

**BRRTS #:** 06-20-547613

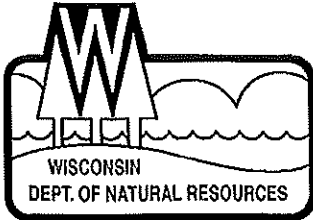
**FID #:** 420024110

**SITE NAME:** MANOWSKE WELDING (VPLE)

### **Associated ERP/LUST Sites**

This VPLE applies to the following closed ERP and/or LUST site(s). The following links can be used to access the associated Continuing Obligations packet(s).

<b>BRRTS #</b>	<b>SITE NAME</b>
02-20-546625	<a href="#"><u>GEORGETOWN CLEANERS</u></a>
03-20-553033	<a href="#"><u>MANOWSKE WELDING INC - 1000 GAL FUEL OIL</u></a>
03-20-001894	<a href="#"><u>MANOWSKE WELDING INC - 2500 GAL GAS</u></a>



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Scott Walker, Governor  
Cathy Stepp, Secretary  
Bruce Urban, Regional Air & Waste Leader

Plymouth Service Center  
1155 Pilgrim Rd  
Plymouth, Wisconsin 53073  
Telephone 920-892-8756

August 12, 2011

Brian Cummings  
MRED CUMMINGS  
W228 N745 Westmound Dr  
Waukesha, WI 53186

SUBJECT: Certificate of Closure for Property Owned by MRED Cummings Acquisitions LLC  
Former Georgetown Cleaners Redevelopment Site and  
the Former Manowske Welding Underground Storage Tank, Fond du Lac, WI  
**WDNR BRRTS ID #06-20-547612 (Georgetown Cleaners) and  
#06-20-547613 (Manowske Welding)**

Dear Mr. Cummings:

The Department of Natural Resources ("the Department") has received your request for issuance of a *Certificate of Completion* for the property owned by MRED Cummings Acquisitions LLC, located at 180 N. Main Street and 200 N. Main Street, Fond du Lac, Wisconsin, which will be referred to herein as "the Property". You have requested that the Department determine whether MRED Cummings Acquisitions LLC has met the requirements under s. 292.15(2), Wis. Stats., for issuance of a *Certificate of Completion*.

The Property subject of this *Certificate of Completion* is real property owned by MRED Cummings Acquisitions LLC, encompassing 1.904 acres and is presently occupied by Walgreens. The property is described as Lot Two (2) of CERTIFIED SURVEY MAP NO. 7110, being all of Lots Thirty-two (32), Thirty-three (33), Thirty-four (34), Thirty-five (35), Forty-eight (48), Forty-nine (49) and Fifty (50); also parts of Lots Thirty (30), Thirty-one (31), Thirty-six (36), Thirty-seven (37), Thirty-eight (38), Thirty-nine (39), Forty (40); part or North-South vacated alley lying between said Lots Thirty (30) thru Thirty-six (36) and Lots Thirty-seven (37) and Fifty (50); part of East-West vacated alley being between said Lots Thirty-seven (37) thru Forty (40) and Lots Forty-eight (48) and Fifty (50); all in Block Twenty-five (25) of the ORIGINAL PLAT OF THE CITY OF FOND DU LAC, located in the Northeast One-quarter (1/4) of the Northeast of the Northeast One-quarter (1/4) and in the Southeast One-quarter (1/4) of the Northeast One-quarter (1/4) in Section Ten (10), in Township Fifteen (15) North, Range Seventeen (17) East, in the City of Fond du Lac, County of Fond du Lac, Wisconsin.

## **Determination**

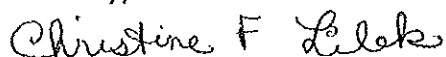
As you are aware, s. 292.15, Wis. Stats., authorizes the Department to issue a *Certificate of Completion* to a voluntary party that conducts an approved environmental investigation of a property and restores the environment to the extent practicable and minimizes the harmful effects with respect to hazardous substance discharges on or originating from the property. Based on the information received, the Department has determined that the investigation and restoration (to the extent practicable) of the Property is complete and that all the conditions in s. 292.15(2), Wis. Stats., have been met. Attached is the *Certificate of Completion* for this Property.

While the conditions for issuance of a *Certificate of Completion* have been met, a cap consisting of the buildings, parking areas and landscaping must be maintained.

## **Conclusions**

The Department appreciates the work undertaken by MRED CUMMINGS, to investigate and restore to the extent practicable the contamination associated with the Property. The exemption provided by the *Certificate of Completion* applies to any successor or assignee of the MRED CUMMINGS, if the successor or assignee complies with the appropriate conditions, pursuant to s. 292.15(3), Wis. Adm. Code. If you have any questions or concerns regarding this letter or the *Certificate of Completion*, please call me at (920) 892-8756, extension 3025.

Sincerely,



Christine F. Lilek, Hydrogeologist  
Remediation & Redevelopment Program

Attachment: *Certificate of Completion*

Cc: Case File – Plymouth Service Center  
Michael Prager – RR/3 - (via email)  
Annette Weissbach – NER - (via email)  
Andrew Mott – AECOM (via email)  
Don Gallo – (via email)  
Michelle Williams – (via email)  
Cathy Burrow – (via email)

**State of Wisconsin**  
**Department of Natural Resources**

**CERTIFICATE OF COMPLETION  
OF RESPONSE ACTIONS  
UNDER SECTION 292.15(2)(ae), WIS. STATS.**

**Whereas**, MRED Cummings Acquisitions LLC has applied for an exemption from liability under s. 292.15, Wis. Stats., for the **Former Georgetown Cleaners Redevelopment Site** and the **Former Manowske Welding Underground Storage Tank Sites** located at 180 N. Main Street and 200 N. Main Street, Fond du Lac, Wisconsin, 54935. The sites are on the same deed and are further described in the legal description found on Attachment A (hereafter described as the "Property");

**Whereas**, environmental investigations of the Property have been conducted and the Wisconsin Department of Natural Resources ("WDNR") has determined that environmental contamination exists at the Property;

**Whereas**, MRED Cummings Acquisitions LLC has submitted to the WDNR certain investigation reports and remedial action plans for the Property which comply with the requirements set forth in chs. NR 700-754, Wis. Adm. Code, consisting of the documents and reports listed in Attachment B;

**Whereas**, in accordance with s. 292.15(2)(ae)1, Wis. Stats., the WDNR has determined that environmental investigations have been conducted which adequately identified and evaluated the nature and extent of the hazardous substance discharges on the Property. The WDNR approved the site investigations on May 16, 2011;

**Whereas**, the WDNR has determined that historic fill on the Property in the past does not qualify as exempt under s. NR 500.08, Wis. Adm. Code. Therefore, on October 13, 2006, WDNR issued a Conditional Grant of Exemption for Development of a Historic Fill Site, included in Attachment C. If anyone proposes to do any future construction work on the Property, that person would also have to obtain approval for that work from the WDNR under s. NR 506.085, Wis. Adm. Code, prior to initiating any construction on the Property;

**Whereas**, the Property contains soil contamination that exceeds site-specific and/or generic residual contaminant levels ("RCLs") under ch. NR 720, Wis. Adm. Code and groundwater contamination that exceeds a groundwater quality enforcement standard under ch. NR 140, Wis. Adm. Code. Therefore, the Property will be included on the WDNR's Geographical Information System Database ("the GIS Registry") pursuant to s. 292.12(3), Wis. Stats. **MRED Cummings Acquisitions LLC** has submitted to the WDNR all the information necessary to be included on the GIS Registry pursuant to s. NR 726.05(2)(a)3. and s. NR 726.05(3)(a)4., Wis. Adm. Code;

**Whereas**, on April 7, 1999 and July 29, 2011, the WDNR issued case closure letters for the Property (Attachment C). The owner of this Property shall adhere to, abide by, and maintain the continuing obligation and other requirements that are specified in the attached state case closure letters and cap maintenance plans. The WDNR requires maintenance of a cover or barrier in order to prevent direct contact with and infiltration through residual soil contamination that might otherwise pose a threat to public health and the environment. The closure letters require that if soil with residual contamination is excavated in the future, the Property owner at the time of excavation must manage the soil in accordance with applicable federal and state laws;

**Whereas**, the WDNR has determined that the response actions are complete and were based on the Property being used as a commercial facility, office building and parking lot. In the event that the cover or barriers (that currently exists) are removed, the replacement barrier must be equally protective. Because of the residual contamination and certain continuing obligations for this site, before use of this site can be changed to residential use, or use by certain sensitive populations, such as a day care center, school, a senior center, hospital or a similar use, notification of the Department is required at a minimum. Additional sampling and/or cleanup may be required to ensure that the change in use of the site is protective based on future land uses and the residual contamination;

**Whereas**, if the requirements of this Certificate, the case closure letters or the cap maintenance plans are not followed, or if the land use changes, the WDNR may take actions under ss. 292.11 or 292.12, Wis. Stats., to ensure compliance with the specified requirements, and the person who owns or controls the Property may no longer qualify for the liability protections under s. 292.15, Wis. Stats.;

**Whereas**, **MRED Cummings Acquisitions LLC** has paid to WDNR the appropriate insurance fee and has submitted a complete insurance

application form to obtain coverage for the Property under the state's master insurance contract in accordance with s. 292.15(2)(ae)3m., Wis. Stats., and ch. NR 754, Wis. Adm. Code, based on their desire to use natural attenuation to remediate groundwater contamination that exceeds ch. NR 140, Wis. Adm. Code, groundwater quality enforcement standards; and

**Whereas**, on August 1, 2011, the WDNR determined that response actions necessary to restore the environment were completed at the Property, except with respect to groundwater contaminated with Chlorinated Volatile Organic Compounds (CVOCs) at Georgetown above the ch. NR 140, Wis. Adm. Code, groundwater quality enforcement standards. The WDNR has determined that this groundwater contamination will be brought into compliance through natural attenuation, in accordance with administrative rules promulgated by the WDNR.

**Therefore**, based upon the information that has been submitted, the WDNR hereby certifies that the response actions set forth in the WDNR approved remedial action plans for the Property and any other necessary response actions have been completed, except with respect to CVOCs contaminated groundwater above ch. NR 140, Wis. Adm. Code, enforcement standards that WDNR has determined will be brought into compliance through natural attenuation, in accordance with rules promulgated by WDNR.

Upon issuance of this Certificate, **MRED Cummings Acquisitions LLC** and the persons qualified for protection under s. 292.15(3), Wis. Stats., are exempt from the provisions of ss. 289.05(1), (2), (3) and (4), 289.42(1), 289.67, 291.25(1) to (5), 291.29, 291.37, 292.11(3), (4), and (7)(b) and (c) and 292.31(8), Wis. Stats., with respect to the existence of hazardous substances on or originating from the Property, the release of which occurred prior to the date the WDNR approved the environmental investigation required under s. 292.15(2)(ae)1., Wis. Stats.

However, the person who owns or controls the Property would no longer qualify for this liability exemption if that person fails to maintain or monitor the Property as required by the conditions in this Certificate, s. 292.12, Wis. Stats., administrative rules promulgated by the WDNR and the case closure letters issued on the following dates:

Date	Site
July 29, 2011	Georgetown Cleaners
July 29, 2011	Manowske 1000 gal Fuel Oil Tank
April 7, 1999	Manowske 2500 gal Gasoline Tank

Any discharges of a hazardous substance to or from the Property that occur after the date that the environmental investigations were approved will

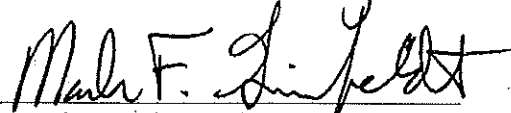
be the responsibility of the current Property owner and any other person who possesses or controls that discharge and any person who caused the discharge.

If natural attenuation of contaminated groundwater fails, the insurance coverage under s. 292.15(2)(ae)3m., Wis. Stats., may be used by the state to cover the costs of complying with s. 292.11(2), Wis. Stats., with respect to groundwater quality.

The protection from liability provided under s. 292.15(2), Wis. Stats., does not apply to any person who has obtained a Certificate of Completion by fraud or misrepresentation, or by knowingly failing to disclose material information or under circumstances in which **MRED Cummings Acquisitions LLC** knew or should have known about more discharges of hazardous substances than was revealed by the investigations approved by the WDNR.

Nothing in this Certificate or in s. 292.15, Wis. Stats., affects the authority of the WDNR to exercise any powers or duties under applicable laws other than ss. 289.05(1), (2), (3) and (4), 289.42(1), 289.67, 291.25(1) to (5), 291.29, 291.37, 292.11(3), (4), and (7)(b) and (c) and 292.31(8), Wis. Stats., with respect to any release or threatened release of contaminants at the Property, or the right of the WDNR to seek relief available against any person who is not entitled to protection from liability under s. 292.15, Wis. Stats., with respect to such release or threatened release.

SIGNED AND CERTIFIED this 4<sup>th</sup> day of August, 2011.



Mark F. Giesfeldt, Director  
Bureau for Remediation and Redevelopment  
Wisconsin Department of Natural Resources

**ATTACHMENT A**  
**LEGAL DESCRIPTION**  
Former Georgetown Cleaners Redevelopment Site &  
Former Manowske Welding Underground Storage Tank Sites

See attached legal description.



State Bar of Wisconsin Form 6 - 2003  
**SPECIAL WARRANTY DEED**

DOC# 916830

Document Number

Document Name

Recorded  
May 16, 2008 AT 01:16PM

THIS DEED, made between **BRIC (Johnson/Main) Associates, A Wisconsin Limited Partnership**  
and **Waltrust Properties, Inc.**

*Patricia Kraus*

PATRICIA KRAUS  
REGISTER OF DEEDS  
FOND DU LAC COUNTY  
Fee Amount: \$15.00  
Transfer Fee: \$16,750.00

Grantor for a valuable consideration, conveys to Grantee the following described real estate, together with the rents, profits, fixtures and other appurtenant interests, in Fond du Lac County, State of Wisconsin ("Property") (if more space is needed, please attach addendum);

The legal description of the property conveyed hereby is set forth on Exhibit A attached hereto and incorporated herein by reference.

Recording Area

Name and Return Address  
Richard F. Schmidt, Esq.  
Walgreen Co.  
104 Wilmot Road, MS 1420  
Deerfield, IL 60015

FDL 15-17-10-13-662-00

Parcel Identification Number (PIN)

This is not homestead property.  
(is) (is not)

Grantor warrants that the title to the Property is good, indefeasible, in fee simple and free and clear of encumbrances arising by, through, or under Grantor, except: for those encumbrances set forth on Exhibit B attached hereto and incorporated herein by reference.

Dated May 14, 2008

BRIC (Johnson/Main) Associates,  
A Wisconsin Limited Partnership  
By: BRIC (Johnson/Main), Inc.  
Its Sole General Partner (SEAL)

\* \_\_\_\_\_ (SEAL)

\* \_\_\_\_\_ (SEAL)

By: *Brian Cummings* (SEAL)  
Brian Cummings, President

**AUTHENTICATION**

**ACKNOWLEDGMENT**

Signature(s) \_\_\_\_\_

STATE OF WISCONSIN )  
 ) ss.

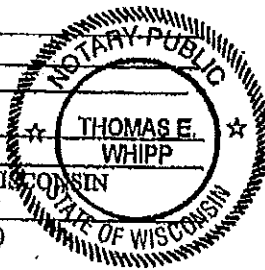
authenticated on \_\_\_\_\_

WAUKESHA COUNTY

Personally came before me on May 14, 2008,  
the above-named Brian Cummings

TITLE: MEMBER STATE BAR OF WISCONSIN

(If not, \_\_\_\_\_  
authorized by Wis. Stat. § 706.06)



to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.

THIS INSTRUMENT DRAFTED BY:

Thomas E. Whipp, Esq.

*Thomas E. Whipp*

\* Thomas E. Whipp  
Notary Public, State of Wisconsin  
My Commission (is permanent) (expires: \_\_\_\_\_)

(Signatures may be authenticated or acknowledged. Both are not necessary.)  
**SPECIAL WARRANTY DEED** STATE BAR OF WISCONSIN FORM No. 6-2003

\* Type name below signatures,  
mike 1509 N Prospect Ave Milwaukee, WI 53202-2323  
cma: Whipp

EXHIBIT A TO SPECIAL WARRANTY DEED

GRANTOR: BRIC (Johnson/Main) Associates, A Wisconsin  
Limited Partnership

GRANTEE: Waltrust Properties, Inc.

Legal Description

PARCEL A:

Lot Two (2) of CERTIFIED SURVEY MAP NO. 7110, being all of Lots Thirty-two (32), Thirty-three (33), Thirty-four (34), Thirty-five (35), Forty-eight (48), Forty-nine (49) and Fifty (50); also part of Lots Thirty (30), Thirty-one (31), Thirty-six (36), Thirty-seven (37), Thirty-eight (38), Thirty-nine (39), Forty (40); part of North-South vacated alley lying between said Lots Thirty (30) thru Thirty-six (36) and Lots Thirty-seven (37) and Fifty (50); part of East-West vacated alley being between said Lots Thirty-seven (37) thru Forty (40) and Lots Forty-eight (48) and Fifty (50); all in Block Twenty-five (25) of the ORIGINAL PLAT OF THE CITY OF FOND DU LAC, located in the Northeast One-quarter (1/4) of the Northeast One-quarter (1/4) and in the Southeast One-quarter (1/4) of the Northeast One-quarter (1/4) in Section Ten (10), in Township Fifteen (15) North, Range Seventeen (17) East, in the City of Fond du Lac, County of Fond du Lac, State of Wisconsin, and recorded in the Office of the Register of Deeds for Fond du Lac County, Wisconsin on September 11, 2006 in Volume 51 of Certified Survey Maps at pages 15 to 15G inclusive, as Document No. 879630.

Parcel B:

Non-exclusive easements contained in a Reciprocal Easement Agreement with covenants, conditions and restrictions recorded on September 15, 2006 as Document No. 879907.

**EXHIBIT B TO SPECIAL WARRANTY DEED**

**GRANTOR:** BRIC (Johnson/Main) Associates, A Wisconsin Limited Partnership

**GRANTEE:** Waltrust Properties, Inc.

Exceptions to Warranties

1. The lien of general real estate taxes and special assessments for the year 2008 and thereafter.
2. Reciprocal Easement Agreement with Covenants, Conditions and Restrictions recorded on September 15, 2006 as Document No. 879907.
3. Utility Easement affecting the South 7.5 feet of the premises described in Schedule A hereof as shown on the recorded plat of Certified Survey Map No. 7110.
4. Utility Easement Provision as noted on the recorded plat of Certified Survey Map No. 7110.
5. Unpaid installment on the general real estate taxes for the year 2007 in the sum of \$5,869.00, due July 31, 2008.
6. Overhead electric affecting the Northerly portion of the premises described in Schedule A hereof, as shown on an ALTA/ACSM Land Title Survey prepared by MSA Professional Services under a recorded plat of May 24, 2007, as Project No. 2350502.



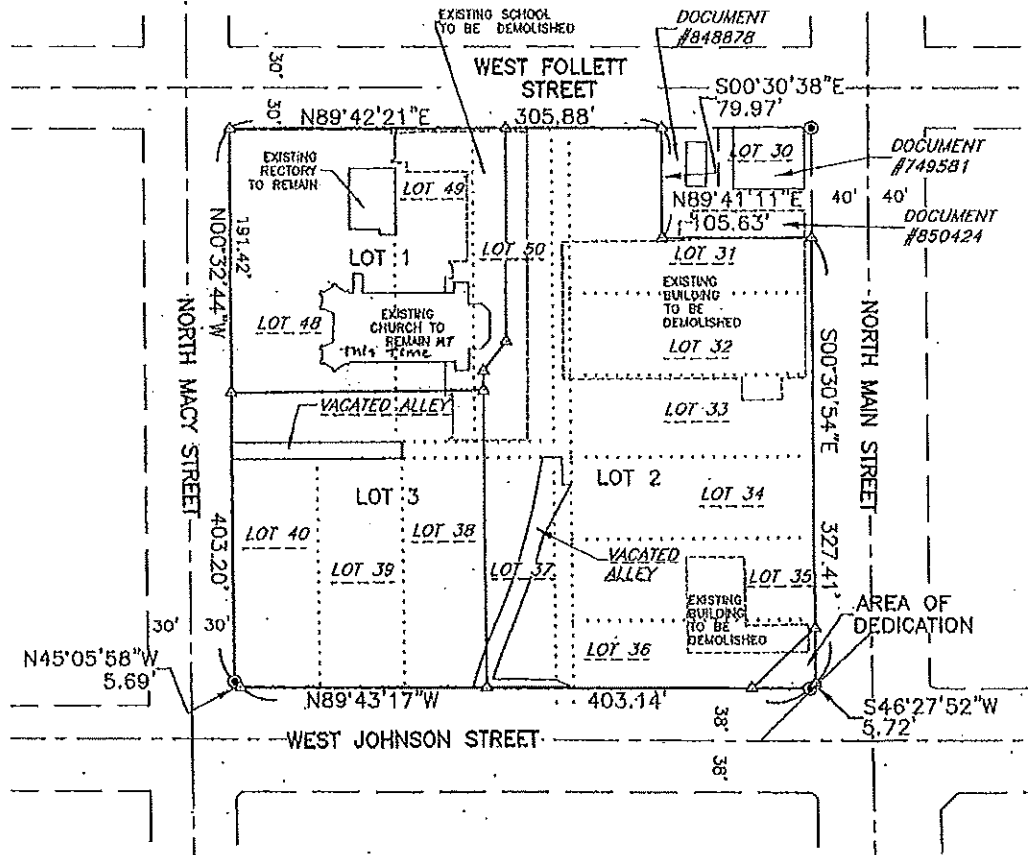
PROFESSIONAL SERVICES

TRANSPORTATION • MUNICIPAL  
DEVELOPMENT • ENVIRONMENTAL  
201 Corporate Drive Beaver Dam, WI 53916  
920-887-4242 1-800-352-6330 Fax: 920-887-4250  
© MSA PROFESSIONAL SERVICES

PROJECT #	2350502
DRAWN BY:	Anne Cook/Alt Buderer
CHECKED BY:	Michael J. Laue
FILE #	2350502\cadd\survey\Survey\csrml.dwg
SHEET #	2 of 8

### FOND DU LAC COUNTY CERTIFIED SURVEY MAP #

ALL OF LOTS 32, 33, 34, 35, 48, 49 AND 50; ALSO PART OF LOTS 30, 31, 36, 37, 38, 39, 40; PART OF NORTH-SOUTH VACATED ALLEY LYING BETWEEN SAID LOTS 30-36 AND LOT 37 AND 50; PART OF EAST-WEST VACATED ALLEY LYING BETWEEN SAID LOTS 37-40 AND LOTS 48-50; ALL IN BLOCK 25 OF THE ORIGINAL PLAY OF THE CITY OF FOND DU LAC; LOCATED IN THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 AND IN THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4, SECTION 10, TOWN 15 NORTH, RANGE 17 EAST, CITY OF FOND DU LAC, FOND DU LAC COUNTY, WISCONSIN.



CERTIFIED SURVEY MAP: 7110 VOLUME: 51 PAGE: 15A

\*SURVEYOR'S SEAL\*

WISCONSIN

MICHAEL J. LAUE

S-1435

BEAVER DAM, WISCONSIN

LAND SURVEYOR

3/10/06

- LEGEND
- FOUND CROSS NOTCH MONUMENTS
  - ▲ SET 3/4" X 18" SOLID ROD - 1.50 LBS. /L.F.

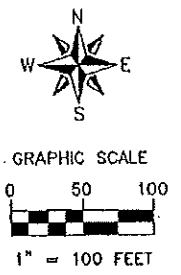


FIGURE 1

**ATTACHMENT B**  
**INVESTIGATION AND REMEDIAL ACTION PLAN REPORTS**  
**Former Georgetown Cleaners Redevelopment Site &**  
**Former Manowske Welding Underground Storage Tank Sites**

1. Reports prepared by Northern Environmental (Bonestroo), 1203 Storbeck Drive, Waupun, WI 53963.
  - a. Site Investigation Report, dated January 15, 1998 for Manowske Welding #03-20-001894 2500 GAL GAS TANK
  - b. Remedial Action Report, dated September 4, 1998 for Manowske Welding #03-20-001894 2500 GAL GAS TANK
  - c. Closure Request Package, dated March 19, 1999 for Manowske Welding #03-20-001894 2500 GAL GAS TANK
  - d. O & M Report, dated March 19, 1999 for Manowske Welding #03-20-001894 2500 GAL GAS TANK
  
2. Reports from Clayton, (Bureau Veritas Company), 3140 Finley Rd, Downers Grove, IL, 60515
  - a. Phase I Environmental Site Assessment, dated October 6, 2005 for Walgreen's Store #10496 NEC of Macy & Johnson Streets #02-20-546625, #06-20-547612 GEORGETOWN DERF & VLPE SITE
  - b. Phase I Environmental Site Assessment, dated January 17, 2006 for Proposed Walgreen's Store #10496 and Manowske Welding #06-20-547613 MANOWSKE VLPE SITE
  - c. Phase II Environmental Site Assessment, dated February 2006 for Proposed Walgreen's Store #10496 NEC of Macy & Johnson Streets #02-20-546625, #06-20-547612, and #06-20-547613 GEORGETOWN DERF & VLPE SITE AND MANOWSKE VLPE SITE
  - d. Site Investigation Report, dated April 11, 2006 for Georgetown Cleaners #02-20-546625, #06-20-547612 GEORGETOWN DERF & VLPE SITE
  - e. Limited Subsurface Investigation, dated May 12, 2006 for Manowske Welding Parcel #06-20-547613 MANOWSKE VLPE SITE
  
3. Reports from Arcadis, G. E. Plan Modifications
  - a. Additional Site Investigation, dated July 2006 for Defining Degree & Extent Georgetown Cleaners #02-20-546625, #06-20-547612 GEORGETOWN DERF & VLPE SITE
  - b. UST Assessment Report, dated January 4, 2007 for Georgetown Cleaners #02-20-546625, #06-20-547612 GEORGETOWN DERF & VLPE SITE
  - c. Revised Interim Action Plan, dated August 31, 2006 for Georgetown Cleaners #02-20-546625, #06-20-547612 GEORGETOWN DERF & VLPE SITE
  - d. Interim Action Completion Report, dated December 2006 for Georgetown Cleaners #02-20-546625, #06-20-547612 GEORGETOWN DERF & VLPE SITE
  - e. Excavation of Waste Fill, dated January 15, 2006 for Manowske Welding #03-20-553033, #06-20-547613 MANOWSKE 1000 GAL FUEL TANK & VLPE SITE
  - f. Build on Historic Fill Exemption Request, dated September 20, 2006 for Georgetown Cleaners #02-20-546625, #06-20-547612 GEORGETOWN DERF & VLPE SITE
  - g. Soil Excavation & Disposal Report, dated January 25, 2007 for Georgetown Cleaners #02-20-546625, #06-20-547612 GEORGETOWN DERF & VLPE SITE
  - h. Tank Closure Environmental Assessment, dated January 25, 2007 for Manowske Welding #03-20-553033, #06-20-547613 MANOWSKE 1000 GAL FUEL TANK & VLPE SITE

4. Reports from AECOM, 558 North Main St, Oshkosh, WI, 54901

- a. Site Investigation Report, dated December 19, 2006 for Manowske Welding #03-20-553033, #06-20-547613 MANOWSKE 1000 GAL FUEL TANK & VLPE SITE
  - b. Closure Request Package, dated December 5, 2008 for Manowske Welding #03-20-553033, #06-20-547613 MANOWSKE 1000 GAL FUEL TANK & VLPE SITE
  - c. Conditional Closure (Well Abandonment) dated February 10, 2009 for Manowske Welding #03-20-553033, #06-20-547613 MANOWSKE 1000 GAL FUEL TANK & VLPE SITE
  - d. Supplemental SI Report, dated January 22, 2009 for Georgetown Cleaners #02-20-546625, #06-20-547612 GEORGETOWN DERF & VLPE SITE
  - e. Additional Site Investigation Report, dated August 6, 2009 for Georgetown Cleaners #02-20-546625, #06-20-547612 GEORGETOWN DERF & VLPE SITE
  - f. Utility Trench Plug Installation Report, dated September 28, 2010 for Georgetown Cleaners #02-20-546625, #06-20-547612 Manowske Welding #06-20-547613 and Holy Family Church Parking Lot #02-20-547886
  - g. Parking Lot & Landscape Cover Plan, dated March 31, 2011 for Georgetown Cleaners #02-20-546625, #06-20-547612 GEORGETOWN DERF & VLPE SITE
  - h. Closure Request Package, dated April 11, 2011 for Georgetown Cleaners #02-20-546625, #06-20-547612 GEORGETOWN DERF & VLPE SITE
5. Wisconsin Department of Health Service's Vapor Sampling Data Review, dated April 16, 2010 for Georgetown Cleaners #02-20-546625, #06-20-547612 and Manowske Welding #06-20-547613

**ATTACHMENT C**

Closure Letter and Cap Maintenance Plan  
Conditional Grant of Exemption for Development of a Historic Fill Site

Former Georgetown Cleaners Redevelopment Site &  
Former Manowske Welding Underground Storage Tank Sites

<b>Date of Closure</b>	<b>Site</b>
July 29, 2011	Georgetown Cleaners
July 29, 2011	Manowske 1000 gal Fuel Oil Tank
April 7, 1999	Manowske 2500 gal Gasoline Tank
<b>Date of Exemption</b>	
October 13, 2006	Georgetown Cleaners



## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Scott Walker, Governor  
Cathy Stepp, Secretary  
Bruce Urban, Regional Air & Waste Leader

Plymouth Service Center  
1155 Pilgrim Rd  
Plymouth, Wisconsin 53073  
Phone (920) 892-8756  
Fax (920) 892-6638

July 29, 2011

Brian Cummings  
MRED CUMMINGS  
W228 N745 Westmound Dr  
Waukesha, WI 53186

Subject: Final Case Closure with Continuing Obligations  
Former Georgetown Cleaners Redevelopment Site,  
180 N. Main Street, Fond du Lac, Wisconsin  
WDNR BRRTS #02-20-546625

Dear Mr. Cummings:

Regarding the closure request for Former Georgetown Cleaners Redevelopment Site, the Department of Natural Resources (Department) considers this site closed and no further investigation or remediation is required at this time. This final closure decision is based on the correspondence and data provided, and is issued under ch. NR 726, Wisconsin Administrative Code.

The Former Georgetown Cleaners and the adjacent former Manowske Welding are on the same Deed and are both enrolled in the Voluntary Party Liability Exemption Process (VPLE). You will receive a Certificate of Completion for the Deeded Property in a couple of weeks after all closure actions are completed.

On May 25, 2011, the NER Closure Committee reviewed the Closure Request regarding the petroleum and chlorinated solvent contamination from the Former Georgetown Cleaners. The Closure Committee reviews environmental remediation cases for compliance with state laws and standards to maintain consistency in the closure of these cases. A conditional closure letter was issued by the Department on June 1, 2011, and documentation was received on July 22, 2011, that the conditions in that letter were met.

This site was most recently used as a dry cleaner facility. Soil and groundwater has been contaminated with chlorinated solvents and petroleum. The contaminated soil on the property and in East Main Street was excavated to the extent practicable. Pavement, phytoremediation trenches, and landscaping completed the remedial action at the site. Via an April 16, 2010 memo, the Department of Health Service stated that no vapor mitigation system is needed. However as part of the new retail building construction, a vapor venting system was voluntarily installed and is being maintained by Walgreens now located on the former Manowske and former Georgetown Cleaners properties. Utility plugs were installed along East Main Street however plug maintenance is also not required as a continuing obligation, because the plugs are the responsibility of the City of Fond du Lac Public Works Department as stated in the Government Right Of Way notification letter dated March 31, 2011. Some contamination of the soil and groundwater remains, and is addressed by the conditions of closure in this letter. Petroleum contamination exists on the former Georgetown Cleaners and the former Manowske welding sites at monitoring well locations MW-7, MW-7D, MW-8, and MW-8A from an off-site source known as Mobile Gas Mart (COMM #54935346075).



The final closure decision was based on the property being used for retail stores and customer parking. This use affected the type of cleanup employed, and the type of continuing obligations required.

While the Department considers this case closed, you and future property owners must comply with the continuing obligations as explained in this letter. Please provide a copy of this letter and any attached maps and maintenance plan to anyone who purchases this property from you.

### Continuing Obligations and GIS Registry

The continuing obligations for this site are summarized below:

- Groundwater contamination is present above ch. NR140, Wis. Adm. Code enforcement standards.
- Residual soil contamination exists that must be properly managed should it be excavated or removed.
- Pavement, an engineered cover or a soil barrier must be maintained over contaminated soil and the state must approve any changes to this barrier.
- Closure is based on specific exposure conditions being maintained. If changes in property use or land use are planned, the Department must be notified, and an assessment must be made of whether the closure is still protective. Additional investigation and/or remedial action may be necessary.

This site will be listed on the Remediation and Redevelopment Program's internet accessible GIS Registry, to provide notice of residual contamination and of any continuing obligations. If the property is listed on the GIS Registry because of remaining contamination and you intend to construct or reconstruct a well, you will need prior Department approval in accordance with s. NR-812.09(4) (w), Wis. Adm. Code. To obtain approval, Form 3300-254 needs to be completed and submitted to the DNR Drinking and Groundwater program's regional water supply specialist. This form can be obtained on-line at <http://dnr.wi.gov/org/water/dwg/3300254.pdf> or at the web address listed below for the GIS Registry.

All site information, impervious cover (parking lot) maintenance plan, is also on file, at the DNR's Oshkosh Service Center, 625 E County Rd Y STE 700, Oshkosh, WI 54901-9731. This letter and information that was submitted with your closure request application, including the maintenance plan, will be included on the GIS Registry, in a PDF attachment. To review the sites on the GIS Registry web page, visit the RR Sites Map page at <http://dnr.wi.gov/org/aw/rr/gis/index.htm>.

### Prohibited Activities

Certain activities are prohibited due to a condition of closure which requires maintenance of a barrier intended to limit or prevent contact with or exposure to contamination remaining at the site. Department notification is required before making a change, in order to determine if further action is needed to maintain the protectiveness of the remedy employed. The following activities are prohibited on any portion of the property where parking lot pavement is required as shown on the **attached map (Figure 11 Cover Maintenance)**, unless prior written approval has been obtained from the Department: 1) removal of the existing barrier; 2) replacement with another barrier; 3) excavating or grading of the land surface; 4) filling on capped or paved areas; 5) plowing for agricultural cultivation; 6) construction or placement of a building or other structure, 7) changing the use of the property so that the tenancy or occupancy of the property would be by certain land uses, such as single or multiple-family residences, a day care, senior center, hospital or for a similar sensitive population.

Upon Department approval to replace the existing barrier, the replacement barrier must be one of similar permeability, or must be protective of the revised use of the property, until contaminant levels no longer exceed the applicable standards.

### Closure Conditions

Please be aware that pursuant to s. 292.12 Wisconsin Statutes, compliance with the requirements of this letter is a responsibility to which the current property owner and any subsequent property owners must adhere. You must pass on both the information about these continuing obligations and the maintenance plan to the next property owner or owners. The Department intends to conduct inspections in the future to ensure that the conditions included in this letter including compliance with **attached maintenance plans** are met.

### Residual Groundwater Contamination

Groundwater impacted by tetrachloroethene, trichloroethene, cis-1, 2-dichloroethene, vinyl chloride contamination greater than enforcement standards set forth in ch. NR140, Wis. Adm. Code, is present both on this contaminated property and in the roadway along North Main Street, as shown on the **attached map (Figure 7 GIS GW Map)**. The City of Fond du Lac – Public Works Office has also been notified of the presence of groundwater contamination. Department approval prior to well construction or reconstruction is required for all sites with residual contamination on the GIS Registry.

### Residual Soil Contamination

Residual soil contamination remains at the southeast corner of the parking lot and on the edge of the western side of North Main Street as indicated on the **attached map (Figure 2 Soil GIS Map)** and in the information submitted to the Department.

If soil, in the specific locations described above is excavated in the future, then pursuant to ch. NR 718 or, if applicable, ch. 289, Stats. and chs. 500 to 536, the property owner at the time of excavation must sample and analyze the excavated soil to determine if residual contamination remains. If sampling confirms that contamination is present the property owner at the time of excavation will need to determine whether the material is considered solid or hazardous waste and ensure that any storage, treatment or disposal is in compliance with applicable standards and rules. In addition, all current and future owners and occupants of the property need to be aware that excavation of the contaminated soil may pose an inhalation or other direct contact hazard and as a result special precautions may need to be taken to prevent a direct contact health threat to humans.

### Cover or Barrier

Pursuant to s. 292.12(2)(a), Wis. Stats., the pavement, building or other impervious cover that exists in the location shown on the **attached map (Figure 11 Cover Maintenance)** shall be maintained in compliance with the **attached maintenance plan** in order to minimize the infiltration of water and prevent additional groundwater contamination that would violate the groundwater quality standards in ch. NR 140, Wis. Adm. Code, and to prevent direct contact with residual soil contamination that might otherwise pose a threat to human health.

The **attached maintenance plan and inspection log** are to be kept up-to-date and on-site. Only upon request would it be necessary to submit the inspection log to the Department.

**When to Notify the Department about Property Use or Conditions of Closure**

In accordance with ss. 292.12 and 292.13, Wis. Stats., you must notify the Department before making any changes to the property that affect or relate to the conditions of closure in this letter. For this case, changed conditions requiring prior notification are:

- Disturbance, construction on, change or removal in whole or part of the pavement that must be maintained over contaminated soil.
- Changes in land use or property use.

Please send written notifications in accordance with the above requirements to Plymouth Service Center, 1155 Pilgrim Rd, Plymouth, WI 53073, to the attention of Christine Lilek, Hydrogeologist.

Fact sheet, RR-819, "Continuing Obligations for Environmental Protection" has been included with this letter, to help explain a property owner's responsibility for continuing obligations on their property. If the fact sheet is lost, you may obtain a copy at <http://dnr.wi.gov/org/aw/rr/archives/pubs/RR819.pdf>.

The Department appreciates your efforts to restore the environment at this site. If you have any questions regarding this closure decision or anything outlined in this letter, please contact Christine Lilek at (920) 892-8756, extension 3025.

Sincerely,

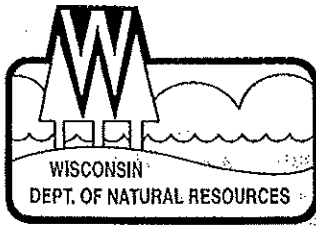


Jennifer Borski, Acting Team Supervisor  
Northeast Region Remediation & Redevelopment Program

**Attachments:**

- remaining soil contamination map - Figure 2 Soil GIS Map
- remaining groundwater contamination map - Figure 7 GIS GW Map
- extent of cap map - Figure 11 Cover Maintenance
- maintenance plan
- PUB- RR 819

cc: NER Case File - Plymouth  
Andrew Mott - [Andrew.mott@aecom.com](mailto:Andrew.mott@aecom.com)  
Don Gallo - [dgallo@reinhardtlaw.com](mailto:dgallo@reinhardtlaw.com),  
Michelle Williams - [mwilliams@reinhardtlaw.com](mailto:mwilliams@reinhardtlaw.com)  
Cathy Burrow - CF/2  
Jessica Coda - RR/5



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Scott Walker, Governor  
Cathy Stepp, Secretary  
Bruce Urban, Regional Air & Waste Leader

Plymouth Service Center  
1155 Pilgrim Rd  
Plymouth, Wisconsin 53073  
Phone (920) 892-8756  
Fax (920) 892-6638

July 29, 2011

Brian Cummings  
MRED CUMMINGS  
W228 N745 Westmound Dr  
Waukesha, WI 53186

Subject: Final Case Closure with Continuing Obligations  
Former Manowske Welding Redevelopment Site,  
180 N. Main Street, Fond du Lac, Wisconsin  
WDNR BRRTS #03-20-553033

Dear Mr. Cummings:

Regarding the closure request for Former Manowske Welding, the Department of Natural Resources (Department) considers this site closed and no further investigation or remediation is required at this time. This final closure decision is based on the correspondence and data provided, and is issued under ch. NR 726, Wisconsin Administrative Code.

The Former Manowske Welding and the adjacent former Georgetown Cleaners are on the same Deed and are both enrolled in the Voluntary Party Liability Exemption Process (VPLE). You will receive a Certificate of Completion for the Deeded property in a couple of weeks when all closure actions are completed.

Previously on January 23, 2009, the NER Closure Committee reviewed the Closure Request regarding the petroleum and metal contamination on the site from the Former Manowske Welding underground storage tanks and historic waste. A conditional closure letter was issued by the Department on February 10, 2009; however, this case was left open to use monitoring well #MW-MW 5 for the adjacent Georgetown Cleaners investigation and cleanup.

The following conditional closure documentation was received:

- April 27, 2009 (GIS Registry & Pavement Cover Maintenance Plan)
- April 16, 2010 (Department of Health Services memo stating no vapor mitigation system needed\*) that the conditions in that letter were met
- August 10, 2010 (Abandonment of monitoring well MW-MW 5),
- September 28, 2010, March 17, 2011 and May 26, 2011 (Utility Trench Plug Installation Reports), and

\*Note: A vapor venting system has been voluntarily installed beneath the newly constructed retail building and is being maintained by Walgreens now located on the former Manowske and former Georgetown Cleaners properties.

This site was used as a welding, machining and metal structure assembly business from the 1960s to 2005. Soil has been contaminated with petroleum and historical waste metals. The contaminated soil on the property was excavated to the extent practicable. Pavement and landscaping completed the remedial action at the site. A passive venting system was installed under the new retail building. However the Department is not requiring maintenance of this system as a continuing obligation because no contamination was detected under the building. Utility plugs were installed in the utility trenches. Petroleum contamination exists on the former Manowski Welding and the former Georgetown Cleaners sites at monitoring well locations MW-7, MW-7D, MW-8, and MW-8A from an off-site source known as Mobile Gas Mart (COMM #54935346075). Some contaminated soil remains (one sample point on the northwest side of the property) and is addressed by the conditions of closure in this letter.

The final closure decision was based on the property being used for retail purposes and customer parking. This use affected the type of cleanup employed, and the type of continuing obligations required.

While the Department considers this case closed, you and future property owners must comply with the continuing obligations as explained in this letter. Please provide a copy of this letter and any attached maps and maintenance plan to anyone who purchases this property from you.

### **Continuing Obligations and GIS Registry**

The continuing obligations for this site are summarized below:

- Residual soil contamination exists that must be properly managed should it be excavated or removed.
- A building, pavement, an engineered cover or a soil barrier must be maintained over contaminated soil and the state must approve any changes to this barrier.

This site will be listed on the Remediation and Redevelopment Program's internet accessible GIS Registry, to provide notice of residual contamination and of any continuing obligations. If the property is listed on the GIS Registry because of remaining contamination and you intend to construct or reconstruct a well, you will need prior Department approval in accordance with s. NR 812.09(4) (w), Wis. Adm. Code. To obtain approval, Form 3300-254 needs to be completed and submitted to the DNR Drinking and Groundwater program's regional water supply specialist. This form can be obtained on-line at <http://dnr.wi.gov/org/water/dwg/3300254.pdf> or at the web address listed below for the GIS Registry:

All site information, impervious cover (parking lot) maintenance plan, is also on file at the DNR's Oshkosh Service Center, 625 E County Rd Y STE 700, Oshkosh, WI 54901-9731. This letter and information that was submitted with your closure request application, including the maintenance plan, will be included on the GIS Registry in a PDF attachment. To review the site on the GIS Registry web page, visit the RR Sites Map page at <http://dnr.wi.gov/org/aw/rr/gis/index.htm>.

maintained in compliance with the **attached maintenance plan** in order to minimize the infiltration of water and prevent additional groundwater contamination that would violate the groundwater quality standards in ch. NR 140, Wis. Adm. Code, and to prevent direct contact with residual soil contamination that might otherwise pose a threat to human health. The **attached maintenance plan and inspection log** are to be kept up-to-date and on-site. Only upon request should you submit the inspection log to the Department.

**When to Notify the Department about Property Use or Conditions of Closure**

In accordance with ss. 292.12 and 292.13, Wis. Stats., you must notify the Department before making changes that affect or relate to the conditions of closure in this letter. For this case, changed conditions requiring prior notification are:

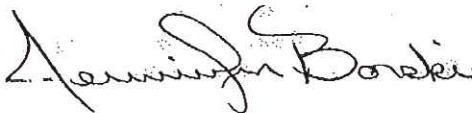
- Disturbance, construction on, change or removal in whole or part of pavement that must be maintained over contaminated soil.

Please send written notifications in accordance with the above requirements to Plymouth Service Center, 1155 Pilgrim Rd, Plymouth, WI 53073, to the attention of Christine Lilek, Hydrogeologist.

The attached DNR fact sheet, RR-819, "Continuing Obligations for Environmental Protection" has been included with this letter, to help explain a property owner's responsibility for continuing obligations on their property. If the fact sheet is lost, you may obtain a copy at <http://dnr.wi.gov/org/aw/rr/archives/pubs/RR819.pdf>.

The Department appreciates your efforts to restore the environment at this site. If you have any questions regarding this closure decision or anything outlined in this letter, please contact Christine Lilek at (920) 892-8756, extension 3025.

Sincerely,



Jennifer Borski, Acting Team Supervisor  
Northeast Region Remediation & Redevelopment Program

Attachments:

- remaining soil contamination map - Figure 3 Residual DRO Soil
- extent of cap map - Figure 11 Cover Maintenance
- maintenance plan
- PUB-RR 819

cc: NER Case File - Plymouth  
Andrew Mott -- [Andrew.mott@aecom.com](mailto:Andrew.mott@aecom.com)  
Don Gallo -- [dgallo@reinhardtlaw.com](mailto:dgallo@reinhardtlaw.com)  
Michelle Williams -- [mwilliams@reinhardtlaw.com](mailto:mwilliams@reinhardtlaw.com)  
Cathy Burrow -- CF/2, Jessica Coda - RR/5

### Prohibited Activities

Certain activities are prohibited due to a condition of closure which requires maintenance of a barrier intended to limit or prevent contact with or exposure to contamination remaining at the site. Department notification is required before making a change, in order to determine if further action is needed to maintain the protectiveness of the remedy employed. The following activities are prohibited on any portion of the property where parking lot pavement is required as shown on the attached map - **Figure 11 Cover Maintenance**], unless prior written approval has been obtained from the Wisconsin Department of Natural Resources: 1) removal of the existing barrier; 2) replacement with another barrier; 3) excavating or grading of the land surface; 4) filling on capped or paved areas; 5) plowing for agricultural cultivation; and 6) construction or placement of a different building or other structure.

Upon Department approval to replace the existing barrier, the replacement barrier must be one of similar permeability, or must be protective of the revised use of the property, until contaminant levels no longer exceed the applicable standards.

### Closure Conditions

Please be aware that pursuant to s. 292.12 Wisconsin Statutes, compliance with the requirements of this letter is a responsibility to which the current property owner and any subsequent property owners must adhere. You must pass on both the information about these continuing obligations and the maintenance plan to the next property owner or owners. The Department intends to conduct inspections in the future to ensure that the conditions included in this letter, including compliance with attached maintenance plan, are met.

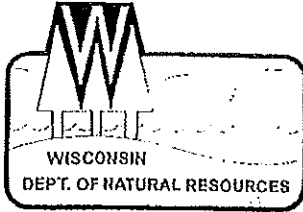
### Residual Soil Contamination

Residual low level soil contamination remains at one soil sample point (Former Tank 5 – South sample), which is below the current Walgreens building on the northwest side of the building as indicated on the attached map - **Figure 3 Residual DRO Soil**, and in the information submitted to the Department of Natural Resources.

If soil in the specific locations described above is excavated in the future, then pursuant to ch. NR 718 or, if applicable, ch. 289, Stats. and chs. 500 to 536, the property owner at the time of excavation must sample and analyze the excavated soil to determine if residual contamination remains. If sampling confirms that contamination is present the property owner at the time of excavation will need to determine whether the material is considered solid or hazardous waste and ensure that any storage, treatment or disposal is in compliance with applicable standards and rules. In addition, all current and future owners and occupants of the property need to be aware that excavation of the contaminated soil may pose an inhalation or other direct contact hazard and as a result special precautions may need to be taken to prevent a direct contact health threat to humans.

### Cover or Barrier

Pursuant to s. 292.12(2)(a), Wis. Stats., the building, pavement, or other impervious cover that exists in the location shown on the attached map - **Figure 11 Cover Maintenance** shall be



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor  
George E. Meyer, Secretary  
William R. Selbig, Regional Director

Northeast Region Headquarters  
1125 N. Military Ave., P.O. Box 10448  
Green Bay, Wisconsin 54307-0448  
Telephone 920-492-5800  
FAX 920-492-5913  
TDD 920-492-5912

April 7, 1999

Ms. Tudy Reis  
Manowske Welding, Inc.  
200 North Main Street  
Fond du Lac, WI 54935

SUBJECT: Closure of WDNR LUST Case with Groundwater Quality PAL Exemption for  
Manowske Welding, Inc., 200 N. Main Street, Fond du Lac, WI 54935  
BRRTS # 03-20-001894

Dear Ms. Reis:

The Department's Case Closeout Committee in the Northeast Region completed a review of the above referenced contamination case and has approved it for closure. Your case closure letter has the following two significant parts:

1. General case closure criteria.
2. Exemption issued to State Groundwater Quality Standard (NR 140, Wis. Adm. Code).

Please read this entire letter. It addresses each of these topics in general.

#### General Case Closure

The case closure panel reviews environmental remediation cases for compliance with state laws, standards, and guidelines to maintain consistency in the closeout of cases. At the present time, it appears that actions have been taken to the extent practicable to restore the environment and minimize the harmful effects from this discharge to the air, lands, and waters of this state. Please be aware that this letter does not absolve the current or any future owner of this property from future decisions regarding this site or impacts which may be discovered and/or traced back to past or future activities at this site. If additional information in the future indicates that further investigation or cleanup is warranted, the Department will require that appropriate action be taken at that time.

#### Groundwater Quality Exemption

The most recent groundwater monitoring data at this site indicates an exceedance of the

*Quality Natural Resources Management  
Through Excellent Customer Service*





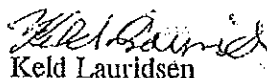
NR 140 preventive action limit (PAL) for 1,2-dichloroethane (1,2-DCA) at monitoring wells MW1700 and MW1800, & at the sump but compliance with the NR 140 enforcement standard. The Department may grant an exemption pursuant to NR 140.28(2), Wis. Adm. Code, if the following criteria are met:

- a) The anticipated increase in the concentration of 1,2-DCA will be minimized to the extent technically and economically feasible.
- b) Compliance with the PAL is either not technically or economically feasible.
- c) The enforcement standard for 1,2-DCA will not be attained or exceeded at the point of standards application.
- d) Any increase in the concentration of 1,2-DCA above background does not present a threat to public health or welfare.

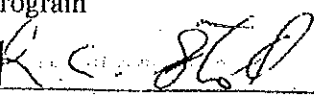
The Department believes that the above criteria have been or will be met because of the remediation that has occurred at this site. Therefore, pursuant to NR 140.28, Wis. Adm. Code, an exemption for the 1,2-DCA PAL is granted to monitoring wells MW1700 and MW1800 & the sump. This letter serves as your exemption. At this time the Department is not requiring any further investigation or other action concerning this specific site.

The Department appreciates the actions you have undertaken to restore the environment at this site. This case will appear as closed on the Department's case tracking system after our receipt of the monitoring well abandonment forms (Form 3300-05B) for all the site's monitoring points and proper soil disposal documentation. If you have questions, please contact me in Green Bay at (920) 492-5921.

Sincerely,

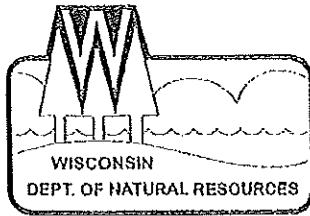
  
Keld Lauridsen  
Hydrogeologist  
Remediation and Redevelopment Program

NR 140 Exemption approval

  
Richard C. Stoll, P.G.  
Regional Hydrogeologist

4-12-99  
(Date)

cc: Stuart J. Gross, Northern Environmental Technologies, Inc.,  
1203 Storbeck Drive, Waupun, WI 53963  
Steve Karklins - DG/2  
Rick Stoll - NER



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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

Oshkosh Service Center  
625 E. County Rd Y, Suite 700  
Oshkosh, Wisconsin 54901-9731  
Telephone 920-424-3050  
FAX 920-424-4404

\*\*\*SENT CERTIFIED MAIL - RETURN RECEIPT REQUESTED\*\*\*

Date: 9/10/06

Kay Clabault  
MRED Cummings  
W228 N745 Westmound Drive  
Waukesha, WI 53186

SUBJECT: Case by Case Exemption for the Development of a Property Where Solid Waste has been Disposed at the former Georgetown Cleaners Property, 180 N. Main Street (BRRTS # 02-20-546625); former Manowski Welding Property at 200 N. Main Street (BRRTS # 02-20-547456); and former Holy Family Church Parking lot at 26 Follett Street (BRRTS # 02-20-547886) in the City of Fond du Lac, (SW ¼, NE ¼, Sec. 10, T15N, R17E) Fond du Lac County, Wisconsin, 54935.

Dear Ms. Kay Clabault:

We have reviewed your request dated September 20, 2006, for a grant of exemption from regulation under s. NR 506.085, Wis. Adm. Code. Based on this evaluation, the Department is issuing this conditional grant of exemption from the prohibitions contained in s. NR 506.085, Wis. Adm. Code. You must comply with the conditions of this grant of exemption in order to maintain the exemption. Documentation that certain conditions have been completed shall be submitted to the Department within 30 days of completing the work. This grant of exemption is limited to the proposed changes described in your application. If you are considering additional changes beyond those described in the application, a new application must be submitted to the department for approval with a new fee.

Please review the information contained in the publication *Development at Historic Fill Sites and Licensed Landfills: Considerations and Potential Problems* PUB-RR-685 to assist you in preventing environmental or safety problems during and after development. We would like to particularly draw your attention to the public safety risk posed by the explosive potential for methane gas, which may be present on a property if decomposing solid waste is present.

You are reminded that this approval does not relieve you of obligations to meet all other applicable federal, state and local permits, as well as zoning and regulatory requirements. If you have any questions concerning this letter, please contact Jennie Easterly at 920-303-5447.

Sincerely,

Bruce Urben

NER Remediation and Redevelopment Team Supervisor

cc: Jennie Easterly - NER Oshkosh, Diane Hammel - NER - Green Bay  
John Angeli - City of Fond du Lac

Quality Natural Resources Management  
Through Excellent Customer Service



STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES  
CONDITIONAL GRANT OF EXEMPTION  
FOR  
DEVELOPMENT ON A PROPERTY  
WHERE SOLID WASTE HAS BEEN DISPOSED

FINDINGS OF FACT

The Department finds that:

1. BRIC Associates currently owns the property located at 180 North Main Street, 200 North Main Street and 26 Follett Street, Fond du Lac, 54936, Fond du Lac County, Wisconsin.
2. Solid waste has been disposed of at this property and remains at this property.
3. BRIC Associates has submitted a request dated September 20, 2006 for an exemption from the prohibition in NR 506.085, Wis. Adm. Code. The request has been submitted under the seal of a professional engineer relating to the proposed development and the environmental conditions at the property.
4. Based upon the information provided to the Department of Natural Resources ("the Department"), the proposed development at the property is not expected to cause future exceedances of applicable soil and groundwater standards. The proposed Walgreen's building and associated asphalt parking lot and the retail building and associated asphalt parking lot cover all of the solid waste on the property and should prevent any direct contact with the solid waste and reduce/eliminate surface water infiltration through the solid waste.
5. Additional documents considered in review of the exemption request include the following:
  - Email dated September 20, 2006 from James Bannantine at Arcadis to Jennifer Easterly which included the Request for Case by Case Exemption Application Form 4400-226 (signed on 9-20-2006) and summary document which included the building plans.
6. If the conditions set forth below are complied with, the development of the property will not result in environmental pollution as defined in ss. 289.01(8) and 299.01(4), Wis. Stats.

CONCLUSIONS OF LAW

1. The Department has the authority under s. NR 500.08(4), Wis. Adm. Code to issue an exemption from the prohibition in s. NR 506.085, Wis. Adm. Code, if the proposed development will not cause environmental pollution as defined in ss. 289.01(8) and 299.01(4), Wis. Stats.
2. The Department has authority to approve a grant of exemption with conditions if the conditions are necessary to ensure compliance with the applicable provisions of chapters NR 500 to 538, Wis. Adm. Code, or to assure that environmental pollution will not occur.

3. The conditions set forth below are necessary to ensure compliance with the applicable provisions of chapters NR 500 to 538, Wis. Adm. Code, and to assure that environmental pollution will not occur.
4. In accordance with the foregoing, the Department has the authority under s. NR 500.08(4), Wis. Adm. Code, to issue the following conditional grant of exemption.

#### CONDITIONAL GRANT OF EXEMPTION

The Department hereby issues an exemption to BRIC Associates from the prohibition in s. NR 506.085, Wis. Adm. Code for development on a property which contains solid waste as proposed in the submittal dated February 9, 2006 subject to the following conditions:

1. All excavated solid waste/contaminated soils shall be transported to a licensed landfill for proper disposal. Documentation that this waste disposed of properly shall be submitted to the Department within 30 days of completing the work.
2. BRIC Associates shall cover all exposed solid waste as proposed in the submitted development plan with asphalt driveway and concrete building slabs. The earthwork contractor/site owner shall provide documentation that asphalt/building foundations/synthetic lined stormwater basins cover all exposed wastes. This documentation shall be maintained and held by the property owner and shall be provided to the Department. Photo documentation and a written document from the contractor who completed this work shall be submitted to the Department within 30 days of completing the work.
3. A portion of this property has been used as a solid waste landfill and its use is restricted to prevent disturbing the integrity of the final cover (cap) or constructing any buildings on the property without written approval from the Department or its successor agency.
4. Water supply regulations in chs. NR811 and 812, Wis. Adm. Code, prohibit the construction of water supply wells within 1200 feet of a waste disposal facility. A special variance is required from the Drinking Water and Groundwater Program within the Department to construct a drinking water well in this 1200-foot setback area. Special well construction standards or water treatment requirements, or well construction prohibitions may apply.
5. No action related to the development of the property may be taken which will cause a significant adverse impact on wetlands as provided in ch. NR 103, Wis. Adm. Code.
6. No action related to the development of the property may be taken which will cause a significant adverse impact on critical habitat areas, as defined in s. NR 500.03(55), Wis. Adm. Code.
7. No action related to the development of the property may be taken which will cause a detrimental effect on any surface water, as defined in s. NR 500.03(62), Wis. Adm. Code.
8. No action related to the development of the property may be taken which will cause a detrimental effect on groundwater, as defined in s. NR 500.03(62), Wis. Adm. Code, or will cause or exacerbate an exceedance of any preventive action limit or enforcement standard at a point of standards application in ch. NR 140, Wis. Adm. Code.

9. No action related to the development of the property may be taken which will cause a migration and concentration of explosive gases in any structures in excess of 25% of the lower explosive limit for such gases at any time. No actions may be taken which will cause a migration and concentration of explosive gases in the soils outside of the limits of solid waste disposal within 200 feet of the property boundary or beyond the property boundary in excess of the lower explosive limit for such gases at any time. No actions may be taken which will cause a migration and concentration of explosive gases in the air outside of the limits of solid waste disposal within 200 feet of the landfill boundary or beyond the landfill property boundary in excess of the lower explosive limit for such gases at any time.
10. No action related to the development of the property may be taken which will cause an emission of any hazardous air contaminant exceeding the limitations for those substances contained in s. NR 445.03, Wis Adm. Code.
11. No action related to the development of the property may be taken which will cause an exceedance of a soil clean up standard in ch. NR 720, Wis. Adm. Code.
12. This conditional exemption shall transfer with changes in property ownership. In accordance with s.289.46(2), Stats., any person having or acquiring rights of ownership in land where a solid or hazardous waste disposal facility was previously operated may not undertake any activities on the land which interfere with the closed facility causing a significant threat to public health, safety or welfare. The Department should be contacted to discuss any proposed changes to avoid activities that could violate the statute or the conditions of this exemption.
13. This grant of exemption is limited to the proposed changes described in your application. If you are considering additional changes beyond those described in the application, a new application must be submitted to the department for approval.

The Department reserves the right to require the submittal of additional information and to modify this grant of exemption at any time, if in the Department's opinion, modifications are necessary. Unless specifically noted, the conditions of this grant of exemption do not supersede or replace any previous conditions of approval for this property.

NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that Wisconsin statutes, administrative rules and case law establish time periods within which requests to review Department decisions must be filed.

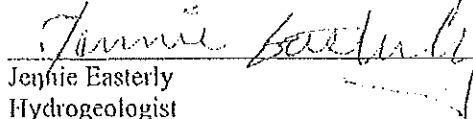
For judicial review of a decision pursuant to section 227.52 and 227.53, Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

Dated: 9/10/06

DEPARTMENT OF NATURAL RESOURCES  
For the Secretary



Bruce Urban  
Northeast Region - Green Bay  
Remediation and Redevelopment Program



Jennie Easterly  
Hydrogeologist  
Northeast Region - Oshkosh  
Remediation and Redevelopment Program