



July 25, 2012

Mr. Paul Marks  
Brown Street III, LLC  
400 W. Erie St., Ste 401  
Chicago, IL 60654

Casetrack No. 2012-SEEE-023  
BRRTS No. 03-41-373872

341065230

File

By certified mail

### NOTICE OF VIOLATION

The Department of Natural Resources has reason to believe that Brown Street III, LLC is in violation of state hazardous substance remediation laws under Ch 292, Wis. Stats., and NR 716, Wis. Adm. Code, at the property located at 301 E. Brown St., City of Milwaukee, Milwaukee County. The violations concern the investigation and remediation of soil and groundwater contamination first reported to the Department in 2002.

The Department alleges the following violations:

- Ch 292.11, Wis. Stats., Hazardous substance spills.  
(3) 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 this state.
- NR 716.05, Wis. Adm. Code, General.  
(1) Responsible parties shall conduct a site investigation that meets the requirements of this chapter and s. NR 746.05, for discharges of petroleum products from petroleum storage tanks, when site-specific or facility-specific information indicates that soil, sediment, groundwater, surface water, air or other environmental media at a site or facility may have become contaminated. Unless sub. (2) is applicable, responsible parties shall use the factors in s. NR 708.09 (1) (a) through (n) and (2) (a) through (c) to determine whether or not a site investigation is necessary.

According to Department records, the property at 301 E. Brown St. (legal description: Certified Survey Map No. 7294 in SE ¼ of NE ¼ Sec 20 & SW ¼ of NW ¼ Sec 21-7-22 Lot 2 & Vac W Brown St & N Hubbard St adj) is owned by Brown Street III LLC. In October 2002, STS Consultants informed the Department on behalf of Brian Columbus of Brown Street III LLC that soil and groundwater contamination had been detected at the 301 E. Brown St. site ("Site").

On October 31, 2002, the Department issued a Responsible Party letter to Brown Street III LLC, 20 W. Hubbard, Suite 2W, Chicago, IL 60610. The RP letter informed Brown Street III LLC of its obligations to take the actions necessary under Ch. 292, Wis. Stats., to restore the environment to the extent practical. The RP letter provided Brown Street III LLC a set of deadlines to hire a consultant, submit a workplan and schedule for site investigation, and provide periodic reports after site investigation is completed. STS installed groundwater monitoring wells in October 2002, and obtained the first

samples on November 8, 2002. Test results showed lead (Pb) and polycyclic aromatic hydrocarbon (PAH) contamination in the groundwater. A site investigation report was submitted to the Department in January 2003, but was not approved because the report did not address the degree and extent of contamination as required in NR 716.

There has been no further contact from Brown Street III LLC.

The Department issued a letter in August 2010 to urge closure of the site, addressed to 400 W. Erie St., Suite 401, Chicago, but there was no response. Notices of noncompliance were issued in December 2010, and again on May 21, 2011. The May 2011 NON was sent by certified mail, and Department records show that the letter was accepted by Brown Street III, LLC, possibly by Paul Marks.

We have scheduled the following Enforcement Conference to discuss this matter in more detail:

Conference Date: August 8, 2012

Conference Time: 10:00 AM

Location: 2300 N. Dr. M L King Jr. Drive  
Milwaukee WI 53212

We encourage you to attend the Enforcement Conference as it is an important opportunity to discuss the circumstances surrounding the alleged violations and to learn your perspective on this matter. The Department's enforcement decision will be based upon available information if you do not attend the Enforcement Conference or provide written information for consideration prior to the scheduled date of your Enforcement Conference.

The Department will also discuss the property at 275 E. Brown St., City of Milwaukee, a.k.a. 1935 N. Hubbard St. (BRRTS No. 02-41-373881, FID # 341065340), owned by Brown Street II LLC, 400 W. Erie St., Suite 401, Chicago. Department records show that that the site investigation report was approved in 2003 but there has been no activity reported to the Department since 2003.

Please be advised that violations of Ch. 292, Wis. Stats., may be referred to the Department of Justice to obtain court ordered compliance and penalties up to \$ 5,000 per day of violation. The Department can also record an affidavit at the Milwaukee County Register of Deeds Office indicating that contamination remains at the Site in question.

Tandem Developers, LLC is also being copied on this Notice of Violation, because it appears that Tandem Developers, LLC and Brown Street III LLC are related, and Tandem Developers, LLC may be in a position to resolve this matter. If this is an error, please reply in writing with an explanation so that that documentation can be included in the file. The Department's primary interest is in bringing the Site to closure.

If you have questions or need to reschedule the conference, please contact me at (414) 263-8490. If you do need to reschedule, please contact me at least one week prior to the scheduled meeting date. For technical questions regarding the Site closure, you may contact John Hnat, (414) 263-8644.

Sincerely,

A handwritten signature in black ink, appearing to read "Saji Villoth". The signature is fluid and cursive, with the first name "Saji" being more prominent and the last name "Villoth" following in a similar style.

Saji Villoth  
Environmental Enforcement Specialist

c: Mr. Paul Dincin, Tandem Developers, LLC  
414 N. Orleans St., Ste 202  
Chicago, IL 60610

Northwest Registered Agents  
J. Hnat, P. Mylotta - RR