



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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April 28, 2006

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Darrell Hofland, Administrator 262-375-5300
Village of Grafton
1971 Washington Street
P.O. Box 125
Grafton, WI 53024-0125

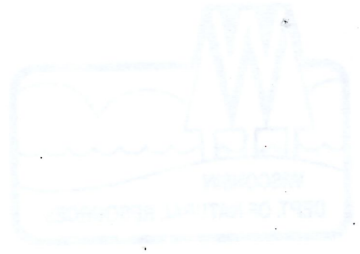
Subject: Lime Kiln Landfill; 2076 First Avenue

Dear Mr. Hofland:

As you know, the groundwater contamination at the Lime Kiln Landfill, Village of Grafton, is currently in the process of monitored natural attenuation. As part of that remediation effort, the Village entered into a "Settlement Agreement Concerning Former Village of Grafton Lime Kiln Park Landfill and the West Plume" with Milwaukee Sign, Inc. and Ozaukee Real Estate Associates L.L.C. (collectively "ORE"). The Agreement, dated December 27, 1999, was entered into pursuant to s. 292.35, Wis. Stats., and provides that ORE is not responsible for any investigation or remediation of contamination at Lime Kiln Park Landfill ("Landfill"). The Agreement states that the Village contends that ORE is the owner and operator of an alleged separate source of groundwater contamination side gradient of the Landfill, which is referred to as the "West Plume" and that the West Plume originates at the property at 2076 First Avenue. The Agreement further states that investigation and remediation of the West Plume is expected to cost the Village over \$400,000. In order to resolve its liability for the West Plume, ORE agreed to pay \$50,000 to the Village.

Under s. 292.35(7), Wis. Stats., a responsible party that enters into an agreement with a local governmental unit and complies with that agreement is not liable to the state or the local governmental unit for any additional costs of the investigation or remedial action, is not liable to any other responsible party for contribution costs and is not subject to an order under s. 292.11(7)(c) for the discharge that is the subject of the agreement. Therefore, since ORE has entered into an agreement with the Village, and has presumably complied with that agreement, ORE is not liable to the state or the Village for any additional costs of the investigation or remedial action, nor is ORE liable for any contribution costs or for a discharge that is the subject of the agreement.

John Feeney, the project manager for the Landfill, has told me that additional investigation (and potentially remediation) is necessary at the Landfill and the West Plume. Since the state cannot pursue enforcement action against ORE for the West Plume, the Village must investigate and remediate that contamination. Please contact John Feeney (at (920)892-8756) to discuss what the Village intends to do to address that contamination by May 12. By June 28, please submit a work plan and schedule for the investigation. If the Village does not contact Mr. Feeney by May 12, and submit a work plan and schedule for the investigation by June 28, DNR will need to consider its enforcement options against the Village.



Sincerely,

Judy Mills Ohm

Judy Mills Ohm

Attorney

(608)266-9972

c: John Feeney—SER—Plymouth

Copy Dave Murphy Dir of Pub works