

**From:** Rodriguez, Gabriel M. <grodriguez@schiffhardin.com>  
**Sent:** Tuesday, July 7, 2020 11:48 AM  
**To:** Gruen, Andrea M - DNR  
**Cc:** Beggs, Tauren R - DNR; Nelson, William J - DNR  
**Subject:** RE: Manitowoc Sites

Thanks.

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**From:** Gruen, Andrea M - DNR [<mailto:Andrea.Gruen@wisconsin.gov>]  
**Sent:** Tuesday, July 7, 2020 11:40 AM  
**To:** Rodriguez, Gabriel M. <[grodriguez@schiffhardin.com](mailto:grodriguez@schiffhardin.com)>  
**Cc:** Beggs, Tauren R - DNR <[Tauren.Beggs@wisconsin.gov](mailto:Tauren.Beggs@wisconsin.gov)>; Nelson, William J - DNR <[William.Nelson@wisconsin.gov](mailto:William.Nelson@wisconsin.gov)>  
**Subject:** [EXT] RE: Manitowoc Sites

**CAUTION: External email.**

Good morning Mr. Rodriguez,

Thank you for submitting the responses to the NOV's on behalf of Newell Brands. The department will be in touch if there are any questions.

Thank you,  
Andrea

**We are committed to service excellence.**

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

**Andrea Gruen**

Phone: (920) 366-1980

[Andrea.Gruen@Wisconsin.gov](mailto:Andrea.Gruen@Wisconsin.gov)

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**From:** Rodriguez, Gabriel M. <[grodriguez@schiffhardin.com](mailto:grodriguez@schiffhardin.com)>  
**Sent:** Monday, July 6, 2020 2:57 PM  
**To:** Gruen, Andrea M - DNR <[Andrea.Gruen@wisconsin.gov](mailto:Andrea.Gruen@wisconsin.gov)>  
**Subject:** Manitowoc Sites

Hi Andrea. Thank you again for the opportunity to respond for the record. Attached are the written responses to the NOV.

Feel free to call me if you have any questions or wish to discuss further.

Gabe

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This message and any attachments may contain confidential information protected by the attorney-client or other privilege.



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**Gabriel M. Rodriguez**  
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July 6, 2020

**Via E-mail**

Andrea Gruen, WDNR  
State of Wisconsin  
Department of Natural Resources  
2984 Shawano Avenue  
Green Bay, Wisconsin 54313-6727

**Re: Response to WDNR Notice of Violation re: Mirro 9**

Dear Andrea:

Thank you again for the opportunity to discuss the Notice of Violation (“NOV”) dated June 16, 2020, regarding the former Mirro 9 property, and for this opportunity to respond to the NOV in writing.

As I stated during the enforcement conference on June 29, 2020, Newell disputes that it is in violation of the authorities cited in the NOV. The chronology set forth in the NOV implies that Newell had failed to respond to the WDNR’s prior requests, or at least that it has been non-responsive since May 2019. The chronology, however, omits several material facts. I discussed these additional facts during the enforcement conference, and set them out here for the record:

- The WDNR issued its Responsible Party letter on September 24, 2018(the “2018 RP Letter”). The 2018 RP letter demanded production of documents and notified Newell of its responsibilities under State law to conduct an investigation at the Site. The 2018 RP Letter also urged Newell to coordinate efforts with the City because it was actively conducting an investigation and had extensive background knowledge of the site.
- By letter dated October 25, 2018, Newell responded to the 2018 RP Letter by producing the requested documents and notifying the WDNR that it has reached out to the City with the intention of coordinating with the City.
- We had our first meeting with the City’s representatives on December 10, 2018. The City committed to provided us with information regarding the site. This development was reported to the WDNR on a call involving the WDNR, the City and Newell on December 19, 2018.
- On February 1, 2019, the City confirmed in an email to the WDNR that it still had not responded to the information Newell had requested. Despite that, WDNR issued its Notice of Non-Compliance to Newell dated February 20, 2019.

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- Newell's February 28, 2019 letter responded to the WDNR's notice of non-compliance. This letter is mentioned in the NOV but not otherwise discussed. The February 28 letter detailed the efforts Newell had made to reach an agreement with the City.
- The effort to find a basis to work in a coordinated fashion with the City broke down in early March 2019. At that point, Newell sent the City a proposed work plan and access agreement for its review and comment.
- On March 14, 2019, I advised the WDNR that (a) the City was conducting the site investigations, (b) a basis for coordinated effort was not to be had, and (c) Newell was preparing a separate work plan to conduct supplemental groundwater investigation activities.
- Newell negotiated an access agreement and proposed supplemental groundwater investigative work plan with the City. However, before the Newell work plan was finalized, Newell learned that Stantec, the City's consultant, was moving forward with a previously undisclosed investigative work plan dated January 9, 2019. The Stantec work plan included installing 25 new soil borings and 15 new groundwater monitoring points.
- Upon her review of the previously undisclosed Stantec work plan, Newell's consultant suggested to the WDNR that the Newell supplemental work plan be finalized after a review of the results of Stantec's additional investigative work.
- On May 2, 2019, Newell advised the City's attorneys via email that it would hold off submitting its supplemental work plan until it received the Stantec testing results. The City advised that that data was expected by the beginning of May. It also indicated it would keep Newell advised of further developments regarding the Stantec investigation and communications with the WDNR.
- On May 6, 2019, Newell confirmed with the WDNR that the Newell supplemental investigative work plan would not be finalized until Newell had a chance to assess the results of the Stantec work plan. The WDNR confirmed.
- From May 2019 until April 2020, the City no longer provided us information except in response to our requests for updates regarding when we might receive the groundwater data. We were repeatedly told by the City it did not have the data.
- On May 7, 2020, the WDNR advised me that the Stantec data had been uploaded to the BRRTS site. The Stantec Report was not just the groundwater data -- it was a comprehensive report with text, data, figures and multiple appendices -- and purported to summarize several of the site's many investigations.

As the forgoing indicates, we advised and confirmed with the WDNR that Newell would be submitting its revised supplemental work plan after assessing the results of the Stantec additional groundwater testing. While there has been a year-long delay, as implied by the NOV, it is clear that for 11 of the months in that time period the delay was attributable to the delay in the data being publishing. Newell periodically asked the City regarding the status of the data. We were told each time that they were waiting for the lab results.



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Current Status

As I mentioned during the enforcement conference, Newell's consultants have been assessing the Stantec Report - the entire report - to determine how it has affected their proposed work plan, particularly whether data gaps remain that would require them to modify the draft work plan they had prepared last year. It remains Newell's intention to submit a revised work plan in accordance with what we communicated to the City and the WDNR in May 2019. We dispute that the delay has been on Newell's account.

As I indicated during the enforcement conference, we anticipating submitting a work plan within two to three weeks of the enforcement conference.

Sincerely,

A handwritten signature in black ink that reads "Gabriel M. Rodriguez".

Gabriel M. Rodriguez