

## Schultz, Josie M - DNR

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**From:** Ken Ebbott <kebbott@fehr-graham.com>  
**Sent:** Friday, March 1, 2019 8:17 AM  
**To:** Schultz, Josie M - DNR  
**Cc:** Ken Ebbott; 'Jim Mohr'; Dillon Plamann  
**Subject:** Tidy Cleaners Well Locations on Neighboring Property  
**Attachments:** 2019\_0301 14-1144 PROP INVESTIGATION.pdf

Josie,

Good speaking with you earlier this week, and glad you heard from Mr. VanderLeest.

Attached is the map of the existing and proposed well locations- the aerial base map shows the location of the extent of asphalt on the VanderLeest property. As you can see, we had proposed well MW-10 on the asphalt, but we could move it a bit further east and have it in the grass, and I don't think that would be too much different for the project objective of trying to define the extent to the south. We know the groundwater flow is to the east in some capacity, so this shift slightly east should still be downgradient from the drycleaning machine.

Thanks for the contact information for Mr. VanderLeest and his phone number 920-609-8119. I'll mail him this map and call him to see if he has any further concerns.

I don't think I'll try to discuss the off-site liability exemption process at this point in time. Our previous submittal provided that WDNR handout that touches on off-site contamination issues, but I understand it can be confusing for others.

We will need that access agreement form signed and returned to get the work going, but we have driller bids, and can get it scheduled once we have access.

As for a Work Plan- I will send you a bullet list and table of what is planned for the new investigation activities, with method details, and hopefully that can suffice as the Work Plan. We are trying to keep the costs to a minimum and get as much bang for the buck as we can on this project, due to limited resources and the slow reimbursement process of DERF. Hopefully that is OK -

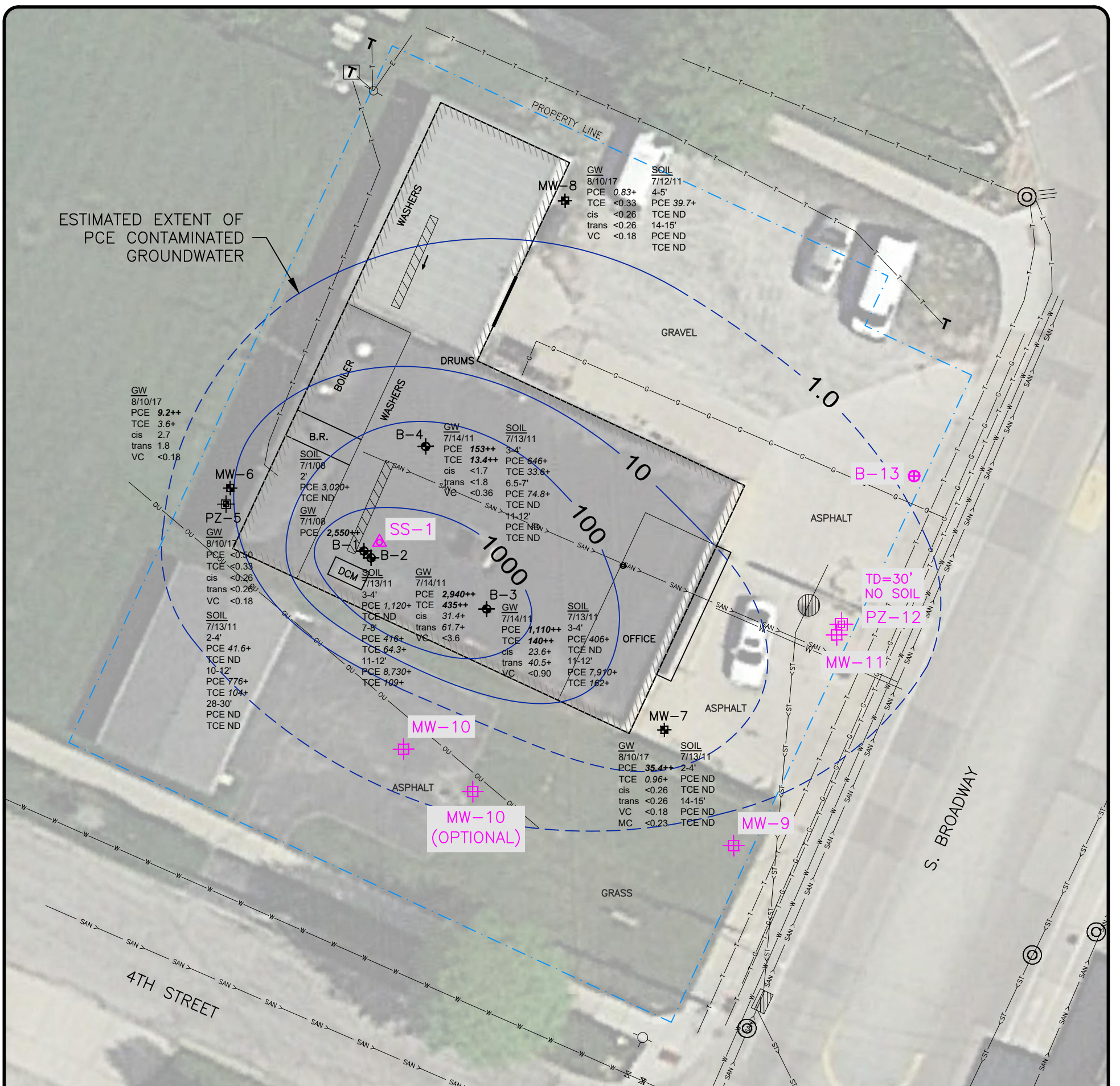
I'll keep you posted on when we plan to drill.

Thanks,

Ken

**KENDRICK EBBOTT, PG | Branch Manager**  
**Fehr Graham | Engineering & Environmental**

909 N. 8<sup>th</sup> Street | Suite 101  
Sheboygan, WI 53081  
P: 920.453.0700  
C: 920-980-4231  
F: 920.453.0750  
[fehr-graham.com](http://fehr-graham.com)



### LEGEND

- ◆ SOIL BORING w/ GRABWATER SAMPLE
- ⊕ MONITORING WELL
- ⊕ PIEZOMETER WELL
- ⊕ PROPOSED SOIL BORING
- ⊕ PROPOSED MONITORING WELL
- ⊕ PROPOSED PIEZOMETER WELL
- ▲ PROPOSED SUB-SLAB VAPOR SAMPLE

- 7/13/11 SAMPLE DATE
- 4-5' SAMPLE DEPTH
- PCE TETRACHLOROETHENE
- TCE TRICHLOROETHENE
- cis cis-1,2-DICHLOROETHENE
- trans trans-1,2-DICHLOROETHENE
- VC VINYL CHLORIDE
- MC METHYLENE CHLORIDE
- ND NO DETECT

- W— WATER MAIN
- <SAN— SANITARY SEWER
- <ST— STORM SEWER
- G— GAS LINE
- T— TELEPHONE LINE
- MANHOLE
- ⊙ WATER VALVE
- ⊗ CATCH BASIN
- ⊙ FLOOR DRAIN

#### SOIL

*ITALICS+* EXCEEDS GROUNDWATER PATHWAY RCL

COMPOUNDS REPORTED IN ug/kg

#### GROUNDWATER

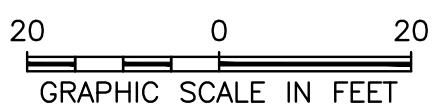
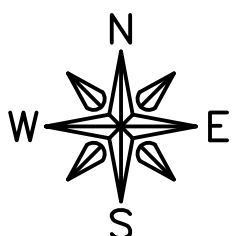
*ITALICS+* EXCEEDS NR140 PREVENTIVE ACTION LIMIT

**BOLD/ITALICS++** EXCEEDS NR140 ENFORCEMENT STANDARD

COMPOUNDS REPORTED IN ug/L

#### NOTE:

- VOC ANALYSES
- SOIL SAMPLES MW-9, 10, 12, 13: 3-4', 11-12', 29-30' (9 TOTAL)
- WELLS TO 14', PIEZOMETER TO 30'
- B-13 TO 12', 1" TEMP WELL FOR GW & UTIL EVAL
- 1 SUB-SLAB VAPOR
- GW CHEM ALL WELLS; TWO EVENTS (18 TOTAL)



**FEHR GRAHAM** ILLINOIS IOWA WISCONSIN  
 ENGINEERING & ENVIRONMENTAL

TIDY CLEANERS  
 818 S. BROADWAY  
 GREEN BAY, WI 54304

DRWN: MKH DATE: 08/29/17 APPD: XXX

TITLE: **PROPOSED ADDITIONAL INVESTIGATION WITH SOIL & GROUNDWATER CHEMISTRY**

BRRTS: 02-05-552220  
 JOB NO.: 14-1144  
 PLOT DATE: 3/1/19

FIGURE: **A**

## Schultz, Josie M - DNR

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**From:** Schultz, Josie M - DNR  
**Sent:** Wednesday, February 27, 2019 12:21 PM  
**To:** 'Ken Ebbott'  
**Subject:** Tidy Cleaners neighbor

Hi Ken,

Roxanne and I had the chance to talk with Vernon VanderLeest, and give him options for what could be done for the wells on his property, and he seemed fairly open to having flush-mount wells in his grass. We told him that you would get in touch with him in regards to how you plan to proceed. His phone number is 920-609-8119. He didn't want to provide us with an email at this time.

After you talk with him, could you please provide me with an updated SIWP and map of proposed boring locations?

Thank you,  
Josie

**We are committed to service excellence.**

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

**Josie M. Schultz**

Hydrogeologist – Northeast Region Remediation and Redevelopment Team

Wisconsin Department of Natural Resources

2984 Shawano Avenue, Green Bay, WI 54313-6727

Phone: 920-662-5424

Cell: 920-366-5685

Josie.Schultz@Wisconsin.gov



## Schultz, Josie M - DNR

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**From:** Schultz, Josie M - DNR  
**Sent:** Monday, February 25, 2019 2:08 PM  
**To:** 'Ken Ebbott'; jmohr5@new.rr.com  
**Cc:** Dillon Plamann  
**Subject:** RE: New DNR Project Manager for Tidy Cleaners

Hi Ken,

Thank you for the update. I'll let you know if I get a call.

-Josie

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Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

**Josie M. Schultz**

Hydrogeologist – Northeast Region Remediation and Redevelopment Team  
Wisconsin Department of Natural Resources  
2984 Shawano Avenue, Green Bay, WI 54313-6727  
Phone: 920-662-5424  
Cell: 920-366-5685  
Josie.Schultz@Wisconsin.gov



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**From:** Ken Ebbott <kebbott@fehr-graham.com>  
**Sent:** Monday, February 25, 2019 2:06 PM  
**To:** Schultz, Josie M - DNR <josie.schultz@wisconsin.gov>; jmohr5@new.rr.com  
**Cc:** Ken Ebbott <kebbott@fehr-graham.com>; Dillon Plamann <DPlamann@fehr-graham.com>  
**Subject:** RE: New DNR Project Manager for Tidy Cleaners

Josie,

Just a quick note to let you know the attached has been sent to the neighbor of Tidy Cleaners seeking permission to drill on his property. They might give you a call if they have questions.

Once we get the permission all set, we can line up the drilling.

Ken

**KENDRICK EBBOTT, PG | Branch Manager**  
**Fehr Graham | Engineering & Environmental**

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**From:** Schultz, Josie M - DNR <[josie.schultz@wisconsin.gov](mailto:josie.schultz@wisconsin.gov)>  
**Sent:** Monday, February 25, 2019 1:10 PM  
**To:** [jmohr5@new.rr.com](mailto:jmohr5@new.rr.com)

Cc: Ken Ebbott <[kebbott@fehr-graham.com](mailto:kebbott@fehr-graham.com)>

Subject: New DNR Project Manager for Tidy Cleaners

Good Afternoon John,

Please find attached to this email the notice of change in project manager for Tidy Cleaners, BRRTS # 02-05-552220.

**We are committed to service excellence.**

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

**Josie M. Schultz**

Hydrogeologist – Northeast Region Remediation and Redevelopment Team

Wisconsin Department of Natural Resources

2984 Shawano Avenue, Green Bay, WI 54313-6727

Phone: 920-662-5424

Cell: 920-366-5685

[Josie.Schultz@Wisconsin.gov](mailto:Josie.Schultz@Wisconsin.gov)





February 18, 2019

RE: Access Agreement for Environmental Testing Work, Tidy Cleaners DERF Site, 818 South Broadway Avenue, Green Bay, WI 54304, BRRTS # 02-05-552220

Dear Mr. Vernon Vander Leest,

Fehr Graham, 909 North 8<sup>th</sup> Street, Sheboygan, Wisconsin has been hired by Tidy Cleaners (Mr. Jim Mohr) to complete additional environmental investigation and remediation activities at the Tidy Cleaners property referenced above.

This work includes a need to obtain groundwater, soil, and potentially vapor samples from the subsurface on your Property. Fehr Graham is the environmental consultant for the project, and we are seeking permission to obtain samples.

The Wisconsin Department of Natural Resources (WDNR) approved site investigation includes the collection of soil samples, the installation of groundwater monitoring wells, followed by monitoring of the groundwater over time from the site monitoring well network. A drill rig will be used to advance augers into the ground on your Property at two locations (MW-9 and MW-10), as shown on the attached map. The removed soil will be drummed and stored on the Tidy Cleaners property, and will be properly discarded.

Two flush-mounted, two-inch diameter PVC monitoring wells will be installed in the eight-inch diameter borings. The wells will be completed flush with the ground surface, with traffic-weight bolted on steel covers that can be driven on.

Upon defining the extent of contamination, the Site Investigation will be complete, and a remedy will likely be proposed to address the drycleaning release that has affected the soil on the Tidy Cleaner property.

All work will be done in conjunction with input from the WDNR. When the groundwater displays stable or declining concentrations of contaminants in groundwater over time, WDNR closure for the project can be pursued. The wells will likely need to remain in place for several years until the conditions for site closure have been met by the Tidy Cleaner site.

We will coordinate the drilling with you to accommodate your schedule and will provide you with copies of the well construction details. When we obtain soil or groundwater samples, we will send you a brief letter with the results from the testing on your property for your records.

Attached is a form the WDNR has prepared that provides permission for access to do this work. The WDNR encourages you to be cooperative with permission for access, and the situation is discussed further in the attached WDNR Publication RR-589. If you have any questions on the need for this work or any other issues, please feel free to contact the WDNR Project Manager for the Tidy Cleaner Site, Ms. Josie Schultz. She can be reached at [josie.schultz@wisconsin.gov](mailto:josie.schultz@wisconsin.gov) or by phone at (920) 662-5100.

February 18, 2019  
Tidy Cleaners, Inc.  
Page 2

Please fill out the missing information on the attached form, sign and return the form to me in the enclosed envelope.

Thank you for your time and cooperation, your help with this matter is appreciated. If you have any questions, please call me at 920.453.0700 or email me at kebbott@fehr-graham.com

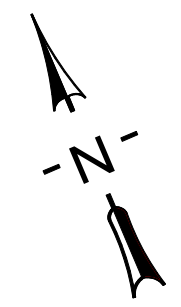
Sincerely,

A handwritten signature in black ink that reads "Kendrick A. Ebbott". The signature is written in a cursive style with a prominent horizontal line at the end.

Kendrick A. Ebbott, P.G.  
Branch Manager

Attachment: Figure A: Proposed Additional Investigation  
RR-589 Publication "When Contamination Crosses the Line"  
Blank Access Agreement for Signature  
Return Envelope

Cc: Ms. Josie Schultz, WDNR, Green Bay, WI 54313 via email only to [josie.schultz@wisconsin.gov](mailto:josie.schultz@wisconsin.gov)



## LEGEND

- B-4 Geoprobe Boring w/ Water Sample
- MW-8 Monitoring Well

**GROUNDWATER**

8/10/17	SAMPLE DATE
PCE	TETRACHLOROETHENE (ug/L)
TCE	TRICHLOROETHENE (ug/L)
cis	cis-1,2-DICHLOROETHENE (ug/L)
trans	trans-1,2-DICHLOROETHENE (ug/L)
VC	VINYL CHLORIDE (ug/L)
<i>ITALICS+</i>	EXCEEDS NR140 PREVENTIVE ACTION LIMIT
<b>BOLD++</b>	EXCEEDS NR140 ENFORCEMENT STANDARD

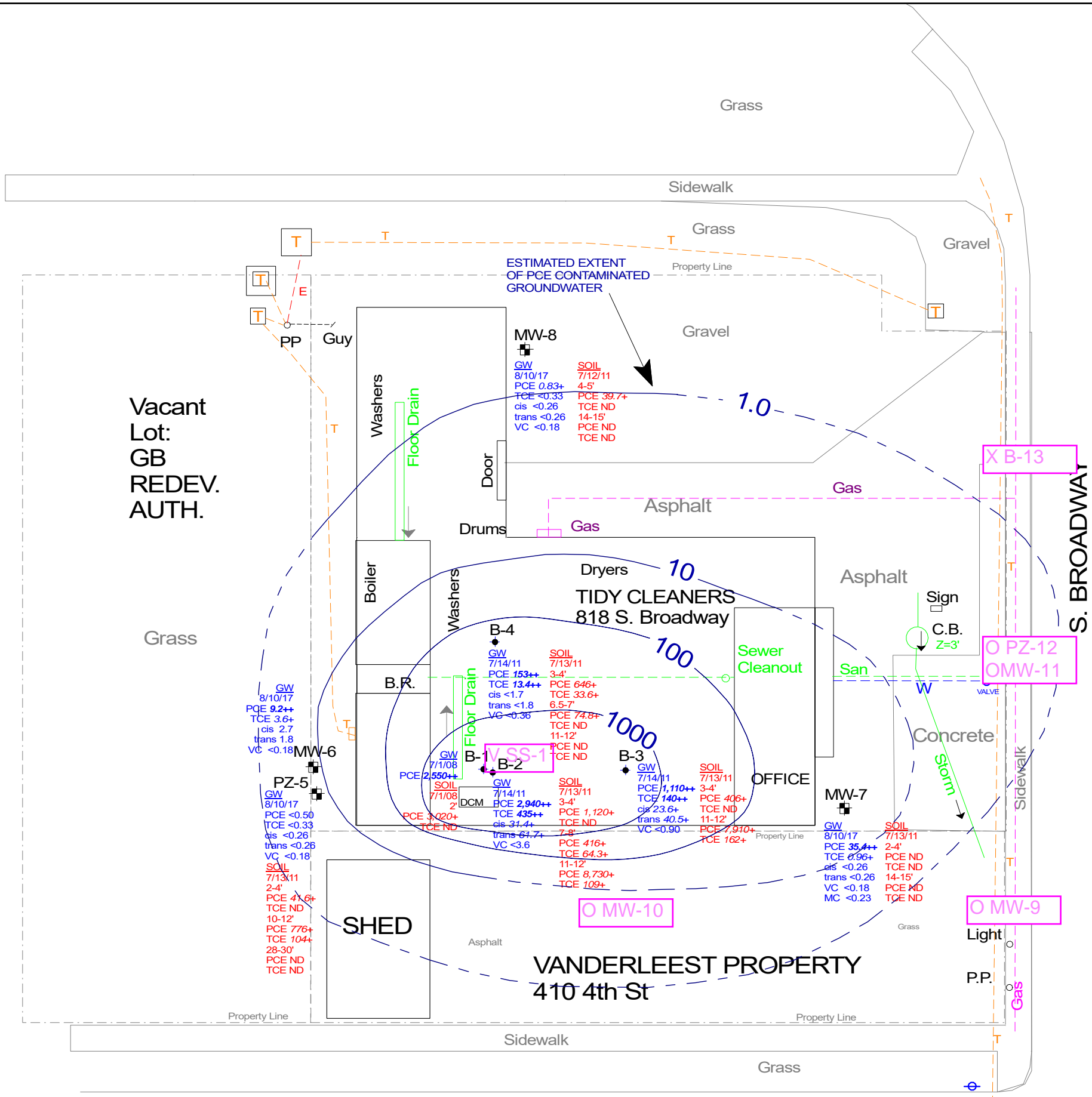
**SOIL**

7/13/11	SAMPLE DATE
3-4'	SAMPLE DEPTH
PCE	TETRACHLOROETHENE (ug/kg)
TCE	TRICHLOROETHENE (ug/kg)
ND	NO DETECT
<i>ITALICS+</i>	EXCEEDS GROUNDWATER PATHWAY RCL

- MW-9 Proposed Well or Piezometer
- ▽ SS-1 Proposed Subslab Vapor Sample
- SS-1 Proposed Soil Boring
- X B-13 Proposed Well or Piezometer

Note: VOC Analyses  
 Soil Samples MW-9, 10, 12, 13 : 3-4', 11-12', 29-30' (9 total)  
 Wells to 14', Piezometer to 30'  
 B-13 to 12', 1" Temp well for GW and utility eval  
 1 Subslab Vapor  
 GW Chem all wells two events (18 total)

SCALE = 1"=20'



Vacant Lot:  
GB REDEV. AUTH.

Grass

ESTIMATED EXTENT OF PCE CONTAMINATED GROUNDWATER

**MW-8**  
 GW 8/10/17  
 PCE 0.83+  
 TCE <0.33  
 cis <0.26  
 trans <0.26  
 VC <0.18  
 SOIL 7/12/11  
 4-5'  
 PCE 39.7+  
 TCE ND  
 14-15'  
 PCE ND  
 TCE ND

GW 8/10/17  
 PCE 9.2+  
 TCE 3.6+  
 cis 2.7  
 trans 1.8  
 VC <0.18  
**MW-6**

GW 7/10/8  
 PCE 2,550+  
 SOIL 7/10/8  
 PCE 3,020+  
 TCE ND  
 SOIL 7/13/11  
 2-4'  
 PCE 41.6+  
 TCE ND  
 10-12'  
 PCE 776+  
 TCE 104+  
 28-30'  
 PCE ND  
 TCE ND  
**MW-5**

GW 7/14/11  
 PCE 153+  
 TCE 13.4+  
 cis <1.7  
 trans <1.8  
 VC <0.36  
**B-1**  
 SOIL 7/13/11  
 3-4'  
 PCE 646+  
 TCE 33.6+  
 6.5-7'  
 PCE 74.8+  
 TCE ND  
 11-12'  
 PCE ND  
 TCE ND  
**B-2**

GW 7/14/11  
 PCE 2,940+  
 TCE 435+  
 cis 31.4+  
 trans 64.7+  
 VC <3.6  
**B-3**  
 SOIL 7/13/11  
 3-4'  
 PCE 1,110+  
 TCE 140+  
 cis 23.6+  
 trans 40.5+  
 VC <0.90  
 SOIL 7/13/11  
 3-4'  
 PCE 406+  
 TCE ND  
 11-12'  
 PCE 7,910+  
 TCE 162+  
**MW-7**

GW 8/10/17  
 PCE 35.4+  
 TCE 0.96+  
 cis <0.26  
 trans <0.26  
 VC <0.18  
 MC <0.23  
**MW-9**

SOIL 7/13/11  
 2-4'  
 PCE ND  
 TCE ND  
 14-15'  
 PCE ND  
 TCE ND  
**MW-9**

**MW-10**

**PZ-12**  
**OMW-11**

**MW-9**

4TH STREET

VANDERLEEST PROPERTY  
410 4th St

TIDY CLEANERS  
818 S. Broadway

S. BROADWAY

TITLE: PROPOSED ADDITIONAL INVESTIGATION			
SITE: Tidy Cleaners Green Bay, WI 54304			
SCALE: 1"=20'	DESCRIPTION: TID-2010-01 14-1144	DATE: 9/19/12	FILE CODE: base map.skf
		DRAWN BY: KAE	FIGURE <b>A</b>





## When Contamination Crosses a Property Line

### The Off-Site Environmental Liability Exemption - Wis. Stat. §§ 292.12 and 292.13 Rights and Responsibilities of Off-site, Affected Property Owners

#### Purpose

This fact sheet summarizes the state's statutory liability exemption for owners of real property affected by environmental contamination migrating from another property. It also explains how contamination from one property can impose health and safety obligations on other properties even when the liability exemption is in effect.

#### Background

It is relatively common to discover that substances used at an older commercial or industrial property have migrated into the soil, surface water and groundwater and have traveled onto a neighboring property. When this occurs, the party responsible for investigating and cleaning up the source of the contamination is required to take action to address health and safety concerns at both the source property and the off-site property.

When contamination from one property crosses a property boundary, Wisconsin law provides an environmental liability exemption to the affected property owner who meets the conditions in the law. The affected property owner is identified as the "off-site" owner in state law, because environmental contamination has moved beyond the source property's boundaries.

The Wisconsin Department of Natural Resources (DNR) will generally not ask off-site, exempt property owners to investigate or remediate contamination that did not originate on their property. A few exceptions to the exemption, related to imminent health and safety threats and long term obligations, are described in the next section.

The statutory off-site exemption is self-implementing and is effective as long as an eligible party meets all the statutory conditions. Property owners and others may request a written exemption determination letter from the DNR for a fee, but this letter is not required to have the exemption protections.

#### Summary of an off-site property owner's rights and responsibilities

Wisconsin law, Wis. Stat. § 292.11(3), requires anyone who causes, possesses or controls a hazardous substance discharge to the environment (i.e. land, air, water) to take action to restore the

environment to the extent practicable and minimize harmful effects. When contamination from one property migrates and affects another property, however, Wisconsin law provides an exemption for an owner (possessor) of the affected, neighboring property from the requirement to take response actions under Wis. Stat. §§ 292.11(3), (4) and (7)(b) and (c). This statutory provision is known as the "off-site liability exemption," and is authorized by Wis. Stat. § 292.13.

#### Related Guidance

- [Off-site Liability Exemption Application \(Form 4400-201\)](#)
- [General Liability Clarification Letters \(RR-619\)](#)
- [Continuing Obligations for Environmental Protection \(RR-819\)](#)
- [Environmental Contamination and Your Real Estate \(RR-973\)](#)

An off-site property owner is someone who owns property affected by soil, groundwater, sediment, soil gas (vapor) or other environmental contamination that originated on another property. The property where the contamination began is known as the source property. An affected off-site property owner is eligible for an off-site liability exemption if all of the following conditions in Wis. Stat. § 292.13 are satisfied, including, but not limited to:

- The off-site property owner did not cause the original discharge of the hazardous substance;
- The off-site property owner did not, and does not, possess or control the hazardous substance that was discharged on the source property;
- The property that contains the source of the migrating contamination is not owned or controlled by the same person or entity that owns the affected off-site property;
- The off-site property owner allows reasonable access to their property, so the DNR and its contractors, along with those responsible for the contamination, can take necessary response actions to protect public health;
- The off-site property owner does not interfere with the response actions of others and does not do anything to make the contamination situation worse;
- The off-site property owner agrees to other conditions that the DNR determines are reasonable and necessary to ensure that response actions are adequate; and
- For soil and sediment contamination, when the responsible party is not responding appropriately to the contamination, the off-site property owner agrees to take actions that the DNR determines are necessary to prevent an imminent threat to human health and safety. For example, taking action to limit public access to the property, installing containment barriers, and addressing fire, explosion and vapor hazards on the property.

### **No Exemption from Reporting Requirements**

The off-site exemption does not exempt an affected property owner from Wis. Stat. § 292.11(2), which requires the immediate notification of identified contamination to the DNR.

### **Limitations of the Exemption**

The off-site exemption is conditional, limited in scope and applies solely to legal responsibilities identified in Wis. Stat. §§ 292.11(3), (4) and (7)(b)(c). The off-site exemption does not exempt a property owner from:

- Wis. Stat. § 292.11(2), which requires the immediate notification of identified contamination to the DNR;
- Wis. Stat. § 292.12, which authorizes the DNR to require continuing public health protection obligations on any property affected by environmental contamination (see page 4 of this fact sheet); and
- Limited, immediate actions, as specified in Wis. Stat. § 292.13(1m)(e). For instance, off-site property owners may be required to address an imminent threat from fire, explosion or vapors if there is not a party responsible for the cleanup who can conduct the actions.

In addition, the off-site liability exemption is not automatically transferable, nor assignable, to future owners of the off-site property. However, it is likely that a new owner could be eligible for the exemption if they meet the conditions in Wis. Stat. § 292.13, including the ability to substantiate that they do not currently, or have ever, owned the source property and did not cause the discharge.

## **Overview of migrating contamination**

Hazardous substances that are spilled or otherwise discharged to the environment can disperse and move around underground. These substances can spread out and migrate, or travel, through the soil into groundwater and nearby lakes and rivers. Gases (vapors) emanating from underground hazardous substances can also make their way upward into houses and other buildings.

When hazardous substances (contamination) move from their starting place (source) and affect the soil, sediment, groundwater or indoor air of an adjacent or nearby property, it is important to accurately determine who is legally responsible for investigating the nature and extent of the contamination, cleaning it up, and mitigating its harmful effects.

## **Discovering contamination from an off-site source**

When a property owner discovers soil or groundwater contamination they believe came from another property, the owner must first notify the DNR of the contamination. The DNR will then work with the owner and potentially responsible parties to ensure appropriate actions are taken to investigate and clean up the contamination to protect health and safety.

## **Migrating contamination and access to property**

Responsible parties are required by state law to investigate and remediate, to the extent practicable, all contamination that migrates within and beyond the boundaries of a source property. If the contamination crosses a property line, the responsible party must investigate where it goes and ask owners of affected, off-site properties for permission to access their properties. Property access is needed so the environmental investigation and cleanup or mitigation work can be completed.

An off-site property owner must allow access to their property to be eligible for the off-site liability exemption. When signing an access agreement, the off-site owners may wish to negotiate with the responsible party on issues such as the work schedule, the restoration of disturbed landscaping, etc.

If the owner of an affected off-site property does not allow the responsible party's environmental consultants or the DNR onto their property, the off-site owner will not qualify for the off-site exemption and the off-site owner may assume legal responsibility for the contamination on their property.

## **Obtaining an off-site liability determination letter from the DNR**

Off-site property owners can request a liability determination letter from the DNR, for a fee, that documents the exemption in writing.

To obtain a letter, the off-site property owner must provide information to demonstrate that there are hazardous substances impacting their property from a source on another property and that all the other conditions for the exemption have been met. The off-site property owner can use the investigation data collected by the responsible party in response to the contamination or an owner of an off-site property may collect their own data to demonstrate the contamination is coming from somewhere else.

### **Requesting a Determination or Clarification Letter**

To obtain an off-site liability determination letter or liability clarification letter, submit the DNR's [Off-site Liability Exemption application, Form 4400-201](#) and the applicable fee. This form includes instructions and describes the information needed by the DNR for a site-specific letter.

## **Obtaining a liability clarification letter from the DNR**

If someone does not meet all the requirements for the exemption, (e.g. a prospective purchaser) and therefore doesn't qualify for an off-site liability determination letter, anyone with an interest in a property that is or may be affected by migrating contamination can still request that the DNR review the site-specific situation and provide a written liability clarification letter for a fee. Liability clarification letters may be helpful when evaluating the potential purchase of a property or when contamination is suspected to be impacting a property.

## **Continuing obligations for the protection of health and safety at off-site properties**

When residual contamination extends across a property line, continuing obligations may also extend onto an affected, off-site property. In these situations, owners of off-site properties may not be legally responsible for responding to the contamination, but they are responsible for complying with the continuing obligations imposed on their property by the DNR or state law to protect health and safety.

Wisconsin, like most states, allows some residual contamination to remain after a cleanup of contaminated soil, vapors, sediment or groundwater has been approved by the state (see Wis. Stat. § 292.12). The removal of all contamination is generally not practicable, nor is it always necessary for the protection of public health and the environment.

When the DNR approves the completion of an interim action, or a remedial action, or issues a case closure letter at a site where residual contamination exists, the DNR may condition or qualify its case closure approval on compliance with continuing obligations at the source property and affected off-site properties to protect public health and the environment.

These continuing obligations are property-specific requirements and restrictions identified in the DNR approval or case closure letter. They are legal responsibilities associated with the source property, and apply to current and future owners of the property. If contamination has migrated off-site, there may be continuing obligations that also apply to off-site, affected properties.

### **Common Continuing Obligations for Source and Affected, Off-site Properties**

One common continuing obligation, for the owners of the source property and affected, off-site properties, is the proper management and disposal of contaminated soil that is excavated. Other continuing obligations and requirements necessary to protect health and safety may include:

- Keeping clean soil and vegetation over contaminated soil;
- Maintaining a cover of pavement, soil, asphalt, etc. over contaminated soil or groundwater;
- Operating and maintaining a vapor mitigation system that is installed by the responsible party;
- Obtaining DNR approval prior to constructing or reconstructing a well at properties with groundwater contamination; and
- Maintaining industrial use for a property that was cleaned up to industrial standards.

Owners of off-site properties are responsible for complying with the continuing obligations imposed on their property by the DNR or state law to protect health and safety, except for those continuing obligations imposed for residual sediment contamination.

## **Notice to Affected Off-site Property Owners of Case Closure Request and Possible Continuing Obligations**

The party responsible for cleaning up contamination must notify affected, off-site property owners of a proposed continuing obligation on their property before the DNR reviews a request for case closure. State law requires this, and it allows the off-site property owners some time to provide the DNR with any technical information that may be relevant to the cleanup approval.

An off-site property owner is, of course, free to discuss responsibility for the proposed off-site continuing obligations with the responsible party. If an off-site property owner enters into a legally enforceable agreement (i.e. a private contract) with the party responsible for the contamination, under which the responsible party assumes responsibility for maintaining a continuing obligation on the off-site owner's property, that agreement must be submitted to the DNR and recorded in the database per Wis. Stat. § 292.12(5)(c).

If the DNR approves a case closure request that includes continuing obligations at an off-site property, the DNR will notify off-site owners of the continuing obligation. A property owner may request modification of a continuing obligation in the future if environmental conditions change. For example, petroleum contamination degrades over time and laboratory test results of new soil, groundwater or vapor samples may support modifying or removing a continuing obligation.

### **Finding information about continuing obligations**

Information about property-specific continuing obligations can be found (as applicable) in the DNR interim action approval letter, the case closure letter for the source property, and in the DNR documents giving notice to off-site property owners. These letters and related documents are available in the DNR database of property cleanup activities.

This database, called [BRRTS on the Web](#), is available at [dnr.wi.gov](http://dnr.wi.gov) (search "BRRTS"). The documents about affected, off-site properties that are associated with a specific source property can be found in BRRTS when you search the site number or address of the property that is the source of the contamination. Property owners, local government officials, building contractors, well drillers and others may review the database to find out if there are any land-use restrictions or continuing obligations associated with a specific property before beginning work there.

### **For more information**

Questions about the off-site environmental liability exemption and continuing obligations can be directed to the brownfields specialist in your local DNR regional office. To find a specialist in your area, go to [dnr.wi.gov](http://dnr.wi.gov) and search "brownfields contacts."

For additional information about off-site contamination and liability clarification letters go to [dnr.wi.gov](http://dnr.wi.gov) and search for "off-site contamination." For additional information about residual contamination and continuing obligations go to [dnr.wi.gov](http://dnr.wi.gov) and search for "continuing obligations."

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This document is intended solely as guidance and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations and is not finally determinative of any of the issues addressed. This guidance does not create any rights enforceable by any party in litigation with the State of Wisconsin or the Department of Natural Resources. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.

The Wisconsin Department of Natural Resources provides equal opportunity in its employment, programs, services, and functions under an Affirmative Action Plan. If you have any questions, please write to Chief, Public Civil Rights, Office of Civil Rights, U.S. Department of the Interior, 1849 C. Street, NW, Washington, D.C. 20240. This publication is available in alternative format (large print, Braille, etc.) upon request. Please call for more information. Note: If you need technical assistance or more information, call the Accessibility Coordinator at 608-267-7490 / TTY Access via relay - 711

ACCESS PERMISSION FORM

I, \_\_\_\_\_, hereby give my permission to Tidy Cleaners environmental consultant, Fehr Graham, employees of the consultant, duly authorized representatives, agents, and contractors rights to enter upon and have access at reasonable times to the following described property, 410 4<sup>th</sup> Street, Green Bay , Brown County, Wisconsin (mailing address of the owner of this property: 745 Circle Hill Lane, Sobieski, WI 54171) for the following purposes:

- 1) To drill and maintain exploratory borings, monitoring wells, and/or vapor probes to collect soil, water, and vapor samples, and to properly abandon borings, vapor probes, and wells;  
and
- 2) To gain access to areas where remedial action or investigative work is to be conducted.

If the property owner wishes to withdraw permission for continued access, the property owner shall notify Fehr Graham of that fact.

When samples are collected on the property described above, a copy of the analytical results will be provided to the property owner.

If groundwater monitoring wells or vapor probes are installed on the property described above, the property owner agrees not to damage, or interfere with the use of any monitoring well or vapor probe that is installed as permitted herein and agrees to notify third parties who have access to the property described above that monitoring wells have been installed on the property.

IN WITNESS WHEREOF:

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Date

745 Circle Hill Lane, Sobieski, WI 54171

\_\_\_\_\_  
Mailing Address of Property Owner

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
E-mail Address (if available)