



April 18, 2019

City of Rhinelander  
Attn: Mr. Tim Kingman  
135 South Stevens Street  
Rhinelander, WI 54501

Subject: Approval to Manage Solid Waste under Wis. Admin. Code § NR 718.12 for On-Site Management  
Speedway, 825 North Stevens Street, Rhinelander, Wisconsin  
DNR BRRTS Activity # 03-44-001220  
FID #: 445096410

Dear Mr. Kingman:

On April 3, 2019, Hollie DePuydt with Sand Creek Consultants submitted an exemption request for the management of soil on your behalf requesting to manage 900 cubic yard or 1,350 tons of petroleum contaminated soils on the same site from which it will be excavated in accordance with Wis. Admin. Code § NR 718.12. Supplemental information regarding this request was also provided on April 10<sup>th</sup> and April 17<sup>th</sup>, 2019. The Department of Natural Resources (DNR) received all applicable technical assistance and database fees for providing review and response, in accordance with Wis. Admin. Code § NR 749.04 (1).

The management plan describes the excavation of approximately 900 cubic yards of petroleum contaminated soils located in the North Stevens Street right-of-way adjacent to the Speedway site. The soils will be placed on an impervious surface until the roadway reconstruction and utility replacements in this area are completed. Then the soils will be placed back into the same area(s) it was excavated from.

#### **Wis. Admin. Code § NR 718.12 Exemption**

This letter grants an exemption from the solid waste requirements in Wis. Stat. ch. 289 and Wis. Admin. Code chs. NR 500 to NR 538 for the proposed contaminated material management activities. Approval of the exemption is based on the following:

#### **Compliance with Locational Criteria**

Managing contaminated waste material in areas of the site identified on Figure 2, Site Layout and Boring Locations Map, prepared by Sand Creek Consultants and dated January 2019 of the Exemption Request Document will meet the locational criteria listed under Wis. Admin. Code § NR 718.12 (1) (c), with the exception of the following:

- Within 3 feet of the high groundwater level

#### **Grant of exemption to Wis. Admin. Code § NR 718.12 (1) (c) (5)**

In consideration of the proposed plan to place contaminated soils within the same area(s) it was excavated from, the DNR grants an exemption to the location criteria of Wis. Admin. Code § 718.12 (1) (c) (5) and will allow placement of contaminated waste material within 3 feet of the high groundwater level.

#### **Characterization of Soil to be Excavated**

Soil samples were collected for analysis of contaminants previously detected or expected to be present at this site including petroleum compounds, from areas most likely to contain residual contamination. Based on an estimated volume of 900 cubic yards of material, and a sampling frequency of 1 sample per 100 cubic yards, the sampling protocol described in Wis. Admin. Code § NR 718.12 (1) (e) was met.

**Submittal of a Soil Management Plan**

A complete soil management plan, as defined by Wis. Admin. Code §§ NR 718.12 (2) (b) and (c), was provided to the DNR.

**Assessment of Risk Posed by Soil Management**

The proposed management of solid waste in the right-of-way adjacent to the Speedway site is expected to meet the criteria of Wis. Admin. Code §§ NR 726.13 (1) (b) 1 to 5.

**Notice Provided Prior to Commencing Soil Management Activities**

Per Wis. Admin. Code § NR 718.12 (2), the DNR was provided with at least seven days' notice prior to commencing the proposed material management.

**Requirement of Continuing Obligations**

You have acknowledged that the continuing obligations described below will be required as a condition of managing the contaminated material on your property as proposed.

The current property owner of the Speedway, and any subsequent property owners, must comply with the following continuing obligations, established under Wis. Admin. Code § NR 718.12 (2) (d) at this site, to ensure that conditions will remain protective. DNR staff will conduct periodic, pre-arranged inspections to ensure that the conditions included in this letter and the attached maintenance plan are met. If these requirements are not followed, the DNR may take enforcement action under Wis. Stat. ch. 292 to ensure compliance with the specified requirements, limitations or other conditions related to the property.

Documents submitted to the DNR to request the Wis. Admin. Code § NR 718.12 exemption meet the requirements of Wis. Admin. Code § NR 718.12 (2) (e) and are available in Portable Document Format (PDF) on the DNR's Bureau for Remediation and Redevelopment Tracking on the Web (BOTW) and RR Sites Map (RRSM), to provide public notice of remaining contamination and continuing obligations. Both BOTW and RRSM are available at [dnr.wi.gov](http://dnr.wi.gov) and search "WRRD".

More information on responsibilities related to continuing obligations can be found in the DNR publication "Continuing Obligations for Environmental Protection" (RR-819), which can be found at [dnr.wi.gov](http://dnr.wi.gov), search "RR-819".

Please send written notifications and inspection reports in accordance with the following requirements to:

Wisconsin Department of Natural Resources  
Remediation and Redevelopment Program  
Attn: Carrie Stoltz-Project Manager  
107 Sutliff Avenue  
Rhineland, WI 54501

### Maintenance of a Cover

An asphalt parking lot was installed and maintained over residual contaminated soils as part of the continuing obligations imposed on the Speedway site when it was closed on August 10, 2005. A deed affidavit containing a cap maintenance plan which describes the inspection and maintenance activities that apply to the cover is attached. If any changes are made to the current impervious cover, an updated maintenance plan must be provided to the DNR and must address actual site conditions (Wis. Admin. Code § NR 724.15 (3) (h)). The attached deed affidavit (recorded on December 6, 2004) and Exhibit A, Site Feature Map, dated January 21, 2004, prepared by Sigma shows where contaminated material is proposed to be managed and the extent of the cover.

The Maintenance Plan prohibits certain activities in areas where maintenance of a cover or barrier is intended to prevent contact with any remaining contamination. The following activities are prohibited on any portion of the property where the impervious cap is required, unless prior written approval has been obtained from the DNR:

- removal of the existing barrier or cover;
- replacement with another barrier or cover;
- excavating or grading of the land surface;
- filling on covered or paved areas;
- plowing for agricultural cultivation;
- construction or placement of a building or other structure;
- changing the use or occupancy of the property to a residential exposure setting, which may include certain uses, such as single or multiple family residences, a school, day care, senior center, hospital, or similar residential exposure settings.

### Future Solid Waste Management

If solid waste that was managed as proposed in the Exemption Request Document is excavated in the future, the property owner at the time of excavation will have the following responsibilities per Wis. Admin. Code § NR 727.05 (1) (d):

- determine if contamination is present;
- determine whether the material is considered solid or hazardous waste; and
- ensure that any storage, treatment or disposal is in compliance with applicable statutes and rules.

Solid waste may be managed in accordance with Wis. Admin. Code § NR 718, with DNR pre-approval obtained. In addition, all current and future property owners and occupants of the property and right-of-way holders need to be aware that excavation of the solid waste may pose a hazard, and special precautions may be necessary to prevent a health threat to humans. If material that will be managed under this exemption includes solid waste other than soil, a historic fill exemption may be required to be obtained from the DNR prior to excavating the waste or constructing any structure over the materials per Wis. Admin. Code § NR 506.085.

The location(s) where contaminated soil is proposed to be managed in the right-of-way next to the Speedway site is depicted on Figure 2, Site Layout and Boring Locations Map, prepared by Sand Creek Consultants and dated January 2019.

### **Other Information**

- 1) Any hazardous substance discharge discovered during material management activities must be reported to the DNR following the requirements of Wis. Admin. Code ch. NR 706.
- 2) Material management activities exempted by this letter are scheduled to be completed within 2 years from the date of this letter. Notify the DNR if this schedule will change.
- 3) Unless otherwise directed by the DNR, documentation of material management activities shall be provided within 60 days of the completion of this project. The documentation must describe how the activities complied with the approved management plan and must also comply with the requirements of Wis. Admin. Code § NR 724.15 (3).

Documentation must include:

- a. A cover letter that contains the information required by Wis. Admin. Code § NR 724.05 (2) (e) 1.
- b. Owner contact and property location information for the Speedway Site.
- c. Maps, drawings, and cross sections that depict how contaminated material was managed.
- d. A synopsis of the work conducted and an explanation as to how it complied with the material management plan and the conditions in this exemption approval.
- e. A description of any changes made to the planned management activity and an explanation as to why they were necessary for the project.
- f. Any field observations or results of monitoring conducted during the management activity.
- g. A description of how new site conditions are protective of human health, safety, welfare and the environment at the Speedway site.
- h. A revised cover maintenance plan, if needed.

The DNR will request that incomplete documentation be amended as allowed by Wis. Admin. Code § NR 724.07 (2).

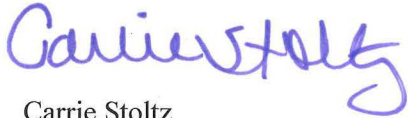
- 4) This exemption is granted under Wis. Admin. Code § NR 718.12 and applies only to the specific activities described within the submitted Exemption Request Document. Any contaminated material that is excavated or otherwise disturbed at the Speedway site, not covered under this or another exemption, must be managed in compliance with the requirements of Wis. Admin. Code chs. NR 500 through NR 538. The management of contaminated material on a property that does not comply with these rules may be considered a hazardous substance discharge or environmental pollution and would be required to be addressed by the process outlined in Wis. Admin. Code chs. NR 700 to NR 750.
- 5) The City of Rhinelander is responsible for obtaining any local, federal, or other applicable state permits to carry out the project.

All remediation sites are included in DNR's Bureau of Remediation and Redevelopment Tracking System (BRRTS) database. All documents and project milestones related to the cleanup of each of the involved sites are listed in the database entry identified by BRRTS activity #(s) 03-44-

001220. Actions relating only to the management of contaminated material are tracked in the BRRS system under activity # 03-44-001220.

We appreciate your efforts to protect the environment at this site. If you have any questions regarding this approval decision, please contact me by calling (715) 365-8942 or by email at [Carrie.Stoltz@Wisconsin.gov](mailto:Carrie.Stoltz@Wisconsin.gov)

Sincerely,



Carrie Stoltz  
Hydrogeologist  
Remediation & Redevelopment Program

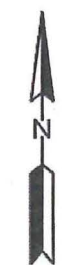
Attachments:

- Figure 2, Site Layout and Boring Locations Map, Sand Creek Consultants, January 2019
- Deed affidavit and Exhibit A, Sigma, January 21, 2004

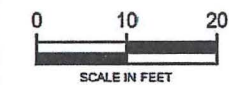
cc: Hollie DePuydt-Sand Creek Consultants, Inc. (via email)  
Paul Grittner-Central Office Contaminated Materials Management Specialist (via email)  
Euro-American Realty, 911 East Touhy Avenue, Des Plaines, IL 60018



Environmental and Geological  
Scientists and Engineers



### SITE LAYOUT AND BORING LOCATION MAP



825 N. STEVENS ST.  
RHINELANDER, WI

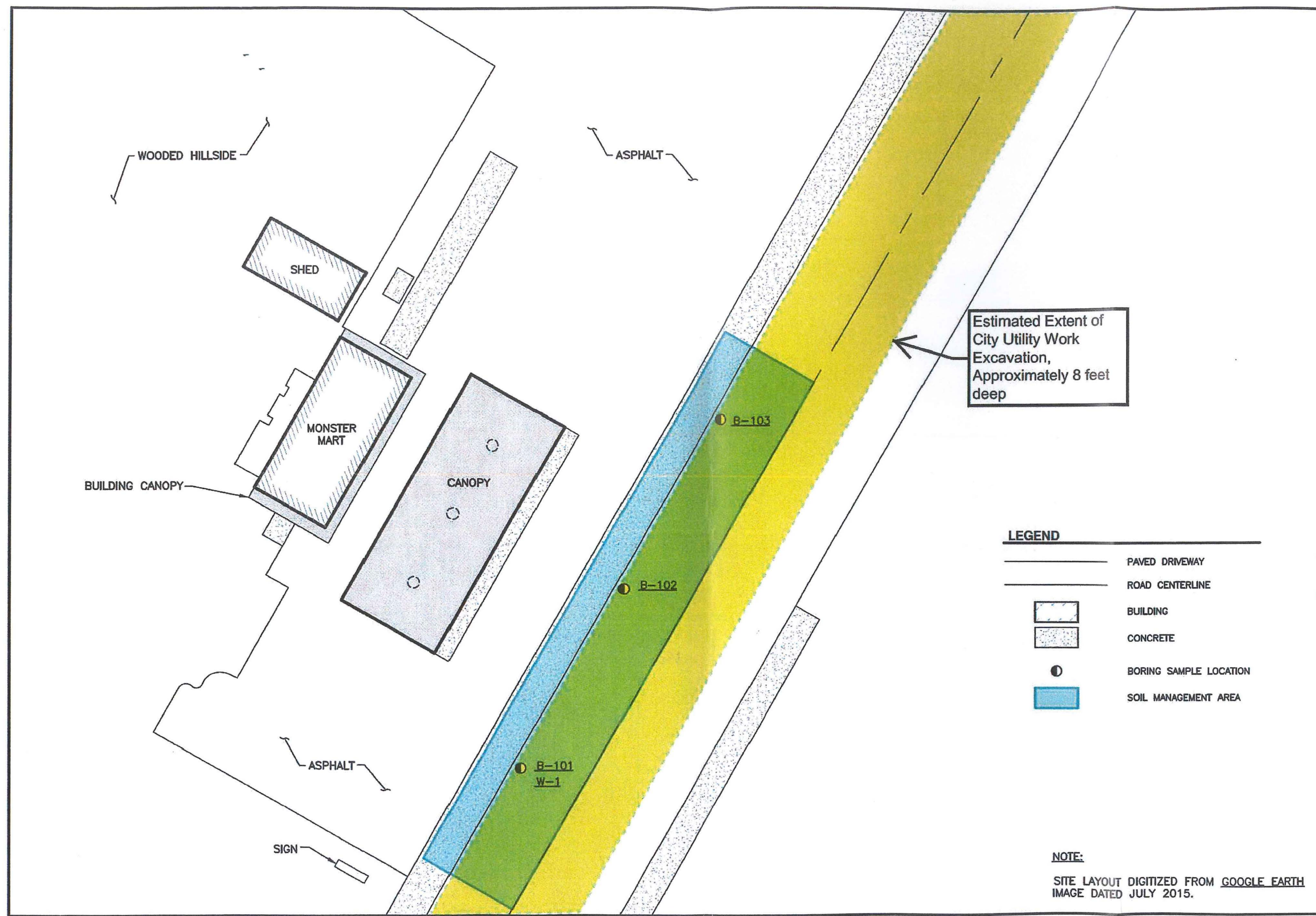
DATE: JANUARY 2019

SCALE: 1"=20'

DRAWN BY: KAP

APPROVED: HD

FIGURE 2



Estimated Extent of  
City Utility Work  
Excavation,  
Approximately 8 feet  
deep

#### LEGEND

- PAVED DRIVEWAY
- ROAD CENTERLINE
- BUILDING
- CONCRETE
- BORING SAMPLE LOCATION
- SOIL MANAGEMENT AREA

#### NOTE:

SITE LAYOUT DIGITIZED FROM GOOGLE EARTH  
IMAGE DATED JULY 2015.

Document Number

### NOTICE OF CONTAMINATION TO PROPERTY

DOC# 608766  
Recorded  
DEC. 06, 2004 AT 03:29PM

*Thomas H. Leighton*

THOMAS H LEIGHTON  
RECEIVED  
ONEIDA COUNTY, WI  
Fee Amount: \$15.00



**Recording Area**

Name and Return Address <sup>STATE</sup>  
*David Schwab* <sup>TITLE</sup>  
*Richard's Ralph & Schwab CH*  
*175 E. Hawthorn Plung Suite 34*  
*Vernon Hills, IL 60061*

**RH-0783**

Parcel Identification Number (PIN)

STATE OF WISCONSIN )  
                                  ) SS  
COUNTY OF ONEIDA )

Section 1. Euro-American Realty Investors, Inc. is the owner of the above-described property.

Section 2. One or more petroleum discharges have occurred at this property. Petroleum contaminated soil with concentrations that exceed NR 720 residual contaminant levels (RCLs) of the Wisconsin Administrative Code exists on the property. File references: Commerce # 54501-2756-25, WDNR BRRTS # 03-44-001220, last consultant of record: Sigma Environmental Services, Inc.

Section 3. It is the desire and intention of the property owner to impose limitations and/or restrictions on the property that will make it unnecessary to conduct additional soil remediation activities on the property at the present time. The restrictions are 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. 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 limitations and/or restrictions:

Petroleum contaminated soil remains on this property in the area shown on the attached map. Natural attenuation is the approved remedial alternative for this site. An impermeable cap or cover is the selected remedial action to address residual soil contamination on the property. Therefore, an impermeable cap or (i.e., concrete, asphalt) shall be maintained over the area delineated on the attached map until: 1) the soil is actively remediated or removed or, 2) it can be demonstrated that the contamination in soil has naturally degraded to levels that are protective of the environment and human health. If this contaminated soil is encountered in the future, it may be considered a solid waste and will need to be managed in accordance with all applicable laws.

It is understood that monitoring well MW-4 could not be located following repaving activities on the subject property and it has not been located during subsequent searches. Also, there is no record of proper abandonment of this monitoring well. If monitoring well MW-4 (location shown on attached map) is encountered in the future, it must be properly abandoned per NR 141 Wis. Admin. Code requirements.

Any person who is or becomes owner of the property described above may request that the Wisconsin Department of Commerce, or its successor, issue a determination that the contamination has been remediated and a notice of contamination is no longer required. That property owner shall provide any and all necessary information to the Department in order for the Department to be able to make a determination. Upon receipt of such a request, the Department shall determine whether or not the notice of contamination is required. If the Department determines that the notice of contamination is no longer required, an affidavit, with a copy of the Department's written determination, may be recorded to give notice that this notice of contamination is no longer required. This notice of contamination may not be removed from the property without approval of the Department

IN WITNESS WHEREOF, the owner of the property has executed this document, this 23<sup>rd</sup> day of November, 2004.

By signing this document, [he/she] acknowledges that [he/she] is duly authorized to sign this document on behalf of

Euro-American Realty Investors, Inc.

Signature: Mohammad A. Habib

Printed Name: MOHAMMAD A. HABIB

Title: President

Subscribed and sworn to before me this 23<sup>rd</sup> day of November, 2004.

James L. Oke  
Notary Public, State of Wisconsin

My commission expires permanent



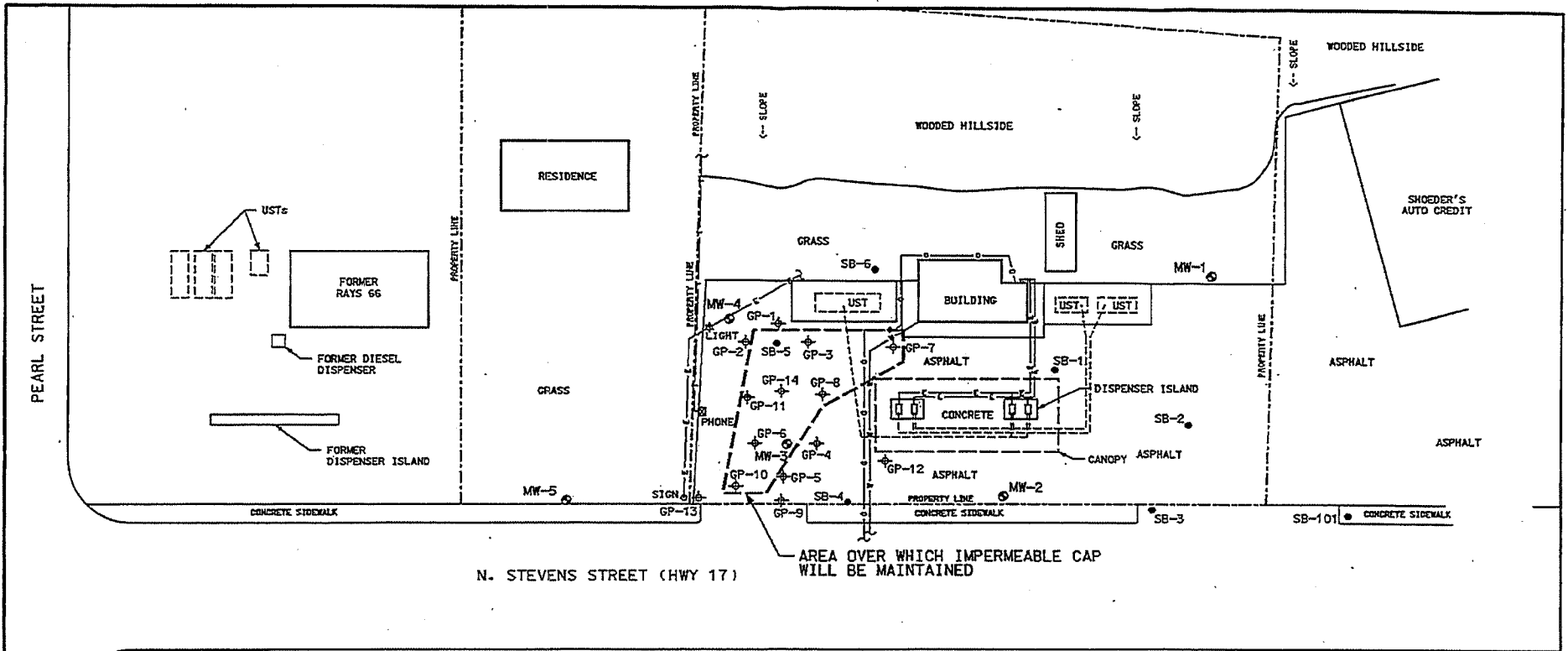
608766

16.

Lots 4, 5 and 6, Block 7 of S.H. Alban's Second Addition to Rhinelander, according to the recorded Plat thereof. The Southeasterly  $\frac{1}{2}$  of vacated Bryant Street lying between Lot 6, Block 7 and Lot 15, Block 8 of S.H. Alban's Second Addition to Rhinelander, according to the recorded Plat thereof. Pursuant to Order of Vacation by the Common Council of the City of Rhinelander, recorded July 16, 1948 in Vol. 168 Misc., 638.

Being in Oneida County, Wisconsin.

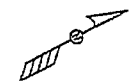
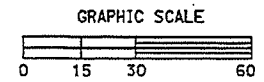
MW873029\_1.DOC (Rhinelander)



NOTES:  
 1. MAP BASED ON A SURVEY PERFORMED BY NICOLET SURVEYING ON 11-27-00.  
 2. GEOPROBE BORINGS AND UTILITIES BASED FROM FIELD MEASUREMENTS AND OBSERVATIONS.

**LEGEND**

- MW ⊙ = MONITORING WELL LOCATION
- GP ⊕ = GEOPROBE BORING LOCATION
- SB ● = SOIL BORING LOCATION
- ⎓ = UST AND PIPING
- ⎓ = PROPERTY LINE
- |— = UNDERGROUND WATER LINE
- |— = UNDERGROUND GAS LINE
- |— = UNDERGROUND ELECTRIC LINE
- |— = UNDERGROUND TELEPHONE LINE



SPEEDWAY SUPERAMERICA #2033 825 N. STEVENS ST., RHINELANDER, WI			
DATE: 1-21-04	DR. BY: BEB	DR.# 5708-009	
SITE FEATURES MAP			EXHIBIT A