



320 EAST BUFFALO STREET, SUITE 700 • MILWAUKEE, WI 53202

September 18, 2023

VIA EMAIL (josie.schultz@wisconsin.gov)

Ms. Josie Schultz
Wisconsin Department of Natural Resources
2984 Shawano Avenue
Green Bay, WI 54313-672

**RE: Request for Variance From Consultant Bidding Process
Former Barb & Ron's Cleaners
1700 South Lawe Street
Appleton, Wisconsin 54915
WDNR BRRTS#: 02-45-297744**

Dear Ms. Schultz:

Our firm represents Glass Vault, LLC, which is the current owner of the above site, and Martino's Management LLC, which is the agent for the former operator, Ron Van Asten. We are writing to request a variance to the NR 169.11(1)(c)10 bid requirements, as allowed by NR 169.29, to allow EnviroForensics, LLC to perform further remedial activities at the site and preserve our client's right to seek reimbursement for these costs under DERF. We hope that you will be convinced that EnviroForensics' lengthy history at the site and unique knowledge of subsurface conditions puts it in the best position to complete the remedial activities needed to move the site to case closure.

Historical Site Investigations and Funding Sources

DNR received report of a release to the environment of chlorinated volatile organic compounds (CVOCs) from historical dry cleaner operations in 2002. The dry cleaner operated from 1968-2001. Between 2002 and 2010, property owner Ron Van Asten worked with environmental consultants to investigate the release and perform numerous phases of remedial action until alternative funding needed to be pursued. In the interim, air (vapor) samples were collected at adjacent residences by DNR and the Department of Health Services (DHS) or the City of Appleton Health Department (AHD) in 2010 and 2011 and DNR inspected and sampled the groundwater monitoring well network in 2012.

Mr. Van Asten later retained EnviroForensics as the consultant of record and began to pursue an insurance claim. After interim agreements were reached with the carrier to fund the next steps of

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the investigation, the insurance claim was resolved in November 2017, with the proceeds subsequently transferred to Martino's Management LLC, to be used for further site costs.

In February 2018, the Property was transferred to Glass Vault, LLC. Later that year, the building slab was removed, the source area beneath the building was excavated and an impermeable clay cap installed. A Site Investigation Update Report was submitted to DNR on August 16, 2021, with a request for technical assistance. By letter dated October 15, 2021, DNR provided comments, requesting additional activities needed to obtain site closure.

Since EnviroForensics was retained, the response actions have been funded by insurance proceeds, rather than DERF. However, the proceeds are unlikely to be sufficient to complete all the activities needed to obtain closure. As such, we are seeking this variance to allow EnviroForensics to remain the approved consultant to complete the necessary work and maintain eligibility for potential future DERF reimbursement.

Variance From Consultant Bidding Process

Given the length of time EnviroForensics has been working at the site, the remediation that has been performed to date, as well as the uncertain nature of DERF funding, a variance to the NR 169.11(1)(c)10 bid requirements is allowed by NR 169.29 for the future response activities. Since taking over in 2016, EnviroForensics has performed the vast majority of the investigative work and implemented remedial actions at the site and is most familiar with the requirements necessary to obtain closure. Thus, it would be a substantial inefficiency to have to ask another consultant to review the entire history of the site to get up to speed to both bid for and perform the work. And with the uncertainty over DERF funding, it is unlikely that other consultants would even be willing to take the time to bid. EnviroForensics' knowledge of Site conditions and remedial actions taken puts it in a position to provide the most complete and cost-effective proposal, and to proceed to closure in the most expeditious manner.

We appreciate the continued opportunity to work with the WDNR to remediate contaminated properties throughout Wisconsin. If you have any questions or require additional information, please do not hesitate to contact me by email or by phone.

Very truly yours,

HALLING & CAYO, S.C.



Andy Skwierawski

mas@hallingcayo.com

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MAS/msb

cc: Glass Vault, LLC c/o Nancy Shields (via email - nshields@pscindy.com)
Martino's Management, LLC c/o Collin Martin (via email - cmartin@ashunion.com)
Wayne Fassbender, EnviroForensics (via email- wfassbender@enviroforensics.com)
Nicholas Hill, EnviroForensics - (via email - nhill@enviroforensics.com)