

From: Schultz, Josie M - DNR
Sent: Tuesday, November 14, 2023 3:07 PM
To: 'qefnez@yahoo.com'
Cc: bbrand@kellybrandlaw.com; Kappen, Brian J
Subject: Remedial Action Update Request - One Hour Martinizing 02-05-217270
Attachments: 20231114_99_Push_Letter.pdf

Good Afternoon Qefli,

Attached to this email is a letter requesting an update on the remedial action by December 14, and remedial action plan be submitted by January 15, 2024.

Note that DNR considers the remedial action to be an interim action, thus bidding is not required, but the plan does require prior DNR approval to be covered under DERE.

Sincerely,
Josie

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Josie M. Schultz

Hydrogeologist – Northeast Region Remediation and Redevelopment Team

Wisconsin Department of Natural Resources

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November 14, 2023

Dr. Qefli Neziri
Innovative Properties Group, LLC
3519 S 33rd Street
Milwaukee, WI 53221
Sent via electronic mail only to qefnez@yahoo.com

Subject: **Status Update Request**
One Hour Martinizing, 1233 South Military Avenue, Ashwaubenon, Wisconsin
DNR BRRTS Activity # 02-05-217270, DNR FID # 405008780

Dear Dr. Neziri,

On October 26, 2023, DNR received the latest passive, long-duration indoor air sampling results for the on-site building; analysis showed that the indoor air at 1219 (Jim's Music) and 1235 (East Spa) Military Avenue tenant spaces exceeded the vapor action level for tetrachloroethylene (PCE). These samples were obtained over a duration of time that the vapor mitigation system (VMS) was turned off. Based on these recent indoor air results, the VMS appears to be helping to reduce the risk of vapor intrusion at the site, however, it is not fully disrupting the vapor intrusion pathway. On November 3, 2023, DNR was notified via email from your consultant, Brian Kappen of Terracon, that the VMS fans have been powered back on.

DNR contacted you via email on May 1, July 3, and August 8, 2023, to request status of the remedial action necessary to address the source of vapor intrusion at the on-site building. Based on the clear evidence that remedial action is needed prior to completion of the site investigation, DNR requests a status update on development of the remedial action plan (RAP) within 30 days, by **December 14, 2023**, and that a RAP be submitted within 60 days, by **January 15, 2024**. Failure to submit these documents may result in the DNR taking additional enforcement actions, which could include filing a notice of contamination on your property per Wisconsin Administrative Code (Wis. Admin. Code) § NR 728.11.

If you wish to have this work performed under the Drycleaner Environmental Response Program (DERP) for *potential* reimbursement, DNR recommends referencing Wis. Admin. Code ch. NR 169 for approval requirements.

As the site investigation is not yet complete, the remedial action to reduce the source for vapor intrusion should be considered an interim action per Wis. Admin. Code § NR 708.11. Wis. Admin. Code § [NR 169.11\(1\)\(b\)](#) does not require bidding for interim actions, but you will need to submit detailed information to DNR for prior approval. This submittal should include detailed design and implementation information, estimates for the proposed interim remedial action, and a schedule for implementing the action. Wis. Admin. Code § NR 708.11(4) should be referenced for design and implementation requirements.

The active use of PCE at the drycleaner must also be considered and/or investigated as a potential source for vapor intrusion within the other tenant spaces, especially as the Jim's Music lesson area directly adjacent to the drycleaner has the highest concentrations of vapors. DNR recommends a product inventory be performed at the active drycleaner, with an emphasis on spot cleaners as these have been known to sometimes contain trichloroethylene (TCE).

Additional investigation is also necessary to meet the requirements of Wis. Admin. Code chs. NR 716 and 726. However, since Terracon was not selected through the required bidding process for DERP, the bidding process under Wis. Admin. Code ch. NR 169 will need to be followed if you wish to have future investigation actions eligible for *potential* reimbursement. DNR recommends referencing Wis. Admin. Code ch. NR 169 for bidding requirements.

Your legal responsibilities are defined in statute and in administrative code. The hazardous substances spill law, Wis. Stat. § 292.11(3), states "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."

Wis. Admin. Code chs. NR 700 to NR 799 establish requirements for emergency and interim actions, public information, site investigations, design and operation of remedial action systems, and case closure.

The DNR appreciates your cooperation and looks forward to an update regarding this site. If you have any questions regarding the site or this letter, please contact me at 920-366-5685 or josie.schultz@wisconsin.gov

Sincerely,



Josie Schultz
Hydrogeologist
Remediation & Redevelopment Program
Northeast Region

cc: Benjamin Brand, Kelly & Brand, Attorneys at Law, LLC (bbrand@kellybrandlawllc.com)
Brian Kappen, Terracon (brian.kappen@terracon.com)