DAKOTA INTERTEK CORP.
d/b/a Dakota Environmental

Environmental Technology

❖

Environmental Contracting

March 7, 2001

Mr. Scott Ferguson
Hydrogeologist
Waste Management Section
Wisconsin Department of Natural Resources
4041 North Richards Street
Milwaukee, Wisconsin 53212

Re: Key Engineering Group, LTD. December 18, 2000 Final Report *for* the Former Hein-Werner Property, 1005 Perkins Avenue, Waukesha, Wisconsin;
Key Engineering Group, LTD. File No. 0810009
WDNR FID No. 268091890

Dear Mr. Ferguson:

Dakota Intertek Corp. (Dakota) has reviewed the Key Engineering Group, LTD. (Key) February 10, 2000 Site Investigation Report and December 18, 2000 Final Report submitted for the above referenced property (hereafter referenced as "subject property," or "site").

The [Final Report] correspondence of December 18, 2000 documents proper disposal of borehole auger spoils and monitoring well development and purge water. As in the Site Investigation Report, Key also requests no further action status for the site. However, no further investigative or assessment work elements have been completed. On behalf of Mallory Improvements, Inc. (Mallory), Dakota reiterates and renews the same objections and concerns expressed to you in correspondence dated March 6, 2000. Please consider:

- The site was investigated, and visible barrels and paint residue were removed under WDNR Special Order No. 98-SEE-056, and WDNR-approved Key Site Investigation Work Plan(s). However, essential data was not public record, nor known to the WDNR.
    - Polychlorinated biphenyl (PCB)-impacted soils exist onsite in potentially toxic concentrations (Attachment B, "Laboratory Data");
        - Sample was collected in an area where PCB-impacted soil removal occurred. The sample was collected at a horizon beneath the apparently unsuccessful shallow PCB-impacted soil excavation;
    - Diesel range organic compounds (DRO) exist in central subject property soils in concentrations exceeding WDNR NR 720 residual contaminant levels (RCLs) (Attachment B);
    - Trichloroethene (TCE)-impacted groundwater identified in an earlier Hein-Werner investigation was never reported to the WDNR (Attachment C "Excerpts from Former Work," and Attachment B);
    - An orphan underground storage tank (UST) is reported to remain onsite (Attachment C).

16600 W. National Ave.
New Berlin, WI 53151
262-784-8844
FAX: 262-784-8833
Internet
www.DakotaIntertekCorp.com
E-mail
Contact@DakotaIntertekCorp.com

- There are no Key borings or monitoring wells in the immediate vicinity of laboratory-confirmed PCB and DRO-impacted soils (groundwater not tested), nor historic TCE-impacted groundwater (Figure 1 of Attachment A, "Figures");

- There are no Key borings or monitoring wells downgradient of laboratory-confirmed PCB and DRO-impacted soils, nor historic TCE-impacted groundwater (Figure 1, Attachment A);

- Section "10.0 Conclusions" of the Key Site Investigation Report erroneously states that "...residual PCB contamination does not represent an excess risk to health and the environment." PCB's exist at probable toxic concentrations;

- Section 10 also asserts "...metals in shallow fill/soil samples are less than applicable direct contact standards." WDNR and Key laboratory analyses of surface-gathered paint solids confirmed lead in concentrations sufficient to be classified as toxic hazardous waste. No surficial soils were tested near historic dumping areas; and

- Dakota documented (film and 8-mm video) 60 visible barrels, partial barrels, and areas of surface paint solids. Dakota's half-day trenching event is referenced in Key's report. In a letter report documenting trenching activities, Dakota freely concedes that in light of widespread toxic surface contamination, and WDNR-supplied reports of "hundreds" of buried drums, a half-day trenching event might not be sufficient to fully investigate potentially extensive problems (Attachment C).

Key identified several volatile organic compounds (VOCs) in surficial soils (foundry sand) from all borings and monitoring wells. No VOC-impacted soils were discovered at depth.

VOC compounds, notably benzene and methyl-tert butyl ether (MTBE), were also identified in groundwater collected from several Key monitoring wells. Key asserts that there is a "high probability" that groundwater migration and surface runoff from the adjacent Waukesha Iron and Metal is the source of site contamination. It is Dakota's historic and current opinion that an offsite source is a ***possibility***. However, a large body of evidence exists to indicate that VOC-impacted surficial soils and groundwater originate onsite. It is Dakota's opinion that insufficient evidence currently exists to obtain an offsite exemption for VOC-impacted media (no evidence exists to suggest PCBs, DRO, or metal contamination does not originate onsite). Dakota bases this opinion on the following documented facts:

- WDNR-mandated work and approved work plans were designed to detect potential migration from identified former Hein-Werner paint solids;

  - Monitoring wells are positioned around the subject property perimeter, one every approximately two acres;
  - Potential contaminant influx, central site PCB contamination, and central site DRO contamination were not public record and were not considered at the time of the WDNR mandate and work plan development;
- Waukesha Iron and Metal was monitored for VOCs and select metals for eight years in up to 13 monitoring wells;
  - No benzene or MTBE has existed in Waukesha Iron & Metal monitoring wells since 1993 (excepting MTBE at trace concentration of 2.8 micrograms per liter (µg/L) in an upgradient monitoring well, isolated from the former Hein Werner site by one or more "clean" monitoring wells) (Attachment C);
  - Mercury and arsenic, the Waukesha Iron & Metals contaminants of concern, do not exist in former Hein Werner groundwater (Attachment C);
- Groundwater gradient and flow established by Key isolates the eastern third of the subject property from Waukesha Iron & Metal (Figure 2, Attachment A); and
- Surficial VOC-impacted soils exist uniformly throughout the site area. Dakota believes surficial contamination could be related to existing foundry sands and slag (the WDNR lists the former Hein Werner as an unregulated landfill). Suggestions that run off is the source are not plausible because:
  - Run off would have to travel hundreds of feet through wooded and heavily broken ground (Figure 3, Attachment A; Attachment D, "Photographs)
  - Grade established by Key would preclude run off from impacting the eastern portion of the site (Figure 3, Attachment A);
  - Run off patterns in the western site area have been carefully documented from water used in combating a Waukesha Iron & Metal Fire. Special Services, the City of Waukesha Fire Department, and Dakota observed run off to take a specific path directly to the creek, corresponding to Key-established grade and groundwater gradient (Attachment C);
  - Sampling of surface run off and surface water did not reveal VOCs;
  - Grade in Waukesha Iron & Metal property near the eastern former Hein Werner site area drops dramatically toward the creek (Attachment D);

Dakota registered strong concerns about the proposed scope of work during the site investigation work plan submission, and site access negotiations. During discussions at that time we apparently agreed that at a minimum, soils adjacent to the damaged and destroyed barrels of hazardous paint solids should be sampled. WDNR soil sampling confirmed high metals concentrations, and the August 20, 1997 responsible party letter mandates "...confirmation sampling of soil in order to ensure that remediation is complete." With respect to the proposed workplan and access

agreement, you also stated "...you have to begin somewhere". Mallory and Dakota believe that Key site investigation work elements to date are a solid beginning to a complex site.

Dakota is sensible to Key's concerns of our objectivity, based on our historic association with Waukesha Iron & Metal. Dakota is currently retained by Mallory Properties, only. After a review of the December 2000 Key Site Investigation Report, Dakota brought Key's allegations of offsite contribution to Waukesha Iron & Metal as a courtesy. Dakota generated correspondence on their behalf, but we are not retained by Waukesha Iron & Metal currently, nor (excepting a piece of March 2000 correspondence), have we been since the 1998 site closure. Dakota was not, nor will not be placed in a position of a conflict of interest.

Nonetheless, Dakota respectfully submits that restating the fact that we historically worked for Waukesha Iron & Metal is ***not*** a basis for refutation of documented facts and site conditions. Similarly, suggesting our concerns are not "technically sound" in a sentence fragment with no rationale or evidence does ***not*** address serious environmental concerns at the site. Again, we do not assert that offsite contamination contribution does not exist at the former Hein Werner site. We believe that insufficient evidence currently exists to establish that case. In fact, a large body of evidence suggests that MTBE contamination does not originate offsite. Dakota commends Key for an excellent beginning to a complex site. However, it is the position of Mallory and Dakota that more work is needed to establish an offsite exemption, let alone uninvestigated confirmed contamination that irrefutably originates onsite.

Thank you for time and consideration. We would welcome the opportunity to discuss these, or any other former Hein Werner issues with you. If you need further information or clarification, do not hesitate to contact the undersigned at 262-784-8844.

Sincerely,

Donald O. Callen Jr.
Project Manager

Wenbin Yuan, P.G.
General Manager

Attachment A
Figures

MARCH 18, 2001

MARCH 18, 2001










DAKOTA INTERTEK CORP.
d/b/a Dakota Environmental

Environmental Technology

❖

Environmental Contracting

Summary:

Mallory and Dakota do not believe site closure is warranted because:

- ***PCBs in potentially toxic hazardous waste concentrations exist onsite;***
- ***DRO-impacted soils exist onsite;***
- ***TCE-impacted groundwater exists onsite;***
  - None of the above-listed contaminant plumes have been investigated;
  - The work plan and site investigation were designed around identified surficial barrels and paint solids;
  - Monitoring well placement was designed to assess potential environmental impact from the identified former Hein Werner hazardous waste paint solids;
    - Monitoring wells do not exist in the vicinity of confirmed PCB and DRO impacted soils;
    - Monitoring wells do not exist downgradient of confirmed PCB and DRO impacted soils;
    - Monitoring wells are spaced one every approximately 2 acres;
- ***Removing visible metal fragments and paint solids lying freely on the surface does not address potentially lead-impacted soils and WDNR-supplied reports of "hundreds" of buried barrels;***
- ***Insufficient evidence exists to establish offsite exemption; and***
  - The MTBE Key bases potential offsite migration upon did not effectively exist in Waukesha Iron & Metal monitoring wells;
  - Metals that **did** exists in Waukesha Iron & Metal monitoring wells were not identified in former Hein Werner monitoring wells;
  - Groundwater gradient established by Key places the eastern third of the site upgradient;
  - There are only two Key monitoring wells, approximately 1200 feet apart, along the 2000+ foot northern perimeter/property line shared with Waukesha Iron & Metal;
  - Surficial contamination exists throughout the entirety of the former Hein Werner site. Suggestions that run off is the source are not plausible because:
    - Run off would have to travel hundreds of feet through wooded and heavily broken ground;
    - Grade established by Key would preclude run off from impacting the eastern portion of the site;
    - Run off in the western site area is documented by Superior Special Services, the City of Waukesha Fire Department, and Dakota to take a specific path directly to the creek;
    - Sampling of surface run off did not reveal VOCs;
    - Grade in Waukesha Iron & Metal property near the eastern former Hein Werner site area drops dramatically toward the creek;
- ***The fact that Dakota Intertek Corp. historically worked for Waukesha Iron & Metal does <u>not</u> refute existing evidence;***

16600 W. National Ave.
New Berlin, WI 53151
262-784-8844
FAX: 262-784-8833
Internet
www.DakotaIntertekCorp.com
E-mail
Contact@DakotaIntertekCorp.com

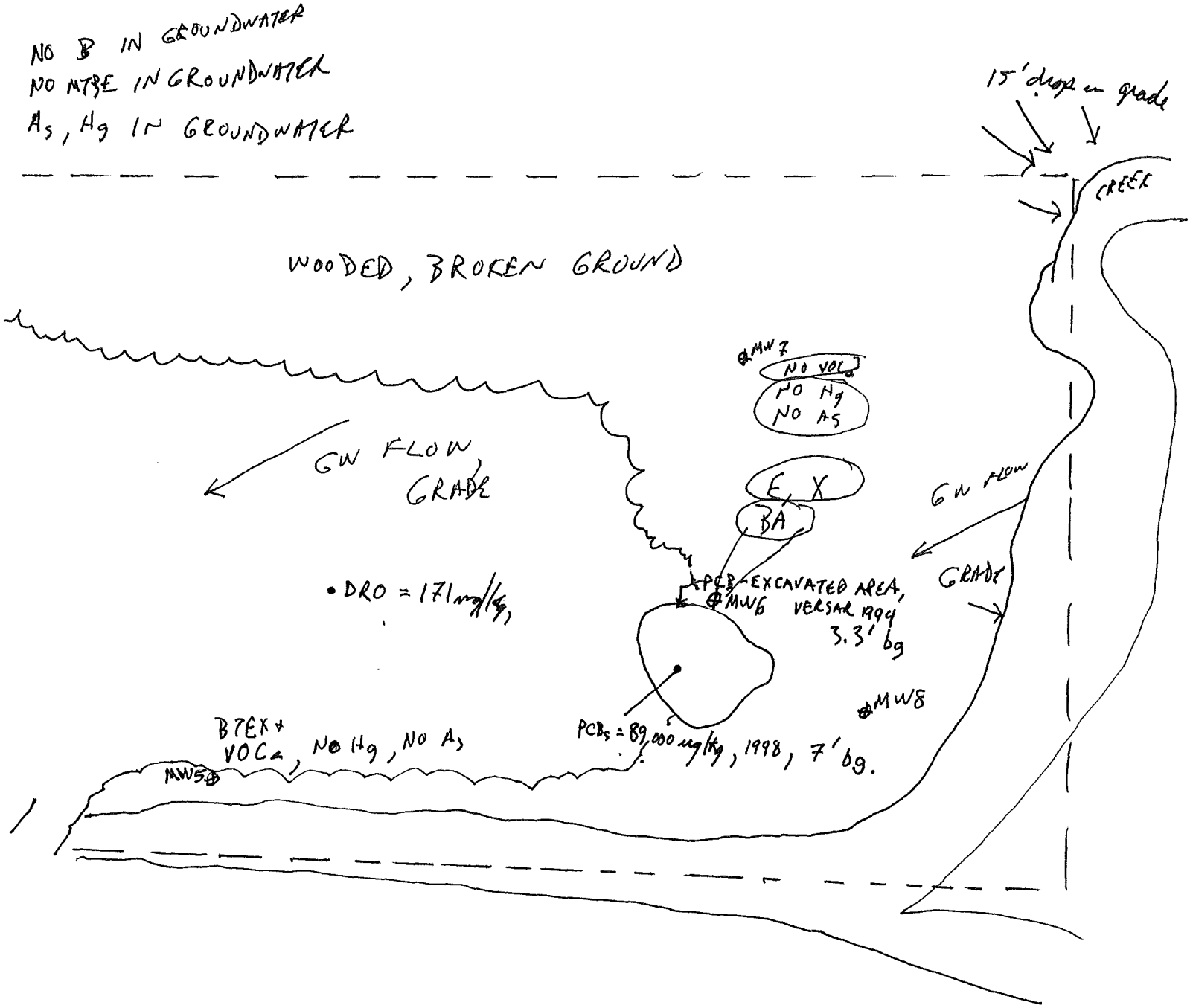
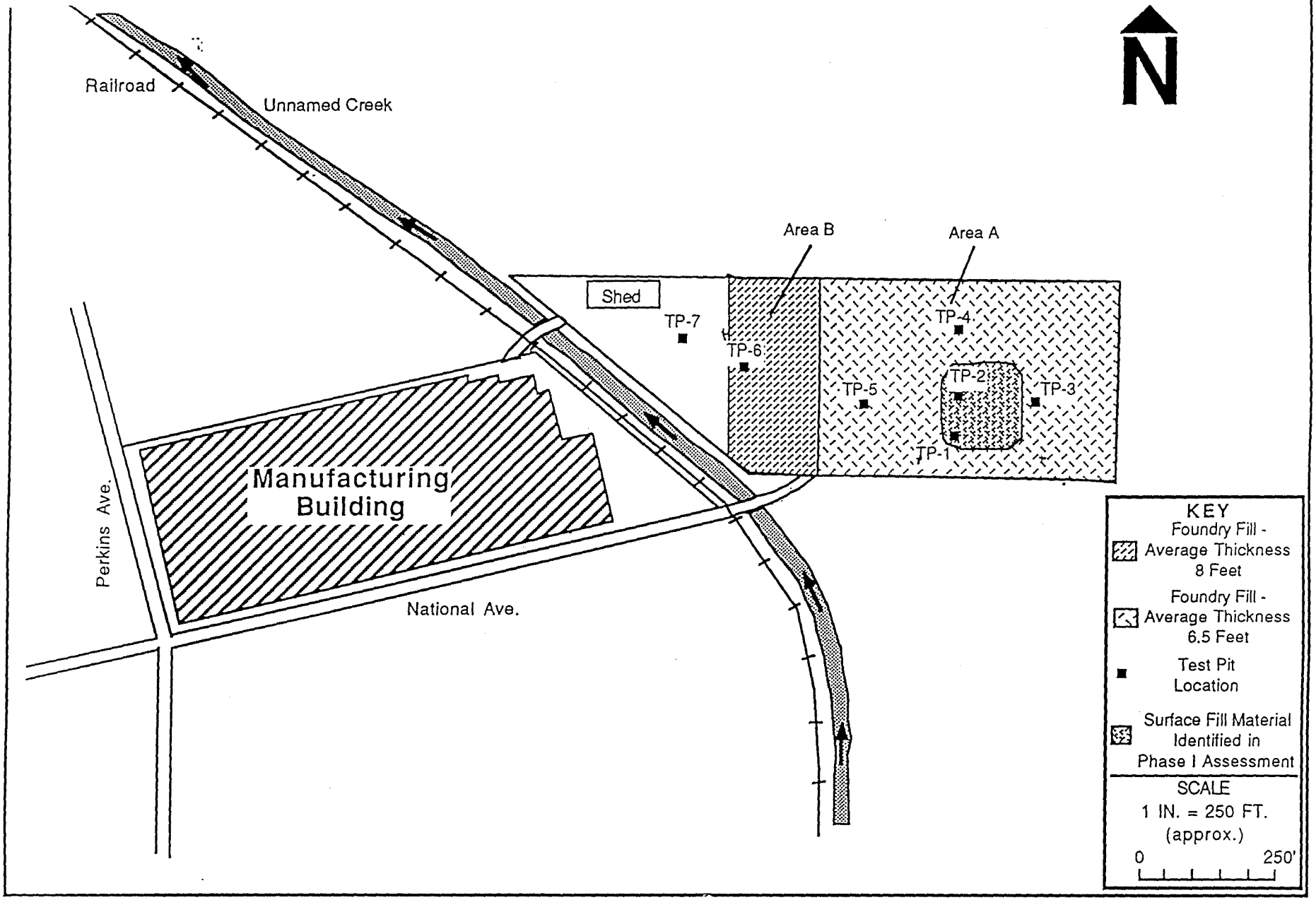

NO B IN GROUNDWATER
NO MTBE IN GROUNDWATER
As, Hg IN GROUNDWATER
15' drop in grade
CREEK
WOODED, BROKEN GROUND
MW7
NO VOCs
NO Hg
NO As
GW FLOW, GRADE
E, X
BA
GW FLOW
• DRO = 171 mg/kg,
PCB EXCAVATED AREA, @MW6 VERSAR 1994, 3.3' bg
GRADE
MW8
BTEX + VOCs, NO Hg, NO As
MW5
PCBs = 89,000 mg/kg, 1998, 7' bg.

FIGURE 1



Foundry Fill Areas

VME/Akerman Excavators, Waukesha, Wisconsin

Attachment B
Laboratory Data

NOVA Environmental Laboratory
8222 W. Calumet Rd., Milwaukee, WI 53223
Phone: (414) 355-5800 Fax: (414) 355-3099

ORGANIC REPORT

WDNR# 241340550

INVOICE NUMBER: 970989
DATE REPORTED: 19-Nov-97
DATE RECEIVED: 13-Nov-97
SAMPLE TEMP (C): Rec On Ice
PROJECT ID:
PROJECT NAME:

Wen Bin Yen
Dakota Environmental of Wisconsin, Inc.
S15 W22600 Arcadian Avenue
Waukesha , WI 53186

Dry Weight and Dilution Factor Corrected

Compound	LUST Result	Units	LUST LOD	LUST LOQ	NOVA LOD	Dilution Factor	RQ	Method	Analyst	Date of Analysis
Sample Number 8191	*Percent Solid:* 81.2%		*QC Batch Number:*			*Sample analyzed within* 9 *Day(s) from collection.*				
Client ID SS-3	Sample Description:					*Collection:* 11/8/97		*Time:* 12:00		
PCB1016	<2500	ug/kg	25000	60000	3800	1000		8080	dmd	11/17/97
PCB1221	<2500	ug/kg	25000	60000	3800	1000		8080	dmd	11/17/97
PCB1232	<2500	ug/kg	25000	60000	3800	1000		8080	dmd	11/17/97
PCB1242	89900	ug/kg	25000	60000	3800	1000		8080	dmd	11/17/97
PCB1248	<2500	ug/kg	25000	60000	3800	1000		8080	dmd	11/17/97
PCB1254	<2500	ug/kg	25000	60000	3800	1000		8080	dmd	11/17/97
PCB1260	<2500	ug/kg	25000	60000	3800	1000		8080	dmd	11/17/97

Compound	LUST Result	Units	LUST LOD	LUST LOQ	NOVA LOD	Dilution Factor	RQ	Method	Analyst	Date of Analysis
Sample Number 8192	*Percent Solid:* 90.3%		*QC Batch Number:*			*Sample analyzed within* 9 *Day(s) from collection.*				
Client ID SS-4	Sample Description:					*Collection:* 11/8/97		*Time:* 13:30		
PCB1016	<25*	ug/kg	25	60	4	1.0		8080	dmd	11/17/97
PCB1221	<25*	ug/kg	25	60	4	1.0		8080	dmd	11/17/97
PCB1232	<25*	ug/kg	25	60	4	1.0		8080	dmd	11/17/97
PCB1242	<25*	ug/kg	25	60	4	1.0		8080	dmd	11/17/97
PCB1248	<25*	ug/kg	25	60	4	1.0		8080	dmd	11/17/97
PCB1254	60	ug/kg	25	60	4	1.0		8080	dmd	11/17/97
PCB1260	<25*	ug/kg	25	60	4	1.0		8080	dmd	11/17/97

Approved By: _____ **Date:** 11/19/97
James Chang, Ph.D. , Lab Director

Special LUST Format for Methanol - Preserved Soil PVOCs or VOCs, (Release News, July and October 1994)

NOVA Lab LOD = where the LOD has been determined in accordance with 40 CFR, Part 136, Appendix B.
LUST LOD = LUST program PVOC/VOC LOD of 25 ug/kg (wet weight basis)
LUST LOQ = LUST program PVOC/VOC LOQ of 60 ug/kg (wet weight basis)
RQ : Run Qualifier; "J" = Results between LOD and LOQ "L" = Samples less than 20 g, "B" = Showed in Blank sample.

Rounding Rules: Three significant figures were used for concentrations above 99 ug/L, two significant figures for concentrations between 1-99 ug/L, and one significant figure for lower concentrations.
DNR Analytical Detection Limit Guidance, April 1995.

* *According to LUST Release News, October 1994 Volume 4, Number 5, ; Laboratories are not required to report sample results that are below 25 ug/kg, but are required to report their actual MDL on the report.*

NOVA
Environmental Laboratory
WDNR# 241340550

ORGANIC REPORT

INVOICE NUMBER: 970989
DATE REPORTED: 18-Nov-97
DATE RECEIVED: 13-Nov-97
SAMPLE TEMP (C):Rec On Ice
PROJECT ID:
PROJECT NAME:

Wen Bin Yen
Dakota Environmental of Wisconsin, Inc.
S15 W22600 Arcadian Avenue
Waukesha , WI 53186

Test	Result	Units	LOD	LOQ	Dil	RQ	Method	Analyst	Date Ext.	Date Anal.
Nova Sample Number: 8189		QC Batch Number: 972264					Collection: 11/8/97		Time: 09:00	
Client ID: SS-1		%Solid: *88*					Sample Description:			
Diesel Range Organics	**36**	**mg/kg**	1.1	3	1		WI DRO	srh	11/13/97	11/17/97
Nova Sample Number: 8190		QC Batch Number: 972264					Collection: 11/8/97		Time: 10:00	
Client ID: SS-2		%Solid: *89.4*					Sample Description:			
Diesel Range Organics	**19**	**mg/kg**	1.1	3	1		WI DRO	srh	11/13/97	11/17/97
Nova Sample Number: 8191		QC Batch Number: 972264					Collection: 11/8/97		Time: 12:00	
Client ID: SS-3		%Solid: *81.2*					Sample Description:			
Diesel Range Organics	**48**	**mg/kg**	1.2	4	1		WI DRO	srh	11/13/97	11/17/97
Nova Sample Number: 8192		QC Batch Number: 972264					Collection: 11/8/97		Time: 13:30	
Client ID: SS-4		%Solid: *90.3*					Sample Description:			
Diesel Range Organics	**171**	**mg/kg**	2.1	7	2		WI DRO	srh	11/13/97	11/17/97
Nova Sample Number: 8193		QC Batch Number: 972264					Collection: 11/8/97		Time: 13:45	
Client ID: SS-5		%Solid: *84.6*					Sample Description:			
Diesel Range Organics	**12**	**mg/kg**	1.1	3	1		WI DRO	srh	11/13/97	11/17/97
Nova Sample Number: 8194		QC Batch Number: 972264					Collection: 11/8/97		Time: 14:50	
Client ID: SS-6		%Solid: *89.1*					Sample Description:			
Diesel Range Organics	**187**	**mg/kg**	5.4	17	5		WI DRO	srh	11/13/97	11/17/97

During the removal of the five USTs, a sample of the contents of the sixth tank was collected by the tank removal contractor, to determine if the contamination in the groundwater had come from the tank. The laboratory analytical results of the tank sampling are included in Attachment G. The results indicate, when compared with the previously obtained groundwater sample laboratory analytical results, that the contents of the sixth tank have not been released to the groundwater and therefore the tank does not appear to be the source of the groundwater contamination.

Laboratory analytical results from the hydropunch groundwater samples, presented in Table 2 and Attachment H, confirm the previous analytical results from the monitoring wells and indicate the following:

TABLE 1 - ANALYTICAL SUMMARY*

COMPOUNDS	SAMPLE LOCATION				(PAL) PREVENTIVE ACTION LIMIT	(ES) ENFORCEMENT STANDARD
	MW-01	MW-02	MW-03	MW-03D**		
Volatiles in Parts Per Billion (ppb)						
1,1-Dichloroethane	ND	30	11	11	85	850
1,1-Dichloroethene	ND	ND	ND	10	.024	7
cis-1,2-Dichloroethene	ND	ND	ND	8	10	100
Hexachlorobutadine	ND	ND	ND	2	***	***
1,1,1-Trichloroethane	ND	330	42	49	40	200
Trichloroethene	ND	370	37	42	.18	5
trans-1,2-Dichloroethene	ND	ND	8.3	ND	20	100

MW = Monitoring Well
EB = Equipment Blank
ND = Not Detected

*** = Not Established
** = MW-03D is a duplicate sample of MW-03
* = Only Compounds detected are presented in Table.

PALs and ESs, are provided in the Leaking Underground Storage Tank (LUST) Analytical Guidance (PUBL-SW-138) by the Wisconsin Department of Natural Resources, dated June 1991. PALs and ESs are established by WAC NR 140.

RESULTS OF SAMPLES COLLECTED FROM PAINT WASTE FOUND IN DRUMS DEPOSTED AT THE FORMER HEIN-WERNER SITE LOCATED AT 1005 PERKINS AVENUE, WAUKESHA, WI

Sample Date	Collected By	Sample#	Result
12/20/94	Ellenbecker	HW1	33 mg/kg, Arsenic, ICP
12/20/94	Ellenbecker	HW1	410 mg/kg, Barium, ICP
12/20/94	Ellenbecker	HW1	30,000 mg/kg, Chromium, ICP
12/20/94	Ellenbecker	HW1	14,000 mg/kg, Iron, ICP
12/20/94	**Ellenbecker**	**HW1**	**5.42 mg/l, Lead, TCLP**
12/20/94	Ellenbecker	HW2	28 mg/kg, Arsenic, ICP
12/20/94	Ellenbecker	HW2	890 mg/kg, Barium, ICP
12/20/94	Ellenbecker	HW2	18,000 mg/kg, Chromium, ICP
12/20/94	Ellenbecker	HW2	17,520 mg/kg, Iron, ICP
12/20/94	Ellenbecker	HW2	80,000 mg/kg, Lead, ICP

RESULTS OF SOIL SAMPLES COLLECTED FROM THE FORMER HEIN-WERNER SITE LOCATED AT 1005 PERKINS AVENUE, WAUKESHA, WI

Sample Date	Collected By	Sample#	Result
03/10/97	Ellenbecker	HW97-1	54 mg/kg, Barium, ICP
03/10/97	Ellenbecker	HW97-1	190 mg/kg, Chromium, ICP
03/10/97	Ellenbecker	HW97-1	33,000 mg/kg, Iron, ICP
03/10/97	Ellenbecker	HW97-1	180 mg/kg, Lead, ICP
03/10/97	Ellenbecker	HW97-2	53 mg/kg, Barium, ICP
03/10/97	Ellenbecker	HW97-2	140 mg/kg, Chromium, ICP
03/10/97	Ellenbecker	HW97-2	36,000 mg/kg, Iron, ICP
03/10/97	Ellenbecker	HW97-2	770 mg/kg, Lead, ICP
03/10/97	Ellenbecker	HW97-3	81 mg/kg, Barium, ICP
03/10/97	Ellenbecker	HW97-3	410 mg/kg, Chromium, ICP
03/10/97	Ellenbecker	HW97-3	32,000 mg/kg, Iron, ICP
03/10/97	Ellenbecker	HW97-3	2,500 mg/kg, Lead, ICP
03/10/97	Ellenbecker	HW97-4	28 mg/kg, Barium, ICP
03/10/97	Ellenbecker	HW97-4	82 mg/kg, Chromium, ICP
03/10/97	Ellenbecker	HW97-4	15,000 mg/kg, Iron, ICP
03/10/97	Ellenbecker	HW97-4	770 mg/kg, Lead, ICP
03/10/97	Ellenbecker	HW97-5	33 mg/kg, Barium, ICP
03/10/97	Ellenbecker	HW97-5	36 mg/kg, Chromium, ICP
03/10/97	Ellenbecker	HW97-5	21,525 mg/kg, Iron, ICP
03/10/97	Ellenbecker	HW97-5	42 mg/kg, Lead, ICP
03/10/97	Ellenbecker	HW97-6	36 mg/kg, Barium, ICP
03/10/97	Ellenbecker	HW97-6	38 mg/kg, Chromium, ICP
03/10/97	Ellenbecker	HW97-6	36,000 mg/kg, Iron, ICP
03/10/97	Ellenbecker	HW97-6	79 mg/kg, Lead, ICP

Attachment C
Excerpts from Former Work

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor
George E. Meyer, Secretary
Gloria L. McCutcheon, Regional Director

Southeast Region Annex
4041 N. Richards Street, Box 12436
Milwaukee, WI 53212-0436
TELEPHONE 414-229-0800
FAX 414-229-0810

August 20, 1997

In Response Refer To: FID#268091890
County of Waukesha

Mr. Dominic Giuffre
Mallory Improvements
6635 S. 13th Street
Milwaukee, WI 53221

SUBJECT: Reported Contamination at 1005 Perkins Avenue, Waukesha, Wisconsin 53187

Dear Mr. Giuffre:

The purpose of this letter is to notify you of information the Wisconsin Department of Natural Resources (WDNR) has obtained about the apparent contamination of the property located at 1005 Perkins Avenue, Waukesha, Wisconsin. It is the Department's belief that you are responsible for restoring the environment at this high priority site. The following information exists regarding the site:

On May 2, 1993, the WDNR received an anonymous complaint that there were drums buried at the site. On November 11, 1993, the WDNR visited the site and observed partially buried 55-gallon drums containing paint-like waste located on the north east corner of the property.

On December 20, 1994, one soil sample (HW3) and two paint waste samples (HW1 and HW2) were collected from the site by the WDNR. Sample HW1 quantified lead concentrations above the regulatory limit of 5 mg/L whereby classifying this waste material as a characteristic hazardous waste. All three samples showed high levels of heavy metals.

Site investigative activities were undertaken on May 23, 1996. During the excavation of test pits, WDNR staff observed several buried containers holding waste paint. A laboratory analytical sample of waste paint from one container was determined to be a characteristic hazardous waste.

On March 10, 1997, the WDNR visited the site for the purpose of collecting six additional soil samples. During the site visit, WDNR staff observed approximately two dozen containers throughout the site. All six discrete soil samples showed high levels of metals.

The remainder of this letter is to inform you of your legal responsibilities; describe what steps are necessary for you to investigate and remediate the site; and to provide you with information about cleanups, environmental consultants and working cooperatively with the WDNR.

Legal Responsibilities

Your legal responsibilities are defined both in statute and in administrative codes. The hazardous substance spills law, s. 292.11(3), Wisconsin Statutes, states:

* RESPONSIBILITY. 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 the state.

Wisconsin Administrative Codes, chapters NR 700 through 728, establish code requirements for the investigation and remediation of sites. Wisconsin Administrative Code chapter NR 140 establishes groundwater standards for contaminants that reach groundwater.

It is the WDNR's belief that this section of state law does apply to you and consequently you, along with Hein-Werner, are responsible for taking the necessary actions. While the WDNR does have limited resources, it is the intention of the Department to work cooperatively with you as the site is investigated and remediated.

Steps to Take

To ensure that your cleanup complies with Wisconsin's laws and administrative codes, you should hire a professional environmental consultant who understands what needs to be done. These are the first four steps to take:

1. By September 22, 1997, please submit written verification (such as a letter from the consultant) that you hired an environmental consultant. You will need to work quickly to meet this timeline.

2. By October 22, 1997, your consultant must submit a work plan and a schedule for conducting the investigation per ch. NR 716, Wis. Adm. Code. The consultant must follow the Department's administrative codes and our technical guidance documents. Please include with your work plan a copy of any previous information that has been completed (such as an underground tank removal report or a preliminary soil excavation report).

Your work plan for site investigation needs to address the following tasks:

a. the proper removal, containerization, and management of all containers and contaminated soil associated with the containers, as well as confirmation sampling of soil in order to ensure that remediation is complete;

b. a proposal to implement a site-wide groundwater monitoring system that clearly defines the direction of groundwater flow and at the same time monitors groundwater quality via the installation of monitoring wells and quarterly sampling for VOCs, PAHs, and metals; and,

c. a determination of the status of the two existing groundwater wells for possible inclusion in the site-wide groundwater monitoring system.

3. Please keep us informed of what is being done at your site. Submittal requirement timelines are dependent upon the contaminants of concern at the site. As described in s. NR 700.11, if the site meets the criteria for a "simple site," progress reports must be submitted semi-annually, beginning six months from the initial notification date. If the site meets the criteria for a "complex

WISCONSIN
DEPT. OF NATURAL RESOURCES

George E. Meyer
Secretary

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Southeast District
P.O. Box 12436
4041 North Richards Street
Milwaukee, Wisconsin 53212
TELEPHONE 414-229-0800
TELEFAX 414-229-0810

March 8, 1995

IN RESPONSE REFER TO: FID#: 268 09189 0
County of Waukesha
HW/ CMEL

Frank P. Giuffre
Mallory Improvements
6635 South 13th Street
Milwaukee, WI 53221
(414) 764-9200

Dear Mr. Giuffre:

Under Wisconsin law, the Department of Natural Resources is responsible for enforcing statutes relating to the reporting and remediation of hazardous waste contamination under § 144.64(2), Wisconsin Statutes. The purpose of this letter is threefold: to make sure persons know their responsibilities under the law and act accordingly; to explain what you need to do to investigate and clean up the contamination; and to provide you with information about cleanups, environmental consultants, and working cooperatively with the Department of Natural Resources.

The Department is in the process of identify other potential responsible parties who may have caused or contributed to the contamination on site. Any information that you can provide regarding past waste management activities of the facility would assist the Department in identifying other responsible parties.

On November 11, 1993, the Department began an investigation at the VME/Akerman site located at 1005 Perkins Avenue, Waukesha, Wisconsin, 53187. The purpose of the investigation was to determine the validity of an anonymous complaint alleging the disposal of hundreds of 55-gallon drums containing waste paints and solvents. The Department's investigation showed that there are partially exposed 55-gallon drums in the north east corner of the facility. Further inspection of the drums showed that the drums contained a paint like waste.

On December 20, 1994, one soil sample (HW3) and two waste samples (HW1, HW2) were collected from the site. Sample HW1 showed lead concentration above the regulatory limit of 5 mg/l (see attachments). This waste sample is therefore classified as a toxic hazardous waste. All of the samples showed high levels of heavy metals.

Legal Responsibilities:

Under § 144.64(2m), Wis. Stats., any person who disposes of hazardous waste at an unapproved location or otherwise operates a hazardous waste disposal facility without a license from the Department must prepare and submit a hazardous waste facility closure plan to the Department for its review and approval. To *clean close* a hazardous waste facility, all wastes, all constituents and all contamination resulting from hazardous waste management activities must be cleaned up. If a hazardous waste facility is unable to clean close, it must close as a hazardous waste landfill; in that case, the owner/operator must also prepare and submit a long-term care plan for the facility. The closure plan and long-term care plan must conform to Department rules, and the plans, as approved by the Department, must be implemented.

Wisconsin Administrative Codes chapters NR 700 through NR 728 establish requirements for emergency and interim actions, public information, site investigation, design and operation of a remedial action system, and case closure. Chapter NR 708 includes provisions for immediate actions in response to limited contamination. Wisconsin Administrative Code chapter NR 140 establishes groundwater standards for contaminants that reach groundwater.

GIBBS, ROPER, LOOTS & WILLIAMS, S.C.
ATTORNEYS AT LAW
735 NORTH WATER STREET
MILWAUKEE, WISCONSIN 53202
TELEPHONE (414) 273-7000
FACSIMILE (414) 273-7897

WAYNE J. ROPER
ROBERT J. LOOTS
CLAY R. WILLIAMS
JOHN W. HEIN
WILLIAM J. FRENCH
GEORGE A. EVANS, JR.
THOMAS P. GUSZKOWSKI
GREGORY G. WILLE
BRENT E. GREGORY
TERRY E. NILLES
STEPHEN L. KNOWLES
ROBERT E. WRENN
BROOKE J. BILLICK
THOMAS R. STREIFENDER
ROBERT L. GEGIOS

DAVID J. EDQUIST
BETH J. KUSHNER
CATHERINE MODE EASTHAM
WILLIAM R. WEST
DOUGLAS S. KNOTT
KENNETH A. HOOGSTRA
J. DOUGLAS FITZGERALD
MARK S. DIESTELMEIER
GLEN E. LAVY
LINDA S. McPIKE
DEANNA C. KRESS

OF COUNSEL
RICHARD S. GIBBS
THOMAS B. FIFIELD

August 8, 1994

Mr. Ryan Tessmer
Giuffre Brothers
6635 South 13th Street
Milwaukee, WI 53221

Re: Waukesha Plant
1005 Perkins Avenue
Waukesha, Wisconsin

Dear Mr. Tessmer:

I appreciated the opportunity to speak with you on August 8. You had called to inquire regarding the sampling results for the sixth tank at the Perkins Avenue facility. As I indicated to you, this information is contained in the December 2, 1993 report letter from Versar that I forwarded to Frank Giuffre on December 8, 1993. If you have any further questions after you have completed your review of that report letter, please feel free to give me a call.

Sincerely,

GIBBS, ROPER, LOOTS & WILLIAMS, S.C.

David J. Edquist

DJE/mss
cc: Jon Hill
Doug Dahlberg

VME Sales North America

No. of Pages 1

To FRANK GIUFFRE	From MARK DELONG
Co.	Co.
Dept.	Phone No.
Fax No. 414-764-8180	Fax No.

GIBBS, ROPER, LOC
ATTORN
735 NORTH
MILWAUKEE, V
TELEPHONI
FACSIMILE

WAYNE J. ROPER
ROBERT J. LOOTS
CLAY R. WILLIAMS
JOHN W. HEIN
WILLIAM J. FRENCH
GEORGE A. EVANS, JR.
THOMAS P. GUSZKOWSKI
BRENT E. GREGORY
TERRY E. NILLES
STEPHEN L. KNOWLES
BROOKE J. BILLICK
THOMAS R. STREIFENDER
ROBERT L. GEGIOS

DEANNA C. KRESS

OF COUNSEL
RICHARD S. GIBBS
THOMAS B. FIFIELD

December 5, 1994

Mr. Benn S. DiPasquale
Foley & Lardner
777 E. Wisconsin Avenue
Milwaukee, WI 53202

Re: VME Americas/Hein Werner Corporation

Dear Mr. DiPasquale:

As you know, we have acted as counsel for Akerman and VME Americas in connection with environmental remediation of a facility located at 1005 Perkins Avenue in Waukesha, Wisconsin. Akerman acquired this facility from Hein-Werner in 1981. We are presently awaiting the issuance of a closure letter form the DNR concerning the remediation of this site.

During the week of Thanksgiving, the DNR notified VME's environmental consultant, Versar, of an anonymous tip that had been phoned into the DNR in May of 1993. The caller claimed that Hein-Werner had buried "hundreds" of barrels at the site, dating back twenty years or more. The DNR apparently conducted an initial site investigation in November of 1993, but made no further attempt to investigate this claim until contacting Versar.

We met with Michael Ellenbecker, DNR hazardous waste investigator, at the site on December 1. We did discover a limited number of very old and very corroded barrels in a woods on the northern boundary of the east lot at the site. The age and location of these drums would indicate that disposal took place during the time that Hein-Werner operated the facility. You may be contacted by the DNR within the next month regarding this situation. I thought that you might appreciate an advance notice.

Finally, I am still awaiting a response from you to my letter of October 24, regarding VME's claim for reimbursement of response costs it incurred at the site. I would appreciate your acknowledgement of and response to that prior correspondence.

Sincerely,

GIBBS, ROPER, LOOTS & WILLIAMS, S.C.

David J. Edquist

DJE/mss
cc: Mark DeLong ✓
Jon Hill

GIBBS, ROPER, LOOTS & WILLIAMS, S.C.
ATTORNEYS AT LAW
735 NORTH WATER STREET
MILWAUKEE, WISCONSIN 53202
TELEPHONE (414) 273-7000
FACSIMILE (414) 273-7897

WAYNE J. ROPER
ROBERT J. LOOTS
CLAY R. WILLIAMS
JOHN W. HEIN
WILLIAM J. FRENCH
GEORGE A. EVANS, JR.
THOMAS P. GUSZKOWSKI
GREGORY G. WILLE
EDWARD R. NUSS
BRENT E. GREGORY
TERRY E. NILLES
STEPHEN L. KNOWLES
ROBERT E. WRENN
BROOKE J. BILLICK
THOMAS R. STREIFENDER
ROBERT L. GEGIOS
DAVID J. EDQUIST
BETH J. KUSHNER

CATHERINE MODE EASTHAM
WILLIAM R. WEST
JANICE L. GAUTHIER
DOUGLAS S. KNOTT
KENNETH A. HOOGSTRA
J. DOUGLAS FITZGERALD
MARK S. DIESTELMEIER
GLEN E. LAVY
LINDA S. McPIKE
DEANNA C. KRESS

OF COUNSEL
RICHARD S. GIBBS
THOMAS B. FIFIELD

December 8, 1993

Mr. Frank P. Guiffre
D&F Company
6635 South 13th Street
Milwaukee, WI 53221

Re: Waukesha Plant
1005 Perkins Avenue
Waukesha, Wisconsin

Dear Mr. Guiffre:

This firm represents VME Americas Inc. VME Americas has been engaged in various environmental remediation efforts at the facility referenced above pursuant to the indemnification agreement of February 12, 1993 between D&F Company and VME. This letter will update you regarding the status of those efforts.

The five underground storage tanks previously identified at the facility have been removed, together with certain contaminated soils located in the vicinity of those tanks. I am enclosing for your reference a copy of the UST closure checklist prepared by VME's environmental consultant, Versar Inc.

The Phase IIB Environmental Assessment previously provided to you also indicated the presence of PCB contamination in the surface soils on the adjoining parcel east of the plant. Versar has prepared a Phase III report pertaining to the proposed removal of the impacted soils. A copy of this report has been provided to the Wisconsin Department of Natural Resources, and an additional copy is enclosed for your reference. The WDNR has authorized VME to proceed with excavation and removal of contaminated soils from that surface lot. This removal operation will commence on December 8, 1993.

At the present time, I would like to advise you of two additional matters reported by Versar to VME. A copy of Versar's report letter is enclosed. The first pertains to the discovery of a sixth UST immediately adjacent to the building. VME and its Akerman affiliate had no prior knowledge regarding the existence of this tank, which apparently was installed prior to the time that VME took title to the property. Versar has sampled the tank

contents. Soil borings in the immediate vicinity of the sixth tank indicate that there have been no releases from this tank into the environment. VME is notifying you, as current owner of the facility, regarding the existence of this tank so that you may take all necessary steps to register this tank with the Wisconsin Department of Industry, Labor and Human Relations pursuant to the requirements in ILHR 10.

The second matter relates to the detection of certain volatile organic compounds in the groundwater beneath the site. Versar has conducted an investigation into the presence of these compounds in the groundwater. Versar has uncovered no evidence of any spill or release of these compounds at the facility. The six USTs have been ruled out as possible sources. Versar concludes that the groundwater contamination most likely results from an off-site source to the north of the facility. While it appears that there has been no "discharge" that would trigger any notification requirements under Section 144.76 of the Wisconsin Statutes, VME nevertheless thought it advisable to provide this information to you so you can make an independent determination as to any reporting obligation that you, as current owner, may have. Should you require any additional information, please do not hesitate to give me a call.

Sincerely,

GIBBS, ROPER, LOOTS & WILLIAMS, S.C.

David J. Edquist

DJE/mss
Enclosures
cc: Mark DeLong
Jon Hill

Attachment D
Photographs

#1 – Slope toward Creek – Standing on Site, Looking Toward Waukesha Iron & Metal

Wooded Area of Broken Ground Facing WI&M

More Wooded Areas of Broken Ground Between Central Site and Waukesha Iron & Metal. Note Orange Flags from Dakota's ½-day Inspection. Some Paint Solids and Barrel Remnants Still Remain Next to Flagged Areas.

Southern Site Area. As a "sheet," run off would have to cross the wooded section, the clearing, and the southern wooded section to impact all vadose soils.

Embankment at the property line near MW7. Note more broken ground

PHOTO #1 ENLARGEMENT