

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
Plymouth Service Center
1155 Pilgrim Road
Plymouth WI 53073

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



October 25, 2017

Sta-Rite Industries, LLC
Attn: Mr. Dennis Schwind
293 Wright Street
Delavan, Wisconsin 53115

SUBJECT: Continuing Obligations and Property Owner Requirements
Delavan Municipal Well #4, 293 Wright Street, Delavan, Wisconsin
BRRTS #02-65-529579, FID #265091640

Dear Mr. Schwind:

The purpose of this letter is to notify you that certain continuing obligations (COs) apply to the Sta-Rite Industries, LLC (Pentair Water) facility property located at 293 Wright Street, Delavan, Wisconsin (the Site or Property) due to contamination remaining on the Site. The Site is subject to the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the National Contingency Plan (NCP). The Wisconsin Department of Natural Resources (Department) is issuing this request pursuant to CERCLA Section 121. The Site is also subject to the September 21, 1990 contract between Sta-Rite Industries, LLC (Pentair Water) and the Department to conduct a Remedial Investigation/Feasibility Study (RI/FS) and Remedial Design/Remedial Action (RD/RA) on the Site. The NCP at 40 C.F.R. Section 300.430(f)(4)(ii) states:

"If a remedial action is selected that results in hazardous substances, pollutants, or contaminants remaining at the site above levels that allow for unlimited use and unrestricted exposure (UU/UE), the lead agency shall review such action no less often than every five years after the initiation of the selected remedial action."

The term "continuing obligations" (COs) and "institutional controls" (ICs) refer to certain actions for which property owners are responsible during and following a completed environmental cleanup. They are commonly non-engineered instruments, such as administrative and/or legal controls, that help minimize the potential for exposure to contamination and protect the integrity of the remedy by limiting land or resource use. The August 17, 2015 Five-Year Review (FYR) identified additional steps that must be taken to evaluate the ICs required to ensure the remedy continues to function as required. Note that the State COs are the federal ICs referenced in the FYR.

The FYR stated that ICs are required for areas that do not allow for UU/UE following implementation of the remedy. These ICs will also apply to future owners of the Property, until the conditions at the Site that warrant these ICs no longer exist. Certain groundwater areas under the Property exceed State of Wisconsin Preventive Action Limits and require groundwater restrictions. Soils in certain areas of the Property have been cleaned up to levels that are protective of industrial uses, but are not protective of non-industrial uses. Those areas also require ICs to prevent non-commercial/non-industrial uses. The ICs are meant to limit exposure to any remaining environmental contamination at the Property. ICs are required to address the following at the Site:

- Residual soil contamination,
- Residual groundwater contamination, and
- Monitoring wells, which need to be inspected annually and maintained while they are in use.

The FYR recommended follow-up actions including a decision document which would add ICs to the long-term operation and maintenance of the site and an implementation plan for the ICs. In accordance with the FYR Report, Section IV (IC Evaluation and Follow-Up Actions Needed), the Department is requesting that you prepare an Institutional Control Implementation and Assurance Plan (ICIAP) for the Site. The purpose of the ICIAP is to evaluate any current ICs to ensure they are effective and properly maintained, monitored, and enforced, and to determine if any changes or additional ICs are needed. Please refer to the attached EPA guidance document, "Institutional Controls: A Guide to Preparing ICIAPs at Contaminated Sites," for further information regarding ICIAPs.

The Department is requesting that you submit a draft ICIAP to the Department and EPA for review and approval within **60 days of your receipt of this letter**. Please provide the Department and EPA with a notice of intent to comply with this request **within 10 days of your receipt of this letter**.

DNR Database – Well Construction Approval Needed

In addition, due to the residual contamination on the Site, the Site's COs will be listed on the Department's Bureau for Remediation and Redevelopment Tracking System (BRRTS) on the Web, at <http://dnr.wi.gov/topic/Brownfields/clean.html>. One requirement for all properties with COs is that, if you intend to construct or reconstruct a well on the Property, you will need to get the Department's approval in accordance with Wis. Admin. § NR 812.09(4)(w). To obtain approval, Form 3300-254 needs to be completed and submitted to the DNR Drinking and Groundwater program's regional water supply specialist. A well driller can help with this form. This form can be obtained on-line at: <http://dnr.wi.gov/topic/wells/documents/3300254.pdf>. If at some time all these COs are fulfilled, and the remaining contamination is either removed or meets applicable standards, you may request the information posted for the Property be updated in the database.

Property Owner Responsibilities

The owner (you and any subsequent property owner) of this Property is responsible for compliance with these COs, pursuant to Wis. Stat. § 292.12. You are required to pass on the information about these COs to anyone who purchases this property from you (i.e. pass on this letter), in accordance with Wis. Admin. § NR 727.05. For residential property transactions, you are required to make disclosures under Wis. Stat. § 709.02. If you lease or rent the property to an occupant who will be responsible for maintaining a continuing obligation, you will need to include that responsibility in a lease agreement, in accordance with Wis. Admin. § NR 727.05.

Please be aware that failure to comply with the COs may result in enforcement action by the Department. The Department intends to conduct inspections in the future to ensure that the conditions included in this letter, including compliance with referenced maintenance plans, are met.

These responsibilities belong to the property owner. A property owner may enter into a legally binding agreement (such as a contract) with someone else (the person responsible for the cleanup) to take responsibility for compliance with the COs. If the person with whom any property owner has an agreement fails to adequately comply with the appropriate COs, the Department has the authority to require the property owner to complete the necessary work.

A legal agreement between you and another party to carry out any of the COs listed in this letter does not automatically transfer to a new owner of the property. If a subsequent property owner cannot negotiate a new agreement, the responsibility for compliance with the applicable COs resides with that Property owner.

When maintenance of a continuing obligation is required, the Property owner is responsible for inspections, repairs, or replacements as needed. Such actions should be documented by the Property owner and the records kept accessible for the Department to review for as long as the Department directs.

You and any subsequent Property owners are responsible for notifying the Department at least 45 days before making a change to a continuing obligation, and obtaining approval before making any changes to the property that would affect the obligations applied to the Property.

The attached fact sheet, "Continuing Obligations for Environmental Protection," helps explain a property owner's responsibility for COs on their property.

Please send all written notifications in accordance with the above requirements to:

Attn: Mr. Thomas Wentland
Wisconsin Department of Natural Resources
Remediation and Redevelopment Program
2300 N. Dr. Martin Luther King Jr. Drive
Milwaukee, Wisconsin 53212

If you have any questions regarding this letter, please contact Mr. Thomas Wentland, the Department's Project Manager for the Property, at 920-893-8528.

Sincerely,



Michele R. Norman
Southeast Region Team Supervisor
Remediation & Redevelopment Program

Enclosures

EPA document – “Institutional Controls: A Guide to Preparing ICIAPs at Contaminated Sites”

WI DNR fact sheet - “Continuing Obligations for Environmental Protection” (RR-819)

cc: Michelle Heger, EPA
Tetra Tech