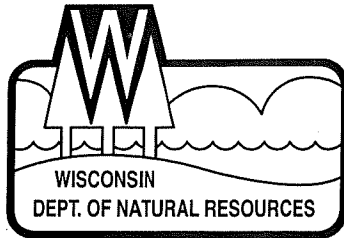


John Feeney



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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May 29, 2007

Darrell Hofland, Administrator  
The Village of Grafton  
1708 12th Avenue  
Grafton, Wisconsin 53024

CERTIFIED MAIL  
FID 246036780

Dear Mr. Hofland:

Thank you for meeting with representatives of the Department of Natural Resources on May 23, 2007, to discuss the notice of violation issued to the Village on April 23<sup>rd</sup>. If you are not in agreement with this summary, please send your comments to my attention at your earliest convenience.

In attendance: Darrell Hofland and David Murphy (Village of Grafton), Buck Sweeney (Axley Brynerson, LLP, representing the Village), B.J. LeRoy (Earth Tech, consultant for the Village), John Feeney, Walt Ebersohl, Judy Ohm and Pat Chung (DNR)

**Conference Agreement**

- Earth Tech will submit a 2006 remedial action status report for the Lime Kiln Park Landfill to John Feeney by June 30, 2007. The submittal will include 2006 sampling data for the east plume and recommendations for additional sampling and/or remedial actions, specifically a recommendation for the need for additional deeper piezometers to determine the vertical extent of contamination in groundwater at the P8 and P2 locations.
- Earth Tech will prepare a sampling plan for investigation of the west plume, to include conducting geo-probes of the Ozaukee Real Estate ("ORE") site, and installation of a new monitoring well. Following approval of the plan by the Village of Grafton, Earth Tech will submit the plan to the DNR, no later than July 31<sup>st</sup>, 2007. The submittal will include a summary of the Village's historical investigation of the site, including information obtained in interviews conducted by Winter Hess.
- Buck Sweeney will contact the owners of the ORE property to secure access for sampling. If there are problems securing access, Judy Ohm will assist in obtaining access, and will, if necessary, prepare a letter to the company explaining the potential consequence of prohibiting access under state law.
- John Feeney will review DNR files for the names of ORE contacts for the site, and will provide the name(s) to Buck Sweeney.
- Buck Sweeney will provide Judy Ohm with copies of documents from the Village's negotiation and cost recovery process under s. 292.35. Stats, including PRP agreements, if the documents are not found in the files for the DNR's Bureau of Remediation and Redevelopment, Fiscal and Information Technology Section.
- Walt Ebersohl will discuss Grafton's plans for redevelopment of the ORE property with Brownfield staff and will notify Buck Sweeney if staff is aware of any additional funding sources for the project.
- B.J. LeRoy will provide John Feeney with documentation of whether Earth Tech submitted a review fee with the 2005 report.



## Discussion

Pat Chung thanked representatives of the Village and their agents for attending the meeting. She said that the Department was concerned about conditions at Lime Kiln, because it appeared that no actions had been taken to address conditions in the east plume for the past two years, and that no action had been taken to investigate and remediate the west plume. She said that the Department had authority to refer violations of S. 292.11, Wis. Stats., to the Department of Justice.

Buck Sweeney said that the April 23<sup>rd</sup> Notice of Violation had falsely stated that the Village did not respond to the Department's requests to investigate the West Plume. He said that Earth Tech had responded to requests for further investigation via e-mail and letter, indicating that the Village did not believe it was responsible for investigating contamination located on the Ozaukee Real Estate ("ORE") Association site.

Sweeney said that there was TCE in the west plume, but there was no evidence that TCE was used at the ORE site. He said that the owners of Milwaukee Sign (who leased the site from ORE) were convinced that the property was not the source of the plume containing TCE.

Sweeney said that the Village was interested in redeveloping the property as a Brownfield, and had asked Earth Tech to develop a plan that would meet the DNR's expectations and allow the Village to proceed with redevelopment.

B.J. LeRoy and Sweeney said that the Village had provided municipal water to home owners whose drinking water wells were contaminated by the west plume. LeRoy said that the potable wells had been helpful in determining the southern edge of the plume. He said that the wells were abandoned, and that Earth Tech was proposing to install a new monitoring well to define the southern boundary of the west plume.

John Feeney said that Earth Tech should collect soil borings directly from the ORE property. Sweeney said that the Village was proposing to raze the building on the property, and redevelop the property using SAG grants and other money available for Brownfield's development. Sweeney said they were going to talk with the Department of Commerce to find out if they qualified for additional money; Walt Ebersohl said he would let Sweeney know if DNR Brownfield's staff were aware of other funding sources. Feeney said that if the building's concrete slab was destroyed, additional contamination might be released. Sweeney said it might be feasible to retain the cap. He said that Earth Tech could conduct geo-probes on the ORE property, but that they would need to work with ORE to secure access. Feeney said he would review DNR files for the names of any ORE contacts for the site. He said that if he found any, he would provide the name(s) to Sweeney. Judy Ohm said that if ORE denied access, she would assist Sweeney in securing access. Sweeney said that the Village would need a chance to review and approve a sampling plan for the ORE site before it could be sent to the DNR. David Murphy said that the Village could complete the review in time to allow submittal by the end of July. LeRoy said he would submit a new sampling plan for the west plume to the DNR, along with a brief summary of the historical investigation of the site, by July 31<sup>st</sup>.

Ohm said that the Department would like to review the documents from the negotiation and recovery process, under s. 292.35, Stats., including the agreements that the Village signed with all of the PRPs that entered into the municipal negotiation/cost recovery process. She said that she would check with Marie Stewart of the Bureau for Remediation and Redevelopment Fiscal and Information Technology Section to see if the Department had any of the documents. Sweeney said he would provide the documents to Ohm if she was unable to locate them.

Feeney said he had not received any data for samples collected in 2005 or 2006. LeRoy said that he had not done any sampling in 2005, because he had made an argument for natural attenuation in the report he submitted to the DNR in 2005. LeRoy said that he stopped sampling, waiting to hear from the Department, but since he did not hear back, he resumed sampling in 2006. He is currently only sampling for VOCs. LeRoy responded to Department requests installation for additional monitoring wells to define

the vertical extent of contamination in the east plume, due to increasing concentrations of trichloroethylene at PW8B. LeRoy said that Sigma can't find suitable locations for additional wells. He said that increasing concentrations of vinyl chloride demonstrate that natural attenuation is working and that trichloroethylene at PW8B is breaking down. LeRoy said that the 2006 report and data for the east plume is currently under review by the Village, and will be submitted to Feeney by June 30, 2007. LeRoy will also include recommendations for additional sampling of the east plume with the submittal.

Ebersohl said that it would be very unusual for the Department to not respond to a request for review, if it was submitted along with a review fee. (*Under NR 749.04 (1), Wis. Adm. Code, when a person requests the department to review a document listed in Table 1, the person requesting this assistance shall pay to the department the applicable fees....Appropriate fees shall accompany all requests for specific department assistance. Department assistance will not be provided unless the applicable fee accompanies the request for assistance....*) LeRoy said he would check his records and see whether the company had submitted a review fee with the report, and would submit the information to Feeney.

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Sincerely,



Pat Chung  
Environmental Enforcement  
Southeast Region

cc: John Feeney – SER  
Judy Ohm – LS/5  
Walt Ebersohl - SER  
Earth Tech  
Village of Grafton