



## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Matthew J. Frank, Secretary  
Gloria L. McCutcheon, Regional Director

Southeast Region Headquarters  
2300 N. Dr. Martin Luther King, Jr. Drive  
Milwaukee, Wisconsin 53212-0436  
Telephone 414-263-8500  
FAX 414-263-8716  
TTY 414-263-8713

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED - USPS #7007 3020 0000 6917 7528**

October 8, 2009

Mr. Juan C. Viruet  
7209 W. Center Street  
Wauwatosa, WI 53210

File Ref: FID# 241083150  
BRRTs# 02-41-307576

Subject: Property Access for Investigating Contamination at  
Former Hoffman's Valet Cleaners, 7215 W. Center Street, Wauwatosa, WI

Dear Mr. Viruet:

The purpose of this letter is to explain the current status of the environmental contamination investigation, taking place at the former Hoffman's Valet Cleaners property located at 7215 W. Center Street, Wauwatosa, Wisconsin, and to explain your rights and responsibilities as a property owner whose property may have been impacted by an offsite source located at the former Hoffman's Valet Cleaners. Please read this letter carefully, in its entirety.

### **Investigation at Hoffman's Valet Cleaners**

The former property owner is investigating contamination of the ground in the vicinity of 7215 W. Center Street. The contamination is from historic drycleaner solvent releases from the drycleaner located next door to your property. Mr. Ralph Hoffman has hired the environmental consulting firm, Arcadis, to carry out the investigation. The investigation and possible future cleanup actions are being carried out in response to requirements of Wisconsin State Statute Sections 292.11, which requires that a person who causes, or possesses or controls the discharge of a hazardous substance take actions to stop the discharge and restore the environment.

The purpose for requiring these actions is to prevent harm and reduce the risk to human health and the environment from the chemicals that have been released to the environment. One way that drycleaner solvent in the ground may affect human health is by moving in a vapor or gaseous phase through soil and into buildings, where humans can be directly exposed by breathing the gas which becomes mixed in the air of buildings where they live or work. The specific chemical of concern is called Tetrachloroethylene, which may cause health effects if breathed over a long period of time at even very low concentrations. At the concentrations of long-term exposure concern, people cannot smell this chemical and may not have any adverse symptoms in the short term.

During the investigation to define the degree and extent of contamination, Arcadis sent you a request to access your property for the purpose of installing soil borings on your property and one soil vapor sampling probe in your basement to collect soil and soil vapor samples. The Department understands from Arcadis that you have not responded to these requests.

### **Explanation of Relevant Court Decision and Statutes:**

Section 292.11(3), Wis. Stats., imposes liability on persons who cause a discharge of a hazardous substance and persons who are in possession or control of a hazardous substance that is discharged. The Wisconsin Supreme Court held, in State v. Mauthe, 123 Wis.2d 288 (1985), that the owner of property with contamination that is continuing to discharge to the environment is “in possession or control” of those contaminants even if the property owner did not cause the contamination.

However, after the Mauthe decision was handed down, the State Legislature enacted the off-site liability exemption statute, s. 292.13, Wis. Stats. This statute generally provides that a person is exempt from liability under s. 292.11(3), (4) and (7)(b) and (c) (certain provisions of the Hazardous Substance Discharge statute) with respect to hazardous substances on property possessed or controlled by the person if the discharge of the hazardous substance originated from a source on property that is not possessed or controlled by the person and if certain other conditions are met.

Specifically, s. 292.13(1), Wisconsin State Stats., (property affected by off-site discharges), states:

*A person, other than a state agency, is exempt from s. 292.11(3), (4) and (7)(b) and (c) with respect to the existence of a hazardous substance in the groundwater on property possessed or controlled by that person if...(d) The person agrees to allow the Department, any authorized representatives of the Department, any party that possessed or controlled the hazardous substance or caused the discharge of the hazardous substance and any consultant or contractor of such a party to enter the property to take action to respond to the discharge.*  
*and*

*(f) The person agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge.*

Section 292.13(1m), Stats. provides a similar conditional exemption from Spill Law liability for hazardous substances in soils, including sediments.

Refusal of reasonable access to the responsible party, or their representative, to enter an impacted property to address the contamination is viewed by the Department as taking “possession and control” of the discharge. S. 292.11(3), Wisconsin State Stats., 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 this state.*

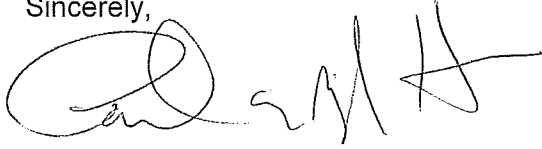
### **Summary:**

In summary, Wisconsin law provides that further delay or denial by you of Arcadis’ request to install soil borings or vapor sampling probes on your property, for the purpose of investigating and remediating the contamination in soil and soil vapor at the former Hoffman’s Valet Cleaner site, will result in the Department naming you as a responsible party for this contamination under s. 292.11, Wisconsin State Stats. This would make you liable for the contamination that may have migrated onto your property. Therefore, it is in your best interest to address this issue immediately. I hope that you contact Mr. Brian Maillet of Arcadis at (414) 276-7742 and grant permission for the investigation to begin on your property as directed by the Department.

For the purpose of continuing the investigation at former Hoffman's Valet Cleaners in a timely manner, please respond to the Department in writing with your decision within 14 days from the date you receive this letter. Failure to provide an adequate response within this time frame will result in a recommendation for the transfer of responsibility to you for potentially migrated contamination.

If you have any questions regarding the content of this letter, please contact me at (414) 263-8758.

Sincerely,

A handwritten signature in black ink, appearing to read 'Pamela A. Mylotta', written in a cursive style.

Pamela A. Mylotta, Hydrogeologist  
Remediation & Redevelopment Program  
Southeast Region, Milwaukee Service Center

cc: Brian Maillet – Arcadis  
Ralph Hoffman