



July 7, 2016

Mr. John Wagner
Wagner Oil
P.O. Box 28
709 South Superior, St.
Antigo, WI 54409

Subject: Wagner Oil Company Spill STH 45
STH 45, Town of Rolling, Langlade County, WI
DNR BRRTS Activity # 02-34-577387

Dear Mr. Wagner:

On March 12, 2016, the Department of Natural Resources (DNR) was notified of a gasoline spill resulting from a tanker truck accident on State Highway 45 in the Town of Rolling, Langlade County.

At the time of the spill the DNR notified Wagner Oil in a letter delivered via email on March 14, 2016 that the DNR believed Wagner Oil Co was responsible for investigating and restoring the environment at the above-described site under Section 292.11, Wisconsin Statutes, known as the hazardous substances spill law.

The March 14, 2016 letter also explained your legal responsibilities to address the situation:

Your legal responsibilities are defined both in statute and in administrative codes. The hazardous substances spill law, Section 292.11 (3) Wisconsin Statutes, states:

- **RESPONSIBILITY.** 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 the state.

Wisconsin Administrative Code chapters NR 700 through NR 754 establish requirements for emergency and interim actions, public information, site investigations, design and operation of remedial action systems, and case closure. Wisconsin Administrative Code chapter NR 140 establishes groundwater standards for contaminants that reach groundwater.

The DNR has been in frequent contact with your environmental consultant, REI, since the spill occurred. The DNR has received an Emergency Response Report on 5/12/2016 and a Site Investigation Work Plan on 5/16/2016.

Based on a review of the information provided by REI, additional remedial action and investigation is needed to maintain compliance with the spill law. Significant contaminated soil remains in place at the scene of the spill as well as free product, contaminated groundwater potentially contaminated surface water.

This letter is to notify you that the WDNR is transferring this investigation and cleanup from being an emergency/immediate response situation to an Environmental Repair Project under the ERP program. This change does not change your responsibility to complete the investigation and cleanup required under Section 292.11 (3) Wisconsin Statutes.

Steps to Take:

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 in investigating and cleaning up the contamination. To ensure that your cleanup complies with Wisconsin's laws and administrative codes, you should hire a professional environmental consultant who understands what needs to be done. The following information provides the timeframes and required steps to take. Unless otherwise approved by DNR in writing you must complete the work by the timeframes specified.

1. Within the next **30 days**, by August 8, 2016, you should submit written verification (such as a letter from the consultant) that you have retained an environmental consultant to continue the investigation and remedial action. If you do not take action within this time frame, the DNR may initiate enforcement action against you.
2. Within **60 days**, by September 5, 2016, you must submit a work plan for completing the investigation and initial recommendations for continuation of remedial action activities. The work plan must comply with the requirements in the NR 700 Wis. Adm. Code rule series and should adhere to current DNR technical guidance documents.
3. You must initiate the site investigation within 90 days of submitting the site investigation work plan. You may proceed with the field investigation upon DNR notification to proceed. If the DNR has not responded within 30 days from submittal of the work plan, you are required to proceed with the field investigation. If a fee for DNR review has been submitted, the field investigation must begin within 60 days after receiving DNR approval.
4. Within 60 days after completion of the field investigation and receipt of the laboratory data, you must submit a Site Investigation Report to the DNR or other agency with administrative authority.
5. Within 60 days after submitting the Site Investigation Report, you must submit a remedial actions options report (RAOR). The RAOR shall include an evaluation of Green and Sustainable Remediation opportunities as required by s. NR 722.09 (2m), Wis. Adm. Code.

Sites where discharges to the environment have been reported are entered into the Bureau for Remediation and Redevelopment Tracking System ("BRRTS"), a version of which appears on the DNR's internet site. You may view the information related to your site at any time (<http://dnr.wi.gov/botw/SetUpBasicSearchForm.do>) and use the feedback system to alert us to any errors in the data.

If you want a formal written response from the department on a specific submittal, please be aware that a review fee is required in accordance with ch. NR 749, Wis. Adm. Code. If a fee is not submitted with your reports, you must complete the site investigation and cleanup to maintain your compliance with the spills law and chapters NR 700 through NR754. **The timeframes specified above are required by rule, so do not delay the investigation of your site.** We have provided detailed technical guidance to environmental consultants. Your consultant is expected to know our technical procedures and administrative rules and should be able to answer your questions on meeting cleanup requirements.

All correspondence regarding this site should be sent to:

John Sager
Remediation and Redevelopment Program
Wisconsin Department of Natural Resources
1701 North 4th Street
Superior, WI
John.sager@wisconsin.gov

Unless otherwise directed, submit one paper copy and one electronic copy of plans and reports. To speed processing, correspondence should reference the BRRS and FID numbers (if assigned) shown at the top of this letter.

Site Investigation and Vapor Pathway Analysis

As you develop the site investigation work plan, we want to remind you to include an assessment of the vapor intrusion pathway. Chapter NR 716, Wisconsin Administrative Code outlines the requirements for investigation of contamination in the environment. Specifically, s. NR 716.11(3) (a) requires that the field investigation determine the “nature, degree and extent, both areal and vertical, of the hazardous substances or environmental pollution in all affected media”. In addition, section NR 716.11(5) (g) and (h) contains the specific requirements for evaluating the presence of vapors in the sub-surface as well as in indoor air.

You will need to include documentation with the Site Investigation Report that explains how the assessment was done. If the vapor pathway is being ruled out, then the report needs to provide the appropriate justification for reaching this conclusion. If the pathway cannot be ruled out, then investigation and, if appropriate, remedial action must be taken to address the risk presented prior to submitting the site for closure. The DNR has developed guidance to help responsible parties and their consultants comply with the requirements described above. The guidance includes a detailed explanation of how to assess the vapor intrusion pathway and provides criteria which identify when an investigation is necessary. The guidance is available at: <http://dnr.wi.gov/files/PDF/pubs/rr/RR800.pdf>.

Additional Information for Site Owners:

We encourage you to visit our website at <http://dnr.wi.gov/topic/Brownfields/>, where you can find information on selecting a consultant, financial assistance and understanding the cleanup process. You will also find information there about liability clarification letters, post-cleanup liability and more.

Please contact me if you have any questions. Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Sager".

John Sager
Hydrogeologist / Emergency Response Coordinator
Remediation & Redevelopment Program

C: Mr. Ken Lassa, REI
Mr. Ken Shimko, Maridian Environmental
Mr. Pat Roach, Federated Insurance