

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
101 S. Webster Street
Box 7921
Madison WI 53707-7921

Scott Walker, Governor
Cathy Stepp, Secretary
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April 19, 2017

BRRTS: 02-53-550524
Casetrack ID#2016-SCEE-030
Richland County

William J. Bartlett
Bartlett Business Ventures, LLC
711 S. Church Street
Richland Center WI 53581

Subject: Administrative Order

Dear Mr. Bartlett:

Enclosed is an Administrative Order issued by the Department of Natural Resources (department) under the authority of s. 292.11, Wis. Stats. The Order requires that by June 15, 2017, Bartlett Business Ventures is to retain a consultant and submit a site investigation work plan for the Weber's Dry Cleaning property located at 711 S. Church Street, Richland Center.

If you wish to contest this Order, please refer to the notice at the end of the Order.

If you have any questions, please contact Pam Buss, Environmental Enforcement Specialist, at 608-279-5219.

Sincerely,



Steven L. Sisbach, Section Chief
Environmental Enforcement and Emergency Management
Bureau of Law Enforcement

cc: Jeff Ackerman – SCR
Jessica Kramer – LS/8
Darsi Foss – RR/5

**BEFORE THE
STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES**

**In the Matter of the Alleged Discharge of a) Administrative Order No 2016-SCEE-030
Hazardous Substance on property operated by) BRRTS #: 02-53-550524
Bartlett Business Ventures located at 711 S.)
Church Street, Richland Center, Richland)
County, Wisconsin**

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ADMINISTRATIVE ORDER

The following constitutes a summary of the Findings of Fact and Conclusions of Law upon which the Department of Natural Resources (department) bases Administrative Order No. 2016-SCEE-030.

FINDINGS OF FACT

The department finds that:

1. Bartlett Business Ventures, LLC operates Weber's Dry Cleaning at 711 S. Church Street, Richland Center, Richland County, Wisconsin (Site). William J. Bartlett is the registered agent for Bartlett Business Ventures, LLC (Respondent).
2. On October 21, 2007, William J. Bartlett notified the department of tetrachloroethene (PCE) soil and groundwater contamination at the Site.
3. Soil and groundwater samples taken in 2007 showed elevated concentrations of tetrachloroethene (PCE) in two soil borings indicating a discharge of a hazardous substance. No soil vapor samples were collected. Based on the hydrogeology of the site and the concentrations of PCE in groundwater, the plume of contaminated groundwater has probably migrated off the site in a westerly direction.
4. There is an apartment located above the dry cleaning business. It is unknown whether or not the apartment is currently occupied. Vapors, including PCE and its breakdown products, may be present in the breathing space of the apartment, possibly as a result of vapor intrusion of soil vapors and/or from the existing dry cleaning operations.
5. On November 14, 2007, a responsible party letter was sent to the Respondent. The letter described the Respondent's responsibilities under ch. 292, Wis. Stats. The letter required that the Respondent retain a qualified consultant within 30 days. The letter also required a work plan be submitted to the Department within 60 days. The Respondent failed to meet either deadline. The Respondent also did not meet the deadlines specified in the November 14, 2007 letter and therefore continues to remain in noncompliance.

6. In 2008, the Respondent applied for, and was accepted into the Drycleaner Environmental Reimbursement Fund (DERF) program. With the exception of the deductible, the Respondent's costs for the necessary response actions at the Site are eligible for reimbursement under this program. There is a provision in s. 292.65 (8) (g), Wis. Stats., that the deductible may be waived in whole or in part by the department. The department may place a lien on the property for the cost of the deductible with the property owner's permission. The Respondent would need to initially pay for the response action costs, and then be reimbursed through the program for eligible costs.
7. In 2010, the Respondent had three separate companies prepare Wis. Admin. Code § NR 716 Site Investigation Work Plan proposals. The department spoke with the Respondent about the scope and costs of the proposals and the Respondent agreed to select a consultant. The Respondent did not select any of the companies, nor did he hire any other consultant.
8. On July 9, 2014, the department spoke with the Respondent by telephone to inquire about progress. The Respondent stated he had purchased the property on land contract and funding the investigation was an issue. The department stated that the Respondent should start to take some action on the case by the end of 2014.
9. On December 4, 2014, the department spoke with the respondent by telephone to inquire about progress. William J. Bartlett agreed to submit semi-annual progress reports that are required by Wis. Admin. Code § NR 700.11(1), but has failed to do so.
10. On July 16, 2015, the department offered William J. Bartlett the opportunity to complete the required paperwork for the department's "Ability to Pay" process to determine if he had sufficient resources to proceed in the DERF program. Bartlett did not respond.
11. During or prior to early February 2016, the Respondent listed the property for sale.
12. On February 11, 2016, the department sent the Respondent a Notice of Noncompliance letter in which the Department reminded the Respondent of the obligation to restore the environment and requested that the Respondent determine the extent of contamination. The department stated their intention of proceeding with formal enforcement if progress was not made. The Respondent still had not submitted the name of his consulting firm; had not submitted a site investigation scope of work as required by Wis. Admin. Code § NR 700.11 no later than 60 days after the initial notification from the department; and did not initiate the field investigation within 90 days of submittal of the SI scope of work as required in Wis. Admin. Code § NR 716.11(2g).
13. On February 29, 2016, Bartlett responded to the notice of noncompliance with a letter, which the department received on March 3, 2016. Bartlett's response stated that Phase I and Phase II studies were done prior to Bartlett's purchase of the property. Bartlett's response stated Bartlett purchased the property knowing there were low levels of contamination.
14. Bartlett requested Ability to Pay paperwork be resent, and that paperwork was resent to him on March 4, 2016.

15. On March 4, 2016, the department contacted Bartlett. Bartlett claimed a lack of resources for the clean-up and stated that the Ability to Pay paperwork had been lost. The department emailed the Ability to Pay paperwork requesting a response by March 24, 2016. Bartlett did not respond.
16. On July 11, 2016, a Notice of Violation letter, which requested the Respondent attend an August 5, 2016 enforcement conference, was sent to the Respondent. The certified letter was signed for by Pam Kramer on July 13, 2016. The Respondent did not attend the August 5, 2016, enforcement conference.
17. The department has not received any response from the Respondent regarding the August 5, 2016, enforcement conference

CONCLUSIONS OF LAW

The department concludes that:

1. The drycleaning solvent, tetrachloroethene, and its associated breakdown products are "hazardous substances" as defined by §. 292.01(5), Wis. Stats.
2. Section 292.01(13), Wis. Stats., defines a "person" as an individual, owner, operator, corporation, partnership, association, municipality, interstate agency, state agency or federal agency.
3. Section 292.11(3), Wis. Stats., requires a person who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance to take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge to the air, lands or waters of the state pursuant to §. 292.11(3), Wis. Stats.
4. Bartlett Business Ventures operating as Weber's Dry Cleaning knowingly purchased the contaminated dry cleaning Site. Bartlett Business Ventures is responsible for the hazardous substances at the Site. Under §. 292.11, Wis. Stats., Bartlett Business Ventures is required to take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge to the air, lands or waters of the state.
5. Under §. 292.94 Wis. Stats., the department may assess and collect fees from a person who is subject to an order or other enforcement action for a violation of §§. 292.11 or 292.31, Wis. Stats., to cover the costs incurred by the department to review the planning and implementation of any environmental investigation or environmental cleanup that the person is required to conduct.
6. Under §. 292.11, Wis. Stats., the department has the authority to issue Special Orders to the person possessing or controlling a hazardous substance that has been discharged, or who caused the discharge, to fulfill the duty imposed by §. 292.11, Wis. Stats., and chs. NR 700 to 726, Wis. Admin. Code.

7. This Order is necessary to accomplish the purposes of §. 292.11, Wis. Stats., and chs. NR 700 to 726, Wis. Admin. Code, and is enforceable through prosecution by the Attorney General under §§. 299.95 and 299.97, Wis. Stats., and ch. NR 728, Wis. Admin. Code.

**ADMINISTRATIVE ORDER
COMPLIANCE MEASURES FOR SITE INVESTIGATION REPORT, REMEDIAL
ACTION, AND REPORTING**

Based on the foregoing Findings of Fact and Conclusions of Law, the Department of Natural Resources (department) orders Bartlett Business Ventures to complete the following schedule of actions within the times specified:

1. Conduct all the necessary response actions in accordance with Wis. Stats. ch. 292 and the Wis. Admin. Code NR 700 rule series.
2. Hire an environmental consultant and submit written verification to the department that you have hired an environmental consultant by May 15, 2017.
3. Provide the department with a Site Investigation Workplan prepared by the environmental consultant by June 15, 2017.
4. By August 15, 2017, submit a complete Site Investigation Report to the department outlining the findings of the site investigation in compliance with the requirements of §. NR 716.15, Wis. Admin. Code. The Site Investigation Report shall include a discussion of potential remedial actions at the Site.
5. If the department requires modification of the Site Investigation Report, the consultant shall modify the Site Investigation Report to address the department's comments and resubmit the report to the department within thirty (30) calendar days after receipt of the department's notification. The department may place conditions on the approval of the Site Investigation Report.
6. Within 60 days after receiving departmental approval of the site investigation report, submit to the department for approval a minimum of three and a maximum of six bid proposals for remedial action consistent with ch. NR 722, Wis. Admin. Code. The bid proposals shall be based on the site investigation report approved for the site and shall be submitted on a form provided by the department. All bids received shall be submitted to the department.
7. Unless directed otherwise in writing by the department, submit progress reports every six (6) months in accordance with §. NR 700.11, Wis. Admin. Code.
8. The Respondent shall be responsible for complying with all applicable federal and state requirements. The Respondent shall be responsible for obtaining all federal, state, and local permits or licenses, which are necessary for the performance of this Order.

- 9. The Responsible party shall pay a fee consistent with ch. NR 749 Wis. Admin. Code and § 292.94, Wis. Stats. for department review and/or technical assistance requested by the Respondent or required by the department under the provisions of this Order. The department agrees to provide all technical comments in writing to both the Respondent and consultant.
- 10. In accordance with Wis. Admin. Code § NR 700.11 the Respondent shall provide at least one paper copy and one electronic/digital copy of each report, plan or other submittal required by this Order. Mail or deliver copies of each report, plan or other submittal required by this Order to the following address:

Wisconsin Department of Natural Resources
 Fitchburg Service Center
 Attn: Jeff Ackerman
 3911 Fish Hatchery Road
 Fitchburg, WI 53711

NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that the Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions must be filed. For judicial review of a decision pursuant to sections 227.52 and 227.53, Wis. Stats., you have thirty (30) days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review must name the Department of Natural Resources as the respondent.

To request a contested case hearing pursuant to section 227.42, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources. All requests for contested case hearings must be made in accordance with section NR 2.05(5), Wis. Admin. Code, and served on the Secretary in accordance with section NR 2.03, Wis. Admin. Code. The filing of a request for a contested case hearing does not extend thirty (30) day period for filing a petition for judicial review.

STATE OF WISCONSIN
 DEPARTMENT OF NATURAL RESOURCES

For the Secretary
 By:



 Steve Sisbach, Section Chief
 Environmental Enforcement and Emergency Management
 Bureau of Law Enforcement

4-19-17

 Date