



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

June 21, 2022

AFFORDABLE RENTAL & STORAGE LLC
ATTN: MICHAEL J GONNERING
825 WEST MAIN STREET
HORTONVILLE WI 54944

PROPERTY OWNER COUNSEL
ATTN: MARK GONNERING
6285 WALDEN ROAD
BEAUMONT TX 77707

SUBJECT: Property Access for Investigating Contamination
F V Steel and Wire Company (Former), 111 North Douglas Street, Hortonville, WI
WDNR BRRTS # 02-45-560221

Dear Mr. Gonnering:

The purpose of this letter is to explain the current status of the environmental investigation taking place at the F V Steel and Wire Company (Former) property located at 111 North Douglas Street, Hortonville, Wisconsin and to explain your rights and responsibilities as a property owner whose property may have been impacted by an off-site source, F V Steel and Wire Company (Former). Please read this letter carefully, in its entirety.

Investigation at F V Steel and Wire Company (Former):

This investigation began due to volatile organic compound (VOC) and polycyclic aromatic hydrocarbon (PAH) contamination found in soil and groundwater on the F V Steel and Wire Company (Former) property. According to s. 292.11, Wisconsin State Stats, F V Steel and Wire Company is responsible for defining the degree and extent of the contamination and seeing that contamination in soil and groundwater is remediated (cleaned up) in accordance with chs. NR 700-754, Wis. Adm. Code.

Defining the extent of contamination in soil is performed by drilling soil borings and analyzing the soil for constituents of the source contamination. In this particular case, the source contaminants are VOCs and PAHs. Groundwater is investigated by installing monitoring wells and analyzing groundwater for the same constituents.

During the investigation to define the degree and extent of contamination, AECOM sent you multiple requests to access your property for the purpose of installing a deep groundwater monitoring well to collect groundwater samples. The Department understands from AECOM that you have refused to allow access to your property.

Explanation of Relevant Court Decision and Statutes:

Section 292.11(3), Wis. Stats., imposes liability on persons who cause a discharge of a hazardous substance and persons who are in possession or control of a hazardous substance that is discharged. The Wisconsin Supreme Court held, in State v. Mauthe, 123 Wis.2d 288 (1985), that the owner of property with contamination that is continuing to discharge to the environment is “in possession or control” of those contaminants even if the property owner did not cause the contamination.

However, after the Mauthe decision was handed down, the State Legislature enacted the off-site liability exemption statute, s. 292.13, Wis. Stats. This statute generally provides that a person is exempt from liability under s. 292.11(3), (4) and (7)(b) and (c) (certain provisions of the Hazardous Substance Discharge statute) with respect to hazardous substances on property possessed or controlled by the person if the discharge of the hazardous substance originated from a source on property that is not possessed or controlled by the person and if certain other conditions are met.

Specifically, s. 292.13(1), Wisconsin State Stats., (property affected by off-site discharges), states:

A person, other than a state agency, is exempt from s. 292.11(3), (4) and (7)(b) and (c) with respect to the existence of a hazardous substance in the groundwater on property possessed or controlled by that person if... (d) The person agrees to allow the Department, any authorized representatives of the Department, any party that possessed or controlled the hazardous substance or caused the discharge of the hazardous substance and any consultant or contractor of such a party to enter the property to take action to respond to the discharge.
and

(f) The person agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge.

Refusal of reasonable access to the responsible party, or their representative, to enter an impacted property to address the contamination is viewed by the Department as taking “possession and control” of the discharge. S. 292.11(3), Wisconsin State Stats., states:

A person who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall 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.

Summary:

In summary, Wisconsin law provides that further delay or denial by you of AECOM’s request to install the deep groundwater monitoring well on your property, for the purpose of investigating and remediating the contamination in groundwater at the F V Steel and Wire Company (Former) site, will result in the Department naming you as a responsible party for this contamination under s. 292.11, Wisconsin State Stats. This would make you liable for the contamination that may have migrated onto your property. Therefore, it is in your best interest to address this issue immediately. I hope that you contact Gary Braun of AECOM at (414) 944-6172 and grant permission for the investigation to begin on your property as directed by the Department.

For the purpose of continuing the investigation at F V Steel and Wire Company (Former) in a timely manner, please respond to the Department in writing with your decision **within 14 days** from the date you receive this

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letter. Failure to provide an adequate response within this time frame will result in a recommendation for the transfer of responsibility to you for potentially migrated contamination.

If you have any questions regarding the content of this letter, please contact me at (920) 510-4343 or Gwen.Saliars@wisconsin.gov.

Sincerely,

A handwritten signature in blue ink that reads "Gwen Saliars". The signature is written in a cursive, flowing style.

Gwen Saliars
Hydrogeologist
Remediation and Redevelopment

cc: Chad Erdmann, Liberty Steel & Wire Peoria - chad.erdmann@libertysteel.us
Gary Braun, AECOM - gary.braun@aecom.com