



July 19, 2016

David and Allison Schwantes
1113 Claern Court
Grafton, WI 53024

Kristine Schroeder and Valerie Bremer
1108 Claern Court,
Grafton, WI 53024

Mr. Harold Mueller
1102 Claern Ct
Grafton, WI 53024

Subject: Off-site liability exemption for multiple properties located at 1113, 1108, and 1102 Claern Court
Grafton, Wisconsin
BRRTS #07-46-577262

Dear Madams and Sirs:

Note: This letter replaces a letter dated June 6, 2016 signed by John Feeney that contained a small error that has been corrected in this version.

Purpose

The Department of Natural Resources ("the Department") has recently reviewed Tecumseh Products Company's ("Tecumseh") request for an off-site exemption letter for the properties located at 1113, 1108, and 1102 Claern Court, Grafton, Wisconsin ("Properties"). Refer to the attached Figure 1, *Groundwater Plume with Sub-slab Vapor Sampling Locations*, TRC, May, 2016, for a site map of the Properties. The Department received a \$700 fee for providing this letter pursuant to Wis. Stat. §§ 292.13 (2) and (3), and Wis. Admin. § NR 749.

Summary Determination

The Department, based on the information made available to it, is confirming that David and Allison Schwantes, Kristine Schroeder and Valerie Bremer, and Harold Mueller ("Property Owners") qualify for the off-site liability exemption, and the Property Owners are not responsible for investigation or cleanup of the contamination that originated on a neighboring property. The Property Owners would have limited responsibility under Wis. Stat. §§ 292.12 and 292.13, for the groundwater and vapor contamination that has migrated or is migrating onto the Properties as described below.

Request

Tecumseh has requested that the Department determine that the Property Owners are exempt from Wis. Stat. §§ 292.11(3), (4) and (7)(b) and (c), (commonly known as the "Hazardous Substance Spill Law"), with respect to the existence of a hazardous substance that Tecumseh Products Company believes is migrating onto the Properties from an off-site source.

Wis. Stat. § 292.13(2), requires the Department to issue upon request, a written determination regarding a liability exemption for a person who possesses or controls property that is contaminated by an off-site source, when certain conditions are met. In order to make this determination, the Department has reviewed information about the Properties, including groundwater and soil vapor sampling data for the Properties and/or other sites contained in the following documents:

- The Off-Site Application form and supporting documentation provided by Tecumseh, dated June 8, 2016.

Background

The Department considered the documents listed above and the “Tecumseh Products Co” DNR site file (BRRS # 02-46-000751) in making the determinations presented in this letter. It is our understanding that:

- The Properties were undeveloped or agricultural land prior to becoming residences in the 1960s and the Properties are currently occupied by single family homes.
- The Properties are known to be downgradient of the former Tecumseh site for both surface water flow (there was a former creek that flowed from near Tecumseh towards the Properties) and for groundwater flow.
- The former Tecumseh facility at 900 North Street, Grafton, is a documented source for trichloroethene, cis-1,2-Dichloroethene, and 1,1-Dichloroethane in the environment.

Tecumseh and their consultant have undertaken extensive investigations and remedial actions of discharges of hazardous substances from their facility more than 15 years. The activities are tracked in the Department database under BRRS# 02-46-000751. As part of the investigation and cleanup, Tecumseh investigated several homes downgradient of the facility to evaluate the potential for vapor intrusion into buildings. Tecumseh, their consultant and the Department agreed that vapor mitigation systems should be installed in the three homes on the Properties and those systems were installed by Tecumseh in 2014. These systems are designed to prevent chemical vapors from entering the homes.

Determination

Wisconsin’s statutes include an “off-site exemption” in Wis. Stat. §§ 292.13 that limits the liability of a property owner. A person who meets all the conditions of the off-site exemption is not responsible for investigating and cleaning up environmental contamination that migrates onto their property from a neighboring property. An off-site property owner, such as the owners of the Properties being impacted by the contamination migrating from the former Tecumseh facility, are provided the protections of this exemption, if certain conditions are met by each of those individual property owners.

In particular, the Department believes that the environmental contamination is originating from the former Tecumseh facility. As such, we do not anticipate holding any individual owners of the affected off-site Properties responsible for investigation and clean-up of trichloroethene, 1,1,1 trichloroethane, vinyl chloride, cis-1,2-Dichloroethene contamination that has migrated on to the Properties. Refer to the attached Figure 1, *Groundwater Plume with Subslab Vapor Sampling Locations*, TRC, May, 2016 for well and vapor probe locations. The Department, based on the information available, has determined that the Property Owners has met the conditions in s. 292.13, Stats., to qualify for the liability exemption, including but not limited to the following provisions:

1. The hazardous substance discharge originated from a source on a property that is not possessed or controlled by the Property Owners.

2. The Property Owners did not possess or control the hazardous substance on the property on which the discharge originated.
3. The Property Owners did not cause the discharge.
4. The Property Owners will not have liability under the Hazardous Substance Spill Law for investigation or remediation of the soil, sediment, or groundwater contamination originating from off-site onto the Properties, provided that the Property Owners do not take possession or control of the property on which the discharge originated.

Exemption Conditions

The Department's determination, as set forth in this letter, is subject to compliance with the following conditions specified in Wis. Stat. §§ 292.13(1) and (1m):

1. The facts upon which the Department based its determination are accurate and do not change.
2. The Property Owners agree to allow the following parties to enter the Property to take action to respond to the discharge: the Department and its authorized representatives; any party that possessed or controlled the hazardous substance or caused the discharge; and any consultant or contractor of such a party.
3. The Property Owners agree to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge.
4. The Property Owners agree to any other condition that the Department determines is reasonable and necessary to ensure that the Department and any other authorized party can adequately respond to the discharge.

Responsibilities for Continuing Obligations

Residual contamination often remains after an environmental cleanup is completed. In addition to the conditions above, after the contamination at Tecumseh property is remediated, the Department's approval of the clean-up may include continuing obligations at the Tecumseh property as well as the Properties. The term "continuing obligations" refers to certain actions for which property owners are responsible following a completed environmental cleanup. In this case, the Department expects that the closure of the cleanup activity will include a requirement that the Property Owners operate and maintain the vapor mitigation system that has been installed in the homes. When Tecumseh submits the closure request to the Department, Tecumseh and their consultant are required to notify you before the DNR reviews the proposal for final approval of the clean-up. In addition, when the closure is approved by the Department, you will get a letter from the Department that describes the requirements that would apply to the Property Owners regarding the vapor systems.

Conclusion

The Department has granted the Property Owners an off-site exemption under Wis. Stat. § 292.13. Please note that the Department may revoke the determinations made in this letter if it determines that any of the requirements under Wis. Stat. §§ 292.13, cease to be met.

Future owners of these Properties are eligible for the exemption under Wis. Stat. § 292.13, if they meet the requirements listed in that statute section. The determinations in this letter regarding a liability exemption, however, only apply to David and Allison Schwantes, Kristine Schroeder and Valerie Bremer, and Harold

Mueller, and may not be transferred or assigned to other parties. The Department will provide a written determination to future owners of these Properties, if such a determination is requested in accordance with the requirements of Wis. Stat. § 292.13.

The Bureau for Remediation and Redevelopment Tracking System (BRRTS) identification number for this activity is shown at the top of this letter. The Department tracks information on all determinations such as this in a Department database that is available on the Internet at: <http://dnr.wi.gov/topic/Brownfields/botw.html>

If you have any questions or concerns regarding this letter, please contact the site project manager, John Feeney at 920-893-8523, or by email at johnm.feeney@wisconsin.gov.

Sincerely,



Michael Prager
Land Recycling Team Leader
Remediation & Redevelopment Program
Wisconsin Department of Natural Resources

Attachments; Figure 1, Groundwater Plume with Subslab Vapor Sampling Locations, TRC, May, 2016

cc: John Feeney (electronic)
Margaret Brunette (electronic)
Jason Smith, Tecumseh
Tom Stolzenburg, TRC
Scott Mueller, W63 N527 Hanover Ave., Cedarburg, WI 53012