

John Feeney - Plymouth



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Matthew J. Frank, Secretary

101 S. Webster St.  
Box 7921  
Madison, Wisconsin 53707-7921  
Telephone 608-266-2621  
FAX 608-267-3579  
TTY Access via relay - 711

RECEIVED  
JUN 22 2009  
PLYMOUTH DNR

June 19, 2009

Dr. Steven Schultz  
38951 N. Blue Spruce Ct.  
Wadsworth, IL 60083-9573

SUBJECT: Final Request for Access to Grafton Dells River Park Property to Investigate Potential Contamination from Off-site Source, File Reference BRRTS #0246549906.

Dear Dr. Schultz:

You and I discussed the above-referenced subject by telephone on June 3. As you know from my previous letters to you, dated December 19, 2008, and April 30, 2009, the Wisconsin Department of Natural Resources ("DNR") has determined that it is necessary to install at least one groundwater monitoring well on the Grafton Dells River Park property ("Grafton Dells") in order to conduct additional investigation to determine the degree and extent of groundwater contamination migrating onto Grafton Dells from the Milwaukee Sign Property (the "West Plume" contamination). The purpose of this letter is to emphasize that this situation needs to be resolved by July 17, 2009.

DNR understands that you are concerned about the potential results of the groundwater monitoring, which would be conducted by Earth Tech, Inc., on behalf of the Village of Grafton ("Village"). You expressed concern that contamination could be discovered that is not readily attributable to the West Plume contamination and asked DNR to ensure that Grafton Dells would not be held liable for any such contamination.

As I told you on the phone, DNR staff (John Feeney of the Southeast Region) does not anticipate finding groundwater contamination beyond what is attributable to the West Plume contamination. DNR obviously cannot predict what sort of additional contamination might be found nor can we predict whether additional investigation would be required and, if so, by whom. As I told you, DNR could require Grafton Dells to conduct additional investigation of new contamination that is not readily attributable to the West Plume contamination. You would have the option, as property owner, to demonstrate to DNR's satisfaction that the contamination migrated onto your property from another off-site source (other than the West Plume), in which case you would be eligible for the off-site liability exemption under s. 292.13, Stats. However, as we have discussed, a condition of being eligible for the exemption is to allow access to DNR, the responsible parties and their consultants.

DNR must ensure that the degree and extent of the West Plume contamination is determined and addressed. DNR has been patient thus far and has addressed your concerns about access to your



property in a thorough manner. The investigation must proceed. You must either grant or deny access in writing to the Village's consultant, Mr. B.J. LeRoy, with a copy to John Feeney, by July 17. If you deny access, DNR will conclude that you have exercised "possession and control" over the hazardous substance discharge on the Grafton Dells property and are liable for investigating and cleaning up the contamination. In the alternative, DNR will obtain a special inspection warrant to conduct the investigation itself and then seek cost recovery against you for our costs.

Thank you for your cooperation with the Department in addressing the contamination.

Sincerely,

A handwritten signature in cursive script that reads "Judy Mills Ohm".

Judy Mills Ohm  
Attorney  
(608)266-9972

c: John Feeney—SER

B.J. Le Roy, Earth Tech