

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
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Baldwin, WI 54002

Tony Evers, Governor
Preston D. Cole, Secretary
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December 13, 2021

Tom Elbert
Hudson Business Park LLC
715 St. Croix St.
River Falls, WI 54002

Dear Mr. Elbert,

Enclosed is a revised Liability Clarification Letter for your records. The previous letter dated August 23, 2021 had an incorrect DNR BRRTS number on it. The enclosed letter has the amended DNR BRRTS numbers listed for your reference.

If you should have any questions or concerns regarding this change, please feel free to contact me at any time.

Sincerely,

A handwritten signature in cursive that reads 'Candace Sykora'.

Candace Sykora
Hydrogeologist
West Central Region Remediation and Redevelopment

Cc: Matt Taylor, Cedar Corporation



August 23, 2021

Tom Elbert
Hudson Business Park LLC
715 St Croix St
River Falls, WI 54022

Subject: Liability Clarification Letter; Environmental Liability for 891 CTH U, Hudson
DNR BRRTS # 02-56-000089
DNR BRRTS # 07-56-553292

Dear Mr. Elbert;

Purpose

The purpose of this letter is to provide you with clarifications regarding the environmental liability that a purchaser may have for a property located at 891 CTH U, Hudson, Wisconsin (“the Property”). The Property is designated as parcel number 020-1058-20-050; 020-1057-90-000. The Department of Natural Resources (“the Department”) has agreed to provide you with a letter clarifying the environmental liability associated with contaminants detected at the Property and respond to your specific concerns.

Summary Determination

Hazardous substance discharges have occurred on the Property. Response actions have taken place at this address: the site is known as Nor Lake Soil & GW Remediation, DNR# 02-56-000089 respectively. The Property is currently an open site with ongoing remedial action conducted by Nor Lake’s consultant Ayres Associates.

The Department understands the Nor Lake facility is working on completing actions required by the Department to close the site.

Request

On June 1, 2021 you requested that the Department address the environmental liability that a purchaser of the Property may have related to any existing contamination at the property. The Department will address the following questions:

- What assurances does a party receive from the Department once a cleanup is complete?
- What cleanup responsibility does a purchaser of the Property have if contamination is subsequently discovered on or beneath the Property?

The Department received the \$700 fee for providing assistance on June 1,2021, as required by s. NR 749.04(1), Wis. Adm. Code.

Liability Clarification

This letter will clarify the Department’s position on environmental liability associated with the Property in the following situations:

- Circumstances under which the Department would “reopen” cases that were previously “closed,” and require further investigation or cleanup; and
- Liability of a new purchaser or lessee of the Property.

1. What assurance can a party receive from the Department once a cleanup is complete?

The State issues what is commonly referred to as a closure letter once the site investigation and cleanup have been completed. It indicates that the State has determined that no further environmental response action is necessary at the site, based upon the information available to the State at that time. The Department can only require further action to address a previously closed case if certain criteria are met, including if information regarding the site or facility conditions indicates that contamination on or from the site or facility poses a threat to public health, safety, welfare or the environment, or if the property owner has not complied with the continuing obligations applied in the closure approval (s. NR 727.13, Wis. Adm. Code). Approximately 17,000 clean-up cases have been closed by the Department, but fewer than 50 have been reopened in the past 15 years.

Thus, before the Department can require further action to address residual contamination in existence at the time that the site (i.e., the area of contamination at the Property that was the subject of the closure letter) was closed, the Department must make a determination that information meets the reopening criteria and that further action is required.

2. What Cleanup responsibility does a purchaser of the Property have if contamination is subsequently discovered on or beneath the Property?

The known areas of contamination beneath the Property site is currently open with Nor Lake as the responsible party. The groundwater impacts beneath the property and off-site is impacted primarily of trichloroethylene (TCE). Currently, 42 private residential homes require granular activated carbon (GAC) systems to treat their private wells that have been impacted by the TCE plume originating from the Nor Lake facility. Nor Lake is currently working with the Department to maintain the GAC systems for private wells and groundwater monitoring. However, you should be aware that the State’s hazardous substance spill law, s. 292.11, Wis. Stats., imposes liability on anyone who possesses or controls contaminated property where hazardous substances are continuing to discharge to the environment. This liability exists even if another person, such as a prior owner or tenant caused the contamination.

Whenever possible, the Department requires the person who caused the hazardous substance discharge to take the appropriate response actions. However, if these persons cannot be located or are unable to pay, the owner of the Property is responsible for taking the appropriate actions. The Department will take the steps available to it through state law to compel the person that the Department believes to have caused the discharge on the Property to take the response action necessary to address that threat. The Department would only require the person in current possession or control of the Property to address that threat if the Department were unable to compel the person who caused the discharge to take the appropriate response action.

Please understand that this letter clarifies a new owner’s liability related to residual contamination on the Property based only on the information presently available to the Department. The Department has made no determination concerning the presence or absence of hazardous substance discharges other than those identified in the reports provided. In the future, if the Department becomes aware of new information concerning the contamination referenced above, or the presence of other contaminants on the Property not previously identified, the Department will need to evaluate that data to determine if response actions may be required.

The Bureau for Remediation and Redevelopment Tracking System (BRRTS) identification number for this activity is shown at the top of this letter. The Department tracks information on all determinations such as this in a Department database, “BRRTS on the Web,” that is available on the Internet at

<http://dnr.wi.gov/topic/Brownfields/botw.html>

The Department hopes that this letter helps clarify what known areas of residual contamination on the Property may require further environmental response action under Wisconsin law, and who is responsible for conducting these actions. If you have any questions please contact me at 715-928-0452, by writing to the address at the top of this letter, or by email at candace.sykora@wisconsin.gov.

Sincerely,

A handwritten signature in black ink that reads "Candace Sykora". The signature is written in a cursive style with a large initial "C".

Candace Sykora
Hydrogeologist
West Central Region
Remediation and Redevelopment

Cc: Matt Taylor, Cedar Corporation