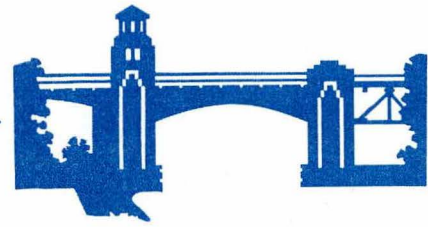


Received 5/24/11

CITY OF DE PERE

335 South Broadway
De Pere, WI 54115
Fax No.: 920/339-4049
Web: <http://www.de-pere.org>



May 6, 2011

City Attorney's Office
(920) 339-4042

Mr. Richard Boice
Remedial Project Manager
US EPA Region 5
77 West Jackson Blvd.
Chicago, IL 60604-3590

Mr. Keld Lauridsen
Hydrogeologist
WDNR-Northeast Region
2984 Shawano Ave. PO Box 10448
Green Bay, WI 54703-0448

Re: Follow-up on Better Brite Superfund Sites; Institutional Controls

Dear Richard and Keld:

This letter is a follow-up to my March 21, 2011 letter and Keld's April 1, 2011 phone call regarding the above matters. In our phone conversation of April 1, Keld asked for clarification of two points in the March 21st correspondence. Both are addressed below.

First, the lot depth description for the notification area adjacent to the 519 Lande Street property in the March 21st letter is indeed incorrect. The lots in question (WD-148-2, WD-148-3, WD-148 and WD-185-1) have depths that range from approximately 225' to 375'.

Second, Keld also asked the City to soften its description of the notification area for the 519 Lande site so that the notification obligation encompasses 'extensive' or other intrusive work taking place on the easterly 1/2 of the subject properties in addition to building permit requests for the westerly portion. While I cannot obligate city staff to notify about things that would not necessarily come to the attention of the building inspection department (gardens, landscaping including ponds, etc.), I can state that city staff will attempt to provide notification in circumstances where construction is taking place on the easterly portion of a parcel, for extensive projects such as garage construction or in-ground pool installation or the like occurring.

I hope this information is sufficient for your purposes. If you have any questions or concerns, please feel free to call me at the above number.

Very truly yours,

Judith Schmidt-Lehman
City Attorney

JSL:jlb

cc: David Hongisto, Building Inspector
Marty Kosobucki, Parks, Recreation & Forestry Director

Received 4/5/11

CITY OF DE PERE

335 South Broadway
De Pere, WI 54115
Fax No.: 920/339-4049
Web: <http://www.de-pere.org>

March 21, 2011



City Attorney's Office
(920) 339-4042

Mr. Richard Boice
Remedial Project Manager
US EPA Region 5
77 West Jackson Blvd.
Chicago, IL 60604-3590

Mr. Keld Lauridsen
Hydrogeologist
WDNR-Northeast Region
2984 Shawano Ave. PO Box 10448
Green Bay, WI 54703-0448

Re: Better Brite Superfund Sites; Institutional Controls

Gentlemen:

This letter is a follow-up to our March 1, 2011 discussion regarding the above.

As we discussed, the city and its staff have agreed to assist the EPA and WDNR in identifying circumstances where property owners in defined notification areas should be provided information regarding the Better Brite Superfund Sites. As also discussed, this assistance from city staff is not intended to provide the level of risk management to EPA/DNR for these sites as the EPA/DNR could achieve through the process of placing restrictive covenants upon the property within the notification areas. If the EPA/DNR is looking for a level of assurance akin to a restricted covenant on properties within the identified areas, the agencies are advised that the city cannot and will not provide that assurance.

To recap, city staff has agreed to assist the EPA/DNR with providing a modicum of support (further described below) to properties within the notification areas identified in Richard Boice's letter of November 17, 2010 (attached as Addendum 1) as modified during our March 1 discussion. In particular, the notification area for the 519 Lande Street (former chrome site) has been clarified only to include construction permits pertaining to the westerly half of the property containing residential structures given the depth (160' +/-) of these lots for parcels (WD-148-2, WD-148-3, WD-148 and WD-185-1).

As indicated in earlier correspondence, the city will provide to persons requesting a construction and/or excavation permit a copy of information (attached as Addendum 2) the EPA provided. Please note however that this "Notice to Applicants" document has been modified to remove the City of De Pere as an issuing agency and to omit the reference to a two or three week delay in processing the building permit. While the city may advise the applicant that there may be a slight delay in processing the permit for EPA/WDNR review, we cannot agree to hold up the issuance for more than a reasonably short (1 or 2 day) period of time.

As also agreed, upon providing the notification information to permit applicants, the building inspection department will electronically notify EPA and DNR of that fact, along with parcel number and property owner information, to the following persons at the following email addresses:

Richard Boice: Boice.Richard@epamail.epa.gov

Keld Lauridsen: Keld.Lauridsen@wisconsin.gov

It is the responsibility of both the EPA and DNR to provide the De Pere Building Inspector with updated email account information, both for person updates and address updates.

Additionally, city staff will be visually observing both city owned Better Brite Sites and informing the EPA/DNR using the above listed email addresses to notify of any modified conditions notices on those and adjacent properties.

I believe the above covers what was discussed on March 1, 2011.

As expressed earlier, the City of De Pere and its staff are pleased to assist EPA and DNR in providing property owners looking for construction permits within the notification areas of the two Better Bite Sites with EPA/DNR information. However, as noted above, this is not intended to be a substitute for formal institutional controls either agency may legally place upon those properties.

We look forward to working with you on this project.

Very truly yours,



Judith Schmidt-Lehman

City Attorney

JSL:jlb

cc: Michael J. Walsh, Mayor
Lawrence Delo, City Administrator
David Hongisto, Building Inspector
Scott Thoresen, Public Works Director
Marty Kosobucki, Parks, Recreation and Forestry Director

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Mr. Richard Boice &
Mr. Keld Lauridsen
March 21, 2011
Page 2



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590



November 17, 2010

Judith Schmidt-Lehman
De Pere City Attorney
335 S. Broadway St.
De Pere, WI 54115

SR-6J
REPLY TO THE ATTENTION OF:

Keld B. Lauridsen, Hydrogeologist
Wisconsin Department of Natural Resources
2984 Shawano Avenue
Green Bay, WI 54313

Re: Better Brite Superfund Site, institutional controls

The November 4, 2010 letter from Ms. Schmidt-Lehman requests further clarification of the areas where notification and subsequent WDNR/EPA permit reviews are needed (see EPA's October 1, 2010 letter). The November 4 letter also includes maps that make it much easier to describe these areas. Based on review of these maps, it appears that the properties that warrant notifications and subsequent WDNR/EPA permit review should include all or portions of:

- Chrome Shop (the term "parts" is used as in the map provided with the November 4 letter): Lot 167 – parts outside of the City owed part are clearly outside of the stabilization area and do not need a notice; Lot 169 - all parts are clearly outside the stabilization area and do not need a notice; Lots "169 & 170" – all parts need a notice; Lot 184 – only the northern most part (WD-185-1) needs a notice.
- Zinc Shop: The list of addresses / parcels in the November 4 letter where a notice is needed appears to be accurate (309, 320, 326, 401 and 403 South 6th Street; and 500, 506, 545, 551 and 602 Butler Street). This assumes that parcel 500 extends to the east of parcels 315 and 309 to parcel 601, although this is not clear from the map.

Future groundwater monitoring data could indicate that the notification area needs to be expanded or contracted. Please be reminded that usage of the City owned Better Brite parcels (cross hatched areas on the maps) must be restricted in accordance with the *Environmental Protection Easement and Declaration of Restrictive Covenant*, which was entered by the Brown County Recorder on April 14, 2010.

Addendum 1

I plan to attend a meeting near DePere on February 28, 2011, and can be available to meet with City and WDNR staff on March 1 (it is also possible that a meeting could be arranged on February 28 depending on the schedule for the other meeting). It may be helpful for us to visit the site and go over the maps together. We could also discuss other issues, such as those identified in the 2009 Five-Year Review Report. I will work on scheduling this meeting as the date approaches and will probably coordinate through Mr. Lauridsen. If you have any questions, feel free to contact me at (312) 886-4740.

Sincerely,

A handwritten signature in cursive script that reads "Richard E. Boice".

Richard Boice
Remedial Project Manager

**NOTICE TO APPLICANTS FOR PERMITS FOR ACTIVITIES NEAR THE FORMER
CHROME SHOP PORTION OF THE BETTER BRITE SUPERFUND SITE
(519 Lande Street)**

**From the United States Environmental Protection Agency (EPA) and
the Wisconsin Department of Natural Resources (WDNR)**

The EPA and WDNR believe that ground water below or near your property has been treated to immobilize chromium contamination from the former Better Brite Superfund site. These agencies and the City of De Pere want to make sure that the proposed construction will not disturb the groundwater treatment area or result in unsafe conditions. For that reason, your construction permit may be reviewed by staff from EPA and WDNR. It is possible that review of your permit may take an additional day or two because of that review. The attached factsheet provides a summary of information on the Better Brite Superfund site. More information is available on the EPA and WDNR internet sites (<http://www.epa.gov/region5superfund/npl/wisconsin>, <http://cfpub.epa.gov/superfund/sites>, and <http://dnr.wi.gov/org/aw/rr/brrts>).

**NOTICE TO APPLICANTS FOR PERMITS FOR ACTIVITIES NEAR THE
FORMER ZINC SHOP PORTION OF THE BETTER BRITE SUPERFUND SITE
(315 South Sixth Street)**

**from the United States Environmental Protection Agency (EPA) and the Wisconsin
Department of Natural Resources (WDNR)**

The EPA and WDNR believe that ground water below or near your property is or may be contaminated with chromium from the former Better Brite Superfund site. These agencies want to make sure that the proposed construction does not result in unsafe conditions. For that reason, your construction permit may be reviewed by staff from EPA and WDNR. It is possible that review of your permit will take an additional day or two because of the review. The attached factsheet provides a summary of information on the Better Brite Superfund site. More information is available on the EPA and WDNR internet sites (<http://www.epa.gov/region5superfund/npl/wisconsin>, <http://cfpub.epa.gov/superfund/sites>, and <http://dnr.wi.gov/org/aw/rr/brrts>).