

## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Scott McCallum, Governor  
Darrell Bazzell, Secretary  
Gloria L. McCutcheon, Regional Director

Southeast Regional Headquarters  
2300 N. Dr. ML King Drive, PO Box 12436  
Milwaukee, Wisconsin 53212-0436  
Telephone 414-263-8500  
FAX 414-263-8483  
TDD 414-263-8713

December 4, 2002

Mr. James Grassman, Manager  
Village of Whitefish Bay  
5300 N Marlborough Dr  
Whitefish Bay, WI 53217

Whitefish Bay Landfill  
FID 241218670  
BRRS 02-41-000254

### Notice of Violation and Notice of Claim

Dear Mr. Grassman:

The Department of Natural Resources (DNR) has reason to believe that the Village of Whitefish Bay has violated environmental protection regulations concerning the storage of investigative wastes at the Whitefish Bay Landfill, which is located at 5201 W. Good Hope Road in Milwaukee.

*Under NR 716.11 (6), Wis. Adm. Code, responsible parties are required to manage investigative wastes in a manner that will not pose a threat to public health, safety or welfare or the environment, and which is consistent with state and federal regulations.*

As the owner of the Whitefish Bay Landfill, the Village is required to manage investigative wastes in a manner that will not pose a threat to public health, safety or welfare or the environment. According to DNR records, Sigma Environmental, on behalf of the Village of Whitefish Bay, developed a number of groundwater sampling wells and collected soil and groundwater samples, in order to determine impacts of the landfill on an adjoining property. They also containerized the soil and groundwater investigative wastes.

On November 21, 2002, DNR Hydrogeologist Andy Boettcher observed over fifty 55-gallon drums containing investigative wastes (soil cuttings and groundwater) on the southwest side of the Landfill during a site inspection. Some of the drums had tipped over; a number had leaked some or all of their contents onto the ground.

**NR 718.05 (2) (i), Wis. Adm. Code,** requires that responsible parties notify the department in writing *if contaminated soil is stored for 90 days or more either on-site or off-site, within 3-business days after the ninetieth day. Notification shall include all of the following: 1. The name, address and telephone number of responsible parties. 2. The volume of soil being stored. 3. The hazardous substances or environmental pollution present in the soil. 4. The containment measures utilized to attain compliance with pars. (c), (d) and (e). 5. The address and location by quarter-quarter section, township, range and county of the property where the soil is stored. 6. A brief proposal for treatment and final placement of the soil.*

According to DNR records, labels on a number of the drums observed on November 21, 2002 indicated that they were filled over two years ago. The DNR was not notified of the retention of soils on site and did not receive a proposal for treatment and placement of the soil.

Quality Natural Resources Management  
Through Excellent Customer Service



**NR 718.05 (4) (a, b, c), Wis. Adm. Code**, states that *facilities where responsible parties store up to 2,500 cubic yards of excavated contaminated soil for 6 months or less in containers or in buildings are exempt from regulation under ch. 289, Stats., and chs. NR 500 to 536, and are not subject to the general storage requirements in sub. (2), if the contaminated soil is stored in accordance with all of the following requirements: (a) Containers and buildings shall be designed, constructed and maintained to prevent leakage, infiltration of precipitation and volatilization of soil contaminants to the ambient atmosphere. (b) Containers shall be labeled and buildings shall have a sign posted in accordance with the requirements of s. NR 714.07 (3). (c) Contaminated soil may not be stored in containers or buildings for more than 6 months, without the prior written approval of the department.*

According to DNR records, a number of the drums observed on November 21, 2002 were not labeled. A number had leaked some or all of their contents onto the ground. The DNR did not provide prior written approval for storage of the contaminated soil in containers for over six months.


On October 31, 2002, Andy Boettcher talked by phone with Mafizul Islam, project manager/engineer for Sigma Environmental, who is responsible for the site. Andy Boettcher notified Mafizul Islam that action needed to be taken regarding cleanup of the drums and their contents. Boettcher and Islam met at the site on November 21, 2002, looked at the drums, and discussed the situation further. Mafizul Islam said that he would submit a plan to the DNR by November 29, 2002, regarding proposed disposal of the drums and drum contents. As of December 4<sup>th</sup>, no such plan has been submitted to the Department.

You should be aware that the Department is authorized to seek forfeitures of up to \$5,000 per day for hazardous substance violations.

*Notice required by s. 893.80(1), Wis. Stats.: This Notice of Violation fulfills the requirements of s. 893.80(1), Wis. Stats. which requires that a written notice of the circumstances of a claim be served within 120 days after the happening of the event which gave rise to the claim.*

If you have questions, please give me a call at 414-263-8663. Questions on hazardous substance discharges should be directed to Andy Boettcher at 263-8541.

Sincerely,



Pat Chung  
Environmental Enforcement

cc: Andy Boettcher  
Mafizul Islam – Sigma  
Dennis Fischer – Meissner Tierney, et. al.  
RR/3