



April 27, 2022

MR JOHN ECKERT  
8861 CTH H  
EAGLE RIVER WI 54521

**CERTIFIED MAIL/RETURN RECEIPT REQUESTED**

SUBJECT: **Notice of Non-Compliance: Action Required by June 1, 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 June 1, 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 June 1, 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](mailto:Carrie.Stoltz@Wisconsin.gov). You can also contact me at (715) 208-4004 or by email at [Christopher.Saari@Wisconsin.gov](mailto: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)

**State of Wisconsin**  
**DEPARTMENT OF NATURAL RESOURCES**  
107 Sutliff Avenue  
Rhineland WI 54501-3349

**Tony Evers, Governor**  
**Preston D. Cole, Secretary**  
Telephone 608-266-2621  
Toll Free 1-888-936-7463  
TTY Access via relay - 711



June 11, 2021

JOHN ECKERT  
8861 COUNTY H  
EAGLE RIVER, WI 54521

Subject: Reported Contamination at the Former Zmek & Sons Wrecking Property, 8861 County H, Eagle River, Wisconsin  
DNR BRRTS Activity # 02-44-548409  
DNR FID # 364000120

Dear Mr. Eckert:

On January 30, 2015, the Wisconsin Department of Natural Resources (DNR) notified the former owner, Ms. Susan Owens of her responsibility to investigate and, as needed, clean up contamination at the above-referenced property. A copy of this letter is attached for your review.

Information submitted to the DNR regarding this site indicates you are currently the owner of the former Zmek & Sons Wrecking property and therefore possess and control property where hazardous substances were released and solid waste was disposed during the operation of Zmek & Sons Wrecking, Inc. Hazardous substances and solid waste are believed to remain on the property. As owner of the property, you may have liability associated with these outstanding issues.

Wisconsin Statute 292.11 (3) states: *A person who possess 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.*

This letter explains how to initiate the investigation and cleanup of contamination of the site, and how to access further information and assistance from the DNR. The longer contamination is left in the environment, the farther it can spread and the more it may cost to clean up. Quick action may lessen damage to your property and neighboring properties and reduce your costs to investigate and clean up the contamination.

### **Legal Responsibilities:**

Persons meeting the definition of “responsible party” under Wis. Admin. Code § NR 700.03 (51) must follow applicable law to address the discharge of a hazardous substance to the environment or other environmental pollution. Wisconsin Statutes (“Wis. Stat.”) ch. 292 and Wis. Admin. Code chs. NR 700-799 provide specific requirements for undertaking appropriate response actions to address contamination, including requirements for emergency and interim actions, public information, site investigations, remedy selection, design and operation of remedial action systems, and case closure.

### **Special Vapor Intrusion Concern with Trichloroethylene:**

Contamination that includes trichloroethylene (“TCE”), a chlorinated solvent and common degreaser, is of special concern from a human health perspective due to its potential for acute (short-term) health risks at relatively low concentrations in air. TCE is also a breakdown product of tetrachloroethylene (“PCE,” also known as “Perc”), a historically common dry-cleaning chemical. Vapors can travel from contaminated soil or groundwater and along preferential pathways, such as within sewer lines, and enter occupied buildings. This is known as vapor intrusion (VI). Screening for VI must be conducted at every contaminated site in Wisconsin, as defined in Wis. Admin. Code § 716.11 (5) (a). **However, when TCE is present, screening for VI should be made a priority and an interim action under Wis. Admin. Code § NR 708.11 may be necessary.** For an overview on VI, see *What is Vapor Intrusion?* (RR-892). For more information, go to [dnr.wi.gov](http://dnr.wi.gov) and search “vapor.” Additional technical guidance on VI is available in *Addressing Vapor Intrusion at Remediation & Redevelopment Sites in Wisconsin*, (RR-800).

### **General Recommendations for Responsible Parties:**

The DNR recommends that you:

#### *1. Hire a Qualified Environmental Consultant*

To ensure response actions you plan to undertake comply with Wisconsin law, you should hire an environmental consultant within **30 days**, by July 15, 2021, to meet the regulatory deadlines listed below. A delay in hiring an environmental consultant could result in you missing key submittal deadlines.

Hiring a consulting firm with staff that have the appropriate state of Wisconsin qualifications to supervise and certify the submittals is a critical component and necessary to meet your requirements. Further, an environmental consultant should be knowledgeable of Wisconsin’s technical procedures and laws and be able to answer questions regarding cleanup requirements. Required qualifications for environmental consultants are specified in Wis. Admin. Code ch. NR 712. See *Wis. Admin. Code ch. NR 712 Qualifications and Certifications* (RR-081), for more information.

#### *2. Properly Submit Reports on Time with Required Information Included*

Wisconsin law includes timeframes for submitting technical documents and conducting work, as well as specifications for what should be included in those submittals. This letter provides a general overview of the timeframes and first steps to take for site investigation and cleanup. For an overview of timing requirements, please refer to *NR 700 Process and Timeline Overview* (RR-967), *enclosed*.

The DNR developed the publication *Guidance for Electronic Submittals for the Remediation and Redevelopment Program* (RR-690), to assist responsible parties and consultants in properly submitting documents. Wis. Admin. Code § NR 700.11 (3g), and other specific provisions within Wis. Admin. Code ch. NR 700, outline the requirements for submittals, including electronic submittals.

#### *3. Consider the Benefits of a Fee-based Technical Review of your Submittals*

In-depth DNR review of technical reports and submittals is available for a fee. The Remediation and Redevelopment (RR) Program project managers are available throughout the process to answer general questions and provide general input as the site moves toward case closure. However, if you want a formal, written response from the DNR, a meeting with the DNR or both on a specific submittal, a review fee will be required in accordance with Wis. Admin. Code ch. NR 749. **Obtaining technical assistance from DNR project managers throughout the process is an effective way to prevent problems and delays at the end of the process when case closure is requested.** Forms, a fee schedule and further information on technical assistance is available at [dnr.wi.gov](http://dnr.wi.gov) by searching “brownfield fees.”

### **Required Steps to Take and Documents to Submit:**

The steps listed below serve as a general overview only — all mandatory steps and submittals specified in Wis. Admin. Code, chs. NR 700-799 must be met before the DNR can grant case closure, which is a determination by the DNR that no further cleanup is necessary at a site, as defined in Wis. Admin. Code § NR 700.03 (3m).

1. **Scoping and Work Plan Submittal – NR 716.07 and 716.09:** The law requires that you appropriately scope your site investigation and submit a work plan within **60 days of this notification**, by August 15, 2021, for completing a site investigation. The work plan must comply with the requirements in Wis. Admin. Code, chs. NR 700-799. For additional assistance, the DNR has extensive guidance on its website at [dnr.wi.gov](http://dnr.wi.gov), search “site investigation scoping.”

Per Wis. Admin. Code § NR 716.07 and Wis. Admin. Code § NR 716.09, site investigation scoping and work plans should include an evaluation of the history of the site or facility, including industrial, commercial or other land uses that may have been associated with one or more hazardous substance discharges at the facility. In addition, an evaluation of the history of previous hazardous substance discharges or environmental pollution, the location of the site or facility, and its proximity to other sources of contamination must be included. Site investigation work plans should also include a sampling and analysis strategy to be used during field investigation that considers all information in the evaluation conducted under Wis. Admin. Code § NR 716.07. Emerging contaminants discharged to the environment, including perfluoroalkyl and polyfluoroalkyl substances (PFAS) and 1,4-dioxane, meet the definition of a hazardous substance or environmental pollution under Wis. Stat. § 292.01 and must be considered during site investigation scoping.

Prior to and during a site investigation, you must evaluate whether any interim actions are needed to contain or stabilize a hazardous substance discharge or environmental pollution, pursuant to Wis. Admin. Code § NR 708.11. If you undertake an interim action (e.g., free product removal), you must submit documentation of the action per Wis. Admin. Code § NR 708.15.

As you develop the site investigation work plan, you must include an assessment of the vapor intrusion pathway. Wis. Admin. Code § NR 716.11 (5) outlines the requirements for when to evaluate for the presence of vapors in the sub-surface and in indoor air. The results and conclusions from the vapor assessment must be included in the Wis. Admin. Code § NR 716.15 site investigation report whether or not you elected to take vapor samples. *Addressing Vapor Intrusion at Remediation & Redevelopment Sites in Wisconsin* (RR-800), is available to help responsible parties and their consultants comply with these requirements.

2. **Field Investigation – NR 716.11:** Following submission of the work plan, the site investigation must be started within the timeframe provided under law. The timeframe varies depending on whether you are requesting the DNR’s fee-based review of the work plan. If you do not request a fee-based review of the work plan, you must initiate the field investigation within 90 days of submitting the work plan, and you may proceed with the field investigation upon DNR notification to proceed; however, if the DNR has not responded within 30 days from submittal of the work plan, you may then proceed with the field investigation. If a fee and request for DNR review of the work plan is submitted, the field investigation must begin within 60 days after receiving DNR approval.
3. **Sample Results Notification Requirements – NR 716.14:** You must report sampling results to the DNR, owners, occupants and various other parties within 10 business days after receiving the sampling results, unless a different timeframe is approved by the DNR, in accordance with Wis. Admin. Code § NR 716.14.
4. **Site Investigation Report – NR 716.15:** Within 60 days after completion of the field investigation and receipt of the laboratory data, the law requires you to submit a Site Investigation Report (SIR) to the DNR. As

part of the SIR or in the Remedial Actions Options Report (RAOR), if there is soil contamination, the responsible party shall identify the current land use (*i.e.*, industrial or non-industrial) and zoning for the site or facility in accordance with Wis. Admin. Code § NR 720.05 (5). Also, as part of the SIR or in the RAOR, you must include any interim action report that may be required under Wis. Admin. Code § NR 708.15.

5. **Remedial Actions Options Report – NR 722**: Within 60 days after submitting the SIR, the law requires you to submit a RAOR. The selected remedy in the RAOR should include an evaluation of green and sustainable remediation criteria, as appropriate, as required by Wis. Admin. Code § NR 722.09 (2m). This may be submitted as part of a broader SIR.
6. **Remedial and Interim Action Design, Implementation, Operation, Maintenance and Monitoring Reports – NR 724**: Unless otherwise directed by the DNR, the responsible party shall submit all plans and reports required by Wis. Admin. Code ch. NR 724.
7. **Notification of Residual Contamination or Continuing Obligations – NR 725**: In situations where notification is required, the responsible party must provide a submittal(s) that confirms that continuing obligations have been identified and affected property owners have been notified by the responsible parties 30 days prior to case closure, as required by Wis. Admin. Code ch. NR 725 and § NR 726.13 (1) (d).
8. **Semi-Annual Reporting – NR 700.11**: Wis. Admin. Code § NR 700.11 (1) (a) requires responsible parties to submit semi-annual site progress reports to the DNR until case closure is granted. The reports summarize the work completed over six months and additional work planned to adequately complete the response action at the site. Consultants may submit these reports on behalf of responsible parties. These reports are due in January and July of each year. Please refer to DNR publication *NR 700 Semi-Annual Site Progress Report* (RR-082), for more information.

### **Submittals required under Wis. Admin. Code chs. NR 700-799**

These documents, as applicable, must be submitted to the DNR prior to the responsible party requesting case closure, unless otherwise directed by the DNR:

- ☐ Ch. NR 708 reports and documentation for any immediate or interim actions.
- ☐ Ch. NR 712 professional certifications and signatures are included with applicable submittals.
- ☐ Ch. NR 716 work plan(s) and site investigation report.
- ☐ Ch. NR 722 remedial action options report (exception is for Dry Cleaners Environmental Response Fund sites), with the selected remedial action identified.
- ☐ Ch. NR 724 design, construction documentation, operation, maintenance and monitoring plans and reports, including vapor mitigation commissioning.
- ☐ Ch. NR 725 submittal(s) that confirms that continuing obligations have been identified and affected property owners have been notified by the responsible parties 30 days prior to requesting case closure.
- ☐ If requesting case closure, the Ch. NR 726 case closure form and documentation substantiating compliance with the NR 700 rule series.
- ☐ Ch. NR 749 fees have been paid, as applicable, including closure and database fees.
- ☐ Ch. NR 700 semi-annual site progress reports starting six months after notification.

**Additional Information:**

The DNR tracks information on all cleanup sites in a DNR database available at [dnr.wi.gov](http://dnr.wi.gov), search “BOTW.” The Bureau for Remediation and Redevelopment Tracking System (BRRTS) identification number for this site is listed at the top of this letter. You may view information related to your site on this database at any time.

All correspondence regarding this site should be directed to:

Carrie Stoltz-Project Manager  
Remediation and Redevelopment Program  
Wisconsin Department of Natural Resources  
107 Sutliff Avenue  
Rhineland, Wisconsin 54501  
[Carrie.Stoltz@Wisconsin.gov](mailto:Carrie.Stoltz@Wisconsin.gov)

To speed up processing, your correspondence should reference the BRRTS and Facility Identification (FID) numbers (if assigned) listed at the top of this letter.

Submittals required under the NR 700 rule series should be sent to the DNR using the RR Program Submittal Portal at [dnr.wi.gov](http://dnr.wi.gov), search “RR submittal portal” (<https://dnr.wi.gov/topic/Brownfields/Submittal.html>). Questions on using this portal can be directed to the contact below or to the environmental program associate (EPA) for the regional DNR office. Visit [dnr.wi.gov](http://dnr.wi.gov), search “RR contacts” and select the EPA tab (<https://dnr.wi.gov/topic/Brownfields/Contact.html>).

Please visit the DNR’s Remediation and Redevelopment Program web page at [dnr.wi.gov](http://dnr.wi.gov), search “Brownfields” for information on selecting a consultant, seeking financial assistance, and understanding the investigation and cleanup process. Information regarding review fees, liability clarification letters, post-cleanup liability and more is also available.

Information on the NR 700 Process and Timeline Overview, Selecting a Consultant, Environmental Services Contractor List, Environmental Contamination Basics, NR 700 Semi-Annual Site Progress Report, and Wis. Admin. Code ch. NR 712 Qualifications and Certifications is enclosed.

If you have questions, please call me at (715) 360-1966 or by email at [Carrie.Stoltz@Wisconsin.gov](mailto:Carrie.Stoltz@Wisconsin.gov) for more information.

Thank you for your cooperation.

Sincerely,



Carrie Stoltz  
Hydrogeologist- Remediation & Redevelopment Program  
Northern Region

Enclosures:



Letter to Susan Owens, DNR, January 30, 2015  
RR-967, *NR 700 Process and Timeline Overview*  
RR-502, *Selecting a Consultant*  
RR-024, *Environmental Services Contractor List*  
RR-674, *Environmental Contamination Basics*  
RR-082, *NR 700 Semi-Annual Site Progress Report*  
RR-081, *Wis. Admin. Code ch. NR 712 Qualifications and Certifications*

cc: Brad Johnson, WDNR Wastewater Specialist (via email)  
Chris Bartelt, WDNR Law Enforcement Supervisor (via email)  
Bob Germer, WDNR Waste and Materials Management (via email)  
Joey Becker, WisDOT Salvage Investigator (via email)