

State of Wisconsin
Department of Natural Resources
Fitchburg Service Center
3911 Fish Hatchery Road
Fitchburg, WI 53711-5397

Tony Evers, Governor
Preston D. Cole, Secretary
Telephone 608-266-2621
FAX 608-267-3579
TTY Access via relay - 711



Hand Delivered

October 31, 2019

Major General Donald Dunbar
Wisconsin Air National Guard
2400 Wright Street
Madison, WI 53708

BRRTS Activity # 02-13-581254

Subject: **NOTICE OF VIOLATION/REQUEST FOR ENFORCEMENT CONFERENCE**

Dear Major General Dunbar:

The Department of Natural Resources (department) believes Wisconsin Air National Guard (WI ANG) is in violation of the Spill Law and environmental remediation laws under Wis. Stats. ch. 292 for failing to take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge at the property located at Truax Field, 3110 Mitchell Street, Madison in Dane County, Wisconsin. In 2018, the department received a notification of a hazardous substance discharge on the property, as reported by WI ANG. The department believes WI ANG is a responsible party as the possessor and controller of the hazardous substances discharged onto the property.

The department alleges the following violation:

Section 292.11(3), Wis. Stats. states a person who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance is required to 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.

On April 26, 2018, the department issued a responsible party letter to WI ANG outlining the requirements for a site investigation (including an assessment of the vapor intrusion pathway) and cleanup of contamination at the property. To date, WI ANG has not submitted a work plan for completing the investigation.

We have scheduled the following Enforcement Conference to discuss this matter in more detail:

Conference Date: Monday November 18, 2019
Conference Time: 1:30 pm
Location: Fitchburg Service Center
3911 Fish Hatchery Road, Fitchburg

We request you attend the Enforcement Conference as it is an important opportunity to discuss the circumstances surrounding the alleged violations and to learn your perspective on this matter. Please note that

in an effort to encourage a candid and productive conversation, attendance is limited to you, your legal counsel and others with the technical expertise necessary to understand, evaluate and correct the violation.

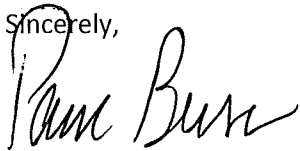
The department's enforcement decision will be based upon available information if you do not attend the Enforcement Conference.

This Notice of Violation constitutes a Notice of Claim and fulfills the requirements of s. 893.80 and 893.82, Wis. Stats., which requires written notice of the circumstances of a claim be served upon the state agency, employee or officer, and the attorney general within 120 days after the happening of the event which gave rise to the claim.

Please be advised that violations of ch. 292, Wis. Stats., may be referred to the Department of Justice to obtain court ordered compliance and penalties up to \$5,000 per day of violation with each day of continued violation a separate offense.

If you have questions or need to reschedule the conference, please contact me at 608-279-5219.

Sincerely,



Pamela Buss

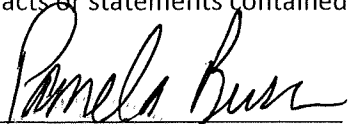
Environmental Enforcement Specialist

Enclosure – What is an enforcement conference information sheet

cc: Mike Schmoller
Steve Martin
Mark Aquino
Deputy Secretary Beth Bier
Attorney General Josh Kaul

Notice of Claim certification to follow on next page.

I, Pamela Buss, first being duly sworn on oath, state that I have read the foregoing Notice of Claim and that the facts or statements contained therein are true and correct to the best of my knowledge and belief.



Pamela Buss
Environmental Enforcement Specialist
South Central Region

Subscribed and sworn to before me this 31st day of Dec., 2019


Notary Public, State of Wisconsin

CHARL B. HOWSEY

My commission is permanent.

My commission expires on. 1/27/2020



Environmental Enforcement Conference

An Enforcement Conference (EC) is a meeting between Department of Natural Resources (Department) staff and representatives of a person or business that the Department believes has violated an environmental law. The Department issues a Notice of Violation (NOV) when it has reason to believe that a violation of a permit condition, administrative rule or statutory requirement has occurred. The NOV either offers or schedules an EC.

Why Should I Attend?

The EC is an important opportunity to discuss the Department's basis for the alleged violation(s) and learn more about what happened, why it may have happened, and any factors you believe the Department should consider, such as steps that have been or will be taken to stop the violation, correct any effects of the violation, and prevent violations from occurring in the future. It is also your opportunity to explain why you might disagree with the factual and legal conclusions underlying the NOV.

Historic data shows that most violations are resolved at the EC level, without the need for court ordered compliance and/or penalties. In situations where the significance of the violation warrants further enforcement action, your cooperative efforts to resolve the violation and prevent future violations will help minimize your legal and financial liability.

Who Should Attend the EC?

Department staff involved in the EC typically consists of an Environmental Enforcement Specialist and regulatory staff that are familiar with the issues identified in the NOV.

While not required, you may seek representation by legal counsel or the assistance of an environmental consultant to prepare for and/or attend the EC. The EC is most productive when all involved are well-prepared to discuss the allegations and any corrective actions that may be necessary.

To ensure a productive candid discussion, participation in the EC is limited to the person or business involved and others with the legal or technical expertise necessary to understand, evaluate, mitigate and correct the violation. The EC is not an open meeting under state law and the Department will limit participation to those directly involved in the resolution of the matter.

What Happens if I don't Attend the EC?

If a party is unable to attend the EC, they should immediately contact the Environmental Enforcement Specialist at the phone number in the NOV to reschedule. When a party refuses to attend the EC and provides no further information to the Department, the Department's enforcement decision will be based upon available information.

What Happens Following the EC?

The EC is part of the Department's stepped enforcement process. At the EC, Department staff will explain the process and options available to address the alleged violation. Generally, the options range from closing the matter with no further action to referral to the Wisconsin Department of Justice (DOJ) or to U.S. EPA, for further enforcement action. In limited circumstances, the Department can issue citations, which are handled in local court similar to traffic offenses. If a case is referred to DOJ, the DOJ may initiate an action in court on behalf of the State. The State typically asks the Court to impose financial penalties and order completion of any necessary corrective actions. In most of the Department's cases, a cooperative return to compliance with any necessary restoration results in close out of the case. At close out, the Department will send a letter advising of no further enforcement action.