



March 13, 2023

Newell Operating Company
Attn: Kristin Jones
6655 Peachtree Dunwoody Road
Atlanta, GA 30328
Sent via email only to Kristin.Jones@newellco.com

Fraser Properties, LLC
Attn: Sean Fraser
398 Welhouse Drive
Kimberly, WI 54136
Sent via email only to fraserpropertiesllc@gmail.com

Subject: Off-site liability clarification for property located at 44 Walnut Street, Chilton, WI with contamination from an off-site source
Mirro Plt #20 (Former), BRRTS #s: 07-08-402366, 02-08-520157, & 06-08-426946
Parcel #s: 16631 & 16951

Dear Ms. Jones and Mr. Fraser:

Purpose

The Department of Natural Resources (DNR) recently reviewed Newell Operating Company's request for an off-site liability clarification letter for the property located at 44 Walnut Street, Chilton WI, which will be referred to in this letter as "the Property." Refer to the attached Figure 2, Site Layout and Existing Monitoring Well Network, Ramboll, January 26, 2022, for a map of the Property. A fee was not received for this request due to the Property being enrolled in the Voluntary Liability Exemption Program (VPLE).

Request

Newell Operating Company (NOC) has requested that the DNR determine if NOC is liable to further investigate or remediate groundwater (saturated soil and sump water associated with groundwater) and vapor contamination on the Property related to tetrachloroethene (PCE) and its breakdown products, and 1,2-Dichloroethane in groundwater. The DNR will also clarify if the property owner, Fraser Properties, LLC, is exempt from Wis. Stats. §§ 292.11(3), (4) and (7)(b) and (c), (commonly known as the "Spill Law"), with respect to the existence of the hazardous substance discharges identified above, that NOC believes is migrating onto the Property from an off-site source.

Wis. Stat. § 292.55 authorizes the DNR to issue clarification letters concerning environmental liability. Wisconsin's Spill Law includes an "off-site exemption," in Wis. Stats. § 292.13, that limits the liability of a person who possesses or controls property that is contaminated by an off-site discharge when certain conditions are met. To make this determination, the DNR reviewed information about the Property, including soil and groundwater sampling data for the Property and other sites contained in the following documents:

- Off-Site Liability Exemption and Liability Clarification Application form (Form 4400-201) signed July

14, 2022;

- Off-Site Liability Clarification Request, Ramboll, July 15, 2022;
- DNR Case File, Mirro Plt #20 (Former), BRRTS# 02-08-520157;
- Response to the Off-Site Liability Exemption and Liability Clarification Application for Former Mirro Plant No. 20 Site, Foth, November 29, 2022.

Background

The Property has been used for manufacturing since the 1920s. The Property is a former manufacturing site for production of aluminum and steel cookware and bakeware. Newell Operating Company (as Newell Rubbermaid, Inc.) received a responsible party letter for this property in 2004 as the “causer” for contamination found at the Property due to their relationship to the companies that operated and caused hazardous substance discharges on the Property. Fraser Properties, LLC purchased the Property in 2022 and received a responsible party letter on May 25, 2022, because they possessed the hazardous substance discharges on the Property when they took ownership. The Property is currently occupied by multiple tenants and used as a warehouse and machine shop.

The DNR considered the documents listed above in making the determinations presented in this letter. Site investigation activities began in 2002 and identified contamination including volatile organic compounds (VOC), polycyclic aromatic hydrocarbons (PAH), and Resource Conservation and Recovery Act (RCRA) metals in soil and/or groundwater on the Property. Chlorinated volatile organic compounds (CVOC) were identified in groundwater in the southern portion of the property but were not found in unsaturated soil samples analyzed in these locations. The investigation identified Larson Cleaners (02-08-221491), a known source of CVOCs as the likely source of groundwater contamination found at the Property. Review of soil borings, soil sampling data, well construction reports, and groundwater levels in monitoring wells and piezometers, and groundwater sampling data supported this assessment. Therefore, DNR concurs the contamination of CVOCs in groundwater and vapor is a result of off-site migration of contamination from Larson Cleaners.

A determination was also requested for 1,2-Dichloroethane in groundwater that NOC contends is migrating from an off-site source. Based on the location of off-site monitoring wells and lack of supporting groundwater data linking the contamination from Chilton Metal Products (BRRTS #s 02-08-561133 and 03-08-000802) to the contamination on the Property, the DNR does not concur with the conclusion that 1,2-Dichloroethane is migrating from an off-site source at this time. Therefore, the site investigation and remediation of 1,2-Dichloroethane is the responsibility of NOC.

Determination and Liability Clarification

Based upon the available information and in accordance with Wis. Stat. §§ 292.55 and 292.13, the DNR makes the following determinations regarding the presence of CVOCs including perchloroethylene (PCE), trichloroethylene (TCE), cis-1,2-dichloroethene (cDCE), and vinyl chloride in groundwater and vapor. CVOCs have been identified in on-site monitoring wells MW-8, MW-13, MW-14, PZ-5, PZ-13, B-12, East Sump and Large Sump, and previously abandoned groundwater monitoring wells MW-3, MW-5, and PZ-10. Off-gassing of CVOC vapor from groundwater was confirmed via sampling of the basement sumps.

The DNR has determined that NOC is not responsible for investigation or remediation of the CVOC contamination in groundwater or vapor that is migrating onto the Property. This contamination did not originate from discharges on the Property and was not caused by the operations of NOC or its predecessors. However, NOC does not qualify for the off-site exemption at this time because they do not currently own the Property. NOC remains responsible for completing investigation and remedial action for any discharges of hazardous substances whose source originates on the Property. In addition to the clarification for NOC, the following is the determination for the off-site exemption for Fraser Properties as the Property owner.

The DNR, based on the information available, determined that the Property owner met the conditions in Wis. Stats. § 292.13 to qualify for the liability exemption, including but not limited to the following provisions:

1. The hazardous substance discharge originated from a source on property that is not possessed or controlled by Fraser Properties, LLC.
2. Fraser Properties, LLC did not possess or control the hazardous substance on the property on which the discharge originated.
3. Fraser Properties, LLC did not cause the discharge.
4. Fraser Properties, LLC will not have liability under the Spill Law for investigation or remediation of the groundwater or vapor contamination originating from off-site onto the Property, provided that Fraser Properties, LLC does not take possession or control of the property on which the discharge originated.

Exemption Conditions for Property Owner

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

1. The facts upon which the DNR based its determination are accurate and do not change.
2. Fraser Properties, LLC agrees to allow the following parties to enter the Property to take action to respond to the discharge: the DNR 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. Fraser Properties, LLC agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge.
4. Fraser Properties, LLC agrees to any other condition that the DNR determines is reasonable and necessary to ensure that the DNR and any other authorized party can adequately respond to the discharge.
5. With respect to vapor contamination only, Fraser Properties, LLC agrees to take one or more specified actions directed by the DNR, if the DNR determines that the actions are necessary to prevent an imminent threat to human health, safety or welfare or to the environment. This would occur after the DNR has made a reasonable attempt to notify the party who caused the hazardous substance discharge about that party's responsibilities to investigate and clean up the discharge.

Responsibilities for Continuing Obligations

In addition to the conditions above, after the contamination at the source property is remediated, the DNR's approval of the cleanup may include continuing obligations at the source property as well as for this Property. Often residual contamination remains after an approved environmental cleanup is complete. This approval may include requirements to maintain engineering controls, such as a cap or soil cover, to reduce the impact of the contamination. In that event, the Property owner may also be required to notify the DNR prior to constructing a water supply well on this Property. If the neighboring property owners request for cleanup approval includes requirements for this Property, the party conducting the cleanup is required to notify the Property owner before the DNR reviews the proposal for final approval of the clean-up.

Conclusion

The DNR clarified that NOC is not responsible for investigation or remediation of the CVOC contamination in groundwater and vapor that is migrating onto the Property, since it did not originate from discharges on the Property and was not caused by the operations of NOC or its predecessors. Please note the DNR made this determination based on the information and data submitted. If the DNR becomes aware of new information concerning the CVOC contamination, the DNR may evaluate that data at that time to determine if this clarification still applies.

The DNR also determined that Fraser Properties, LLC has the off-site exemption under Wis. Stats. § 292.13 for the CVOC contamination in groundwater and vapor that is migrating onto the Property. Please note that the DNR may revoke the determinations made in this letter if it determines that any of the requirements under Wis. Stats. § 292.13, cease to be met.

Future Property owners are eligible for the exemption under Wis. Stats. § 292.13, if they meet the requirements listed in that statute section. The determinations in this letter for the off-site liability exemption, however, only applies to Fraser Properties, LLC, and may not be transferred or assigned to other parties. The DNR will provide a written determination to future owners of this Property, if such a determination is requested in accordance with the requirements of Wis. Stats. § 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 DNR tracks information on all determinations such as this in a DNR database available online at dnr.wi.gov and search: "BOTW".

If you have any questions or concerns regarding this letter, please contact me at 920-362-39810 or the DNR project manager, Kevin McKnight, at 920-808-0170 or by email at Kevin.McKnight@wisconsin.gov.

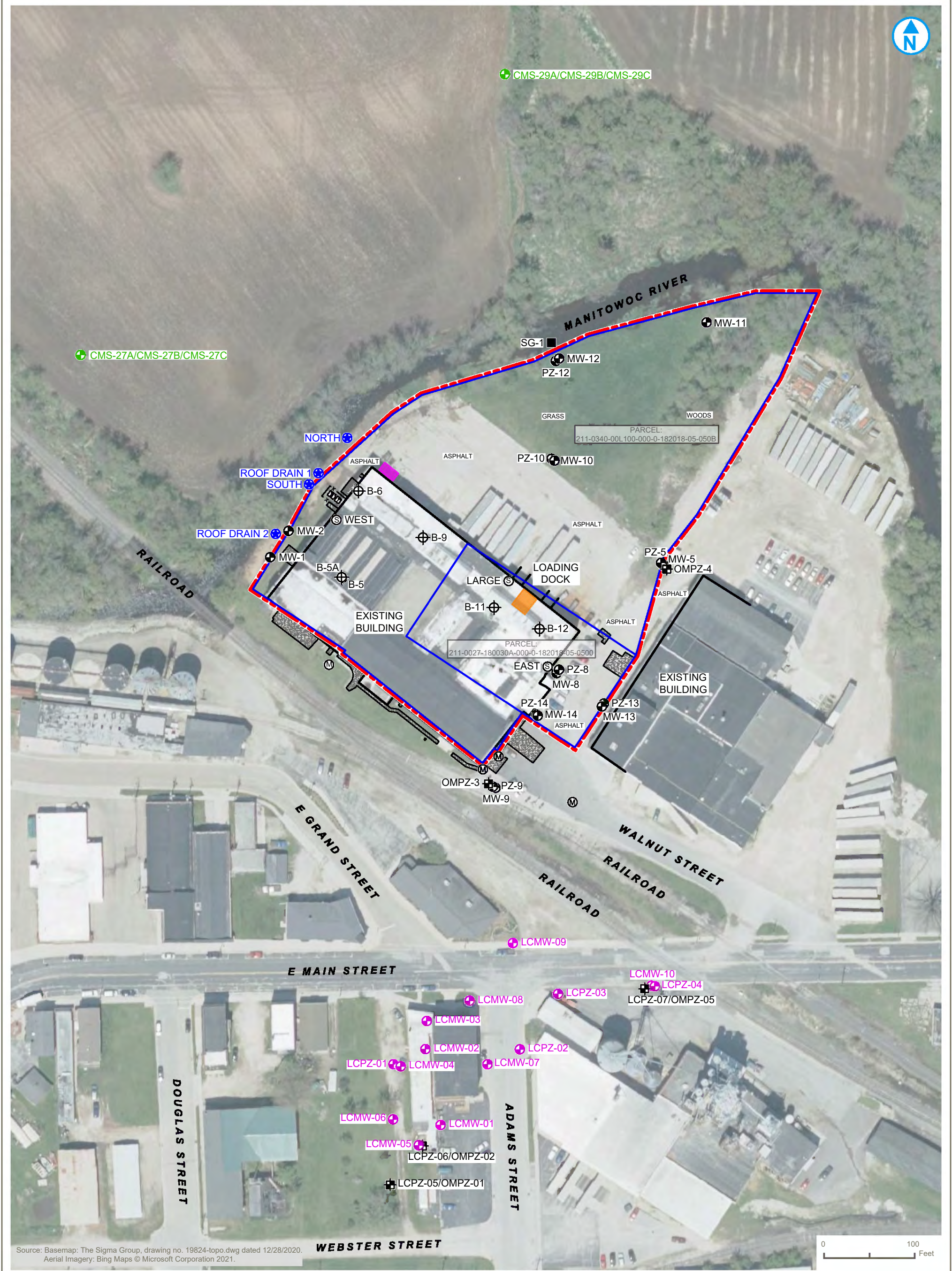
Sincerely,



Roxanne N. Chronert
Team Supervisor, Northeast Region
Remediation and Redevelopment Program

Attachments: Figure 2, Site Layout and Existing Monitoring Well Network, Ramboll, January 26, 2022

cc: Hudson Green, Patriot Environmental – hgreen@patriotenviro.com
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Source: Basemap: The Sigma Group, drawing no. 19824-topo.dwg dated 12/28/2020.
Aerial Imagery: Bing Maps © Microsoft Corporation 2021.

- - - PROPERTY BOUNDARY
- - - PARCEL BOUNDARY
- ⊕ GROUNDWATER MONITORING WELL
- ⊕ GROUNDWATER MONITORING WELL (LARSON CLEANERS - BRRTS 02-08-221491)
- ⊕ GROUNDWATER MONITORING WELL (FORMER CHILTON METAL PRODUCTS - BRRTS 02-08-561133 & 03-08-000802)
- ⊕ GROUNDWATER MONITORING POINT
- ⊕ PIEZOMETER INSTALLED BY OMNI/WDNR
- ⊕ SUMP PIT
- ⊕ SOIL BORING
- ⊕ STAFF GAUGE
- ⊕ MANHOLE
- ⊕ OUTFALL

- ⊕ TRANSFORMER
- x CHAIN LINK FENCE
- CONCRETE AREA
- APPROXIMATE LOCATION OF MINERAL SPIRITS USTs REMOVED IN OCTOBER 1990 (CLOSED BRRTS 09-08-294564)
- APPROXIMATE LOCATION OF FORMER FUEL USTs ABANDONED IN PLACE IN JANUARY 1996 (CLOSED BRRTS 09-08-292322)

SITE LAYOUT AND EXISTING MONITORING WELL NETWORK

NEWELL OPERATING COMPANY
FORMER MIRRO PLANT NO. 20
44 WALNUT STREET
CHILTON, WISCONSIN

RAMBOLL US CONSULTING, INC.
A RAMBOLL COMPANY



FIGURE 2