



February 15, 2023

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Steven Olson  
c/o Gerald Olson  
4509 S Windmill Road  
South Range, WI 54874

Subject: **Status Update Request: Action Requested by April 16, 2023**  
Continuing Obligations associated with the Former Farmers South Range Mall Site  
6215 E CTH C, Parkland, Wisconsin  
DNR BRRTS Activity # 03-16-244419

Dear Mr. Olson,

On July 20, 2022, the Wisconsin Department of Natural Resources (DNR) conducted a Continuing Obligation (CO) audit of the Farmers South Range Mall (FSRM) site, located at 6215 E County Highway C in Superior, Wisconsin (Site). This letter is to notify you that you may be out of compliance with Wisconsin Statutes (Wis. Stat.) chapter 292 and Wisconsin Administrative Code (Wis. Admin. Code) chapters NR 700 through NR 799.

**Site Background:**

The property located at 6215 E County Highway C in Superior, Wisconsin (Site) was the former location of general store, which included an underground storage tank (UST) system used for retail gasoline sales. The UST system (i.e., UST and associated dispensers and piping) was located near the southwesterly corner of the former FSRM building, and was removed from the Site in December 1999. A hazardous substance discharge at the Site was reported to the DNR on December 30, 1999, and the Site was assigned Bureau of Remediation and Redevelopment Tracking System (BRRTS) Activity # 03-16-244419.

On March 3, 2000, the DNR sent you a letter notifying you of your responsibilities to investigate the degree and extent of contamination and clean up the above-referenced Site. That letter is attached for your reference.

As owner of the property referenced above, the DNR determined you were in control of the discharged hazardous substance(s) and therefore responsible for the discharged hazardous substance(s) or other environmental pollution (hereafter referred to as “contamination”) at the Site under Wisconsin Statutes (Wis. Stats) ch. 292, also known as the hazardous substance spill law. “Site” refers to the property where the contamination occurred and any other property it has migrated to, as defined in Wisconsin Administrative Code (“Wis. Admin. Code”) § NR 700.03(56).

Wis. Stats. § 292.11(3) defines responsibility associated with the discharge of a hazardous substance. Wis. Stats. § 292.11(3), 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.*

In May 2008, jurisdiction of the Site was transferred from the DNR to the Wisconsin Department of Commerce (Commerce); closure of the Site was eventually approved by Commerce in September 2010. In July 2013, jurisdiction of the Site was transferred back to the DNR.

### **Site Remediation and Closure:**

On June 23, 2009, approximately 564 tons of petroleum-impacted soils were excavated from the Site and disposed of at an approved landfill. Residual soil contamination remained at the Site beneath the former FSRM building, and beneath County Road C (directly adjacent to Site). The former FSRM building was deemed a structural impediment, as the building's location physically inhibited the ability to investigate soil contamination located underneath the structure.

In August 2010, after investigative and remedial activities had been completed at the Site, the Wisconsin Department of Commerce (Commerce) received a request for case closure, which was submitted by your consultant, Mr. Kenneth Shimko of Meridian Environmental Consulting, LLC (Meridian). Following review of the closure request, Commerce issued you a final closure letter, dated September 16, 2010, which informed you that the Site no longer posed a significant threat to human health and the environment, assuming current and future owners of the property adhere to the following limitation: "If the *site building* is removed, an investigation of the degree and extent of petroleum contamination beneath the building must be conducted and the results reported to Commerce." The letter stated that the Site would be listed on the DNR GIS database of closed sites to address the residual soil contamination at the time of closure. The Commerce final closure letter is attached for your reference.

### **Current Conditions:**

On July 20, 2022, DNR Project Manager Grant Neitzel performed a CO review of the Site. Prior to conducting a physical inspection of the Site, Mr. Neitzel attempted to reach you by telephone at the number listed in the DNR BRRTS database to let you know he intended to visit the Site to document existing conditions. Upon arriving at the Site, Mr. Neitzel observed a single garage-like structure located on the property. Significant wooden debris, which was overgrown with vegetation and almost not visible from the right-of-way, was also observed on the southeasterly side of the garage, directly adjacent to the garage. The debris appeared to be remnants of a former building and was overgrown with shrubs and other vegetation. During the inspection, Mr. Neitzel noted that the single garage building present at the Site did not appear to match the structure(s) shown on the maps in the DNR case file for the Site. All observations of the Site were conducted from public right-of-way.

Review of historic aerial imagery revealed that a larger structure was formerly present on the property, which was situated on the southeasterly side of the garage, in the same location as the wooden debris observed during the inspection. The DNR later confirmed the larger structure was the former FSRM building, which was deemed a structural impediment at the time of Site closure and described as such in the September 2010 final closure letter. The former FSRM building can be seen in an August 2010 aerial photograph, but was no longer present in an aerial photograph taken in April 2015. In a subsequent aerial photograph taken some time in 2019, when low-lying vegetation was not present, remnants of the former FSRM building can be seen on the ground to the south and east of the existing garage building.

### **Continuing Obligations and Required Actions:**

Closure of the site was granted by meeting the requirements of Wis. Admin. Code § NR 726. The authority to set site-specific continuing obligations for closure associated with the structural impediment is established by Wis. Admin. Code § NR 726.15(2)(f). The authority to prohibit certain activities at the Site is derived from Wis. Admin. Code § NR 726.13(1)(c). Notification for removal of a building serving as a structural impediment is required by Wis. Admin. Code § NR 727.07(2).

The former Farmers South Range Mall building has been removed from the Site, and notification for this activity was not provided to the DNR. Additionally, the DNR is unaware of any soil sampling being completed to define the degree and extent of residual soil contamination after the structural impediment was removed from the Property. These activities at the Site are required but do not appear to have been completed, and therefore, it appears the Site is not in compliance with Wis. Admin. Code § NR 726.13(1)(c) and § NR 727.07(2).

**Actions Needed:**

To achieve compliance with Wis. Admin. Code chs. NR 700 through 799, the following must be addressed:

- Investigate the degree and extent of residual soil contamination at the Site previously impeded by the former building, per the requirements of Wis. Admin. Code ch. NR 716.
- Request a post-closure modification using DNR Form 4400-237 and include the appropriate Wis. Admin. Code ch. NR749 review fees.

Additionally, the DNR is requesting that you submit any information (documentation, plans, soil sampling laboratory reports, etc.) that you may have related to the removal of the former FSRM building.

The above-required work must be performed under direction of a qualified professional, per the requirements of Wis. Admin. Code ch. NR 712. Within the next 60 days, by **April 16, 2023**, please verify that a consultant has been retained to address the actions needed.

The DNR looks forward to working with you to correct the compliance issues at the Site. If you have any questions, please contact DNR Project Manager Grant Neitzel by phone at (715) 919-7238 or email at [Grant.Neitzel@wisconsin.gov](mailto:Grant.Neitzel@wisconsin.gov).

Sincerely,



Grant Neitzel  
Hydrogeologist - Remediation & Redevelopment Program  
Northern Region

**Enclosures:**

- Responsible Party Letter, DNR, March 3, 2000
- Final Case Closure Letter, Commerce, September 16, 2010

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PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions