

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

January 13, 2016

Mr. Joe & Mrs. Helen Hubing
N7681 Pelsdorf Avenue
Loyal, Wisconsin 54446

SUBJECT: Property Access for Investigating Contamination
Kautzer/Former Schlinsog Dairy, N7701 Pelsdorf Avenue, Loyal, Wisconsin
WDNR BRRTS # 03-10-554767

Dear Mr. & Mrs. Hubing:

The purpose of this letter is to explain the current status of the environmental investigation taking place at the Kautzer/Former Schlinsog Dairy property located at N7701 Pelsdorf Avenue, Loyal, WI and to explain your rights and responsibilities as a property owner whose property may have been impacted by an off-site source, which is the Kautzer/Former Schlinsog Dairy. Please read this letter carefully, in its entirety.

Investigation at Kautzer/Former Schlinsog Dairy:

This investigation began due to petroleum contamination found in soil and groundwater on the Kautzer/Former Schlinsog Dairy property. According to s. 292.11, Wisconsin State Stats, Mr. Steven Kautzer is responsible for defining the degree and extent of the contamination and seeing that contamination in soil and groundwater is remediated (cleaned up) in accordance with chs. NR 700-754, Wis. Adm. Code.

Defining the extent of contamination in soil is performed by drilling soil borings and analyzing the soil for constituents of the source contamination. In this particular case, the source contaminants are petroleum. Groundwater is investigated by installing monitoring wells and analyzing groundwater for the same constituents.

During the investigation to define the degree and extent of contamination, REI Engineering sent you a request to access your property for the purpose of installing sample your water supply well and install monitoring wells to collect groundwater samples. The Department understands from REI Engineering that you have refused to allow access to your property.

Explanation of Relevant Court Decision and Statutes:

Section 292.11(3), Wis. Stats., imposes liability on persons who cause a discharge of a hazardous substance and persons who are in possession or control of a hazardous substance that is discharged. The Wisconsin Supreme Court held, in *State v. Mauthe*, 123 Wis.2d 288 (1985), that the owner of property with contamination that is continuing to discharge to the environment is “in possession or control” of those contaminants even if the property owner did not cause the contamination.

However, after the Mauthe decision was handed down, the State Legislature enacted the off-site liability exemption statute, s. 292.13, Wis. Stats. This statute generally provides that a person is exempt from liability under s. 292.11(3), (4) and (7)(b) and (c) (certain provisions of the Hazardous Substance Discharge statute) with respect to hazardous substances on property possessed or controlled by the person if the discharge of the hazardous substance originated from a source on property that is not possessed or controlled by the person and if certain other conditions are met.

Specifically, s. 292.13(1), Wisconsin State Stats., (property affected by off-site discharges), states:

A person, other than a state agency, is exempt from s. 292.11(3), (4) and (7)(b) and (c) with respect to the existence of a hazardous substance in the groundwater on property possessed or controlled by that person if... (d) The person agrees to allow the Department, any authorized representatives of the Department, any party that possessed or controlled the hazardous substance or caused the discharge of the hazardous substance and any consultant or contractor of such a party to enter the property to take action to respond to the discharge.

and

(f) The person agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge.

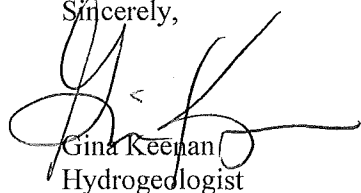
Summary:

In summary, Wisconsin law provides that further delay or denial by you of REI Engineering's request to install monitoring wells and collect a groundwater sample from the potable well on your property, for the purpose of investigating and remediating the contamination in groundwater at the Kautzer/Former Schlinsog Dairy, will result in the Department naming you as a responsible party for this contamination under s. 292.11, Wisconsin State Stats. **This would make you liable for the contamination that may have migrated onto your property.** Therefore, it is in your best interest to address this issue immediately. I hope that you contact Dave Larsen of REI Engineering at 715-675-9784 and grant permission for the investigation to begin on your property as directed by the Department.

For the purpose of continuing the investigation at the Kautzer/Former Schlinsog Dairy in a timely manner, **please respond to the Department in writing with your decision within 14 days from the date you receive this letter.** Failure to provide an adequate response within this time frame will result in a recommendation for the transfer of responsibility to you for potentially migrated contamination.

If you have any questions regarding the content of this letter, please contact me at 715-839-3765.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gina Keenan', is written over a printed name and title.

Gina Keenan
Hydrogeologist
Remediation & Redevelopment Program

cc: WCR case file