FID# 269355520 BrrT5#07-68-559080

State of Wisconsin Department of Natural Resources Box 7921, Madison, WI 53707-7921 dnr.wi.gov

### Off-Site Liability Exemption and Liability Clarification Application

Form 4400-201 (R 2/05)

Page 1 of 6

**Notice:** Personally identifiable information that is collected will be used to process your application and will also be accessible to others by request under Wisconsin's Open Records law [ss. 19.31 - 19.39, Wis. Stats.]

#### Definitions:

"Off-Site Exemption" refers to a statutory limit on liability available to a person with respect to the existence of a hazardous substance in the groundwater or soil, including sediments, on Property possessed or controlled by the person, as provided in s. 292.13, Wis. Stats. The off-site exemption is available only to persons who possess or control the affected property, who meet the requirements and criteria in the statutes. DNR provides a written determination regarding liability upon submittal of this application and the required fee.

"General Liability Clarification" refers to a written determination by the Department, as provided in s. 292.55, Wis. Stats., that clarifies the environmental liability of a person, business or another party for a specific situation. General liability clarifications can be provided in situations when the party requesting the clarification does not meet one of the requirements for the off-site exemption at the time of the application submittal, for example, does not yet own the off-site property. This application form should be used to request a written liability clarification for property affected by an off-site discharge.

"Property" refers to the subject property that has been impacted by hazardous substances that migrated there from a different property containing the original contamination source. The subject property is often referred to as an "off-site" or "off-source" property.

"Possession or control" refers to holding title to the property or exercising possession or control over the property by some other means, such as a lease.

[NOTE: a person with an easement doesn't have possession or control over the property; the property owner just allows the person to use part of the property for a limited purpose].

#### Instructions:

- Use this application to request a written determination from the Department for the off-site liability exemption or for the liability clarification regarding property affected by an off-site discharge. See DNR's Fact Sheet 10 Off-Site Contamination: How Does It Affect My Property? (PUB-RR-589 April 2004) for general information on eligibility requirements, liability clarification letters related to the off-site liability exemption, and property owner responsibilities. Information and these publications are available by contacting a DNR office or on the Internet at: http://dnr.wi.gov/org/aw/rr/.
- Complete the application and include the information that adequately shows that the required criteria are met. See Section 7 on page 4.
- Include a \$500 fee payment with this application, in accordance with ch. NR 749, Wis. Adm. Code.
- Send the completed application, fee, and supporting materials to the DNR regional office where the Property is located, as listed on page 6. Contact the person listed with any questions.
- The Department will not consider your application complete unless you provide the information requested and the fee. Review of the
  application does not begin until the application is complete.
- Department staff will make every attempt to provide timely written determinations. However, the time required for the determination
  varies depending on the complexity of the site, and the clarity and completeness of the application and supporting documentation

Do not use this application form to request liability clarifications for properties without off-site contamination. Contact one of the DNR regional offices or see the DNR website on the Internet for more information.

1. Applicant information for person requesting the determin	nation.	
Applicant Last Name	First	М
Stamborski	matt	
Address	City State	e ZIP Code
6495 S. 27th Street	Franklin u	11 53132
Telephone Number Fax Number	E-Mail Address	
414 - 435-0260 414-435-0251	matt@outlookd	ev.com
Contact for questions (if different than applicant) Last Name	First	МІ
Balfan2	Ray	
	City State	
6495 S. 27th Street	Franklin	53132
Telephone Number Fax Number	E-Mail Address	_
414-435-0264 414-435-025	i ray@outlookn	ngmt.com

# Off-Site Liability Exemption and Liability Clarification Application Form 4400-201 (R 2/05) Page 2 of 6

Request one determination based on wheth appropriate certification.  Off-Site Discharge Exemption – I "porrequest an off-site exemption letter.  I have completed Section 8a on particular and the applicant, I am:  Current owner  Other* Explain your relationship to the	ssess or control" th		, ,		J	
request an off-site exemption letter.  I have completed Section 8a on particular and the applicant, I am:  Current owner		e Property and I	believe I meet the crite	eria for an of	ff-site exen	iption. I
As the applicant, I am:	age 5.					
Current owner						
-						
Other* Explain your relationship to the						
	he Property or the na	ture of your posse	ession or control of the F	Property:		
*Additional documentation may be reque requests a determination, DNR would ne	sted by the DNR to veri ed a copy of the lease b	ify the applicant's po by which to assess	ossession or control of the whether the lessee posses:	Property. For ses or controls	example, if a the Property	ı lessee /.
Off-site Liability Clarification – I lack of liability clarification letter that explain						
I have completed Section 8b on pa	ige 5.					
Requirements for the off-site exemption	that are missing:					
1. Currently I do not possess or con	trol the Property and					
I plan to buy the Property on		(Date) or				
I plan to lease the Property or	1	(Date).				
2. Currently no contamination has b onto the Property.	een detected on the l	Property but there	is credible evidence tha	at contamina	tion has mig	rated
3. Multiple contiguous properties are	e believed to be affec	ted by contamina	ion from a known source	е.		
4. Other: Explain the circumstances	here or in an attachn	nent.				
3. Information on additional parties.						
Check the appropriate box to have a copy or	f the determination le	tter sent to one or	more of these parties:			
Environmental Consultant			First			МІ
Address	4114-	City		State	ZIP Code	
Telephone Number	Fax Number		E-Mail Address		1	,
Attorney / Other Last Name			First			MI
Wainman			Bradfi	ord		
Address 342 N. Main	Street	City West	Hartford	State	ZIP Code <b>0611</b>	7
342 N. Main Telephone Number 860-760-9126	Fax Number 860 - 586		E-Mail Address BWain mun 6			

## Off-Site Liability Exemption and Liability Clarification Application

Form 4400-201 (R 2/05)

Page 3 of 6

4. Information on Property affect	ed by off-site discharge.					
Property / Facility Name	1, LLC		County	au	kesha	
Address	1 0 1 0	City		State	ZIP Code	
13 850 W. Capit	of Drive	Brookfield		WI	53005	
Public Land Survey Coordina	Latitude	L	ongitude			
1/4 1/4 Section Range E /	W Township Datum (check on	y one):	Method		Accuracy	
SW  SW  1  QOE	7 N NAD27	□ NAD83 □ 1990 Adjustm	nent			
(Attach a list of locations if this request	is for multiple properties.)					
I request that DNR provide a copy of	f the Liability Clarification Lett	er to the current owner.				
Current Owner (if different than applican		First			[MI	
	.,, ====					
Address		L City		State	ZIP Code	
Telephone Number	Fax Number	E-Mail Address	· · · · · · · · · · · · · · · · · · ·			
·						
5. Information about contamination	on on the impacted Prop	ertv.				
A. Have hazardous substances been de			······································			
No. If not, explain why contamination	, ,	•	chment or h	oro:		
		nent		ported: _	4-28-0	3
<ul><li>C. Is the source of the contamination kr</li><li>No.</li></ul>	nown? Check only one.					
Yes. If yes, what is the source of	the contamination? 5a-	fer Cleaning	cente	r s	ite	
Provide the name and address of						
Owner Name						
Triangle	e Plaza, LL	C				
Address 13805-13841 V		city Brookfield		State .	ZIP Code 53005	
Suspected. If suspected to be mi			ddreec?			
штопорестват и впорества то ре Ш	graung nom a nearby source	, what is the source and its a	uui 655 (			
Dravide the name of the average	the guaranted sentencia -1'	course or course property.	flenouen			
Owner Name	Provide the name of the owner of the suspected contamination source or source property, if known.					
OWING MAINE						
Address		City		State	ZIP Code	
VIIII		Ony		Clai <del>c</del>	∠n Oode	

### Off-Site Liability Exemption and Liability Clarification Application

Form 4400-201 (R 2/05)

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6. Specific liability clarification questions relating to off-site contamination.		
have no additional liability clarification questions.		
I request a DNR response to the questions provided to clarify my liability for the cleanu written determination (questions should be provided here or in an attachment):	p of off-site contamination to be	ncluded in the

### 7. Property information needed for the determination of off-site exemption or off-site liability clarification.

DNR requires adequate information in order to make the determination requested in this application. Incomplete or inadequate information will delay the completion of the determination. DNR has the authority to request additional information, if needed. Include the following information with the application, if appropriate:

- 1. Map(s) showing Property location(s) and any suspected or known off-site contaminant source properties.
- 2. For any environmental data submitted, include:
  - a) Property map(s) showing sampling locations for all data submitted;
  - b) Interpretation of data signed by a qualified environmental professional, including data tables and figures that include data;
  - c) Soil boring logs
  - d) Groundwater monitoring well construction, development and sampling logs;
  - e) Laboratory-provided data reports:
  - f) Survey information for groundwater elevations;
  - g) Chain of custody forms for all samples; and
  - h) Description of sample collection methods.

The submitted materials should document that the statutory criteria are satisfied regarding the contamination and its source as listed in A through C below.

- A. Document that there is hazardous substance contamination present in soil, groundwater and/or sediment on the Property or Properties. Examples of information include: Analytical results and interpretations for samples collected from soil, groundwater, and/or sediment on the Property, or at or near the Property line, that conclusively document the presence of a hazardous substance in one or more of these media on the Property. This information could be documented in a Phase II Environmental Assessment report, or could refer to existing reports in DNR files related to the source property.
- B. Document that the hazardous substance contamination, which is present in soil, groundwater, and/or sediment on the Property or Properties, is migrating onto the Property or Properties from an off-site source.

### Examples of information include:

- 1. Information identifying known or suspected discharges of the hazardous substance on neighboring property(ies), e.g., a Phase I Environmental Assessment report, information in existing reports in DNR files related to the source property.
- 2. Soil, groundwater and/or sediment sample data and interpretations adequate to conclude that the hazardous substance is migrating onto the Property or Properties, such as:
  - Samples from monitoring wells located on the upgradient side of the Property or Properties (include information to establish upgradient direction), which show increasing contaminant concentrations toward the upgradient Property or Properties;
  - Off-site investigation results that provide information about groundwater flow direction and contaminant movement that convincingly
    document hazardous substances from a known or suspected off-site source have impacted the Property or Properties; or
  - A description of the event(s) that caused the deposit or accumulation of contaminated sediment on the affected Property or Properties and a map showing the location of the water body and elevations of the affected Property or Properties and water surface at normal flow and flood stage conditions.
- C. Document that the discharge of a hazardous substance is not from a source on the Property or Properties.

### Examples of information include:

- 1. Information related to historical activities, such as descriptions of chemicals used and handled, areas where chemicals were used and handled, and areas of potential discharges on the Property or Properties, e.g., a Phase I Environmental Assessment report.
- 2. Where the types of hazardous substances used, handled, or discharged on the Property or Properties are the same as the hazardous substances migrating onto the Property or Properties, provide environmental information, e.g., expanded Phase II environmental assessment data, including type and volume of hazardous substances handled, generated or stored on the applicant's Property during the period of ownership and/or length of lease, and analytical results and interpretation for soil and groundwater samples collected from potential discharge areas to demonstrate that the contamination migrating onto the Property is separate and distinct from the contamination that may be on the Property.

### Off-Site Liability Exemption and Liability Clarification Application

Form 4400-201 (R 2/05)

Page 5 of 6

8.	Sign one of the certifications below based on whether the requirements of the off-site exemption are
	currently met.

### 8a.Certification if the applicant currently meets all the requirements for the off-site liability exemption.

Applicant Certification for a Determination for the Off-Site Discharge Exemption, as provided in s. 292.13, Wis. Stats.

I certify that I possess or control the Property and have read and am familiar with the information on this application. The information on and included with this application is true, accurate and complete to the best of my knowledge.

I understand that I retain the responsibility for any hazardous substance discharges that I caused or cause, and for any discharges whose source I possess or control on the Property or on other properties.

I believe that I meet the criteria in s. 292.13, Wis. Stats., with respect to the fact that I never controlled or possessed either the source property itself, or the hazardous substances that have migrated onto the Property from the source property, nor did I cause the hazardous substance discharge for which I am seeking this written exemption.

I understand that if I fail to satisfy the statutory requirements in s. 292.13, Wis. Stats., such as failing to provide access to the Property, the DNR has the authority to revoke the off-site exemption for the Property.

Applicant Last Name	First	MI
Stamborski Stamborski	Matt	
Signature M 7 ALCO	Date Signed 7/22/12	-
8b. Certification if applicant has not currently met all the condit	ions for the off-site exemption.	

#### Applicant Certification for a Determination for Liability Clarification, as provided in s. 292.55, Wis. Stats.

I certify that I have read and am familiar with the information on this application and that the information on and included with this application is true, accurate and complete to the best of my knowledge.

I understand that I retain the responsibility for any hazardous substance discharges that I caused or cause, and for any discharges whose source I possess or control on the Property or Properties or on other properties.

It is my understanding that I have not met all the conditions for the off-site exemption at the time of this application, but I request a liability clarification determination that includes the conditions under which I or others would become eligible for the off-site discharge exemption for the Property or Properties, if I were to meet all the criteria under s. 292.13, Wis. Stats. I believe that I meet the criteria regarding the source of the contamination and the source property in s. 292.13, Wis. Stats., with respect to the fact that I never controlled or possessed either the source property itself, or the hazardous substances that have migrated onto the Property or Properties from the source property, nor did I cause the hazardous substance discharge for which I am seeking this written exemption.

I understand that if I meet the criteria in s. 292.13, Wis. Stats., and obtain the off-site liability exemption, but subsequently fail to satisfy the statutory requirements in s. 292.13, Wis. Stats., such as failing to provide access to the Property, the DNR has the authority to revoke the off-site exemption for the Property.

Applicant Last Name	First		MI
Signature		Date Signed	

Page 6 of 6

Form 4400-201 (R 2/05)

9. DNR contacts and addresses for application submittals.

Send or deliver the completed application, additional materials, and the fee to the address in the region where the Property is located.

### **DNR NORTHERN REGION**

John Sager (715) 623-4190, Ext. 3125 Department of Natural Resources 223 East Steinfest Road Antigo WI 54409

### **DNR NORTHEAST REGION**

Annette Weissbach (920) 662-5165 Department of Natural Resources PO Box 10448 Green Bay WI 54307-0448

### **DNR SOUTH CENTRAL REGION**

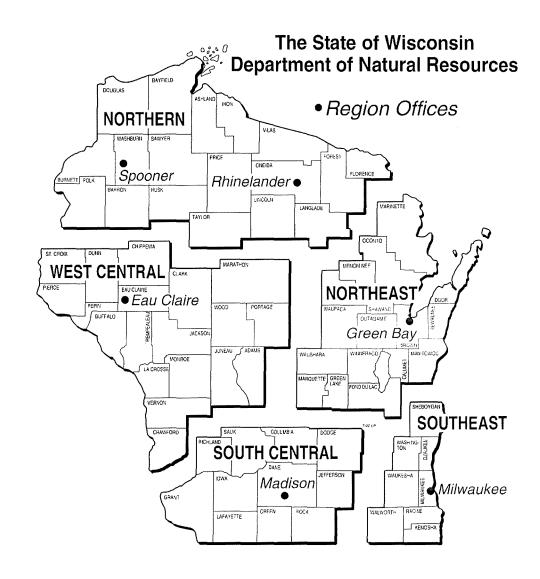
Mike Schmoller (608) 275-3303 Department of Natural Resources 3911 Fish Hatchery Road Fitchburg WI 53711

### **DNR SOUTHERN REGION**

Margaret Brunette (414) 263-8557 Department of Natural Resources 2300 North Martin Luther King Dr. Milwaukee WI 53212

### **DNR WEST CENTRAL REGION**

Loren Brumberg (715) 839-3770 Department of Natural Resources 1300 Clairemont Ave. Eau Claire WI 54702



	For DNR Office	Use Only	
Date Received	BRRTS Activity Name		BRRTS Activity Code
Date Assigned	DNR Reviewer		BRRTS FID No. (if used)
Comments			Fee Enclosed  Yes No
Date Approved	Date Additional Information Requested	Date Withdrawn	Date Denied

RECEIVED

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July 17, 2012

Consulting, Inc.
P.O. Box 365
Pewaukee, WI 53072
jbartley@ReadyEarth.not

ReadyEarth

PHONE 262,522,3520 MOBILE 414,731,9874 FAX 262,522,3501

www.readyearth.net

ODG SK1 LLC 6495 S. 27<sup>th</sup> Street Franklin, WI 53132

RE: Off-Site Right-of-Way Notification for the Former Safer Cleaning Center Site Located 13835 W. Capitol Drive in Brookfield, Wisconsin; ReadyEarth Project No. 11-0202; DNR BRRTS Nos. 02-68-443361 (east) and 02-68-525014 (west)

Dear Sir or Madam,

ReadyEarth Consulting, Inc. ("ReadyEarth") submits this letter to notify you of potential soil and groundwater impacts beneath your property located at 13850 W. Capitol Drive, which is adjacent to the above-referenced site (the "site"). ReadyEarth is preparing a closure request for the site that we will be submitting to the Wisconsin Department of Natural Resources (DNR). This letter is required as part of the final documentation for the site.

Soil and/or groundwater impacts that appear to have originated on the site may have migrated onto your property at 13850 W. Capitol Drive. The levels of tetrachloroethene (PCE) and trichloroethene (TCE), which are common compounds associated with dry cleaning operations, may be present beneath your property at concentrations above the state soil and groundwater standards found in chapters NR 720 and NR 140, Wisconsin Administrative Code. The soil and groundwater analytical results from the site are summarized on the attached Figures 2 and 3, respectively. The impacts have been investigated to a practical degree and will naturally degrade over time. Remediation by natural attenuation is an acceptable approach to meet the requirements for case closure that are found in chapter NR 726, Wisconsin Administrative Code. As referenced earlier, ReadyEarth will be submitting a closure request to the DNR in the very near future. Closure means that the DNR will not require any further investigation or cleanup action to be taken, other than the reliance on natural attenuation.

Since the source of the impacts is not on your property, neither you nor any subsequent owner of your property will be held responsible for investigation or cleanup of these impacts, as long as you or any subsequent owners comply with the requirements of section 292.13, Wisconsin Statutes, including allowing access to your property for environmental investigation or cleanup if access is required. To obtain a copy of the DNR's publication #RR-589, Fact Sheet 10: Guidance for Dealing with Properties Affected by Off-Site Contamination," you may visit the DNR's website at http://www.dnr.wi.gov/org/aw/rr/archives/pubs/RR589.pdf.

The DNR will not review the closure request for at least 30 days after the date of this letter. As an affected property owner, you have a right to contact the DNR to provide any technical information that you may have that indicates that closure should not be granted for this site. If you would like to submit any information to the DNR that is relevant to this closure request, you should mail that information to Mr. David Volkert of the DNR at 141 NW Barstow Street, Room 180, Waukesha, WI 53188, or contact him at (262) 574-2166.

If the DNR closes the site, all properties within the site boundaries where impacts exceed standards will be listed on the DNR's Geographic Information System (GIS) Registry of Closed Remediation Sites. The information on the GIS registry includes maps showing the location of properties in Wisconsin where impacts above standards were present at the time that the case was closed. This GIS Registry is available to the general public on the DNR's web site. Please review the attached deed of your property, and notify me within the next 30 days if the legal description is incorrect.

Once the DNR makes a decision on the closure request, it will be documented in a letter. If the DNR grants closure, you may obtain a copy of this letter by requesting a copy from me, by writing to the agency address given above or by accessing the DNR GIS registry on the internet at <a href="http://www.dnr.wi.gov/org/aw/rr/gis/index.htm">http://www.dnr.wi.gov/org/aw/rr/gis/index.htm</a>. A copy of the closure letter is included as part of the site file on the GIS registry.

Should you or any subsequent property owner wish to construct or reconstruct a well on your property, special well construction standards may be necessary to protect the well from the residual groundwater impacts. Any well driller who proposes to construct a well on your property in the future will first need to obtain approval from a regional water supply specialist in DNR's Drinking Water and Groundwater Program. The well construction application, form 3300-254, is available on the DNR's website at <a href="http://www.dnr.wi.gov/org/water/dwg/3300254.pdf">http://www.dnr.wi.gov/org/water/dwg/3300254.pdf</a>, or may be accessed through the GIS registry web address in the preceding paragraph.

If you need more information, you may contact me at (262) 522-3520 or the mailing address at the top of this letter. You may also contact Mr. David Volkert of the DNR at (262) 574-2166 or 141 NW Barstow Street, Rom 180, Waukesha, WI 53188.

Sincerely,

ReadyEarth Consulting, Inc.

Jason E. Bartley, P.G.

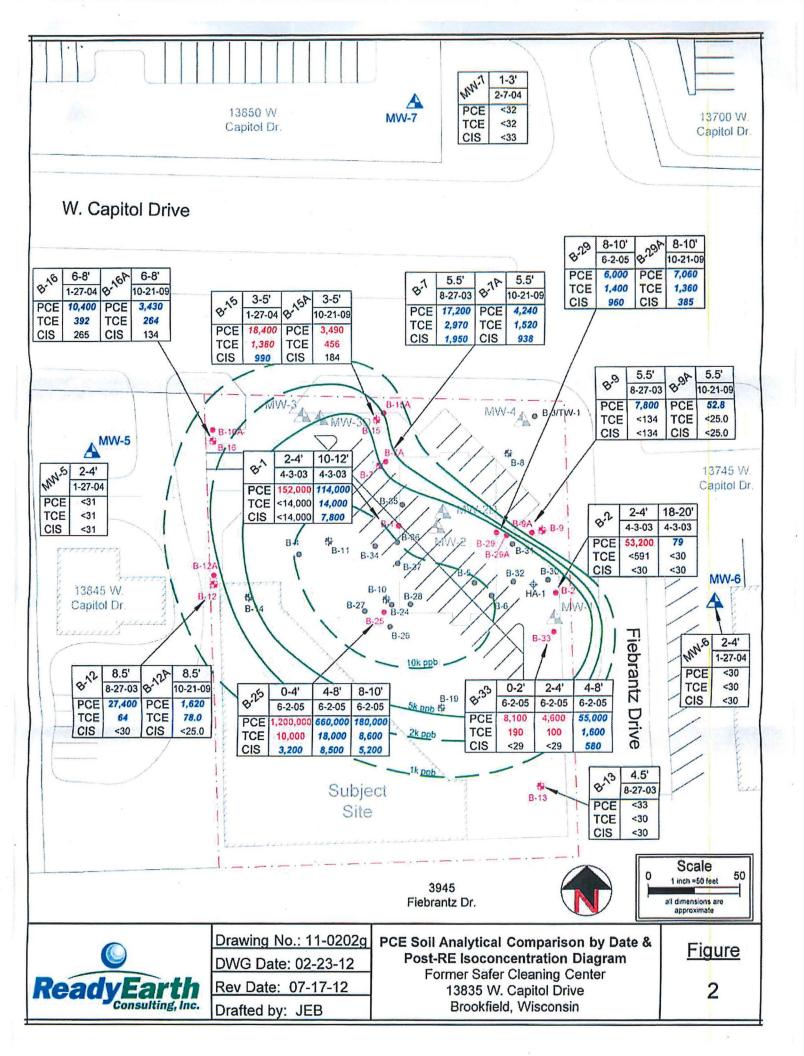
President

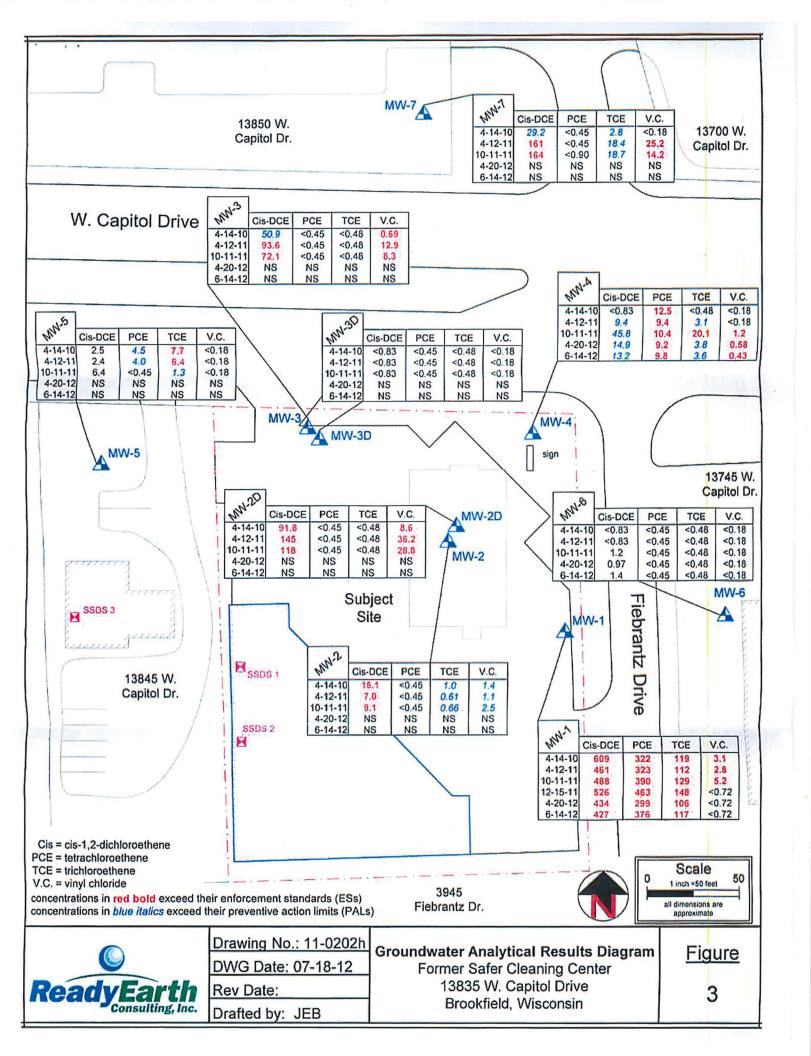
attachments

cc: Mr. Donald Hoeller

Mr. David Volkert - Wisconsin Department of Natural Resources

11-0202n





### WARRANTY DEED

**Document Number** 

**Document Name** 

THIS DEED, made between Community Health Care Services of Menomones Falls, Inc., n/k/a Community Memorial Hospital of Menomonee Falls, Inc., a Wisconsin non-stock corporation, ("Grantor," whether one or more), and ODG SK1 LLC, a Wisconsin limited liability company, ("Grantee," whether one or more).

Grantor for a valuable consideration, conveys to Grantee the following described real estate, together with the rents, profits, fixtures and other appurtenant interests, in Waukesha County, State of Wisconsin ("Property"):

Parcel 1 of Certified Survey Map No. 7819, recorded in the office of the Register of Deeds for Waukesha County, Wisconsin, on September 29, 1995, in Volume 67 of Certified Survey Maps at Page 174 to 176, as Document No. 2070054, being a redivision of Outlot 1, Certified Survey Map No. 7784 and lands in part of the Southwest 1/4 of the Southwest 1/4 of Section 1, Township 7 North, Range 20 East, Sald land being in the City of Brookfield, County of Waukesha, State of Wisconsin.

3794164

REGISTER OF DEEDS WAUKESHA COUNTY, W RECORDED ON

2010 12:25 PM November 22, 2010 James R Behrend Register of Deeds



THIS SPACE RESERVED FOR RECORDING DATA

Name and Return Adoress

Brad I. Dallet, Esq. Whyte Hirschboeck Dudek S.C. 555 East Wells Street, Suite 1900 Milwaukee, WI 53202

BRC 1011-995-001

Parcel Identification Number (PIN)

This is not homestead property. (is) (is not)

Grantor warrants that the title to the Property is good, indefeasible, in fee simple and free and clear of encumbrances except: municipal and zoning ordinances and agreements entered under them, recorded easements for the distribution of utility and municipal services, restriction on access, reciprocal easement for access, and general taxes levied in the year of closing.

Dated this 11 day of November, 2010. Community Health Care Services of Menomonee Falls, Inc. n/k/a Community Memorial Hospital of Menomonee Falls, (SEAL) (SEAL) Dennis M. Pollard, President (SEAL) (SEAL) ACKNOWLEDGMENT **AUTHENTICATION** STATE OF WISCONSIN, Signature(s) Maukeshacounty authenticated this day of Personally came before me this 2 day of November 2010, the above named Dennis M. Pollard to me known to be the President of Community Memorial Hospital of Menomonee Falls. TITLE: MEMBER STATE BAR OF WISCONSIN Inc. and the person who executed the foregoing instrument and authorized by § 706.06, Wis. Stats.) cknowledged the same on behalf of the corporation.

THIS INSTRUMENT WAS DRAFTED BY:

Anne Wal, Esq. von Briesen & Roper, s.c. 411 E. Wisconsin Ave., Ste. 700 Milwaukee, WI 53202

Public, State of Wisconsin

My commission:

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