

Property-Specific Determination of Eligibility Request for USEPA Community-Wide Brownfields Assessment Grant for Hazardous Substances

Date: June 14, 2016

Project Name: City of Manitowoc, Wisconsin - Implementation of USEPA Community-Wide Brownfields Assessment Grant for Hazardous Substances

Cooperative Agreement Number: BF-00E01529-0

Purpose: Sections 1-9 of this request present a summary of site history, known environmental concerns, and justification of the Site's eligibility. Based on the recent discovery of significant residual PCB impacts to concrete, and per the request of USEPA, a property-specific determination is warranted for the target property and is provided in Section 10 of this request. This property-specific determination updates the previous property-specific determination granted by USEPA on March 6, 2013 (see Attachment G).

1. Site Information

- a) Site Name: 1512 Washington Street (herein referred to as the "Property" or "Site")
- b) Site Address: 1512 Washington Street (see Figure 1 and Figure 2)
- c) Acreage: 3.72 Acres
- d) Parcel ID: 052.000.246.000.00
- e) ACRES ID: 169132 (from previous USEPA Brownfields Cooperative Agreement)
- f) Operational History:

Industrial Development and Operation. As illustrated on the historic plat map collection from the City of Manitowoc (City) Brownfields GIS database provided as Figure 3, the property appears undeveloped in 1835. By 1878 the property was platted as 18 contiguous parcels within lot 246; however, development is not apparent on the plat map. The 1878 plat map does indicate Sherman Creek bisects the far northwestern portion of the property and flows north to the Manitowoc River. By 1893, the property was developed and was occupied by a tannery and 6 apparent residential structures. As illustrated on the historic Sanborn® Fire Insurance map collection from the City of Manitowoc Brownfields GIS database provided as Figure 4, by 1906, the property consisted of 13 individual residential dwellings and associated automobile garages, a tannery, and a small aluminum manufacturing plant. By 1921, Sherman Creek had been contained within a culvert, residential structures removed, and the majority of the property occupied by a large industrial facility utilized for the manufacturing of aluminum goods. Significant industrial development of the property for industrial use as a multi-story aluminum manufacturing plant occurred between 1906 and 1912 and again between 1912 and 1927. A multi-story office was constructed at the property adjacent to Washington Street between 1927 and 1956. A Phase I ESA prepared by AMEC in 2009 clarifies that industrial operations ceased at the Site in 1986; however, Mirro corporate and engineering offices remained on the 6th

and 7th floors until 2001. The AMEC (2009) Phase I ESA notes that Mirro was a division of the Newell Company, which subsequently became Newell-Rubbermaid

Current Property Use / Ownership. The property was purchased from Newell Holdings Delaware, Inc. by Union Street Partners, LLC on March 26, 2004 who sold the property to Kenneth J. Lemberger, Sr. on November 18, 2005. The property was transferred to Mirro Building, LLC on March 23, 2006. EJ Spirtas Manitowoc, LLC (the current owner) purchased the property from Mirro Building, LLC on June 2, 2006 for \$200.

WDNR (2016) LGU Letter. The Wisconsin Department of Natural Resources (WDNR) prepared a Clarification of the Local Government Unit (LGU) Liability Exemption letter for the City on March 8, 2016. A copy of the letter is provided in Attachment A. As summarized by WDNR, the property once contained 17 buildings joined as a single manufacturing plant producing various aluminum goods and novelties. A recent drawing obtained by the City documents an extensive tunnel network (likely utilities) beneath the property (Figure 5).

The buildings were reportedly vacated when Mirro's parent corporation, Newell-Rubbermaid, closed the facility in 2001. The current owner subsequently razed the 3-story facility located on the northeast corner of the property and several smaller buildings in March 2014 (as shown on Figure 6); however WDNR (2016) notes the demolition was not complete as demolition waste was left onsite. The current owner continued partial demolition of the remaining multi-story former industrial buildings to remove recyclables as shown in recent photographs provided in Attachment B.

Recent Site Activities. After acquiring the property, the current owner (EJ Spirtas Manitowoc, LLC) began demolition of the buildings to facilitate removal of recyclables. To prevent unsafe work practices and protect the public, the City placed a "stop work" order on the property on January 22, 2015 and the City secured the Site. On June 26, 2015, the City issued a raze order to EJ Spirtas for the Property under Wis. Stat. § 66.0413. On July 27, 2015, EJ Spirtas petitioned the Manitowoc County Circuit Court for a restraining order against the raze order. On September 29, 2015, the court ruled in favor of the City, upheld the raze order, and dismissed the restraining order request. EJ Spirtas subsequently filed an appeal to the Court's dismissal of the restraining order request, but on May 4, 2016, EJ Spirtas withdrew the appeal in compliance with a settlement agreement with the City. The City is currently moving forward with condemnation proceedings under Wis. Stat. Ch. 32, due to a lack of responsiveness and a failure to complete required work by the Property owner, EJ Spirtas. After acquiring the property under Wis. Stat. ch. 66, the City will be able to remove remaining hazardous materials, abate the remaining asbestos, and raze the multi-story industrial buildings to complete phase two of cleanup originally agreed to by the current owner and the United States Environmental Protection Agency (USEPA). Following demolition, the City will complete the subsurface environmental investigations and prepare a remedial action plan.

Environmental Concerns. As described in Section 3, significant environmental liabilities remain at the Site. The immediate need to evaluate current Site/building conditions to further plan for asbestos abatement and building demolition is prompting this hazardous substance eligibility determination request. Secondly, large portions of the property have been inaccessible during previous subsurface investigations (including the extensive subsurface tunnel network – see Figure 5). By razing the buildings, a more complete evaluation of soil and groundwater can be completed.

g) Current Site Use and Activity: *The property is currently vacant and Site buildings are partially demolished. The Site is real property, the expansion, redevelopment, or reuse of which is being complicated by the presence or potential presence of hazardous constituents associated with previous Site operations and operations conducted at nearby/adjacent properties.*

2. Site Ownership

- a) Current Site Owner: EJ Spirtas Manitowoc, LLC
- b) Date Site Purchased: June 1, 2006 (purchase price of \$200; current deed provided in Attachment C)
- c) Previous Site Owner: Mirro Building, LLC

3. Site Contamination

The WDNR (2016) letter acknowledges multiple constituents of concern are known to exist at the property as documented in 8 reports reviewed by WDNR. Specifically, there are multiple environmental repair cases, leaking underground storage tank, spill cases, and one general property case dating back to 1988 as summarized below:

8 Activities found searching for: Location or Additional Address contains 1512 Municipality begins with MANITOWOC				
Displaying Records 1 through 8 Grouped by Location - Sorted by Type, Status, Start Date				
Activity Number & Name (Click to view details) Address	Type - Status	Start End	Juris	County
02-36-216391 MIRRO PLT #9 - WEST SIDE 1512 WASHINGTON ST, MANITOWOC	CLOSED ERP	1988-12-15 2000-09-22	DNR	MANITOWOC
02-36-545108 MIRRO-SPIRTAS 1512 WASHINGTON ST, MANITOWOC	OPEN ERP	2006-03-07	DNR	MANITOWOC
07-36-548528 MIRRO FACILITY (FORMER) 1512 WASHINGTON ST, MANITOWOC	GENERAL PROPERTY		DNR	MANITOWOC
03-36-000085 MIRRO PLT #9 (EAST SIDE) 1512 WASHINGTON ST, MANITOWOC	CLOSED LUST	1988-12-15 1999-03-02	DNR	MANITOWOC
03-36-274209 MIRRO PLT #9 1512 WASHINGTON ST, MANITOWOC	CLOSED LUST	2001-06-21 2003-11-26	DNR	MANITOWOC
04-36-049803 1512 WASHINGTON 1512 WASHINGTON ST, MANITOWOC	CLOSED SPILL	1994-08-02 1994-08-08	DNR	MANITOWOC
04-36-223347 MIRRO PLT #9 1512 WASHINGTON ST, MANITOWOC	CLOSED SPILL	1997-02-10 1997-02-14	DNR	MANITOWOC
04-36-046037 1512 WASHINGTON ST [HISTORIC SPILL] 1512 WASHINGTON ST, MANITOWOC	HISTORIC SPILL	1991-07-10	DNR	MANITOWOC

The WDNR (2016) letter confirms discharges of petroleum, chlorinated volatile organic compounds (VOCs), polycyclic aromatic hydrocarbons (PAHs), Resource Conservation and Recovery Act (RCRA) metals, and polychlorinated biphenyls (PCBs) to soil and/or groundwater. Further, the WDNR (2016) letter confirms several legacy issues related to the buildings, including asbestos, PCBs, and other hazardous substances/materials.

WDNR (2016) further highlights the following:

- PCB contaminated materials subject to the Toxic Substances Control Act of 1976 (TSCA) were formerly located at the property. Soil sampling showed PCB concentrations above 50 parts per million, which triggered a notification from WDNR to USEPA under Wisconsin's One Cleanup Program Memorandum of Agreement (OCP MOA) with USEPA. WDNR worked with USEPA to manage, clean up, and dispose of PCB wastes regulated under 40 Code of Federal Regulations 761. The containerized PCB oils were properly handled and disposed of in October 2009 and case closed.
- A building inspection report, completed in December 2009 under the Targeted Brownfields Assistance (TBA) program from USEPA, identified building materials and equipment requiring special handling and disposal as part of building demolition activities, which included a large quantity of asbestos, lead-based paint, light fixture ballast, dielectric fluids, mercury-containing light bulbs and switches, Freon-containing equipment, ash in floors used for insulation, and additional hazardous substance containers/drums.
- WDNR received USEPA assistance for a time-critical removal action at the Property to address the immediate threat posed by the PCB transformer oil drained from two on-site transformers, investigate potential environmental discharges resulting from missing PCB oil, and to identify potential responsible parties. The TBA was completed in March 2011 and USEPA assessed the Property to evaluate the need for supplemental removal actions. USEPA approved the request for a time-critical supplemental removal action in April 2011.
- During enforcement negotiations with USEPA in March 2011, EJ Spirtas agreed to conduct a voluntary cleanup with USEPA oversight to address the threats identified in USEPA's site assessment. The cleanup was to be completed in two phases:
 - 1) Address immediate threats, including removal of hazardous waste, eliminating direct contact risks, and reducing the threat of off-site discharges through the sewers.
 - 2) Demolish the existing buildings and properly dispose of remaining PCB-contaminated building materials as required by TSCA.
- EJ Spirtas hired EQ to conduct phase one of the agreed-upon cleanup action in July 2011. Work completed included:
 - Draining and cleaning of transformers,
 - Contaminated concrete floors cleaned and marked for proper disposal during phase two,
 - Proper disposal of PCB-contaminated liquids (oil and wash water) and solids (wood flooring, debris, and containers),
 - Wipe sampling of the loading dock floor,
 - Loading dock drain sampled, cleaned, and plugged, and
 - Mercury switches throughout the facility collected.

Phase one of the removal action was considered complete by USEPA. The final USEPA Pollution/Situation Report (POLREP) for this removal is provided in Attachment D.

- Per WDNR's request, USEPA returned oversight for phase two of the removal action at the Property to WDNR in 2013 to facilitate the provision of Brownfields financial assistance. Email correspondence between USEPA and WDNR acknowledging oversight of phase two has been transferred to WDNR is provided in Attachment E. Building demolition has begun under phase two; however, the removal action has not been completed.
- Supplemental concrete sampling was completed in Feb/March 2015, and residual concentrations of Aroclor 1260 in concrete cores ranged from 11,000 to 79,000 milligrams per kilogram. Therefore, WDNR (2016) notes this concrete must be disposed of as TSCA hazardous waste under the WDNR/USEPA OCP MOA prior to demolition and remaining unlabeled drums can be disposed as a non-hazardous waste. WDNR (2016) notes prior to building demolition, additional sampling will be needed to confirm that all the PCB-contaminated concrete was removed.

4. Environmental Enforcement Actions

Per the acknowledgement of USEPA, an updated property-specific determination is warranted for the Site as further detailed in Section 10 of this letter due to recently discovered PCB-impacted concrete subject to TSCA regulations. The following presents a summary of environmental enforcement actions at the property.

- a) Known Ongoing or Anticipated Environmental Enforcement Actions: **None currently under oversight by USEPA.** *As noted above, during enforcement negotiations with USEPA in March 2011, the current owner agreed to conduct a voluntary cleanup with USEPA oversight in two phases. Phase one of the removal action was considered complete by USEPA (see Attachment D). USEPA returned oversight for phase two of the removal action at the Property to WDNR in 2013 (see Attachment E). Phase two has not been completed.*
- b) Is the Site subject to any of the following:

Explanation - USEPA Brownfields funds cannot be used at a Resource Conservation and Recovery Act (RCRA)-permitted facility subject to an administrative or judicial order or consent decree, or corrective action requiring cleanup.

- (i) Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Planned or Ongoing Removal Action: **None currently under oversight by USEPA.** *USEPA oversight of phase one of voluntary cleanup conducted by the current owner (Mirro Spirtas, CERCLIS ID: WIN000510545) is complete (see Attachment D). USEPA relinquished oversight to WDNR for phase two of voluntary cleanup under Wisconsin's OCP MOA (see Attachment E); phase two of the voluntary clean-up is not complete.*
- (ii-a) Unilateral Administrative Order: **No orders are known.**
- (ii-b) Court Order: **No orders are known.**
- (ii-c) Administrative Order on Consent: **No orders are known to exist.**
- (ii-d) Judicial Consent Decree: **No orders are known.**

- (iii) Corrective Action Under the Solid Waste Disposal Act (SWDA): **No corrective actions are known.**
- (iv) RCRA-Permitted Facility is on the Site: *The Site is listed in the RCRAInfo Database available at <https://www3.epa.gov/enviro/facts/rcrainfo/search.html> (searched May 25, 2015) under Handler ID: WID006076574. In 2003, 1.9 tons of waste was generated and shipped offsite. Waste generated at the Site includes D001 (ignitable waste), F003 (spent nonhalogenated solvents), and F005 (spent nonhalogenated solvents). WDNR (2016) notes the facility is closed; however, the database indicates this permit remains active as a very small hazardous waste generator.*
- (v) USEPA or WDNR Has Been Notified as to the Intent to Close RCRA-Permitted Facility: **Unknown**
- (vi) PCB Release Subject to Remediation under Toxic Substances Control Act (TSCA): **None currently under oversight by USEPA;** *as noted above, previously identified PCBs subject to TSCA were removed from the property and phase one of the removal action is considered complete by USEPA (see Attachment D). USEPA returned oversight for phase two of the removal action at the Property to WDNR in 2013 to facilitate the provision of Brownfields financial assistance (see Attachment E). Phase two has not been completed; however, WDNR (2016) notes select concrete recently identified as PCB contaminated must be disposed of as TSCA hazardous waste prior to demolition under the WDNR/USEPA OCP MOA based on sampling completed in Feb/March 2015.*
- (vii) Assistance for Response Activity at the Site has Been Obtained for A Portion of the Site under Subtitle I of the SWDA from the leaking underground storage tank (LUST) Trust Fund Established under Section 9508 if the Internal Revenue Service Code 1986: **No portions are known.**
- c) Is the Property Owned by the Federal Government: **The property is not owned, controlled, or under the jurisdiction of the federal government.**
- d) Is the Site listed or proposed for listing on the National Priorities List (NPL): **No, the property is not listed or proposed for listing on the NPL.**

5. Previous Assessments

The WDNR (2016) letter acknowledges multiple constituents of concern are known to exist at the property as documented in 8 reports reviewed by WDNR. Specifically, there are multiple environmental repair cases, leaking underground storage tank, spill cases, and one general property case dating back to 1988 as discussed in Section 3.

6. Affirmation Statement

The City has not owned the property or operated on the property and is not potentially liable for contamination at the Property under CERCLA Section 107.

7. Non- City Owned Properties

- a) Relationship Between City and Owner: *The City has executed an access agreement with the current owner.*
- b) Describe the Owner's Role in Work to be Performed: *The current owner will allow access to the property and to relevant documents.*
- c) Indicate How the City Will Gain Access to the Site: *The City has executed an access agreement with the current owner.*

8. City Owned Properties

- a) Describe How the City Took Ownership of the Site and Date of Acquisition: **Not applicable at this time.** *To prevent unsafe work practices and protect the public from demolition activities conducted by the current owner, the City placed a "stop work" order on the Property on January 2015 and the City secured the Site. On June 26, 2015, the City issued a raze order to EJ Spirtas for the Property under Wis. Stat. § 66.0413. The City is currently moving forward with condemnation proceedings under Wis. Stat. Ch. 32. Property acquisition is tentatively scheduled for July 1, 2016.*
- b) Were All Hazardous Substances Disposed of Prior to the City Taking Ownership of the Site: **Not applicable at this time.** *The Site has been secured by the City to protect the public.*
- c) Did the City Perform all appropriate inquiries (AAI) (i.e. ASTM Phase I ESA) of the Property Prior to Taking Ownership of the Site: **Not applicable at this time.** *The need for due diligence prior to acquiring the property by condemnation is prompting this eligibility determination request.*
- d) Is the City Responsible for Any of the Environmental Concerns at the Site: **No;** *the City is not the current owner or operator of the Site, and is not responsible for any of the environmental concerns that may be present at the Site.*
- e) Is the City Potentially Liable, or Affiliated with Any Other Person Who is Potentially Liable for Contamination at the Site: **No;** *the City is not the current owner or operator of the Site and is not potentially liable or affiliated with any other person who is potentially liable for a release at the Site.*
- f-i) Does the City have any Direct or Indirect Familial Relationships or Any Contractual, Corporate, or Financial Relationships with A Potentially Liable Entity: **No**
- f-ii) What Steps Have Been Taken with Regards to Hazardous Substances or Contamination at the Site: *To prevent unsafe work practices and protect the public from demolition activities conducted by the current owner, the City placed a "stop work" order on the Property on January 2015 and the City secured the Site. On June 26, 2015, the City issued a raze order to EJ Spirtas for the Property under Wis. Stat. § 66.0413. The City is currently moving forward with condemnation proceedings under Wis. Stat. Ch. 32*

- g) As the Owner of the Site, does the City confirm their commitment to comply with the Continuing Obligations Criteria: **Not applicable at this time.**

9. Redevelopment Plans

To facilitate investigation, remediation, demolition, and redevelopment of this massive blighted property, the City is currently moving forward with condemnation proceedings under Wis. Stat. Ch. 32. After acquiring the property under Wis. Stat. Ch. 32, the City will be able to abate the remaining asbestos and raze the multi-story industrial buildings to complete phase two of cleanup originally agreed to by the current owner and the USEPA.

Following building demolition, the City will continue subsurface environmental site assessment work to identify source areas and delineate the horizontal and vertical extents of residual impacts.

The final reuse of the Site has yet to be determined, but is likely to include a combination of residential and commercial uses. The City's Comprehensive Plan identifies this Property as a future mixed-use redevelopment area.

10. Property-Specific Determination Documentation

The following property-specific determination information is provided to reflect current Site conditions. Question 34 of the *Fiscal Year 2016 Frequently Asked Questions for Brownfields Assessment, Revolving Loan Funds, and Cleanup Grants* provides an outline of required information for USEPA to make a property-specific determination as presented below:

1) Basic site identification information and eligible entity identification information.

See Section 1, Section 2, and Section 3 of this request for a detailed description of site history, operation, ownership, and environmental assessments completed at the property. In summary, the property was utilized for large-scale heavy aluminum industrial operations from the early 1900s through the late 1980s. The property is currently owned by EJ Spirtas Manitowoc, LLC, who purchased the property on June 1, 2006 and partially demolished Site buildings during removal of recyclable materials. Numerous investigations described previously in Section 3 have documented residual environmental impacts at the property.

To facilitate investigation, remediation, demolition, and redevelopment of this massive blighted property, the City is currently moving forward with condemnation proceedings under Wis. Stat. Ch. 32.

The Brownfields Law excludes the following three types of properties from funding eligibility and prohibits EPA from making Property-Specific Determinations on these properties:

- A. facilities listed (or proposed for listing) on the National Priorities List (NPL);

The Site is not currently listed nor proposed for listing on the NPL.

- B. facilities subject to unilateral administrative orders, court orders, administrative orders on consent or judicial consent decrees issued to or entered into by parties under CERCLA; and

As described in Section 4, the current owner agreed to conduct a voluntary cleanup with USEPA oversight in two phases. Phase one of the removal action was considered complete by USEPA (see Attachment D). USEPA returned oversight for phase two to WDNR in 2013 (see Attachment E). Phase two has not been completed.

- C. facilities that are subject to the jurisdiction, custody or control, of the United States government.

The property is not subject to the jurisdiction, custody, or control of the United States government.

- 2) The specific circumstance that requires the grantee to request a Property-Specific Determination.

As noted previously, the current owner agreed to conduct a voluntary cleanup with USEPA oversight in two phases. Phase one of the removal action was considered complete by USEPA (see Attachment D). USEPA returned oversight for phase two of the removal action at the Property to WDNR in 2013 (see Attachment E). Phase two has not been completed; however, significant environmental impacts remain at the Site.

Supplemental concrete sampling was completed in Feb/March 2015, and residual concentrations of Aroclor 1260 in concrete cores ranged from 11,000 to 79,000 milligrams per kilogram. Therefore, part of the Site would be subject to TSCA regulation. WDNR (2016) notes this concrete must be disposed of as TSCA hazardous waste under the WDNR/USEPA OCP MOA prior to demolition and remaining unlabeled drums can be disposed as a non-hazardous waste. WDNR (2016) notes prior to building demolition, additional sampling will be needed to confirm that all the PCB-contaminated concrete was removed.

- 3) A short explanation of why the site falls within the identified circumstance requiring the Property-Specific Determination.

The recent discovery of significant residual PCB impacts to concrete which would be subject to TSCA regulations is prompting this property-specific eligibility determination request. WDNR (2016) notes this concrete must be disposed of as TSCA hazardous waste under the WDNR/USEPA OCP MOA prior to demolition.

- 4) An explanation of how providing brownfields funding for the site will meet the criteria necessary for making a Property-Specific Determination.

In addition to residual VOC, PAH, and metals impacts to soil and/or groundwater, residual PCB Aroclor 1260 impacts remain at the property. Lead-based paint and asbestos containing material in friable form are present in building materials. Site access is restricted and the property is generally capped with concrete building floors/foundations. Additionally, City police routinely patrol the area to prevent trespassing and dumping. However, wind-blown debris/soil/materials may be a pathway of exposure to the adjoining residual neighborhood, animals, and/or the food chain.

The current owner has partially demolished the remaining large multi-story former industrial buildings onsite. Haphazard demolition has potentially resulted in compromising the

structural integrity of the buildings thereby placing the adjacent residential neighborhood and businesses at risk from a catastrophic building collapse.

Multiple constituents are present in Site groundwater at concentrations greater than the ch. NR 140 Enforcement Standard. In addition, an area of light non-aqueous phase liquid remains at the property. Therefore, groundwater consumption may be a pathway of exposure. If present, residual sludge in Site sewers/tunnels could be mobilized and pose a threat to water quality in the Manitowoc River and/or Lake Michigan.

5) The degree to which other funding is or is not available for the assessment or cleanup of the site.

Significant resources have been expended to date at the property by a variety of entities as summarized/estimated in the partial list below:

Entity	Amount of Funds	Notes
Current Owner	\$500,000 (estimate in WDNR files)	ACM Abatement
	\$75,000 (as reported in POLREP)	PCB Removal Costs
USEPA	\$26,368	2009 LBP/ACM Inspection
	\$96,406	2011 TBA
	\$24,326 (as reported in ACRES)	2011 CWA Brownfields Grant
Wisconsin Economic Development Corporation	\$150,000	Site Assessment Grant

Although over \$872,000 has been spent at the Site to date, significant resources will be needed to complete this project. The City of Manitowoc has bonded \$2.4 Million to cover costs associated with abatement of remaining hazardous materials and building demolition. In addition, pending USEPA approval, the City is targeting a substantial subgrant from their Brownfields Revolving Loan Fund to supplement the \$2.4 million bond. Unfortunately, the City does not have additional financial resources to complete the required environmental assessment activities at the Site. USEPA previously granted an exemption to the \$200,000 cap on funding per Brownfield Site (see Attachment F). This exemption will allow the City to utilize their current assessment funding to complete the needed assessment activities at the Site to prepare for acquisition and building demolition.

6) An explanation of whether or not the applicant is responsible for the contamination at a site.

As noted previously in Section 6, The City has not owned the property or operated on the property and is not potentially liable for contamination at the Property under CERCLA Section 107.

7) Anticipated Assessment Benefits

The existing structure poses a significant threat to human health and the environment. The City is currently moving forward with condemnation proceedings under Wis. Stat. Ch. 32, due to a lack of responsiveness and a failure to complete required work by the current owner. After acquiring the property, the City will be able to remove remaining hazardous materials, abate the remaining asbestos, and raze the multi-story industrial buildings to complete phase two of cleanup originally agreed to by the current owner and the USEPA. By abating remaining hazardous materials (especially PCB-impacted concrete and friable ACM on the exterior of the building) human health risks will be significantly reduced. Physical risk of building collapse will be eliminated by razing the building. Further evaluating residual subsurface impacts will allow for development of a remedial action plan to provide further protection of human health and the environment.

From an economic perspective, the final reuse of the Site has yet to be determined, but is likely to include a combination of residential and commercial uses. The City's Comprehensive Plan identifies this Property as a future mixed-use redevelopment area. Based on the size of the property, private leverage could easily top \$8 to \$10 million in redevelopment.

FIGURES

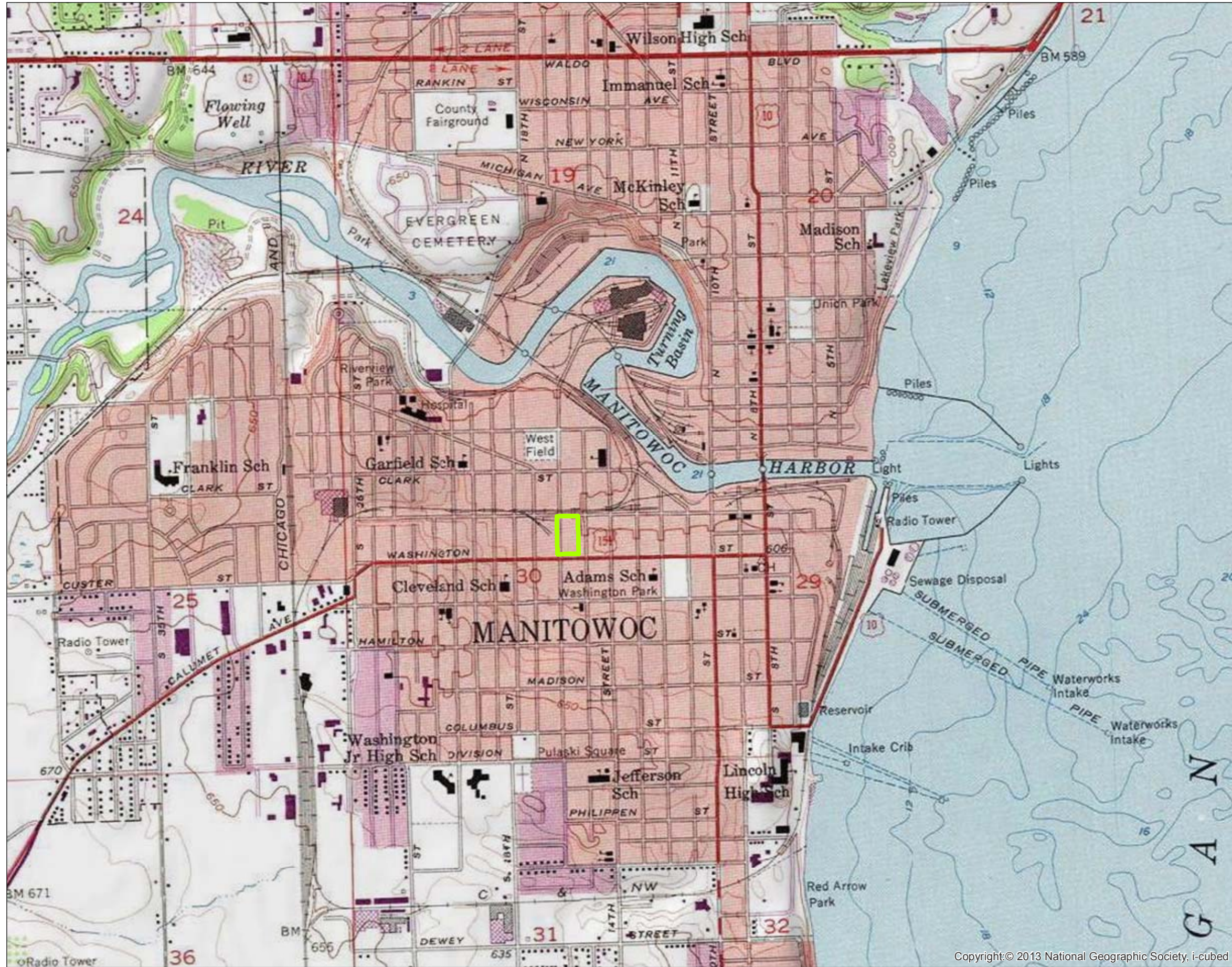
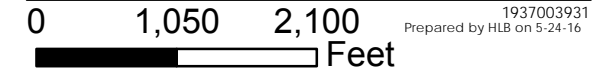
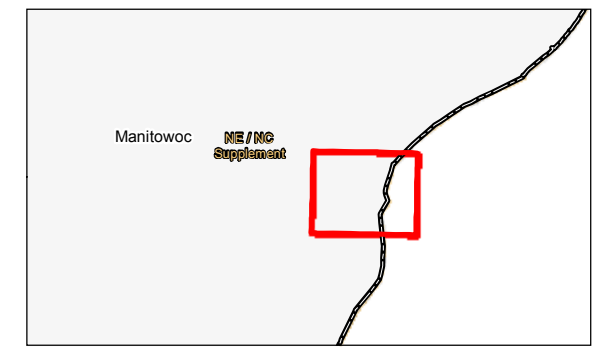


Figure No. 1
 Title **Figure 1**
Site Location and USGS Topo Map

Client/Project
 City of Manitowoc
 USEPA Brownfield Assessment Grant
 Hazardous Substances



Legend
 Target Site



Notes
 1. Coordinate System: NAD 1983 StatePlane Wisconsin South FIPS 4803
 2. Feet
 3. Data Sources Include:
 Orthophotography: 2015 City of Manitowoc




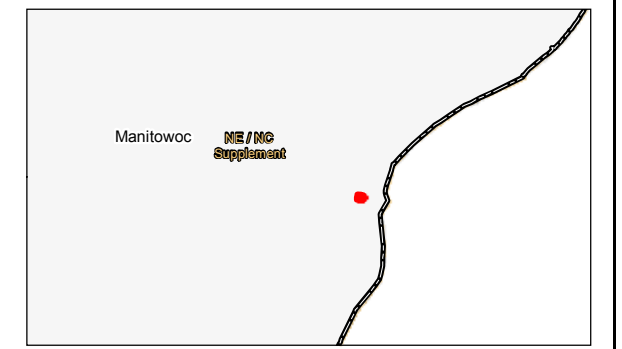
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6:\Data\Manitowoc\Map\201512\Washregion\01.mxd - Revised: 2016-05-25 By: bzy



Figure No. **2**
 Title **Figure 2
 Basemap and 2014 Ortho**
 Client/Project
 City of Manitowoc
 USEPA Brownfield Assessment Grant
 Hazardous Substances
 0 65 130 Feet
 1937003931
 Prepared by HLB on 5-24-16

Legend
 Target Site
 Parcels

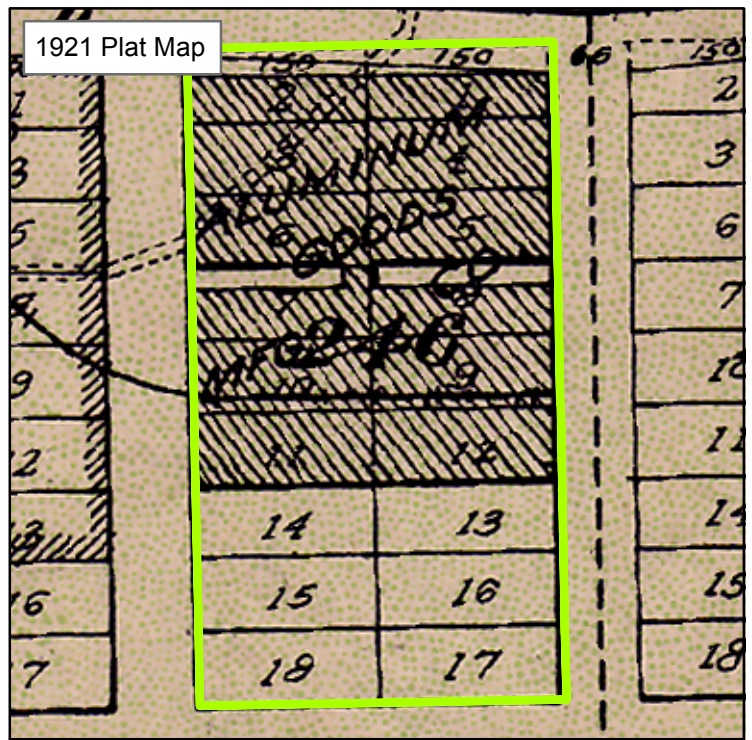
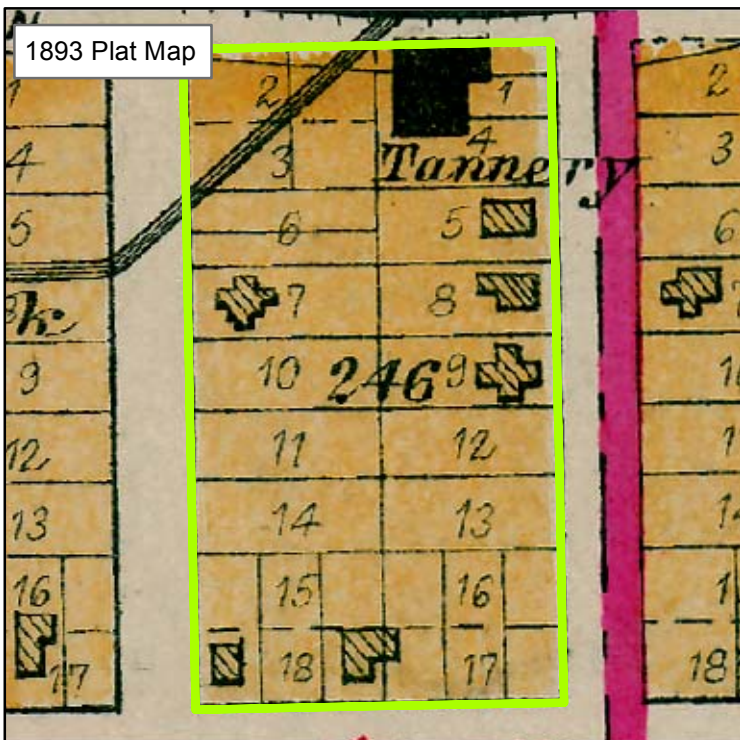
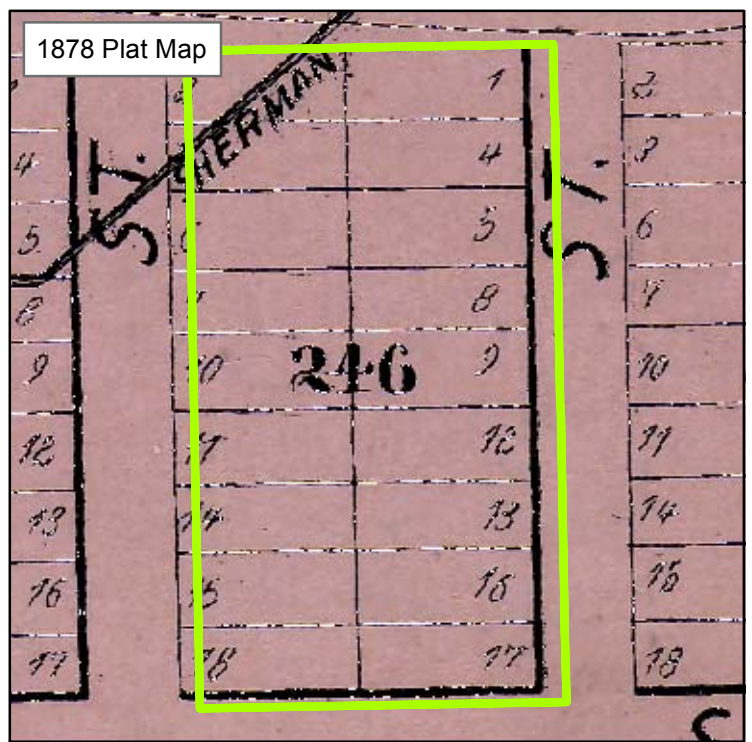
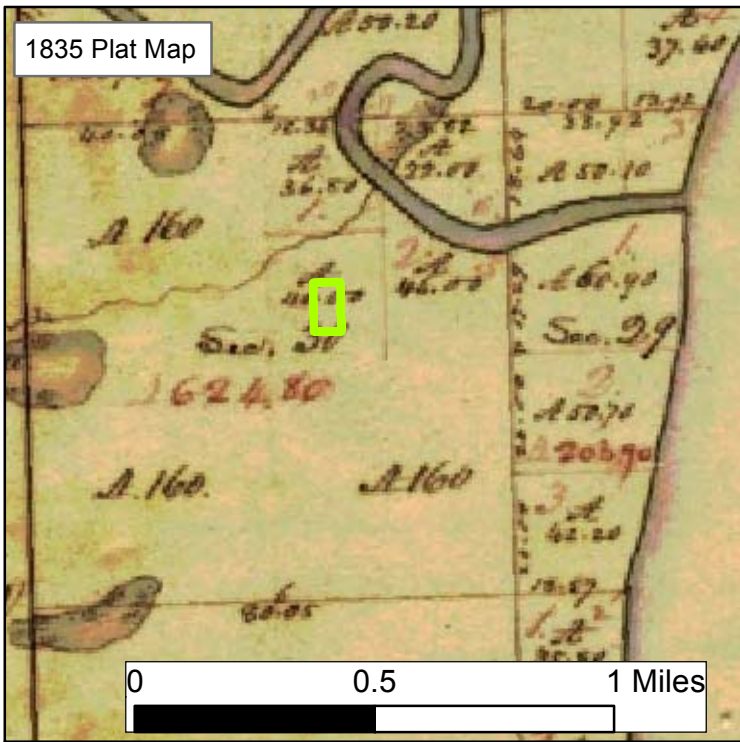



- Notes
1. Coordinate System: NAD 1983 StatePlane Wisconsin South FIPS 4803
 2. Feet
 3. Data Sources Include:
 Orthophotography: 2015 City of Manitowoc



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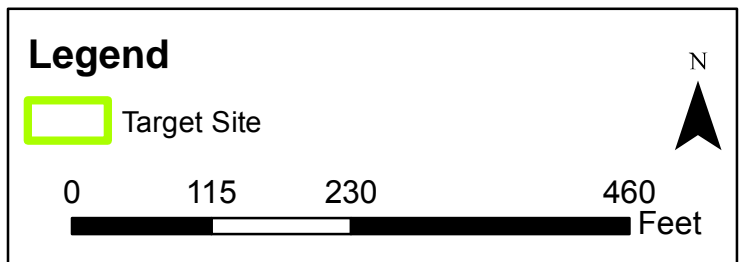
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State Location



County Location



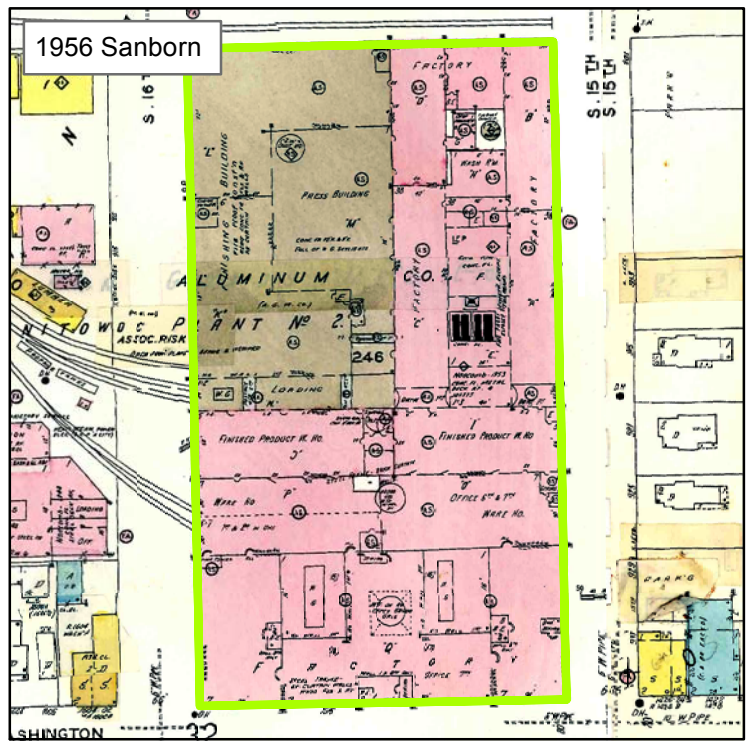
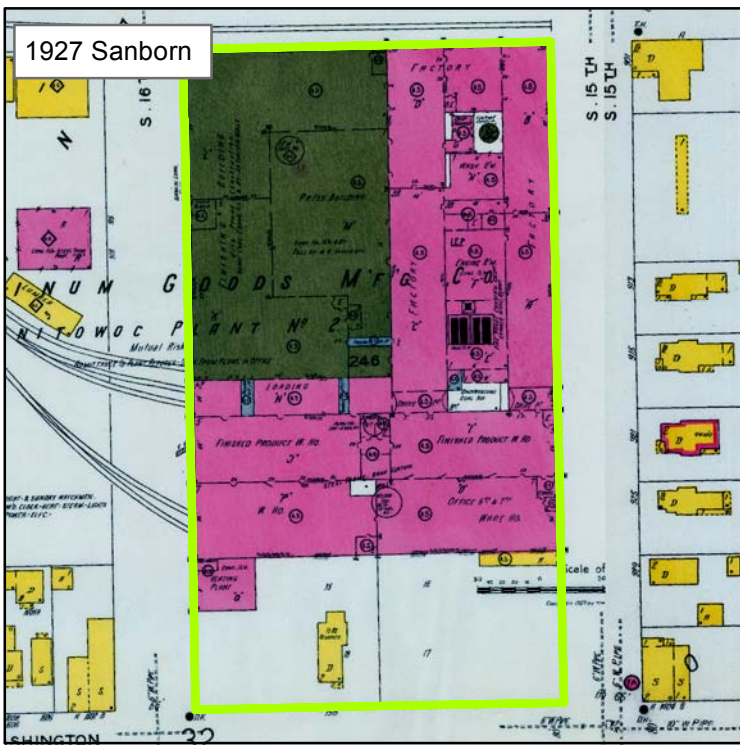
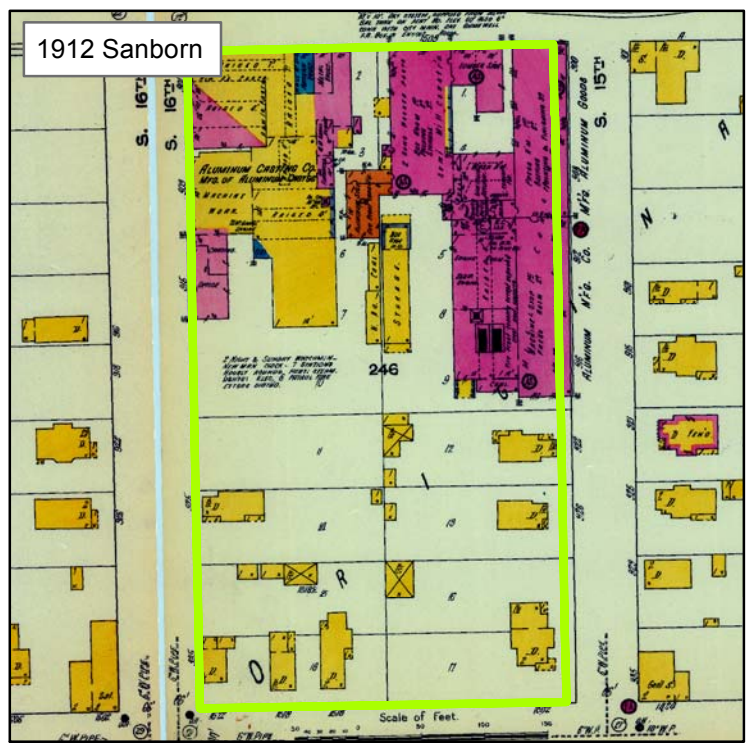
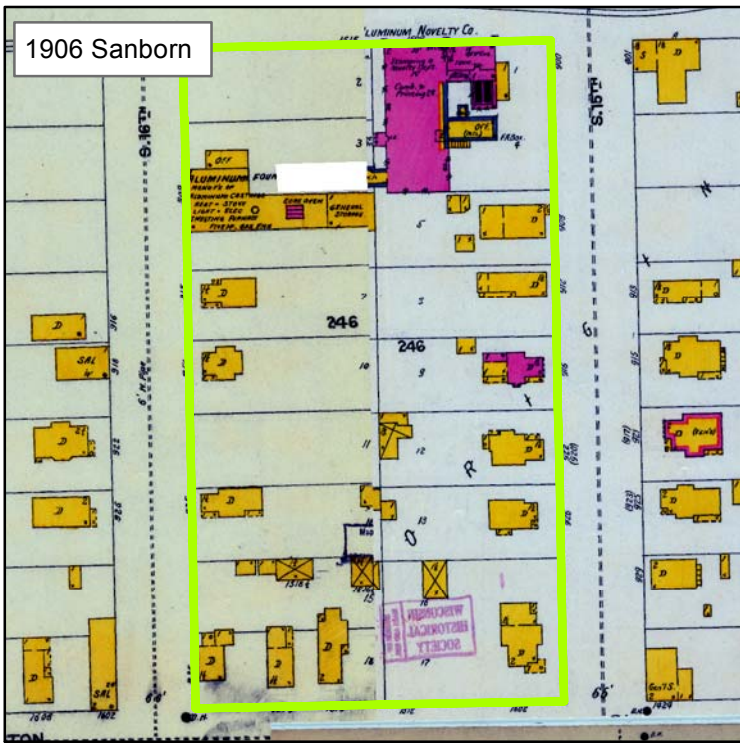
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Mequon, WI 53092
(262) 643-9174

The information on this map has been compiled by Stantec staff from a variety of sources and is subject to change without notice. Stantec makes no representations or warranties, express or implied, as to accuracy, completeness, timeliness, or rights to the use of such information.

1512 West Washington
Manitowoc, Wisconsin

Figure 3
Historic Plat Maps

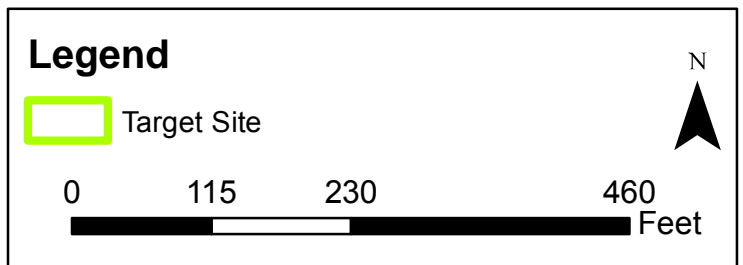
DWG: 02.mxd
DATE: May 2016
PROJ NO: 193703931



State Location



County Location



Stantec
12075 Corporate Parkway
Suite 200
Mequon, WI 53092
(262) 643-9174

The information on this map has been compiled by Stantec staff from a variety of sources and is subject to change without notice. Stantec makes no representations or warranties, express or implied, as to accuracy, completeness, timeliness, or rights to the use of such information.

1512 West Washington
Manitowoc, Wisconsin

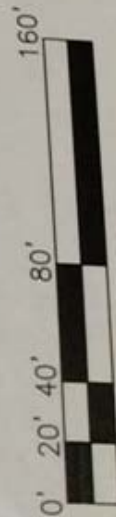
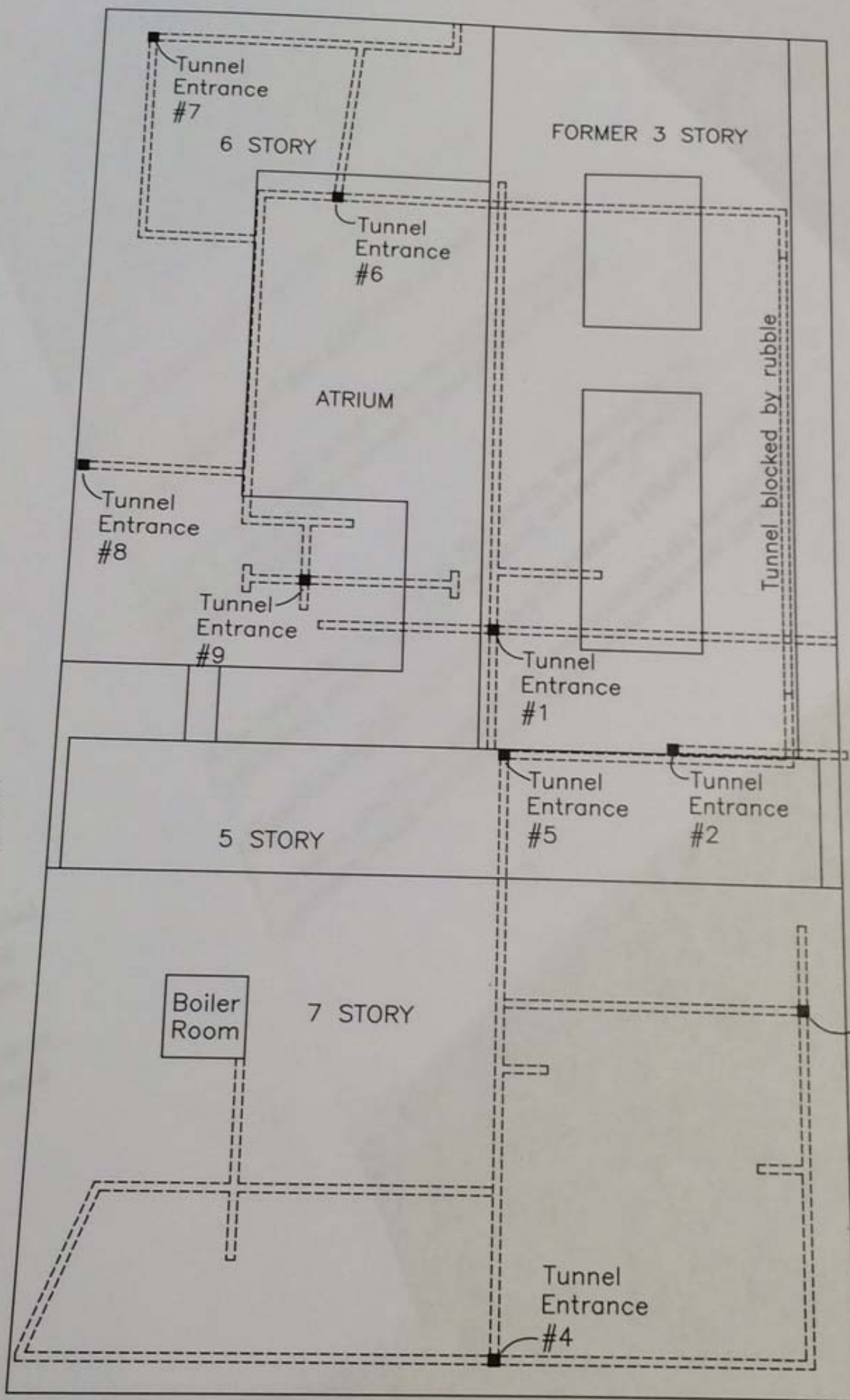
Figure 4
Historic Sanborn
Fire Insurance Maps

DWG: 03.mxd
DATE: May 2016
PROJ NO. 193703931

Figure 5

4/14/15

Franklin Street



Tunnel Location Map
1" = 60'-0"

Revision 1 | 4.9.15

Washington Street



Figure No.
6

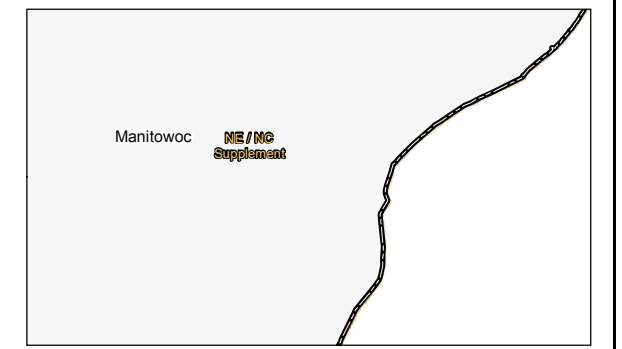
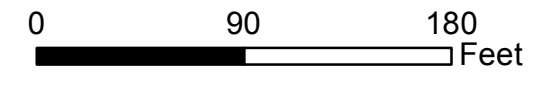
Title
**Figure 6
2010 and 2014 Ortho**

Client/Project
City of Manitowoc
USEPA Brownfield Assessment Grant
Hazardous Substances

1937003931
Prepared by HLB on 5-24-16

Legend

-  Target Site
-  Parcels



- Notes**
1. Coordinate System: NAD 1983 StatePlane Wisconsin South FIPS 4803
 2. Feet
 3. Data Sources Include:
Orthophotography: 2014 City of Manitowoc



R:\Data\Manitowoc\2014\1512\Washington\04.mxd - Revised: 2016-05-25 By: bbyers

Attachment A

WDNR (2016) LGU LETTER



March 8, 2016

Mr. Nicolas Sporacio
City of Manitowoc
900 Quay Street
Manitowoc, WI 54220

Subject: Clarification of the Local Government Unit Liability Exemption related to the potential acquisition of the Former Mirro Plant #9, 1512 Washington Street, City of Manitowoc, Wisconsin.
BRRTS #s 07-36-548528, 02-36-545108, FID # 436033730, Parcel # 052-000-246-000.00

Dear Mr. Sporacio:

On December 3, 2015, the Wisconsin Department of Natural Resources ("Department") received a request, dated November 13, 2015, for a general liability clarification letter from the City of Manitowoc (City). As requested, this response letter provides an explanation of the local government unit ("LGU") liability exemption outlined in Wis. Stat. § 292.11(9)(e), related to the City's potential acquisition of the Former Mirro Plant #9 property, located at 1512 Washington Street, Manitowoc, Wisconsin (the "Property"). The attached Site Location Map, which you provided to the Department, identifies the Property's location within the City.

In response to your request, the Department has reviewed the following documents, which were either submitted by the City or available in the Department's files about the Property:

- *Phase II Environmental Site Assessment*, dated March 10, 2005, prepared by Earth Science & Technology, LLC, and submitted to the Department on March 22, 2006;
- *Phase I Environmental Site Assessment*, dated January 19, 2009, prepared by AECOM and submitted to the Department on January 21, 2009;
- *Phase II Environmental Site Assessment*, dated June 4, 2009, prepared by AECOM and submitted to the Department on June 8, 2009;
- *Building Inspection Report*, dated December 23, 2009, prepared by STN Environmental JV and submitted to the Department on January 4, 2010;
- *Targeted Brownfields Assessment*, dated March 22 2011, prepared by Advanced Environmental Solutions and submitted to the Department on April 20, 2011;
- *Technical Assistance, Environmental Liability Clarification or Post-Closure Modification Request (Form #4400-237)*, from City of Manitowoc, received by the Department on December 3, 2015;
- Court Documents and Related Documents to Show the Legal Process under Wis. Stat. ch. 66, received via email from the City of Manitowoc on December 21, 2015; and
- Tax Incremental Financing Boundary Amendment Resolution from July 2010, and *PCB Contaminated Concrete Sampling and Unlabeled Drum Characterization Results Report*, received via email from the City of Manitowoc on February 8, 2016.

Background Information

There are multiple environmental repair ("ERP"), leaking underground storage tank ("LUST"), spill cases, and one general property case associated with the Property, dating back to 1988, in the Department's Remediation and Redevelopment Tracking System ("BRRTS") database. The following is a list of these cases:

- 1512 Washington St [Historic Spill], BRRTS # 04-36-046037, historic spill;
- 1512 Washington St, BRRTS # 04-36-049803, closed August 8, 1994;
- Mirro Plt #9, BRRTS # 04-36-223347, closed February 14, 1997;
- Mirro Plt #9 (East Side), BRRTS # 03-36-000085, closed March 2, 1999;
- Mirro Plt #9 – West Side, BRRTS # 02-36-216391, closed September 22, 2000;
- Mirro Plt #9, BRRTS # 03-36-274209, closed November 26, 2003;
- Mirro-Spirtas, BRRTS # 02-36-545108, opened March 7, 2006; and
- Mirro Facility (Former), BRRTS # 07-36-548528, general property

Solid and hazardous waste facility information for the Property, available on the Solid and Hazardous Waste Information System (“SHWIMS”), along with information for the USEPA removal action completed under Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (“CERCLA”) is listed below:

- Mirro Co Plt 09 (Former), FID: 436033730, EPA ID: WID006076574, Facility Status: closed, Activity Status: active as a hazardous waste generator – very small; and
- Mirro Spirtas, CERCLIS ID: WIN000510545, EPA oversight of phase one of voluntary cleanup conducted by EJ Spirtas complete, EPA relinquished oversight to the Department for phase two of voluntary cleanup under Wisconsin’s One Cleanup Program Memorandum of Agreement (“OCP MOA”); phase two is not complete.

The Property once contained approximately 17 buildings (3-story, 5-story, 6-story, and 7-story), joined as one structure for use as the former Mirro Aluminum Plant #9 manufacturing facility, which produced various aluminum goods and novelties. The Property includes an entire city block, or about 3.72 acres, bordered by 15th, 16th, Washington, and Franklin Streets in Manitowoc. The Property is zoned for heavy industrial use. The surrounding area includes a mix of industrial, commercial, and residential land uses. The buildings were vacated by the Mirro Company when it closed the facility in 2003. In August 2003, the City passed a resolution under Wis. Stat. § 66.1105 for Tax Incremental Financing District (TID) No. 16 Project Plan consisting of 190.08 acres of land, which at the time, did not include the Property.

Based on information in the Department’s Mirro-Spirtas site file, BRRTS # 02-36-545108, the Department was first notified of contaminant discharges of petroleum and chlorinated volatile organic compounds (“VOCs”), polycyclic aromatic hydrocarbons (“PAHs”), Resource Conservation and Recovery Act (“RCRA”) metals, and polychlorinated biphenyls (“PCBs”) to soil and/or groundwater for this case from a Phase II Environmental Site Assessment (“ESA”) submitted to the Department in March 2006. In addition to the discharge to the soil and groundwater, there were also many issues associated with the buildings, including: solid waste materials, asbestos, PCBs & PCB contaminated materials subject to the Toxic Substances Control Act of 1976 (“TSCA”), and other hazardous substances subject to CERCLA.

The Property was purchased by EJ Spirtas Manitowoc, LLC (“EJ Spirtas”) in June 2006. A Brownfield Site Assessment Grant (“SAG”) was awarded by the Department in 2008 to conduct Phase I and Phase II ESA activities. The Phase I and II ESAs performed using the SAG funding were submitted to the Department in January 2009 and June 2009. Soil sampling from the Phase II ESA showed PCB concentrations above 50 parts per million (“ppm”), which triggered a notification from the Department to EPA under Wisconsin’s OCP MOA with EPA. The Department worked with EPA to manage, clean up, and dispose of PCB wastes regulated under 40 Code of Federal Regulations (“CFR”) 761. The containerized PCB oils were properly handled and disposed of in October, 2009, with remaining SAG funds.

In May 2009, the City requested Targeted Brownfields Assessment (“TBA”) assistance from the U.S. Environmental Protection Agency (“EPA”), to expand upon the SAG assessment work and continue to address building concerns. A building inspection report, completed in December 2009 under the TBA from EPA, focused on identifying and quantifying building materials and equipment that might require special handling and disposal as part of building demolition activities, including asbestos, lead-based paint, evaluation of light fixture ballast for PCBs, dielectric

fluids for PCBs, mercury-containing light bulbs and switches, identification of Freon-containing equipment, evaluation of containers housing chemicals and other fluids, and an evaluation of ash in floors.

All of the materials identified above were found on the Property in various amounts and concentrations. The City requested TBA assistance again in June 2010, for further evaluation of the Property through a supplemental Phase II ESA. During TBA activities, additional drums containing PCB transformer oil were discovered. The Department reported the additional findings to EPA under the OCP MOA. In August 2010, the City of Manitowoc passed a resolution under Wis. Stat. § 66.1105 approving Boundary and Text Amendment Number One to TID No. 16. This amendment included the addition of 30.436 acres of land, including the Property, that is blighted or in need of rehabilitation/conservation work.

In December 2010, the Department requested and received EPA assistance for a time-critical removal action at the Property to address the immediate threat posed by the PCB transformer oil drained from two on-site transformers, investigate potential environmental discharges resulting from missing PCB oil, and to identify potential responsible parties ("PRPs"). The TBA was completed in March 2011 and a report was submitted to the Department in April 2011. Also in March 2011, EPA assessed the Property to evaluate the need for a removal action. EPA approved the request for a time-critical removal action in April 2011.

During enforcement negotiations, it was agreed between EPA and EJ Spirtas, in March 2011, that EJ Spirtas would conduct a voluntary cleanup with EPA oversight to address the threats identified in EPA's site assessment. The cleanup was to be completed in two phases: 1) address immediate threats, including removal of hazardous waste, eliminating direct contact risks, and reducing the threat of off-site discharges through the sewers; and 2) the buildings would be demolished and remaining PCB-contaminated building materials would be properly disposed as required by TSCA. Remediation of sub-slab PCB contamination and sewer contamination may be required as well, pending access to the sub-slab to evaluate the contamination extent.

EJ Spirtas hired EQ to conduct phase one of the agreed-upon cleanup action in July 2011, which included complete draining and cleaning of transformers, contaminated concrete floors cleaned and marked for proper disposal during phase two, proper disposal of PCB-contaminated liquids (oil and wash water) and solids (wood flooring, debris, and containers), wipe sampling of the loading dock floor, loading dock drain sampled, cleaned, and plugged, and all mercury switches throughout the facility collected. Phase one of the removal action was considered complete by EPA.

Per the Department's request, EPA returned oversight for phase two of the removal action at the Property to the Department in 2013 to facilitate the provision of Brownfields financial assistance.

Efforts at the Property in 2013 to 2014 focused on asbestos abatement and preparation for demolition of the 3-story portion of the amalgamated building. Sampling and analysis plans for additional site investigation of soil and groundwater and for PCB-impacted building materials and unlabeled drums of unknown liquids were submitted to and approved by the Department and/or EPA in 2013 and 2014, respectively.

In March 2014, the 3-story portion of the building was razed; however, it was not adequately completed. Building demolition materials and waste were left on-site. There was no additional phase two progress made at the Property by EJ Spirtas in 2014.

To prevent unsafe work practices, and prevent the removal of valuable building materials, the City placed a "stop work" order on the Property in January 2015. Following negotiations, the City extended the demolition permit for EJ Spirtas in March 2015. No further progress was made on the demolition after the extension was granted.

In late February/early March 2015, the two identified areas of PCB-contaminated concrete and the liquids in the unlabeled drums were sampled using funding provided through a SAG awarded in July 2014. The primary purpose was to delineate the concrete contamination and characterize the unlabeled drum contents. Based on sampling

results, the concrete must be disposed of as TSCA hazardous waste and the unlabeled drums can be disposed of as a non-hazardous waste. Prior to building demolition, additional sampling will be needed to confirm that all the contaminated concrete was removed.

On May 8, 2015, the City Mayor delivered a letter to EJ Spirtas demanding a complete demolition permit application by June 22, 2015. The letter stated that an approved demolition permit application must be in place by that date, otherwise the City would begin condemnation proceedings on the Property by Common Council approval. EJ Spirtas gave the City an incomplete demolition permit application, failing to comply with the Mayor's demand, and the Common Council voted to begin the condemnation process.

On June 26, 2015, the City issued a raze order for the Property, under Wis. Stat. § 66.0413, to EJ Spirtas. On July 27, 2015, EJ Spirtas petitioned the Manitowoc County Circuit Court for a restraining order against the raze order. On September 29, 2015, the court ruled in favor of the City, upheld the raze order, and dismissed the restraining order request. An appeal to the raze order was submitted on October 9, 2015.

The City is currently moving forward with condemnation proceedings under Wis. Stat. Ch. 32, due to a lack of responsiveness and a failure to complete required work by the Property owner, EJ Spirtas.

Liability Determinations Related to Property Acquisition Via Condemnation and/or Blight Elimination

The Department provides the following clarifications and assurances to the City of Manitowoc concerning two potential methods of acquiring the Property. This letter is not a legal opinion or a directive, however, and its contents should be carefully reviewed and considered by the City's legal staff and/or advisors before taking action.

The definition of a LGU in Wis. Stat. §§ 292.11(9)(e)(1) and 292.23(1) is "a municipality, a redevelopment authority created under Wis. Stat. § 66.1333, a public body designated by a municipality under Wis. Stat. § 66.1337(4), a community development authority or a housing authority." The City of Manitowoc qualifies as an LGU under this definition.

In order to qualify for the LGU liability exemption, the LGU must acquire the Property through one of the methods listed in Wis. Stat. § 292.11(9)(e)(1m), and § 292.23(2). The Department understands the City is considering acquiring the Property either through condemnation proceedings under Wis. Stat. Ch. 32, or for the purpose of blight elimination.

Wis. Stat. § 292.11(9)(e)(1m)(c), and § 292.23(2)(c), state that an LGU qualifies for the liability exemption if "the local governmental unit acquired the property through condemnation or other proceeding under Wis. Stat. Ch. 32."

Under Wis. Stat. § 32.06, the initiation of condemnation by a municipality typically involves, at a minimum, the following three steps:

1. Determine the necessity for condemnation as provided in Wis. Stat. § 32.07, (and any related local ordinances);
2. Cause at least one appraisal to be made of the property proposed to be condemned; and
3. Attempt to negotiate personally with the owner of the Property or a representative, to reach an agreed upon price for acquisition.

If an agreement is reached with the property owner, the municipality shall record any conveyance by or on behalf of the owner of the property to the municipality executed as a result of negotiations under this subsection with the register of deeds of the county in which the property is located. The municipality shall also record a certificate of compensation stating the identity of all persons having an interest of record in the property immediately prior to its conveyance, the legal description of the property, the nature of the interest acquired and the compensation for such acquisition.

If an agreement is not reached, additional statutory requirements, beginning at Wis. Stat. § 32.06(3), must be complied with to complete the condemnation process.

Based on the information provided to the Department and described above in this letter, the City should meet the conditions of Wis. Stat. § 292.11(9)(e)(1m)(c), and § 292.23(2)(c), if the City acquires the Property through Wis. Stat. Ch. 32 condemnation proceedings. The City would be exempt from state responsibility to investigate and clean up hazardous substance discharges and solid waste previously disposed of at the Property, under the state's Spill and Solid Waste laws, if it satisfies all relevant provisions of the statutes noted above.

Acquiring property "for the purpose of slum clearance or blight elimination," per Wis. Stat. § 292.11(9)(e)(1m)(d), qualifies a local government for an exemption from Wis. Stat. §§ 292.11(3),(4),(7b) and (7c).

In reviewing requests for liability clarification related to property acquisition for the purpose of blight elimination, the Department looks to other state statutes for definitions of the terms "blighted property" and "blighted area." These statutes include, but are not limited to, Wis. Stat. § 66.1301 to § 66.1341 (urban redevelopment and renewal), Wis. Stat. 66.1105 (tax increment law), and Wis. Stat § 32.03(6) (condemnation). They contain similar, but not identical, definitions.

In addition to defining terms, these statutes, and the chapters they reside in, discuss proper processes and documentation for blight determinations. In addition to following statutory procedures, it is simply good practice to build a case in writing for all blight determinations that may result in property acquisition.

The Department generally agrees that the statutory requirements of the local government liability exemption are met when we receive documented evidence of: 1) A thorough blight determination performed by a qualified evaluator, and 2) Approval of this determination via a resolution of the local governmental unit's legislative body.

Local governments should document to the Department's satisfaction that they have followed appropriate statutory processes and procedures for specific situations. For example, some statutes require that a public hearing be held about the blight determination; others have two-thirds majority approval requirements, etc.

In the situation involving the Property, the Department has learned from City staff, and an informal review of the city development plans available on municipal web site, that the Property is identified as "blighted" on a map included in City resolution 415, July 2010, titled Boundary and Text Amendment Number One (1) to Tax Incremental Financing (TIF) District No. 16 Project Plan, but there does not appear to be written documentation of how the blight determination was made or what facts support it.

The Property was also referenced in the City's 2009 Downtown & River Corridor Master Plan, and identified as needing environmental repair work and building demolition, but no supporting documentation of blight was noted.

If the City intends to proceed with acquisition of the Property for purposes of blight elimination, the Department suggests that the following process, or something substantially similar, be used to make and document a statutorily sound determination of blight.

Just as an example, one possible blight determination process that would likely satisfy statutory requirements may run as follows:

1. Review definition of "blighted property" found in Wis. Stat. § 66.1333(2m)(bm).
2. The Manitowoc Community Development Authority (CDA) creates a document that includes findings of fact about conditions at the Property that demonstrate it is a "blighted property" per the statutory definition. Photos may be useful too.
3. Follow the process for acquiring individual blighted properties outlined in Wis. Stat. § 66.1333(5)(c)(1g), which, in summary, includes:

- a. Obtaining advance approval from the city's common council, by at least a two-thirds vote of all members, for acquisition of the property.
 - b. The two-thirds approval must be by resolution and the resolution must contain a finding by the council "that a comprehensive redevelopment plan is not necessary to determine the need for the acquisition, the uses of the property after acquisition and the relation of the acquisition to other property redevelopment by the authority."
4. Provide public notice of an informational hearing about the blight determination at the property (see Wis. Stat. § 66.1333(5)(c)(2), for specific notice requirements for affected parties, along with other details).
 5. Hold a public hearing about the blight determination.
 6. CDA adopts a resolution approving the blight determination, by a two-thirds vote of all members, and outlines next steps, including acquisition, for cleanup and reuse of the property.
 7. CDA forwards their blight resolution to the common council.
 8. Common council adopts the recommended resolution by a two-thirds vote of all members.
 9. CDA and/or City proceed with acquisition of the property for the purpose of blight elimination.

Once a statutorily sufficient blight determination is in place, and the City's legislative body approves acquisition of the Property for the purpose of blight elimination, the City should be able to acquire the property through a purchase, donation, condemnation, or any other method, and obtain the LGU liability exemption.

Upon completion of this, or a substantially similar process, the Department requests a summary memo of the process used, a copy of the blight determination document, a copy of the approved resolution, and the executed deed.

If the process suggested above, or something substantially similar, is used to define and acquire the Property, the City should meet the conditions of Wis. Stat. § 292.11(9)(e)(1m)(c), and § 292.23(2)(c), and would be exempt from state responsibility to investigate and clean up hazardous substance discharges and solid waste previously disposed of at the Property, under the state's Spill and Solid Waste laws, if it satisfies all relevant provisions of the statutes noted above.

State Exemption Conditions and Limitations

This liability exemption protects a LGU from receiving a responsible party notice from the Department, unless the hazardous substance discharge or disposal is/was caused by an action taken by the LGU, or by failure of the LGU to take "limited actions" to prevent further discharges. Those limited actions include:

- Sampling and analyzing unidentified substances in containers stored above ground on the Property;
- Removing and disposing, or properly storing, any hazardous substances in above ground containers that are leaking or likely to leak;
- Restricting access to the Property to minimize costs or damages that may result from unauthorized persons entering the Property; and
- Immediately reporting any identified discharges of hazardous substances on the Property to the Department.

Federal Liability Protections

In addition to state liability protections, a LGU is also eligible for federal CERCLA liability protections in certain situations. In general, CERCLA provides liability protection to local governments that acquire property as a function of their governmental powers. This is called the Involuntary Acquisitions Exemption, and includes obtaining property through bankruptcy, tax delinquency, abandonment, and other circumstances in which the local government involuntarily acquires title by virtue of its function as a sovereign. More information is available on the US EPA web site at: <http://www.epa.gov/enforcement/state-and-local-government-activities-and-liability-protections>.

In situations involving the purchase of a property, a LGU can obtain CERCLA liability protections if it qualifies as a bona fide prospective purchaser. One key requirement is the completion a Phase I environmental site assessment (ESA) that meets the All Appropriate Inquiries ("AAI") standards under 40 CFR, Part 312. This federal standard also requires that a Phase I ESA be completed within 180 days prior to acquisition of a property. ESA's following the American Society for Testing and Materials ("ASTM") Standard E1527-13, meet EPA's AAI standards.

For more information, a US EPA fact sheet, titled "CERCLA Liability and Local Government Acquisitions and Other Activities," is available at <http://www.epa.gov/sites/production/files/documents/local-gov-liab-acq-fs-rev.pdf>.

Future Use of the Property

If the City intends to use or redevelop the Property after acquiring it through condemnation or for the purpose of blight elimination, the City should discuss proposed Property improvements with the Department before proceeding. The City is required to take any action the Department determines is necessary to reduce to acceptable levels any substantial threat to public health or safety when the Property is developed or put into its intended use. The City must also comply with continuing obligations, if applicable, associated with closed environmental cases on the Property.

This state liability determination is based on the information provided in the above referenced documents. If new or more extensive contamination is discovered at the Property, the City is required to notify the Department in accordance with Wis. Stat. § 292.11(2). The City should also know that the LGU exemption from the state Spill Law and Solid Waste Management Requirements will apply to the City throughout the City's ownership of the Property, but these liability protections are not transferable from the City to future owners, except to another eligible LGU.

Information on all LGU exemption determinations and other contaminated site activities is tracked in a Department database that is available on the internet at <http://dnr.wi.gov/botw/SetUpBasicSearchForm.do>. The Bureau for Remediation and Redevelopment Tracking System ("BRRTS") identification number for this location can be found at the top of this letter. The Property, if it is acquired in a manner consistent with Wis. Stat. § 292.11(9)(e)(1m), will be identified in the database as a location where the Department has made an "LGU Exemption" determination.

The Department hopes this letter provides the City with the requested clarification concerning the City's potential LGU exemption at the Property. We look forward to working with you on future redevelopment of the Property. If you have questions regarding technical issues at the Property please contact project manager Tauren Beggs at (920) 662-5178, or contact Barry Ashenfelter at (608) 267-3120 regarding liability exemption issues.

Sincerely,



Roxanne N. Chronert, Team Supervisor
Northeast Remediation & Redevelopment Program

Attachment: Site Location Map, prepared by the City of Manitowoc, dated 10/07/2015

cc: Kathleen McDaniel – City Attorney (electronic)
Tauren Beggs – NER (electronic)
Barry Ashenfelter – RR/5 (electronic)

Mirro Plant #9 1512 Washington Street



Author:
Date Printed: 10/7/2015



The burden for determining fitness for use rests entirely upon the user of this website. Manitowoc County and its co-producers will not be liable in any way for accuracy of the data and they assume no responsibility for direct, indirect, consequential, or other damages.

Attachment B

SITE PHOTOGRAPHS (MAY 5, 2016)



#1 - View of Site, looking N along 15th St



#2 - Partial demolition of building on NE corner of property



#3 - Partial demolition of building on NE corner of property



#4 - Partial demolition of building on NE corner of property



#5 - Partial demolition of building on NE corner of property



#6 - Partial demolition of building on NE corner of property



#7 - Partial demolition of building on NE corner of property



#8 - Partial demolition of building on NE corner of property



#9 - Partial demolition of building on NE corner of property



#10 - Partial demolition of building on southern portion of property



#11 - Partial demolition of building on southern portion of property

Attachment C

CURRENT PROPERTY DEED

DOC# 1009783

Document Number

STATE BAR OF WISCONSIN FORM 3 - 1999
QUIT CLAIM DEED



VOL 2183 PG 604

This Deed, made between Mirro Building LLC Grantor, and EJ Spirtas Manitowoc, LLC Grantee.

Grantor quit claims to Grantee the following described real estate in Manitowoc County, State of Wisconsin (if more space is needed, please attach addendum):

All of Block 246, City of Manitowoc, being in the Northeast 1/4 of Section 30, Township 19 North, Range 24 East, Manitowoc County, Wisconsin.

TRANSFER FEE $0.60 / .003 = \$200$ PURCHASE PRICE

STATE OF WI - MTWC CO
PRESTON JONES REG/DEEDS
RECEIVED FOR RECORD
08/02/2006 1:41:36 PM

Recording Area

Name and Return Address
E.J. Spirtas Manitowoc, LLC
11135 Olive Blvd.
St. Louis, MO 63141

11+600 c/dk 6193-107

TRANSFER
\$ 0.60
FEE

Together with all appurtenant rights, title and interests.

Dated this 2nd day of June, 2006

000 246000
Parcel Identification Number (PIN)
This IS NOT homestead property.
(is) (is not) W-7

Kenneth Lemberger
* KENNETH LEMBERGER

*
*
*

AUTHENTICATION

ACKNOWLEDGMENT

Signature(s) _____

STATE OF Wisconsin)
) ss.
Waupaca County)

authenticated this _____ day of _____,

Personally came before me this 02 day of
June, 2006, the above named
Kenneth Lemberger

*
TITLE: MEMBER STATE BAR OF WISCONSIN

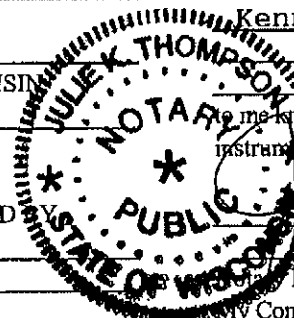
(If not, _____
authorized by §706.06, Wis. Stats.)

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

THIS INSTRUMENT WAS DRAFTED BY

Wehner Law Office

Julie K. Thompson
Public, State of Wisconsin



(Signatures may be authenticated or acknowledged. Both are not necessary.)

My Commission is permanent. (If not, state expiration date:
June 21, _____, 2009 .)

* Names of persons signing in any capacity must be typed or printed below their signature.

Attachment D
FINAL USEPA POLREP

U.S. ENVIRONMENTAL PROTECTION AGENCY
 POLLUTION/SITUATION REPORT
 Mirro Spirtas - Removal Polrep
 Final Removal Polrep



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 Region V**

Subject: POLREP #2
 Final
 Mirro Spirtas
 B5ZW
 Manitowoc, WI
 Latitude: 44.0889397 Longitude: -87.6677455

To: Annette Weissbach, WDNR

From: Kathy Halbur, OSC

Date: 9/29/2011

Reporting Period: 8/4/2011-9/29/2011

1. Introduction

1.1 Background

Site Number:	B5ZW	Contract Number:	
D.O. Number:		Action Memo Date:	4/6/2011
Response Authority:	CERCLA	Response Type:	PRP Oversight
Response Lead:	EPA	Incident Category:	Removal Action
NPL Status:	Non NPL	Operable Unit:	
Mobilization Date:	7/18/2011	Start Date:	7/19/2011
Demob Date:	7/25/2011	Completion Date:	9/29/2011
CERCLIS ID:	WIN000510545	RCRIS ID:	
ERNS No.:		State Notification:	
FPN#:		Reimbursable Account #:	

1.1.1 Incident Category

The property owner, EJ Spirtas Group, LLC, is conducting a voluntary clean-up at this Site. U.S. EPA is overseeing the clean-up, consistent with the NCP.

1.1.2 Site Description

This Site is a former aluminum products manufacturing facility that is currently vacant and slated for demolition by the property owner, EJ Spirtas Group, LLC, a St. Louis, Missouri based demolition company. The Mirro Aluminum Company, commonly known as Mirro, operated at this facility for more than 100 years. At its peak, Mirro was the United States' largest manufacturer of aluminum cookware products. The facility is in poor condition and there is evidence throughout the building of trespassing and criminal activity. There is no utility service (electric or water) to the building.

During a Targeted Brownfields Assessment (TBA) at the Site, it was discovered that the transformers at the facility had been illegally drained and that transformer oil had been spilled on the floors. The Wisconsin Department of Natural Resources (WDNR) required EJ Spirtas LLC to take immediate action to remediate the situation. Mr. Spirtas did not comply with WDNR's requirements and WDNR requested EPA assistance.

In January 2010, U.S. EPA conducted a Site Assessment at the Mirro facility to further evaluate the conditions discovered during the TBA. Approximately thirty small drums of waste oil (some with extremely high concentrations of PCBs) and approximately ten additional drums of abandoned waste liquids (including flammables) were documented at the Site. Evidence of spills in and around two transformer rooms was observed. Floor drains that lead off site were observed in the areas of known spills.

1.1.2.1 Location

The Site is located at 1512 Washington Street, Manitowoc, Manitowoc County, Wisconsin 54220. The Site is a series of connected buildings comprising the city block bordered by 15th, 16th, Washington, and Franklin Streets. The surrounding area is mixed industrial, commercial, and residential. The area is serviced by a public water supply and both sanitary and storm sewers. The nearest water body is the Manitowoc River, which is only two City blocks away from the Site. The Manitowoc River flows into Lake Michigan, which is located approximately 1/4 mile from the Site. Records indicate that the depth to groundwater at the Site is approximately 10-12 feet below ground surface. Groundwater flow is east, towards Lake Michigan. Site soils consist of stratified alluvial silty clay, silt, and silty sand.

1.1.2.2 Removal Site Inspection Results/Description of Threat

In January 2010, U.S. EPA conducted a Site Assessment at the Mirro facility to further evaluate the conditions discovered during the TBA. Approximately thirty small drums of waste oil (some with extremely high concentrations of PCBs) and approximately ten additional drums of abandoned waste liquids (including flammables and antifreeze) were documented at the Site. Evidence of spills in and around two transformer rooms was observed. Floor drains that lead off site were observed in the areas of known spills. There is evidence of trespassing and criminal activity in the buildings.

PCBs are regulated by the Toxic Substances Control Act (TSCA) of 1976. 40 CFR Part 761 establishes prohibitions of, and requirements for, the manufacture, processing, distribution in commerce, use, disposal, storage, and marking of PCBs and PCB containing or contaminated items (also known as "articles" within TSCA). The PCBs, and their respective contaminated items and articles, at this Site are considered abandoned, and therefore, subject to CERCLA as well as TSCA. PCBs are defined as hazardous substances by Section 101(14) of CERCLA. The active ingredients in antifreeze are also hazardous substances, as defined by CERCLA.

2. Current Activities

2.1 Operations Section

2.1.1 Narrative

During enforcement negotiations, it was agreed that EJ Spirtas Group would conduct a voluntary clean-up, with U.S. EPA oversight, to address the threats identified during U.S. EPA's Site Assessment.

The removal is being conducted as two separate actions. During the first action (the subject of this Polrep), the immediate threats were addressed, including removal of hazardous waste, eliminating the direct contact risks, and reducing the threat of off-site release through the sewers. During the second action, expected in Fall/Winter, 2011, the building will be demolished and the remaining PCB contaminated building materials will be disposed of as required by TSCA.

2.1.2 Response Actions to Date

EJ Spirtas Group retained EQ to conduct this clean-up. EQ was assisted by employees from EJ Spirtas Group's company Niagra Worldwide. The crew mobilized to the Site on July 18, 2011 and commenced work on July 19, 2011. All liquid waste at the facility was segregated into appropriate waste streams,

overpacked, and prepped for transport. The remaining oil in the transformers was drained and the transformers were cleaned. The wood contaminated flooring was removed and shipped to a TSCA landfill. All contaminated concrete flooring was cleaned per the method defined in 40 CFR 761 Subpart S and marked for proper disposal during demolition. The debris in the loading dock adjacent to one of the spill areas was cleared and all waste in contact with the floor was disposed of as PCB contaminated debris. Wipe samples of the loading dock floor were collected. The floor was cleaned as if it was contaminated with PCBs. The drain in the loading dock was sampled, cleaned, and plugged. All mercury switches throughout the facility were collected. The crew demobed from the Site on July 25, 2011. Veolia picked up the drums of PCB contaminated oil on August 2, 2011. EJ Spirtas Group submitted the final report summarizing the removal action to EPA on September 29, 2011.

2.1.3 Enforcement Activities, Identity of Potentially Responsible Parties (PRPs)

The property owner, EJ Spirtas Group, LLC, is conducting a voluntary clean-up at this Site. U.S. EPA is overseeing the clean-up, consistent with the NCP.

2.1.4 Progress Metrics

Waste Stream	Medium	Quantity	Manifest #	Treatment	Disposal
PCB Contaminated Liquids (Oil, wash water, etc.)	Liquid	22 drums	001403437FLE	Incineration	Veolia, Deer Park, TX
PCB Contaminated Solids (wood flooring, debris, containers)	Solid	3 rolloffs	001403438FLE 001403435FLE 001403434FLE	TSCA Landfill	EQ Wayne Disposal, Belleville, MI
Glycol & Lab Pack	Liquid	2 drums	001403436FLE	Solidification & Energy Recovery	EQ Detroit, Detroit, MI

2.2 Planning Section

2.2.1 Anticipated Activities

This removal action is considered complete. A work plan and schedule for the second required removal action at this Site is pending. During the second action, the building will be demolished and the PCB contaminated building materials will be disposed of as required by TSCA. Remediation of sub-slab PCB contamination and sewer contamination may be required as well - determination is pending access to the sub-slab to evaluate the extent of PCB contamination at the Site.

2.3 Logistics Section

No logistical issues to report.

2.4 Finance Section

Removal costs, approximately \$75,000, were incurred by EJ Spirtas Group LLC. Upon completion of the second action, EPA will send a demand letter to EJ Spirtas Group for recovery of its response costs (Site Assessment, oversight, etc.).

2.5 Other Command Staff

2.5.1 Safety Officer

Nothing to report.

2.6 Liaison Officer

The property owner provides regular updates of the cleanup and demolition prep work occurring at the Site to local and state officials.

2.7 Information Officer

The property owner is fulfilling this role.

3. Participating Entities**3.1 Unified Command**

Not applicable.

3.2 Cooperating Agencies

City of Manitowoc

Wisconsin Department of Natural Resources

4. Personnel On Site

The clean-up crew consisted of five EQ representatives and two EJ Spirtas Group/Niagra Worldwide representatives. Annette Weissbach (WDNR) and OSC Kathy Halbur (EPA) were on-site periodically conducting oversight of the clean-up.

5. Definition of Terms

CERCLA: Comprehensive Environmental Response, Compensation, and Liability Act

CFR: Code of Federal Regulations

PCB: Polychlorinated Biphenyl

TSCA: Toxic Substances Control Act

U.S. EPA: United States Environmental Protection Agency

WDNR: Wisconsin Department of Natural Resources

6. Additional sources of information**6.1 Internet location of additional information/report**

Additional information is available at www.epaosc.org/mirrospirtas.

6.2 Reporting Schedule

This is the Final Polrep for this action.

7. Situational Reference Materials

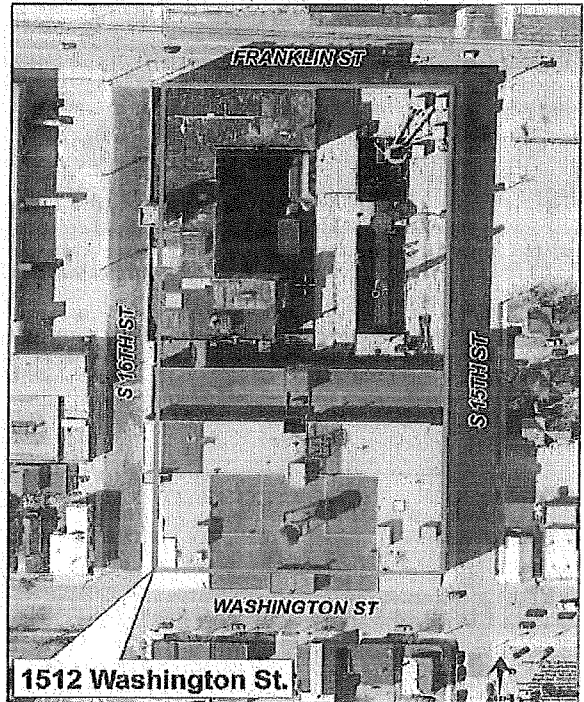
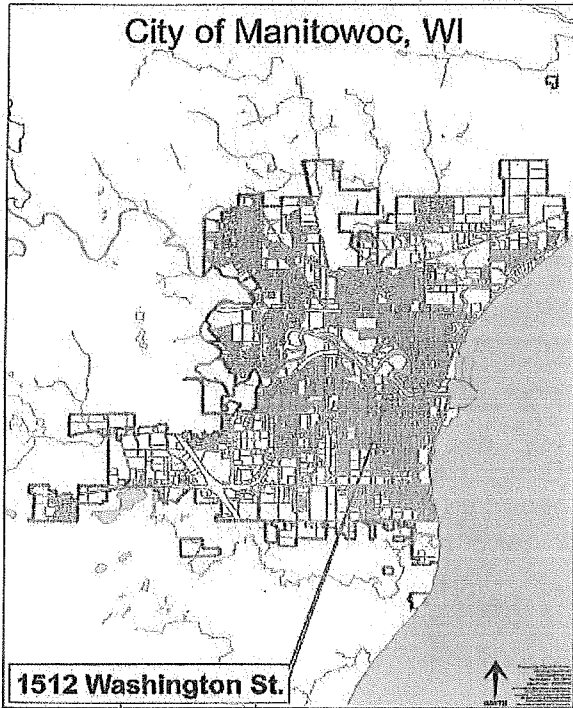
See www.epaosc.org/mirrospirtas

Attachment E

WDNR DOCUMENTATION

**TSCA PROPERTY-SPECIFIC ELIGIBILITY DETERMINATION
(ADD BACK)
ROUTING SLIP**

Subject: US EPA Acceptance of Property-Specific Eligibility Determination for Brownfields Assessment Grant Funding under Cooperative Agreement Number BF00E00907 for the former Mirro #9 Site at 1512 Washington, Manitowoc, WI.



Jon W. Peterson

Jon Peterson, Project Officer
CLRB, Brownfields and NPL Re-Use Section 1

Peter Ramanauskus

Peter Ramanauskus
Regional PCB Coordinator

Michael Gifford

Michael Gifford, Chief
CLRB, Brownfields and NPL Re-Use Section 1

Joseph Dufficy 3/6/2013

Joseph Dufficy, Chief
Community and Land Revitalization Branch

Please Return to Jon Peterson

Weissbach, Annette E - DNR

From: Peterson, Jon <peterson.jon@epa.gov>
Sent: Thursday, March 07, 2013 10:44 AM
To: Tina Reese; 'dless@manitowoc.org'; 'myanda@manitowoc.org'; 'PBraun@manitowoc.org'
Cc: Weissbach, Annette E - DNR; Chronert, Roxanne N - DNR; Gifford, Michael
Subject: RE: 1512 Washington Eligibility
Attachments: TSCA addback for Mirro.pdf

Attached is the image of the Property-Specific Eligibility Determination for the Mirro Site at 1512 Washington. We in the Brownfields Officer here call this determination a "TSCA Add Back" because it specifically justifies the finding of Brownfields Eligibility for this Site which would otherwise be excluded because of the involvement with the Removal Program and TSCA.

Jon Peterson

From: Tina Reese [<mailto:Tina.Reese@SYMBIONTONLINE.com>]
Sent: Monday, February 11, 2013 1:37 PM
To: Peterson, Jon; dless@manitowoc.org; myanda@manitowoc.org; PBraun@manitowoc.org
Subject: Fwd: 1512 Washington Eligibility

Jon,

Please find attached an eligibility determination request for 1512 Washington Street. Call me with questions or concerns.

Sincerely

Tina Reese

Sent from my Verizon Wireless 4G LTE Smartphone

----- Original message -----

From: Emily Gorsalitz <Emily.Gorsalitz@SYMBIONTONLINE.com>
Date: 02/11/2013 1:26 PM (GMT-06:00)
To: Tina Reese <Tina.Reese@SYMBIONTONLINE.com>
Subject: 1512 Washington Eligibility

Here it is!

Emily Gorsalitz
PROJECT ENGINEER

6737 West Washington Street : Suite 3440 : Milwaukee, WI 53214
P 414.291.8840 F 414.291.8841
[DOWNLOAD MY VCARD : SYMBIONTONLINE.COM](http://SYMBIONTONLINE.COM)

Weissbach, Annette E - DNR

From: Halbur, Kathy <halbur.kathy@epa.gov>
Sent: Tuesday, February 26, 2013 11:29 AM
To: Weissbach, Annette E - DNR
Cc: Chronert, Roxanne N - DNR; Lowery, Jason B - DNR; Durno, Mark; Ribordy, Michael; Ramanauskas, Peter; Hicks, Nola; Ryczek, William; Peterson, Jon; Grams, Bradley
Subject: Mirro Spirtas Site

Annette:

Per our recent discussions, it is EPA's understanding that, effective immediately, WDNR is assuming oversight responsibilities for the remaining work to be performed by Spirtas pursuant to the voluntary clean-up agreement between EPA and Spirtas and EPA's Action Memo for the Mirro Spirtas Site dated April 6, 2011. Consequently, the EPA Removal Program intends to take no further action at this Site, unless conditions change warranting our involvement and/or additional assistance is requested. Please coordinate future oversight with EPA's Land and Chemical Division, Pete Ramanauskas, 312-886-7890, ramanauskas.peter@epa.gov.

Kathy

Kathy Halbur, On-Scene Coordinator
U.S. EPA Region 5
Emergency Response Branch
c/o WDNR
2984 Shawano Ave
Green Bay, WI 54313-6727
Phone: 920-662-5424
Cell: 920-634-9072
Email: halbur.kathy@epa.gov

U.S. EPA Region 5
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Green Bay, WI 54313-6727
Phone: 920-662-5424
Cell: 920-634-9072
Email: halbur.kathy@epa.gov

Weissbach, Annette E - DNR

Subject: FW: Removal Action undertaken at 1512 Washington in Manitowoc

From: Halbur, Kathy [<mailto:halbur.kathy@epa.gov>]
Sent: Thursday, February 14, 2013 1:21 PM
To: Peterson, Jon
Cc: Weissbach, Annette E - DNR
Subject: RE: Removal Action undertaken at 1512 Washington in Manitowoc

Hi Jon:

As a reminder, that POLREP was only for Phase One of the required work. Phase two is still being negotiated; and, at this point, I am still involved... Nevertheless, I have acquired approval from ERB, LCD, and ORC to return the Mirro Spirtas Site to WDNR if that is their wish – thereby making WDNR responsible for oversight of the remaining PCB cleanup work to be performed at the Site. An important item of note, if the Site is released back to WDNR, the remaining PCB work will need to comply with the EPA-WDNR One Clean-up Policy (emergency removal designations/exemptions will no longer apply once I pull out). I have briefed Annette on all of this and it is my understanding that she is ruminating on the topic to BE SURE they want us to relinquish the Site – I expect to hear of her final wish on the matter after Monday's meeting in Manitowoc. I'll be sure to copy you on the message ending our involvement if that is how this plays out.

If you have any questions, please call Annette... ☺
Kathy

From: Jon Peterson [<mailto:Peterson.Jon@epamail.epa.gov>]
Sent: Thursday, February 14, 2013 12:29 PM
To: Halbur, Kathy
Cc: Weissbach, Annette E - DNR
Subject: Re: Removal Action undertaken at 1512 Washington in Manitowoc

Hi Kathy,

Thank you so much for sending me the Final POLREP for that Mirro building in Manitowoc. Annette Weissbach sent me the WDNR letter to the agent Niagara Worldwide and also their response to her letter. Although the Final POLREP is all I need to accept their Eligibility Determination, I wanted to give you the courtesy of letting me know if you had your supervisor's approval to release them from all final obligations to the Removal Program, before I let them spend more Brownfields money on the site. Could you please advise me of your status on this site? Thanks so much.

P.S. Our Branch Chief has requested that I brief them on all work progress up there in Manitowoc and I am working on that for them right now.

HERE IS THE MESSAGE I JUST GOT FROM MY BOSS - MIKE GIFFORD:

Jon, can you provide me an overview of happenings in Manitowoc e.g. progress made with the assessment grant, any noteworthy success stories that have resulted or you see in the future, including any TBA funded or WDNR 104(k) funded projects. An email response will be fine. This is a request from Joe. Thanks.

☞ Kathy Halbur--02/11/2013 04:51:14 PM--Hi Jon: Good question... The answer is maybe. The PRP is not under an order (AOC or UAO), the remo

From: Kathy Halbur/R5/USEPA/US
To: Jon Peterson/R5/USEPA/US,
Cc: "Weissbach, Annette E - DNR" <Annette.Weissbach@Wisconsin.gov>
Date: 02/11/2013 04:51 PM
Subject: Removal Action undertaken at 1512 Washington in Manitowoc

Hi Jon:

Good question... The answer is maybe. The PRP is not under an order (AOC or UAO), the removal action is being done as a two-phase voluntary clean-up. Phase one was the time-critical portion and it is complete. Final Polrep is available at the osc website: www.epaosc.org/mirrospirtas. Phase two is proper disposal of the PCB contaminated building materials which cannot be completed until the building is in the final stages of demolition and evaluation of the sub-slab conditions. I understand that the City and State would like brownfields funds for this Site and I don't want to be in the way of that. WDNR is willing to assume oversight of all the remaining work – which would end my involvement. However, I need to check with my Section Chief and with LCD to make sure I can turn the Site back over to WDNR and release the remaining removal obligation. I hope to have an answer for you and Annette in the next couple of days.

Great picture – thanks for sharing!

Talk soon...
Kathy

From: Jon Peterson [<mailto:Peterson.Jon@epamail.epa.gov>]
Sent: Monday, February 11, 2013 2:54 PM
To: Halbur, Kathy
Subject: Removal Action undertaken at 1512 Washington in Manitowoc

Hi Kathy,

Long time no see. Hey Manitowoc has submitted an Eligibility Determination for the Mirro site and they say they know of no ongoing removal actions. I remember you had one going there, are you all finished up with that work?

Jon Peterson

Attachment F
USEPA WAIVER



REGION V
77 West Jackson Boulevard
Chicago, Indiana

March 14, 2013

MEMORANDUM

SUBJECT: Request pursuant to Section 104(k)(4)(A)(i)(ii) of CERCLA for waiver of Statutory limit of \$200,000 for individual brownfield site assessment. City of Manitowoc, WI - FY2011 Brownfields Assessment Grant#: BF00E00907

FROM: Jon Peterson, Project Officer
USEPA Region 5

TO: Debi Morey
Office of Brownfields & Land Revitalization

The City of Manitowoc, Wisconsin, received a \$400,000 Assessment grant on September 1, 2011. They are requesting approval of a Sampling and Analysis Plan for the Mirro #9 building located at 1512 Washington. Prior to Manitowoc's receipt of this assessment grant, the City had requested USEPA support in the form of Targeted Brownfields Assessments at this Site. The USEPA performed an asbestos, lead based paint, and PCB containing materials survey in 2009 which cost approximately \$26,368. The USEPA performed a more extensive TBA in 2011 which cost \$96,406. The estimated cost for the SAP that Manitowoc has prepared for the Site is \$90,000. Consequently, this would cause the level of USEPA expenditure to slightly exceed the \$200,000 limit for a single site. Consequently, the City of Manitowoc is requesting a waiver of the statutory limit of \$200,000 for individual brownfield site characterization and assessment at this property.

The Mirro #9 building is almost a million square feet, occupies an entire city block, and is located in downtown Manitowoc in close proximity to residences and businesses. There is a 3 story, a 5 story and a 7 story section of the building. The abandoned building is a major eyesore and a potential hazard to adjacent residents and it the City would like it demolished as soon as possible in order for the property to be marketed free of contamination. The demolition price tag is estimated to be up to \$6 million but there is a significant value in the 12,000 tons of steel (~\$3 million), 10,000 tons of old growth lumber (~\$350,000), and an immense quantity of bricks that could be recycled. In order for the deconstruction to proceed safely, the demolition will have to be coordinated with sampling and analysis of soil, groundwater and building materials which will guide the cleanup activities that must be conducted in concert with the demolition.

The Region supports the City's waiver request. If you require any additional information in order to grant this waiver request, please let me know. Thank you for your consideration of this request



Attachment G

2013 PROPERTY-SPECIFIC DETERMINATION



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

DATE:

SUBJECT: City of Manitowoc, WI
Property-Specific Determination for the Former Mirro Plant No. 9 Site at 1512
Washington in Manitowoc, WI

FROM: Joseph P. Dufficy, Chief
Community and Land Redevelopment Branch

TO: Cooperative Agreement File

[Handwritten signature] 3/6/2013

The attached Property-Specific Eligibility Determination for Brownfields Funding Memorandum identifies the basis for the Site's eligibility. The owner of the Site has committed to an agreement with the WDNR to conduct Phase II of removal action addressing PCB containing materials.

Basic Site Information

The Mirro-Spirtas Site (Site) is an industrial building located at 1512 Washington Street, Manitowoc, Wisconsin, located within a heavy industrial area of the City and has historically been utilized to manufacture aluminum cookware from 1898 to 1986. The Site occupies an entire City block between Washington Street and Franklin Street, and South 15th Street and South 16th Street. The Site is a single 3.72-acre parcel containing 17 buildings of different heights and ages built to form one large structure that occupies the entirety of City Block 246. The building has been vacant since 2001, but large pieces of equipment still remain in the building, mainly on the first floor. The property is under the ownership of Eric Spirtas and EJ Spirtas Manitowoc, LLC. The Site is surrounded by industrial, commercial, and residential properties with the Canadian National Railroad running north of the Site and north of Franklin Street. Sherman Creek crosses the northwest corner of the site and merges with the Manitowoc River which is located approximately 1/4 mile from the site to the northeast. Based on historical site use, the buildings construction date, and previous site assessments there are documented soil and groundwater contamination, as well as asbestos and PCB containing material present at the Site. Due to the fact that it is vacant and the property has deteriorated significantly over the past 12 years, the City considers this Site a health and safety risk to the community.

Property-Specific Determination Circumstances

The Site requires a property-specific determination for funding because it has PCB-contamination present above the 50 ppm threshold. Consequently, part of the Site is subject to TSCA regulation. Specifically:

- There is a release (or disposal) of any waste meeting the definition of “PCB remediation waste.” At 40 CFR 761.3 **and**
- At which EPA has initiated an involuntary action with any person to address the PCB contamination. Such involuntary actions could include:
 - o Enforcement action for illegal disposal;
 - o Regional Administrator’s order to characterize or remediate a spill or old disposal *40 CFR 761.50(b)(3));
 - o Penalty for violation of TSCA remediation requirements;
 - o Superfund removal action; or
 - o Remediation required under RCRA Section 3004(u) or 3004(v)

Moreover, PCB remediation waste is regulated by TSCA Section 6(e). PCB contaminated soils will be remediated pursuant to the provisions of the “PCB Remediation in Wisconsin under the One Cleanup Program Memorandum of Agreement” between WDNR and EPA (Originally published on November 21, 2006 and revised subsequently as (PUBL-RR-786; June 2011, Revised October 2011).

It should be noted that there may be PCB contamination at a site that doesn’t fall under an NR 700 rules series environmental pathway but is subject to TSCA cleanup regulations. This includes contaminated building surfaces, bulk product waste such as building materials like caulk, PCB transformer oil, PCB capacitors and PCB lighting ballasts. The RP is responsible for coordinating with EPA as necessary to meet TSCA requirements for cleanups and removals for such items that don’t fall under an NR 700 rules series.

PCB building materials containing > 1 ppm PCB on a bulk sample basis (not wipe sample) impacted from spills may be disposed of without notification or previous approval from EPA under 40 CFR §761.61(b) (e.g. all impacted material > 1 ppm disposed of in a TSCA Chemical Waste Landfill. Alternatively, the owner may notify EPA under the self-implementing or risk based disposal provisions of §§761.61(a) or 61(c), respectively.

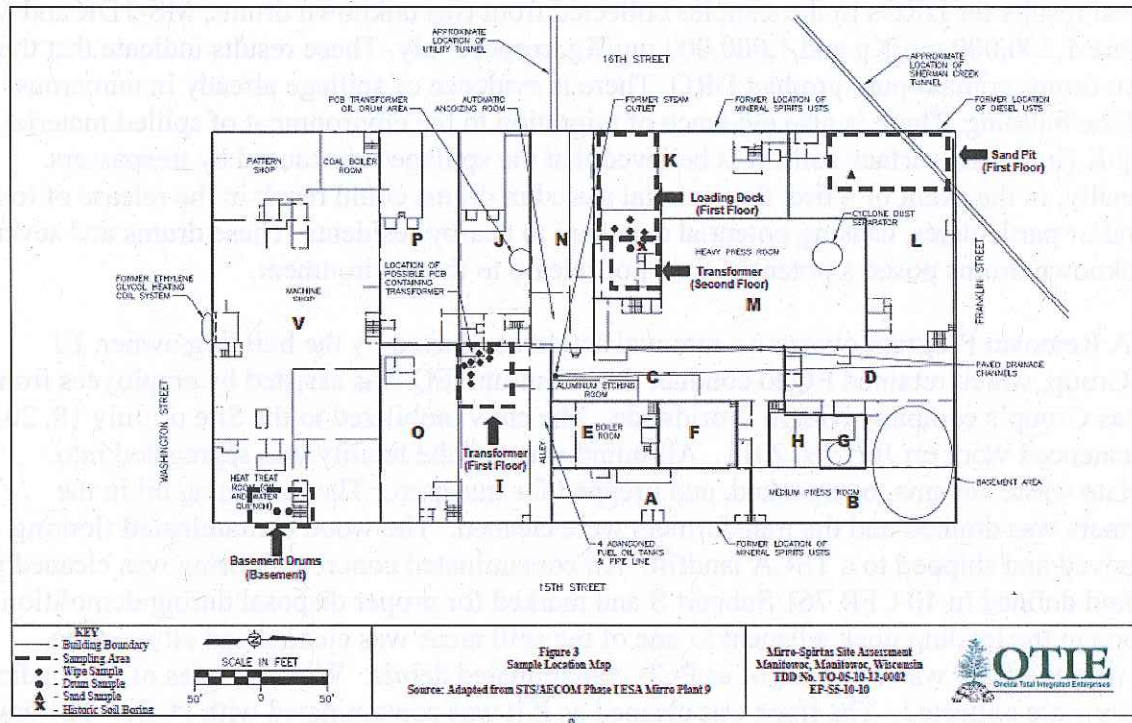
Note that if sewer lines are affected by PCB releases, the owner is subject to USEPA and WDNR review and approval outside of the MOA.

Evidence of the Property-Specific Determination Circumstances

Several structures existed on the property between 1883 and 1904. The existing building structure was constructed in phases between 1904 and 1927. Aluminum products, including cookware were manufactured on the property starting in 1898 until 1986 when all manufacturing activities had ceased. Mirro corporate and engineering offices remained in operation on the sixth and seventh floors until 2003. The existing building has remained vacant since 2003. Mirro was a division of the Newell Company and the property was purchased from Newell Holdings Delaware, Inc. by Union St. Partners, LLC on March 26, 2004. The property was then sold to Kenneth J. Lemberger, Sr. on November 18, 2005. On March 23, 2006 the property was transferred to the ownership of Mirro Building, LLC and finally sold to EJ Spirtas Manitowoc, LLC on June 20, 2006.

Previous investigations identified the presence of Asbestos Containing Material (ACM) in the building, trichloroethylene (TCE) and polychlorinated biphenyls (PCBs) under the west drainage channel in Building C, and volatile organic compounds (VOCS), semi-volatile organic compounds (SVOCs), and polychlorinated biphenyls (PCBs) in the subsurface soil. A subsurface soil sample

collected at 4 ft depth below ground surface at soil boring location GP-8 in building K near the black wheeled bins (Figure 3-Sampling Location Map) was reported to contain 210 mg/Kg PCB Aroclor 1260. WDNR, City of Manitowoc and EPA's Brownfields program are actively involved in the demolition plans for the building, including the removal of ACM in the building.



Threats posed by the site were evaluated in accordance with Title 40 of the CFR, Section 300.415(b) (2). Paragraph (b) (2) of 40 CFR Section 300.415 lists factors to be considered when determining the appropriateness of a potential removal action at a site. Potential site-related threats to human health and the environment were evaluated based on the criteria listed in 40 CFR, Sections 261.20 through 261.24. Factors that are applicable to the Site are discussed below.

Actual or potential exposure of nearby human populations, animals, or the food chain to hazardous substances or pollutants or contaminants

PCB Aroclor 1260 was detected above the TSCA limit of 50 mg/Kg in one subsurface soil sample during the subsurface assessment conducted by AECOM in 2009. Results of the drum samples collected during this Site Assessment indicated the presence of PCBs, VOCs, SVOCs/ PAHs, metals, DROs and GROs. Analytical results of the MS-DR-3 and MS-DR-4 samples collected from two drums near transformers for Aroclor-1260 were 480,000 mg/Kg and 470,000 mg/Kg, respectively. These results indicate that the drums sampled for PCBs contain pure PCB Aroclor 1260 liquid. Wipe samples collected from the flooring in different areas showed elevated levels of PCBs. All wipe samples collected with the exception of MS-WP-2 exceeded the EPA PCB Cleanup Commercial Indoor Limit of 10µg/100 cm². Although access to the building is restricted, signs of trespassing were apparent in different areas of the building. It is believed that the spillage observed in the drum areas and Building K was caused by trespassers. The presence of confirmed hazardous material poses a threat to trespassers and nearby residents through direct exposure. Human or ecological contact with these drums and surfaces can result in exposure to PCBs.

Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers that may pose a threat of release

A total of 29 drums with PCB liquid and 11 drums with unknown liquid were found in the building at different floor levels. Aroclor 1260 results of the samples collected from two PCB drums, MS-DR-3 and MS-DR-4, were 480,000 mg/Kg and 470,000 mg/Kg, respectively. Analytical results for DROs in the samples collected from two unknown drums, MS-1DR and MS-2DR, were 1,200,000 mg/Kg and 1,000,000 mg/Kg, respectively. These results indicate that the unknown drums contain pure product DRO. There is evidence of spillage already in numerous areas of the building. There is also evidence of migration to the environment of spilled material in Building K (in the subsurface soil). It is believed that the spillage was caused by trespassers. Additionally, in the event of a fire, the material stored in drums could result in the release of toxic gases and/or particulates, causing potential exposure to nearby residents. These drums and several other unknown drums posed a potential threat of release to the environment.

The EPA Removal Program oversaw a removal action conducted by the building owner, EJ Spirtas Group, which retained EQ to conduct this clean-up. EQ was assisted by employees from EJ Spirtas Group's company Niagra Worldwide. The crew mobilized to the Site on July 18, 2011 and commenced work on July 19, 2011. All liquid waste at the facility was segregated into appropriate waste streams, overpacked, and prepped for transport. The remaining oil in the transformers was drained and the transformers were cleaned. The wood contaminated flooring was removed and shipped to a TSCA landfill. All contaminated concrete flooring was cleaned per the method defined in 40 CFR 761 Subpart S and marked for proper disposal during demolition. The debris in the loading dock adjacent to one of the spill areas was cleared and all waste in contact with the floor was disposed of as PCB contaminated debris. Wipe samples of the loading dock floor were collected. The floor was cleaned as if it was contaminated with PCBs. The drain in the loading dock was sampled, cleaned, and plugged. All mercury switches throughout the facility were collected. The crew demobed from the Site on July 25, 2011. Veolia picked up the drums of PCB contaminated oil on August 2, 2011. EJ Spirtas Group submitted the final report summarizing the removal action to EPA on September 29, 2011. Final POLREP is attached.

Actual or potential contamination of drinking water supplies or sensitive ecosystems

PCB Aroclor 1260 was detected above EPA's generic human health and environment protection level of 25 mg/Kg PCBs for industrial sites in one subsurface soil sample during the subsurface assessment conducted by AECOM in 2009. The subsurface soil sample collected at 4 ft bgs was reported to contain 210 mg/Kg PCBs. High levels of PCBs existing in subsurface soil pose a threat of potential release to the groundwater at the site. Staining leading to the sewer drain was observed in the loading dock that services Building K. Releases thru the sewers could threaten the Manitowoc River and Lake Michigan.

Brownfields Eligibility Criteria

The EPA Brownfields Law grants EPA the authority to include within the definition of an eligible response site on a property-specific basis some properties that are otherwise excluded from the definition. This property-specific determination is based upon a finding that after consultation with State authorities the required cleanup and assessment activities are to be covered by an agreement with the WDNR, in consultation with EPA, and they will ensure the protection of human health and the environment, and will promote both economic development and public access to green space and the environmental resources of this area. All cleanups in Wisconsin

need to follow the WDNR's comprehensive cleanup rule the NR 700 Wis. Admin. Code series. Following this comprehensive rule insures the cleanup will be protective of human health and the environment.

Availability of Other Funding

The City of Manitowoc received a Brownfields Assessment Grant in 2011 and the Assessment Grant funding is necessary to move this project forward. Currently no redevelopment plan is in place. However once the environmental assessments and any necessary remedial work has been completed, it is anticipated that redevelopment of the site will occur. The City of Manitowoc has long hoped for the development of the Site and supports the project as part of its long range planning effort.

Applicant Responsibility

The City is not a responsible party for the contamination at the site. The current site owner purchased the Site in 2006, and did not install any of the USTs at the site. The City has not owned the Site or operated on the Site, and is not potentially liable for contamination at the Site under CERCLA Section 107 and 40 CFR Part 761. The Site owner has signed an access agreement which will allow access to the Site and relevant documents. As appropriate, the owner will sign all waste manifest documentation and will abide by WDNR "PCB Remediation in Wisconsin under the OCP MOA" guidance document.

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