



December 18, 2012

BRRTS No. 07-32-559629
FID No. 632135240

MR. TROY BATZEL, ENVIRONMENTAL MANAGER
KWIK TRIP, INC.
1626 OAK STREET
LA CROSSE, WI 54602

Subject: Off-Site Liability Exemption for Real Property located at 1905 Palace Street, City of La Crosse, La Crosse County, Wisconsin, with groundwater contamination from an Off-Site Source

Dear Mr. Batzel:

Purpose

The Wisconsin Department of Natural Resources ("the Department") has reviewed a request submitted by Braun Intertec Corporation, on behalf of Kwik Trip, Inc., for an off-site liability exemption letter in response to environmental contamination affecting real property located at 1905 Palace Street, City of La Crosse, La Crosse County, Wisconsin. According to La Crosse County Land Records, the real property consists of approximately 0.70 acre and is identified as Parcel No. 17-10306-62. The property is partially described as Part of Lot 5, Block 1, Couleesites Industrial Addition, located in a part of the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 16, Township 16 North, Range 07 West, City of La Crosse, La Crosse County, Wisconsin, hereinafter referred to as "the Property." A site map of the Property is included as an attachment to this letter.

Summary Determination

Based on results of a Phase II Environmental Site Assessment ("ESA") conducted on the Property and an environmental site investigation of the former Midwest Garment, Inc. site (f/k/a Desmond's Formal Wear, Inc. and Desmond's Men's Wear, Inc.), the Department determines that Kwik Trip, Inc. is eligible for the off-site liability exemption under s. 292.13, Wis. Stats. Consequently, Kwik Trip, Inc. cannot be held responsible for the investigation and cleanup of tetrachloroethylene [a/k/a perchloroethylene ("PCE")] contamination present in groundwater on the Property that originated from a neighboring property. Kwik Trip, Inc. does have some limited responsibilities under ss. 292.12 and 292.13, Wis. Stats., to allow the responsible party access to the Property and to not interfere with actions to respond to groundwater contamination that has migrated or is migrating onto the Property.

Request

You have requested that the Department determine if Kwik Trip, Inc. is exempt from ss. 292.11(3), (4), and (7)(b) and (c), Wis. Stats., (commonly known as the "Hazardous Substance Spills Law"), with respect to the existence of a hazardous substance in groundwater believed to be migrating onto the Property from an off-site source. The source property has been identified as the former Midwest Garment, Inc. site, 2338 Commerce Street, City of La Crosse, La Crosse County, Wisconsin.

As you are aware, s. 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. The Department received the appropriate fee for review of the documents and drafting of this off-site liability exemption letter, pursuant to s. NR 749.04 (1), Wis. Adm. Code. In order to make this determination, the Department has reviewed the groundwater environmental site investigation conducted at the former Midwest Garment, Inc. site and groundwater data from the Phase II ESA conducted on the Property. This determination is made by the Department based on review of information contained in the following documents:

- “Desmond’s Men’s Wear” environmental repair project (“ERP”) case file, Bureau of Remediation & Redevelopment Tracking System (“BRRTS”) No. 02-32-000203.
- “Phase I Environmental Site Assessment, Proposed Kwik Trip Property, 1905 Palace Street, La Crosse, Wisconsin” prepared by Braun Intertec Corporation and dated October 2, 2012.
- “Phase II Environmental Site Assessment, Proposed Kwik Trip Property, 1905 Palace Street, La Crosse, Wisconsin” prepared by Braun Intertec Corporation and dated October 3, 2012.
- The Department’s Technical Assistance and Environmental Liability Clarification Request Form dated November 8, 2012.

The Department has examined the documents listed above and provides the following summary of facts of this case and opinions concerning environmental conditions at the Property.

Summary of Environmental Conditions

In September 2012, the Braun Intertec Corporation was retained by Kwik Trip, Inc. to conduct a Phase I ESA of the Property. The purpose of a Phase I ESA is to identify *recognized environmental conditions*. The term *recognized environmental conditions* means the presence or likely presence of any hazardous substances, or petroleum products, on a property under conditions that indicate an existing release, a past release, or a material threat of a release into structures on the property or into the ground, groundwater, or surface water of the property.

Based upon environmental data review, records review, interviews, and a site reconnaissance, the Braun Intertec Corporation identified the following two *recognized environmental conditions* (“RECs”) associated with the Property:

- First Student, Inc. #20761 (Laidlaw Transit, Inc.), 2321 Commerce Street located on the northern adjacent property. Based on the proximity of the facility and the presence of closed and active underground storage tanks (“USTs”), the facility constitutes a recognized environmental condition.

- Midwest Garment, Inc. (f/k/a Desmond's Formal Wear, Inc.) formerly at 2338 Commerce Street located 198 feet northeast of the subject property. The facility is an open ERP case. Based on the on-going investigation activities associated with chlorinated solvents in the soil and groundwater at the facility and west of the facility on the site northern adjacent property (First Student), it is the opinion of the Braun Intertec Corporation that the open release file associated with the facility constitutes a recognized environmental condition.

According to the La Crosse Public Library Archives, the La Crosse Curling Club first developed the Property with groundbreaking starting in June 1977 and completion of an approximately 13,000-square foot metal curling facility in December 1977. The club operated the facility until the property was sold in October 1998. More recently, the building was occupied by a company known as Kaplan Schweser, which through the Schweser Study Program and the Kaplan Schweser School helps finance-professionals obtain designations and certifications that enable them to advance in their careers.

Based on the identification of RECs associated with the Property, the Braun Intertec Corporation recommended that a Phase II ESA with soil borings be conducted to evaluate if current (First Student, Inc.) and past (Midwest Garment, Inc./Desmond's Formal Wear, Inc.) off-site land uses have adversely impacted soil and/or groundwater beneath the Property. According to Braun Intertec Corporation, the objective of the Phase II ESA was to evaluate soil, groundwater, and soil-gas contamination, if present, at the Property resulting from historic use of the Property or off-site land uses.

On September 12, 2012, five soil borings were advanced for the purpose of collecting soil, groundwater, and soil-gas samples in locations selected by the Braun Intertec Corporation to assess areas on the Property associated with the identified RECs. Soil borings were advanced using a direct-push hydraulic probe. Soil samples were collected at two-foot intervals in each of the five borings and field screened with a photoionization detector ("PID") for the presence of organic vapors. No organic vapors above background levels were detected during field screening.

One soil sample was collected from each boring for laboratory analysis at depths of either 4-6 feet or 6-8 feet. In addition, a soil-gas vapor sample was collected from one boring at a depth of 5 feet below ground surface using a summa canister. All soil samples and the vapor sample were sent to a certified laboratory and analyzed for the presence of volatile organic compounds ("VOCs").

Two groundwater samples were collected from temporary wells at each boring location for laboratory analysis. One groundwater sample was collected near the water table at depths ranging from 18-21 feet; the second groundwater sample was collected at depths ranging from 44-45 feet. All groundwater samples were sent to a certified laboratory and analyzed for the presence of VOCs.

Results from the laboratory analysis of soil samples showed no VOCs detected above laboratory method detection limits. Results from the laboratory analysis of the soil-gas vapor sample showed several VOCs detected at concentrations above laboratory method detection limits, but below Wisconsin's Vapor Action Levels ("VALs") calculated using EPA's Regional Screening Levels.

Results from the laboratory analysis of groundwater samples showed several VOCs detected at very low levels, above laboratory method detection limits but below laboratory method quantitation limits. The concentrations detected are below Wisconsin's health-based groundwater quality standards as established in ch. NR 140, Wis. Adm. Code.

The exception was the compound tetrachloroethylene [a/k/a perchloroethylene ("PCE")] which was detected at concentrations that exceed the enforcement standard under Wisconsin's groundwater quality standards as established in ch. NR 140, Wis. Adm. Code. It is believed that the PCE contamination detected in groundwater has migrated onto the Property and originated from an off-site source. It is believed that the source of the groundwater contamination is from a known release that occurred on the former Midwest Garment, Inc. site.

Past Environmental Investigations

On October 27, 1989, the Department was notified of the discharge of a hazardous substance at a site known then as Desmond's Men's Wear, Inc., 2338 Commerce Street, La Crosse, Wisconsin. The discharge was detected in soil samples collected from a tank excavation during the removal of one or more 1,000-gallon underground storage tanks located on the south-side of the building and used for the storage of PCE. The chemical was used as a dry cleaning agent for garments at the store. The Department issued a responsible party ("RP") letter to Desmond's Men's Wear, Inc.

In June 2004, the Braun Intertec Corporation was conducting a Phase II ESA on adjoining property to the south (2326 Commerce Street). Three borings were advanced and soil and groundwater samples were collected and analyzed for the presence of VOCs. PCE was detected in both soil and groundwater samples collected from the property. Based on use of the chemical at Desmond's Men's Wear, Inc. and past notification of a release, the WDNR issued a second RP letter to Midwest Garment, Inc. requiring the investigation and remediation of the release.

From October 2004 through March 2005, Shaw Environmental & Infrastructure, Inc., on behalf of Midwest Garment, Inc., conducted a ch. NR 716, Wis. Adm. Code, site investigation of the release. In March 2005, Desmond's Formal Wear, Inc. sold the property at 2338 Commerce Street to Durhman Properties, LLC. The site investigation involved the advancement of twenty-three (23) soil borings and establishment of eight (8) groundwater monitoring wells. Soil and groundwater samples were collected from both properties and analyzed for the presence of VOCs.

Tetrachloroethylene, and its degradation products trichloroethylene ("TCE") and cis-1,2-dichloroethylene ("DCE"), were the only contaminants detected in both soil and groundwater. The highest concentration of PCE was detected in a soil sample collected from a boring along the south-side of the building in the area of the former PCE storage tank(s). The site investigation has significantly defined the nature, degree, and extent of contamination and adequately defined the source. It was determined that groundwater contamination originating from the former Midwest Garment, Inc. site has moved off-site and is impacting properties to the northwest, west, and southwest.

Determinations

The Department hereby determines that impacts from PCE detected in groundwater samples collected on the Property from borings GP-1, GP-2, GP-3, and GP-4, above Wisconsin's groundwater quality standards established in ch. NR 140, Wis. Adm. Code, are originating from an off-site source identified as the former Midwest Garment, Inc. site. Based upon the available information, and in accordance with s. 292.13(2), Wis. Stats., the Department makes the following determinations regarding the presence of PCE in groundwater on the Property:

1. The hazardous substance discharge(s) originated from a source on property that is not possessed or controlled by Kwik Trip, Inc.
2. Kwik Trip, Inc. did not possess or control the hazardous substance on the property on which the discharge originated.
3. Kwik Trip, Inc. did not cause the discharge.
4. Kwik Trip, Inc. will not have liability under the Hazardous Substance Spills Law for the investigation or remediation of groundwater contamination originating from off-site onto the Property, provided that Kwik Trip, Inc. 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, are subject to the following conditions being complied with, as specified in s. 292.13(1) and (1m), Wis. Stats.:

1. The facts upon which the Department based its determination are accurate and do not change.
2. Kwik Trip, Inc. agrees to allow the following parties to enter the Property to take action to respond to the discharge: the Department, its contractors and other authorized representatives; any party that possessed or controlled the hazardous substances or caused the discharge; and any consultant or contractor of such a party.
3. Kwik Trip, Inc. agrees to avoid any interference with actions undertaken to respond to the discharge and to avoid actions that worsen the discharge.
4. Kwik Trip, Inc. agrees 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.

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 cleanup may include continuing obligations at the source property as well as the Property. Often time 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. In that event, you may also be required to obtain the Department's approval to construct a water supply well on the Property. If the request for cleanup approval includes requirements for the Property, the party conducting the cleanup is required to notify you before the Department reviews the proposal for final approval of the cleanup.

Conclusion

Based on the Department's determinations contained in this letter, Kwik Trip, Inc. will not be held responsible under the State's Hazardous Substance Spills Law, s. 292.11, Wis. Stats., to investigate and cleanup PCE contamination migrating onto the Property, as long as Kwik Trip, Inc. continues to satisfy the statutory exemption conditions specified above. You should be aware that the Department may revoke 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.

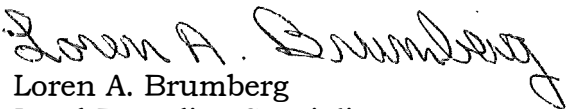
You should be aware that future property owners are eligible for the exemption under s. 292.13, Wis. Stats., if the new property owner meets the requirements specified in the statute. However, the determinations in this letter may not be transferred or assigned by Kwik Trip, Inc. to any other person. 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.

The determination contained herein is based solely on the information provided in the reviewed documents and the nature and degree of the contaminants as reported to the Department. The Department makes no determination concerning the presence or absence of hazardous substances on the Property, other than those reported in the documents identified above. In the future, if the Department becomes aware of new information concerning the contaminants referenced above, or the presence of other contaminants on the Property not previously identified, the Department will need to evaluate that data to determine if response actions may be required.

The identification numbers shown at the top of this letter is from the Bureau of Remediation and Redevelopment Tracking System ("BRRTS"). The Department tracks information on all regulatory actions that occur at a property, and this information is available to you on the Internet at <http://dnr.wi.gov/org/aw/rr/>. See "BRRTS on the web" under "Contaminated Land Databases".

I hope this letter provides you with the level of comfort you need to proceed with plans for the Property. If you have any additional questions or further concerns, please feel free to contact me at 715-839-3770.

Sincerely,



Loren A. Brumberg
Land Recycling Specialist
Remediation & Redevelopment Program

LAB:lb

Attachments: Parcel Map

Table 3 – Groundwater Sample Laboratory Results

Figure 6 – PCE Groundwater Contaminant Distribution

c: Michael Prager - RR/5

Bill Evans/Doug Joseph – WCR

Mark L. Gretebeck, Braun Intertec Corporation, 2309 Palace Street, La Crosse,
WI 54603

Tom Reinhart, Attorney, Kwik Trip, Inc., 1626 Oak Street, La Crosse, WI 54602



◆ **PUSH PROBE SOIL BORING LOCATION**



50' 0 100'

SCALE: 1"= 100'

| | | |
|-------------|----------------|-----------|
| Sheet of | Project No: | LC1205299 |
| | Drawing No: | LC1205299 |
| Fig: | Scale: | 1"= 100' |
| | Drawn By: | JAG |
| | Date Drawn: | 9/14/12 |
| | Checked By: | KDN |
| | Last Modified: | 9/14/12 |

PUSH PROBE BORING LOCATION SKETCH
 PHASE II ENVIRONMENTAL SITE ASSESSMENT
 PROPOSED KWIK TRIP PROPERTY
 1905 PALACE STREET
 LACROSSE, WISCONSIN

**BRAUN
 INTERTEC**

11001 Hampshire Avenue So.
 Minneapolis, MN 55438
 PH. (952) 995-2000
 FAX (952) 995-2020

Project # LC-12-05299
Phase II ESA
Proposed Kwik Trip Property
1905 Palace Street
La Crosse, Wisconsin

Table 3
Groundwater Sample Laboratory Analytical Results
September 12, 2012

| PARAMETER: | GP-1 | | GP-2 | | GP-3 | | GP-4 | | GP-5 | | NR 140 ES | NR 140 PAL |
|-----------------------------|------------|-------|--------|--------|--------|--------|------------|--------|--------|--------|--------------|---------------|
| | 19' | 44' | 18' | 44' | 21' | 45' | 21' | 45' | 19' | 45' | | |
| VOC Compounds (µg/L) | | | | | | | | | | | | |
| Benzen | <0.074 | 0.23 | <0.074 | <0.074 | <0.074 | <0.074 | <0.074 | <0.074 | <0.074 | <0.074 | 5 | 0.5 |
| Bromoform | <0.28 | 0.52 | <0.28 | <0.28 | <0.28 | <0.28 | <0.28 | <0.28 | <0.28 | <0.28 | 4.4 | 0.44 |
| Sec-Butylbenzen | <0.15 | <0.15 | <0.15 | <0.15 | <0.15 | <0.15 | <0.15 | <0.15 | <0.15 | <0.15 | NS | NS |
| n-Butylbenzen | <0.13 | <0.13 | <0.13 | <0.13 | <0.13 | <0.13 | <0.13 | <0.13 | <0.13 | <0.13 | NS | NS |
| Ethylbenzen | <0.13 | 0.22 | 0.25 | <0.13 | <0.13 | <0.13 | <0.13 | <0.13 | <0.13 | <0.13 | 700 | 140 |
| Isopropylbenzen | <0.14 | <0.14 | <0.14 | <0.14 | <0.14 | <0.14 | <0.14 | <0.14 | <0.14 | <0.14 | NS | NS |
| Naphthalen | <0.16 | 0.57 | <0.16 | <0.16 | <0.16 | <0.16 | <0.16 | <0.16 | <0.16 | <0.16 | 100 | 10 |
| n-Propylbenzen | <0.13 | <0.13 | <0.13 | <0.13 | <0.13 | <0.13 | <0.13 | <0.13 | <0.13 | <0.13 | NS | NS |
| Tetrachloroethen | 5.0 | <0.17 | 2.8 | 1.7 | 4.3 | 1.0 | 9.7 | <0.17 | <0.17 | 0.63 | 5 | 0.5 |
| Toluen | <0.11 | 0.41 | 0.37 | 0.35 | 0.35 | 0.29 | <0.11 | 0.39 | <0.11 | 0.29 | 800 | 160 |
| 1,2,4-Trimethylbenzen | <0.14 | <0.14 | <0.14 | <0.14 | <0.14 | <0.14 | <0.14 | <0.14 | <0.14 | <0.14 | 480 | 96 |
| 1,3,5-Trimethylbenzen | <0.18 | <0.18 | <0.18 | <0.18 | <0.18 | <0.18 | <0.18 | <0.18 | <0.18 | <0.18 | | |
| Xylenes, Total | <0.068 | 0.52 | <0.068 | <0.068 | <0.068 | <0.068 | <0.068 | <0.068 | <0.068 | <0.068 | 2,000 | 400 |

Notes:

Sources for Wisconsin groundwater standards:

NS = Standard Not Established

¹ - Wisconsin Administrative Code, Chapter NR140 Groundwater Enforcement Standards (ES)

² - Wisconsin Administrative Code, Chapter NR140 Groundwater Preventive Action Limits (PALs)

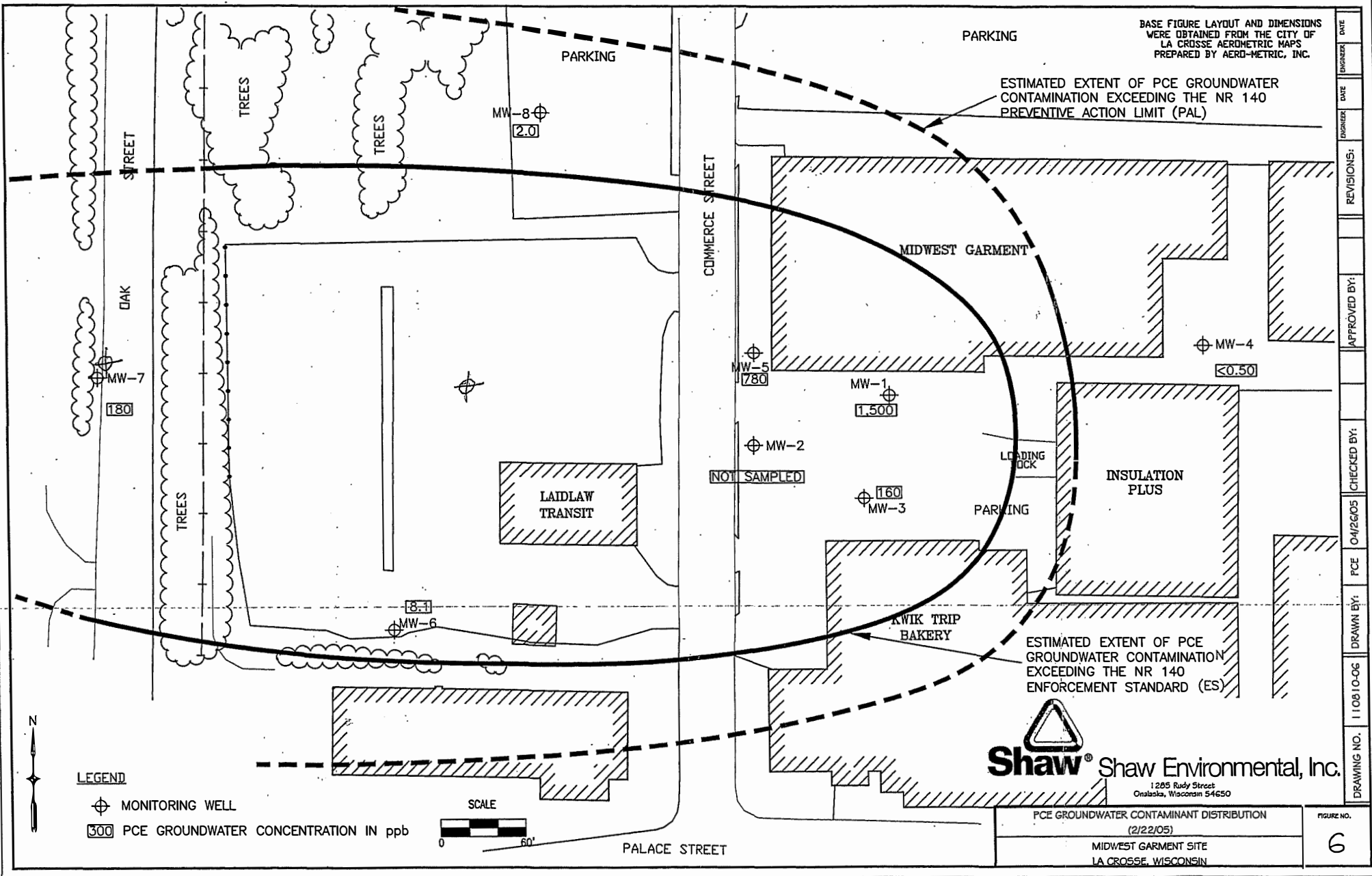
BOLD values exceed NR140 ES

values in *italics* exceed NR140 PAL

BASE FIGURE LAYOUT AND DIMENSIONS WERE OBTAINED FROM THE CITY OF LA CROSSE AEROMETRIC MAPS PREPARED BY AERD-METRIC, INC.

ESTIMATED EXTENT OF PCE GROUNDWATER CONTAMINATION EXCEEDING THE NR 140 PREVENTIVE ACTION LIMIT (PAL)

ESTIMATED EXTENT OF PCE GROUNDWATER CONTAMINATION EXCEEDING THE NR 140 ENFORCEMENT STANDARD (ES)



Shaw Shaw Environmental, Inc.
 1285 Rudy Street
 Onalaska, Wisconsin 54650

PCE GROUNDWATER CONTAMINANT DISTRIBUTION
 (2/22/05)

MIDWEST GARMENT SITE
 LA CROSSE, WISCONSIN

| | | | | | |
|------|------------|--------------|-------------|-----------|-------------|
| DATE | REVISIONS: | APPROVED BY: | CHECKED BY: | DRAWN BY: | DRAWING NO. |
| | | | | PCE | 110810-06 |
| | | | | O4/26/05 | |

FIGURE NO.

6

RETURN ADDRESS: Julie Herrick
Kwik Trip, Inc.
P. O. Box 2107
La Crosse, WI 54602-2107

WARRANTY DEED

THIS DEED is made between **ALT Investments, LLC**, a Wisconsin limited liability company ("Grantor"), and **Kwik Trip, Inc.**, a Wisconsin corporation ("Grantee").

Grantor, for valuable consideration, conveys and warrants to Grantee the following-described real estate in La Crosse County, Wisconsin:

This space reserved for recording information.

Legal Description attached as Exhibit A.

17-10306-062
Parcel Identification Number

This is not homestead property.

Exception to warranties: municipal and zoning ordinances and agreements entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use restrictions and covenants, and general and special taxes levied in the year of closing.

Dated this 1st day of Oc ober, 2012.

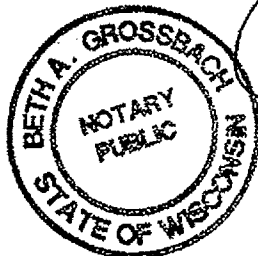
ALT Investments, LLC

By: Linda J. Temte
Name: Linda J. Temte
Title: Member

By: ACT
Name: Andrew C. Temte
Title: Member

STATE OF WISCONSIN)
COUNTY OF LA CROSSE)

Personally came before me this 1st day of October, 2012, the above-named Linda J. Temte and Andrew C. Temte, to me known to be the members of the company executing the foregoing instrument, and said members acknowledged said instrument to be the free act and deed of said company.



Beth A. Grossbach
Notary Public, State of Wisconsin
My commission expires: 1-18-15

THIS DOCUMENT DRAFTED BY:
Attorney Kevin J. Roop
Hale, Skemp, Hanson, Skemp & Sleik
P. O. Box 1927
La Crosse, WI 54602-1927

EXHIBIT A
Legal Description
ALT Investments, LLC, to Kwik Trip, Inc.

Part of Lot 5 in Block 1 of Couleesites Industrial Addition to the City of La Crosse, La Crosse County, Wisconsin, described as follows: Commencing at the Southeast corner of Said Lot 5; thence South 82 degrees 26 minutes 40 seconds West 261.40 feet; thence North 0 degrees 15 minutes 20 seconds East 136.72 feet; thence South 89 degrees 13 minutes 20 seconds East 258.85 feet; thence South 0 degrees 15 minutes 20 seconds West 98.86 feet to the point of beginning.