

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Matthew J. Frank, Secretary
Gloria L. McCutcheon, Regional Director

Southeast Region Headquarters
2300 N. Dr. Martin Luther King, Jr. Drive
Milwaukee, Wisconsin 53212-3128
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June 11, 2009

Certified No.: 7007 3020 0000 6917 8556

Bella Landscaping
8655 North 43rd Street
Brown Deer, WI 53209

Subject: Responsible Party Letter and Reported Contamination at Bella Landscaping (Former Hillcrest Landscaping Co.), 8655 North 43rd Street, Brown Deer, WI

FID: 341156860
BRRTS: 02-41-550899

Dear Sirs:

On January 23, 2008, Mr. Frank Dombrowski, WE Energies, notified the Department that contamination from the Hillcrest Landscaping property was being discharged onto the WE Energies right-of-way (see enclosed photographs). The analytical results from WE Energies indicates that Aroclor 1254 and 1260 (PCBs), trimethylbenzene (TMBs), naphthalene, xylenes, benzene, and ethylbenzene had been discharge onto their property. On February 5, 2008, the Wisconsin Department of Natural Resources ("the Department") notified Hillcrest Landscaping of their responsibilities for investigating and restoring the environment on the WE Energies right-of-way per Section 292, Wisconsin Statutes, commonly known as the hazardous spills law (see enclosed letter).

On June 4, 2009, the Department sent a certified letter to Hillcrest Landscaping's registered agent Mr. Richard Briere at the 8655 North 43rd Street, Milwaukee address inquiring when the investigation and remediation of both properties would begin. On Jun 11, 2009, I received the returned certified letter marked "Return to Sender Refused Unable to Forward". In researching the known address for the facility, Bella Landscaping is the current owner/occupant of the address this letter is being sent to.

Based on the information that has been submitted to the WDNR regarding this site from WE Energies, we believe you are responsible for investigating and restoring the environment at the above-described site under Section 292.11, Wisconsin Statutes, known as the hazardous substances spills law.

This letter describes the legal responsibilities of a person who is responsible under section 292.11, explains what you need to do to investigate and clean up the contamination, and provides you with information about cleanups, environmental consultants, possible financial assistance, and working cooperatively with the WDNR, Department of Commerce ("Commerce") or the Department of Agriculture, Trade and Consumer Protection.

Legal Responsibilities:

Your legal responsibilities are defined both in statute and in administrative codes. The hazardous substances spill law, Section 292.11 (3) Wisconsin Statutes, states:

- **RESPONSIBILITY.** A person who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall 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.

Wisconsin Administrative Code chapters NR 700 through NR 749 establish requirements for emergency and interim actions, public information, site investigations, design and operation of remedial action systems, and case closure. Wisconsin Administrative Code chapter NR 140 establishes groundwater standards for contaminants that reach groundwater.

Steps to Take:

The longer contamination is left in the environment, the farther it can spread and the more it may cost to clean up. Quick action may lessen damage to your property and neighboring properties and reduce your costs in investigating and cleaning up the contamination. To ensure that your cleanup complies with Wisconsin's laws and administrative codes, you should hire a professional environmental consultant who understands what needs to be done. These are the first steps to take:

1. Within the next **30 days**, by July 13, 2009, you should submit written verification (such as a letter from the consultant) that you have hired an environmental consultant. If you do not take action within this time frame, the WDNR may initiate enforcement action against you.
2. Within the next **60 days**, by August 6, 2009, your consultant should submit a work plan and schedule for the investigation. The consultant must comply with the requirements in the NR 700 Wis. Adm. Code rule series and should adhere to current WDNR technical guidance documents.

In addition, within 30 days of completion of the site investigation, your consultant should submit a site investigation report to the department or other agency with administrative authority.

For sites with petroleum contamination, when your investigation has established the degree and extent of contamination, your consultant will be able to determine whether the Department of Commerce or the WDNR has authority over the case. For agrichemicals, your case will be transferred to the Department of Agriculture, Trade and Consumer Protection for oversight.

Sites where discharges to the environment have been reported are entered into the Bureau for Remediation and Redevelopment Tracking System ("BRRTS"), a version of which appears on the WDNR's internet site. You may view the information related to your site at any time (<http://botw.dnr.state.wi.us/botw/Welcome.do>) and use the feedback system to alert us to any errors in the data.

If you want a formal written response from the department on a specific submittal, please be aware that a review fee is required in accordance with ch. NR 749, Wis. Adm. Code. If a fee is not submitted with your reports, you should proceed under the advice of your consultant to complete the site investigation and cleanup to maintain your compliance with the spills law and chapters NR 700 through NR 749. **Do not delay the investigation of your site by waiting for an agency response.** We have provided detailed technical guidance to environmental consultants. Your consultant is expected to know our technical procedures and administrative rules and should be able to answer your questions on meeting cleanup requirements.

All correspondence regarding this site should be sent to:

Vicky Stovall
WDNR
Remediation & Redevelopment
2300 Dr M L King Drive
Milwaukee, WI 53212

Unless otherwise requested, please send only one copy of plans and reports. In addition to the paper copy, an electronic copy may also be submitted. To speed processing, correspondence should reference the BRRTS and FID numbers (if assigned) shown at the top of this letter.

Additional Information for Site Owners:

We encourage you to visit our website at <http://dnr.wi.gov/org/aw/rr>, where you can find information on selecting a consultant, financial assistance and understanding the cleanup process. You will also find information there about liability clarification letters, post-cleanup liability and more.

If you have questions, call the DNR Project Manager, John J. Hnat at 414-263-8644 for more information or visit the RR web site at the address above.

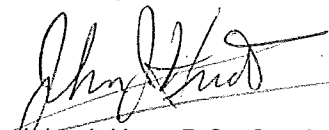
If you need to contact Mr. Frank Dombrowski, WE Energies, you can contact him at:

We Energies
Environmental Dept. - Land Quality Group
333 W. Everett St., A231
Milwaukee, WI 53203
Office: (414) 221-2156
Cell: (414) 587-4467
Fax: (414) 221-2022

Failure to respond to this letter will be viewed as an admission that you do not intend to pursue an investigation and remediation of the contamination associated with the site. In that situation, we will recommend further enforcement actions be initiated. Enforcement actions could include the recording of an affidavit at the Milwaukee County Register of Deeds Office indicating contamination remains, while at the same time issuing an administrative order, or making direct referral to the State Attorney General's Office to recoup our costs, and any associated fees that may have been due. Any referral to the State Attorney General's Office could result in forfeitures.

If you have any questions or comments, please feel free to contact me at the above address or at (414) 263-8644. Please refer to the FID number at the top of this letter in any future correspondence. Future correspondence should be sent directly to the Remediation and Redevelopment Program Assistant Vicky Stovall (414-263-8688) at the above address.

Sincerely,



John J. Hnat, P.G., C.P.G.
Project Manager/Hydrogeologist
Southeast Region
Remediation and Redevelopment

Enclosures:

Responsible Party Letter dated February 5, 2008 to Hillcrest Landscaping
Photographs of discharge

Internet sites for information:

Selecting a Consultant – RR-502 <http://dnr.wi.gov/org/aw/rr/archives/pubs/RR502.pdf>

Option to include with RP letters:
Environmental Services Contractor List – RR-024

<http://dnr.wi.gov/org/aw/rr/archives/pubs/RR024.pdf>

VPLE Fact Sheet #2

<http://dnr.wi.gov/org/aw/rr/archives/pubs/RR506.pdf>

Environmental Contamination Basics, RR-674

<http://dnr.wi.gov/org/aw/rr/archives/pubs/RR674.pdf>

Options to include with RP letters at LUST sites:

Petroleum Environmental Cleanup Fund Award, Information about PECFA Reimbursement, Commerce publication ERS-10083-P (on Commerce web site)

[http://commerce.wi.gov/ERpdf/pecfa/ER-PECFA-ERS10083\(Info\)_REV_7-07.pdf](http://commerce.wi.gov/ERpdf/pecfa/ER-PECFA-ERS10083(Info)_REV_7-07.pdf)

Underground Storage Tanks, Clarifying Local Government Unit's Responsibility to Remove Tanks on Properties They Own, RR-627 (if applicable)

<http://dnr.wi.gov/org/aw/rr/archives/pubs/RR627.pdf>

Options to include with RP letters at Dry Cleaner sites:

Dry Cleaner Environmental Response Fund Program Basics

<http://dnr.wi.gov/org/aw/rr/archives/pubs/RR749.pdf>

C: Frank Dombrowski, WE Energies
Christine Straate, 8655 North 43rd Street, Milwaukee, WI
WDNR SER Files

8655 43rd Street, Brown Deer, WI
Encroachment Site



View to the south, looking towards the west side of 8655 N. 43rd Street lot.
Note fill material and wood debris.



View to the south, west side of 8655 43rd Street lot.
Two building corners visible on the left.

8655 43rd Street, Brown Deer, WI
Encroachment Site



Close up view of the fill material.



View to the southeast, west side of 8655 N. 43rd Street.

8655 43rd Street, Brown Deer, WI
Encroachment Site



View to the southeast, west side of 8655 N. 43rd Street.
Discharge area visible in the center of the photo.



View directly to the east, looking at the west side of 8655 43rd Street.
Discharge area in the middle of the photo.

8655 43rd Street, Brown Deer, WI
Encroachment Site



View to the east from ROW of the discharge area.
Some petroleum odor, and staining of bark and vegetation. No visible oil sheen.



View to the east.
Water in the ditch dug away from the discharge point.

8655 43rd Street, Brown Deer, WI
Encroachment Site



View to the southeast, west side of 8655 N. 43rd Street.
Shows flow of discharge from under the bark and debris to the west, and then southward along east side of ROW.

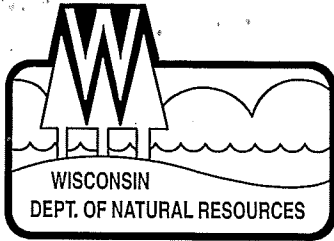


View to the south along east side of ROW.

8655 43rd Street, Brown Deer, WI
Encroachment Site



View to the north, west side of 8655 N. 43rd Street.
Discharge flows from the center of the photo towards the bottom of the photo.



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Southeast Region Headquarters
2300 N. Dr. Martin Luther King, Jr. Drive
Milwaukee, Wisconsin 53212-3128
Telephone 414-263-8500
FAX 414-263-8483
TTY 414-263-8713

February 5, 2008

FID: 341156860
BRRTS: 02-41-550899

Hillcrest Landscaping Co.
Richard Briere, Registered Agent
8655 N. 43rd St.
Brown Deer, WI 53209

Subject: Reported Contamination at Hillcrest Landscaping Co., 8655 N. 43rd St., Brown Deer

Dear Mr. Briere:

On January 23, 2008, Frank Dombrowski, We Energies on behalf of Hillcrest Landscaping Co., notified the Department of Natural Resources (WDNR) that soil contamination had been detected at the site described above.

Based on the information submitted to the WDNR, we believe the Hillcrest Landscaping Co. is responsible for investigating and restoring the environment at the referenced site under Section 292, Wisconsin Stats., known as the hazardous substances spills law.

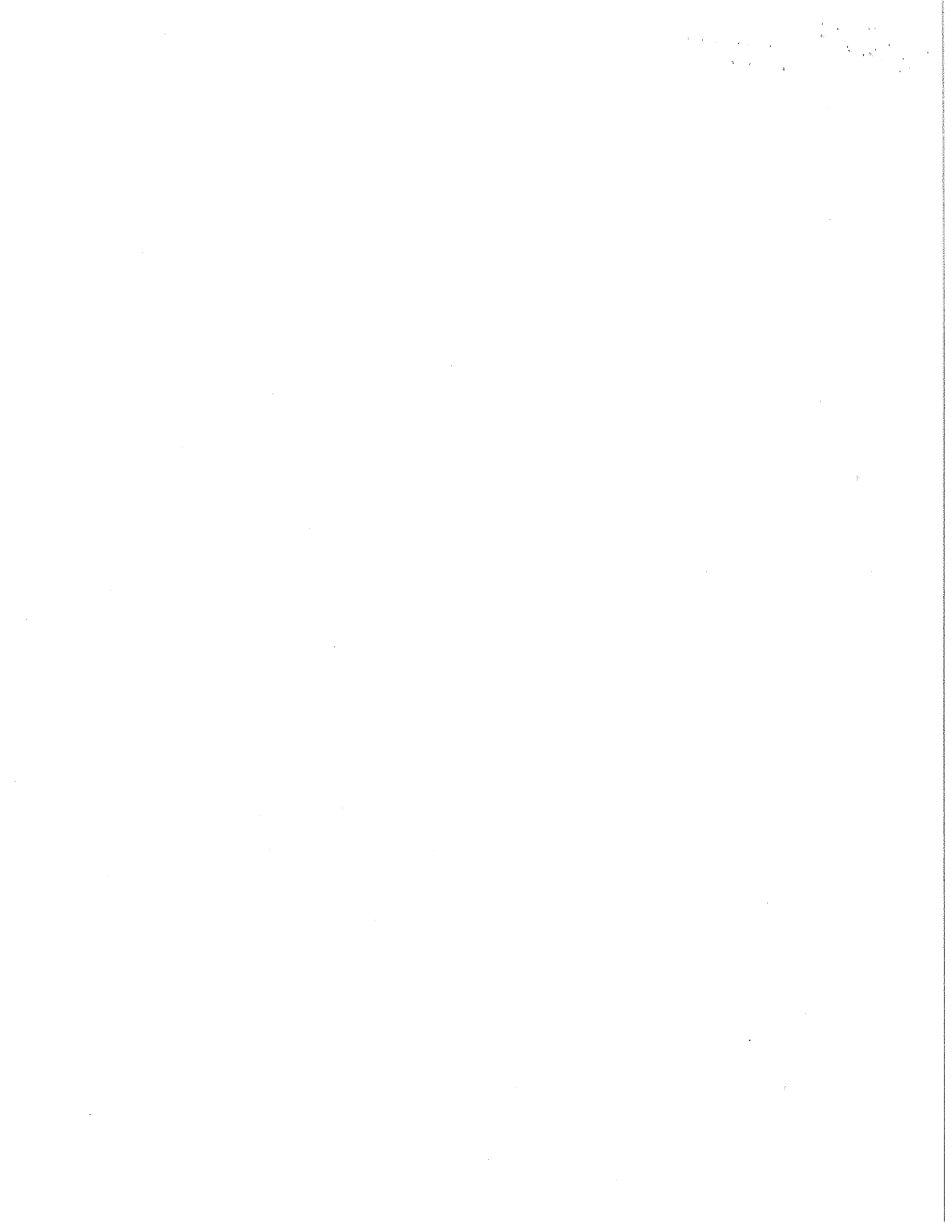
This letter describes your legal responsibilities as a person who is responsible under section 292.11, explains what you need to do to investigate, and clean up the contamination; provides you with information about cleanups, environmental consultants, and possible financial assistance; and working cooperatively with the Department of Natural Resources and Department of Commerce ("Commerce").

Legal Responsibilities:

Your legal responsibilities are defined both in statute and in administrative codes. The hazardous substances spill law, Section 292.11 (3) Wisconsin Statutes, states:

- **RESPONSIBILITY.** A person who possesses or controls a hazardous substance which is discharged or who causes the discharge of hazardous substance shall 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.

Wisconsin Administrative Code chapters NR 700 through NR 749 establish requirements for emergency and interim actions, public information, site investigations, design and operation of remedial action systems, and case closure. Chapter NR 708 includes provisions for immediate actions in response to limited contamination. Wisconsin Administrative Code chapter NR 140 establishes groundwater standards for contaminants that reach groundwater.



Steps to Take:

The longer contamination is left in the environment the farther it can spread and the more it may cost to clean up. Quick action may lessen damage to your property and neighboring properties and reduce your costs in investigating and cleaning up the contamination. To ensure that your cleanup complies with Wisconsin's laws and administrative codes, you should hire a professional environmental consultant who understands what needs to be done. These are the first three steps to take:

1. Within the next **30 days**, you should submit written verification (such as a letter from the consultant) that you have hired an environmental consultant. If you do not take action within this time frame, the WDNR may initiate enforcement action against you.
2. Within the next **60 days**, your consultant should submit a work plan and schedule for the investigation. The consultant must comply with the requirements in the NR 700 rule series and should refer to WDNR technical guidance documents. To facilitate prompt agency review of your reports, your consultant should use the site investigation and closure formats which are available online at www.dnr.state.wi.us.

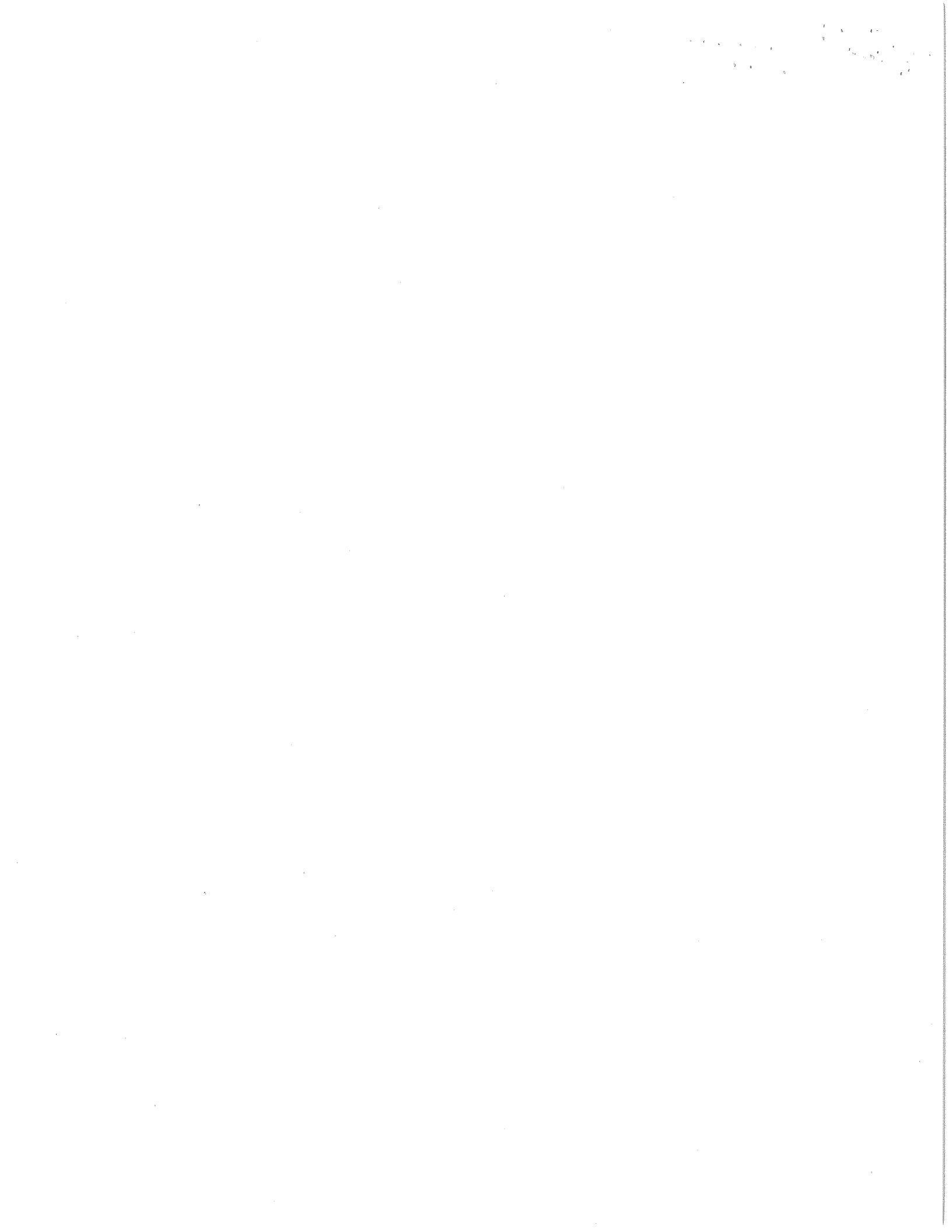
Once an investigation has established the degree and extent of contamination involved at your site, your consultant will be able to determine whether Commerce or the Department of Natural Resources has authority over the case.

3. Within 30 days of completion of the site investigation, you or your consultant must provide a site investigation report per s. NR 716.15. As the remedial activities proceed, you or your consultant should also provide a brief progress report at least every 90 days as required by s. NR 724.13(3), Wis. Adm. Code. Quarterly reports need only include one or two pages of text, plus any relevant maps and tables. Should conditions at your site warrant, we may require more frequent contacts.
4. Sites where discharges to the environment have been reported are entered into the Bureau for Remediation and Redevelopment Tracking System ("BRRTS"), a version of which appears on the Department's Internet site. You may view the information related to your site at any time (<http://www.dnr.state.wi.us/org/aw/rr/brrts>) and use the feedback system to alert us to any errors in the data.

If you want a formal response from the Department on a specific submittal, please be aware that a review fee is required in accordance with ch. NR 749, Wis. Adm. Code. If a fee is not submitted with your reports, you should proceed under the advice of your consultant to complete the site investigation to maintain your compliance with the spills law and chs. NR 700 through NR 749. **Do not delay the investigation of your site by waiting for a Department response.** We have provided detailed technical guidance to environmental consultants. Your consultant is expected to know our technical procedures and administrative codes and should be able to answer your questions on meeting cleanup requirements.

All correspondence regarding this site should be sent to:

Victoria Stovall, Environmental Program Associate
Remediation and Redevelopment Program
Wisconsin Department of Natural Resources
2300 North Martin Luther King Drive
Milwaukee, WI 53212



Unless otherwise requested, please send only one copy of plans and reports. To speed processing, correspondence should reference the BRRTS and FID numbers (if assigned) shown at the top of this letter.

Additional Information for Site Owners:

Information to help you select a consultant, and materials on controlling costs, understanding the cleanup process, and choosing a site cleanup method are enclosed. In addition, *Fact Sheet 2, Voluntary Party Remediation and Exemption from Liability* provides information on obtaining the protection of limited liability under s. 292.15, Stats.

Financial Assistance:

Reimbursement from the Petroleum Environmental Cleanup Fund (PECFA) may be available for some of the costs of cleaning up contamination from eligible petroleum storage tanks. Please refer to the enclosed information sheet entitled "*Information about PECFA*" for more information on eligibility and regulations for this program. For more information on the PECFA program, please call the Department of Commerce at 608-266-2424 or visit their web site at:

<http://www.commerce.state.wi.us/COM/Com-Petroleum.html>. Funding is also available for cleanup at some drycleaning sites.

Please call me at (414) 263-8688 for more information on eligibility or visit the RR web site. <http://www.dnr.state.wi.us/org/aw/rr>. You may also contact me for all other questions regarding this letter.

Thank you for your cooperation.

Sincerely,



Victoria Stovall
Environmental Program Associate
Remediation & Redevelopment Program
Southeast Region

- Enclosures: 1. Selecting a consultant
2. Fact Sheet 2, VPLE
3. Env. Services Contractors List
4. Inf. About PECFA Fact Sheet

cc: Frank Dombrowski – We Energies
Scot Ferguson – Spill Coordinator
WDNR SER Files

