

September 24, 2012

Mr. Matt Stamborski
Outlook Development
6495 South 27th Street
Franklin, WI 53132

Subject: Off-site Liability exemption for property located at 13850 West Capital Drive, Brookfield, WI 53005 with soil and/or groundwater contamination from an off-site source located at 13805-13841 West Capital Drive, Brookfield, WI 53005, parcel # BRC 1011-995-001 FID# 268355520 BRRTS# 07-68-559080

Dear Mr. Stamborski:

Purpose

The Department of Natural Resources ("the Department") has recently reviewed your request for an off-site exemption letter for the property located at 13850 West Capital Drive, Brookfield, WI 53005, which will be referred to in this letter as "the Property." Refer to the attachments (Figures 2 & 3) for site maps of the area around the Property. The Department received a \$500 fee for providing this letter pursuant to s. 292.13 (2) and (3), Stats, and ch. NR 749, Wis. Admin. Code,

Summary Determination

The Department, based on the information made available to it, is confirming that the Property (the ODG SK1, LLC site) qualifies for the off-site liability exemption, and that the Property owner, Mr. Matt Stamborski from Outlook Development, is not responsible for investigation or cleanup of the contamination that originated on a neighboring property. The Property owner would have limited responsibility under ss. 292.12 and 292.13, Stats, for the soil and or groundwater contamination that has migrated or is migrating onto the Property.

Request

You have requested that the Department determine if the current property owner (Mr. Stamborski) is exempt from ss. 292.11(3), (4) and (7)(b) and (c), Wis. Stats. (commonly known as the "Hazardous Substance Spill Law"), with respect to the existence of a hazardous substance in the soil and/or groundwater, that you believe is migrating onto the Property from an off-site source.

Section 292.13(2), Wis. Stats., requires the Department to issue upon request, a written determination regarding a liability exemption for a person who possesses or controls property that is contaminated by an off-site source, when certain conditions are met. In order to make this determination, the Department has reviewed information about the Property, including soil and groundwater sampling data for the Property and/or other sites contained in the following documents:

- The Off-Site Application form dated July, 19, 2012.
- The off-Site Right-of-Way Notification for the Former Safer Cleaning Center Site, sent by ReadyEarth Consulting, Inc. and dated July 19, 2012.

- Phase I Environmental Site Assessment Report for the property at 13850 West Capitol Drive, Brookfield, WI prepared by Key Engineering Group, LTD and dated September 23, 2010.

Background

The Department considered the documents listed above in making the determinations presented in this letter. The Property is currently used as a medical clinic for general practitioners and includes examination offices, lobby, x-ray rooms, and administrative offices. According to the Phase I Environmental Assessment Report, the Property was originally developed with three residences which were razed to construct the clinic. The suspected source of the groundwater impacts thought to be on the Property, are from the Former Safer Cleaning Center Site located at 13835 West Capitol Drive in Brookfield, WI.

Determination

Based upon the available information and in accordance with s. 292.13, Stats., the Department makes the following determinations regarding the presence of tetrachloroethene (PCE) and trichloroethene (TCE) contamination in the groundwater found in monitoring well MW-7 in the western portion of the Property as indicated in the map in attachment Figure 3.

The Department, based on the information available, has determined that the Property owner/lessee has met the conditions in s.292.13, Stats., to qualify for the liability exemption, including but not limited to the following provisions:

1. The hazardous substance discharge originated from a source on property that is not possessed or controlled by Matt Stamborski.
2. Matt Stamborski did not possess or control the hazardous substance on the property on which the discharge originated.
3. Matt Stamborski did not cause the discharge.
4. Matt Stamborski will not have liability under the Hazardous Substance Spill Law for investigation or remediation of the soil, sediment or groundwater contamination originating from off-site onto the Property, provided that Matt Stamborski does not take possession or control of the property on which the discharge originated.

Exemption Conditions

The Department's determination, as set forth in this letter, is subject to the following conditions being complied with, as specified in ss. 292.13(1) and (1m), Wis. Stats:

1. The facts upon which the Department based its determination are accurate and do not change.
2. Matt Stamborski agrees to allow the following parties to enter the Property to take action to respond to the discharge: the Department and its 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. Matt Stamborski agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge.

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3. Matt Stamborski agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge.



4. Matt Stamborski agrees to any other condition that the Department determines is reasonable and necessary to ensure that the Department and any other authorized party can adequately respond to the discharge.

Responsibilities for Continuing Obligations

In addition to the conditions above, after the contamination at the source property is remediated, the Department's approval of the clean-up may include continuing obligations at the source property. Often residual contamination remains after an approved environmental cleanup is completed. This approval may include requirements to maintain engineering controls, such as a cap or soil cover, to reduce the impact of the contamination.

Conclusion

The Department has granted Matt Stamborski an off-site exemption under s. 292.13, Stats. Please note that the Department may revoke the determinations made in this letter if it determines that any of the requirements under ss. 292.13, Stats., cease to be met.

Future Property owners are eligible for the exemption under s. 292.13, Stats., if they meet the requirements listed in that statute section. The determinations in this letter regarding a liability exemption, however, only apply to Matt Stamborski, and may not be transferred or assigned to other parties. The Department will provide a written determination to future owners of this Property, if such a determination is requested in accordance with the requirements of s. 292.13, Wis. Stats.

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 that is available on the Internet at <http://dnr.wi.gov/topic/Brownfields/botw.html>

If you have any questions or concerns regarding this letter, please contact me at the letterhead address or at (262) 574-2145.

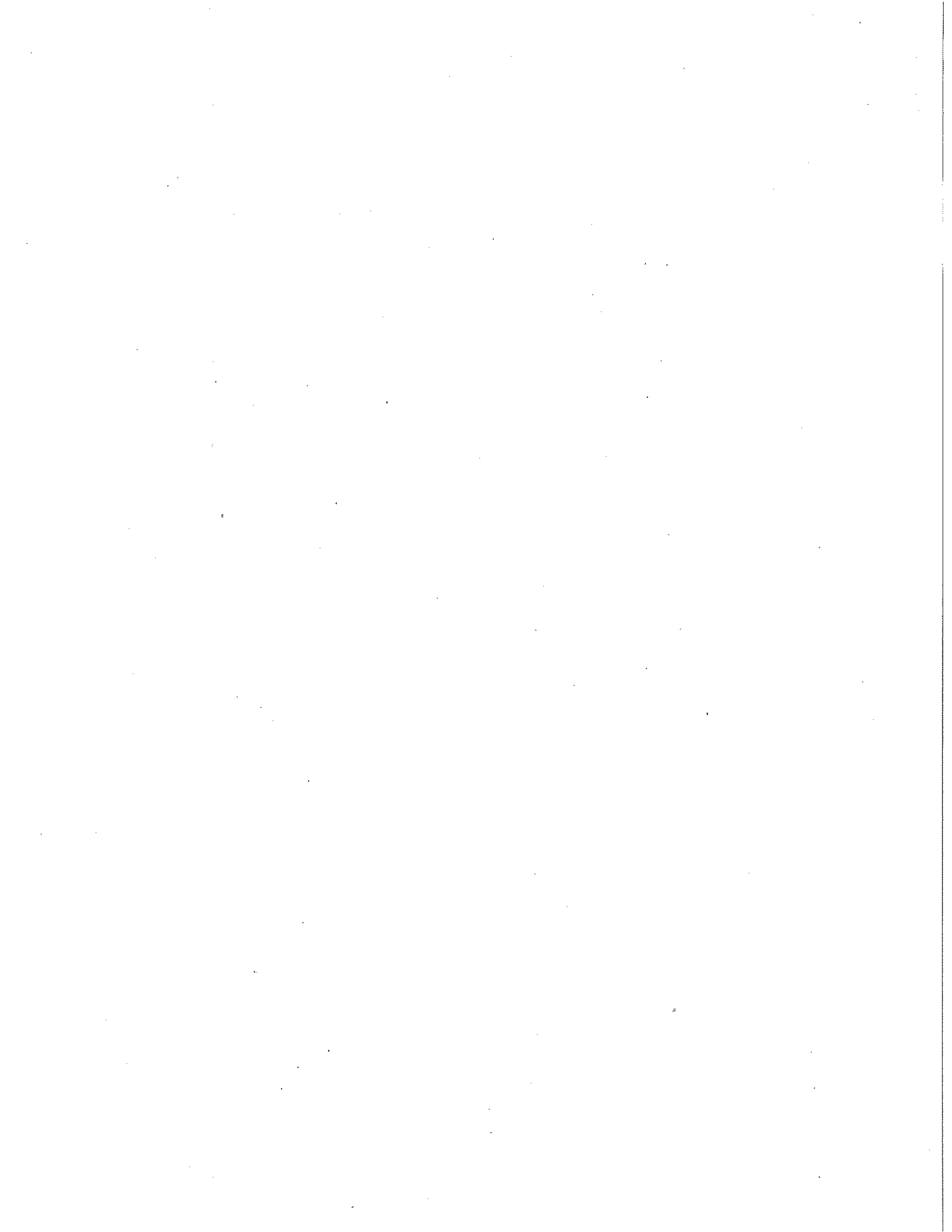
Sincerely,

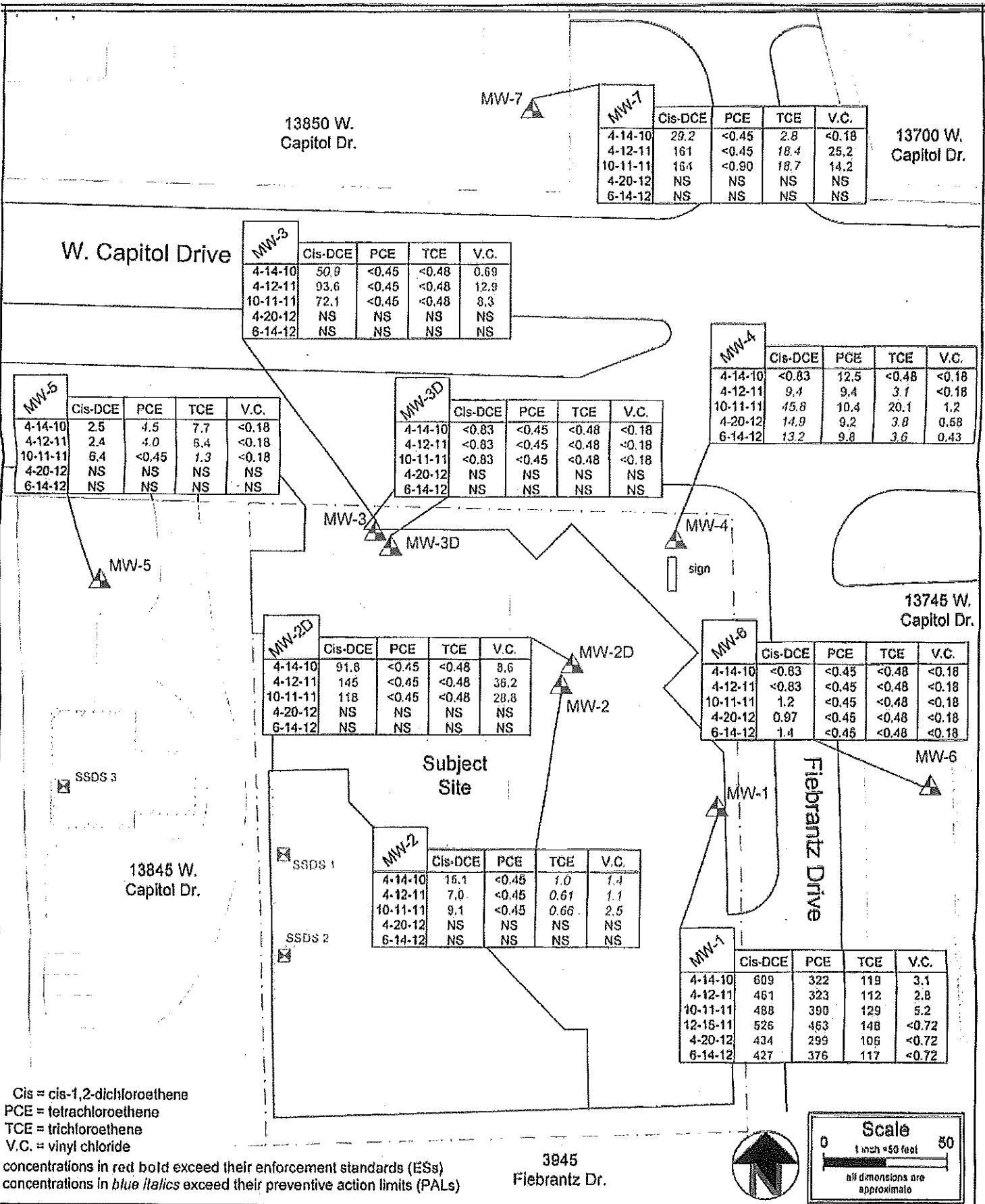


James C. Delwiche, P.G.
Hydrogeologist
Bureau for Remediation & Redevelopment

Attachments: Figure 2 PCE Soil Analytical
Figure 3 Groundwater Analytical

cc: Michael Prager - WDNR RR/5 (electronic)
Margaret Brunette - WDNR SER (electronic)
SER Case File

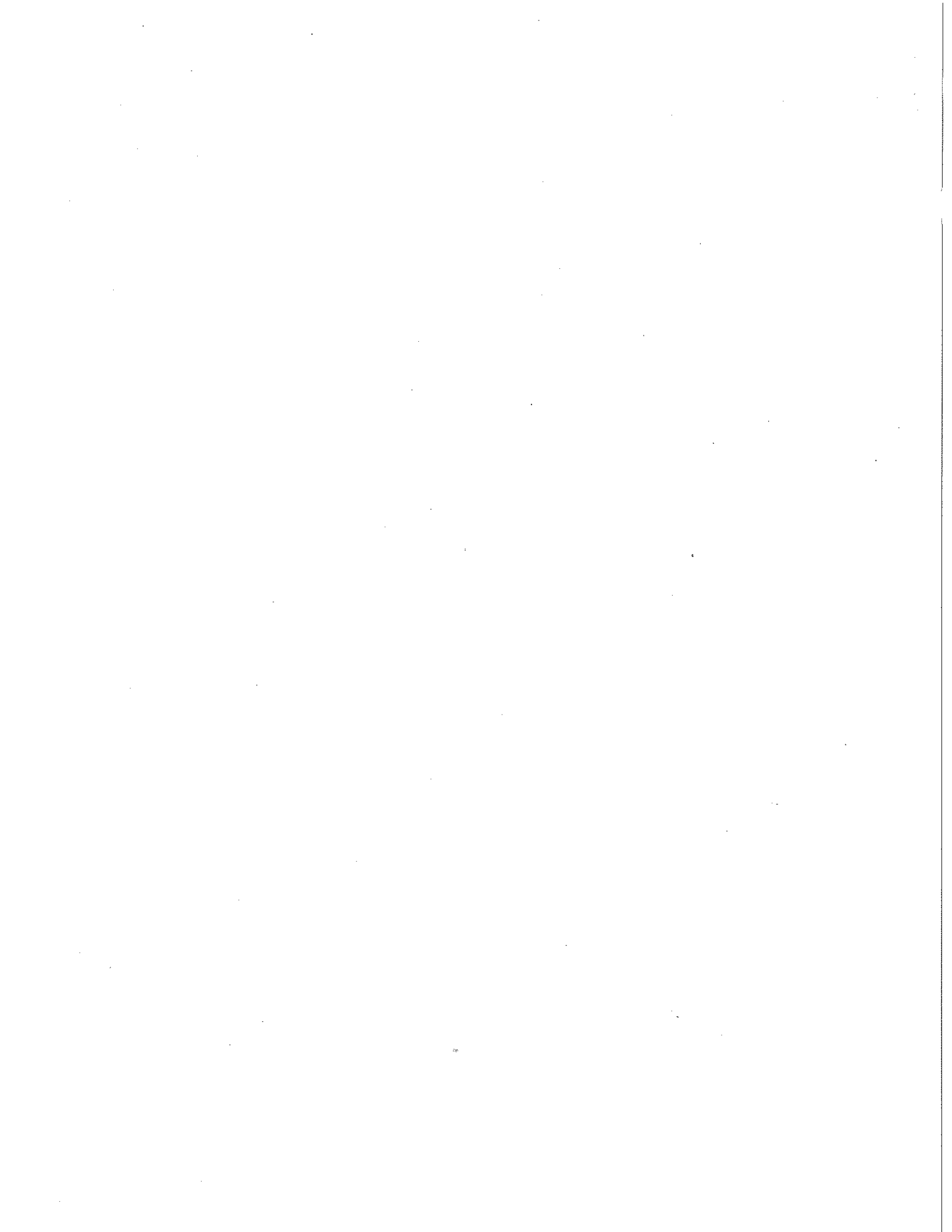




Drawing No.: 11-0202h
DWG Date: 07-18-12
Rev Date:
Drafted by: JEB

Groundwater Analytical Results Diagram
Former Safer Cleaning Center
13835 W. Capitol Drive
Brookfield, Wisconsin

Figure
3



13350 W
Capitol Dr.

MW-7

MW-7	1-3'
	2-7-04
PCE	<32
TCE	<32
CIS	<33

13700 W
Capitol Dr.

W. Capitol Drive

B-16	6-8'	B-16A	6-8'
	1-27-04		10-21-09
PCE	10,400	PCE	3,430
TCE	392	TCE	264
CIS	265	CIS	134

B-15	3-5'	B-15A	3-5'
	1-27-04		10-21-09
PCE	18,400	PCE	3,490
TCE	1,380	TCE	456
CIS	990	CIS	184

B-7	5.5'	B-7A	5.5'
	8-27-03		10-21-09
PCE	17,200	PCE	4,240
TCE	2,970	TCE	1,520
CIS	1,950	CIS	938

B-29	8-10'	B-29A	8-10'
	6-2-05		10-21-09
PCE	6,000	PCE	7,060
TCE	1,400	TCE	1,360
CIS	960	CIS	385

B-9	5.5'	B-9A	5.5'
	8-27-03		10-21-09
PCE	7,800	PCE	52.8
TCE	<134	TCE	<25.0
CIS	<134	CIS	<25.0

MW-5	2-4'
	1-27-04
PCE	<31
TCE	<31
CIS	<31

B-1	2-4'	10-12'
	4-3-03	4-3-03
PCE	152,000	114,000
TCE	<14,000	14,000
CIS	<14,000	7,800

B-2	2-4'	18-20'
	4-3-03	4-3-03
PCE	53,200	79
TCE	<591	<30
CIS	<30	<30

B-12	8.5'	B-12A	8.5'
	8-27-03		10-21-09
PCE	27,400	PCE	1,620
TCE	64	TCE	78.0
CIS	<30	CIS	<25.0

B-25	0-4'	4-8'	8-10'
	6-2-05	6-2-05	6-2-05
PCE	1,200,000	660,000	180,000
TCE	10,000	18,000	8,600
CIS	3,200	8,500	5,200

B-33	0-2'	2-4'	4-8'
	6-2-05	6-2-05	6-2-05
PCE	8,100	4,600	55,000
TCE	190	100	1,600
CIS	<29	<29	580

MW-6	2-4'
	1-27-04
PCE	<30
TCE	<30
CIS	<30

13845 W
Capitol Dr

13745 W
Capitol Dr

Fiebrantz Drive

Subject Site

3945
Fiebrantz Dr.



Drawing No.: 11-0202g
DWG Date: 02-23-12
Rev Date: 07-17-12
Drafted by: JEB

PCE Soil Analytical Comparison by Date & Post-RE Isoconcentration Diagram
Former Safer Cleaning Center
13835 W. Capitol Drive
Brookfield, Wisconsin

Figure
2