



March 12, 2019

**CERTIFIED MAIL**

Bonnie Miller  
Miller's Liquor LLC  
6912 North Avenue  
Middleton WI 53562

Subject: Notice of Non-Compliance: Action Required by April 10, 2019  
Miller's Liquor, 2401 University Avenue, Madison  
BRRTS # 02-13-415322

Dear Mrs. Miller:

This letter is to notify you that you are out of compliance with Wisconsin Statutes (Wis. Stat.) chapter 292 and Wisconsin Administrative Code (Wis. Admin. Code) chapters NR 700 through NR 754. On February 18, 2003, the Wisconsin Department of Natural Resources (Department) notified you of your responsibilities to investigate the degree and extent of contamination and clean up the above-referenced site. A copy of that letter is enclosed for your reference.

Soil and groundwater sampling indicate that high levels of tetrachloroethene (a dry-cleaning fluid also known as perc, perchloroethylene, or tetrachloroethylene) remain at your property approximately 40 years after dry-cleaning operations stopped. Samples from sites downgradient of Miller's suggest that the groundwater contamination may extend a half mile. The site investigation activities have not proceeded in a timely manner, even with some extra time allowed to manage the challenges of sampling in the densely developed area in which Miller's Liquor is located. It is over 15 years since contamination was discovered at Miller's, and the site investigation has long exceeded the timelines given in chapter NR716.

Please be aware that the Department may initiate enforcement action against you for failure to comply with Wis. Stat. chapter 292. Your legal responsibilities are defined both in Wis. Stat. chapter 292 and Wis. Admin. Code chapters NR 700 through 754 and are also described in the February 18, 2003 letter. In particular, Wis. Stat. § 292.11(3), 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.

Our information indicates that you have not completed a site investigation as required by ch. NR 716, Wis. Adm. Code.

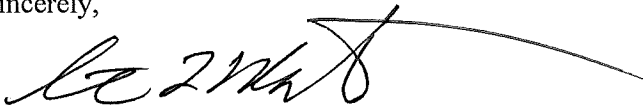
Wis. Admin. Code chapters NR 700 through NR 754 establish requirements for emergency and interim actions, public information, site investigations, design and operation of remedial action systems, and case closure. Chapter NR 708 includes provisions for immediate actions in response to limited contamination. Wis. Admin. Code chapter NR 140 establishes groundwater quality standards for contaminants that reach groundwater.

The Department is requesting that by April 10, 2019, you submit a work plan and schedule for the remaining work items already approved by the Department. In addition, submit a work plan, schedule, and budget for the items referred to in the Department's January 30, 2018 letter (copy enclosed) that have not been previously addressed.

Please understand that you are out of compliance and will remain so until you fulfill all requirements of the statute. Failure to take the actions required by Wis. Stat. § 292.11 to address this contamination will cause the Department to review this case for enforcement actions. Additionally, please be advised that the Department is authorized under Wis. Stat. § 292.94 to assess non-reimbursable fees for any reports you are required to submit as part of additional enforcement actions.

If you have questions concerning the cleanup process, please do not hesitate to contact Cindy Koepke at 608-275-3257 or [cynthia.koepke@wisconsin.gov](mailto:cynthia.koepke@wisconsin.gov). Thank you for your attention to this matter.

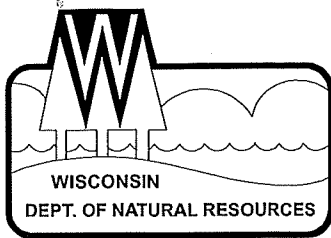
Sincerely,



Steven L. Martin, P.G.  
DNR – South Central Region  
Remediation & Redevelopment Team Supervisor

Encl.: February 18, 2003 responsible party letter + 1/30/08 push letter

Copies to: Robyn Seymour - Seymour Environmental  
Sandy Chancellor – CF/2 (via email)  
Sadie Derouin – SCR (via email)



## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Scott McCallum, Governor  
Darrell Bazzell, Secretary  
Ruthe E. Badger, Regional Director

South Central Region Headquarters  
3911 Fish Hatchery Road  
Fitchburg, Wisconsin 53711-5397  
Telephone 608-275-3266  
FAX 608-275-3338  
TDD 608-275-3231

February 18, 2003

BRRTS # 02-13-415322

Millers Liquor LLC  
2401 University Ave.  
Madison WI 53726-0000

SUBJECT: Reported Contamination at: **Millers Liquor**, 2401 University Ave. Madison

Dear Sir or Madam:

On February 5, 2003 the Department of Natural Resources was notified that soil contamination via tetrachloroethylene had been detected at the site listed above.

Based on the information submitted to the Wisconsin Department of Natural Resources (WDNR), we believe you are responsible for restoring the environment at the referenced site under Section 292, Wisconsin Stats., known as the hazardous substances spills law.

This letter describes your legal responsibilities, explains what you need to do to investigate and clean up the contamination, and provides you with information about cleanups, environmental consultants, possible financial assistance, and working cooperatively with the Departments of Natural Resources and Commerce.

### **Legal Responsibilities:**

Your legal responsibilities are defined both in statute and in administrative codes. The hazardous substances spill law, Section 292.11 (3) Wisconsin Stats, 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 Code chapters NR 700 through NR 749 establish requirements for emergency and interim actions, public information, site investigations, design and operation of remedial action systems, 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.

### **Steps to Take:**

The longer contamination is left in the environment the farther it can spread and the more it may cost to clean up. Quick action may lessen damage to your property and neighboring properties and reduce your costs in investigating and cleaning up the contamination. To ensure that your cleanup complies with Wisconsin's laws and administrative codes, you should hire a professional environmental consultant who



*Quality Natural Resources Management  
Through Excellent Customer Service*



understands what needs to be done. These are the first three steps to take:

1. Within the next 30 days, you must submit written verification (such as a letter from the consultant) that you have hired an environmental consultant.
2. Within the next 60 days, your consultant must submit a workplan and schedule for the investigation. The consultant must follow the DNR administrative codes and technical guidance documents.

Once an investigation has established the type and severity of contamination involved at your site, your consultant will be able to determine whether the Department of Commerce or the Department of Natural Resources has authority over the case. The decision will be reviewed by agency staff, and you will be notified by mail if the case is being transferred to Commerce. In general, cases involving petroleum products that have leaked from either above ground or underground storage systems will be reviewed by the Commerce, unless high risk criteria are involved.

3. Please inform the appropriate agency of what is being done at your site. If the site meets criteria for a "simple site", progress reports must be submitted semi-annually, beginning 6 months from the initial notification date. If the site meets criteria for a "complex site", a complete site investigation report and a draft remedial options report must be submitted within 30 days of completion. In addition, you or your consultant must provide a brief report at least every 90 days. Quarterly reports need only include one or two pages of text, plus any relevant maps and tables. Should conditions at your site warrant, we may require more frequent contacts.

If you want a formal response from the agency on a specific submittal, please be aware that a review fee is required in accordance with s. NR 749, Wis. Adm. Code. If a fee is not submitted with your reports, you should proceed under the advice of your consultant to complete the site investigation to maintain your compliance with the spills law and chs. NR 700 through NR 749. **Do not delay the investigation of your site by waiting for an agency response.** We have provided detailed technical guidance to environmental consultants. Your consultant is expected to know our technical procedures and administrative codes and should be able to answer your questions on meeting cleanup requirements." Unless you are notified that your case has been transferred to Commerce, all correspondence regarding this site should be sent to:

Dino Tisoris  
Remediation and Redevelopment Program  
Wisconsin Department of Natural Resources  
3911 Fish Hatchery Road  
Fitchburg, WI 53711

Unless otherwise requested, please send only one copy of plans and reports. To speed processing, correspondence should reference the BRRTS and FID numbers (if assigned) shown at the top of this letter.

**Information for Site Owners:**

Information to help you select a consultant, and materials on controlling costs, understanding the cleanup process, and choosing a site cleanup method are enclosed. For information on obtaining limited liability under Section 292.15, Wisconsin Stats., please see our website at <http://www.dnr.state.wi.us/org/aw/rr/liability>.

**Financial Assistance:**

Reimbursement from the Petroleum Environmental Cleanup Fund (PECFA) is available for the costs of cleaning up contamination from eligible petroleum storage tanks. Please refer to the enclosed information sheet entitled *Site Remediation Using PECFA* for more information on eligibility and regulations for this program. Funding is also available for cleanup at some drycleaning sites.

Thank you for your cooperation.

Sincerely,

*Kendy Weikemuller*

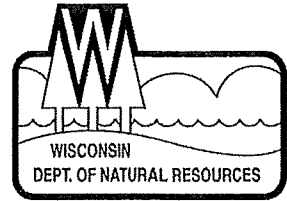
Dino Tsois

Telephone: (608) 275-3299

Enclosures

cc:  File





January 30, 2018

Mrs. Bonnie Miller  
Miller's Liquor LLC  
6912 North Avenue  
Madison WI 53562

Subject: Progress at Miller's Liquor remediation project  
2401 University Avenue, Madison  
BRRTS # 02-13-415322

Dear Mrs. Miller:

I have been reviewing the Miller's Liquor remediation file as the new DNR project manager. I look forward to working with you and your consultant to make some progress on this project that began about 15 years ago.

It is my understanding that the project has stalled around some difficulty in getting access to nearby properties for soil vapor testing and that the Miller's Liquor building still needs to have its vapor mitigation system installed. If there is current information on these issues or any environmental data collected over the last 2-3 years not previously sent to DNR, please send it to me as soon as possible.

Getting a vapor mitigation system installed at the property and completing the environmental investigation are essential. High levels of chlorinated volatile organic compounds in soil and groundwater can cause unhealthy levels of vapors to move through the soil and possibly enter buildings. Groundwater samples from sites downgradient of the 2400-2500 blocks of University Avenue suggests that groundwater contamination from past dry-cleaning operations may have reached a half mile away.

Two past letters list the required investigation activities:

- April 25, 2012 letter to James Walden (former DNR project manager) from Seymour Environmental (DNR approved those activities in its May 2, 2012 letter to you)
- April 7, 2014 letter to Steve Miller from Jim Walden

Investigation work required on the Miller's property should be done without delay to aid in the planning for remedial options there. There were high concentrations of tetrachloroethene in soil and groundwater at the Miller's property when last sampled. To keep additional contamination from moving off-site, Miller's also needs to evaluate and carry out an interim remedial action while also working to complete the investigation and related required activities (see letters referred to above).

**Within 30 days of the date of this letter, submit a timeline and plan for completing the items listed in the 2012 and 2014 letters noted above and an interim remedial option proposal to address tetrachloroethene (and any breakdown products present) at your property.** The remedial options proposal needs to meet the requirements of chs. NR 169.11(1)(b) and NR 708.11, Wis. Adm. Code. Include updated data summary tables, maps, and cross-sections in your proposal. Goals to think about for the interim action could be to reduce

tetrachloroethene levels in soil and soil vapor, decrease groundwater contamination through reductive dechlorination or similar processes, or both.

**Please note that NR 169.11(1)(b)5, Wis. Adm. Code, requires Miller's to obtain DNR approval of the proposed interim action and associated cost estimates and schedules.**

I recently emailed your consultant, Robin Seymour, a link to some template letters to use when requesting access to nearby properties for soil vapor testing; if there is no response to these letters after two attempts, I will try to contact the property owners to share DNR fact sheets on vapor intrusion with them and answer questions. It is up to the property owners whether they chose to give permission for testing; using DNR's established procedure for requesting access and documenting any response will show that Miller's made a good faith effort to get the testing done.

If you have any questions, please contact me at 608-275-3257 or [cynthia.koepke@wisconsin.gov](mailto:cynthia.koepke@wisconsin.gov).

Sincerely,



Cynthia L. Koepke, P.G.  
Remediation & Redevelopment Hydrogeologist  
South Central Region

cc: Robin Seymour, Seymour Environmental (via email)  
File