



April 10, 2023

MR JAMES NARDO
CCF INC
3972 CORDGRASS WAY
NAPLES FL 34112

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

SUBJECT: **NOTICE OF NONCOMPLIANCE**
Continuing Obligations Audit - Clear Lake Circle C Site
426 USH 63, Clear Lake, Wisconsin
DNR BRRTS #03-49-274529
Polk County Parcel #113-00230-000

Dear Mr. Nardo:

This letter is to notify you that the Clear Lake Circle C site at the address listed above appears to be out of compliance with Wisconsin Statutes (Wis. Stat.) chapter 292 and Wisconsin Administrative (Wis. Admin.) Code chapters NR 700 through NR 754. On July 5, 2001, the Wisconsin Department of Natural Resources (DNR) notified you of your responsibilities to investigate the degree and extent of contamination and clean up the above-referenced site. Actions completed are detailed below.

BACKGROUND

Site investigation activities were performed in 2001. The site investigation found soil and groundwater contaminated by petroleum volatile organic compounds. The case was closed by the former Wisconsin Department of Commerce on July 30, 2009, with several conditions, including a deed restriction (Polk County document number 636592), due to the soil and groundwater contamination remaining on the property. The case closure letter and deed restriction are attached for your reference. Contaminated soil was left in place beneath the area of the petroleum dispensers and surrounding concrete at the time of closure, which helped prevent potential direct contact with the contaminated soil. The deed restriction requires maintenance of an impermeable cap or cover across the property and contacting the DNR prior to well construction. A request for approval of a Post Closure Modification of continuing obligations was submitted on your behalf by SEH on December 3, 2018, proposing to remove the deed restriction conditions. The DNR requested additional information on January 16, 2019. However, because the requested additional information was not received, the DNR issued a Post Closure Modification Request Not Approved letter on January 26, 2022.

CURRENT CONDITIONS

On July 25, 2022, DNR Project Manager Phil Richard conducted an audit at the site to determine if the continuing obligations required under the 2009 case closure are still functioning as intended, and to evaluate compliance. During the audit, the DNR documented the barrier cover has not been maintained; the concrete/asphalt cover has been broken up, and not replaced. On July 28, 2022, the DNR sent a letter requesting that you provide a response on actions that would be taken to return the site to compliance. The DNR also corresponded with your attorney several times since the July 2022 letter. The most recent correspondence from your attorney on February 22,

2023, stated that you are not able to make progress on replacement of the cap due to other issues. As of the date of this letter the DNR has not received any further correspondence in response to our requests.

NOTICE OF NONCOMPLIANCE

Closure of the site was granted in July 2009 by meeting the requirements of Wis. Admin. Code ch. NR 726. The residual contaminated soil used a soil performance standard (barrier cover), as established by Wis. Admin. Code § NR 720.08(3), as a mechanism for closure. The authority to set site-specific continuing obligations for closure associated with the barrier cover for prevention of direct contact with contaminated soils are defined in Wis. Admin. Code § NR 726.15(2)(e). The authority to prohibit certain activities at the site are derived from Wis. Admin. Code § NR 726.13(1)(c). Notifying DNR of removal of a cover/barrier is required under Wis. Admin. Code § NR 727.07(1).

The concrete/asphalt cover has been broken up and not replaced. As described above, these site activities were prohibited without notification and approval from the DNR. Therefore, it appears that the site is not in compliance with Wis. Admin. Code §§ NR 726.13(1)(c) and 727.07(1).

ACTIONS NEEDED

To achieve compliance with Wis. Admin. Code chs. NR 700 through NR 754, the following must be addressed. Per the attached deed notice, an impermeable cap or cover shall be maintained across the property until:

1. The soil is actively remediated or removed, or,
2. It can be shown that the soil has naturally degraded to levels shown to be protective of the environment and human health.

Within the next 60 days, **by June 9, 2023**, please provide a response on actions that will be taken to return the site to compliance with legal requirements.

The DNR looks forward to working with you to correct these issues. If you have any questions, please feel free contact Project Manager Phil Richard at (715) 661-0125, or by email at philip.richard@wisconsin.gov. You can also call me at (715) 208-4004, or by email at christopher.saari@wisconsin.gov.

Sincerely,



Christopher A. Saari
Northern Region Team Supervisor
Remediation and Redevelopment Program

Attachments: Final Case Closure Letter, Wisconsin Department of Commerce, July 30, 2009
Deed Notice, Document # 636592

cc: Bruce Olson – SEH (via email)
Bruce Boeder – Boeder Law (via email)
Phil Richard – DNR Park Falls (via email)

**Modification actions taken after
continuing obligations were applied.
Refer to BOTW for further information.**

ENVIRONMENTAL & REGULATORY SERVICES DIVISION
BUREAU OF PECFA
2715 Post Road
Stevens Point, Wisconsin 54481
TTY: Contact Through Relay
Fax: (715) 345-5269
Jim Doyle, Governor
Richard J. Leinenkugel, Secretary



July 30, 2009

Jim L Nardo
CCF Inc-Central Nardo Circle
PO Box 104
Chaska, MN 55318-0104

RE: Final Closure

Commerce # 54005-3445-26-A DNR BRRTS # 03-49-274529
Clear Lake Circle C, 426 US Hwy 63, Clear Lake

Dear Mr. Nardo:

The Wisconsin Department of Commerce (Commerce) has received all items required as conditions for closure of the site referenced above. This site is now listed as "closed" on the Commerce database.

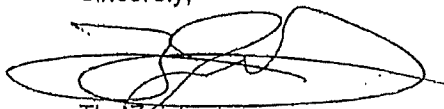
All current and future owners and occupants of the property need to be aware that excavation of contaminated soil may pose a hazard. Special precautions may be needed to prevent inhalation, ingestion or dermal contact with the residual contamination when it is removed. If soil is excavated, the property owner at the time of excavation must have the soil sampled and analyzed to determine if residual contamination remains. If sampling confirms that contamination is present, the property owner at the time of excavation must determine whether the material would be considered solid or hazardous waste and ensure that any storage, treatment or disposal is in compliance with applicable State regulations and standards.

Depending on site-specific conditions, construction over contaminated materials may result in vapor migration into enclosed structures or along newly placed underground utility lines. The potential for vapor inhalation and mitigation should be evaluated when planning any future redevelopment, and measures should be taken to ensure the continued protection of public health, safety, welfare and the environment at the site.

Costs for sampling and excavation activities conducted after case closure are not eligible for PECFA reimbursement. However, if it is determined that any undisturbed remaining petroleum contamination poses a threat, the case may be reopened and further investigation or remediation may be required. If this case is reopened, any original claim under the PECFA fund would also reopen and you may apply for assistance to the extent of remaining eligibility. It is in your best interest to keep all documentation related to environmental activities at your site.

Thank you for your efforts to bring this case to closure. If you have any questions, please contact me in writing at the letterhead address or by telephone at (715) 345-5307.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Zeichert', enclosed within a large, irregular oval scribble.

Tim Zeichert
Senior Hydrogeologist
Site Review Section

cc: Allan Wolfe, Shaw Environmental

RECEIVED

JUL 23 2009

636592

Document Number

ERS DIVISION
STEVENS POINT

NOTICE OF CONTAMINATION TO
PROPERTY

POLK COUNTY, WISCONSIN
Received for record this
12th day of July
AD 2002 at 08:30AM
and recorded in Volume 910
of records Page 607
Document Number: 636592

Tomie Hallberg
Register of Deeds

Legal Description of the Property: In re:

(as it appears on the most recent deed)

Parcel A of Certified Survey Map in Volume 1,
page 69, document No. 311450, being lot 23 of
the Assessor's plat to the Village of Clear
Lake, except the East 150.0 feet thereof
situated in the Southwest Quarter (SW 1/4) of
the Southeast Quarter (SE 1/4), Section 18,
Township 32 North, Range 15 West, Polk County
Wisconsin. (Hereinafter "Property")

Recording Area

Name and Return Address

CCF, Inc.
125 Columbia Ct. A-8
Chaska, MN 55318

STATE OF WISCONSIN)

COUNTY OF)

ss

Parcel Identification Number (PIN)

Section 1. J. L. Nardo is the owner of the above-described property.

Section 2. One or more petroleum discharges have occurred at this property. Petroleum contaminated groundwater above NR 140 enforcement standards and soils above NR 720 residual contaminant levels of the Wisconsin Administrative Code exist(s) on this property.

Section 3. It is the desire and intention of the property owner to impose restrictions on the property, which will make it unnecessary to conduct additional soil or groundwater remediation activities on the property at the present time. 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 site. According to information filed by Envirogen, Inc., dated September 27, 2001, the residual were identified on-site in soil samples collected during system upgrade activities (See the attached figure and table). An impermeable cap or cover is the selected remedial action to address residual soil contamination on the property. Therefore, an impermeable cap or cover (i.e. concrete, asphalt) shall be maintained across this property until: 1) The soil is actively remediated or removed or; 2) It can be shown that the soil has naturally degraded to levels shown to be protective of the environment and human health. If subsurface work is done in the contaminated areas, the contamination shall be properly treated or disposed of in accordance with applicable laws (File references: Commerce # 54005-3445-26 and WDNR BRRS # 03-49-274529).

Residual groundwater contamination is also present on-site as identified in the groundwater sample collected from geoprobe GP-2, collected on May 18, 2001. Natural attenuation is the approved

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remedial alternative for this site. Anyone who proposes to construct or reconstruct a well on this property is required to contact the Department of Natural Resources' Bureau of Drinking Water and Groundwater, or its successor agency, to determine what specific prohibitions or requirements are applicable, prior to constructing or reconstructing a well on this property. No well may be constructed or reconstructed on this property unless applicable requirements are met.

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 restrictions set forth in this covenant are 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 restrictions contained herein can be extinguished. Conditions under which a restriction may be extinguished will be determined in accordance with the site specific standards, rules and laws for this property. If the Department determines that the restrictions can be extinguished, an affidavit, with a copy of the Department's written determination, may be recorded to give notice that this restriction, or portions of this restriction are no longer binding. Any restriction placed upon this property shall not be extinguished without the Department's written determination.

IN WITNESS WHEREOF, the owner of the property has executed this document, this 9th day of July, 2002.

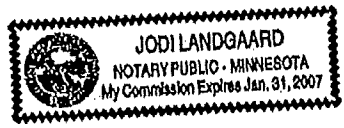
[When appropriate use the following clause]:

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

Signature: J. L. Nardo

Printed Name: J. L. Nardo

Title: Owner / President



Subscribed and sworn to before me
this 9th day of July, 2002.
Jodi Landgaard
Notary Public, State of Minnesota
My commission 10/107

This document was drafted by the Wisconsin Department of Commerce.