

Notice: Pursuant to ss. 292.13 and 292.55, Wis. Stats., this application must be completed to request a written determination from the Department of Natural Resources (DNR) for the off-site liability exemption or for the liability clarification regarding property affected by an off-site discharge. The Department will not consider, or act upon your application unless all sections are completed on this form and the required fee of \$700, required under ch. NR 749, Wis. Adm. Code is included. Personal information collected will be used for administrative purposes and may be provided to requester's to the extent required by 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: "When Contamination Crosses a Property Line - Rights and Responsibilities of Property Owners Off-Site Limited Liability Exemption" ([RR-589](#)) 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/topic/Brownfields>.
- Complete the application and include the information that adequately shows that the required criteria are met. See Section 7 on page 4.
- Include a \$700 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.
- 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 determination.				
Applicant Last Name		First	MI	
Shamie		Moshe		
Address		City	State	ZIP Code
13850 West Capital Drive		Brookfield	WI	53005
Phone Number (include area code)	Fax Number (include area code)	E-Mail Address		
323-599-1455		moshe@prosperityhaven.com		
Contact for questions (if different than applicant) Last Name		First	MI	
Address		City	State	ZIP Code
			WI	
Phone Number (include area code)	Fax Number (include area code)	E-Mail Address		

Off-Site Liability Exemption and Liability Clarification Application

Form 4400-201 (R 05/19)

Page 2 of 6

2. Applicant eligibility for off-site exemption or off-site liability clarification.

Request one determination based on whether the requirements for the off-site exemption are currently met. See page 5 and sign the appropriate certification.

- Off-Site Discharge Exemption** – I "possess or control" the Property and I believe I meet the criteria for an off-site exemption. I request an off-site exemption letter.

I have completed Section 8a on page 5.

As the applicant, I am:

Current owner

Other* Explain your relationship to the Property or the nature of your possession or control of the Property:

*Additional documentation may be requested by the DNR to verify the applicant's possession or control of the Property. For example, if a lessee requests a determination, DNR would need a copy of the lease by which to assess whether the lessee possesses or controls the Property.

- Off-site Liability Clarification** – I lack one or more of the requirements for the off-site exemption as shown below. I request a liability clarification letter that explains which conditions must be met in order to qualify for the off-site liability exemption.

I have completed Section 8b on page 5.

Requirements for the off-site exemption that are missing:

1. Currently I do not possess or control the Property and

I plan to buy the Property on

(Date) or

I plan to lease the Property on

(Date).

2. Currently no contamination has been detected on the Property but there is credible evidence that contamination has migrated onto the Property.

3. Multiple contiguous properties are believed to be affected by contamination from a known source.

4. Other: Explain the circumstances here or in an attachment.

3. Information on additional parties.

Check the appropriate box to have a copy of the determination letter sent to one or more of these parties:

<input type="checkbox"/> Environmental Consultant	First	MI	
Address	City	State	ZIP Code
Phone Number (include area code)	Fax Number (include area code)	E-Mail Address	
<input type="checkbox"/> Attorney / Other Last Name	First	MI	
Address	City	State	ZIP Code
Phone Number (include area code)	Fax Number (include area code)	E-Mail Address	

4. Information on Property affected by off-site discharge.

Property / Facility Name Brookfield Propco, LLC				County Waukesha	
Address 13850 West Capital Drive		City Brookfield		State WI	ZIP Code 53005
Public Land Survey Coordinates		Latitude	Longitude		
Section 01	Range 20	<input checked="" type="radio"/> E <input type="radio"/> W	Township 07 N	Datum (check only one): <input type="radio"/> NAD27 <input type="radio"/> NAD83 <input type="radio"/> 1990 Adjustment	
			Method	Accuracy	

(Attach a list of locations if this request is for multiple properties.)

I request that DNR provide a copy of the Liability Clarification Letter to the current owner.

Current Owner (if different than applicant) Last Name			First	MI
Address		City	State	ZIP Code
Phone Number (include area code)	Fax Number (include area code)	E-Mail Address		

5. Information about contamination on the impacted Property.

A. Have hazardous substances been detected on the Property or Properties?

No. If not, explain why contamination is suspected on the Property or Properties in an attachment or here:

Yes. Check all that apply: Groundwater Soil Sediment Other, describe: _____

B. Has the presence of contamination been reported to any State or local governmental agency?

No.

If yes, check all that apply: DNR

Date Reported

04/28/2003

Division of Emergency Government

Commerce

Department of Agriculture, Trade and Consumer Protection (DATCP)

Other, describe: _____

C. Is the source of the contamination known? Check only one.

No.

Yes. If yes, what is the source of the contamination?

Former Safer Cleaner Center Site

Provide the name and address of the owner of the contamination source or source property, if known.

Owner Name Triangle Plaza, LLC				
Address 13805-13841 West Capital Drive		City Brookfield	State WI	ZIP Code 53005

Suspected. If suspected to be migrating from a nearby source, what is the source and its address?

Provide the name of the owner of the suspected contamination source or source property, if known.

Owner Name				
Address		City	State	ZIP Code

6. Specific liability clarification questions relating to off-site contamination.

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

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 05/19)

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
Shamie	Moshe	
Signature	Date Signed	
	3/21/2024	

8b. Certification if applicant has not currently met all the conditions 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	

9. DNR contacts and addresses for application submittals.

Send or deliver the completed request, supporting materials, and fee to the region where the property is located. Contact a [DNR Regional Brownfield Specialist](#) with any questions about this form or a specific situation involving a contaminated property

DNR NORTHERN REGION
 Attn: RR Program Assistant
 Department of Natural Resources
 223 E Steinfest Rd Antigo, WI 54409

DNR NORTHEAST REGION
 Attn: RR Program Assistant
 Department of Natural Resources
 2984 Shawano Avenue
 Green Bay WI 54313

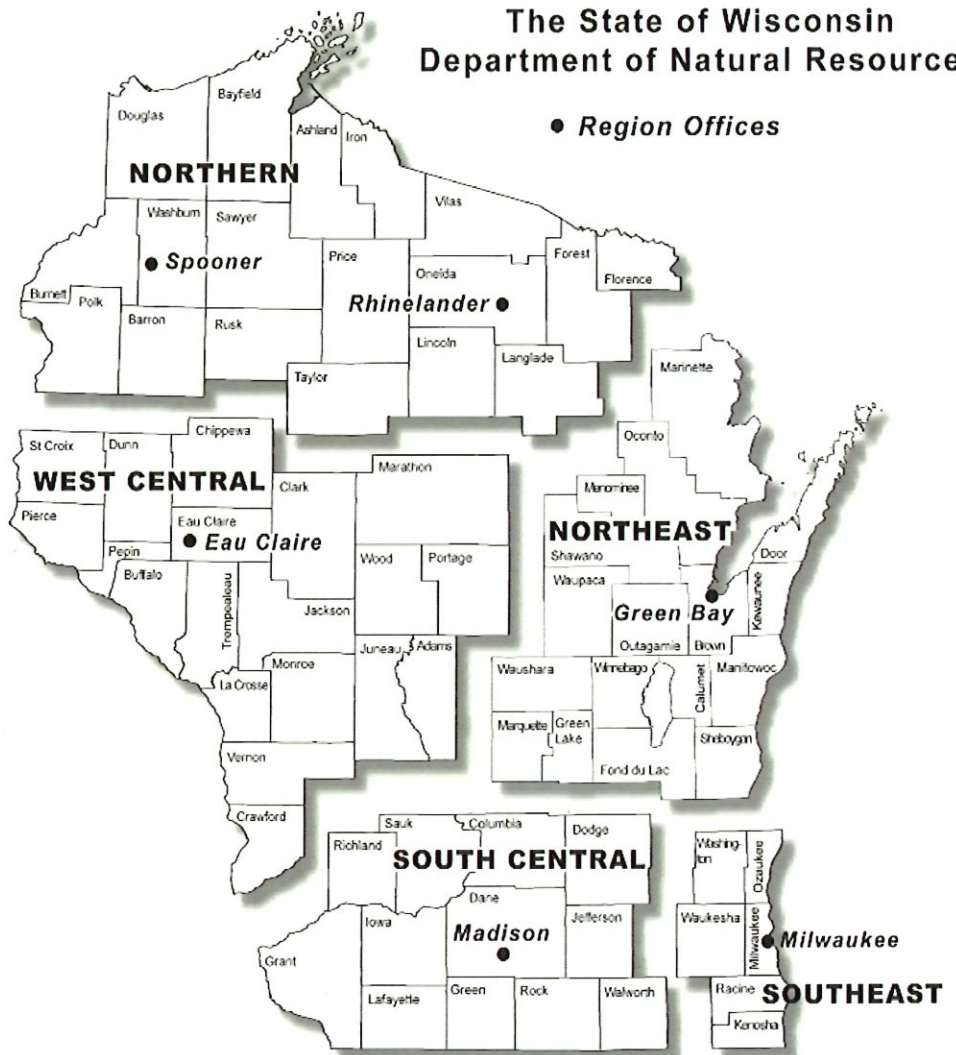
DNR SOUTH CENTRAL REGION
 Attn: RR Program Assistant
 Department of Natural Resources
 3911 Fish Hatchery Road
 Fitchburg WI 53711

DNR SOUTHEAST REGION
 Attn: RR Program Assistant
 Department of Natural Resources
 2300 North Martin Luther King Drive
 Milwaukee WI 53212

DNR WEST CENTRAL REGION
 Attn: RR Program Assistant
 Department of Natural Resources
 1300 W Clairemont Avenue
 Eau Claire WI 54702

The State of Wisconsin
 Department of Natural Resources

● Region Offices



Note: These are the Remediation and Redevelopment Program's designated regions. Other DNR program regional boundaries may be different.

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 <input type="radio"/> Yes <input type="radio"/> No
Date Approved	Date Additional Information Requested	Date Withdrawn	Date Denied

**BROOKFIELD PROPCO, LLC
13850 West Capital Drive
Brookfield, WI 53005**

323-599-1455

April 3, 2024



DNR Southeast Region
Att: RR Program Assistant
Department of Natural Resources
2300 North Martin Luther King Drive
Milwaukee, WI 53212

To Whom it May Concern:

Enclosed please find Off-Site Liability Exemption and Liability Clarification Application (Form 4400-201) on behalf of Brookfield Propco, LLC, the current owner of the property located at 13850 West Capital Drive, Brookfield, WI 53005, together with a check in the amount of \$700.00 in payment of the application fee.

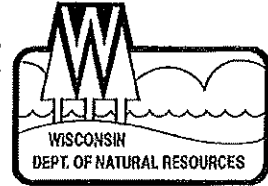
For your convenience, we are also enclosing the prior September 24, 2012 exemption liability letter for this property.

Please contact Moshe Shamie at 323-599-1455 (moshe@prosperityhaven.com) if you have any questions.

Thank you.

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
Waukesha Service Center
141 NW Barstow St
Waukesha WI 53188

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



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.

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

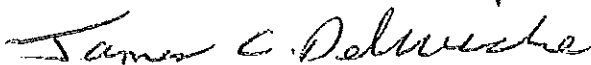
The Department has granted Matt Stamborski an off-site exemption under s. 292.13, Stats. Please note that the Department may revoke the determinations made in this letter if it determines that any of the requirements under ss. 292.13, Stats., cease to be met.

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

13850 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-1	5.5'	B-1A	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	7,080
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	62.8
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	63,200	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

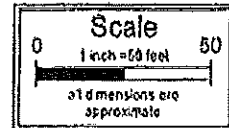
B-33	0-2'	2-4'	4-8'
	6-2-05	6-2-05	6-2-05
PCE	8,100	4,600	55,000
TCE	190	100	1,600
CIS	<29	<29	580

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

B-13	4.5'
	8-27-03
PCE	<33
TCE	<30
CIS	<30

Subject Site

3945
Flebrantz Dr.

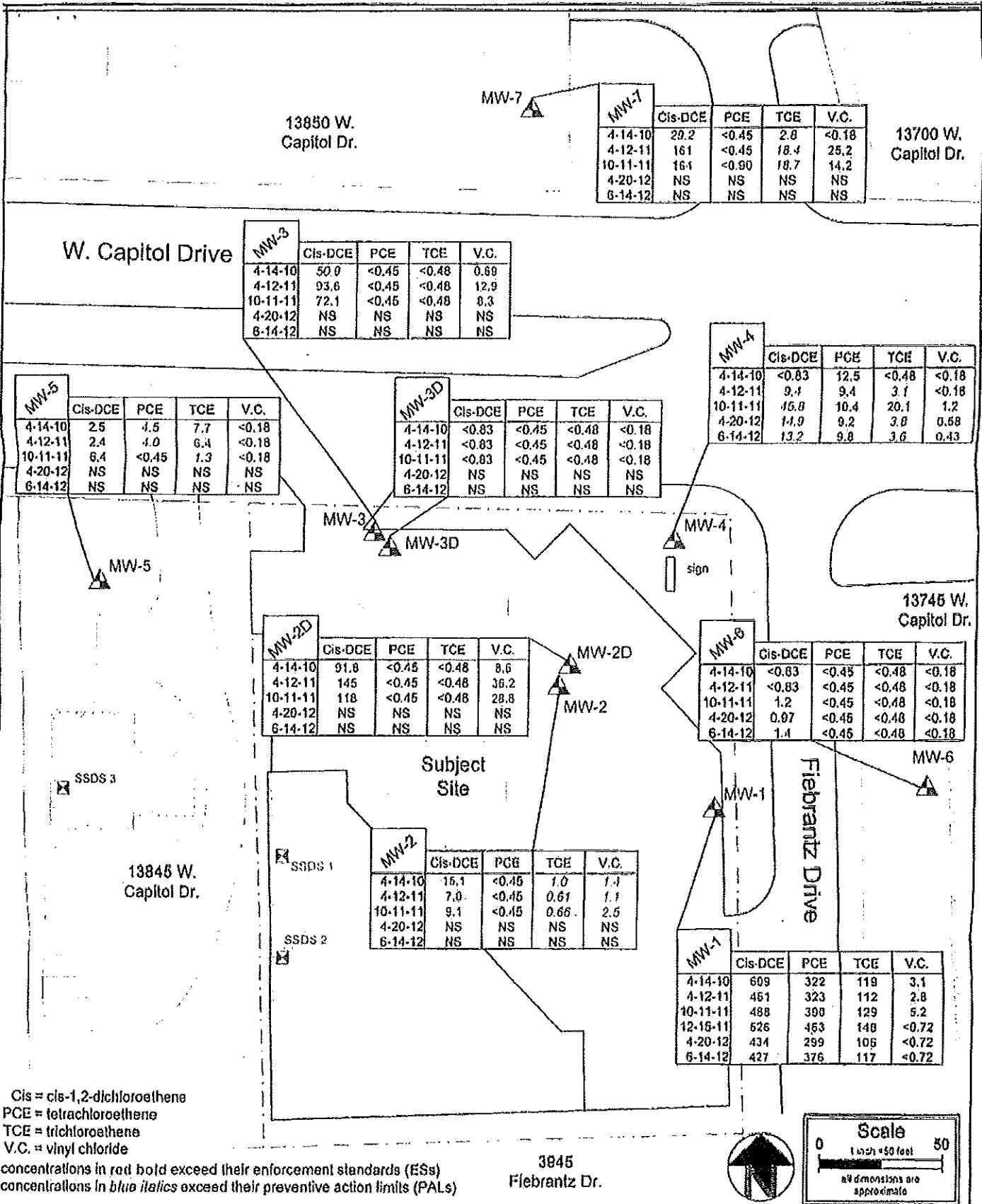


Drawing No.: 11-0202g
DWG Date: 02-23-12
Rev Date: 07-17-12
Drafted by: JEB

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

Figure

2



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