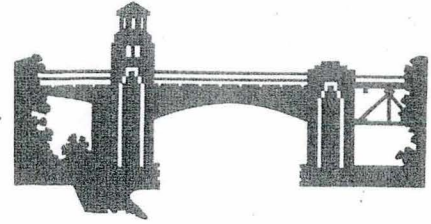


CITY OF DE PERE

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



November 4, 2010



City Attorney's Office
(920) 339-4042

Mr. Richard Boice
Remedial Project Manager
United States Environmental Protection Agency
Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3590



RE: Better Brite Superfund Site

Dear Mr. Boice:

This letter is a follow-up to your October 1, 2010 correspondence to Keld Lauridson and myself regarding institutional controls at the two "Better Brite" superfund sites in the City of De Pere. I have had the opportunity to review your correspondence with city staff responsible for implementing your requested city assistance in site monitoring. We are looking for clarification of the following:

1. Former Chrome Shop Site (Lande Street) "Soil Stabilization Area"

Your October 1 letter identifies parts of Lots 167, 169, 170 and 184 as the "soil stabilization area" as shown on the Plat of Survey for 519 Lande Street for which the City is asked to distribute EPA materials to building/plumbing/excavation/fence permit applicants. The area comprising those Lots has been further subdivided over the years into individual parcels. The further subdivision is shown on the enclosed GIS map of the site (entitled Chrome Shop). As you can see from that map, Lot 184 in particular comprises many parcels a fair distance from the actual superfund site. We are asking that you clarify whether all of the individual parcels as highlighted and some identified on this map are within the "soil stabilization area" and whether it is EPA's intent that construction permit requests for all such parcels should activate the need for the City to distribute copies of the written EPA materials provided in your October 1 letter.

2. Former Zinc Shop Site (315 South 6th Street)

Your letter of October 1 also includes an address of 548 Butler Street within the area in which the City would be expected to provide the EPA materials to persons


seeking building/plumbing/fence/excavation permits in the vicinity of the former Zinc Shop on South 6th Street. No such address appears in city records. Enclosed is a map of the Zinc Shop Site for your information and review. We are looking for clarification that the parcels highlighted:

- 309, 320, 326, 401 and 403 South 6th Street
- 500, 506, 545, 551 and 602 Butler Street

are indeed the parcels for which the EPA documentation should be distributed.

Thank you for your assistance in providing the requested clarification. We look forward to being able to assist the WDNR and EPA on monitoring for these superfund sites.

Very truly yours,



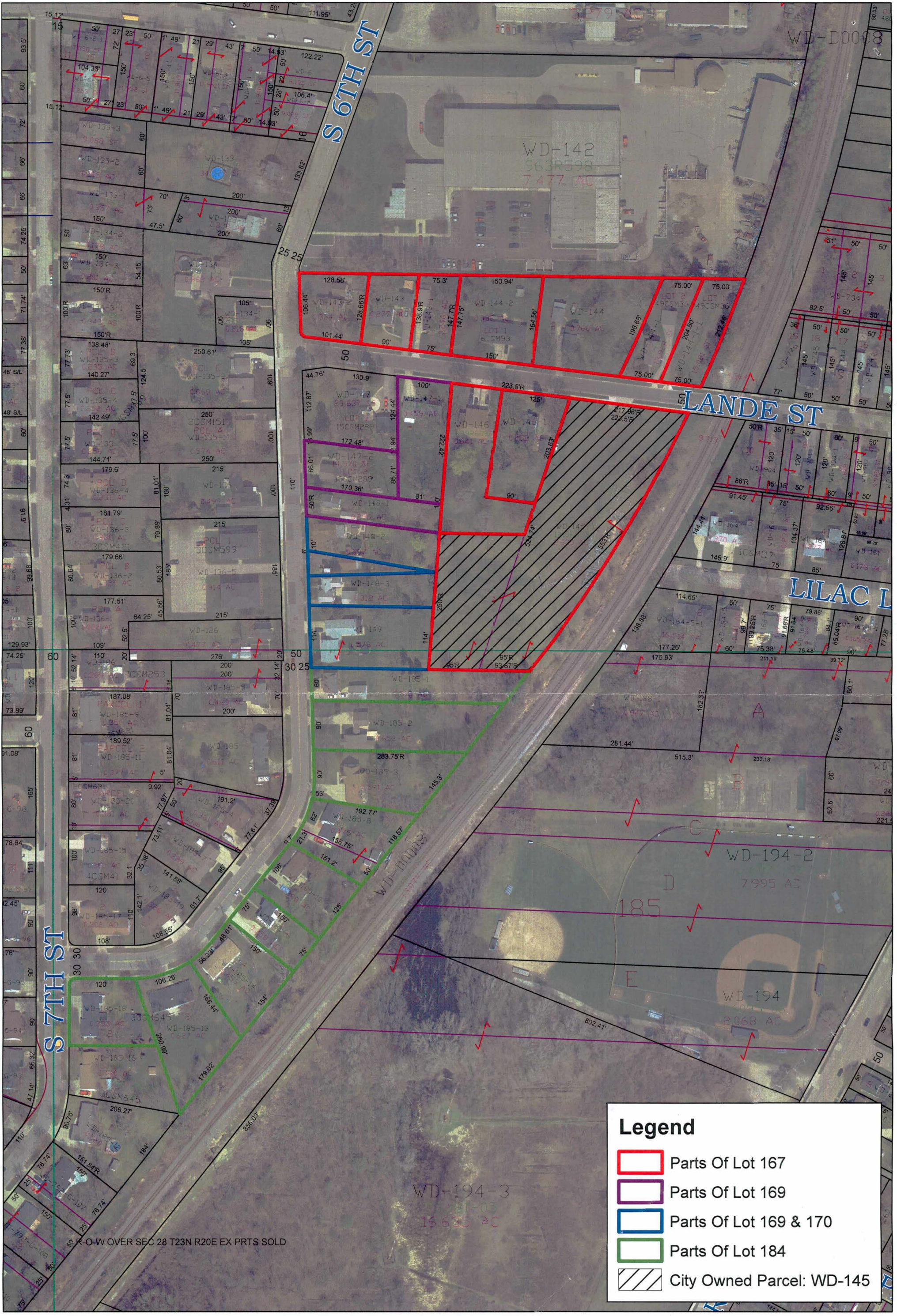
Judith Schmidt-Lehman
City Attorney

JSL:jld

Enc.

cc: Keld Lauridsen, WDNR ✓
Dave Hongisto, Building Inspector
Marty Kosobucki, Director of Parks, Recreation & Forestry
Scott Thoresen, Director of Public Works

H:\jdupont\Letters\2010\Boice (EPA) 11-4-10-135-002-02.doc



Legend

- Parts Of Lot 167
- Parts Of Lot 169
- Parts Of Lot 169 & 170
- Parts Of Lot 184
- City Owned Parcel: WD-145

CHROME SHOP
Better Brite Superfund Site



1 inch = 150 feet

This map was produced utilizing a variety of sources the City of De Pere reasonably believes are reliable, including GIS data, some of which was under development at the time this map was produced. The City of De Pere makes no warranty, either expressed or implied, including no warranty as to fitness for a particular use, of the information contained in or comprising, this map.



This map was produced utilizing a variety of sources the City of De Pere reasonably believes are reliable, including GIS data, some of which was under development at the time this map was produced. The City of De Pere makes no warranty, either expressed or implied, including no warranty as to fitness for a particular use, of the information contained in or comprising this map.

Zinc Shop Site



1 inch = 80 feet



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590



October 1, 2010

Mr. Keld Lauridsen, Hydrogeologist
Wisconsin Department of Natural Resources (WDNR)
2984 Shawano Avenue
P.O. Box 10448
Green Bay, WI 54307-0448

REPLY TO THE ATTENTION OF: SR-6J

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

Re: Better Brite Superfund Site, institutional controls

The United States Environmental Protection Agency (EPA) appreciates the City and WDNR's efforts to assure that the former Better Brite Site is maintained in a safe condition. Recently, these efforts have included entering an Environmental Protection Easement and Declaration of Restrictive Covenants related to the Better Brite Superfund Site. In the e-mail from Ms Schmidt-Lehman and conversations with Mr. Lauridsen, you identified measures the City and WDNR are willing take to assure that activities on the portions of the Better Brite site that are outside of the properties owned by the City do not create unsafe conditions. Our understanding is that the City is willing to: enforce of a City ordinance that prohibits construction of private wells within the City; to distribute a pre-printed letter to those who apply for permits for construction or other activities on properties that may be impacted by contaminants; and report to WDNR observations from the City's routine usage and inspection of the 519 Lande Street (Chrome Shop) property of unusual occurrences or conditions that may create unsafe conditions. Relative to the 315 South Sixth Street (Zinc Shop) property, WDNR is willing to fulfill the reporting function. In addition, Mr. Lauridsen has stated that he would inspect the caps at both properties once per year. Our understanding is that ultimately any significant reports will be communicated to EPA.

The City asked that EPA prepare the pre-printed letter, and to identify the properties that may be impacted by contaminants. EPA opted to prepare a pre-printed notices for the Chrome Shop and the Zinc Shop (please cut pages in half to separate) along with a fact sheet from EPA's web site. The notices and fact sheet have been reviewed by Mr.

Lauridsen. Ten copies of the final version of each notice along with twenty copies of the fact sheet should be enclosed with the letter to the City of De Pere.

Relative to properties adjacent to the former Chrome Shop, the City should provide a copy of the appropriate notice and the fact sheet to applicants for permits for construction or for other activities that may involve disturbance of groundwater (including sumps), excavation of soils or disturbance of the site cover in the areas within the "soil stabilization area" shown on the attached Figure 7-3. From a Plat of Survey for Lot 167 (attached), it appears that the soil stabilization area includes parts of lots 169, 170 and 184, as well as part of Lot 167.

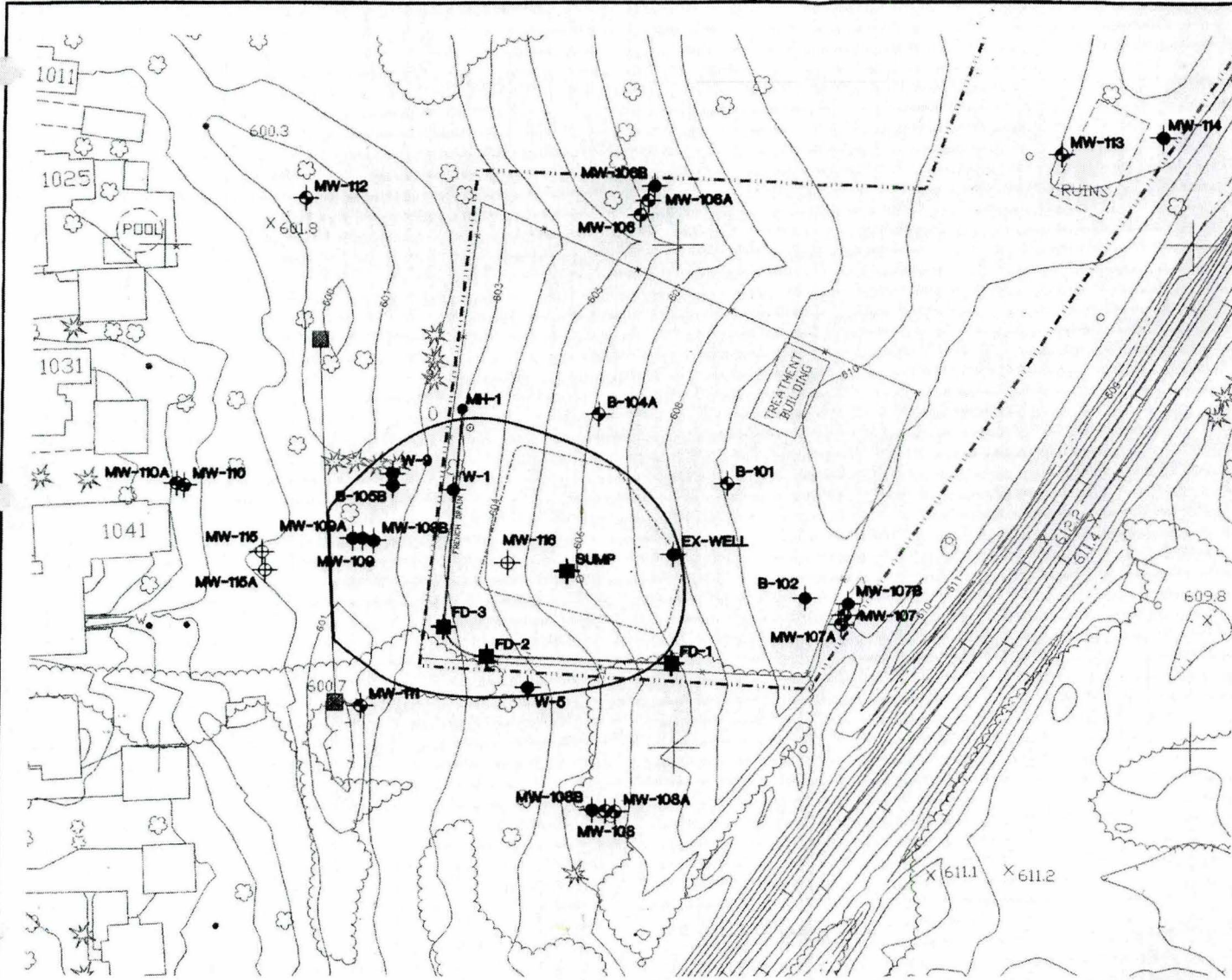
Relative to properties adjacent to the former Zinc Shop, the City should provide a copy of the appropriate notice and the fact sheet to applicants for permits for construction or for other activities that may involve disturbance of groundwater (including sumps) within the "extent of detectable hexavalent chromium in groundwater and the extent of total chromium exceeding NR 140 enforcement standards" shown on the attached Figure 2-7, plus areas in the downgradient groundwater flow directions where there is insufficient monitoring data to limit the extent of contamination. Based on Figure 2-7, this should include the properties with the following addresses: 309, 320, 326 and 401 Sixth Street; and 545, 548, 551, and 602 Butler Street. From a County map (attached) the impacted lots outside of City ownership include: WD 99-2; WD-100-2; WD-103; WD-104; WD-859-1; WD-859; WD-859-1; WD-860; WD-708-K-1; WD-708-K-2; and WD-102-3.

If you have any questions, feel free to contact me at (312) 886-4740.

Sincerely,

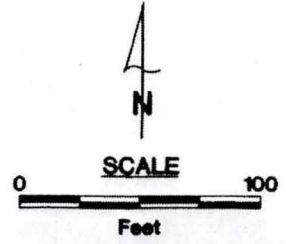


Richard Boice
Remedial Project Manager



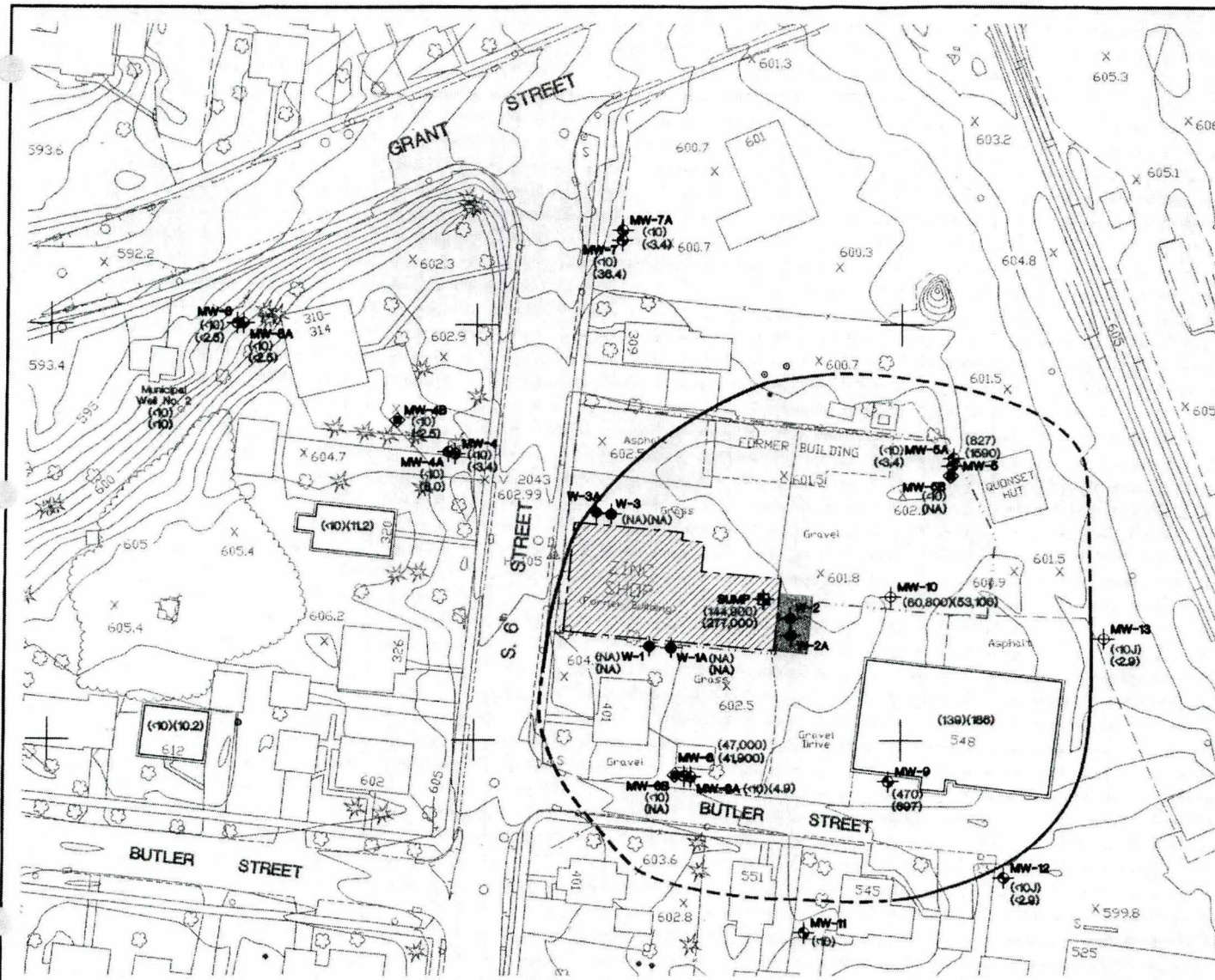
EXPLANATION

- ◆ MW-113 MONITOR WELL LOCATION AND DESIGNATION
- ◆ B-101 MONITOR WELL LOCATION AND DESIGNATION
- ◆ W-5 MONITOR WELL LOCATION AND DESIGNATION
- ◆ SUMP FORMER SUMP ACCESS LOCATION AND DESIGNATION
- ◆ FD-3 FORMER FRENCH DRAIN ACCESS LOCATION AND DESIGNATION
- EX-WELL FORMER EXTRACTION WELL LOCATION AND DESIGNATION
- MH-1 MANHOLE LOCATION
- SUMP BOUNDARY
- PROPERTY LINE
- SOIL STABILIZATION AREA
- ◆ MW-11 ABANDONED MONITOR WELL LOCATION AND DESIGNATION
- ◆ MW-116 PROPOSED MONITOR WELL LOCATION AND DESIGNATION



BETTER BRITE DePERE, WISCONSIN	DATE: 12/1/99
PROPOSED WELL LOCATIONS CHROME SHOP	DESIGNED: BOB
	CHECKED: KEB
	APPROVED: JLF
	DRAWN: BOB
	PROJ: P18
HSI GEOTRANS A TETRA TECH COMPANY	Figure 7-3

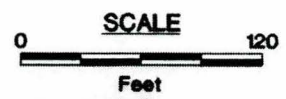
Base map from Aero-Matic Engineering, date of photography 11/17/91.
 Autodesk AutoCAD 1991 12-048



EXPLANATION

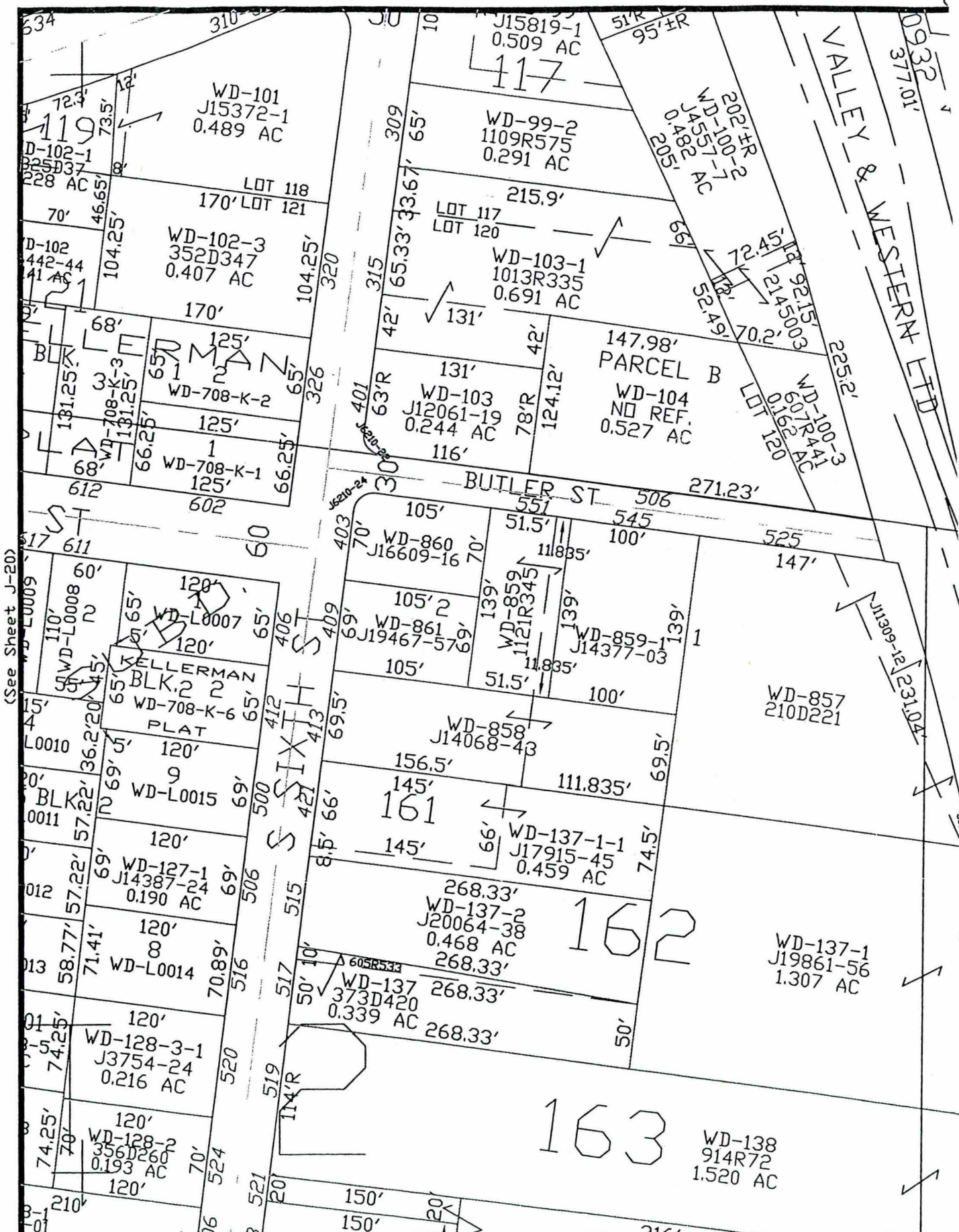
- MW-9 MONITOR WELL LOCATION AND DESIGNATION
- SUMP SUMP ACCESS LOCATION AND DESIGNATION
- MW-3 ABANDONED MONITOR WELL LOCATION AND DESIGNATION
- MW-13 NON LOCATABLE LOCATION AND DESIGNATION
- [Hatched Box] GROUND WATER COLLECTION SYSTEM EXCAVATION COMPLETED IN 1993
- [Solid Box] GROUND WATER COLLECTION SUMP EXCAVATION COMPLETED IN 1990
- (139) HEXAVALENT CHROMIUM CONCENTRATION IN GROUND WATER (ppb)
- (186) TOTAL CHROMIUM CONCENTRATION IN GROUND WATER (ppb)
- (NA) NOT AVAILABLE
- [Dashed Line] EXTENT OF DETECTABLE HEXAVALENT CHROMIUM IN GROUND WATER AND EXTENT OF TOTAL CHROMIUM EXCEEDING NR 140 ENFORCEMENT STANDARDS
- [Dashed Line] PROPERTY LINE
- [Solid Line] SUMP BOUNDARY
- [Box with 320] BASEMENT SUMP SAMPLING LOCATION

Note: Listed concentrations are highest measured levels from 1994 and 1995 sampling events.



BETTER BRITE DePERE, WISCONSIN	DATE: 12/1/90
HEXAVALENT CHROMIUM/ TOTAL CHROMIUM IN GROUND WATER 1994/5 - ZINC SHOP	DESIGNED: BOB
	CHECKED: JLF
	APPROVED: JLF
	DRAWN: BOB
	PROJ.: F719
Figure 2-7	

Base map from Aero-Metric Engineering, Inc., date of photography - 11/17/91.



(See Sheet J-20)

(See

This is a compilation of records and data located in various county offices and is to be used for reference purposes only. The map is controlled by the field measurements between the corners of the Public Land Survey System and the parcels are mapped from available records which may not precisely fit field conditions. Brown County is not responsible for any inaccuracies.

Scale 1" = 100'



This map was provided by the

PLAT OF SURVEY

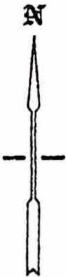
BEING PART OF LOT 167, ASSESSOR'S PLAT OF WEST DEPERE (f/k/a ASSESSOR'S PLAT OF NICOLET), CITY OF DEPERE, BROWN COUNTY, WISCONSIN. BEING PART OF LANDS DESCRIBED IN VOLUME 899, PAGE 609 AND VOLUME 1013, PAGE 333.

CURVE TABLE:					
CURVE	RADIUS	CENTRAL ANGLE	CHORD LENGTH	CHORD BEARING	ARC LENGTH
C1	2775.99	11-26-08	553.14'	S32°52'30"W	554.06'

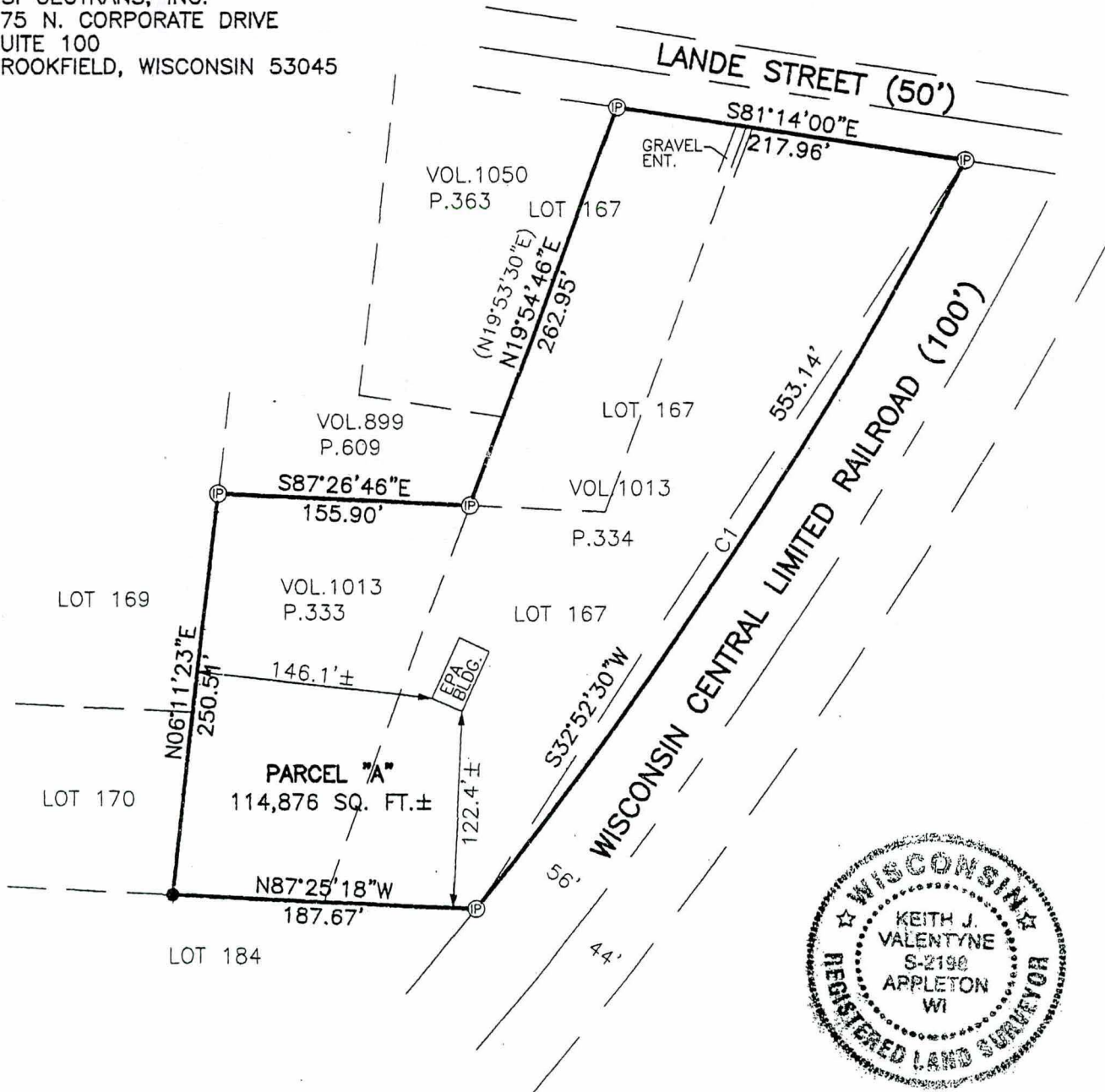
LEGEND:

- ◆ = 1" X 24" IRON PIPE SET, WEIGHING 1.13 LBS. PER LIN. FT.
- Ⓟ = 1" IRON PIPE FOUND
- () = RECORDED AS DISTANCE

NORTH IS REFERENCED TO THE WEST LINE OF LOT 167, ASSESSOR'S PLAT OF WEST DEPERE, CITY OF DEPERE, BROWN COUNTY, WISCONSIN, WHICH IS ASSUMED TO BEAR N06°11'23"E.



CLIENT:
 HSI GEOTRANS, INC.
 175 N. CORPORATE DRIVE
 SUITE 100
 BROOKFIELD, WISCONSIN 53045



I HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY AS SHOWN ACCORDING TO THE OFFICIAL RECORDS AND THAT THIS PLAT OF SURVEY IS A CORRECT

**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),
the Wisconsin Department of Natural Resources (WDNR) and
the City of De Pere**

Ground water below or near your property has been treated to immobilize chromium contamination from the former Better Brite Superfund site. The agencies listed above, 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 will be reviewed by staff from EPA and WDNR. It is possible that review of your permit will take an additional two to three weeks. 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),
the Wisconsin Department of Natural Resources (WDNR) and
the City of De Pere**

Ground water below or near your property is or may be contaminated with chromium from the former Better Brite Superfund site. The agencies listed above, and the City of De Pere want to make sure that the proposed construction does not result in unsafe conditions. For that reason, your construction permit will be reviewed by staff from EPA and WDNR. It is possible that review of your permit will take an additional two to three weeks. 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>).

Environmental Protection Easement
and
Declaration of Restrictive Covenants

Document Number

Document Title

2466592

CATHY WILLIQUETTE
BROWN COUNTY RECORDER
GREEN BAY, WI

RECORDED ON
04/14/2010 11:38:29AM

REC FEE: 69.00
TRANS FEE:
EXEMPT #
PAGES: 30

Recording Area

Name and Return Address

City of De Pere
c/o Judith Schmidt-Lehman
335 S. Broadway Street
De Pere, WI 54115

WD-103-1 & WD-145

Parcel Identification Number (PIN)

"THIS PAGE IS PART OF THIS LEGAL DOCUMENT Do not Remove"

This information must be completed by submitter: document title, name & return address, and PIN (if required). Other information such as the granting clauses, legal description, etc. may be placed on this first page of the document or may be placed on additional pages of the document. Note: Use of this cover page adds one page to your document and \$2.00 to the recording fee. Wisconsin Statutes, 59.517.

WRDA 2/96

**ENVIRONMENTAL PROTECTION EASEMENT
AND
DECLARATION OF RESTRICTIVE COVENANTS**

1. This Environmental Protection Easement and Declaration of Restrictive Covenants is made this 18 day of March, 2010, by and between the City of DePere, Wisconsin, ("Grantor"), having an address of 335 S. Broadway Street, DePere, WI, and Wisconsin Department of Natural Resources ("Grantee"), having an address of 101 South Webster Street, Madison, WI. Grantee, Wisconsin Department of Natural Resources, is acquiring this interest pursuant to §292.31 Wis. Stat. The Grantor and Grantee intend that the provisions of this Environmental Protection Easement and Declaration of Restrictive Covenants also be for the benefit of the United States, a third party beneficiary.

WITNESSETH:

2. WHEREAS, Grantor is the owner of two parcels of land located in the County of Brown, State of Wisconsin, more particularly described on **Exhibit A** attached hereto and made a part hereof (the "Property"); and

3. WHEREAS, the Property comprises the Better Brite Superfund Site ("Site"), which the U.S. Environmental Protection Agency ("EPA"), pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9605, placed on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on August 30, 1990; and

4. WHEREAS, in a Record of Decision dated September 24, 1996 (the "ROD"), the EPA Region 5 Regional Administrator selected a "remedial action" for the Site, which provides, in part, for the following actions: Extraction of groundwater at Zinc Shop; Relocation of treatment plant from Chrome Shop to Zinc Shop; Stabilization of hexavalent chromium in soil; Construction of new external foundation drains at two (2) properties near the Zinc Shop with collected water pumped to the pretreatment facility at the Zinc Shop; and, continued groundwater monitoring at the Chrome Shop and the Zinc Shop (**Exhibit C**). With the exception of post-remedial groundwater monitoring, the remedial action has been implemented at the Site; and

5. WHEREAS, the parties to this document, wishing to achieve necessary post-remedial environmental institutional controls, agree that this document will provide for, 1) a

grant of a right of access over the Property to the Grantee for purposes of implementing, facilitating and monitoring the remedial action until such time as EPA/WDNR determine that no monitoring of any media within the Site is required; and 2) to impose on the Property use restrictions as covenants that will run with the land for purpose of protecting human health and the environment until such time as EPA/WDNR determine that no monitoring of any media within the Site is required; and

6. WHEREAS, Grantor has cooperated fully with the Grantee in the implementation of all response actions at the Site and wishes to continue to do so.

NOW, THEREFORE:

7. Grant: Grantor, on behalf of itself, its successors and assigns, in consideration of the remedial action performed pursuant to the September 1996 ROD and 2004 CERCLA Five-year Review Report (a copy of which is available in the DePere Branch of the Brown County Public Library), does hereby covenant and declare that the Property shall be subject to the restrictions on use set forth below for so long as continued monitoring is required, and does give, grant and convey to the Grantee, and its assigns, with general warranties of title, 1) the right to enforce said use restrictions, and 2) an environmental protection easement of the nature and character, and for the purposes hereinafter set forth, with respect to the Property, that will run with the land for the purpose of protecting human health and the environment until such time as EPA/WDNR determine that no monitoring of any media within the Site is required.

8. Purpose: It is the purpose of this instrument to convey to the Grantee real property rights, which will run with the land, to facilitate the remediation of past environmental contamination and to protect human health and the environment by reducing the risk of exposure to contaminants. It is also the purpose of this instrument that the EPA as Third Party Beneficiary shall have the right to enforce the terms of this instrument.

9. Third Party Beneficiary: Grantor on behalf of itself and its successors, transferees and assigns and the Grantee on behalf of itself and its successors, transferees, and assigns hereby agree that the United States and its successors and assigns shall be the Third Party Beneficiary under this instrument.

10. Restrictions on use: The following covenants, conditions, and restrictions apply to the use of the Property, run with the land for the benefit of the Grantee and the EPA as Third Party Beneficiary and are binding upon the Grantor including its successors, transferees, assigns or other person acquiring an interest in the Property and their authorized agents, employees, or persons acting under their direction and control, for the purpose of protecting human health and the environment until such time as EPA/WDNR determine that no monitoring of any media within the Site is required: a) To prohibit use of groundwater for consumptive or other uses

without prior approval of WDNR and EPA on the Property; b) To prohibit excavation of soils or disturbance of the cap in the Chrome and Zinc shop areas of the Site (**Exhibit D**); and, c) to prohibit the following activities on the cap or cover in **Exhibit E** (unless prior written approval has been obtained from the WDNR or its successor or assign): (i) excavating or grading of the land surface; (ii) filling on the capped area; (iii) plowing for agricultural cultivation; and (iv) construction or installation of a building or other structure with a foundation that would sit on or be placed within the cap or cover in the Chrome and Zinc shop areas.

11. Modification of restrictions: Any request for modification or rescission of this instrument shall be made to the Grantee and the EPA at the addresses provided in Section 21 of this instrument. This instrument may be modified or rescinded only with the written approval of the EPA Superfund Division Director and the Director of the WDNR. Grantor on behalf of its successors, transferees, assigns or other person acquiring an interest in the Property agrees to record any EPA approved and WDNR approved modification to or rescission of this instrument with the Brown County Register of Deeds and a recorded copy shall be returned to the EPA and the WDNR at the addresses provided in Section 21 of this instrument.

12. Environmental Protection Easement: Grantor hereby grants to the Grantee for its use a right of access at all reasonable times to the Property for purposes of protecting human health and the environment until such time as EPA/WDNR determine that no monitoring of any media within the Site is required:

- a) Implementing the response actions in the ROD;
- b) Verifying any data or information submitted to EPA concerning the property or Site;
- c) Verifying that no action is being taken on the Property in violation of the terms of this instrument or of any federal or state environmental laws or regulations;
- d) Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;
- e) Conducting periodic reviews of the remedial action, including but not limited to, reviews required by applicable statutes and/or regulations; and
- f) Implementing additional or new response actions that either the Grantee or the U.S. EPA determine i) are necessary to protect the public health or the environment because either the original remedial action has proven to be ineffective or because new technology has been developed which will accomplish the purposes of the remedial action in a significantly more efficient or cost effective manner; and ii)

such additional or new response actions will not impose any significantly greater burden on the Property or unduly interfere with the then existing uses of the Property.

13. Reserved rights of Grantor: Grantor hereby reserves unto itself, its successors, and assigns, all rights and privileges in and to the use of the Property which are not incompatible with the restrictions, rights and easements granted herein.

14. EPA Entry, Access and Response Authority: The Grantor and Grantee consent to officers, employees, contractors, and authorized representatives of the EPA entering and having continued access to this property for the purposes described in paragraph 12. Nothing in this document shall limit or otherwise affect EPA's rights of entry and access pursuant to any and all powers conveyed by applicable federal or state environmental laws and regulations or EPA's authority to take response actions under CERCLA, the NCP, or other federal law.

15. No Public Access and Use: No right of access or use by the general public to any portion of the Property is conveyed by this instrument.

16. Notice requirement: Grantor agrees to include in any instrument conveying any interest in any portion of the Property, executed after the date of this instrument, including but not limited to deeds, leases and mortgages, a notice which is in substantially the following form:

**NOTICE: THE INTEREST CONVEYED HEREBY IS
SUBJECT TO AN ENVIRONMENTAL PROTECTION
EASEMENT AND DECLARATION OF RESTRICTIVE
COVENANTS, DATED _____, 20____, RECORDED IN THE
PUBLIC LAND RECORDS OF THE BROWN COUNTY
REGISTER OF DEEDS, ON _____, 20____, IN BOOK
_____, PAGE _____, IN FAVOR OF, AND ENFORCEABLE
BY THE WISCONSIN DEPARTMENT OF NATURAL
RESOURCES AS GRANTEE AND THE UNITED STATES OF
AMERICA AS THIRD PARTY BENEFICIARY.**

Within thirty (30) days of the date any such instrument of conveyance is executed, Grantor must provide Grantee with a recorded copy of said instrument.

17. Administrative jurisdiction: The federal agency having administrative jurisdiction over the interests acquired by the United States by this instrument is the EPA. The WDNR has administrative jurisdiction over the interests acquired by this instrument.

18. Enforcement: The Grantee and the EPA, shall be entitled to enforce, individually or jointly, the terms of this instrument by all legal remedies available, including specific performance or other legal process. All remedies available hereunder shall be in addition to any and all other

remedies at law or in equity, including CERCLA. Enforcement of the terms of this instrument shall be at the discretion of the Grantee or the EPA, and any forbearance, delay or omission to exercise enforcement rights shall not be deemed to be a waiver by the Grantee or the EPA of the same or any other term, or of any other rights of the Grantee or the EPA, under this instrument.

19. Damages: Grantee and EPA shall be entitled to recover damages for violations of the terms of this instrument, or for any injury to the remedial action, to the public or to the environment protected by this instrument.

20. Covenants: Grantor hereby covenants to and with the Grantee and the United States and its assigns, that the Grantor is lawfully seized in fee simple of the Property, that the Grantor has a good and lawful right and power to sell and convey it or any interest therein, that the Property is free and clear of encumbrances, except those noted on **Exhibit B** attached hereto, and that the Grantor will warrant and defend the title thereto.

21. Notices: Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:

City Clerk-Treasurer
335 S. Broadway Street
DePere, WI 54115

To Grantee:

Director, Bureau of Remediation and
Redevelopment
Wisconsin Department of Natural Resources
101 South Webster Street
Madison, WI 53707-7921

To Third Party Beneficiary:

U.S. Environmental Protection Agency
Region 5 Administrator
77 West Jackson Boulevard
Chicago, IL 60604

22. General provisions:

a) Controlling law: The interpretation and performance of this instrument shall be governed by the laws of the United States or, if there are no applicable federal laws, by the law of the state of Wisconsin.

b) Liberal construction: If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

c) Severability: If any provision of this instrument is found to be invalid, the remainder of the provisions of this instrument shall not be affected thereby.

d) Entire Agreement: This instrument sets forth the entire agreement of the parties with respect to rights and restrictions created hereby, and supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein.

e) No Forfeiture: Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

f) Successors: The covenants, terms, conditions, and restrictions of this instrument shall be binding upon, and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running with the Property for purposes of protecting human health and the environment until such time as EPA/WDNR determine that no monitoring of any media within the Site is required. The term "Grantor", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantor" and their personal representatives, heirs, successors, and assigns. The term "Grantee", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantee" and their personal representatives, heirs, successors, and assigns. The rights of the Grantee and Grantor under this instrument are freely assignable, subject to the notice provisions hereof. However, the rights of the Grantee may be assigned only to a governmental entity with authority to assume the rights and obligations of that Grantee.

g) Termination of Rights and Obligations: A party's rights and obligations under this instrument terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

h) Captions: The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

i) Counterparts: The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

To Have And To Hold So Long As WDNR/EPA Determine That Monitoring Of Media Inside The Site Is Necessary For The Protection Of Human Health And The Environment.

IN WITNESS WHEREOF, Grantor has caused this Agreement to be signed in its name.

Executed this 25th day of January, 2016.

CITY OF DE PERE

Michael J. Walsh
Michael J. Walsh, Mayor

Charlene M. Peterson
Charlene M. Peterson, Clerk- Treasurer

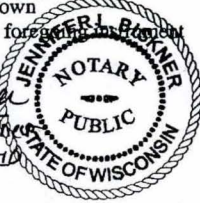
STATE OF WISCONSIN)

_____)SS.

BROWN COUNTY

personally came before me this 25th day of Jan, 2016, Michael Walsh & Charlene Peterson the abovenamed Michael Walsh known as the person(s) who executed the foregoing instrument and acknowledge the same.

Jennifer L. Biskup
Notary Public, Jennifer L. Biskup
My Commission Expires: 9-26-17

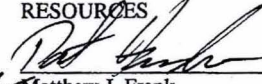


Drafted by: Judith Schmidt-Lehman

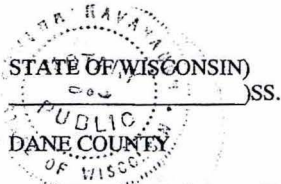
This Environmental Protection Easement and Declaration of Restrictive Covenants is accepted this 18th day of March, 2010.

STATE OF WISCONSIN
WISCONSIN DEPT. OF NATURAL
RESOURCES

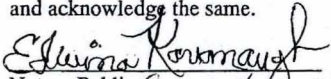
By:


Matthew J. Frank

Secretary



personally came before me this
19th day of MARCH, 2010,
the abovenamed PAT HENDERSON known
as the person(s) who executed the foregoing instrument
and acknowledge the same.


Notary Public Ervina Kabanish
My Commission Expires: in perpetuity

- Attachments:
- Exhibit A - legal description(s) of the Property
 - Exhibit B - list of recorded title encumbrances (Title Search)
 - Exhibit C - Groundwater monitoring wells and ground water pump and treat system
 - Exhibit D - Zinc and Chrome Shop Areas - prohibit disturbance of Soils
 - Exhibit E - Survey of Cap Area

EXHIBIT A TO
ENVIRONMENTAL PROTECTION EASEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS

Exhibit A

LEGAL DESCRIPTION:

A parcel of land being part of Lot One Hundred Sixty-seven (167), according to the recorded Assessor's Plat of West De Pere (f/k/a Assessor's Plat of Nicolet), in the City of De Pere, Brown County, Wisconsin, described as follows:

Beginning at the intersection of the West line of the right of way of the Wisconsin Central Limited Railroad Company and the South right of way line of Lande Street; thence along the arc of a 2775.99 foot radius curve to the West right of way line of the Wisconsin Central Limited Railroad Company on a chord which bears South 32 deg. 52 min. 30 sec. West and is 553.14 feet in length to the South line of Lot 167; thence North 87 deg. 25 min. 18 sec. West, 187.67 feet along said South line to the West line of said Lot 167; thence North 06 deg. 11 min. 23 sec. East, 250.51 feet along said West line; thence South 87 deg. 26 min. 46 sec. East, 155.90 feet; thence North 19 deg. 54 min. 46 sec. East (recorded as North 19 deg. 53 min. 30 sec. East), 262.95 feet to a point on the North line of Lot 167; thence South 81 deg. 14 min. 00 sec. East, 217.96 feet to the point of beginning.

(Better Brite - Chroma)
EXHIBIT A

Exhibit A

LEGAL DESCRIPTION:

The Northerly 42 feet of the Southerly 120 feet of the Westerly 131 feet of Lot One Hundred Twenty (120); and the Southerly 33 2/3 feet of Lot One Hundred Seventeen (117) and the Northerly 65 1/3 feet of Lot 120; all according to the recorded Plat of Assessor's Subdivision of Lands in Nicolet, in the City of De Pere, West side of Fox River, Brown County, Wisconsin.

(Better Brice - Zinc)

EXHIBIT A

EXHIBIT B TO

**ENVIRONMENTAL PROTECTION EASEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS**

Bay Title & Abstract, Inc.

**345 S. Monroe Avenue
Green Bay, WI 54301
Phone: (920) 431-6100**

LETTER REPORT

Attn: Penny Hubbard Greene

LR NO. 61926

A Search of the records in the office of the BROWN County Register of Deeds, BROWN County Clerk of Courts and BROWN County Treasurer was conducted on the following:

TRACT DATE: 11/2/2009 12:01:00AM

ADDRESS: 315 S. Sixth Street De Pere, WI 54115

TITLE VESTS:

City of De Pere by virtue of a Quit Claim Deed dated April 11, 2001 and recorded April 11, 2001 as Doc. No. 1805129.

MORTGAGES:

No open mortgages of record.

JUDGMENTS, TAX LIENS AND /OR CONSTRUCTION LIENS:

None of record.

TAX PARCEL NO. WD-103-1

PROPERTY TAXES:

NOTE: The 2008 Real Estate Taxes are EXEMPT.

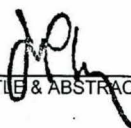
The Undersigned hereby certifies that this report is compiled from the public records of the county in which the property described herein is located. Liability herein is expressly limited to the cost of this report. No liability is assumed for facts not shown in detail. This report is not to be used as evidence of title in lieu of a certified abstract or title insurance.

Certification is only made from the date present owners received title to the tract date stated herein.

No search has been made for special improvement bonds, special assessments, deferred charges for public works, easements or encroachments.

Thank you for the opportunity to serve your title needs.

Sincerely,



BAY TITLE & ABSTRACT, INC

Exhibit A

LEGAL DESCRIPTION:

The Northerly 42 feet of the Southerly 120 feet of the Westerly 131 feet of Lot One Hundred Twenty (120); and the Southerly 33 2/3 feet of Lot One Hundred Seventeen (117) and the Northerly 65 1/3 feet of Lot 120; all according to the recorded Plat of Assessor's Subdivision of Lands in Nicolet, in the City of De Pere, West side of Fox River, Brown County, Wisconsin.

COPY

Bay Title & Abstract, Inc.

345 S. Monroe Avenue
Green Bay, WI 54301
Phone: (920) 431-6100

LETTER REPORT

Attn: Keld Lauridsen
Wisconsin Dept. of Natural Resources

LR NO. 57230

A Search of the records in the office of the BROWN County Register of Deeds, BROWN County Clerk of Courts and BROWN County Treasurer was conducted on the following:

TRACT DATE: 5/22/2007 12:01:00AM

ADDRESS: 315 S. Sixth Street De Pere, WI 54115

TITLE VESTS:

City of De Pere by virtue of a Quit Claim Deed dated April 11, 2001 and recorded April 11, 2001 as Doc. No. 1805129.

MORTGAGES:

No open mortgages of record.

No Easements or Restrictions found.

JUDGMENTS, TAX LIENS AND /OR CONSTRUCTION LIENS:

None of record.

TAX PARCEL NO. WD-103-1

PROPERTY TAXES:

NOTE: The 2006 Real Estate Taxes are EXEMPT.

The Undersigned hereby certifies that this report is compiled from the public records of the county in which the property described herein is located. Liability herein is expressly limited to the cost of this report. No liability is assumed for facts not shown in detail. This report is not to be used as evidence of title in lieu of a certified abstract or title insurance.

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Thank you for the opportunity to serve your title needs.

Sincerely,



BAY TITLE & ABSTRACT, INC

Exhibit A

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INVOICE



345 SOUTH MONROE AVENUE
GREEN BAY, WI 54301
(920) 431-6100

INVOICE NUMBER: B57230-IN

INVOICE DATE: 05/31/07

CUSTOMER NO.: WDNR

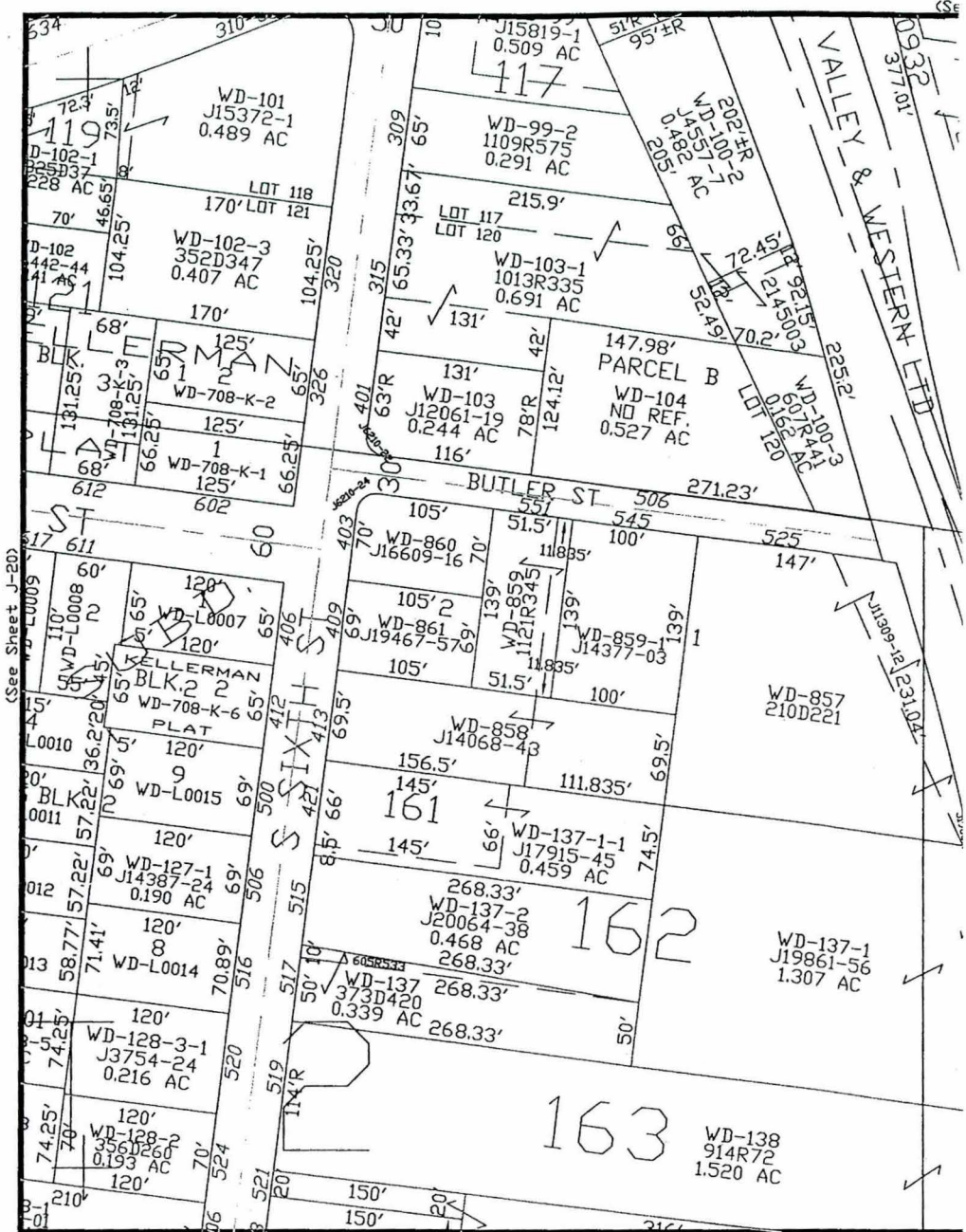
Wis. Dept. of Natural Resource
PO Box 10448
Green Bay, WI 54307

Attn: Keld Lauridsen

DESCRIPTION	AMOUNT
PROPERTY REPORT City of De Pere 315 S. Sixth Street Tax Parcel #WD-103-1	150.00

THANK YOU FOR YOUR ORDER
WE APPRECIATE YOUR BUSINESS

INVOICE TOTAL: 150.00



This is a compilation of records and data located in various county offices and is to be used for reference purposes only. The map is controlled by the field measurements between the corners of the Public Land Survey System and the parcels are mapped from available records which may not precisely fit field conditions. Brown County is not responsible for any inaccuracies.

(See

Scale 1" = 100'

This map was provided by the

607814

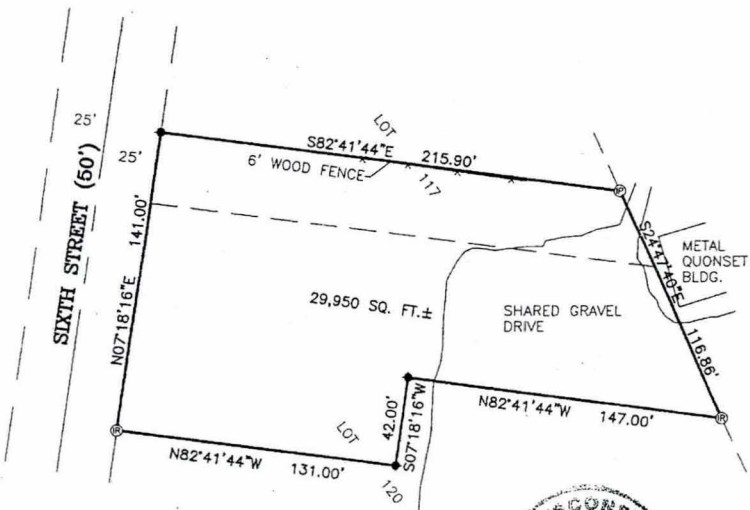
PLAT OF SURVEY

DESCRIPTION: BEING PART OF LOTS 117 AND 120, ACCORDING TO THE RECORDED PLAT OF A MAP OF ASSESSOR'S SUBDIVISION OF LANDS IN THE CITY OF NICOLET, NOW IN THE CITY OF DEPERE, WEST SIDE OF FOX RIVER, BROWN COUNTY, WISCONSIN. BEING LANDS DESCRIBED IN VOLUME 1013, PAGE 335.

- LEGEND:
- ◆ = 1" X 24" IRON PIPE SET, WEIGHING 1.13 LBS. PER LIN. FT.
 - ⊙ = 1" IRON PIPE FOUND
 - ⊗ = 3/4" SOLID ROUND CAPPED IRON REBAR FOUND

CLIENT:
 HSI GEOTRANS, INC.
 175 N. CORPORATE DRIVE
 SUITE 100
 BROOKFIELD, WISCONSIN 53045

NORTH IS REFERENCED TO THE WEST LINE OF LOT 120, ACCORDING TO THE RECORDED PLAT OF A MAP OF ASSESSOR'S SUBDIVISION OF LANDS IN THE CITY OF DEPERE, BROWN COUNTY, WISCONSIN, WHICH IS ASSUMED TO BEAR N07°18'16"E.



I HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY AS SHOWN ACCORDING TO THE OFFICIAL RECORDS AND THAT THIS PLAT OF SURVEY IS A CORRECT REPRESENTATION OF SAID SURVEY

Keith J. Valentyne 9-20-99
 KEITH J. VALENTYNE, RLS-2198 DATED



CAROW LAND SURVEYING CO., INC.
 1837 W. WISCONSIN AVE., P.O. BOX 1297
 APPLETON, WISCONSIN 54912-1297
 PHONE 920-731-4168 FAX 731-5673

SCALE	1"=50'
DRAWN BY	ICV-tm DGV
PROJECT NO.	A949.13-1-99

Bay Title & Abstract, Inc.

**345 S. Monroe Avenue
Green Bay, WI 54301
Phone: (920) 431-6100**

LETTER REPORT

Attn: Penny Hubbard Greene

LR NO. 61927

A Search of the records in the office of the BROWN County Register of Deeds, BROWN County Clerk of Courts and BROWN County Treasurer was conducted on the following:

TRACT DATE: 11/2/2009 12:01:00AM

ADDRESS: 500 Block Lande Street De Pere, WI 54115

TITLE VESTS:

City of De Pere by virtue of a Quit Claim Deed dated July 17, 2001 and recorded July 17, 2001 as Doc. No. 1827756.

MORTGAGES:

No open mortgages of record.

JUDGMENTS, TAX LIENS AND/OR CONSTRUCTION LIENS:

None of record.

TAX PARCEL NO. WD-145

PROPERTY TAXES:

NOTE: The 2008 Real Estate Taxes are EXEMPT.

The Undersigned hereby certifies that this report is compiled from the public records of the county in which the property described herein is located. Liability herein is expressly limited to the cost of this report. No liability is assumed for facts not shown in detail. This report is not to be used as evidence of title in lieu of a certified abstract or title insurance.

Certification is only made from the date present owners received title to the tract date stated herein.

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Thank you for the opportunity to serve your title needs.

Sincerely,



BAY TITLE & ABSTRACT, INC

Exhibit A

LEGAL DESCRIPTION:

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COMMUNITY DEVELOPMENT
PROTECTION DIVISION
NOV 03 2008
OFFICE OF PLANNING
COUNTY

U.S. ENVIRONMENTAL
PROTECTION AGENCY

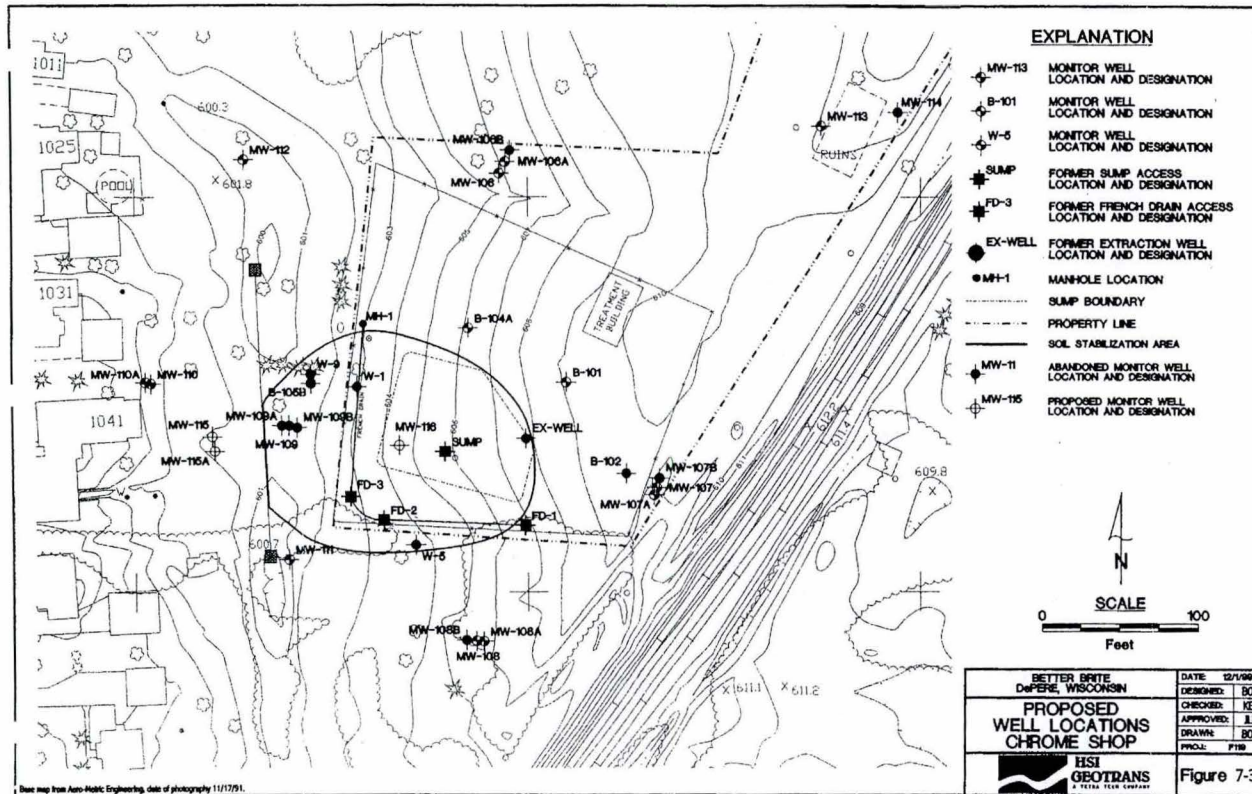
NOV 09 2009

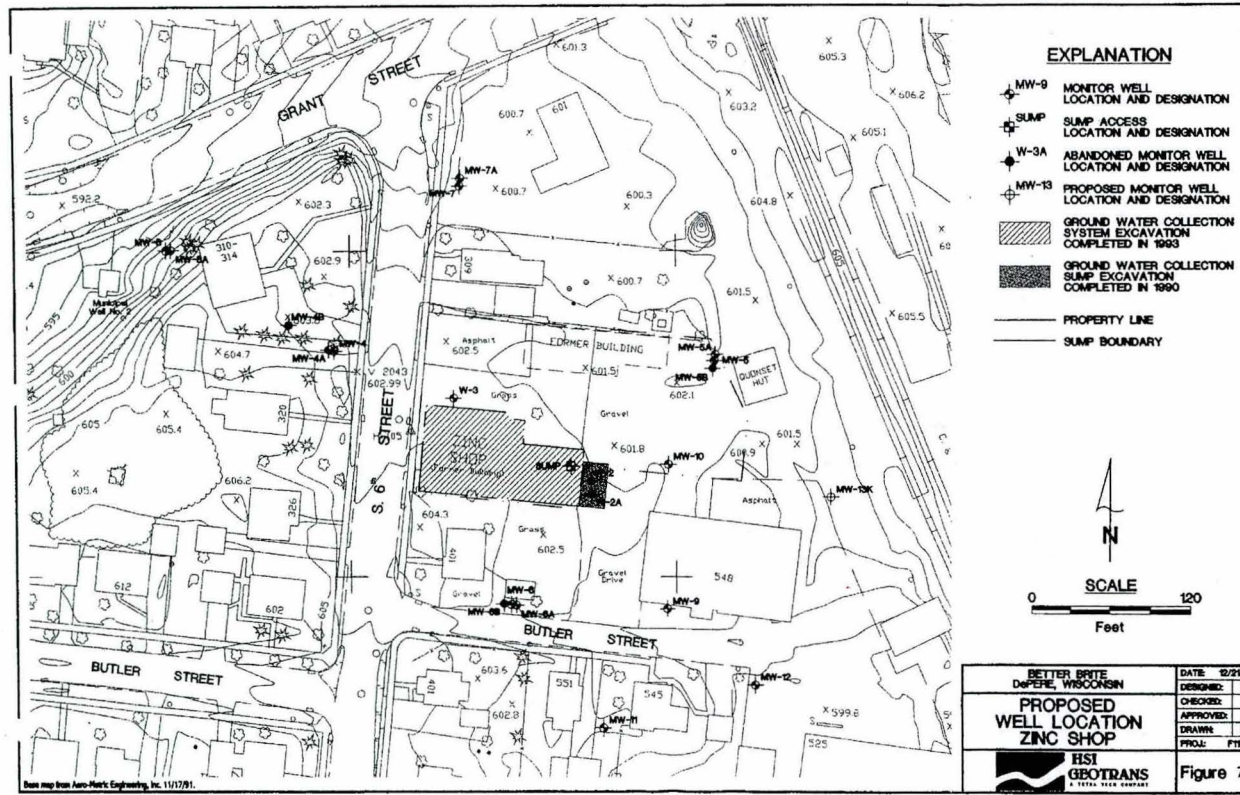
OFFICE OF REGIONAL
COUNSEL

EXHIBITS C, D AND E TO

**ENVIRONMENTAL PROTECTION EASEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS**

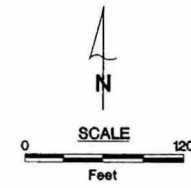
[Note that the area where disturbance of soils is prohibited and the cap location is approximately the area formerly enclosed by the fence shown the figure labeled 7-3.]





EXPLANATION

- MW-9 MONITOR WELL LOCATION AND DESIGNATION
- SUMP SUMP ACCESS LOCATION AND DESIGNATION
- W-3A ABANDONED MONITOR WELL LOCATION AND DESIGNATION
- MW-13 PROPOSED MONITOR WELL LOCATION AND DESIGNATION
- GROUND WATER COLLECTION SYSTEM EXCAVATION COMPLETED IN 1993
- GROUND WATER COLLECTION SUMP EXCAVATION COMPLETED IN 1990
- PROPERTY LINE
- SUMP BOUNDARY



BETTER BRITE DEPEPE, WISCONSIN	DATE 10/21/98 DESIGNED: BJ CHECKED: JF APPROVED: JF DRAWN: BJ PROJECT: P78
PROPOSED WELL LOCATION ZINC SHOP	
HST GBOTRANS A TOTAL TEAM COMPANY	
Figure 7-4	

Base map from Aero-Matic Engineering, Inc. 11/17/91.
Revised 10/21/98

DATE: February 23, 2010
TO: Matthew J. Frank – AD/8
FROM: Mark F. Giesfeldt – RR/5 *MG*
SUBJECT: Better Brite Superfund Site, De Pere, Wisconsin

Item/action seeking approval:

The attached “Environmental Protection Easement and Declaration of Restrictive Covenants” has been prepared by the US Environmental Protection Agency (EPA) for the Superfund site known as Better Brite located at two separate properties at 315 South Sixth Street and 519 Lande Street in the City of De Pere, Wisconsin

Purpose of item/action:

The purpose of this document is to:

1. Secure access to the site for WDNR and any contractors acting on behalf of WDNR
2. Put in place property restrictions to protect human health and the environment

Date approval needed:

The City of De Pere would like this issue resolved as soon as possible. As a result, we are requesting this document be signed within 2 weeks.

Nature of item/action:

The Department has the authority under s. 292.31(7)(am) to acquire interest in a property as part of a remedial action under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund). This interest is to ensure that restrictions on the use of land or groundwater are enforceable. In the late 1990’s the Department developed a template for establishing Environmental Protection Easements and Restrictive Covenants to be used when EPA requested that WDNR acquire an interest in a particular Superfund site. The attached document closely follows the model language.

In June, 2006 State Statues were amended through the creation of s. 292.12 which gave the Department the authority to impose land use controls as a condition of approving remedial action or issuing closure. This approach has resulted in the Department no longer using deed restrictions for sites where we issue the specific approvals. However, for those situations where EPA formally approves the remedial action it is not clear whether the provisions of s. 292.12 can be applied. The Remediation and Redevelopment Program has initiated discussions with Legal Services and has scheduled a meeting with EPA to discuss whether we need to continue using Environmental Easements and Restrictive Covenants for these Federal lead Superfund sites. However, since this is a deviation from the current approach it could take a relatively long time to resolve.

Regardless of the approach used, the Department will have the responsibility for ensuring that the required land use controls are maintained and the attached document will ensure that the cleanup and groundwater monitoring can continue in the years to come by allowing WDNR access to the site. In addition, human health and the environment will be protected by restricting any installation of potable wells and maintaining the existing surface cover to provide direct contact protection.

Context of the item/action:

The Better Brite Superfund site consists of 2 separate properties. These 2 properties were included on the National Priorities List as one site due to similarities in contaminants, site history and ownership. The primary contaminant of concern at each site is chromium, especially the hexavalent form of chromium. The most immediate public health risks were addressed from 1980 - 1995 through Wisconsin Department of Natural Resources (WDNR) enforcement actions, and EPA removal actions, including removal of all containerized wastes, removal of contaminated debris and the most highly contaminated soils, fencing and placing of soil cover over the remaining contaminated soil, and installation and operation of a groundwater removal and treatment system. Additional remedial activities took place during the fall of 1999. Currently, a groundwater pump and treat system is being operated on-site and groundwater sampling from on-and off-site monitoring wells is on-going. These activities are expected to be long term.

Contact name:

Mark Gordon – RR/5

266-7278

mark.gordon@wisconsin.gov