



January 21, 2022

MR JOHN ECKERT
8861 COUNTY HWY H
EAGLE RIVER WI 54521

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

SUBJECT: Notice of Non-Compliance: Action Required by February 20, 2022
Notice of Potential Deed Affidavit per Wis. Admin. Code § NR 728.11
Zmek & Sons Wrecking, 8861 County Highway H, Eagle River, Wisconsin
BRRTs #02-44-548409 / FID #364000120

Dear Mr. Eckert:

This letter is to notify you that the Department of Natural Resources' (DNR) Remediation and Redevelopment Program believes 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 June 11, 2021, the DNR notified you of your responsibilities to investigate the degree and extent of contamination and clean up the above-referenced site. That letter is attached for your reference.

On December 19, 2006, the DNR was notified of a hazardous substance discharge at the above-referenced site. The discharge was discovered during a Phase I Environmental Site Assessment, which identified several recognized environmental concerns associated with the salvage yard operations. Soil and groundwater sampling was performed during 2006-2008 as part of the Phase II investigation. An excavation of 1,927-tons excavation was performed to remove contaminated soils between 2007 and 2008. Soil contamination greater than the Wis. Admin. Code ch. NR 720 residual contaminant levels (RCLs) for the protection of groundwater quality remains on the property.

A request for case closure was submitted to the DNR on September 8, 2008. The DNR did not recommend closure at that time because there were allegations made by the former owner/responsible party (RP), Peter Zmek, of additional areas of contamination that were not addressed during the investigation and cleanup. Several DNR staff visited the site on October 24, 2008 and met with Mr. Zmek, who showed the DNR staff areas of potential contamination. The DNR sent Mr. Zmek a request for status update letter on March 31, 2011 reminding Zmek of his responsibility to continue the investigation of areas of potential contamination. Mr. Zmek discussed the site with the DNR on September 15, 2011, but no further investigation has been completed.

On January 30, 2015, an RP letter was sent to the new owner, Ms. Susan Owens, summarizing the site concerns and notifying Ms. Owens that she is now also considered an RP. The DNR sent a status update request letter to Ms. Owens in 2019; no response to that letter was received. On June 11, 2021, the DNR sent an RP letter to you as the current property owner.

Notice of Non-Compliance

Please be aware that the DNR may initiate enforcement action against you for failure to comply with Wis. Stat. ch. 292. Your legal responsibilities are defined both in Wis. Stat. ch. 292 and Wis. Admin. Code chs. NR 700 - 754 and are also described in the June 11, 2021 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.

Guidance for meeting statutory requirements is available in code. Wis. Admin. Code chs. NR 700 - 754 establish requirements for emergency and interim actions, public information, site investigations, design and operation of remedial action systems, and case closure. Ch. NR 708 includes provisions for immediate actions in response to limited contamination. Wis. Admin. Code ch. NR 140 establishes groundwater quality standards for contaminants that reach groundwater.

Notice of Potential Deed Affidavit

If you elect not to move forward with the necessary response actions at your site, the DNR intends to file a deed affidavit on the Property per Wis. Admin. Code § NR 728.11(2), which states:

Where the department has information to demonstrate that the source of contamination is on the property and the property owner or other responsible party has failed to take adequate response action, the department may record an affidavit at the office of the register of deeds for the county in which the property is located...

This affidavit would provide notice to the public, and any prospective purchaser, of the existing contamination and the environmental liability associated with the Property.

Response Requested

The DNR is requesting that within 30 days from date of letter, by **February 20, 2022**, you provide written documentation a consultant has been hired and a site investigation work plan will be submitted. This information should be submitted to the Project Manager for the Site at the following address:

Carrie Stoltz
Remediation and Redevelopment Program
Department of Natural Resources
107 Sutliff Avenue
Rhineland, WI 54501

Please understand that the Site appears to be out of compliance and will remain out of compliance until you fulfill all applicable statutory and administrative code requirements. Failure to take the actions required by Wis. Stat. ch. 292 to address this contamination will cause the DNR to take appropriate enforcement action.

Additionally, with regard to the potential deed affidavit, you must respond by February 20, 2022 and either indicate that the Property will be promptly investigated and remediated in compliance with applicable statutes and rules or provide information which clearly demonstrates that there is no environmental contamination on the Property (Wis. Admin. Code § NR 728.11(2)(a)).

If you have questions, please do not hesitate to contact Carrie Stoltz by phone at (715) 360-1966 or email at Carrie.Stoltz@Wisconsin.gov. You can also contact me at (715) 208-4004 or by email at Christopher.Saari@Wisconsin.gov. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher A. Saari". The signature is fluid and cursive, with the first name "Christopher" written in a larger, more prominent script than the last name "Saari".

Christopher A. Saari
Northern Region Team Supervisor
Remediation and Redevelopment Program

Enclosures:

- Responsible Party Letter, DNR, June 11, 2021

cc: Carrie Stoltz – DNR Rhinelander (via email)