

**CORRESPONDENCE/MEMORANDUM**

**DEPARTMENT OF JUSTICE**

Date: January 25, 2000

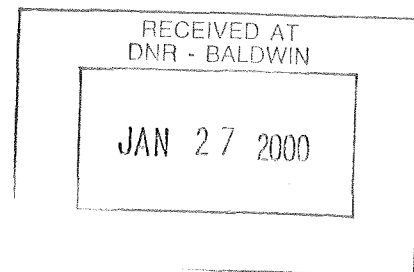
To: Linda Meyer  
Pat Collins  
Department of Natural Resources

From: Cynthia Hirsch, Assistant Attorney General  
Environmental Protection Unit

Subject: Nor-Lake

Attached is a copy of the Amended Stipulation and Order for Judgment, Order for Amended Judgment, and Amended Judgment for your file.

drm  
Attachments



STATE OF WISCONSIN

CIRCUIT COURT

ST. CROIX COUNTY

Nor-Lake, Inc.,

Plaintiff,

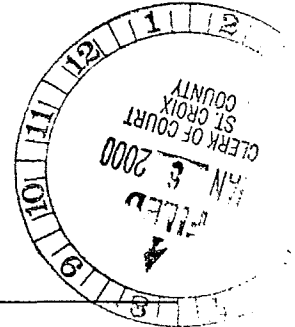
Case No. 94-CV-479

Case Code: 30607

v.

Wisconsin Department of Natural Resources,

Defendant.



**ORDER FOR AMENDED JUDGMENT**

Through its continuing jurisdiction provided by Paragraph 5 of the General Terms of the Stipulation filed on October 19, <sup>1995</sup>~~1999~~, the Court hereby accepts the foregoing Amended Stipulation of the parties, and orders that the judgment dated October 19, <sup>23, 1995</sup>~~1999~~, be and hereby is amended and entered accordingly, pursuant to the terms of the Amended Stipulation. *gn gn*

Dated this 5<sup>th</sup> day of January, 2000.

*[Signature]*  
 HONORABLE SCOTT NEEDHAM  
 St. Croix County Circuit Court

State of Wisconsin  
 County of St. Croix  
 I hereby certify that this document is a full, true and correct copy of the original on file and of record in my office and has been compared by me.  
 Attest 13<sup>th</sup> day of Jan. 20 00  
 Clerk of Court

Lori Meyer Frascht  
*Lori Meyer Frascht / DM*

STATE OF WISCONSIN

CIRCUIT COURT

ST. CROIX COUNTY

Nor-Lake, Inc.,

Plaintiff,

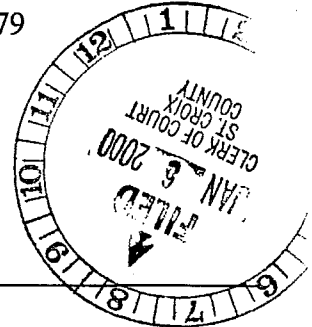
Case No. 94-CV-479

Case Code: 30607

v.

Wisconsin Department of Natural Resources,

Defendant.



**AMENDED JUDGMENT**

An Amended Judgment is hereby entered according to the terms of the Amended Stipulation and Order for Amended Judgment in this matter.

Dated this 11 day of Jan, 2000.

*L. M. Frascht*  
 \_\_\_\_\_  
 Lori Meyer Frascht  
 Clerk of Circuit Court

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State of Wisconsin  
County of St. Croix  
I hereby certify that this document is a full,  
true and correct copy of the original on file  
and of record in my office and has been  
compared by me.

Attest 13<sup>th</sup> day of Jan, 2000  
Clerk of Court

Lori Meyer Frascht  
*Lori Meyer Frascht / DM*

STATE OF WISCONSIN

CIRCUIT COURT

ST. CROIX COUNTY

NOR-LAKE, INC.

Petitioner,

v.

Case No. 94 CV 479

Case Code: 30607

WISCONSIN DEPARTMENT OF NATURAL  
RESOURCES,

Respondent.

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**AMENDED STIPULATION AND ORDER FOR JUDGMENT**

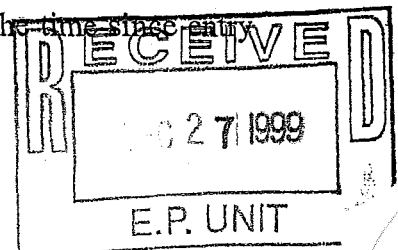
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AMENDED STIPULATION

WHEREAS, Nor-Lake, Inc. (Petitioner or Nor-Lake) brought this Petition for Judicial Review on November 22, 1994, against the Wisconsin Department of Natural Resources (Respondent or the Department) pursuant to the provisions of Ch. 227, Wis. Stats. Petitioner sought relief from Special Order Number WD-94-13 (Order) issued to Petitioner by Respondent on October 27, 1994, on the grounds that the Order was without basis in the administrative agency record, relied upon incorrect application of relevant law, and as a result should be set aside or remanded to Respondent for further proceedings; and

WHEREAS, in October 1995 Petitioner and Respondent entered into a Stipulation and Order for Judgment resolving this matter by agreement, which was approved by the Honorable Judge Scott Needham and on which Judgment was entered on October 23, 1995 ("October 1995 Stipulation"); and

WHEREAS, new facts have arisen and changes have occurred over the time since entry of Judgment on the October 1995 Stipulation; and



WHEREAS, Petitioner and Respondent wish now to enter into an Amended Stipulation and Order for Judgment which recognizes those changed circumstances, by amending the October 1995 Stipulation in the following ways: a) certain of the paragraphs have been satisfied and should be recognized as such; b) certain of the paragraphs should remain unchanged and continue in effect as originally agreed to; c) certain of the paragraphs impose requirements or obligations on Petitioner which represent the most stringent requirements or obligations which may be imposed on Petitioner and which, by agreement of the parties herein, may be varied by Respondent to impose something less stringent in the exercise of Respondent's discretion; and d) certain of the paragraphs establish a term of years which the parties wish now to extend to a new date certain; and

WHEREAS, Petitioner and Respondent agree that this Amended Stipulation and Order for Judgment accurately reflects and contains all the terms of their continuing agreement and replaces the October 1995 Stipulation;

NOW, THEREFORE, PETITIONER AND RESPONDENT HEREBY STIPULATE AND AGREE as follows:

General Terms:

1. This Amended Stipulation has been negotiated and agreed to by and between the parties and constitutes the complete agreement between them.

2. Compliance with the terms of this Amended Stipulation shall constitute full satisfaction of Petitioner's (Nor-Lake, Inc. and its predecessors, successors, assigns, subsidiaries, affiliates, officers, employees, agents, partners and shareholders) obligations to address the matters giving rise to this Amended Stipulation, as defined in Paragraph 6.C. under Specific Terms below, for the period of time described herein.

3. Further action against Petitioner by Respondent with regard to the matters giving rise to this Amended Stipulation shall be limited as more fully described in Paragraph 6. under Specific Terms below.

4. By entering into this Amended Stipulation, Petitioner Nor-Lake does not admit any liability in regard to any of the matters giving rise to this Amended Stipulation. Nothing contained in this Amended Stipulation shall be construed as an admission by Petitioner Nor-Lake of any kind in this or any other administrative or judicial proceeding now pending or hereafter commencing.

5. The Court shall retain jurisdiction over this Amended Stipulation for the purpose of enabling either party to apply for any further order that may be needed to construe, carry out, or enforce this Stipulation.

6. This Amended Stipulation shall continue in effect through December 31, 2008.

7. Judgment on these terms may be entered without further notice to the parties.

Specific Terms:

1. A. Paragraph 1.A.<sup>1</sup> of the October 1995 Stipulation required delineation of an “area of concern” and establishment of monitoring requirements within that “area of concern”.

The requirements in that Paragraph 1.A. are deemed satisfied as follows:

The requirement to delineate an “area of concern” is satisfied as shown by the Area of Concern set forth in Exhibit A to this Amended Stipulation, which delineates the area to be monitored by Nor-Lake. The requirement to establish monitoring requirements within the “area of concern” is satisfied by the schedule called Monitoring within the Area of Concern set forth in Exhibit B to this Amended Stipulation. Exhibit B establishes the initial schedule for monitoring,

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<sup>1</sup> Paragraph references are to paragraphs under Specific Terms unless specified otherwise.

which monitoring is to be implemented in the "area of concern" and may be varied according to the terms of this Amended Stipulation.

B. In addition, new wells installed within the "area of concern" before December 31, 2008 shall be sampled for VOCs by Nor-Lake in compliance with the requirements of Paragraph

4.B. DNR shall send to Nor-Lake a copy of each variance for installation of a new well which is issued to a well owner within the "area of concern", and Nor-Lake shall take all reasonable steps to sample the well within thirty (30) days after its installation.

C. The results of the sampling required under this paragraph (Paragraph 1.) shall be provided to the Department within ten (10) days of Nor-Lake's receipt of the results. All analyses shall be performed by a state certified laboratory.

D. The following VOCs have been identified as "contaminants of concern":

Dichlorofluoromethane	Trichloroethene
Tetrachloroethene	1,1-Dichloroethane
Trans 1,2-Dichloroethene	Cis 1,2-Dichloroethene
1,1,1-Trichloroethane	Trichlorofluoromethane <sup>2</sup>
1,1-Dichloroethene /	Chloroethane
1,2-Dichloroethane	Vinyl Chloride <sup>2</sup>
1,1,2-Trichloroethane	

E. If sample analytical results from new wells, routine monitoring, or the sampling required under this paragraph (Paragraph 1) detect compounds other than those listed above in Paragraph 1.D., the Department shall, after consultation with Nor-Lake, review all relevant data and information concerning those compounds to determine if the compound(s) can be attributed to substances used by Nor-Lake. If so, the Department shall determine if a

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<sup>2</sup> Although vinyl chloride is a breakdown product of tetrachloroethene, it has never been detected in any of the wells Nor-Lake has sampled since 1990; and trichlorofluoromethane has been detected only rarely in those wells. Thus, detection of either vinyl chloride or trichlorofluoromethane may be an indicator of a source of contamination other than Nor-Lake.

modification to the list of "contaminants of concern" is warranted and shall modify the list accordingly. However, Nor-Lake and the Department agree that the terms of this Amended Stipulation apply to the "contaminants of concern" as listed in Paragraph 1.D. regardless of whether or not those compounds are attributed to substances used by Nor-Lake.

F. The requirements and obligations set forth in this paragraph (Paragraph 1.F.) represent the most stringent which may be imposed on Nor-Lake; the Department may exercise its discretion (through communication between the Department and Nor-Lake) to vary these requirements and obligations, on a general or case-by-case basis, so as to impose less stringent requirements or obligations on Nor-Lake:

In the event of a detect of a contaminant of concern below the Preventive Action Limit (PAL), Nor-Lake shall sample the well for these contaminants on a quarterly basis (March, June, September, and December) for a period of at least one year, or Nor-Lake may, at its discretion, provide a permanent water supply replacement for that well. If any of these samples show a VOC listed in Paragraph 1.D. in excess of the PAL, Nor-Lake shall provide a permanent water supply replacement for that well. If after one year of sampling an exceedance of a PAL has not been measured, the Department may reduce the sampling frequency for that well from quarterly to semi-annually or annually, after consultation with Nor-Lake. In the event the sample results for a given well show a detect below the PAL for more than one of the "contaminants of concern" listed in Paragraph 1.D., Nor-Lake shall provide a permanent water supply replacement for that well.



2. At the request of Department staff, Nor-Lake shall allow split or duplicate samples to be taken by the Department during any sample collection conducted by Nor-Lake pursuant to this Order. Nor-Lake shall notify the Department's Western District Office and Baldwin Office by telephone or in writing at least ten (10) business days prior to any planned sampling event.
3. The requirements and obligations set forth in this paragraph (Paragraph 3.) represent the most stringent which may be imposed on Nor-Lake; the Department may exercise its discretion (through communication between the Department and Nor-Lake) to vary these requirements and obligations, on a general or case-by-case basis, so as to impose less stringent requirements or obligations on Nor-Lake:

Upon completion and submittal of the sampling and analysis required in Paragraph 1.A. and the Department's delineation of the "area of concern," Nor-Lake shall implement a bottled water program for the "area of concern" until a more permanent water supply replacement system is implemented. Such program shall insure that individuals whose wells show a sampling result in excess of the PAL for one or more VOCs listed in Paragraph 1.D. shall be given the option of receiving bottled water. Those individuals whose bottled water service is to be discontinued shall be provided 30 days advanced notice so that they may make other arrangements.

4. The requirements and obligations set forth herein in Paragraphs 4.A., 4.B.(1), 4.C.(1), 4.C.(3), and 4.C.(4) represent the most stringent which may be imposed on Nor-Lake; the Department may exercise its discretion (through communication between the Department

and Nor-Lake) to vary these requirements and obligations, on a general or case-by-case basis, so as to impose less stringent requirements or obligations on Nor-Lake:

A. Wells which require a more permanent water supply replacement are those wells within the "area of concern" which have an exceedance of the PAL of one or more of the "contaminants of concern" listed in Paragraph 1.D., or a detect below the PAL for more than one of the "contaminants of concern" listed in Paragraph 1.D.

B. (1) Through December 31, 2008, periodic groundwater monitoring shall be performed by Nor-Lake on wells within the "area of concern" for which there has been no replacement permanent water supply provided, to ensure continued safe drinking water. The frequency of this sampling shall be determined by the Department, after consultation with Nor-Lake, after reviewing the sample results required in Paragraph 1.A. With the exception of those wells being sampled pursuant to Paragraph 1.F. or Paragraph 4.B.(2), the sampling frequency shall be no more than annual. No earlier than two years following initiation of the water supply replacement required by this paragraph (Paragraph 4.), Nor-Lake may request a reduction in the frequency of this monitoring.

(2) In lieu of requiring sampling of all such wells, the Department will consider allowing the annual sampling of a representative number of wells if the impacted area is well defined; however, if clean wells lie between impacted wells, the clean wells should all be sampled no more frequently than semi-annually to ensure their status remains clean.

C. Except as provided in Paragraph 4.D., Nor-Lake shall install Point of Entry Granulated Activated Carbon Filters (POE GAC), in order to provide a more permanent water supply replacement, as follows:

- (1) Through December 31, 2008, Nor-Lake shall make available, install and maintain POE GAC filters to all homes within the "area of concern" served by wells which meet the criteria in Paragraph 4.A.
- (2) Any POE GAC filter utilized shall be approved by the Department of Commerce (or its predecessor DILHR) and the DNR Water Supply Program, and shall be operated in compliance with any conditions of approval established by the Department of Commerce (or DILHR) or the DNR Water Supply Program.
- (3) Nor-Lake shall annually sample and analyze the influent water for bacteria and VOCs at all residences with a POE GAC. Nor-Lake may, at its discretion, increase the monitoring frequency of influent water to quarterly, in an attempt to demonstrate consistent VOC concentrations below the PAL. Nor-Lake shall annually replace both filters in each POE GAC. In addition, Nor-Lake shall annually sample and analyze the effluent waters from all POE GACs for bacteria and VOCs. This monitoring shall be conducted within two (2) weeks of carbon replacement; i.e., rebed.
- (4) Nor-Lake may request the Department approve the removal of a POE GAC from a well, or approve transfer of operational responsibilities for the POE GAC to the well owner, if quarterly VOC sampling for a period of one (1) year does not measure a VOC listed in Paragraph 1.D. at concentrations in excess of the PAL. The Department shall consider the location of the well with respect to other impacted wells, and the number and concentration of VOCs measured in responding to the request to remove a POE GAC. If Nor-Lake chooses to transfer the ownership or the operational responsibilities for the POE GAC to the well owner, Nor-Lake will

advise the well owner of the potential health effects of failing to properly maintain the POE GAC.

- D. Notwithstanding the requirements of Paragraph 4.C., Nor-Lake retains the option, at its discretion, to propose an alternative permanent water supply replacement to the Department for its evaluation and approval.
5. The requirements and obligations set forth in this paragraph (Paragraph 5) represent the most stringent which may be imposed on Nor-Lake; the Department may exercise its discretion (through communication between the Department and Nor-Lake) to vary these requirements and obligations, on a general or case-by-case basis, so as to impose less stringent requirements or obligations on Nor-Lake:

In addition to any monthly or quarterly reports required under approved work plans, by February 15 of each year, Nor-Lake shall submit to the Department an annual groundwater monitoring report, ending with the annual report for the year 2008 which shall be submitted by February 15, 2009. The annual groundwater monitoring report shall include, at a minimum: a summary of any activity relating to permanent water supply replacements which may have taken place during the previous year; a summary of work proposed for the coming year; summary tables for all historical groundwater chemistry data related to each well; graphs of all historical groundwater elevation data; and maps showing groundwater contours.

6. A. This Amended Stipulation shall remain in effect through December 31, 2008. With respect to all matters other than those giving rise to this Amended Stipulation, the

Department retains jurisdiction during and after that time period to issue additional orders to Nor-Lake to require Nor-Lake to take adequate action to restore the environment to the extent practicable or to minimize the harmful effects from the discharge to the air, lands or waters of this State.

B. With respect to those matters giving rise to this Amended Stipulation, the Department retains jurisdiction after December 31, 2008 to issue additional orders to Nor-Lake to require Nor-Lake to take adequate action with respect to those matters, consistent with applicable law and upon a showing that Nor-Lake is the appropriate responsible party.

C. Those matters giving rise to this Amended Stipulation are:

- (1) on-site soil and groundwater contamination, that were identified prior to the signing of the October 1995 Stipulation, at the Nor-Lake facility; and
- (2) groundwater contamination in the area of Troutbrook Estates/Green Mill Lane, that was identified prior to the signing of the October 1995 Stipulation.

D. Nor-Lake reserves its right to request a contested case hearing or to initiate judicial review if the Department issues a subsequent unilateral order to Nor-Lake.

7. One (1) copy of each plan, proposal or report required by this Amended Stipulation shall be mailed or delivered to the following Department staff:

Wendy Anderson  
DNR Western District Headquarters  
1300 Clairemont Avenue  
P.O. Box 4001  
Eau Claire, WI 54702

Bureau Director  
Bureau of Remediation and Redevelopment  
101 South Webster Street  
P.O. Box 7921  
Madison, WI 53707

Patrick Collins  
Department of Natural Resources  
990 Hillcrest, Suite 104  
Baldwin, WI 54002

8. Administrative Order No. WD-94-13 (File Ref: 4190, 94-WDEE-047) issued to Nor-Lake on October 27, 1994 is hereby withdrawn by the Department. All other existing administrative or consent orders issued by the Department to Nor-Lake, specifically Consent Order No. WD-92-01 (effective June 4, 1992), shall remain in effect.
9. With respect to the October 1995 Stipulation, Petitioner and Respondent agree that:
- (a) the October 1995 Stipulation is rescinded and replaced with this Amended Stipulation;
  - (b) Paragraph 4.A., Paragraph 4.B. sentence 1, Paragraph 5., and Paragraph 6. of the October 1995 Stipulation are deemed satisfied and have therefore been deleted from this Amended Stipulation and the paragraphs herein have been renumbered accordingly.

Dated December 28, 1999

JAMES E. DOYLE  
Attorney General

Cynthia Hirsch  
CYNTHIA R. HIRSCH  
Assistant Attorney General  
State Bar ID No. 1017026  
Attorneys for Respondent Wisconsin  
Department of Natural Resources

Dated: December 23, 1999

NOR-LAKE, INC.

Duwayne A. Bakke  
DUWAYNE A. BAKKE  
President, Nor-Lake, Inc.,  
Petitioner

Dated: December 27, 1999

Linda H. Bochart  
LINDA H. BOCHERT  
State Bar ID No. 1015962  
LAUREN L. AZAR  
State Bar ID No. 10230093  
Michael, Best & Friedrich, LLP  
Attorneys for Petitioner, Nor-Lake, Inc.

Exhibit B  
Monitoring within the Area of Concern

LOCATION	RESULTS	MONITORING FREQUENCY	FILTER INSTALLED	COMMENTS
937 Becky Circle	PAL	A		Proposed Filter
938 Becky Circle	PAL	A		Proposed Filter
940 Becky Circle	PAL	A	NL-100	
941 Becky Circle	MD	A	NL-100	
942 Becky Circle	PAL	A	offered	Proposed Filter
907 Benjamin Lane	PAL	A*	NL-100	*currently sampled under other order
914 Benjamin Lane	PAL	A*	NL-100	*currently sampled under other order
362 Brookwood Drive	D	SA		
365 Brookwood Drive	D	SA		
366 Brookwood Drive	ND	A		
367 Brookwood Drive	D	SA		Detect 111 TCE
398 Brookwood Drive		A		never sampled
402 Brookwood Drive		A		never sampled
405 Brookwood Drive		A		never sampled
406 Brookwood Drive		A		never sampled, next to 410(new detect)
409 Brookwood Drive		A		never sampled, next to 410(new detect)
410 Brookwood Drive	D	SA		
413 Brookwood Drive	ND	A		
414 Brookwood Drive	D	SA		
416 Brookwood Drive	PAL	SA		pal exceedance 1996
419 Brookwood Drive	D	SA		
424 Brookwood Drive		SA/A		never sampled, next to 419(new detect)
429 Brookwood Drive		SA/A		sample when well installed
430 Brookwood Drive		SA/A		never sampled, next to 419(new detect)
436 Brookwood Drive		SA/A		sample when well installed
437 Brookwood Drive	PAL	A		Proposed Filter
443 Brookwood Drive	ND	SA		
447 Brookwood Drive	PAL	A	NL-100	
449 Brookwood Drive	D	SA		
451 Brookwood Drive	ND	SA		
453 Brookwood Drive	ND	SA		
454 Brookwood Drive	ND	SA		
468 Brookwood Drive	ND	SA		
469 Brookwood Drive	PAL	A		Proposed Filter
470 Brookwood Drive	PAL	A	NL-100	

Exhibit B  
Monitoring within the Area of Concern

LOCATION	RESULTS	MONITORING FREQUENCY	FILTER INSTALLED	COMMENTS
471 Brookwood Drive	ND	SA		
933 Carter Circle	PAL	A	NL-100	
934 Carter Circle	D	SA		
935 Carter Circle	PAL	A	NL-100	
936 Carter Circle	D	A		Proposed Filter
937 Carter Circle	PAL	A	NL-100	
923 Clover Leaf Circle	ND	A		
491 County Road A		SA/A		never sampled
494 County Road A		SA/A		never sampled
499 County Road A	ND	A		needs another confirmation nd
511 County Road A		Bi		never sampled
514 County Road A	PAL	A	NL-100	
520 County Road A	PAL	A	NL-100	
526 County Road A	PAL	A*	NL-100	*currently sampled under other order
530 County Road A				No Well
549/551 County Road A	PAL	A*	NL-100	*currently sampled under other order
554 County Road A	PAL	A*	NL-100	*currently sampled under other order
558 County Road A				No Well
576 County Road A	PAL	A*	NL-100	*currently sampled under other order
580 County Road A	PAL	A*	NL-100	*currently sampled under other order
581 County Road A	ND	A*		*currently sampled under other order; deep well
586 County Road A	PAL	A*	NL-100	*currently sampled under other order
587 County Road A	PAL	A*	NL-100	*currently sampled under other order
596 County Road A	PAL	A*	NL-100	*currently sampled under other order
948/950 County Road A	ND	A		needs another confirmation nd
874 County Road U	ND	Bi		*currently sampled under other order; deep well
876 County Road U	D	A		*currently sampled under other order
886 County Road U		NONE		Lumber Company Has One Well
891 County Road U (NorLake)				*currently sampled under other order
904 Daily Road		SA/A		never sampled, next to 905(new detect)
905 Daily Road	D	SA		
956 Daily Road	PAL	A	NL-100	
960 Daily Road	PAL	A	NL-300	
966 Daily Road	PAL	A	NL-100	
970 Daily Road	ND	SA		



Exhibit B  
Monitoring within the Area of Concern

LOCATION	RESULTS	MONITORING FREQUENCY	FILTER INSTALLED	COMMENTS
974 Daily Road	ND	A		
427 Green Mill Lane	PAL	A	NL-100	
434 Green Mill Lane	PAL	A	NL-100	
441 Green Mill Lane	PAL	A	NL-100	
445 Green Mill Lane	PAL	A	NL-100	
447 Green Mill Lane	PAL	A	NL-100	
451 Green Mill Lane	PAL	A	NL-100	
452 Green Mill Lane	PAL	A	NL-100	
455 Green Mill Lane	PAL	A	NL-100	
457 Green Mill Lane	PAL	A	NL-100	
458 Green Mill Lane	PAL	A	NL-100	
461 Green Mill Lane	PAL	A	NL-100	
462 Green Mill Lane	PAL	A	NL-100	
466 Green Mill Lane	PAL	A	NL-100	
470 Green Mill Lane	PAL	A	NL-100	
473 Green Mill Lane	PAL	A	NL-100	
474 Green Mill Lane	PAL	A	offered	Proposed Filter
480 Green Mill Lane	PAL	A	NL-100	
484 Green Mill Lane	PAL	A	NL-100	
492 Green Mill Lane	PAL	A	NL-100	
606/612 Highway 12	PAL	A*	NL-100	*currently sampled under other order
854 Highway 12	ND	A/Bi		needs another confirmation nd
455 Jensen Lane	PAL	A	NL-100	<b>Maintain filter &amp; reimburse</b>
457 Jensen Lane	D	SA		
459 Jensen Lane	PAL	A	NL-100	pal exceedance 1996
461 Jensen Lane	D	SA		
463 Jensen Lane	PAL	SA		pal exceedance 1996
465 Jensen Lane	PAL	SA		pal exceedance 1996
458 McCutcheon Lane	ND	A		
459 McCutcheon Lane	ND	A		
460 McCutcheon Lane	ND	A		
462 McCutcheon Lane	D	A		
460 McCutcheon Road	ND	A		
464 McCutcheon Road	D	SA		
467 McCutcheon Road	ND	SA		

Exhibit B  
Monitoring within the Area of Concern

LOCATION	RESULTS	MONITORING FREQUENCY	FILTER INSTALLED	COMMENTS
471 McCutcheon Road	PAL	A	NL-100	
472 McCutcheon Road	ND	SA		
473 McCutcheon Road	PAL	A	NL-100	
481 McCutcheon Road	PAL	A	NL-100	
484 McCutcheon Road	PAL	A	NL-100	
491 McCutcheon Road	MD	A	NL-100	
939 Mike Circle	ND	SA		
940 Mike Circle	PAL	A	NL-100	
942 Mike Circle	PAL	A	NL-100	
970 Nord Lane	ND	A		needs another confirmation nd
972 Nord Lane	MD	A***	offered	
444 Overlook Pass	ND	SA/A		needs another confirmation nd
446 Overlook Pass	ND	SA/A		needs another confirmation nd
448 Overlook Pass	ND	SA/A		needs another confirmation nd
450 Overlook Pass	ND	SA/A		needs another confirmation nd
452 Overlook Pass	ND	A		
453 Overlook Pass	D	SA		
454 Overlook Pass	D	SA		
455 Overlook Pass	ND	A		
456 Overlook Pass	ND	A		
457 Overlook Pass	D	SA		
458 Overlook Pass	D	SA		
460 Overlook Pass	ND	A		
461 Overlook Pass		A		never sampled, next to 457(new detect)
491 Park Lane	ND	Bi		only have one sample
494 Park Lane	ND	A		only have one sample
495 Park Lane	ND	A		only have one sample
498 Park Lane	ND	A		only have one sample
499 Park Lane	ND	A		only have one sample
959 Priester Lane	PAL	A	NL-100	
966 Priester Lane	PAL	A	NL-100	
970 Priester Lane	PAL	A	NL-100	
973 Priester Lane	ND	A		deep well; never sampled
974 Priester Lane	PAL	A	NL-100	
980 Priester Lane	PAL	A	NL-100	

Exhibit B  
Monitoring within the Area of Concern

LOCATION	RESULTS	MONITORING FREQUENCY	FILTER INSTALLED	COMMENTS
984 Priester Lane	ND	A		
989 Priester Lane	ND	A		In the AOC
580 Schommer Drive				Shared Well w/581 CTH A
588 Schommer Drive	PAL	A	NL-100	
589 Schommer Drive	ND	A*		*currently sampled under other order
593 Schommer Drive	PAL	A	NL-100	
596 Schommer Drive	PAL	Q*	NL-300	*currently sampled under other order
597 Schommer Drive		A/Bi		deep well; never sampled
978 Sherman Lane	PAL	A	NL-100	
981 Sherman Lane	ND	A		
982 Sherman Lane	D	A		
984 Sherman Lane	ND	Bi		
985 Sherman Lane	ND	Bi		
898 Sherman Road		A		never sampled
904 Sherman Road	ND	A		
928 Sherman Road	D	SA		
929 Sherman Road	PAL	A		Proposed Filter
930 Sherman Road	PAL	A		Proposed Filter
931 Sherman Road	ND	SA/A		
935 Sherman Road	PAL	A	NL-100	
941 Sherman Road	PAL	A	NL-100	
942 Sherman Road	PAL	A	NL-100	
945 Sherman Road	PAL	A	NL-100	
947 Sherman Road	PAL	A	NL-100	
959 Sherman Road	PAL	A	NL-100	
962 Sherman Road	PAL	A	NL-300	
965 Sherman Road	PAL	A	NL-100	
967 Sherman Road	PAL	A	NL-100	
948 Troutbrook Road	PAL	A	NL-100	
950 Troutbrook Road	D	SA		
951 Troutbrook Road	PAL	A	NL-100	
955 Troutbrook Road	PAL	A	NL-100	
958 Troutbrook Road	PAL	A***	offered	
961 Troutbrook Road	PAL	A***	offered	
962 Troutbrook Road	PAL	A	NL-100	

Exhibit B  
Monitoring within the Area of Concern

LOCATION	RESULTS	MONITORING FREQUENCY	FILTER INSTALLED	COMMENTS
963 Troutbrook Road	PAL	A	NL-300	
964 Troutbrook Road	PAL	A***	offered	until filter installed
965 Troutbrook Road	PAL	A	NL-300	
967 Troutbrook Road	MD	A		multiple detects 1997
977 Troutbrook Road	PAL	A***	offered	until filter installed
978 Troutbrook Road		A***		never sampled
450 Virtue Road		A		never sampled, next to 457 Overlook(new detect)
451 Virtue Road		A		never sampled
926 Waxon Lane	PAL	A	NL-100	
930 Waxon Lane	PAL	A	NL-100	
931 Waxon Lane	PAL	A	NL-100	
934 Waxon Lane	PAL	A	NL-100	
935 Waxon Lane	D	SA		
938 Waxon Lane		SA		sample when built
939 Waxon Lane	PAL	A	NL-100	
942 Waxon Lane	ND	SA/A		
943 Waxon Lane	D	SA		
946 Waxon Lane	D	SA		
947 Waxon Lane	D	SA		
948 Waxon Lane	D	SA		
949 Waxon Lane		SA		next to 946(new detect); sample when well installed
950 Waxon Lane		SA		never sampled, next to 946(new detect)
903 Wert Road		SA		Never sampled, next to 453(new detect)
911 Wert Road	D	SA		
928 Wert Road	D	SA		
930 Wert Road	D	SA		
932 Wert Road	D	SA		
933 Wert Road	PAL	A	NL-100	
934 Wert Road	D	SA		
937 Wert Road	PAL	A	NL-100	
938 Wert Road		SA		New House
939 Wert Road	PAL	A	NL-100	
940 Wert Road	PAL	A		Proposed Filter
941 Wert Road	MD	A	NL-100	
944 Wert Road	PAL	A	NL-100	

Exhibit B  
Monitoring within the Area of Concern

LOCATION	RESULTS	MONITORING FREQUENCY	FILTER INSTALLED	COMMENTS
945 Wert Road	PAL	A	NL-100	
948 Wert Road	PAL	A	NL-100	
960 Wert Road	PAL	A	NL-300	
962 Wert Road	PAL	A	NL-300	
964 Wert Road	PAL	A	NL-100	
966 Wert Road	PAL	A	NL-100	
967 Wert Road	PAL	A	NL-300	
971 Wert Road	PAL	A	NL-300	
974 Wert Road	PAL	A	NL-100	
975 Wert Road	PAL	A	NL-300	
978 Wert Road	PAL	A	NL-100	
979 Wert Road	PAL	A	NL-300	
984 Wert Road	PAL	A	NL-100	

**NOTES:**

**D:** Detection below a PAL, sample quarterly for at least one year or provide water replacement.

If after one year of quarterly sampling, no PAL exceedance, then reduce to either semi-annual or annual. Paragraph 1.F.

**PAL or MD:** Detections above a PAL or multiple detections below PAL, Water replacement. Paragraph 4.A.

Filter may be removed if quarterly sampling for one year shows no PAL exceedance or multiple detection below a PAL. Paragraph 4.C.(4)

**ND:** No detection of compounds of concern.

**Q:** Quarterly sampling of wells with a detection below a PAL for at least one year.

If after one year of quarterly sampling with no PAL exceedance, then reduce to either semi-annual or annual. Paragraph 1.F.

**SA:** Semi-annual sampling for clean wells that lie between impacted wells. Paragraph 4.B.(2).

**SA/A:** Semi-annual sampling for one year, then annual sampling if both samples remain ND.

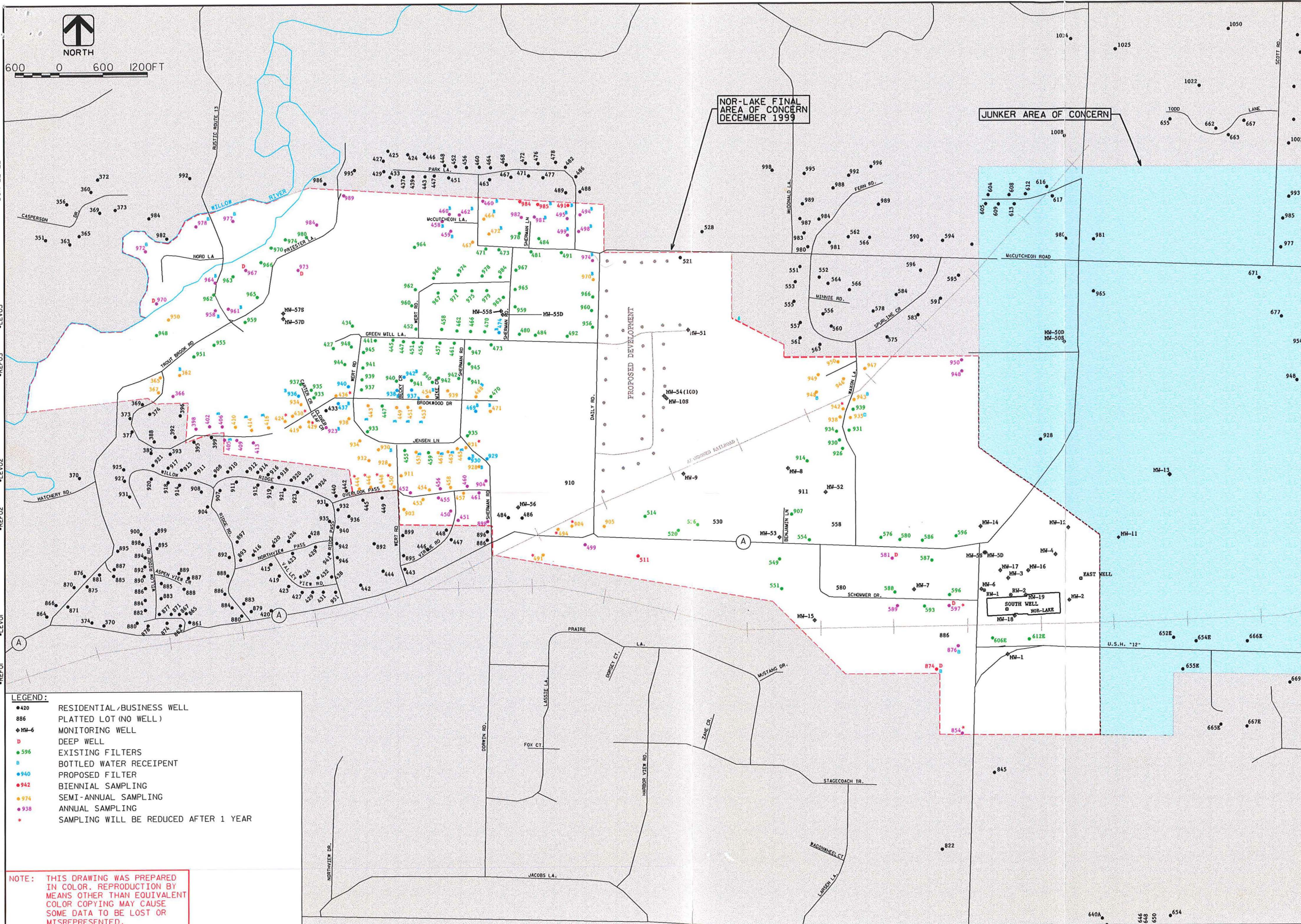
**A:** Annual sampling of clean wells along a well defined boundary to ensure continued safe drinking water. Paragraphs 4.B.(1) and (2)

**Bi:** Biennial sampling of clean wells (once every 2 years)

**Contaminants of concern:** Dichlorofluoromethane, PCE, Trans 1,2-DCE, 1,1,1-TCA, 1,1-DCE, 1,2-DCA, 1,1,2-TCA  
TCE, 1,1-DCA, (cis)1,2-DCE, Trichlorofluoromethane, Chloroethane, Vinyl Chloride

**A\*\*\*:** In the event a residence qualifies for a filter but the owner declines a Nor-Lake filter, sampling shall be annual rather than quarterly.

**All New wells shall be sampled within 30 days of installation and connection to house plumbing**



\$PEN\$  
17 DEC 1999  
d:\waste\norlake\99dml.dgn

LEV02  
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REF01

**LEGEND:**

● 420	RESIDENTIAL/BUSINESS WELL
886	PLATTED LOT (NO WELL)
◆ MH-6	MONITORING WELL
D	DEEP WELL
● 596	EXISTING FILTERS
● 940	BOTTLED WATER RECEIPT
● 942	PROPOSED FILTER
● 974	BIENNIAL SAMPLING
● 938	SEMI-ANNUAL SAMPLING
*	ANNUAL SAMPLING
*	SAMPLING WILL BE REDUCED AFTER 1 YEAR

**NOTE:** THIS DRAWING WAS PREPARED IN COLOR. REPRODUCTION BY MEANS OTHER THAN EQUIVALENT COLOR COPYING MAY CAUSE SOME DATA TO BE LOST OR MISREPRESENTED.

NOR-LAKE FINAL  
AREA OF CONCERN &  
DECEMBER 1999  
SAMPLING REGIME

DRN. BY: MLE  
CHK. BY: JAA  
DATE: DECEMBER 1999

**AVRES**  
ASSOCIATES

NOR-LAKE, INC.  
HUDSON, WISCONSIN

FIGURE  
1

Pat Collins

**MICHAEL BEST  
& FRIEDRICH**  
Attorneys at Law

RECEIVED  
OCT 21 1996  
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October 17, 1996

Cynthia R. Hirsch, Esq.  
Assistant Attorney General  
Wisconsin Department of Justice  
123 W. Washington Avenue  
Madison, WI 53702

Re: Nor-Lake, Inc. v. Wisconsin Department of Natural  
Resources  
(Case No. 94-CV-479; St. Croix County Circuit  
Court)

Dear Cynthia:

This letter responds to your letter of October 3, 1996 to me and to Pat Collins' letter of October 8, 1996 to Mr. DuWayne Bakke of Nor-Lake, and concerns our recent discussions regarding the establishment of the "area of concern" pursuant to the Stipulation entered in the above-referenced case.

Your letter of October 3 responded to my letter to you and DNR Attorney Linda Meyer of September 27 in which I proposed on behalf of Nor-Lake that the State and Nor-Lake jointly move the Court for an interpretation of the Stipulation, following receipt of briefs and conduct of an evidentiary hearing. Nor-Lake advanced this proposal following the meeting which Attorney Lauren Azar of our office and I had with you and Linda Meyer on September 17 in which we discussed the possibility of such a joint approach.

According to your letter of October 3, you have now determined that the State "strongly objects" to that approach and that "the State of Wisconsin anticipates asking the court to retain jurisdiction over this matter when and if Nor-Lake refuses to comply with the stipulation, specifically paragraph 1A under the Specific Terms section."

The purpose of this letter is to advise you that Nor-Lake has not and does not "refuse to comply with the stipulation". However, it is apparent that Nor-Lake and the State have different interpretations of the Stipulation which we have thus

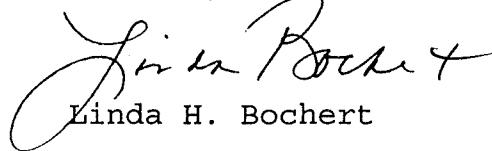
OCT 17 1996

far been unable to reconcile. Accordingly, we have enclosed a copy of the Motion of Nor-Lake, Inc. for Interpretation of Stipulation and Request for Evidentiary Hearing which we are filing with the St. Croix County Circuit Court. Although we would have preferred a joint approach to the Court, under the circumstances this appears to be the most efficient approach to gain a resolution of our differences.

Thank you for your prompt response to our earlier proposal. It's unfortunate we were not able to find a way to jointly advance this issue.

Sincerely,

MICHAEL, BEST & FRIEDRICH



Linda H. Bochert

cc: Linda L. Meyer, Esq.  
Jon G. Furlow, Esq.  
Lauren L. Azar, Esq.  
DuWayne Bakke, Nor-Lake President and CEO



STATE OF WISCONSIN

OCT 21 1995

CIRCUIT COURT

ST. CROIX COUNTY

NOR-LAKE, INC.

Petitioner,

v.

Case No. 94 CV 479

Case Code: 30607

WISCONSIN DEPARTMENT OF NATURAL  
RESOURCES,

Respondent.

MOTION OF NOR-LAKE, INC. FOR INTERPRETATION  
OF STIPULATION AND REQUEST FOR EVIDENTIARY HEARING

Nor-Lake, Inc. ("Nor-Lake"), by its counsel Michael, Best & Friedrich, moves the Court for an order setting a briefing schedule and scheduling an evidentiary hearing on key issues relating to the Stipulation and Order for Judgment entered on October 23, 1995 ("the Stipulation") in the above-referenced case. In support, Nor-Lake states and alleges as follows:

Summary of Motion

1. As part of its work under the Stipulation, Nor-Lake has been working with the Wisconsin Department of Natural Resources ("WDNR") to review the available technical data as to contamination in the residential subdivision around Green Mill Lane. The point of this work is to define the plume in the Green Mill Lane area that Nor-Lake agreed to investigate and respond to under the Stipulation. An impasse has now been reached over the scope of the Stipulation and interpretation of the data. Although they have tried, Nor-Lake and the WDNR have been unable to resolve the impasse. The crux of the dispute is this: is Nor-Lake required by the Stipulation to test and take remedial

OCT 17 1995

action in an area of contamination for which the WDNR has not determined a responsible party, and for which Nor-Lake's data shows there is a second, separate plume of contamination believed to be coming from the Junker Landfill?

2. Nor-Lake neither assumed this responsibility under the Stipulation nor should it be required to test, and assume responsibility for, contamination which comes from another source. The WDNR disagrees. This impasse must be resolved because it affects the obligations which Nor-Lake must undertake under the Stipulation.

3. Nor-Lake met with the WDNR to discuss this impasse and proposed that they jointly present this issue to the Court. The WDNR objected to Nor-Lake's proposal. Thus, to resolve this impasse and clarify the Stipulation obligations, Nor-Lake requests this Court resolve this dispute based on pre-hearing memoranda and testimony presented at an evidentiary hearing. Nor-Lake anticipates the evidentiary hearing would take one (1) day.

#### Background of Request

4. On October 23, 1995, this Court entered the Stipulation and Order for Judgment executed between Nor-Lake and the WDNR to settle and compromise litigation entitled Nor-Lake, Inc. v. Wisconsin Department of Natural Resources (Case No. 94-CV-479; St. Croix Circuit Court) ("the Stipulation"). A copy of that Stipulation is attached as Exhibit A.

5. This Court "retains jurisdiction over this Stipulation for the purpose of enabling either party to apply for any further order that may be needed to construe, carry out, or enforce this Stipulation". See Stipulation, p. 2, ¶ 6.

A. The Nor-Lake Sampling Program

6. Pursuant to pp. 2-3, ¶ 1.A of the Stipulation, Nor-Lake has undertaken, at its expense, to continue groundwater testing and analysis around Green Mill Lane. To date, Nor-Lake has collected, analyzed and shared with the WDNR approximately 282 VOC samples, plus an additional 36 inorganic samples of groundwater. The purpose of this Nor-Lake sampling is to define a final "area of concern" in which Nor-Lake has agreed to undertake certain actions pursuant to the Stipulation.

B. The Sampling Shows Two Plumes

7. The Nor-Lake sampling has fully defined the boundaries of the plume which all parties had known about when the Stipulation was entered into. See, Stipulation, p. 10, ¶ 8.C.2 which defines "those matters giving rise to this Stipulation" as "(2) groundwater contamination in the area of Trout Brook Estates/Green Mill Lane, that has been identified prior to the signing of this Stipulation." (Emphasis added).

8. The Nor-Lake sampling has also shown a second, separate VOC plume. These two plumes can be described as follows:

a. The Existing Plume. The first plume, which all parties were aware of when the Stipulation was signed, contains multiple VOCs, including TCE, TCA, CFC 11, CFC

12, PCE, DCE, and DCA. This is the narrow, cigar shaped plume running east to west along Green Mill Lane to the Willow River (the "Narrow Plume"). Nor-Lake has always disputed responsibility for this contamination, but nevertheless agreed in the Stipulation to address this contamination. This was the plume "giving rise to" the Stipulation.

b. The New Plume. The recently discovered second plume, unknown at the time the Stipulation was signed, is comprised primarily of TCE and CFC 11. Notably, this plume does not contain TCA. This plume runs east to west to the Willow River, underlies the Narrow Plume, and spreads north to McCutcheon Lane and south to the Jensen Lane area (the "Broad Plume"). This plume is from a separate source, believed to be the Junker Landfill. Indeed, this Broad Plume could not be from Nor-Lake because the only solvent used by Nor-Lake which contained TCE, also contained TCA. Thus, this TCE/CFC 11 plume must have some other source.

9. Nor-Lake advised the WDNR of this second, Broad Plume explaining that due to the differences in VOC detects, Nor-Lake had defined the plume over which it disputed liability, but had agreed to address under the Stipulation. The WDNR seems to acknowledge that this second plume exists and, upon request by

Nor-Lake<sup>1</sup>, clarified that the WDNR has not determined that Nor-Lake is the source of this second plume.

C. The Present Dispute

10. Based on the discovery of this second Broad Plume, Nor-Lake requested that the WDNR set the final area of concern based on the outer limits of the multiple VOC plume described above as the Narrow Plume. The WDNR did not agree. The WDNR now takes the position that regardless of whether there are two plumes, and regardless of whether Nor-Lake is the source of the second plume, paragraph 1.A of the Stipulation requires Nor-Lake to continue to test until the boundaries of all VOC contaminant plumes are defined.

11. The WDNR position is best understood through its written positions to Nor-Lake. On September 4, 1996, the WDNR stated as follows:

The Department has not made a determination that Nor-Lake is the source of the new TCE detects identified in recent testing. Rather, it is the Department's position that Nor-Lake's responsibility for further investigation (and provision of bottled water and/or filters) in the area in question arises from what the Department believes to be Nor-Lake's obligations under the Stipulation entered into between Nor-Lake and the State of Wisconsin in October, 1995 in Nor-Lake, Inc. v. Department of Natural Resources (Case No. 94-CV-479, St. Croix County Circuit Court).

(Emphasis added). A copy of the September 4, 1996 letter from WDNR Attorney Linda Meyer is attached as Exhibit B. A month later, the WDNR stated as follows:

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<sup>1</sup> This request was made to clarify the mistaken argument by the Plaintiffs in Jacobs et al. v. Nor-Lake that the WDNR had decided that Nor-Lake was the source of this second plume.

At our previous meeting you asked us whether or not it mattered to the state if there were one or two plumes. So as not to mislead Nor-Lake, we want to be completely clear about this question. Whether or not there are two plumes is irrelevant at this time in that under the stipulation Nor-Lake is required to do the requested additional monitoring in areas which were not initially sampled but are adjacent to new VOC detects of one or more of the listed contaminants. The sampling results show new VOC detects and therefore DNR is requiring additional monitoring in adjacent areas.

(Emphasis added). A copy of the October 3, 1996 letter from Assistant Attorney General Cynthia Hirsch is attached as Exhibit C.

12. As a result of the WDNR position, the parties have identified a material difference in interpretation of the scope of the Stipulation and the meaning of the Nor-Lake sample results as they relate to defining an "area of concern" and the obligations which Nor-Lake has agreed to undertake in such defined area. This difference is briefly summarized as follows:

- a. The Nor-Lake Position. Nor-Lake did not agree in the Stipulation to test for and take remedial action on a new contaminant plume that could not come from Nor-Lake, a plume which was unknown at the time the Stipulation was entered into by the parties. Moreover, the data which it has collected, evaluated and submitted to the WDNR:
  - 1) defines the outer limits of the known VOC plume of contamination for which Nor-Lake took responsibility under the Stipulation, and

- 2) demonstrates the existence of a second plume of contamination from a different source.

Accordingly, the "area of concern" should be defined on the basis of this extensive information, and Nor-Lake's obligations under the Stipulation limited to the plume for which it took responsibility. See, Stipulation, p. 10, ¶ 8.C.2.

- b. The WDNR Position. The WDNR takes the position that under the Stipulation Nor-Lake must continue to investigate until the boundaries of all VOC contaminant plumes are fully defined regardless of whether there is a second plume and regardless of whether there is a separate source for this plume.

Accordingly, the WDNR believes that Nor-Lake must do further sampling in order to enable the "area of concern" to be correctly defined. See Stipulation, pp. 2-3, ¶ 1.A.

13. This difference between WDNR and Nor-Lake is important because once the "area of concern" is defined, the WDNR will seek to hold Nor-Lake responsible for installing filters and continued monitoring. Thus, the net effect of the WDNR position is that Nor-Lake will continue to test and provide bottled water and filters to address contamination for which the WDNR concedes it has not determined Nor-Lake to be the responsible party. Nor-Lake strongly objects to this view of the Stipulation and believes it is overreaching on the part of the WDNR.

D. Request For Court Involvement

14. While Nor-Lake preferred to present this matter to the Court jointly with the WDNR, Nor-Lake now turns to this Court to resolve the dispute by reviewing the respective arguments (and expert views) based on the technical information, as well as rendering an interpretation of the geographic scope of the obligation which Nor-Lake undertook in the Stipulation. To obtain that resolution and clarify the obligations of the Stipulation, Nor-Lake asks the Court to address and resolve the following questions:

- a. What is the geographical scope of the obligation which Nor-Lake undertook in the Stipulation?
- b. If the Stipulation does not require Nor-Lake to address a new contaminant plume with an unknown source, does the available data demonstrate that there is one plume of contamination in the subdivision around Green Mill Lane, or does the data demonstrate that there are two plumes of contamination in that area?

15. Nor-Lake requests an evidentiary hearing for two reasons. First, if the Stipulation is ambiguous, extrinsic evidence must be considered to determine its meaning. Second, the parties' respective experts disagree about the appropriate conclusions to be drawn from the testing data.<sup>2</sup> Thus, Nor-Lake

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<sup>2</sup>Nor-Lake tried to resolve this technical issue with the WDNR by proposing that the parties retain an independent technical expert to review the data and provide an independent



believes that the Court ought to consider live testimony, including testimony of the respective experts, in rendering its decision.

Request for Relief

WHEREFORE, Nor-Lake requests that the Court set a briefing schedule and evidentiary hearing as follows:

A. Set a briefing schedule for presentation of written arguments with Nor-Lake filing an initial brief, WDNR filing a response and Nor-Lake filing a reply. Nor-Lake suggests that this briefing schedule be set so the last brief is filed no less than seven days prior to the date set for hearing;

B. Establish a hearing date to take testimony and hear argument from both Parties; and

C. Such other relief as the Court deems just and reasonable.

Dated this \_\_\_ day of October, 1996.

Respectfully submitted,

MICHAEL, BEST & FRIEDRICH  
Attorneys for Nor-Lake, Inc.

By: \_\_\_\_\_  
Jon G. Furlow  
State Bar No. 1020448  
Linda H. Bochert  
State Bar No. 1015962

---

opinion. The WDNR, however, could not agree to this procedure because it had no funds available to pay for its share of the cost of this independent expert.

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Telephone: (608) 257-3501  
e:\xf\client\70164\0005\sss0136.w52|10/17/96

EXHIBIT A

STATE OF WISCONSIN

CIRCUIT COURT

ST. CROIX COUNTY

NOR-LAKE, INC.

Petitioner,

v.

WISCONSIN DEPARTMENT OF NATURAL  
RESOURCES,

Respondent.

Case No. 94 CV 479  
Case Code: 30607

FILED  
OCT 20 1995  
CLERK OF COURT  
ST. CROIX  
COUNTY

STIPULATION AND ORDER FOR JUDGMENT

STIPULATION

Nor-Lake, Inc. (Petitioner or Nor-Lake) brought this Petition for Judicial Review on November 22, 1994, against the Wisconsin Department of Natural Resources (Respondent or the Department) pursuant to the provisions of Ch. 227, Wis. Stats. Petitioner sought relief from Special Order Number WD-94-13 (Order) issued to Petitioner by Respondent on October 27, 1994, on the grounds that the Order was without basis in the administrative agency record, relied upon incorrect application of relevant law, and as a result should be set aside or remanded to Respondent for further proceedings. Petitioner and Respondent wish now to resolve this matter by agreement, and, therefore,

PETITIONER AND RESPONDENT HEREBY STIPULATE AND AGREE as follows:

General Terms:

1. This Stipulation has been negotiated and agreed to by and between the parties and constitutes the complete agreement between them.
2. Compliance with the terms of this Stipulation shall constitute full satisfaction of Petitioner's (Nor-Lake, Inc. and

its predecessors, successors, subsidiaries, affiliates, officers, employees, agents, partners and shareholders) obligations to address the matters giving rise to this Stipulation, as defined in Paragraph 8 under Specific Terms below, for the period of time described herein.

3. Further action against Petitioner by Respondent with regard to the matters giving rise to this Stipulation shall be limited as more fully described in Paragraph 8 under Specific Terms below.

4. By entering into this Stipulation, Petitioner Nor-Lake does not admit any liability in regard to any of the matters giving rise to this Stipulation. Nothing contained in this Stipulation shall be construed as an admission by Petitioner Nor-Lake of any kind in this or any other administrative or judicial proceeding now pending or hereafter commencing.

5. The Court shall retain jurisdiction over this Stipulation for the purpose of enabling either party to apply for any further order that may be needed to construe, carry out, or enforce this Stipulation.

6. As those terms are used below, the "effective date of this Stipulation" shall be the date of entry of judgment by the Court, and the period of "six years within (or after) the effective date of this Stipulation" shall be counted from the date of entry of judgment by the Court.

7. Judgment on these terms may be entered without further notice to the parties.

Specific Terms:

1. A. Within fifteen (15) days after the effective date of this Stipulation, Nor-Lake shall submit to the Department for approval a proposal for sampling all monitoring wells and all private wells within the boundary designated on the attached map (Attachment A). The parameters to be tested for shall include a full Volatile Organic Compound (VOC) scan using EPA

Method 8021, as well as any additional testing necessary to adequately plan and implement a permanent water supply replacement program. VOC analytical results which are no detect for the compounds listed below in Paragraph 1.D. shall be confirmed by an additional sample or by existing monitoring data that is no more than two years old. The Department may eliminate the requirement to confirm a "no detect" via an additional sample for any wells which appear to be outside the impacted area identified by the initial sampling event. Nor-Lake shall conduct the proposed sampling after the sampling plan is approved by the Department. Following the Department's receipt of the results of the initial sampling event conducted by Nor-Lake under the approved sampling plan, the Department may require additional monitoring in areas which were not initially sampled but are adjacent to new VOC detections. Based on the results of this analytical testing and a review of historical monitoring results, the Department, after consultation with Nor-Lake, shall delineate an "area of concern" where future sampling is to be conducted by Nor-Lake.

B. In addition, new wells installed within the "area of concern" within six years after the effective date of this Stipulation shall be sampled for VOCs by Nor-Lake in compliance with the requirements of Paragraph 4.C. DNR shall send to Nor-Lake a copy of each variance for installation of a new well which is issued to a well owner within the area of concern, and Nor-Lake shall take all reasonable steps to sample the well within thirty (30) days after its installation.

C. The results of the sampling required under this paragraph (Paragraph 1.) shall be provided to the Department within ten (10) days of Nor-Lake's receipt of the results. All analyses shall be performed by a state certified laboratory.

D. The following VOCs have been identified as "contaminants of concern":

Dichlorofluoromethane	Trichloroethene
Tetrachloroethene	1,1-Dichloroethane
Trans 1,2-Dichloroethene	Cis 1,2-Dichloroethene
1,1,1-Trichloroethane	Trichlorofluoromethane <sup>1</sup>
1,1-Dichloroethene	Chloroethane
1,2-Dichloroethane	Vinyl Chloride <sup>1</sup>
1,1,2-Trichloroethane	

E. If sample analytical results from new wells, routine monitoring, or the sampling required under this paragraph (Paragraph 1.) detect compounds other than those listed above in Paragraph 1.D. the Department shall, after consultation with Nor-Lake, review all relevant data and information concerning those compounds to determine if the compound(s) can be attributed to substances used by Nor-Lake. If so, the Department shall determine if a modification to the list of contaminants of concern is warranted and shall modify the list accordingly.

F. In the event of a detect of a contaminant of concern below the Preventive Action Limit (PAL), Nor-Lake shall sample the well for these contaminants on a quarterly basis (March, June, September, and December) for a period of at least one year, or Nor-Lake may, at its discretion, provide a permanent water supply replacement for that well. If any of these samples show a VOC listed in Paragraph 1.D. in excess of the PAL, Nor-Lake shall provide a permanent water supply replacement for that well. If after one year of sampling an exceedance of a PAL has not been measured, the Department may reduce the sampling frequency for that well from quarterly to

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<sup>1</sup> Although vinyl chloride is a breakdown product of tetrachloroethene, it has never been detected in any of the wells Nor-Lake has sampled over the last five (5) years; and trichlorofluoromethane has been detected only rarely in those wells. Thus, detection of either vinyl chloride or trichlorofluoromethane may be an indicator of a source of contamination other than Nor-Lake.

semi-annually or annually, after consultation with Nor-Lake. In the event the sample results for a given well show a detect below the PAL for more than one of the contaminants of concern listed in Paragraph 1.D., Nor-Lake shall provide a permanent water supply replacement for that well.

2. At the request of Department staff, Nor-Lake shall allow split or duplicate samples to be taken by the Department during any sample collection conducted by Nor-Lake pursuant to this Order. Nor-Lake shall notify the Department's Western District Office and Baldwin Office by telephone or in writing at least ten (10) business days prior to any planned sampling event.
3. Upon completion and submittal of the sampling and analysis required in Paragraph 1.A. and the Department's delineation of the "area of concern," Nor-Lake shall implement a bottled water program for the "area of concern" until a more permanent water supply replacement system is implemented. Such program shall insure that individuals whose wells show a sampling result in excess of the PAL for one or more VOCs listed in Paragraph 1.D. shall be given the option of receiving bottled water. Those individuals whose bottled water service is to be discontinued shall be provided 30 days advanced notice so that they may make other arrangements.
4. A. Nor-Lake shall develop and submit plans for a more permanent water supply replacement for those wells identified in Paragraph 4.B. consistent with the requirements of Paragraph 4.D. The plans shall be prepared by an experienced engineering consultant taking into account input received from area residents. Nor-Lake shall either conduct a public meeting or contact individual homeowners in the "area of concern" to provide the residents with information and an opportunity to ask questions and express their concerns, if any, on the water supply replacement system. The plan shall be submitted within sixty (60) days after the final analytical



results of the sampling required in Paragraph 1.A. are approved by the Department. The plan shall be implemented within ninety (90) days after the Department approves the final plan for the water supply replacement system.

B. Nor-Lake shall propose a list or map of residences within the "area of concern" which will be provided a more permanent water supply replacement. Wells which require a more permanent water supply replacement are those wells which have an exceedance of the PAL of one or more of the contaminants of concern listed in Paragraph 1.D., or a detect below the PAL for more than one of the contaminants of concern listed in Paragraph 1.D.

C. (1) For a period of six years after the effective date of this Stipulation, periodic groundwater monitoring shall be performed by Nor-Lake on wells within the "area of concern" for which there has been no replacement permanent water supply provided, to ensure continued safe drinking water. The frequency of this sampling shall be determined by the Department, after consultation with Nor-Lake, after reviewing the sample results required in Paragraph 1.A. With the exception of those wells being sampled pursuant to Paragraph 1.F. or Paragraph 4.C.(2), the sampling frequency shall be no more than annual. No earlier than two years following initiation of the water supply replacement required by this paragraph (Paragraph 4.), Nor-Lake may request a reduction in the frequency of this monitoring.

(2) In lieu of requiring sampling of all such wells, the Department will consider allowing the annual sampling of a representative number of wells if the impacted area is well defined; however, if clean wells lie between impacted wells, the clean wells should all be sampled no more frequently than semi-annually to ensure their status remains clean.

D. Except as provided in Paragraph 4.E., Nor-Lake shall install Point of Entry Granulated Activated Carbon Filters

(POE GAC), in order to provide a more permanent water supply replacement, as follows:

- (1) For six (6) years after implementation of the plan approved under Paragraph 4.A., Nor-Lake shall make available, install and maintain POE GAC filters to all homes served by wells which meet the criteria in Paragraph 4.B.
- (2) Any POE GAC filter utilized shall be approved by DILHR and the DNR Water Supply Program, and shall be operated in compliance with any conditions of approval established by DILHR or the DNR Water Supply Program.
- (3) Nor-Lake shall annually sample and analyze the influent water for bacteria and VOCs at all residences with a POE GAC. Nor-Lake may, at its discretion, increase the monitoring frequency of influent water to quarterly, in an attempt to demonstrate consistent VOC concentrations below the PAL. Nor-Lake shall annually replace both filters in each POE GAC. In addition, Nor-Lake shall annually sample and analyze the effluent waters from all POE GACs for bacteria and VOCs. This monitoring shall be conducted within two (2) weeks of carbon replacement; i.e., rebed.
- (4) Nor-Lake may request the Department approve the removal of a POE GAC from a well, or approve transfer of operational responsibilities for the POE GAC to the well owner, if quarterly VOC sampling for a period of one (1) year does not measure a VOC listed in Paragraph 1.D. at concentrations in excess of the PAL. The Department shall consider the location of the well with respect to other impacted wells, and the number and concentration of VOCs measured in responding to the request to remove a POE GAC. If Nor-Lake chooses to transfer the operational responsibilities for the POE GAC to the well owner, Nor-Lake will advise the well owner of the potential

health effects of failing to properly maintain the POE GAC.

- E. Notwithstanding the requirements of Paragraph 4.D., Nor-Lake retains the option, at its discretion, to propose an alternative permanent water supply replacement to the Department for its evaluation and approval.
5. Within thirty (30) days after the effective date of this Stipulation, Nor-Lake shall submit to the Department the name of the consultant Nor-Lake has retained to conduct an evaluation of whether it is cost-effective to expand the groundwater extraction/treatment system on the Nor-Lake Site to increase the area of influence on the existing system. Within thirty (30) days thereafter, Nor-Lake shall submit a work plan and a schedule for completion of the evaluation, for Department approval.
- A. The evaluation shall be done in compliance with the work plan approved by the Department, and shall consider the addition of at least two recovery wells to the existing treatment system:
    - (1) One well located between RW-1 and MW-5.
    - (2) The second well could include the south plant well with some modifications if necessary.
  - B. If the evaluation recommends expansion, or if Nor-Lake chooses to forego the evaluation, Nor-Lake shall submit a work plan and proposed schedule for completion of the expansion of the groundwater extraction/treatment system.
  - C. Within thirty (30) days after Department approval of the work plan, installation and modification of the existing system shall be initiated.
6. Within thirty (30) days after the effective date of this Stipulation, Nor-Lake shall submit to the Department the name of the consultant Nor-Lake has retained to conduct an evaluation of whether it is cost-effective to expand the soil vapor extraction system on the Nor-Lake Site to increase the

area of influence of the existing system. Within thirty (30) days thereafter, Nor-Lake shall submit a work plan and a schedule for completion of the evaluation, for Department approval.

- A. The evaluation shall be done in compliance with the work plan approved by the Department.
  - B. If the evaluation recommends expansion, or if Nor-Lake chooses to forego the evaluation, Nor-Lake shall submit a work plan and proposed schedule for completion of the expansion of the soil vapor extraction system. The work plan may include installation of extraction wells at the time of investigation.
  - C. Within thirty (30) days after Department approval of the work plan, installation and modification of the existing system shall be initiated.
7. In addition to any monthly or quarterly reports required under approved work plans, Nor-Lake shall submit to the Department, by February 15 of each year for six (6) years following the effective date of this Stipulation, an annual groundwater monitoring report. The annual groundwater monitoring report shall include, at a minimum: a narrative describing the groundwater monitoring conducted during the year and the results of all sampling and testing that was done; an interpretation of trends and any changes in site conditions; a summary of any activity relating to permanent water supply replacements which may have taken place during the previous year; a summary of work proposed for the coming year; summary tables for all historical groundwater chemistry data related to each well; graphs of all historical groundwater chemistry data related to each monitoring well, showing any NR 140 PAL or ES exceedances; graphs of all historical groundwater elevation data; and maps showing groundwater contours and isoconcentrations of detected contaminants.

8. A. This Stipulation shall remain in effect for a period of six years after its effective date. With respect to all matters other than those giving rise to this Stipulation, the Department retains jurisdiction during and after the six-year time period which follows the effective date of this Stipulation, to issue additional orders to Nor-Lake to require Nor-Lake to take adequate action to restore the environment to the extent practicable or to minimize the harmful effects from the discharge to the air, lands or waters of this State.
- B. With respect to those matters giving rise to this Stipulation, the Department retains jurisdiction after the expiration of this Stipulation to issue additional orders to Nor-Lake to require Nor-Lake to take adequate action with respect to those matters, consistent with applicable law and upon a showing that Nor-Lake is the appropriate responsible party.
- C. Those matters giving rise to this Stipulation are:
- (1) on-site soil and groundwater contamination, that has been identified prior to the signing of this Stipulation, at the Nor-Lake facility; and
  - (2) groundwater contamination in the area of Troutbrook Estates/Green Mill Lane, that has been identified prior to the signing of this Stipulation.
- D. Nor-Lake reserves its right to request a contested case hearing or to initiate judicial review if the Department issues a subsequent unilateral order to Nor-Lake.
9. One (1) copy of each plan, proposal or report required by this Stipulation shall be mailed or delivered to the following Department staff:
- Wendy Anderson  
DNR Western District Headquarters  
1300 Clairemont Avenue  
P.O. Box 4001  
Eau Claire, WI 54702

Patrick Collins  
Department of Natural Resources  
990 Hillcrest, Suite 104  
Baldwin, WI 54002

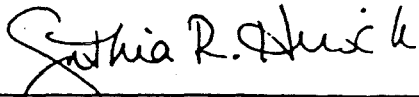
Mark Giesfeldt SW/3  
Bureau of Solid and Hazardous Waste Management  
101 South Webster Street  
P.O. Box 7921  
Madison, WI 53707

10. Administrative Order No. WD-94-13 (File Ref: 4190, 94-WDEE-047) issued to Nor-Lake on October 27, 1994 is hereby withdrawn by the Department. All other existing administrative or consent orders issued by the Department to Nor-Lake, specifically Consent Order No. WD-92-01 (effective June 4, 1992), shall remain in effect.

Dated: October 16, 1995

Dated: October 13, 1995

JAMES E. DOYLE  
Attorney General

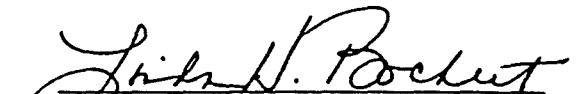


CYNTHIA R. HIRSCH  
Assistant Attorney General  
State Bar ID No. 1017026  
Attorneys for Respondent Wisconsin  
Department of Natural Resources

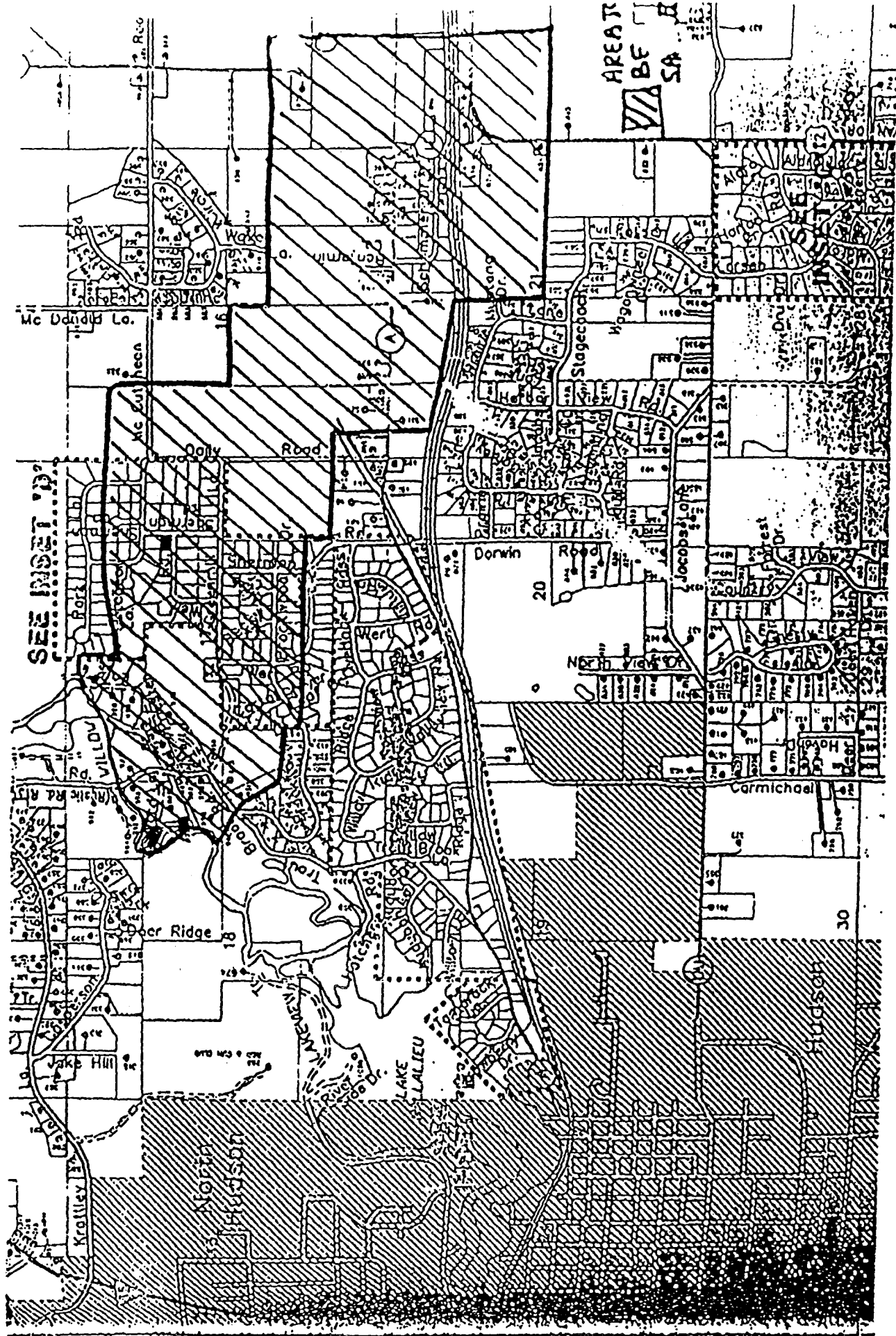


DUWAYNE A. BAKKE  
President, Nor-Lake, Inc.,  
Petitioner

Dated: October 12, 1995

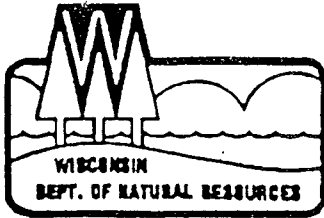
  
LINDA H. BOCHERT  
Michael, Best & Friedrich  
State Bar ID No. 1015962  
Attorneys for Petitioner,  
Nor-Lake, Inc.

Attachment A



**EXHIBIT B**





State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor  
George E. Meyer, Secretary  
Donald R. Winter, District Director

Western District Headquarters  
1300 W. Clairemont Avenue  
PO Box 4001  
Eau Claire, Wisconsin 54702-4001  
TELEPHONE 715-839-3700  
FAX 715-839-6076/1605  
TTY 715-839-2786

September 4, 1996

Ms. Linda H. Bochert  
Michael, Best & Friedrich  
P.O. Box 1806  
Madison, WI 53701-1806

**SUBJECT: Footnote in Plaintiffs' Reply Brief in the  
Class Action Lawsuit**

Dear Ms. Bochert:

This letter responds to your recent questions to me. At your request, Wendy Anderson and I have reviewed footnote 17 of the Plaintiffs' Reply Brief in the class action lawsuit that has been filed against Nor-Lake, Inc. The footnote states:

"Testing in the Jensen Lane area, in the southwest portion of the Affected Area, has shown detects of TCE. This area was not included in the special casing area. Given this discovery and the DNR's conclusion that Nor-Lake is responsible for this contamination, the class may need to be expanded."

We are not sure about the source or the intended meaning of this statement about the Department's "conclusion that Nor-Lake is responsible for this contamination." However, it may be that statements made during discussions between the plaintiffs' lawyers and Department personnel have been taken out of context. The Department has not made a determination that Nor-Lake is the source of the new TCE detects identified in recent testing. Rather, it is the Department's position that Nor-Lake's responsibility for further investigation (and provision of bottled water and/or filters) in the area in question arises from what the Department believes to be Nor-Lake's obligations under the Stipulation entered into between Nor-Lake and the State of Wisconsin in October, 1995 in Nor-Lake, Inc. v. Department of Natural Resources (Case No. 94-CV-479, St. Croix County Circuit Court). I hope that this letter will clear-up any confusion that may exist on this issue.

Sincerely,

Linda Meyer  
Staff Attorney  
Bureau of Legal Services

*Quality Natural Resources Management  
Through Excellent Customer Service*



cc: Jon Furlow - Michael, Best and Friedrich  
Wendy Anderson - WD  
Pat Collins - Baldwin  
Cynthia Hirsch - DOJ  
Mark Giesfeldt - RR/3

EXHIBIT C



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

JAMES E. DOYLE  
ATTORNEY GENERAL  
  
Burneatta L. Bridge  
Deputy Attorney General

123 West Washington Avenue  
P.O. Box 7857  
Madison, WI 53707-7857

Cynthia R. Hirsch  
Assistant Attorney General  
608/266-3861  
FAX 608/267-2223  
TTY 608/267-8902

October 3, 1996

Ms. Linda H. Bochert  
Michael, Best & Friedrich  
Post Office Box 1806  
Madison, Wisconsin 53701

Re: Nor-Lake, Inc. v. Wisconsin Department of Natural  
Resources  
Case No. 94-CV-479

Dear Linda:

The purpose of this letter is to respond to your September 27, 1996, letter to which you attached a proposed joint motion to the court. We appreciate your attempt to expedite a resolution to the perceived conflict between DNR and Nor-Lake, however, we strongly object to the approach you propose taking with the court.

The State of Wisconsin anticipates asking the court to retain jurisdiction over this matter when and if Nor-Lake refuses to comply with the stipulation, specifically paragraph 1A under the Specific Terms section. Consistent with that paragraph, DNR has received results from Nor-Lake under an approved sampling plan and DNR has required additional monitoring in areas which were not initially sampled but are adjacent to new VOC detections. We understand that Nor-Lake refuses to accomplish that additional monitoring and if this refusal persists, we will request a hearing before the court pursuant to paragraph 5 of the General Terms section.

At our previous meeting you asked us whether or not it mattered to the state if there were one or two plumes. So as not to mislead Nor-Lake, we want to be completely clear about this question. Whether or not there are two plumes is irrelevant at this time in that under the stipulation Nor-Lake is required to do the requested additional monitoring in areas which were not initially sampled but are adjacent to new VOC detects of one or more of the listed contaminants. The sampling results show new VOC detects and therefore DNR is requiring additional monitoring in adjacent areas.

You may be pleased to note, however, that in taking a closer look at this issue we have determined that DNR's letter of

Ms. Linda H. Bochert  
October 3, 1996  
Page 2

August 23 is in error. Of the seventy-seven wells DNR has requested Nor-Lake to monitor, only twenty-two of those wells are actually adjacent to new VOC detections. Therefore, under the stipulation, we can only require additional monitoring of those twenty-two wells at this time. Of course, if any of these additional twenty-two wells reflect new VOC detects, DNR may require additional monitoring of wells adjacent to those new VOC detects. DNR included the longer list in its August 23 letter because it made sense to require monitoring of the entire adjacent area, however, we have determined this to be overbroad. Technically, you are only required to monitor adjacent wells at this time. I have attached a list of the wells we have determined to fall in this category for your convenience. DNR will send an official modification to their August 23 letter with a similar attachment.

You have challenged DNR's authority to ask Nor-Lake to accomplish this monitoring within thirty days. Although the stipulation is silent on this particular deadline, in order to have a meaningful requirement there needs to be a reasonable time deadline. DNR's amended request will ask that you accomplish the monitoring within thirty days or a reasonable timeframe that you propose. I suggest that if thirty days is unreasonable, you propose a timeframe within which you can accomplish the monitoring. If Nor-Lake does not intend to do the monitoring, please advise.

You have also asked a question regarding the area of concern and whether it can change. We interpret the stipulation to mean that the area of concern, once finally defined, will not change. Within the area of concern, however, categories may change. For example, monitoring can change from annual to quarterly to semi-annual and additional filters within the area of concern may be required under the stipulation. It is important to note that to date only a preliminary area of concern has been designated. A final area of concern will not be designated until DNR is comfortable that all required analytical testing has been completed, pursuant to paragraph 1A.

Finally, we agree that the requirement to sample wells hydraulically near should be consistent with the stipulation and therefore be a requirement to sample wells hydraulically adjacent.

We appreciate and understand that Nor-Lake is proceeding rapidly to put filters on the wells of all those residences within

Ms. Linda H. Bochert  
October 3, 1996  
Page 3

the area which both DNR and Nor-Lake agree is Nor-Lake's obligation. I look forward to hearing from you as soon as possible.

Sincerely,

*Cynthia*

Cynthia R. Hirsch  
Assistant Attorney General

CRH:drm

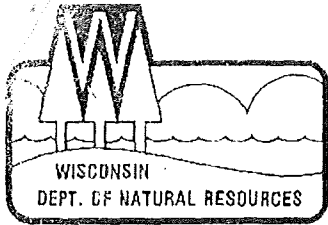
Enclosure

c w/enc.: Pat Collins  
Linda Meyer  
Wendy Anderson

Wells to be Sampled	Lies Adjacent To	Date of VOC Detect
366 Brookwood	365 Brookwood	5/96
367 Brookwood	362 Brookwood	6/96
413 Brookwood	416 Brookwood	5/96
414 Brookwood	416 Brookwood	5/96
419 Brookwood	416 Brookwood	5/96
499 CTH A	514 CTH A	6/96
905 Daily Road	514 CTH A	6/96
910 Daily Road (if there is a well)	514 CTH A	6/96
444 Overlook Pass	934 Wert	5/96
446 Overlook Pass	930 Wert	5/96
448 Overlook Pass	930 Wert	5/96
450 Overlook Pass	928 Wert	5/96
452 Overlook Pass	911 Wert/454 Overlook Pass	5/96
453 Overlook Pass	454 Overlook Pass	5/96
455 Overlook Pass	454 Overlook Pass	5/96
456 Overlook Pass	454 Overlook Pass/ 461 Jensen	5/96
458 Overlook Pass	463 Jensen 465 Jensen	5/96 6/96
460 Overlook Pass	465 Jensen 930 Sherman Road	6/96 5/96
904 Sherman Road	930 Sherman Road	5/96
928 Sherman Road	929/930 Sherman Road	5/96
933/935 Carter Circle	940 Wert	6/96







State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor  
George E. Meyer, Secretary  
Donald R. Winter, District Director

990 Hillcrest Street  
Suite 104  
Baldwin, Wisconsin 54002  
TELEPHONE 715-684-2914  
FAX 715-684-5940  
FID #65600942  
St. Croix County  
RR/CORR

August 23, 1996

Mr. DuWayne Bakke, President, CEO  
Nor-Lake, Incorporated  
Second and Elm Streets  
P.O. Box 248  
Hudson, WI 54016-0248

SUBJECT: Delineation of the Preliminary Area of Concern and Required  
Monitoring under Nor-Lake/WDNR Stipulation

Dear Mr. Bakke:

Department staff have reviewed information presented by representatives of Ayres Associates at our July 25th meeting in Madison, data provided by Legend on Monday, August 5, 1996, and previously submitted monitoring data from Department files. Based on this review, Department staff have come to the conclusion that additional monitoring of areas that were not initially sampled, but are located hydraulically near new VOC detections, must be conducted before the Department will have sufficient information to finalize its delineation of the "area of concern" pursuant to Paragraph 1A of the Stipulation that was signed in this case in 1995.

A preliminary "area of concern" is presented in Figure 1. The southwestern portion of this preliminary "area of concern" is the area where additional monitoring is needed in order to determine the boundaries for future monitoring and filter installations. This area has not been sampled in the past and is located hydraulically near impacted wells. The wells listed in Attachment 6 should be sampled for VOCs within 30 days. All no-detects shall be confirmed. In lieu of sampling all wells at this time, Nor-Lake may propose an expedited phased approach. Once the sampling results are available for this area, the Department will be in a position to finalize the "area of concern."

In order to expedite Nor-Lake's implementation of water replacement, we have outlined the required monitoring for the "area of concern" where filters will not be installed, per Paragraphs 1F, 4C(1) and 4C(2) of the Stipulation. The deep wells that shall be monitored annually to document that the lower aquifer remains clean are presented in Attachment 1. The wells that shall be monitored quarterly to document that the single detects remain below the PAL are presented in Attachment 2. The wells that shall be monitored semi-annually to document that they remain clean (near wells with detections) are presented in Attachment 3. The wells that shall be monitored annually in order to document the limits of the "area of concern" are protective are presented in Attachment 4. The results of the monitoring that is to be conducted in the southwestern portion of the preliminary "area of concern" may result in a decrease in the size of the "area

of concern" and a modification to the monitoring program as described in Attachments 3 and 4. Annual sampling shall be conducted in June, semi-annual in June and December, and quarterly in March, June, September, and December. The applicable routine sampling described above shall begin in September.

Listed in Attachment 5 are all wells that are required to have a filter installed because they meet the criteria of Paragraph 4B of the Stipulation. For wells identified in Attachment 5 that are not included in the Alternate Water Supply Plan, dated July 1996, prepared by Ayres Associates, Nor-Lake shall incorporate these wells into the Alternate Water Supply Plan implementation schedule.

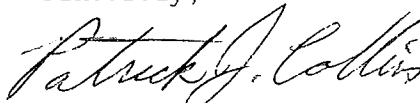
The attached maps present the results of previous sampling (Figure 2) and the resulting monitoring program in color (Figure 3).

Please keep in mind that the "area of concern" is defined according to the Stipulation as an area where Nor-Lake, Inc. has agreed to conduct future monitoring and provide bottled water and filters if necessary. The "area of concern" does not represent an area that Nor-Lake, Inc. is conceding to have been impacted by past discharges at the Nor-Lake facility.

You should also keep in mind that, under Paragraph 3 of the Stipulation, Nor-Lake will be required to implement a bottled water program for the homes within the "area of concern" that have not been sampled in the past. This is the area south of Brookwood and west of Daily Road. Nor-Lake may want to offer these homeowners bottled water prior to the Department's finalization of the "area of concern."

If you have any questions concerning this letter, please contact either of us.

Sincerely,



Patrick J. Collins  
Hydrogeologist



Wendy Didier Anderson  
Waste Management Engineer

enc. Attachment 1  
Attachment 2  
Attachment 3  
Attachment 4  
Attachment 5  
Attachment 6  
Figure 1 - Preliminary Area of Concern  
Figure 2 - Results of Past Monitoring  
Figure 3 - Monitoring Plan

c: Jim Anklam, Ayres Assoc.  
Linda Meyer, WD  
Wendy Anderson/Bill Evans/Larry Schaefer, WD  
Bob Schaefer, WS/2  
Cynthia Hirsch, DOJ  
Linda Bochert/Lauren Azar, Michael, Best & Friedrich, One South Pinckney  
Street, P.O. Box 1806, Madison, WI 53701-1806

RECEIVED  
AUG 26 1996  
Baldwin, D.

## ATTACHMENT 1

DEEP WELLS (BLUE)		
ADDRESS	STREET	FREQUENCY
581	CTH A	ANNUALLY
597	SCHOMMER DRIVE	ANNUALLY
967	TROUTBROOK	ANNUALLY
973	PRIESTER LANE	ANNUALLY
874	CTH U	ANNUALLY

## ATTACHMENT 2

REPRESENTATIVE PERIMETER WELLS (BLUE)		
ADDRESS	STREET	FREQUENCY
928	CTH A	ANNUALLY
876	CTH U	ANNUALLY
435	PARK LANE	ANNUALLY
439	PARK LANE	ANNUALLY
451	PARK LANE	ANNUALLY
494	PARK LANE	ANNUALLY
495	PARK LANE	ANNUALLY
494	PRAIRIE LANE	ANNUALLY
500	PRAIRIE LANE	ANNUALLY
986	PRIESTER LANE	ANNUALLY
985	SHERMAN LANE	ANNUALLY
854	W. HIGHWAY 12	ANNUALLY

## ATTACHMENT 3

CLEAN WELLS BETWEEN WELLS WITH DETECTIONS (GREEN)		
ADDRESS	STREET	FREQUENCY
443	BROOKWOOD DRIVE	SEMI - ANNUALLY
451	BROOKWOOD DRIVE	SEMI - ANNUALLY
453	BROOKWOOD DRIVE	SEMI - ANNUALLY
454	BROOKWOOD DRIVE	SEMI - ANNUALLY
468	BROOKWOOD DRIVE	SEMI - ANNUALLY
471	BROOKWOOD DRIVE	SEMI - ANNUALLY
923	CLOVER LEAF CIRCLE	SEMI - ANNUALLY
970	DAILY ROAD	SEMI - ANNUALLY
974	DAILY ROAD	SEMI - ANNUALLY
458	MCCUTCHEON LANE	SEMI - ANNUALLY
459	MCCUTCHEON LANE	SEMI - ANNUALLY
460	MCCUTCHEON LANE	SEMI - ANNUALLY
460	MCCUTCHEON ROAD	SEMI - ANNUALLY
467	MCCUTCHEON ROAD	SEMI - ANNUALLY
472	MCCUTCHEON ROAD	SEMI - ANNUALLY
939	MIKES CIRCLE	SEMI - ANNUALLY
498	PARK LANE	SEMI - ANNUALLY
499	PARK LANE	SEMI - ANNUALLY
984	PRIESTER LANE	SEMI - ANNUALLY
589	SCHOMMER DRIVE	SEMI - ANNUALLY
981	SHERMAN LANE	SEMI - ANNUALLY
984	SHERMAN LANE	SEMI - ANNUALLY
931	SHERMAN ROAD	SEMI - ANNUALLY
937	WERT ROAD	SEMI - ANNUALLY

## ATTACHMENT 4

WELLS WITH SINGLE DETECT BELOW A PAL (YELLOW)		
ADDRESS	STREET	FREQUENCY
362	BROOKWOOD ROAD	QUARTERLY
365	BROOKWOOD ROAD	QUARTERLY
457	JENSEN LANE	QUARTERLY
461	JENSEN LANE	QUARTERLY
462	MCCUTCHEON LANE	QUARTERLY
464	MCCUTCHEON ROAD	QUARTERLY
454	OVERLOOK PASS	QUARTERLY
982	SHERMAN LANE	QUARTERLY
950	TROUTBROOK ROAD	QUARTERLY
911	WERT ROAD	QUARTERLY
928	WERT ROAD	QUARTERLY
930	WERT ROAD	QUARTERLY
934	WERT ROAD	QUARTERLY

## ATTACHMENT 5

WELLS WITH MULTIPLE DETECTS < PAL OR A SINGLE DETECT > PAL - FILTER (PINK)			
ADDRESS	STREET	ADDRESS	STREET
937	BECKY CIRCLE	455	GREENMILL LANE
938	BECKY CIRCLE	457	GREENMILL LANE
940	BECKY CIRCLE	458	GREENMILL LANE
941	BECKY CIRCLE	461	GREENMILL LANE
942	BECKY CIRCLE	462	GREENMILL LANE
416	BROOKWOOD DRIVE	466	GREENMILL LANE
437	BROOKWOOD DRIVE	470	GREENMILL LANE
447	BROOKWOOD DRIVE	473	GREENMILL LANE
449	BROOKWOOD DRIVE	474	GREENMILL LANE
469	BROOKWOOD DRIVE	480	GREENMILL LANE
470	BROOKWOOD DRIVE	484	GREENMILL LANE
514	CTH A	492	GREENMILL LANE
520	CTH A	606	E. HIGHWAY 12
526	CTH A	612	E. HIGHWAY 12
549	CTH A	455	JENSEN LANE
551	CTH A	459	JENSEN LANE
554	CTH A	463	JENSEN LANE
576	CTH A	465	JENSEN LANE
580	CTH A	471	MCCUTCHEON ROAD
586	CTH A	473	MCCUTCHEON ROAD
587	CTH A	481	MCCUTCHEON ROAD
596	CTH A	484	MCCUTCHEON ROAD
956	DAILY ROAD	491	MCCUTCHEON ROAD
960	DAILY ROAD	940	MIKES CIRCLE
966	DAILY ROAD	942	MIKES CIRCLE
427	GREENMILL LANE	968	NORD LANE
434	GREENMILL LANE	959	PRIESTER LANE
441	GREENMILL LANE	966	PRIESTER LANE
445	GREENMILL LANE	970	PRIESTER LANE
447	GREENMILL LANE	974	PRIESTER LANE
451	GREENMILL LANE	980	PRIESTER LANE
452	GREENMILL LANE	593	SCHOMMER DRIVE

596	SCHOMMER DRIVE	970	WERT ROAD
978	SHERMAN LANE	974	WERT ROAD
929	SHERMAN ROAD	975	WERT ROAD
930	SHERMAN ROAD	978	WERT ROAD
935	SHERMAN ROAD	979	WERT ROAD
941	SHERMAN ROAD	984	WERT ROAD
942	SHERMAN ROAD		
945	SHERMAN ROAD		
947	SHERMAN ROAD		
959	SHERMAN ROAD		
962	SHERMAN ROAD		
965	SHERMAN ROAD		
967	SHERMAN ROAD		
948	TROUTBROOK ROAD		
951	TROUTBROOK ROAD		
955	TROUTBROOK ROAD		
958	TROUTBROOK ROAD		
961	TROUTBROOK ROAD		
962	TROUTBROOK ROAD		
963	TROUTBROOK ROAD		
964	TROUTBROOK ROAD		
965	TROUTBROOK ROAD		
931	WAXON LANE		
933	WERT ROAD		
939	WERT ROAD		
940	WERT ROAD		
941	WERT ROAD		
944	WERT ROAD		
945	WERT ROAD		
948	WERT ROAD		
960	WERT ROAD		
962	WERT ROAD		
964	WERT ROAD		
966	WERT ROAD		
967	WERT ROAD		



ATTACHMENT 6

WELLS WITHIN THE AREA OF CONCERN THAT HAVE NOT BEEN SAMPLED IN THE PAST

366	BROOKWOOD DRIVE ✓	499	CTH A ✓	918	RIDGE PASS
367	BROOKWOOD DRIVE ✓	511	CTH A	920	RIDGE PASS
369	BROOKWOOD DRIVE —	904	DAILY ROAD	922	RIDGE PASS
374	BROOKWOOD DRIVE ✓	905	DAILY ROAD ✓	924	RIDGE PASS
388	BROOKWOOD DRIVE —	910	DAILY ROAD NSP-?	932	RIDGE PASS
392	BROOKWOOD DRIVE	886	DORWIN ROAD —	936	RIDGE PASS
393	BROOKWOOD DRIVE	440	OVERLOOK PASS ✓	940	RIDGE PASS
395	BROOKWOOD DRIVE	442	OVERLOOK PASS ✓	942	RIDGE PASS
396	BROOKWOOD DRIVE	444	OVERLOOK PASS ✓	946	RIDGE PASS
398	BROOKWOOD DRIVE	445	OVERLOOK PASS	896	SHERMAN ROAD —
399	BROOKWOOD DRIVE	446	OVERLOOK PASS ✓	898	SHERMAN ROAD —
402	BROOKWOOD DRIVE	448	OVERLOOK PASS ✓	904	SHERMAN ROAD ✓
405	BROOKWOOD DRIVE	449	OVERLOOK PASS	928	SHERMAN ROAD ✓
406	BROOKWOOD DRIVE	450	OVERLOOK PASS ✓	441	VIRTUE ROAD
409	BROOKWOOD DRIVE	452	OVERLOOK PASS ✓	446	VIRTUE ROAD
410	BROOKWOOD DRIVE	453	OVERLOOK PASS ✓	447	VIRTUE ROAD
413	BROOKWOOD DRIVE —	455	OVERLOOK PASS ✓	448	VIRTUE ROAD
414	BROOKWOOD DRIVE —	456	OVERLOOK PASS ✓	450	VIRTUE ROAD
419	BROOKWOOD DRIVE —	457	OVERLOOK PASS ✓	451	VIRTUE ROAD
933	CARTER CIRCLE	458	OVERLOOK PASS ✓	935	WAXON LANE
935	CARTER CIRCLE } New House	460	OVERLOOK PASS ✓		WAXON LANE (LOT 6)
937	CARTER CIRCLE } New House	461	OVERLOOK PASS —	892	WERT ROAD
484	CTH A	910	RIDGE PASS	895	WERT ROAD
486	CTH A	912	RIDGE PASS	899	WERT ROAD
491	CTH A	914	RIDGE PASS	903	WERT ROAD'S
494	CTH A	916	RIDGE PASS		

981-Prester,  
Pg 6. Jan-Sub-



**FIGURE 3**  
**ROUTINE MONITORING PROGRAM**  
 Prepared by WDNR  
 August 23, 1996

- FILTER
- QUARTERLY
- SEMI-ANNUALLY
- ANNUALLY
- PRELIMINARY AREA OF CONCERN

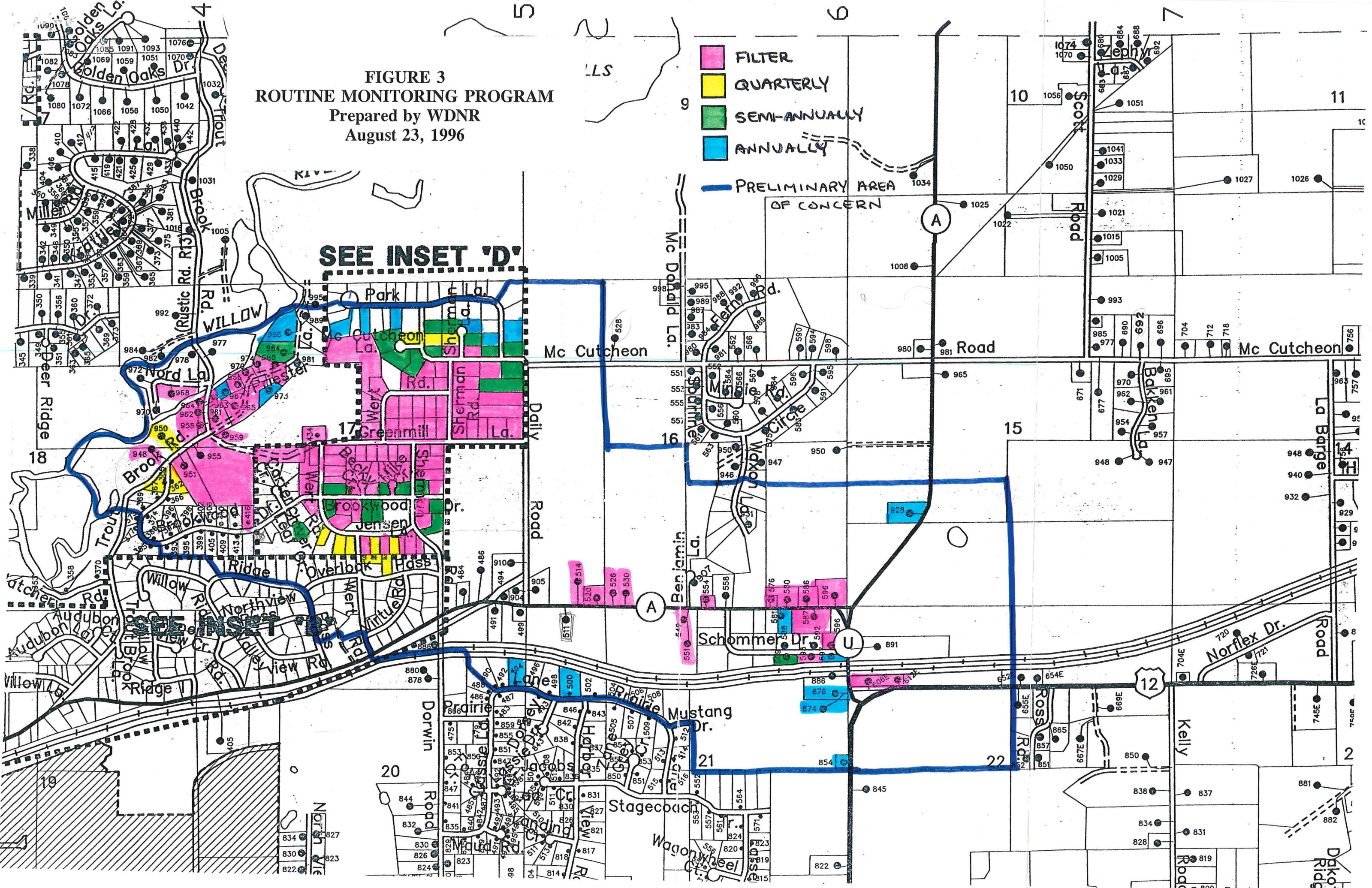
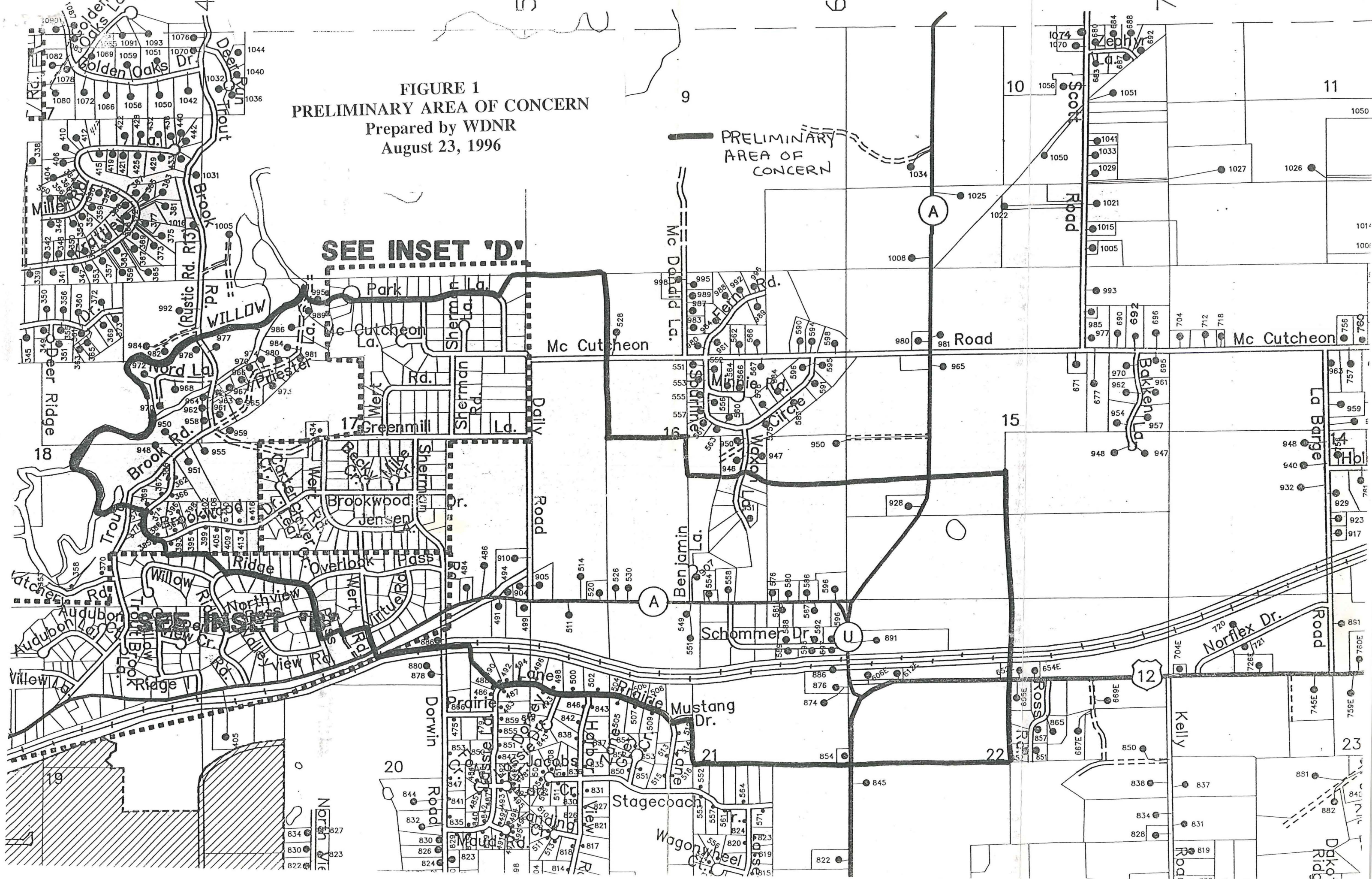


FIGURE 1  
PRELIMINARY AREA OF CONCERN  
Prepared by WDNR  
August 23, 1996



SEE INSET 'D'

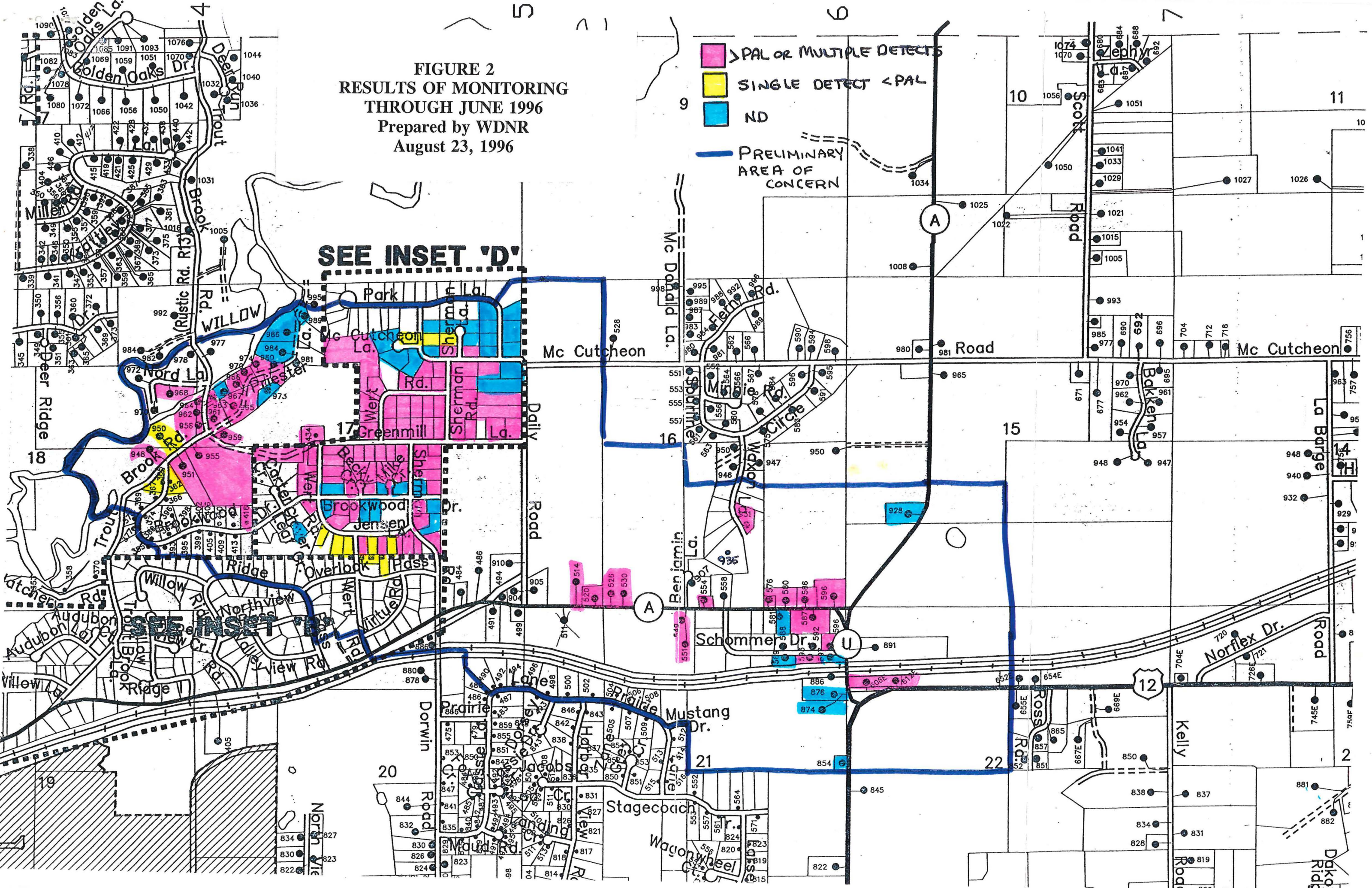
PRELIMINARY  
AREA OF  
CONCERN

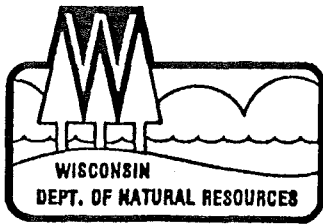
SEE INSET

NORTH  
WETLANDS

FIGURE 2  
 RESULTS OF MONITORING  
 THROUGH JUNE 1996  
 Prepared by WDNR  
 August 23, 1996

- > PAL OR MULTIPLE DETECTS
- SINGLE DETECT < PAL
- ND
- PRELIMINARY AREA OF CONCERN





George E. Meyer  
Secretary

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

101 South Webster Street  
Box 7921  
Madison, Wisconsin 53707  
TELEPHONE 608-266-2621  
TELEFAX 608-267-3579  
TDD 608-267-6897

October 27, 1994

CERTIFIED MAIL:  
RETURN RECEIPT REQUESTED

File Ref: 4190  
94-WDEE-047

Mr. James Richardson, President  
Nor-Lake, Inc.  
P.O. Box 248  
Hudson, WI 54016

SUBJECT: Special Order No. WD-94-13

Dear Mr. Richardson:

Enclosed is Special Order No. WD-94-13, issued by the Department of Natural Resources (Department) requiring you to replace water supplies in the area affected by groundwater contamination, and determine the full degree and extent of contamination emanating from the site. The Order also requires you to arrange for implementation of the recommended and approved investigation and remedial actions.

The Department believes that you are liable for the hazardous substance spill in question. The Department has the jurisdiction to amend this Order. If you wish to contest this Special Order, please refer to the notice at the end of the Order.

If you have any questions regarding this Order, please contact Darrell Solberg, Environmental Enforcement Specialist, at (715)839-3752, or Linda Meyer, Attorney at Law, Bureau of Legal Services, at (715)839-2785. Technical questions should be directed to Patrick Collins, Hydrogeologist, at (715)389-3775.

*684-2914*

Sincerely,

*Brenda B. Hagman*

Brenda B. Hagman, Director  
Office of Environmental Enforcement  
Bureau of Law Enforcement

c: Darrell Solberg - WD  
Patrick Collins - Baldwin Area  
Laurie Egge - SW/3  
Linda Meyer - WD

RECEIVED

OCT 31 1994

Baldwin DNR



BEFORE THE  
DEPARTMENT OF NATURAL RESOURCES

In the Matter of Soil and Groundwater	)	
Contamination Caused by Volatile Organic	)	
Compound Discharges on Property Owned by	)	Special Order WD 94-13
Nor-Lake, Incorporated, in the Town of	)	94-WDEE-047
Hudson, St. Croix County, Wisconsin	)	Fid # 656009420

FINDINGS OF FACT

The Department of Natural Resources ("the Department") finds that:

1. Nor-Lake, Incorporated ("Nor-Lake") is a Wisconsin domestic corporation with the mailing address of 727 Second Street, Post Office Box 248, Hudson, Wisconsin 54016.
2. Nor-Lake operates a manufacturing facility which primarily manufactures refrigerated food service and laboratory equipment. This manufacturing facility ("the Nor-Lake Site") is located between Highway 12 and County Trunk Highway A in Section 22 of Township 29 North, Range 19 West in the Town of Hudson, St. Croix County, Wisconsin.
3. In the past Nor-Lake used solvents which contained volatile organic compounds (VOCs) at the Nor-Lake Site. Until late 1984, Nor-Lake used solvents, along with steam-cleaning and soaps, to prepare sheet metal parts prior to painting and final assembly. Some of these solvents and residues from the use of these solvents were discharged to an on-site septic system or were otherwise disposed of on-site.
4. In the spring of 1984, Nor-Lake had the Nor-Lake plant's drinking water tested and found TCE (Trichloroethylene) and TCA (1,1,1-Trichloroethane), among other contaminants. The contamination was reported to the Department and bottled water was immediately supplied to Nor-Lake employees. Nor-Lake utilized a carbon filter system at the Nor-Lake plant until a more permanent solution became available. A deeper well has since been installed on the east side of the Nor-Lake plant. On June 21, 1984, samples were collected from a septic tank and dry well at the Nor-Lake Site by Twin City Testing. Both tanks were found to contain a bottom layer, which was primarily chlorinated solvents, and an upper layer which was water. Samples taken from the bottom layer of both tanks contained TCA, TCE, toluene and xylene. A sample taken from the bottom layer in the tank labeled Septic Tank #1 also contained perchloroethylene. In the fall of 1984, both tanks were pumped, filled with bentonite or sand and capped with concrete by Nor-Lake.
5. Between 1984 and 1988, Nor-Lake installed eleven groundwater monitoring wells, and conducted sampling of groundwater monitoring wells and private water supply wells in the vicinity of the Nor-Lake Site. Groundwater monitoring well sampling indicated that VOC contamination in the groundwater (including 1,1-Dichloroethane, 1,1-Dichloroethylene, 1,1,1-Trichloroethane and Trichloroethylene contamination) had moved off-site. During 1985, Nor-Lake installed a groundwater recovery well and an aeration system at the Nor-Lake Site, in an attempt to reduce further off-site migration of contaminated groundwater and installed carbon filter units in five private homes in the vicinity of the Nor-Lake Site after VOCs were detected in those wells. The Nor-Lake groundwater extraction and aeration system ran from April to November each year, from 1985 until November 1990. The system was shutdown in November of 1990 because the wastewater being discharged did not meet new wastewater discharge effluent limits. There was intermittent operation of the system for testing purposes from 1990 to 1992. The groundwater recovery well has since been modified and incorporated into an upgraded remedial system.
6. In October 1990, the Department retained the services of Braun Intertec to perform an in-field conditions study of the Trout Brook Road and Park View Estates area and produce a report which included:
  - A. A historical review and study area reconnaissance.

- B. A summary of a passive soil gas investigation (ie. Petrex) performed by the Department to further identify potential areas of contamination.
  - C. A groundwater investigation which included a geophysical investigation to better identify geologic conditions and the installation and sampling of 11 groundwater monitoring wells. In addition to the groundwater samples collected from these wells they were also used to determine hydrogeologic conditions, including hydraulic conductivity, hydraulic gradient, and geologic formation.
7. The Braun report conclusions state that the data gathered in their investigation suggests that there is a continuous plume which extends from the area of Nor-Lake to the Trout Brook Road area. All of the information that the Department has gathered to date regarding the groundwater contamination in the Town of Hudson, including the Braun report, indicates that the Nor-Lake Site is a source of the groundwater contamination in the Trout Brook Road/ Park View Estates area as well as in the area near the Nor-Lake Site.
8. During a site visit in October 1991, a Department employee observed that Nor-Lake was illegally discharging wastewater from its metal cleaning operations along with noncontact cooling water to the land surface at the Nor-Lake Site. This wastewater contained metals and VOCs. The Department required Nor-Lake to discontinue the discharge of wastewater containing metals/VOCs and perform an investigation to determine the degree and extent of soil and groundwater contamination. Nor-Lake's consultant conducted an investigation which indicated that metals/VOCs had been discharged to the land surface at the Nor-Lake Site from 1984 to 1991.
9. In May 1992, Nor-Lake signed a consent order with the Department which included, but was not limited to, the following items:
- A. Installation of an expanded ground water extraction system.
  - B. Investigation and repair of leaking piping associated with fire protection tanks.
  - C. An expanded groundwater monitoring program including the construction of additional monitoring wells.
  - D. A report evaluating the effectiveness of the groundwater extraction and treatment system.
  - E. The installation, operation and monitoring of a soil vapor extraction system.
  - F. Required the submittal of an annual report and other data in a timely manner.
10. Nor-Lake has taken significant remedial action since signing of the consent order. However, off-site migration of contaminated groundwater continues as does the need for additional remedial action to address VOC contaminated soil at the Nor-Lake Site.

#### CONCLUSIONS OF LAW

The Department of Natural Resources ("the Department") concludes that:

1. The solvents (containing Trichloroethylene, 1, 1, 1-Trichloroethane, and other VOCs) which were discharged on the Nor-Lake Site and which have caused groundwater contamination emanating from the Nor-Lake Site are "hazardous substances" as that term is defined in section 144.01(4m), Wisconsin Statutes.
2. Nor-Lake had possession of, and control over, these solvents before they were discharged, caused their discharge and continues to exercise possession and control over contaminated soil on the Nor-Lake Site. Nor-Lake has the responsibility under section 144.76(3), Wisconsin Statutes, to take action to restore the environment to the extent practicable (to repair



resources that have been damaged by the solvent contamination) and to minimize the harmful effects from the discharge of solvents to the air, land, or waters of the State.

3. The Department has the authority under section 144.76(7)(c), Wisconsin Statutes, to issue emergency orders or special orders for the protection of public health, safety, or welfare.

4. The Department has the authority under section 144.265(2)(a), Wisconsin Statutes, to order the owner or operator of a regulated activity to replace contaminated private water supplies which it has caused to become contaminated.

#### ORDER

1. Within fifteen (15) days after the effective date of this order, Nor-Lake Inc. shall offer safe and adequate supplies of bottled water to all residents and businesses within the area of groundwater contamination caused by or contributed to by the Nor-Lake Site ("the affected area") who do not have a DNR-approved carbon filter unit in operation and shall continue to provide bottled water until a permanent replacement water supply is in place. The "affected area" includes those properties within the Well Casing Requirement boundary starting in the vicinity of the Nor-Lake plant site and continuing west and northwest from the plant site, including parts of Sections 15, 16, 17, 18, 21, and 22, T29N, R19W, Town of Hudson, St. Croix County, Wisconsin.

2. Within thirty (30) days after the effective date of this order, Nor-Lake shall submit to the Department a detailed work plan to determine the full degree and extent of the VOC contamination in the groundwater emanating from the Nor-Lake Site. The investigation work plan shall comply with the requirements of ch. NR 716, Wis. Adm. Code, and all applicable federal and state laws. Once the investigative work plan is approved by the Department, work shall begin within fifteen (15) days. The investigation work plan that is required by this paragraph shall be prepared by an experienced environmental consultant, and shall include:

A. A proposed workplan for performing a geophysical investigation to provide information for the placement of a minimum of six groundwater monitoring wells and three nested piezometers in the area bounded by CTH "A", the railroad right-of-way, and Daily Road.

B. A proposal for sampling all existing monitoring wells and all private wells in the "affected area".

3. A detailed report, containing the methods, results, conclusions, and recommendations from the geophysical investigation shall be submitted for Department review within twenty-one (21) days after the geophysical investigation is completed.

4. Within fifteen (15) days after the geophysical investigation data is submitted to the Department, Nor-Lake shall submit for Department approval a detailed plan for the placement of new monitoring wells. This plan shall provide information on proposed location, installation methods and a soil sampling proposal. Installation of the monitoring wells shall begin within fifteen (15) days after Department approval of the plan. Within seven (7) days after well installation/development, groundwater samples shall be collected and analyzed for VOCs. A second round of samples shall be collected and analyzed not more than thirty (30) days after the first round. Within sixty (60) days after the second round of sampling, Nor-Lake shall submit a detailed report presenting the results of the investigation with a proposal for additional investigation if necessary.

5. Nor-Lake shall develop and submit plans for a permanent replacement of contaminated water supplies affected by or threatened by contamination emanating from the Nor-Lake Site. The plan shall be prepared by an experienced engineering consultant, and shall include public meetings to provide the residents with information and an opportunity to provide input on the proposed system. The plan shall be submitted within sixty (60) days after a final investigation report is approved by the Department, and implementation shall begin within thirty (30) days after the Department approves final plans for the replacement water supplies.

6. Within thirty (30) days after the effective date of this order, Nor-Lake shall submit for Department approval, a detailed design report for an expanded groundwater extraction/treatment system on the Nor-Lake Site to increase the area of influence of the existing system. This plan:

- A. Shall be prepared by an experienced environmental consultant in compliance with the requirements of s. NR 724.07, Wis. Adm. Code.
- B. Shall include the addition of at least two recovery wells to the existing treatment system.
  1. One well shall be located between RW-1 and MW-5.
  2. The second well could include the south plant well with some modifications if necessary.
- C. Within ninety (90) days after Department approval of the design report, installation and modification of the existing system shall be completed.

7. Within thirty (30) days after the effective date of this order, Nor-Lake shall submit for Department approval a detailed workplan for investigation to define degree and extent of soil contamination on the NOR-Lake site and preparation of a design report for an expanded soil vapor extraction system on the Nor-Lake Site to increase the area of influence of the existing system. This plan:

- A. Shall be prepared by an experienced environmental consultant in compliance with chs. NR 716 and NR 724.
- B. Shall include an investigation to define the degree and extent of soil contamination.
- C. May include installation of extraction wells at the time of investigation.
- D. Within sixty (60) days after Department approval of a design report, installation and modification of the existing system shall be completed.

8. In addition to any monthly or quarterly reports required under approved work plans, Nor-Lake shall submit to the Department, by February 15 of each year following the effective date of this Order, an annual groundwater monitoring report. The annual groundwater monitoring report shall include, at a minimum: a narrative describing the groundwater monitoring conducted during the year and the results of all sampling and testing that was done; an interpretation of trends and any changes in site conditions; a summary of work proposed for the coming year; summary tables for all historical groundwater chemistry data related to each well; graphs of all historical groundwater chemistry data related to each monitoring well, showing any NR 140 PAL or ES exceedances; graphs of all historical groundwater elevation data; and maps showing groundwater contours and isoconcentrations of detected contaminants.

9. At the request of Department staff, Nor-Lake shall allow split or duplicate samples to be taken by the Department during any sample collection conducted by Nor-Lake pursuant to this Order. Nor-Lake shall notify the Department's Western District office and Baldwin office by telephone or in writing at least ten (10) business days prior to any planned sampling event.

10. The Department retains jurisdiction to issue additional orders to Nor-Lake to require Nor-Lake to take adequate action to restore the environment to the extent practicable or to minimize the harmful effects from the discharge to the air, lands or waters of this State.

11. One (1) copy of each plan, proposal or report required by this Order shall be mailed or delivered to:

Bill Evans  
DNR Western District Headquarters  
1300 Clairemont Avenue  
P.O. Box 4001  
Eau Claire, WI 54702

12. One (1) copy of each plan, proposal or report required by this Order shall be mailed or delivered to:

Patrick Collins  
Department of Natural Resources  
990 Hillcrest, Suite 104  
Baldwin, WI 54002

13. One (1) copy of each plan, proposal or report required by this Order shall be mailed or delivered to:

Mark Giesfeldt SW/3  
Bureau of Solid and Hazardous Waste Management  
101 S. Webster Street  
P.O. Box 7921  
Madison, WI 53707

## NOTICE OF APPEAL RIGHTS

This order shall be effective unless a request for a hearing to contest the issuance of this order, or any of its terms, is filed with the Department within thirty (30) days after the date this order is mailed. All hearing requests shall be filed either by delivery to the Office of the Secretary of the Department at 101 South Webster Street, Madison, Wisconsin, or by certified mail addressed to the Office of the Secretary, Department of Natural Resources, P.O. Box 7921, Madison, WI 53707. If a hearing is requested, this order shall not become effective until the administrative law judge issues a decision affirming or modifying this order. This notice is provided pursuant to section 227.48(2), Stats.

All hearing requests must be made in accordance with Section NR 2.05(2), Wisconsin Administrative Code, and must identify the grounds for petition and the desired modification or change to the Order and include information demonstrating the following:

1. A substantial interest of the petitioner which is injured in fact or threatened with injury by Department action or inaction.
2. That there is no evidence of legislative intent that this interest is not to be protected.
3. That the injury to the petitioner is different in kind or degree to that of the general public caused by Department action or inaction.
4. That this is dispute of material fact.

For judicial review of a decision pursuant to sections 227.52 and 227.53, 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 shall name the Department of Natural Resources as the respondent.

Dated at Madison, Wisconsin, this 27th day of October, 1994.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By Brenda B. Hagman  
Brenda Hagman, Director  
Office of Environmental Enforcement  
Bureau of Law Enforcement



Carroll D. Besadny  
Secretary

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

101 South Webster Street  
Box 7921  
Madison, Wisconsin 53707  
TELEPHONE 608-266-2621  
TELEFAX 608-267-3579  
TDD 608-267-6897

June 5, 1992

RECEIVED

JUN 8 JUN 1992 1992

IN REPLY REFER TO: 8300

DNR-WD DNR

Mr. Charles V. Sweeney  
Michael, Best & Friedrich  
One South Pinckney Street  
P.O. Box 1806  
Madison, WI 53701-1806

SUBJECT: Nor-Lake Consent Order

Dear Mr. Sweeney:

I have enclosed one copy of the signed Nor-Lake Consent Order. The Consent Order became effective on June 4, when it was signed by John LaFontaine.

The Department appreciates Nor-Lake's willingness to negotiate and sign this Consent Order. We look forward to continued cooperation on the part of Nor-Lake and Nor-Lake's consultants as the implementation of the work required under the Consent Order begins.

Sincerely,

Linda Meyer  
Staff Attorney  
Bureau of Legal Services

cc: Pat Collins - Baldwin  
Bill Evans - WD  
Darrell Solberg - WD  
Bob Strous - SW/3

BEFORE THE  
DEPARTMENT OF NATURAL RESOURCES

In the Matter of Soil and Groundwater            )  
Contamination Caused by Volatile Organic        )  
Compound Discharges on Property Owned by        )  
Nor-Lake, Incorporated, in the Town of            )  
Hudson, St. Croix County, Wisconsin            )            Consent Order            WD-92-01

FINDINGS OF FACT

The Department of Natural Resources finds that:

1. Nor-Lake, Incorporated ("Nor-Lake") is a Wisconsin domestic corporation formed on July 25, 1947. Ms. Marie B. Blakeman is the Registered Agent. The corporate mailing address is 727 Second Street, Post Office Box 248, Hudson, Wisconsin 54016.
2. Nor-Lake operates a manufacturing facility which primarily manufactures refrigerated food service and laboratory equipment. This manufacturing facility ("the Nor-Lake Site") is located between Highway 12 and County Trunk Highway A in Section 22 of Township 29 North, Range 19 West in the Town of Hudson, St. Croix County, Wisconsin.
3. Nor-Lake used paints and solvents in the past which contained volatile organic compounds (VOC's). The majority of the metal parts used by Nor-Lake were not painted, however. Until late 1984, Nor-Lake used solvents, steam-cleaning and soaps to prepare some sheet metal parts prior to painting and final assembly.
4. In the spring of 1984, Nor-Lake voluntarily had the Nor-Lake plant's drinking water tested and found TCE (Trichloroethylene) and TCA (1,1,1-Trichloroethane), among other contaminants. The contamination was reported to the Department of Natural Resources ("the Department") and bottled water was immediately supplied to Nor-Lake employees. Nor-Lake utilized a carbon filter system until a more permanent solution became available. A deeper well has since been installed on the east side of the Nor-Lake plant. On June 21, 1984, samples were collected from a septic tank and dry well at the Nor-Lake Site by Twin City Testing. Both tanks were found to contain a bottom layer, which was primarily chlorinated solvents, and an upper layer which was water. Samples taken from the bottom layer of both tanks contained TCA, TCE, toluene and xylene. A sample taken from the bottom layer in the tank labeled Septic Tank #1 also contained perchloroethylene. In the fall of 1984, both tanks were pumped, filled with bentonite or sand and capped with concrete by Nor-Lake to eliminate a suspected source of VOC groundwater contamination.
5. Between 1984 and 1988, Nor-Lake installed eleven groundwater monitoring wells, and conducted sampling of groundwater monitoring wells and private water supply wells in the vicinity of the Nor-Lake Site. Groundwater monitoring well sampling indicated that VOC contamination in the groundwater (including 1,1-Dichloroethane, 1,1-Dichloroethylene, 1,1,1-Trichloroethane and Trichloroethylene contamination) had moved off-site. During 1985, Nor-Lake installed a groundwater recovery well and an aeration system at the Nor-Lake Site, in an attempt to prevent further off-site migration of contaminated groundwater, and installed carbon filter units in five private homes in the vicinity of the Nor-Lake Site after VOCs were detected in those wells. The Nor-Lake groundwater extraction and aeration system ran from April to November each year, from 1985 until November 1990. The system was shutdown in November of 1990 because the wastewater being discharged did not meet new wastewater discharge effluent limits. There has been intermittent operation of the

system since that time for testing purposes.

6. Nothing in this Consent Order constitutes an admission of fact or liability by Nor-Lake. However, Nor-Lake agrees to undertake all actions required by the terms and conditions of this Consent Order and consents to and will not contest or legally challenge the validity of this Consent Order or the Department's authority to issue this Consent Order.

#### CONCLUSIONS OF LAW

The Department of Natural Resources concludes that:

1. The solvents (containing Trichloroethylene, 1,1,1-Trichloroethane, and other VOC's) which were discharged on the Nor-Lake Site and which have caused groundwater contamination emanating from the NOR-LAKE Site, are "hazardous substances" as that term is defined in section 144.01(4m), Wisconsin Statutes.
2. NOR-LAKE had possession of, and control over, these solvents before they were discharged, and continues to exercise possession and control over contaminated soil on the Nor-Lake Site. Nor-Lake has the responsibility under section 144.76(3), Wisconsin Statutes, to take whatever technically and economically feasible actions are necessary to restore the environment to the extent practicable and minimize the harmful effects from any discharge to the air, land, or waters of the State.
3. The Department of Natural Resources has the authority under section 144.76(7)(c), Wisconsin Statutes to issue emergency orders or special orders for the protection of public health, safety, or welfare.

#### CONSENT ORDER

The Department of Natural Resources and Nor-Lake, Incorporated, agree that:

1. Within thirty (30) days after the effective date of this Consent Order, Nor-Lake shall submit to the Department detailed plans and specifications for an expanded groundwater extraction and treatment system on the Nor-Lake Site. The plans for the expanded groundwater extraction and treatment system shall provide for groundwater extraction from the existing recovery well (which shall be modified as needed) and from the north Nor-Lake plant well. This expanded groundwater extraction and treatment system, utilizing the existing recovery well and the north well at a minimum, shall be operational within one hundred twenty (120) days after a special WPDES permit is issued to Nor-Lake. All extracted groundwater shall be treated prior to discharge to meet WPDES wastewater discharge effluent limits. The proposed treatment facility or facilities shall meet all applicable air emission standards and shall be designed to treat 500 gpm of wastewater, at a minimum, and to be adaptable to treat 1,000 gpm of wastewater if additional groundwater recovery is necessary in the future.
2. Within thirty-five (35) days after the effective date of this Consent Order, Nor-Lake shall begin to investigate and repair the pipes connecting the Nor-Lake fire protection tanks to the Nor-Lake plant which may be leaking. Nor-Lake shall, within one hundred twenty (120) days after the effective date of this Consent Order, provide to the Department documentation of any repairs that have been made, and documentation to demonstrate that, after repairs have been made, the fire protection tanks and connecting pipes are not leaking.

3. Within sixty (60) days after the effective date of this Consent Order, Nor-Lake shall submit to the Department a proposed groundwater monitoring plan which is intended to evaluate the effectiveness of the expanded groundwater extraction system required under paragraph 1 and to assess groundwater flow conditions immediately northwest and southwest of the Nor-Lake property. The groundwater monitoring plan:
  - a. Shall be prepared by an experienced environmental consultant;
  - b. Shall include a proposal for the sampling of new and existing monitoring wells and nearby private wells;
  - c. Shall include the installation of a minimum of one additional water table observation well which:
    - (1) Is in addition to any monitoring wells needed to satisfy the requirements of Nor-Lake's WPDES permit.
    - (2) Shall be located northwest of the Nor-Lake plant, north of the Timmerman residence and approximately 500 feet from County Trunk Highway A.
    - (3) Shall be installed within sixty (60) days after the Department approves of the proposed construction and the exact location of the well.
  - d. Shall provide that if VOC contamination exceeding ch. NR 140 groundwater quality standards is found in the new water table observation well required under paragraph 3.c., Nor-Lake shall install a piezometer at the same location within sixty (60) days after ch. NR 140 exceedances are confirmed.
  - e. Shall include the following sampling schedule:
    - (1) Nor-Lake shall monitor the effectiveness of the expanded groundwater extraction system for a period of one hundred eighty (180) days after the system begins operating, by monitoring recovery well VOC concentrations (both influent and effluent of the treatment system) on a monthly basis, and monitoring wells MW-1, MW-2, MW-3, MW-4, MW-5S, MW-5D, MW-6 and MW-7, the Arrow Building Center well, the new monitoring well installed north of the Timmerman residence, the south plant well and Edna Smith's old shallow well on a bimonthly basis (every two months) for VOC's and, for the monitoring wells, water elevations.
    - (2) After the monitoring required under paragraph 3.e.(1) is completed, all of the wells listed in paragraph 3.e.(1) shall be sampled quarterly (March, June, September, December)..
    - (3) Semiannual (June and December) sampling of MW-8, MW-9, MW-10, MW-50S, MW-52, MW-53, MW-54, the Timmerman well, the Waxon well, and the east well.
    - (4) Annual sampling (June or September) of the Nor-Lake Park well.
4. If modifications to the proposed groundwater monitoring plan are required by the Department, Nor-Lake shall submit proposals which have been revised in response to the Department's written comments within thirty (30) days after receiving the Department's comments. The Department may approve of the use of off-site private water supply wells to replace monitoring wells required under this Consent Order, if appropriate.



5. A report which evaluates the data collected during the one hundred eighty day evaluation period required by paragraph 3.e.(1) shall be submitted to the Department within two hundred forty (240) days after the groundwater extraction and treatment system begins operating. The evaluation shall include an analysis of the capture zone of the expanded groundwater extraction system. The Department may require the installation of additional groundwater monitoring wells or groundwater recovery wells if the data gathered during this evaluation period is inconclusive or indicates that the existing recovery wells are not adequately containing the VOC groundwater contamination on-site. If an additional monitoring well or wells or additional recovery well or wells are required by the Department, Nor-Lake shall propose locations for the new wells within thirty (30) days and shall install them within thirty (30) days after the Department approves of their proposed location. Nor-Lake shall install an additional water table observation well (minimum 20-foot screened interval) southwest of the Nor-Lake plant, west of the Arrow Building Center well in which VOCs have been detected and approximately 1700 feet from County Trunk Highway U by no later than June 1, 1993, provided that access to install a well at this location is obtained, unless the Department determines in writing that the additional water table observation well is not needed in this location after reviewing the report that is required under this paragraph. This new monitoring well shall be sampled quarterly.
6. Nor-Lake shall continue to collect and analyze samples under their existing sampling program (quarterly sampling of MW-2, MW-3, MW-5S and MW-6; semiannual sampling of MW-1, MW-4, MW-5D, MW-7, MW-8, MW-9, MW-10) and shall submit the results of that sampling to the Department within thirty (30) days after the results become available to Nor-Lake, until the groundwater monitoring plan proposed pursuant to paragraph 3 is approved by the Department.
7. Within one hundred twenty (120) days after the effective date of this Consent Order, Nor-Lake shall submit to the Department a detailed work plan for the installation of the first phase of a soil vapor extraction system to be located in the following areas of the Nor-Lake Site:
  - a. The area of the abandoned septic system; and
  - b. The area of the paint room sump.
8. The detailed work plan for the first phase of the soil vapor extraction system that is required to be submitted under paragraph 7:
  - a. Shall be prepared by an experienced environmental consultant;
  - b. Shall propose a minimum of seven (7) soil borings/extraction vents to be installed at suspected contaminated soil locations in the areas of the abandoned septic system and the paint room sump;
  - c. Shall include a determination by Nor-Lake as to whether or not an air quality permit is required for the soil vapor extraction system air emissions.
  - d. Shall include information on the possible expansion of the soil vapor extraction system.
9. Upon receipt of the detailed work plan for the first phase of the soil vapor extraction system, the Department shall review it. If modifications to the detailed work plan are required by the Department, Nor-Lake shall submit a revised detailed work plan within thirty (30) days after receiving the Department's written comments.

10. The first phase of the soil vapor extraction system shall be operational as soon as economically feasible, but not later than June 1, 1993, provided that the Department approves or conditionally approves of the detailed work plan for the soil vapor extraction system. The soil vapor extraction system installed by Nor-Lake shall meet all applicable air emissions standards.
11. If the initial seven borings/extraction vents that are installed indicate the presence of soil contamination at levels which may not be adequately remediated by the first phase of the soil vapor extraction system, Nor-Lake shall submit a proposal for further expansion of the soil vapor extraction system.
12. In addition to any monthly or quarterly reports required under approved work plans, Nor-Lake shall submit to the Department, by February 15 of each year following the effective date of this Consent Order, an annual groundwater monitoring report. The annual groundwater monitoring report shall include, at a minimum: a narrative describing the groundwater monitoring conducted during the year and the results of all sampling and testing that was done; an interpretation of trends and any changes in site conditions; a summary of work proposed for the coming year; summary tables for all historical groundwater chemistry data related to each well; graphs of all historical groundwater chemistry data related to each monitoring well, showing any NR 140 PAL or ES exceedances; graphs of all historical groundwater elevation data; and maps showing groundwater contours and isoconcentrations of detected contaminants.
13. At the request of Department staff, Nor-Lake shall allow split or duplicate samples to be taken by the Department during any sample collection conducted by Nor-Lake pursuant to this Consent Order. Nor-Lake shall notify the Department's Western District office or Baldwin office by telephone or in writing at least 10 business days prior to any planned sampling event.
14. The Department of Natural Resources retains jurisdiction to issue additional orders to Nor-Lake to require Nor-Lake to take adequate action to restore the environment to the extent practicable or to minimize the harmful effects from the discharge to the air, lands or waters of this State.
15. Nor-Lake shall cause all work to be performed within the time limits set forth in this Consent Order unless performance is delayed by events that constitute a force majeure. For purposes of this Consent Order, a "force majeure" is an event arising from causes beyond the control of Nor-Lake or its consultants or contractors which delays or prevents performance of any obligation under this Consent Order notwithstanding Nor-Lake's best efforts to avoid the delay.
16. Two (2) copies of each plan, proposal or report required by this Consent Order shall be mailed or delivered to:

Bill Evans  
DNR Western District Headquarters  
1300 Clairemont Avenue  
P.O. Box 4001  
Eau Claire, WI 54702

17. One (1) copy of each plan, proposal or report required by this Consent Order shall be mailed or delivered to:

Patrick Collins  
Department of Natural Resources  
990 Hillcrest, Suite 104  
Baldwin, WI 54002

18. One (1) copy of each plan, proposal or report required by this Consent Order shall be mailed or delivered to:

Mark Giesfeldt SW/3  
Bureau of Solid and Hazardous Waste Management  
101 S. Webster Street  
P.O. Box 7921  
Madison, WI 53707

19. Whenever the Department sends any correspondence to Nor-Lake under the terms of this Consent Order, copies shall be mailed or delivered to:

James K. Richardson  
Nor-Lake, Incorporated  
727 Second Street  
P.O. Box 248  
Hudson, WI 54016

James A. Anklam  
Owen Ayres & Associates, Inc.  
1300 W. Clairemont Avenue  
P.O. Box 1590  
Eau Claire, WI 54702-1590

20. This Consent Order shall become effective on the date that it is signed by John LaFontaine on behalf of the Department.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By John LaFontaine  
John LaFontaine, Director  
Office of Environmental Enforcement  
Division of Enforcement

6/4/92  
Date

For Nor-Lake, Incorporated

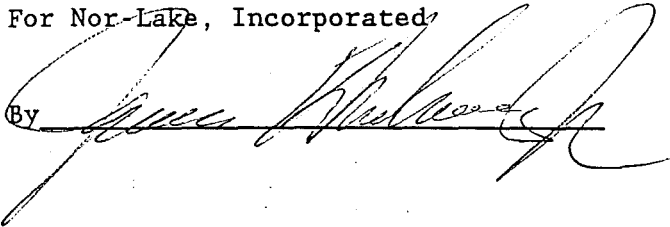
By [Signature]

5/30/92  
Date

STIPULATION AND WAIVER

Nor-Lake, Incorporated hereby stipulates to the issuance of this Consent Order and waives further notice of its hearing rights, waives its statutory right to demand a hearing before the Department of Natural Resources regarding this Consent Order and waives its right to challenge this Consent Order in Circuit Court under ss. 227.52 and 227.53, Wis. Stats., or under any other provision of law. Nor-Lake, Incorporated further stipulates that this Consent Order is enforceable under ss. 144.98 and 144.99, Wis. Stats., as soon as it is signed by the Department. The undersigned certifies that he or she is authorized to sign this Consent Order, and this stipulation and waiver, on the behalf of Nor-Lake, Incorporated.

For Nor-Lake, Incorporated

By 

5/30/92  
Date