

State of Wisconsin  
DEPARTMENT OF NATURAL RESOURCES  
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October 15, 2013

Charles Cass  
OHM Holdings Inc  
N41 W27760 Ishnala Trails  
Pewaukee, WI 53072

Subject: Reported Contamination at One Hour Martinizing-Elm Grove, 13405 Watertown Plank Rd, Elm Grove, WI  
WDNR BRRTS Activity #02-68-552102  
WDNR FID #268104540

Dear Mr. Cass:

On July 1, 2008, Donald Gallo from Reinhart Boerner Van Deuren, on behalf of OHM Holdings, Inc., Success, Inc. and Charles Cass notified the Wisconsin Department of Natural Resources ("WDNR") that soil and groundwater contamination had been detected at the site described above.

Based on the information that has been submitted to the WDNR regarding this site, we believe OHM Holdings, Inc., Success, Inc. and Charles Cass 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 Safety and Professional Services 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 November 14, 2013, 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 December 16, 2013, 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://dnr.wi.gov/botw/SetUpBasicSearchForm.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:

Victoria Stovall  
Environmental Program Associate  
Remediation and Redevelopment Program  
Wisconsin Department of Natural Resources  
2300 N. Martin Luther King Dr.  
Milwaukee, WI 53212  
[Victoria.Stovall@wisconsin.gov](mailto:Victoria.Stovall@wisconsin.gov)

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.

### **Site Investigation and Vapor Pathway Analysis**

As you develop the site investigation workplan, we want to remind you to include an assessment of the vapor intrusion pathway. Chapter NR 716, Wisconsin Administrative Code outlines the requirements for investigation of contamination in the environment. Specifically, s. NR 716.11(3)(a) requires that the field investigation determine the "nature, degree and extent, both areal and vertical, of the hazardous substances or environmental pollution in all affected media". In addition, section NR 716.11(5) specifies that the field investigation include an evaluation of the "pathways for migration of the contamination, including drainage improvements, utility corridors, bedrock and permeable material or soil along which vapors, free product or contaminated water may flow".

You will need to include documentation with the Site Investigation Report that explains how the assessment was done. If the pathway is being ruled out, then the report needs to provide the appropriate justification for reaching this conclusion. If the pathway cannot be ruled out, then investigation and, if appropriate, remedial action must be taken to address the risk presented prior to submitting the site for closure. The WDNR has developed guidance to help responsible parties and their consultants comply with the requirements described above. The guidance includes a detailed explanation of how to assess the vapor intrusion pathway and provides criteria which identify when an investigation is necessary. The guidance is available at: <http://dnr.wi.gov/files/PDF/pubs/rr/RR800.pdf>.

### **Additional Information for Site Owners:**

We encourage you to visit our website at <http://dnr.wi.gov/topic/Brownfields/>, 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 Jim Delwiche at (262) 574-2145 for more information or visit the RR web site at the address above.

Thank you for your cooperation.

Sincerely,



David Hanson  
Environmental Program Associate  
Remediation & Redevelopment Program

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

Environmental Contamination Basics, RR-674  
<http://dnr.wi.gov/files/PDF/pubs/rr/RR674.pdf>

Dry Cleaner Environmental Response Fund Program Basics  
<http://dnr.wi.gov/files/PDF/pubs/rr/RR749.pdf>

cc: Ted Warpinski – Friebert, Finerty & St. John, S.C.  
Lacey Cochart – WI DNR  
Pamela Mylotta – WI DNR  
→ WI DNR Case File