

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Matt Frank, Secretary
Ronald W. Kazmierczak, Regional Director

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January 3, 2008

Mr. Steven Lee
1958 Comanche Lane
Oshkosh, WI 54901

Mr. Chadd & Mrs. Tonya Huisman
Huisman Homes, LLC
3342 Louise Court
Oshkosh, WI 54901

SUBJECT: Liability Exemption (**BRRTS #07-71-550726**) for groundwater contaminated by an off-site source of contamination located at Nonweiler Property, 3321-3341 County Road A, Oshkosh, Wisconsin
WDNR BRRTS ID # 02-71-000684

Dear Mr. Lee & Mr. & Mrs. Huisman:

Purpose

The Department of Natural Resources ("the Department") has recently reviewed your request for an off-site exemption letter for the property located at the intersection of County Road A and Ridge Lane (Lot 1 CSM 5074 DOC 1194558 R of D; and highlighted on the attached survey map), which will be referred to in this letter as "the Property." You have requested that the Department determine that you as the property owner are exempt from ss. 292.11(3), (4) and (7)(b) and (c), Wis. Stats. (commonly known as the "Hazardous Substance Spill Law"), with respect to the existence of a hazardous substance in the groundwater that you believe is migrating onto the Property from an off-site source.

As you are aware, s. 292.13(2), Wis. Stats., requires the Department to issue upon request, a written determination regarding a liability exemption for a person who possesses or controls property that is contaminated by an off-site source, when certain conditions are met. In order to make this determination, the Department has reviewed information about the Property including soil and groundwater sampling data for the Property contained in the following documents:

- Recent lab data provided via email from Alpha Terra Science on 1/3/08.
- Historical case file for the source property, BRRTS #02-71-000684

Background

The Department considered the documents listed above in making the determinations presented in this letter. A chlorinated solvent plume is present in groundwater and concentrated in the storm sewer lateral of the source property at 3321 County Road A and northwest of your property. The cause of the past release has never been determined however, remediation efforts continue now that the major extent of the plume has been defined. In January 2007, the responsible party and their consultant began a pilot injection program to remediate the groundwater. Your property has no soil contamination, but some groundwater contamination. The concentrations of the various contaminants on your property are not unusual in this neighborhood, and do indicate that chemical degradation is occurring. The continued monitoring of the wells located on your property play a critical role in observing the effects of this cleanup plan.

Determination

Based upon the available information and in accordance with s. 292.13(2), Wis. Stats., the Department makes the following determinations regarding the presence of Trichloroethylene, 1,2 cis Dichloroethylene, and Vinyl Chloride contamination in the groundwater as indicated by a recent map provided by Alpha Terra Science (Figure 1) on the Property:

1. The hazardous substance discharge originated from a source on property that is not possessed or controlled by Mr. Steven Lee.
2. Mr. Steven Lee did not possess or control the hazardous substance on the property on which the discharge originated.
3. Mr. Steven Lee did not cause the discharge.
4. Mr. Steven Lee will not have liability under the Hazardous Substance Spill Law for investigation or remediation of the soil, sediment or groundwater contamination originating from off-site onto the Property, provided that Mr. Steven Lee does not take possession or control of the property on which the discharge originated.

Exemption Conditions

The Department's determination, as set forth in this letter, is subject to the following conditions being complied with, as specified in ss. 292.13(1) and (1m), Wis. Stats:

1. The facts upon which the Department based its determination are accurate and do not change.
2. Mr. Steven Lee agrees to allow the following parties to enter the Property to take action to respond to the discharge: the Department and its authorized representatives; any party that possessed or controlled the hazardous substance or caused the discharge; and any consultant or contractor of such a party.
3. Mr. Steven Lee agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge.

4. Mr. Steven Lee agrees to any other condition that the Department determines is reasonable and necessary to ensure that the Department and any other authorized party can adequately respond to the discharge.

The Department may revoke the determinations made in this letter if it determines that any of the requirements under ss. 292.13(1) or (1m), Wis. Stats., cease to be met.

Future Property owners are eligible for the exemption under s. 292.13, Wis. Stats., if they meet the requirements listed in that statute section. The determinations in this letter regarding a liability exemption, however, only apply to Mr. Steven Lee, and may not be transferred or assigned to other parties. The Department will provide a written determination to future owners of this Property, if such a determination is requested in accordance with the requirements of s. 292.13(2), Wis. Stats.

The Bureau for Remediation and Redevelopment Tracking System (BRRTS) identification number for this activity is included at the top of this letter. The Department tracks information on contaminated properties in a Department database that is available on the Internet at <http://dnr.wi.gov/org/aw/rr/>. (See "BRRTS on the web" under "Contaminated Land Databases".) If you have any questions or concerns regarding this letter, please contact me at (920) 424-0399, by email at kathy.sylvester@wisconsin.gov.

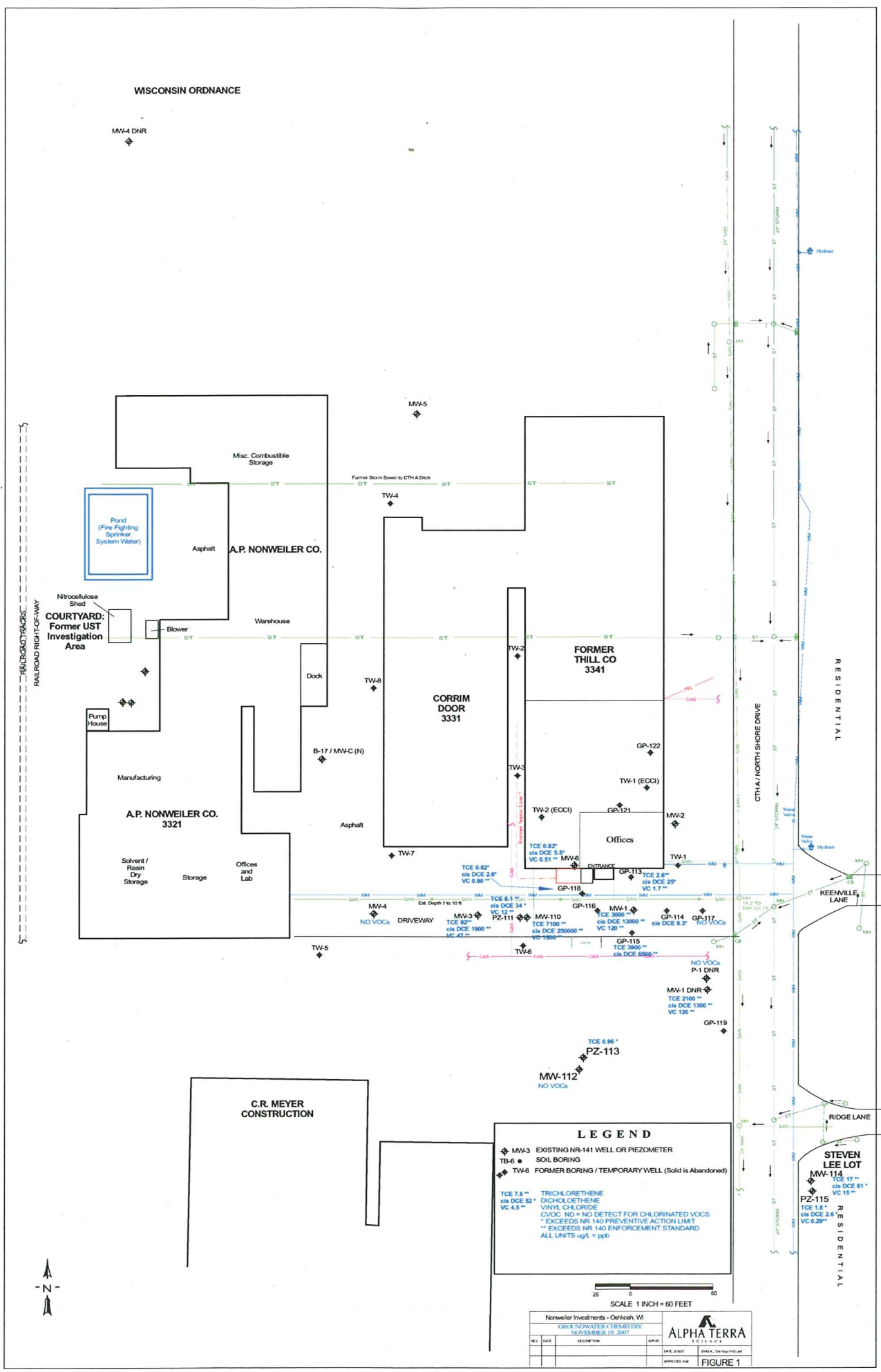
Sincerely,



Kathleen M. Sylvester, Hydrogeologist
Remediation & Redevelopment Program

cc: Case File – OSH
Ken Friedman (fax)
Mary Remillard, ReMax (fax)

WISCONSIN ORDNANCE



LEGEND

- ◆ MW-3 EXISTING NR-141 WELL OR PIEZOMETER
- TB-6 SOIL BORING
- ◆ MW-6 FORMER BORING / TEMPORARY WELL (Solid is Abandoned)
- TCE 7.6" TRICHLOROETHENE
- c/a DCE 52" DICHLOROETHENE
- VC 4.5" VINYL CHLORIDE
- CVOC ND: NO DETECT FOR CHLORINATED VOCs
- ** EXCEEDS NR 140 PREVENTIVE ACTION LIMIT
- *** EXCEEDS NR 140 ENFORCEMENT STANDARD
- ALL UNITS ug/L = ppb

Nonweiler Investments - Oshkosh, WI
GROUNDPATER CHEMISTRY
NOVEMBER 19, 2007

REV	DATE	DESCRIPTION	APP'D

SCALE 1 INCH = 60 FEET

ALPHA TERRA
E.C.C. & C.

DATE PLOTTED: 08/24/2010 10:46 AM
APPROVED: [Signature]

FIGURE 1