



June 30, 2023

John Butz
Bay Towel, Inc.
2580 S. Broadway Ave
Green Bay, WI 54304
Via Electronic Mail Only to jbutz@baytowel.com

Subject: Reported Contamination at Werners Cleaners, 6415 28th Ave., Kenosha, WI
DNR BRRTS Activity # 02-30-577102; DNR FID # 230009890

Dear John Butz:

On April 15, 2016, AECOM Environmental Services Group, on behalf of the City of Kenosha, notified the Wisconsin Department of Natural Resources (DNR) that environmental pollution was detected at the site described above.

Information submitted to the Wisconsin Department of Natural Resources (DNR) indicates that you operated one or more drycleaning businesses at the above-referenced site under business names which may have included Model Building Account, Lakeshore Dry Cleaning, and/or Lakeshore Linen and Uniform Rental and that you are responsible for the discharge of a hazardous substance or other environmental pollution (hereafter referred to as "contamination") at the above-described site. "Site" refers to the property where the contamination occurred and any other property it has migrated to, as defined in Wisconsin Administrative Code ("Wis. Admin. Code") § NR 700.03 (56).

This letter explains how to initiate the investigation and cleanup of contamination of the site, and how to access further information and assistance from the DNR. The longer contamination is left in the environment, the farther it can spread and the more it may cost to clean up. Quick action may lessen damage to your property and neighboring properties and reduce your costs to investigate and clean up the contamination.

Legal Responsibilities:

Persons meeting the definition of "responsible party" under Wis. Admin. Code § NR 700.03 (51) must follow applicable law to address the discharge of a hazardous substance to the environment or other environmental pollution. Wisconsin Statutes ("Wis. Stat.") ch. 292 and Wis. Admin. Code chs. NR 700-799 provide specific requirements for undertaking appropriate response actions to address contamination, including requirements for emergency and interim actions, public information, site investigations, remedy selection, design and operation of remedial action systems, and case closure.

Special Vapor Intrusion Concern with Trichloroethylene:

Contamination that includes trichloroethylene ("TCE"), a chlorinated solvent and common degreaser, is of special concern from a human health perspective due to its potential for acute (short-term) health risks at relatively low concentrations in air. TCE is also a breakdown product of tetrachloroethylene ("PCE," also known as "Perc"), a historically common dry-cleaning chemical. Vapors can travel from contaminated soil or groundwater and along

preferential pathways, such as within sewer lines, and enter occupied buildings. This is known as vapor intrusion (VI). Screening for VI must be conducted at every contaminated site in Wisconsin, as defined in Wis. Admin. Code § 716.11 (5) (a). **However, when TCE is present, screening for VI should be made a priority and an interim action under Wis. Admin. Code § NR 708.11 may be necessary.** For an overview on VI, see *What is Vapor Intrusion?* (RR-892). For more information, go to dnr.wi.gov and search “vapor.” Additional technical guidance on VI is available in *Addressing Vapor Intrusion at Remediation & Redevelopment Sites in Wisconsin*, (RR-800).

General Recommendations for Responsible Parties:

The DNR recommends that you:

1. Hire a Qualified Environmental Consultant

To ensure response actions you plan to undertake comply with Wisconsin law, you should hire an environmental consultant within **30 days**, by July 30, 2023, to meet the regulatory deadlines listed below. A delay in hiring an environmental consultant could result in you missing key submittal deadlines.

Hiring a consulting firm with staff that have the appropriate state of Wisconsin qualifications to supervise and certify the submittals is a critical component and necessary to meet your requirements. Further, an environmental consultant should be knowledgeable of Wisconsin’s technical procedures and laws, and be able to answer questions regarding cleanup requirements. Required qualifications for environmental consultants are specified in Wis. Admin. Code ch. NR 712. See *Wis. Admin. Code ch. NR 712 Qualifications and Certifications* (RR-081), for more information.

2. Properly Submit Reports on Time with Required Information Included

Wisconsin law includes timeframes for submitting technical documents and conducting work, as well as specifications for what should be included in those submittals. This letter provides a general overview of the timeframes and first steps to take for site investigation and cleanup. For an overview of timing requirements, please refer to *NR 700 Process and Timeline Overview* (RR-967), *enclosed*.

The DNR developed the publication *Guidance for Electronic Submittals for the Remediation and Redevelopment Program* (RR-690), to assist responsible parties and consultants in properly submitting documents. Wis. Admin. Code § NR 700.11 (3g), and other specific provisions within Wis. Admin. Code ch. NR 700, outline the requirements for submittals, including electronic submittals.

3. Consider the Benefits of a Fee-based Technical Review of your Submittals

In-depth DNR review of technical reports and submittals is available for a fee. The Remediation and Redevelopment (RR) Program project managers are available throughout the process to answer general questions and provide general input as the site moves toward case closure. However, if you want a formal, written response from the DNR, a meeting with the DNR or both on a specific submittal, a review fee will be required in accordance with Wis. Admin. Code ch. NR 749. **Obtaining technical assistance from DNR project managers throughout the process is an effective way to prevent problems and delays at the end of the process when case closure is requested.** Forms, a fee schedule and further information on technical assistance is available at dnr.wi.gov by searching “brownfield fees.”

Required Steps to Take and Documents to Submit:

The steps listed below serve as a general overview only — all mandatory steps and submittals specified in Wis. Admin. Code, chs. NR 700-799 must be met before the DNR can grant case closure, which is a determination by the DNR that no further cleanup is necessary at a site, as defined in Wis. Admin. Code § NR 700.03 (3m).

1. **Scoping and Work Plan Submittal – NR 716.07 and 716.09:** The law requires that you appropriately scope your site investigation and submit a work plan within **60 days of this notification**, by August 29, 2023, for completing a site investigation. The work plan must comply with the requirements in Wis. Admin. Code, chs. NR 700-799. For additional assistance, the DNR has extensive guidance on its website at dnr.wi.gov, search “site investigation scoping.”

Per Wis. Admin. Code § NR 716.07 and Wis. Admin. Code § NR 716.09, site investigation scoping and work plans should include an evaluation of the history of the site or facility, including industrial, commercial or other land uses that may have been associated with one or more hazardous substance discharges at the facility. In addition, an evaluation of the history of previous hazardous substance discharges or environmental pollution, the location of the site or facility, and its proximity to other sources of contamination must be included. Site investigation work plans should also include a sampling and analysis strategy to be used during field investigation that considers all information in the evaluation conducted under Wis. Admin. Code § NR 716.07. Emerging contaminants discharged to the environment, including perfluoroalkyl and polyfluoroalkyl substances (PFAS) and 1,4-dioxane, meet the definition of a hazardous substance or environmental pollution under Wis. Stat. § 292.01 and must be considered during site investigation scoping.

Prior to and during a site investigation, you must evaluate whether any interim actions are needed to contain or stabilize a hazardous substance discharge or environmental pollution, pursuant to Wis. Admin. Code § NR 708.11. If you undertake an interim action (*e.g.*, free product removal), you must submit documentation of the action per Wis. Admin. Code § NR 708.15.

As you develop the site investigation work plan, you must include an assessment of the vapor intrusion pathway. Wis. Admin. Code § NR 716.11 (5) outlines the requirements for when to evaluate for the presence of vapors in the sub-surface and in indoor air. The results and conclusions from the vapor assessment must be included in the Wis. Admin. Code § NR 716.15 site investigation report whether or not you elected to take vapor samples. *Addressing Vapor Intrusion at Remediation & Redevelopment Sites in Wisconsin* (RR-800), is available to help responsible parties and their consultants comply with these requirements.

2. **Field Investigation – NR 716.11:** Following submission of the work plan, the site investigation must be started within the timeframe provided under law. The timeframe varies depending on whether you are requesting the DNR’s fee-based review of the work plan. If you do not request a fee-based review of the work plan, you must initiate the field investigation within 90 days of submitting the work plan, and you may proceed with the field investigation upon DNR notification to proceed; however, if the DNR has not responded within 30 days from submittal of the work plan, you may then proceed with the field investigation. If a fee and request for DNR review of the work plan is submitted, the field investigation must begin within 60 days after receiving DNR approval.
3. **Sample Results Notification Requirements – NR 716.14:** You must report sampling results to the DNR, owners, occupants and various other parties within 10 business days after receiving the sampling results, unless a different timeframe is approved by the DNR, in accordance with Wis. Admin. Code § NR 716.14.
4. **Site Investigation Report – NR 716.15:** Within 60 days after completion of the field investigation and receipt of the laboratory data, the law requires you to submit a Site Investigation Report (SIR) to the DNR. As

part of the SIR or in the Remedial Actions Options Report (RAOR), if there is soil contamination, the responsible party shall identify the current land use (*i.e.*, industrial or non-industrial) and zoning for the site or facility in accordance with Wis. Admin. Code § NR 720.05 (5). Also, as part of the SIR or in the RAOR, you must include any interim action report that may be required under Wis. Admin. Code § NR 708.15.

5. **Remedial Actions Options Report – NR 722**: Within 60 days after submitting the SIR, the law requires you to submit a RAOR. The selected remedy in the RAOR should include an evaluation of green and sustainable remediation criteria, as appropriate, as required by Wis. Admin. Code § NR 722.09 (2m). This may be submitted as part of a broader SIR.
6. **Remedial and Interim Action Design, Implementation, Operation, Maintenance and Monitoring Reports – NR 724**: Unless otherwise directed by the DNR, the responsible party shall submit all plans and reports required by Wis. Admin. Code ch. NR 724.
7. **Notification of Residual Contamination or Continuing Obligations – NR 725**: In situations where notification is required, the responsible party must provide a submittal(s) that confirms that continuing obligations have been identified and affected property owners have been notified by the responsible parties 30 days prior to case closure, as required by Wis. Admin. Code ch. NR 725 and § NR 726.13 (1) (d).
8. **Semi-Annual Reporting – NR 700.11**: Wis. Admin. Code § NR 700.11 (1) (a) requires responsible parties to submit semi-annual site progress reports to the DNR until case closure is granted. The reports summarize the work completed over six months and additional work planned to adequately complete the response action at the site. Consultants may submit these reports on behalf of responsible parties. These reports are due in January and July of each year. Please refer to DNR publication *NR 700 Semi-Annual Site Progress Report* (RR-082), for more information.

Submittals required under Wis. Admin. Code chs. NR 700-799

These documents, as applicable, must be submitted to the DNR prior to the responsible party requesting case closure, unless otherwise directed by the DNR:

- Ch. NR 708 reports and documentation for any immediate or interim actions.
- Ch. NR 712 professional certifications and signatures are included with applicable submittals.
- Ch. NR 716 work plan(s) and site investigation report.
- Ch. NR 722 remedial action options report (exception is for Dry Cleaners Environmental Response Fund sites), with the selected remedial action identified.
- Ch. NR 724 design, construction documentation, operation, maintenance and monitoring plans and reports, including vapor mitigation commissioning.
- Ch. NR 725 submittal(s) that confirms that continuing obligations have been identified and affected property owners have been notified by the responsible parties 30 days prior to requesting case closure.
- If requesting case closure, the Ch. NR 726 case closure form and documentation substantiating compliance with the NR 700 rule series.
- Ch. NR 749 fees have been paid, as applicable, including closure and database fees.
- Ch. NR 700 semi-annual site progress reports starting six months after notification.

Additional Information:

The DNR tracks information on all cleanup sites in a DNR database available at dnr.wi.gov, search “BOTW.” The Bureau for Remediation and Redevelopment Tracking System (BRRTS) identification number for this site is listed at the top of this letter. You may view information related to your site on this database at any time.

All correspondence regarding this site should be directed to:

Jennifer Meyer
Remediation and Redevelopment Program
Wisconsin Department of Natural Resources
1027 W. St. Paul Avenue
Milwaukee, WI 53233
Jennifer.meyer1@wisconsin.gov

To speed up processing, your correspondence should reference the BRRTS and Facility Identification (FID) numbers (if assigned) listed at the top of this letter.

Submittals required under the NR 700 rule series should be sent to the DNR using the RR Program Submittal Portal at dnr.wi.gov, search “RR submittal portal” (<https://dnr.wi.gov/topic/Brownfields/Submittal.html>). Questions on using this portal can be directed to the contact below or to the environmental program associate (EPA) for the regional DNR office. Visit dnr.wi.gov, search “RR contacts” and select the EPA tab (<https://dnr.wi.gov/topic/Brownfields/Contact.html>).

Please visit the DNR’s Remediation and Redevelopment Program web page at dnr.wi.gov, search “Brownfields” for information on selecting a consultant, seeking financial assistance, and understanding the investigation and cleanup process. Information regarding review fees, liability clarification letters, post-cleanup liability and more is also available.

If you have questions, please contact the DNR project manager, Joseph Martinez, at 414-218-6042 or joseph.martinez@wisconsin.gov for more information.

Thank you for your cooperation.

Sincerely,



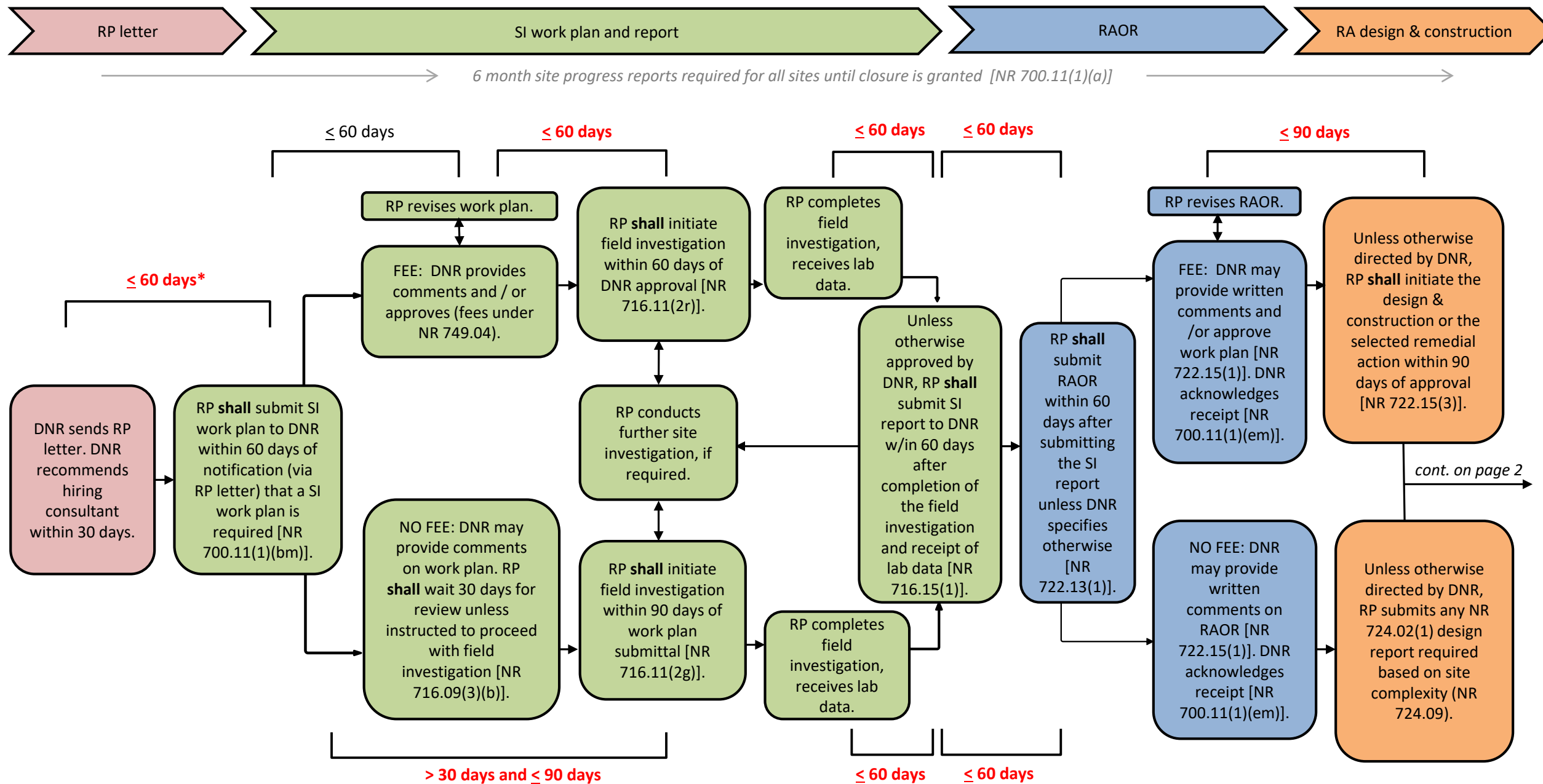
Joseph Martinez
Hydrogeologist - Remediation & Redevelopment Program
Southeast Region

Enclosures:

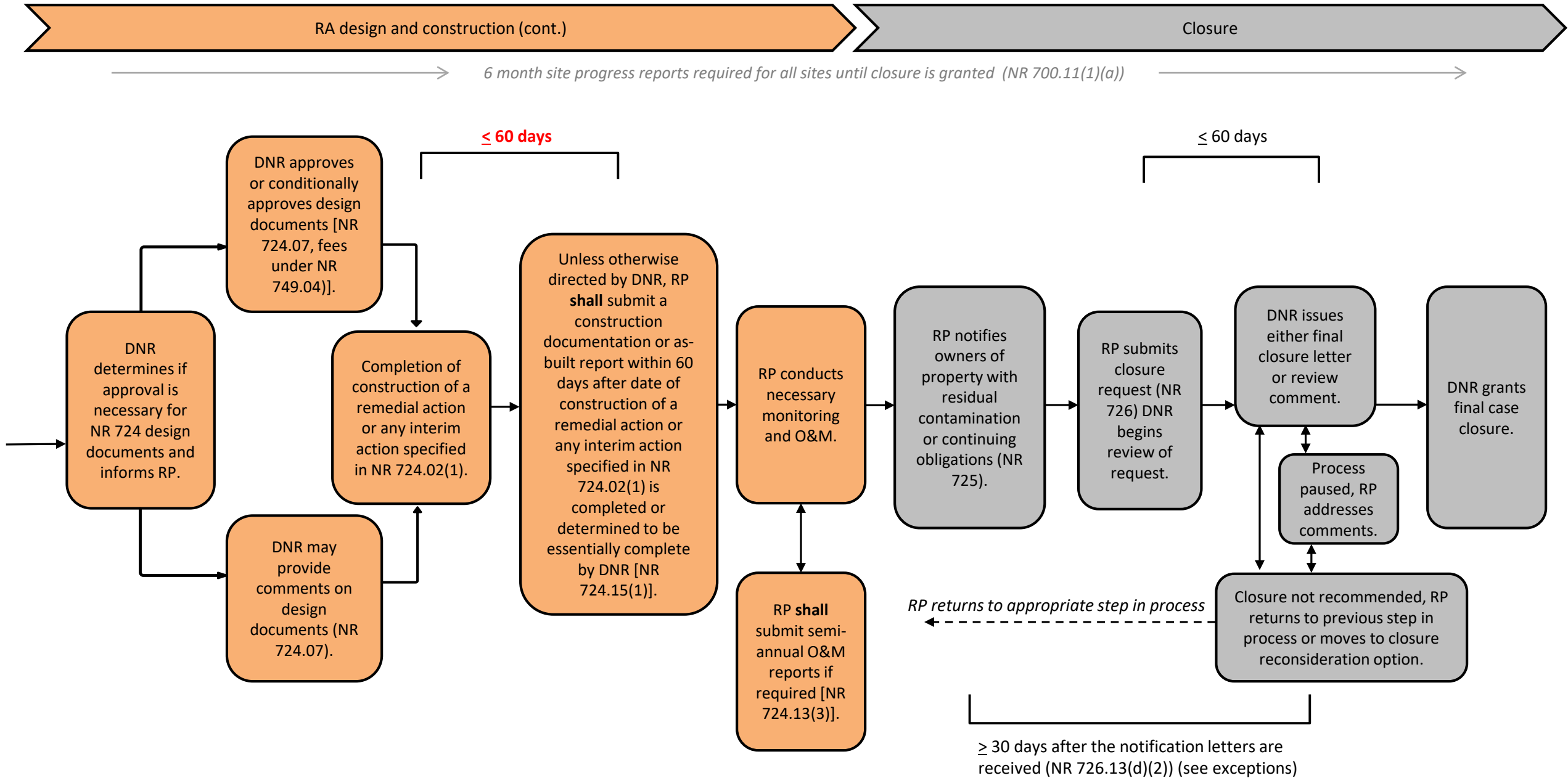
RR-967, NR 700 Process and Timeline Overview
RR-502, Selecting a Consultant
RR-892, What is Vapor Intrusion?

cc: Michele R. Norman – Wisconsin Department of Natural Resources
Don Gallo – Gallo Law LLC

NR 700 Process & Timeline Overview*



***Bold red font indicates timelines required in administrative code.** **Disclaimer:** This document is intended solely as guidance and does not include mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations and is not finally determinative of any of the issues addressed. This guidance does not create any rights enforceable by any party in litigation with the State of Wisconsin or the Department of Natural Resources. Any regulatory decisions made by the Department of Natural Resources in any manner addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.



Bold red font indicates timelines required in administrative code.* **Disclaimer: This document is intended solely as guidance and does not include mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations and is not finally determinative of any of the issues addressed. This guidance does not create any rights enforceable by any party in litigation with the State of Wisconsin or the Department of Natural Resources. Any regulatory decisions made by the Department of Natural Resources in any manner addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.



Remediation and Redevelopment Program

April 2022

Guidance: Selecting a Qualified Environmental Consultant (FAQs)

The investigation and remediation of hazardous substance discharges and environmental pollution can be complex and costly. Wis. Admin. Code ch. NR 712 establishes qualifications for environmental consultants who perform investigation and cleanup work in Wisconsin and requires specific credentials to sign off on certain activities.

How do I find a qualified environmental consultant?

The Wisconsin Department of Natural Resources (DNR) cannot recommend specific consultants or firms; however, the DNR maintains a public list of providers who have identified themselves as consultants that conduct environmental work in Wisconsin. See DNR publication RR-024, *Environmental Services Contractors List*; go to dnr.wi.gov and search “RR-024.”

Area businesses, municipalities and professional associations that have overseen environmental investigations and cleanups may be able to provide environmental consultant recommendations.

What property information should I share with a consultant when requesting a quote for services?

Share as much information as possible about the property with consultants you consider hiring, including knowledge of known contamination or environmental pollution and potential sources of contamination. This will allow the consultant to prepare an effective workplan and accurate quote for the site-specific services needed.

Common information to share with a prospective consultant includes:

- The current property use and history, including businesses that currently or previously operated at the property;
- Products and materials that are currently or were historically used, stored, recycled or disposed of at the property;
- Potential areas and sources of contamination (e.g., storage tanks, waste disposal sites, dry cleaning machines);
- The water supply source for the property;
- The current land use of surrounding properties; and
- A copy of any correspondence you received from the DNR, which includes information consultants can use to review the site-specific requirements for investigation and cleanup.

What questions should I ask to evaluate a consultant's qualifications?

When soliciting proposals or qualifications from environmental consulting services consider the following questions:

- Does the consulting firm have staff that meet the professional qualifications required by Wis. Admin. Code ch. NR 712 to perform environmental response actions in Wisconsin? Are staff licensed and

Purpose

This publication is intended to help responsible parties and others understand how to select a qualified environmental consultant to investigate and clean up soil, groundwater, sediment and other contaminated environmental media per Wisconsin Statute chapter (Wis. Stat. ch.) 292 and Wisconsin Administrative (Wis. Admin.) Code chs. NR 700-799. Hiring a qualified environmental consultant is needed to investigate and remediate your property in accordance with local, state and federal rules.

More information

- *Wis. Admin. Code ch. NR 712 Qualifications and Certifications*, RR-081 (Go to dnr.wi.gov; search “RR-081.”)
- Selecting an Environmental Consultant webpage: <https://dnr.wisconsin.gov/topic/Brownfields/Select.html>

registered as professional engineers, hydrologists or geologists with the Wisconsin Department of Safety and Professional Services, per Wis. Admin. Code ch. NR 712, appropriate for the work that needs to be completed at your site? See DNR publication RR-081, *NR Qualifications and Certifications*; go to dnr.wi.gov and search “RR-081.”

- How many years of experience does the firm and its staff have conducting environmental investigation and remediation work in Wisconsin?
- How many projects has the firm completed in Wisconsin or elsewhere that have similar characteristics to your property? What is their experience with projects like yours?
- What administrative rules do they expect to follow while investigating and cleaning up your property? If a potential consultant is not familiar with the Wis. Admin. Code chs. NR 700-799 (which governs environmental cleanups) or Wis. Admin. Code ch. NR 140 (which governs groundwater standards), it may be an indication that they are not familiar with Wisconsin’s environmental regulations.
- What type and level of insurance do they carry? Does the insurance include professional liability coverage and errors and omissions?
- Will the firm provide references?
- If applicable, ask how the firm’s proposed approach to your property might differ from other consultants.

What questions should I ask when talking with a consultant's references?

When contacting references for a prospective consultant, ask questions that help determine if they have experience relevant to your property and if the reference was satisfied with the consultant’s services.

Possible questions include:

- What tasks did the consultant perform for you?
- What was the size of the project?
- What type of contamination did the consultant address (to compare how similar their project is to yours)?
- Did the consultant stay on schedule or provide reasonable explanations for delays? Were they reliable?
- Did the consultant keep you informed of the project status, new developments and options for cleanup?
- If project problems arose, were they resolved to your satisfaction?
- Did the consultant work effectively with the DNR (and local officials if relevant)?
- Were invoices or payment requests clear, descriptive and timely?
- Did the consultant request approval in advance of billing for all significant changes to the original cost estimate?
- Would you hire this consultant again?

How much does a site investigation and cleanup cost?

The costs for environmental investigations and remediation work vary widely based on the type and extent of contamination, site conditions, the consultant’s approach, your preferred approach (if applicable) and the schedule you request to complete the work. Ask prospective consultants what to expect for your situation.

Possible questions include:

- What is the consultant’s approach to the project and projected range of overall costs? Are there alternate approaches to the project that might be considered? How would alternate approaches affect the overall cost and progress?
- Will subcontractors be obtained through a competitive bidding process? What is the markup on subcontractor expenses?
- Will the consultant charge for professional services on a time and materials basis, lump sum or other method? What hourly rates will be charged for professional services? Are there any overhead charges?

- Will the consultant provide a not-to-exceed cost estimate for each phase of work?
- How will the consultant charge for travel and meals (e.g., per diem, itemized expenses)?
- How will equipment and supplies be charged (e.g., daily rate, itemized expenses)?
- How often will invoices be sent and how will they be itemized?
- Is the consultant able to estimate the overall project cost or provide a range of the possible cost based on best- and worst-case scenarios?
- If there are changes in the cost, scope of work or work schedule, how will the consultant notify you? Will the consultant request your approval prior to any changes?

It is often difficult to compare competing proposals from different consulting firms, as different firms may propose a different approach to the same project, which is allowed under Wis. Admin. Code chs. NR 700-799. In addition, following Wis. Admin. Code chs. NR 700-799 may be an iterative process; multiple field efforts may be needed to define the nature, degree and extent of contamination or to clean up a site, depending on the complexity of the site and the selected approach. Some items to consider when comparing proposals from consulting service providers:

- Carefully evaluate cost estimates that are significantly higher or lower than others and ask the consultants how its approach affected the cost of the project.
- Compare the proposed schedules for completion of work. Ask how a faster or slower approach affects the cost.
- Consider how the proposed approach and schedule affects your objectives for the property.

How can the DNR help?

Wis. Admin. Rules chs. NR 700-799 offer multiple options to complete environmental site investigations and remediation. A qualified consultant can help identify the best approach that also meets your needs. DNR staff can provide fee-based technical assistance reviews, response letters and meetings to help move sites to closure. DNR staff are also available to discuss project activities with property owners, consultants, municipalities, developers and others. Staff contact information can be found by visiting dnr.wi.gov and searching “RR contacts.”

This document is intended solely as guidance and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.

The Wisconsin Department of Natural Resources (DNR) is committed to promoting diversity, fairness, equity and the principles of environmental justice. We ensure that we do not discriminate in employment, programs, decisions, actions or delivery of services. If you have questions or to request information in an alternative format (large print, Braille, audio tape, etc.), please contact us at 888-936-7463 or <https://dnr.wisconsin.gov/About/Nondiscrimination>

What is Vapor Intrusion?



Chemicals used in commercial or industrial activities – dry cleaning chemicals, chemical degreasers and petroleum products such as gasoline – are sometimes spilled and leak into nearby soil or groundwater. When this happens, these chemicals may release gases or vapors, which travel from the contaminated groundwater or soil and move into nearby homes or businesses. This is called vapor intrusion.

The process when chemical vapors from contaminated soil or groundwater enter a home or other structure is called vapor intrusion.

Why are these chemical vapors a problem?

The chemicals that cause vapor intrusion are known as volatile organic compounds, or VOCs. Even when spilled into soil or water, these chemicals easily evaporate. They don't cause human health problems when they evaporate into the outside air, but when their vapors move into homes or businesses, they may cause long-term health problems for the people who live or work in those buildings. These vapors are usually odorless and colorless and undetectable without special testing equipment.

Why is vapor intrusion a concern?

Exposure to some chemical gases or vapors can cause an increased risk of adverse health effects. Whether or not a person experiences any health effects depends on several factors, including the amount and length of exposure, the toxicity of the chemical, and the individual's sensitivity to the chemical. When harmful chemical vapor intrusion is the result of environmental contamination, the Wisconsin Department of Natural Resources (DNR) requires that steps be taken to reduce or eliminate exposures which could be harmful to human health.

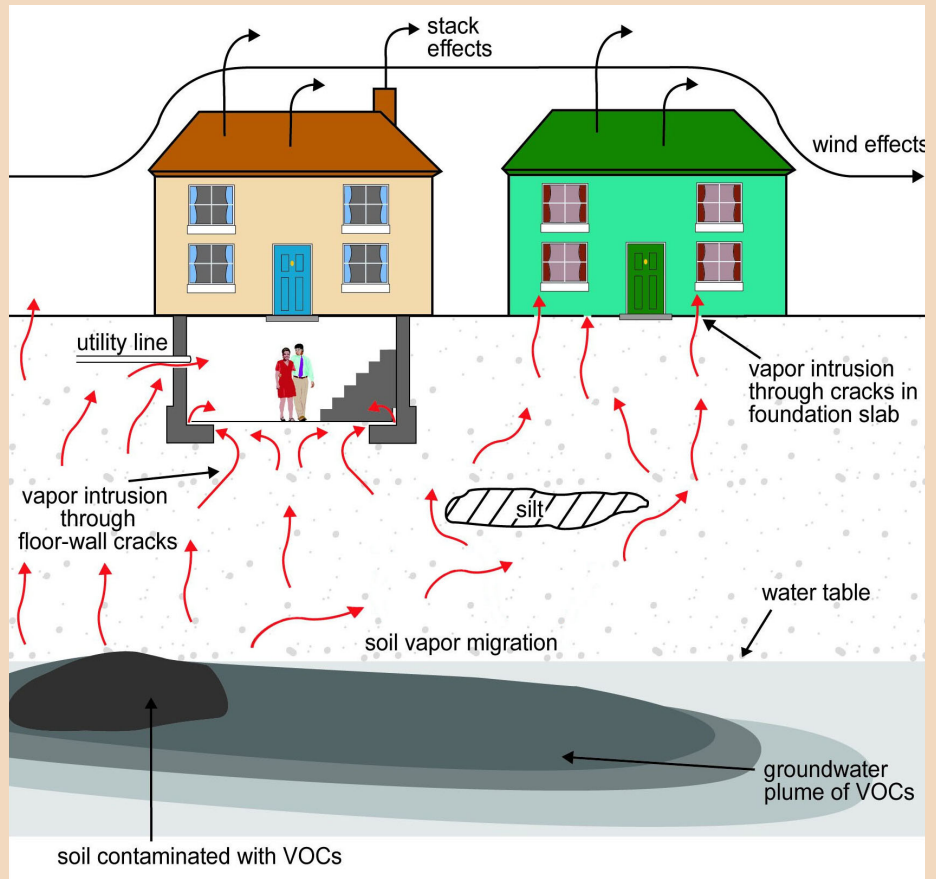
What should I expect if vapor intrusion is suspected near my home or business?

For businesses or other locations where VOC contamination has been found, the DNR requires that the potential for vapor intrusion be investigated. If you live near a site being cleaned up, you may be contacted by the site owner or others working on the cleanup. Your cooperation and consent will be requested before any testing or sampling is conducted on your property. Ask the person contacting you any questions you have about the work being done, or contact the DNR for more information (see DNR contact information on reverse). For more information about testing for vapor intrusion, see DNR-Pub-RR-954, "What to Expect During Vapor Intrusion Sampling."



How Vapors Enter a Building

If you live near a commercial or industrial facility or landfill where VOCs have entered either the soil or groundwater, there may be a potential for those chemicals to travel as vapors into your home or business. Vapors can enter buildings in various ways, including through cracks in the foundation and openings for utility lines. Building ventilation and weather can influence the extent of vapor intrusion.



Adapted from U.S. Environmental Protection Agency (EPA) graphic.
www.epa.gov/oswer/vaporintrusion/basic.html

Where can I find more information?

Health and vapor-related information can be found at the Wisconsin Department of Health Services (DHS) website at dhs.wisconsin.gov, search “Vapor.” For other health-related questions, please contact your local health department: www.dhs.wisconsin.gov/localhealth.

For more DNR information, please visit the DNR’s Remediation and Redevelopment (RR) Program’s Vapor Intrusion page at dnr.wi.gov/topic/Brownfields/Vapor.html.

Additional information can be obtained through the DNR field office in your region. To find the correct office, visit the RR Program Staff Contacts page at dnr.wi.gov/topic/Brownfields/Contact.html or call the RR Program at (608) 266-2111.

This document contains information about certain state statutes and administrative rules but does not necessarily include all of the details found in the statutes and rules. Readers should consult the actual language of the statutes and rules to answer specific questions. The Wisconsin Department of Natural Resources provides equal opportunity in its employment, programs, services, and functions under an Affirmative Action Plan. If you have any questions, please write to Equal Opportunity Office, Department of Interior, Washington, D.C. 20240. This publication is available in alternative format upon request. Please call 608-267-3543 for more information.