



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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April 16, 2012

BRRTS # 07-49-558432

Lorraine Ablan
Northern States Power Company
414 Nicollet Mall
Minneapolis, MN 55401

Subject: Liability Clarification Letter for a Prospective Purchaser of Property located at 705 S. Keller Avenue (tax parcel # 201-01031-0000), Amery, Wisconsin, Affected by an Off-Site Source of Contamination

Dear Ms. Ablan:

Purpose

The Department of Natural Resources ("the Department") has reviewed your request that was submitted on your behalf by LeRoy Wilder of Xcel Energy for a liability clarification letter in response to environmental contamination affecting one of two Electrocraft Corp/Thompson Machine properties, tax parcel # 201-01031-0000, 705 S. Keller, Amery, ("the Property") in Polk County, Wisconsin. The Property is shown on the attached parcel map. The purpose of this letter is to determine what provisions of the off-site exemption statute you presently satisfy as a potential purchaser of the Property, and whether or not you would satisfy all the conditions of the off-site exemption in s. 292.13, Wis. Stats., upon taking title to the Property.

Request

On February 29, 2012, LeRoy Wilder of Xcel Energy requested on your behalf that the Department determine whether Northern States Power Company, a Wisconsin Corporation ("NSPW") would be held liable under the Hazardous Substance Spill Law, s. 292.11, Wis. Stats., for any hazardous substances in the groundwater on the Property, if NSPW acquired title to the Property. You believe the contaminants are migrating onto the Property from an off-site source, the other Electrocraft Corp/Thompson Machine parcel, tax parcel #210-01028-0000 and BRRTS # 02-49-000037. In particular, you have requested clarification as to whether or not you are eligible for the off-site liability exemption under s. 292.13, Wis. Stats if you purchase the Property. You have also asked specific questions which are answered in this letter.

The following documents were also submitted to the Department with the request:

- The off-site exemption application form, dated February 29, 2012.
- Phase I Environmental Assessment, Bremer Bank, N.A., fka Thompson Machine Property, South Keller Avenue, Amery, WI, dated January 2012, prepared by Cedar Corporation.
- In addition to reviewing the submitted documents, the Department also reviewed the case file for the Electrocraft Corp/Thompson Machine site, WDNR BRRTS # 02-49-000037.

The Department also received the fee for providing assistance, as required by s. NR 749.04(1), Wis. Adm. Code.

Background

The Department considered the documents listed above in making the determinations presented in this letter. The determinations state which provisions in the off-site exemption statute you presently satisfy for this Property, and whether or not, upon taking title to the Property, the conditions for the off-site exemption would be fully satisfied.

The off-site exemption in s. 292.13, Wis. Stats., limits the environmental liability of a person in possession, (i.e., who owns a property) or control of a property affected by the discharge of a hazardous substance, when the discharge originates from an off-site source.

There are two parcels which comprise the Electrocraft Corp/Thompson Machine site, the first located to the north and approximately 5.7 acres in size contains the buildings which hosted the main manufacturing process where the source of the contamination is suspected/known to exist (Tax parcel #210-01028-0000). The second Electrocraft Corp/Thompson Machine parcel (Tax parcel # 201-01031-0000) of approximately 5.4 acres is located to the south of the first parcel and is the Property that NSPW wants to purchase and appears to be impacted from the source/main manufacturing site.

At the present time, NSPW does not possess or control the Property, but it is the Department's understanding that NSPW intends to purchase the Property. Because NSPW does not currently possess or own the Property, the Department cannot issue a written determination that all the provisions in s.292.13, Wis. Stats., have been satisfied. However, the Department does have the ability under s. 292.55, Wis. Stats., to clarify a person's present or future liability for the environmental pollution of a property.

Here is the Department's understanding of the history of the adjacent source property and the Property:

- Fabri-Tek, Inc. owned both parcels in 1960 and constructed the five connected building modules on the parcel to the north (Parcel #201-01028-0000) between 1960 and 1964. They also occupied the site until 1975, assembling computer components.
- UMET Inc., a real estate investment company, purchased and leased out the property beginning in 1971. TDC/Diamond Playing Cards LTD, a manufacturer of playing cards occupied the building from approximately 1974 until 1980. Kroy Industries leased a portion of the building on the north parcel in 1977 and 1978 for light manufacturing and assembly of products. Electrocraft leased a portion of the site beginning in 1978 and the entire facility in 1983 for plating operations.
- Thompson Machine Inc. purchased the parcels from UMET in 1990. Due to a pending property transaction, an environmental assessment was conducted in 2001. This resulted in a previously closed site (BRRTS # 02-49-000037), associated with the release of chlorinated volatile organic compounds, being reopened.
- Thompson Machine, Inc was sold to Stillwater Holding Company, run by Thomas Giebel, in 2002. Ownership of the parcels were subsequently transferred to St Nicholas, LLC. in 2004.
- In 2011, Bremmer State Bank foreclosed on the parcels, and is the current owner as of the date of this letter. Current tenants of the building on the north parcel include Graphic Display

Systems, Inc. and Ommium, which are involved in assembly, soldering, painting and metal work.

NSPW has indicated that they are interested in buying the Property to expand their operations. Site investigation activities at the source property and the Property in 2002 and 2003 identified a release of chlorinated solvents in the soil and groundwater near the loading dock at the Electrocraft Corporation/ Thompson Machine, to the north of the Property. A remedial action has been on-going at the site for many years, and the current owner, Bremer Bank, is currently monitoring groundwater to determine if the groundwater contamination is naturally attenuating and the plume of contamination is stable or receding. As described below, the contamination has migrated from the Electrocraft Corporation/ Thompson Machine northern parcel to the Property.

Liability Determinations

Based upon the Department's review of the technical information, including the off-site application submitted in accordance with s. 292.13, Wis. Stats., the Department makes the following determinations under s. 292.55, Wis. Stats., regarding the hazardous substances that have impacted the groundwater at the Property:

1. The hazardous substance discharge(s) originated from a source on property that is not possessed or controlled by the applicant.
2. The applicant did not possess or control the hazardous substance on the property on which the discharge originated.
3. The applicant did not cause the discharge.
4. An investigation or other information has been submitted to the Department that is adequate to substantiate that the applicant has satisfied items 1 through 3 listed above.

Exemption Conditions for Owner of Affected Property

As future owner of the Property, you will need to comply with the following conditions, as specified in s. 292.13(1) and (1m), Wis. Stats., to ensure that the conditions of the exemption remain satisfied:

1. The facts upon which the Department based its determination must be accurate and will not change.
2. The Property owner must allow the following persons to enter the Property to take action to respond to the discharge: the Department, its contractors and its other authorized representatives; any party that possessed or controlled the hazardous substance or caused the discharge; and any consultant or contractor of such a party.
3. The Property owner must avoid any interference with actions undertaken to respond to the discharge and to avoid actions that worsen the discharge.
4. With respect to soil contamination only, the Property owner must take one or more specified actions directed by the Department, if the Department determines that the actions are necessary to prevent an imminent threat to human health, safety or welfare or to the environment, after the Department has made a reasonable attempt to notify the party who

caused the hazardous substance discharge about that party's responsibilities to investigate and clean up the discharge.

5. The Property Owner must agree to any other conditions that the Department determines are reasonable and necessary to ensure that the Department and the responsible party can adequately respond to the discharge. This may include complying with the provisions of s. 292.12, Stats., concerning long-term continuing obligations regarding use of the Property. In addition, the use of the Property by NSPW should take into account any concerns regarding vapor intrusion and mitigation systems to ensure that all pathways of exposure are protective.

Based on the Department's determinations in this letter, you will not be held responsible under the State's Hazardous Substance Spill Law, s. 292.11, Wis. Stats., to investigate and clean up the hazardous substances migrating on to the Property if you take title to the Property, as long as you continue to satisfy the statutory exemption conditions specified above. These assurances are provided to you based on the information that is presently available to the Department. You should be aware that the Department may revoke the determinations made in this letter if the Department concludes that any of the requirements under s. 292.13(1) and (1m), Wis. Stats., cease to be met.

You should be aware that other future Property owners are eligible for the exemption under s. 292.13, Wis. Stats., if the new Property owner meets the requirements specified in the statute. However, the determinations in this letter may not be transferred or assigned by you to any other person. The Department will provide a written determination to other future owners of the Property documenting whether or not a new Property owner satisfies the off-site exemption conditions, if such a determination is requested. Other potential purchasers of the Property may also request a liability clarification letter from the Department, such as this one.

Answers to Specific Questions

In addition to your request regarding the Off-site liability exemption, you have asked some additional questions. Keep in mind that the Wisconsin Hazardous Substance Discharge Law, s. 292.11, Wis. Stats., commonly called the Spill Law, requires those who cause, possess or control a hazardous substance discharge to "take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge to the air, lands or waters of this state." Section 292.55, Wis. Stats., authorizes the Department to issue clarification letters concerning liability for environmental pollution.

1. What is the source of the contamination? The source of the contamination is considered to be the loading dock area for the building which is located on the Electrocraft Corporation/ Thompson Machine northern parcel, tax parcel # 201-01028-0000 north of the Property. A Polk County parcel map showing the area parcels is provided as Attachment A.
2. Who is the Responsible Party? The responsible party at this time is Thomas Giebel/St. Nicholas LLC, however current and past owners and parties who may have caused the contamination may also be considered in the future.
3. Is there any evidence indicating other sources may be contributing to the contamination other than what has been identified at the adjacent Electrocraft Corporation/ Thompson Machine northern property? Based on existing information

in the Department's file, it does not appear other sources are contributing to the groundwater contaminant plume.

4. What future activities will the Department require in order to close the site? Semi-annual groundwater sampling is currently being conducted for Electrocraft Corporation/ Thompson Machine northern property site and will continue until approximately November 2012. Future activities will be evaluated when the groundwater sampling results are reviewed.
5. Will additional groundwater monitoring wells need to be installed on the property? At this time it is not anticipated that additional wells will need to be installed on the Property.
6. Can any of the monitoring wells currently on the Property be immediately abandoned? No, all exiting monitoring wells are currently being used for groundwater monitoring and/or collection of water level data. The Department would be willing to consider well abandonment if the location of a well hinders development projects.
7. When will the monitoring wells currently located on the Property be abandoned? When the Electrocraft Corporation/ Thompson Machine site receives conditional closure the monitoring wells will be required to be abandoned at that time.

The Bureau for Remediation and Redevelopment Tracking System (BRRTS) identification number for this activity is included at the top of this letter. The Department tracks information on all determinations such as this one in a database that is available on the Internet at <http://dnr.wi.gov/org/aw/rr/>. See "BRRTS on the web" under "Contaminated Land Databases".

It is the Department's hope that this letter has been helpful to you in clarifying the environmental liability under the State's Hazardous Substance Spill Law, associated with the contamination that has migrated onto the Property. If you have any questions or concerns regarding this letter, please contact Phil Richard directly at 715 762-1352 or by email at phillip.richard@wisconsin.gov.

Sincerely,



John Robinson
Northern Region Team Supervisor
Remediation & Redevelopment Program

Attachment A- Polk County Parcel Map

C: LeRoy Wilder, Xcel Energy, P.O. Box 8, Eau Claire, WI 54702
Matt Taylor, Cedar Corporation, 604 Wilson Avenue, Menomonie, WI 54751
Phil Richard - WDNR Park Falls
Carrie Stoltz - WDNR Rhinelander
Michael Prager - WDNR RR/5