



April 7, 2014

Miller's Liquor, LLC  
c/o Mr. Steve Miller  
2401 University Avenue  
Madison, WI 53726

Subject: Additional investigation work needed for the Miller's Liquor, LLC site, 2401 University Avenue, Madison, Wisconsin, WDNR BRRTS# 02-13-415322.

Dear Mr. Miller:

### Site Background

Based on the information we have obtained regarding the Miller's Liquor LLC (ML) site from your consultant, Seymour Environmental and from investigations performed by other entities, the department believes that ML must move forward with the investigation of the environmental impact from the former drycleaning operation on the 2401 University Avenue property. The last environmental data we have received from Seymour Environmental was on May 14, 2013. Since then, I have had several conversations with Robyn Seymour about additional investigation that must be done. I am aware that Robyn has made an effort to obtain access agreements to perform vapor sampling at several apartment buildings along University Avenue. However, to this point we have not received a formal workplan. As you know, for any investigative work to be eligible for reimbursement from the Drycleaner Environmental Response Fund (DERF), ML must submit a change order and receive written approval from the department prior to doing the work.

On July 8, 2014, I sent electronic copies of a couple of reports to you and Seymour Environmental which document the results of environmental investigations conducted in the vicinity of the ML property. I have discussed the implications of the reports with Robyn Seymour. The owners of the InnTowner Hotel at 2424 University Avenue, located just to the north of the ML property, had an investigation of their property performed. The results of that investigation showed high concentrations of tetrachloroethylene (PCE) and trichloroethylene (TCE) in soil vapor under their building. In groundwater, the concentration of both PCE and TCE were well above the ch. NR140 Wis. Adm. Code Enforcement Standard. This contamination appears to be related to the ML property. Our understanding is that the owners of the InnTowner property are proceeding with the installation of vapor mitigation system. In addition, the State of Wisconsin had an investigation of groundwater performed in the area of the Walnut Street Co-Gen Plant, located north of campus drive. They found PCE at concentrations well above the ch. NR140 Wis. Adm. Code Enforcement Standard that also appear to be related to the ML property. These results show the need to further delineate the degree and extent of groundwater

contamination and assess the risk of vapor intrusion to buildings that overlie the plume of contamination.

As you are also aware, sampling of soils by the City of Madison and Seymour Environmental adjacent to the sewer laterals and mains near the ML property have found soils with high concentrations of PCE. Soil sampling on the ML property has not been done near some locations where we might expect contamination from drycleaning chemicals. For these reasons, additional soil sampling is necessary.

Results from other investigations has indicated a high degree of seasonal variability in sub-slab soil gas concentrations. For this reason, the department will normally require that samples be collected during 2 to 3 sampling events to verify that a vapor intrusion situation does not exist. Although the concentrations of PCE and TCE in sub-slab soil gas were below vapor screening levels during the first round of vapor sampling Seymour performed, an additional round of sampling should be completed to verify that vapor concentrations beneath off-site buildings are low.

The on-site groundwater monitoring wells (MW-1, 2, 3, and PZ-3) have not been sampled since 2009. These wells must be sampled again to determine if groundwater concentrations have changed.

Because of the circumstances described above, the department is requiring you to perform the investigative work described below. The highest priority must be given to determining whether a vapor intrusion risk exists at any building overlying the groundwater plume or in close proximity to soils contaminated with drycleaning chemicals. In particular, now that the owner of the properties at 2302, 2308 and 2355 University Avenue has tentatively agreed to allow Seymour Environmental access, it is important that the vapor intrusion risk to these buildings be assessed soon.

### **Ability to Pay**

Based on conversations I have had in the past with you, I have been given the impression that paying for the investigation and remediation of this site is financially difficult for ML. The site has been accepted into the DERF program and ML has the ability to make claims for re-imbusement to DERF. However, as we notified you in our letter of January 30, 2014, because of the financial status of DERF, soon there will likely be substantial delays in reimbursements after claims have been approved. I encourage you to submit your first DERF claim soon. The investigative work specified below will likely require a significant financial commitment.

Because of this situation, the Department is offering ML an opportunity to demonstrate that it is financially incapable of paying for the required work by completing the enclosed form and providing the following information. I have enclosed a financial disclosure form, which needs to be accurately completed and signed. Along with the financial disclosure form you will need to include copies of your last three years federal tax filings. Lastly, you will need to complete and return the IRS Form 8821, which authorizes Shelley Fox to request copies of your federal taxes for the last three years. Page two of the Form 8821 includes instructions as to how to complete each line. This form will allow Ms. Fox to access your tax information through the Internal Revenue Service in the event of a discrepancy with what you've initially submitted and therefore determine your ability to pay for site remediation.

Due to the personal identifying information on these forms, DO NOT fax these documents. Please mail all information to:

WDNR – RR/5  
Shelley Fox  
PO Box 7921  
Madison, WI 53707-7921

Within thirty (30) days from the date of this letter, please submit the requested information. If you fail to submit the requested information, then I will assume you are no longer interested in claiming you cannot perform the work due to financial reasons.

The Department will review, verify, and analyze the information you submit. The Department will contact you if additional information or clarification is needed. Upon completion of the verification and analysis, the Department will contact you with our determination.

With regards to Ability to Pay questions, please contact Shelley Fox at (608) 266-5798.

#### **Requirements for Additional Investigation**

Unless the department agrees to an alternative in writing, ML must take the following actions:

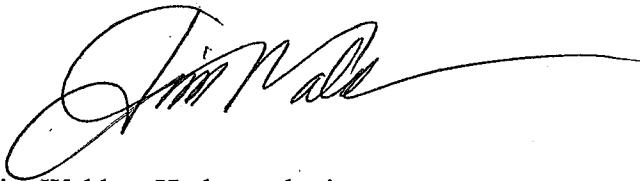
- 1) Within 30 days of the date of this letter, submit to the department a proposal addressing the following element:
  - a. A plan for installation and sampling of sub-slab vapor ports in the apartment buildings located at 2302, 2308, and 2355 University Avenue. The proposal shall discuss the basic construction of the buildings, and how the sampling accounts for the construction. Specifically, the extent of underground or open air parking under these buildings must be determined. Sampling should focus on the occupied portion of the lowest level. The plan should include indoor air sampling in these portions as well. Sampling shall be completed within 60 days of the date of this letter.
- 2) Within 60 days of the date of this letter, submit to the department a proposal and schedule addressing the following elements:
  - a. Determining the lateral extent of groundwater contamination at the water table through the installation of monitoring wells and geoprobe sampling. The impact of the drycleaning operations on groundwater has been confirmed north of University Avenue by other parties: 1) near the University Co-Gen Plant, 2) on the InnTowner Hotel property, and 3) on the Former Highland Transitional Care property at 2308 University Avenue. The investigation must establish the lateral extent of groundwater contamination at the water table north of Campus Drive, between Highland and Walnut Streets. There appear to be a number of locations that provide good access for drilling. Although we are amenable to determining the extent of contamination with a geoprobe,

once that is accomplished, permanent monitoring wells must be established to allow long-term monitoring.

- b. Re-sampling wells MW-1, 2, 3 and PZ-3 for volatile organic compounds.
- c. Determining whether the design of the mitigation system being installed at the InnTowner Hotel Property at 2424 University Avenue is adequately designed and installed to mitigate the intrusion of chemical vapors related to the drycleaning contamination and is protective of human health. After completion of the system, a design report shall be submitted as required by ch. NR 724.09, Wis. Adm. Code.
- d. Determining which buildings beyond those described above are at risk due to vapor intrusion based on the currently known extent of contamination, and a proposal to assess those building for vapor intrusion. This assessment should rely on department guidance PUB-RR-800 to make that determination. I suggest that your consultant works with the University of Wisconsin to determine the use of buildings within the perimeter of the known groundwater plume.
- e. Determining the vertical extent of contamination. The worst contamination appears to be related to the sewer lateral. However, given access limitations downgradient from the sewer lateral, it appears necessary to locate the well north of University Avenue. The best location may be the back parking lot of the InnTowner Property, opposite of GP5 where the concentration of PCE at the water table was 472 parts per billion. A drilling method to characterize the vertical profile of contamination while drilling and installation of multilevel piezometers is desirable.
- f. Further delineating the degree and extent of soil contamination on the ML property to determine the location of highly contaminated soils that need to be addressed by removal or other remediation. Depending on access limitations soils should be sampled in the following areas: the sewer laterals on both University Avenue and Highland, between these laterals and the manhole at Chestnut and University, the building interior near the former dry cleaning machine and solvent storage area, west of building near the former solvent storage tanks, and behind the building near the back door.
- g. A proposal to perform another round of vapor sampling at off-site buildings previously assessed. This includes: 2415 University Avenue, 413 and 414 Chestnut Street, and 2402 Kendall Avenue.

I suggest that you or your consultant contacts me to discuss these issues prior to submitting workplans. Please be aware that ML is required to comply with all applicable statutes and administrative rules including the NR700 series, Wisconsin Administrative Code. If you have any questions or concerns that you would like to discuss, please contact me at 608-267-7572 or at [james.walden@wisconsin.gov](mailto:james.walden@wisconsin.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Walden", with a long horizontal flourish extending to the right.

Jim Walden, Hydrogeologist  
Remediation and Redevelopment Program  
Wisconsin Department of Natural Resources

cc: Robyn Seymour  
Jeff Lafferty – Public Health Madison and Dane County

**INDIVIDUAL ABILITY TO PAY CLAIM**  
**Financial Data Request Form**

This form requests information regarding your financial status. The data will be used to evaluate your ability to pay for environmental clean-up or penalties. If there is not enough space for your answers, please use additional sheets of paper. Note that we may request further documentation of any of your responses. We welcome any other information you wish to provide supporting your case, particularly if you feel your situation is not adequately described through the information requested here.

**Certification**

Under penalties of perjury, I declare that this statement of assets, liabilities, and other information is true, correct, and complete to the best of my knowledge and belief. I further understand that I will be subject to prosecution by the Environmental Protection Agency to the fullest extent possible under the law should I provide any information that is not true, correct, and complete to the best of my knowledge.

*Signature*

*Date*

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<b>Name:</b>
<b>Spouse's Name:</b>
<b>Address:</b>
<b>County of Residence:</b>

**1. MEMBERS OF HOUSEHOLD (List the head of the household and all persons living with you.)**

Name	Age	Relationship to Head of Household	Currently Employed?

**2. EMPLOYMENT (List all jobs held by persons in household.)**

Name	Employer	Length of Employment	Annual Salary

**3. INCOME (List all income earned by persons in household. If members of the household other than the application and spouse earn income, please itemize on separate page.)**

Source	Gross (Pre-Tax)		Period of Payment (check one)			
	Applicant	Spouse	Wkly	Mnthly	Qrtrly	Yearly
Wages/Salaries						
Sales Commissions						
Investment Income (interest, dividends, capital gains, etc.)						
Net Business Income						
Rental Income						
Retirement Income (Pension, Social Security, etc.)						
Child Support						
Alimony						
Other Income						
(please itemize)						

## PART II. CURRENT LIVING EXPENSES

Please list personal living expenses which were typical during the last year and indicate if any of these values are likely to change significantly in the current year. Please do not include business expenses. If you are the owner of an operating business, please attach any available financial statements.

Expense	Amount	Period of Payment (check one)			
		Wkly	Mnthly	Qrtrly	Yearly
A. Living Expenses					
1. Rent					
2. Home Maintenance					
3. Auto fuel maint./other transp.					
4. Utilities					
a. fuel (gas,oil,wood,propane)					
b. electric					
c. water/sewer					
d. telephone					
5. Food					
6. Clothing, personal care					
7. Medical costs					
B. Insurance					
1. Household insurance					
2. Life insurance					
3. Automobile insurance					
4. Medical insurance					
C. Debt Payments					
1. Mortgage payments					
2. Car payments					
3. Credit card payments					
4. Educational loan payments					
5. Other (itemize on separate page if necessary)					
D. Taxes					
1. Property taxes					
2. Federal income taxes					
3. State income taxes					
4. FICA					
E. Other Expenses					
1. Childcare					
2. Current school tuition/expenses					
3. Legal or professional services					
4. Other (itemize on separate page if necessary)					



### PART III. NET WORTH

Please provide the following information to the best of your ability. Data should be as current as possible. Estimates are acceptable. Please note such items with an "E".

If you are the sole proprietor of a business, please list business assets and liabilities, in addition to personal assets and liabilities. Please make these entries with a "B" to identify them as business assets and liabilities.

**1. BANK ACCOUNTS (Checking, NOW, Savings, Money Markets, CDs, etc.)**

Name of Bank or Credit Union	Type of Account	Current Balance

**2. INVESTMENTS (Stocks, Bonds, Mutual Funds, Options, Futures, Real Estate Investment Trusts (REIT), etc.)**

Investment	Number of Shares or Units	Current Market Value

**3. RETIREMENT FUNDS AND ACCOUNTS (IRA, 401(k), Keough, vested interest in company retirement fund, etc.)**

Description of Account	Estimated Market Value

**4. LIFE INSURANCE POLICIES (Whole Life, Universal Life, etc.)**

Policy Holder	Issuing Company	Policy Value	Cash Value

**5a. VEHICLES USED FOR COMMUTING PURPOSES (Cars, Trucks, Motorcycles, etc. Only list up to two vehicles used for commuting purposes.)**

Model	Year	Estimated Market Value

**5b. OTHER VEHICLES (Cars, Trucks, Motorcycles, Recreational Vehicles, Motor Homes, Boats, Airplanes, Etc.)**

Model	Year	Estimated Market Value

**6. VEHICLE LOANS (Cars, Trucks, Motorcycles, Recreational Vehicles, Motor Homes, Boats, Airplanes, Etc.)**

Vehicle (Model & Year)	Owed To	Balance Due	Start Date	End Date

**7a. REAL ESTATE – PRIMARY RESIDENCE (Home – List only one such residence)**

Location	Description of Property	Estimated Market Value

**7b. OTHER REAL ESTATE (Land, Buildings, Land with Buildings)**

Location	Description of Property	Estimated Market Value

**8. MORTGAGES AND REAL ESTATE LOANS**

Type of Loan	Owed To	Property Secured Against	Balance Due	Start Date	End Date

**9. PERSONAL PROPERTY (Household Goods and Furniture, Jewelry, Art, Antiques, Collections, Precious Metals, etc. Only list item with a value greater than \$500.)**

Type of Property	Estimated Market Value

**10. FURNITURE AND HOUSEHOLD GOODS LOANS**

List Item	Owed To	Balance Due	Start Date	End Date



## PART IV. ADDITIONAL INFORMATION

Please respond to the following questions. For any question that you answer "YES", please provide additional information on separate pages or at the bottom of this page.

QUESTION	YES	NO
1. Do you have any reason to believe that your financial situation will change during the next year?		
2. Are you currently selling or purchasing any real estate?		
3. Is anyone (or any entity) holding real or personal property on your behalf (e.g. a trust)?		
4. Are you a party in any pending lawsuit?		
5. Have any of your belongings been repossessed in the last three years?		
6. Are you a Trustee, Executor, or Administrator?		
7. Are you a participant or beneficiary of an estate or profit sharing plan?		
8. Have you declared bankruptcy in the last seven years?		
9. Do you receive any type of federal aid or public assistance?		

### Tax Information Authorization

For IRS Use Only

(Rev. October 2011)

Department of the Treasury  
Internal Revenue Service

▶ **Do not sign this form unless all applicable lines have been completed.**  
▶ **Do not use this form to request a copy or transcript of your tax return.**  
**Instead, use Form 4506 or Form 4506-T.**

Received by:  
Name \_\_\_\_\_  
Telephone \_\_\_\_\_  
Function \_\_\_\_\_  
Date \_\_\_\_\_

**1 Taxpayer information.** Taxpayer(s) must sign and date this form on line 7.

Taxpayer name(s) and address (type or print)	Taxpayer identification number	
	Daytime telephone number	Plan number (if applicable)

**2 Appointee.** If you wish to name more than one appointee, attach a list to this form.

Name and address  <b>WDNR - RR Shelley L. Fox PO Box 7921 Madison, WI 53707-7921</b>	CAF No. <b>0304-30699R</b>
	PTIN _____
	Telephone No. <b>608/266-5798</b>
	Fax No. <b>608-267-7646</b>
	Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/> Fax No. <input type="checkbox"/>

**3 Tax matters.** The appointee is authorized to inspect and/or receive confidential tax information in any office of the IRS for the tax matters listed on this line. Do not use Form 8821 to request copies of tax returns.

(a) Type of Tax (Income, Employment, Excise, etc.) or Civil Penalty	(b) Tax Form Number (1040, 941, 720, etc.)	(c) Year(s) or Period(s) (see the instructions for line 3)	(d) Specific Tax Matters (see instr.)
Income Tax	1040		

**4 Specific use not recorded on Centralized Authorization File (CAF).** If the tax information authorization is for a specific use not recorded on CAF, check this box. See the instructions on page 4. If you check this box, skip lines 5 and 6 . . . ▶

**5 Disclosure of tax information** (you must check a box on line 5a or 5b unless the box on line 4 is checked):

**a** If you want copies of tax information, notices, and other written communications sent to the appointee on an ongoing basis, check this box . . . . . ▶

**Note.** Appointees will no longer receive forms, publications and other related materials with the notices.

**b** If you do not want any copies of notices or communications sent to your appointee, check this box . . . . . ▶

**6 Retention/revocation of tax information authorizations.** This tax information authorization automatically revokes all prior authorizations for the same tax matters you listed on line 3 above unless you checked the box on line 4. If you do not want to revoke a prior tax information authorization, you **must** attach a copy of any authorizations you want to remain in effect and check this box . . . . . ▶

To revoke this tax information authorization, see the instructions on page 4.

**7 Signature of taxpayer(s).** If a tax matter applies to a joint return, **either** husband or wife must sign. If signed by a corporate officer, partner, guardian, executor, receiver, administrator, trustee, or party other than the taxpayer, I certify that I have the authority to execute this form with respect to the tax matters/periods on line 3 above.

▶ **IF NOT SIGNED AND DATED, THIS TAX INFORMATION AUTHORIZATION WILL BE RETURNED.**

▶ **DO NOT SIGN THIS FORM IF IT IS BLANK OR INCOMPLETE.**

_____ Signature	_____ Date	_____ Signature	_____ Date
_____ Print Name	_____ Title (if applicable)	_____ Print Name	_____ Title (if applicable)
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	PIN number for electronic signature	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	PIN number for electronic signature