconsin.gov](mailto:Sandra.Chancellor@Wisconsin.gov))