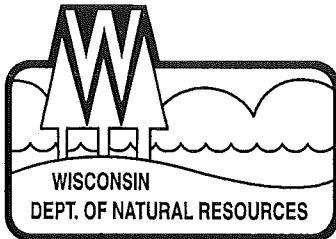


Gen Property
ohio



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Scott Hassett, Secretary
Ronald W. Kazmierczak, Regional Director

Northeast Region Headquarters
1125 N. Military Ave., P.O. Box 10448
Green Bay, Wisconsin 54307-0448
Telephone 920-492-5916
FAX 920-492-5859
TTY 920-492-5912

March 8, 2004

John Kappelman
Walter Kappelman Estate
C/o Edward B. Witte
Foley & Lardner
777 E. Wisconsin Ave
Milwaukee WI 53202-5367

SUBJECT: Liability exemption for groundwater contaminated by an off-site source of contamination
Former Cool City Cleaners, 1308 Washington Street, Two Rivers
WDNR BRRTS #: 02-36-228354 & 07-36-523142

Dear Mr. Witte:

Purpose

The Department of Natural Resources ("the Department") has recently reviewed your request for an off-site exemption letter for the property located at 1308 Washington Street Two Rivers, which will be referred to in this letter as "the Property." You have requested that the Department determine whether the Estate of Walter Kappelman is exempt from sec. 292.11(3), (4) and (7)(b) and (c), Wis. Stats. (commonly known as the "Hazardous Substance Spill Law"), with respect to the existence of a hazardous substance in the groundwater that you believe is migrating onto the Property from an off-site source.

Determination

As you are aware, s. 292.13(2), Wis. Stats., requires the Department to issue upon request, a written determination regarding a liability exemption for a person who possesses or controls property that is contaminated by an off-site source, when certain conditions are met. In order to make this determination, the Department has reviewed information about the Property including groundwater and soil sampling data for the Property contained in the following documents:

- Off-Site Discharge Exemption Request For Off-Site Petroleum Hydrocarbons Release Impacting Former Cool City Cleaners, dated 23 February 2004, prepared by Arcadis.
- Site Investigation and Remedial Action Options Report, Former Cool City Cleaners, dated 23 December 2003, prepared by Arcadis.

Based upon this information and in accordance with section 292.13(2), Wis. Stats, the Department makes the following determinations regarding the presence of benzene and methyl tert-butyl ether (MTBE) contamination in groundwater as indicated by samples collected and analyzed from boreholes GP11 and GP16 and monitoring well MW5 on the Property:

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

Exemption Conditions

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

1. The facts upon which the Department based its determination are accurate and do not change.
2. The Estate of Walter Kappelman agrees to allow the following parties to enter the Property to take action to respond to the discharge: the Department 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. With respect to soil or sediment contamination only, the Estate of Walter Kappelman agrees to take one or more specified actions directed by the Department, if the Department 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 Department 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.
4. The Estate of Walter Kappelman agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge.
5. The Estate of Walter Kappelman agrees to any other condition that the Department determines is reasonable and necessary to ensure that the Department and any other authorized party can adequately respond to the discharge.

The Department may revoke the determinations made in this letter if it determines that any of the requirements under sections 292.13(1) or (1m), Wis. Stats., cease to be met.

Future Property owners are eligible for the exemption under section 292.13, Wis. Stats., if they meet the requirements listed in that statute section. The determinations in this letter regarding a liability exemption, however, only apply to the Estate of Walter Kappelman, and may not be transferred or assigned to other parties. The Department will provide a written determination to future owners of this Property, if such a determination is requested in accordance with the requirements of section 292.13(2), Wis. Stats.

The Bureau for Remediation and Redevelopment Tracking System (BRRTS) identification numbers for this Property are included at the top of this letter. The Department tracks information on contaminated properties in a Department database that is available on the Internet at www.dnr.state.wi.us/org/aw/rr (see "BRRTS on the Web" under Contaminated Land Databases). If you have any questions or concerns regarding this letter, please contact me at (920) 492-5865.

Sincerely,

A handwritten signature in black ink that reads "Annette Weissbach". The signature is written in a cursive style with a large, looped initial "A".

Annette Weissbach
Project Manager

cc: Dawn Gabardi – Arcadis G&M Inc., 126 N. Jefferson, Suite 400 Milwaukee 53202
Kathy Erdmann - NER
Percy Mather – RR/3