



May 16, 2018

The Michael D. Lee Revocable Trust of 2012  
c/o Mr. Michael Lee  
929 N. Astor St., Suite 1402  
Milwaukee, WI 53202

Subject: Liability Clarification and No Action Required Determination at  
One Hour Martinizing (Fmr), 1507 E. North Avenue, Milwaukee, WI  
DNR No Action Required BRRTS #09-41-578569 (former BRRTS# 02-41-578569)  
General Property BRRTS #07-41-581255 FID #241324270

Dear Mr. Lee:

### **Purpose**

The purpose of this letter is to provide you with clarifications as to environmental liabilities and current environmental conditions at the One Hour Martinizing (Fmr) site at 1507 E. North Avenue, Milwaukee, Wisconsin ("the Property"). The Property is located in Milwaukee County, identified by tax parcel number 3550101000. Refer to the attached Figure 3, Soil Analytical Results, for a site map of the Property and investigation results.

### **Summary Determination**

Hazardous substance discharges have occurred on the Property. However, the Wisconsin Department of Natural Resources (DNR) has determined that no response actions are required. The DNR has made this determination based on the data made available to the DNR and the criteria in Wis. Adm. Code § NR 716.05.

### **Request**

On April 20, 2018, Toni Schoen of Key Engineering (Key) requested that the DNR issue a liability clarification letter under Wis. Stats. § 292.55. This letter contains a determination as to whether response actions are needed under the Wis. Adm. Code NR 700 rule series based on the discharge of one or more hazardous substances at the Property. The DNR received the fee for providing assistance, in accordance with Wis. Adm. Code § NR 749.04(1).

In order to make this determination, the DNR has reviewed the following documents:

- Phase II Environmental Site Assessment, 1515 E. North Avenue, Milwaukee, Wisconsin, dated October 21, 2016, prepared by Key
- All Appropriate Inquiry (AAI), Phase I Environmental Site Assessment, 1515 East North Avenue, Milwaukee, WI, dated September 17, 2016, prepared by Benchmark Environmental Services, Inc.
- Case Closure – GIS Registry (including results of Phase II investigation) document for BRRTS # 02-41-578569, dated September 15, 2017, prepared by Key
- No Action Required Request, Former One Hour Martinizing, dated April 18, 2018, prepared by Key

The DNR has examined the reports listed above and provides the following summary of the case and opinions concerning environmental conditions at the Property.

### **Background and Summary of Environmental Conditions**

A Phase I Environmental Site Assessment (ESA) was prepared by Benchmark Environmental Services, Inc. for the property located at 1515 E. North Ave., which is adjacent to the Property. The Phase I ESA identified the Property as having a dry cleaner business from 1993 until 2000 and a gasoline station from approximately 1935 until 1968. Based on the potential for hazardous substance impacts to the 1515 E. North Avenue property from the former uses of the Property, Key conducted a Phase II ESA on the 1515 E. North Ave. property. Three soil borings (SB-1 through SB-3) were advanced near the 1507/1515 E. North Ave. property line to a depth of 20 feet below ground surface. Two samples per boring were submitted for laboratory analysis for volatile organic compounds (VOCs), polycyclic aromatic hydrocarbons (PAHs) and lead. The VOC, tetrachloroethene (PCE), a common dry cleaning solvent, was detected in two of the boring locations. PCE was detected in the sample collected at a depth of 14-16 feet at boring location SB-1 at an estimated concentration of 0.043J milligrams per kilogram (mg/kg), in the sample from the two to four foot depth at boring SB-2 at a concentration of 0.90 mg/kg and 0.12 mg/kg at the 16-18 foot depth. These concentrations exceed the protection of groundwater residual contaminant level (RCL) for PCE of 0.0045 mg/kg. Trichloroethylene (TCE), a breakdown product of PCE was also detected above its protection of groundwater RCL of 0.0036 mg/kg in boring SB-2 from two to four feet. PAHs and lead were not detected above their respective RCLs.

Based on the soil analytical results and the potential for the source of the contamination originating from the Property, Key prepared a liability clarification request to the DNR requesting concurrence that the prospective buyer of the 1515 E. North Ave. property, DP Dough MKE Holding, LLC, would not, once purchased, be liable for investigation or cleanup of substances that have migrated onto the 1515 E. North Ave. property from the Property. The DNR issued an off-site liability clarification letter to DP Dough MKE Holding, LLC dated December 12, 2016, clarifying that the applicant, after acquiring the property, would not be held responsible for investigation or cleanup of substances migrating from another property as long as the applicant continues to satisfy all conditions described in that letter.

Based on the suspected source of PCE contamination originating from the former dry cleaning operations at the Property, the DNR issued a responsible party letter to the Property owner, Michael D. Lee Revocable Trust of 2012 requesting investigation of the PCE contamination and restoration the environment under Wis. Stats. § 292.11. Subsequently, on behalf of Michael D. Lee Revocable Trust, Key conducted an environmental assessment at the Property by installing ten soil borings and collecting one to two samples per boring for laboratory analysis of VOCs, PAHs, and lead. One groundwater sample was collected from a temporary monitoring well and analyzed for VOCs. Eight soil borings were located throughout the Property including near the 1507/1515 E. North Ave. property line close to boring SB-2 on the 1515 E. North Ave. property. Two samples were advanced on the 1515 E. North Ave. property to further assess the significance of contamination identified at boring SB-2. Only one of 17 samples analyzed detected any VOC above the laboratory method of detection. PCE was detected on the Property from boring location GP-3 from the 2-4 foot interval at a concentration of .056j mg/kg. This result was flagged by the laboratory as an estimated value between the method detection limit and the limit of quantification. No sample analyzed for PAHs or lead detected concentrations above the method detection limit or respective RCLs. Toluene, was the only VOC detected in the

groundwater sample collected from a temporary well located near the 1507/1515 E. North Ave. property line. The detected concentration was an estimated value well below its groundwater standard.

Based on the environmental information collected on the Property, Key has submitted a No Action Required Request for DNR concurrence that no further investigation is required on the Property. Key suggests that the suspected source of the low level PCE and TCE impacts identified in soil on the 1515 E. North Ave. property are likely associated with poor housekeeping practices when the Property operated as a dry cleaner. Only a trace of contamination was found on the Property and no contamination was identified in the five samples collected surrounding soil boring SB-2 on the 1515 E. North Ave. The VOC contamination identified on the 1515 E. North Ave. property appears to be limited in extent.

### **Liability Determination**

The Wisconsin Hazardous Substance Spill Law, § 292.11, Wis. Stats., commonly called the Spill Law, requires those who cause, possess or control a hazardous substance discharge 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.” Section 292.55, Wis. Stats., authorizes the Department to issue clarification letters concerning liability for environmental pollution.

The data summarized above indicates that one or more hazardous substance discharges have occurred on the Property. However, based on the criteria in Wis. Adm. Code § NR 716.05(2)(a), and the criteria in Wis. Adm. Code §§ NR 708.09 (1) and (2), the DNR has determined that no response action, including further site investigation activities, is required under the Wis. Adm. Code NR 700, rule series to respond to these identified discharges.

The DNR does not approve Phase I or Phase II ESAs because rules have not been established in Wisconsin to define what constitutes an adequate Phase I ESA or Phase II ESA. The DNR does use as guidance the American Society for Testing and Materials (“ASTM”) International Standard Guide for Environmental Site Assessments: Phase I Environmental Site Assessment Process (E1527-13) and Phase II Environmental Site Assessment Process (E1903-11).

The number and location of monitoring points, the types of media sampled, the number of samples collected, and the laboratory analysis performed are a matter of professional opinion. All areas of the Property were not assessed, the numbers of samples collected were limited based on professional judgment and financial considerations, and samples were not analyzed for all parameters. Therefore, the DNR can only respond to the information and data as presented in the reports and cannot predict what might be discovered in the future and the consequences of those discoveries.

This letter relates and refers only to those conditions described above and to information and data submitted to the DNR. The DNR makes no determination concerning the presence or absence of hazardous substances, other than those identified in the documents and reports listed above. In the future, if the DNR becomes aware of new information concerning the contaminants referenced above, or the presence of other contaminants on the Property, the DNR will evaluate that data at that time to determine if any response actions are required. Whenever possible, the DNR requires the person who caused the discharge to take the appropriate response actions.

The Bureau for Remediation and Redevelopment Tracking System (BRRTS) identification number for this activity is shown at the top of this letter. The DNR tracks information on all case determinations

Liability Clarification and No Action Required Determination  
One Hour Martinizing (Fmr)  
BRRTS #09-41-578569 and #07-41-581255  
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such as this letter in a DNR database that is available on the Internet at:  
<http://dnr.wi.gov/topic/Brownfields/botw.html> Since there is no action required for this case, the DNR will identify this site activity as a "No Action Required" determination.

If you have any questions, please contact me at (414) 263-8533, by writing to the address at the top of this letter or by email to [nancy.ryan@wisconsin.gov](mailto:nancy.ryan@wisconsin.gov).

Sincerely,

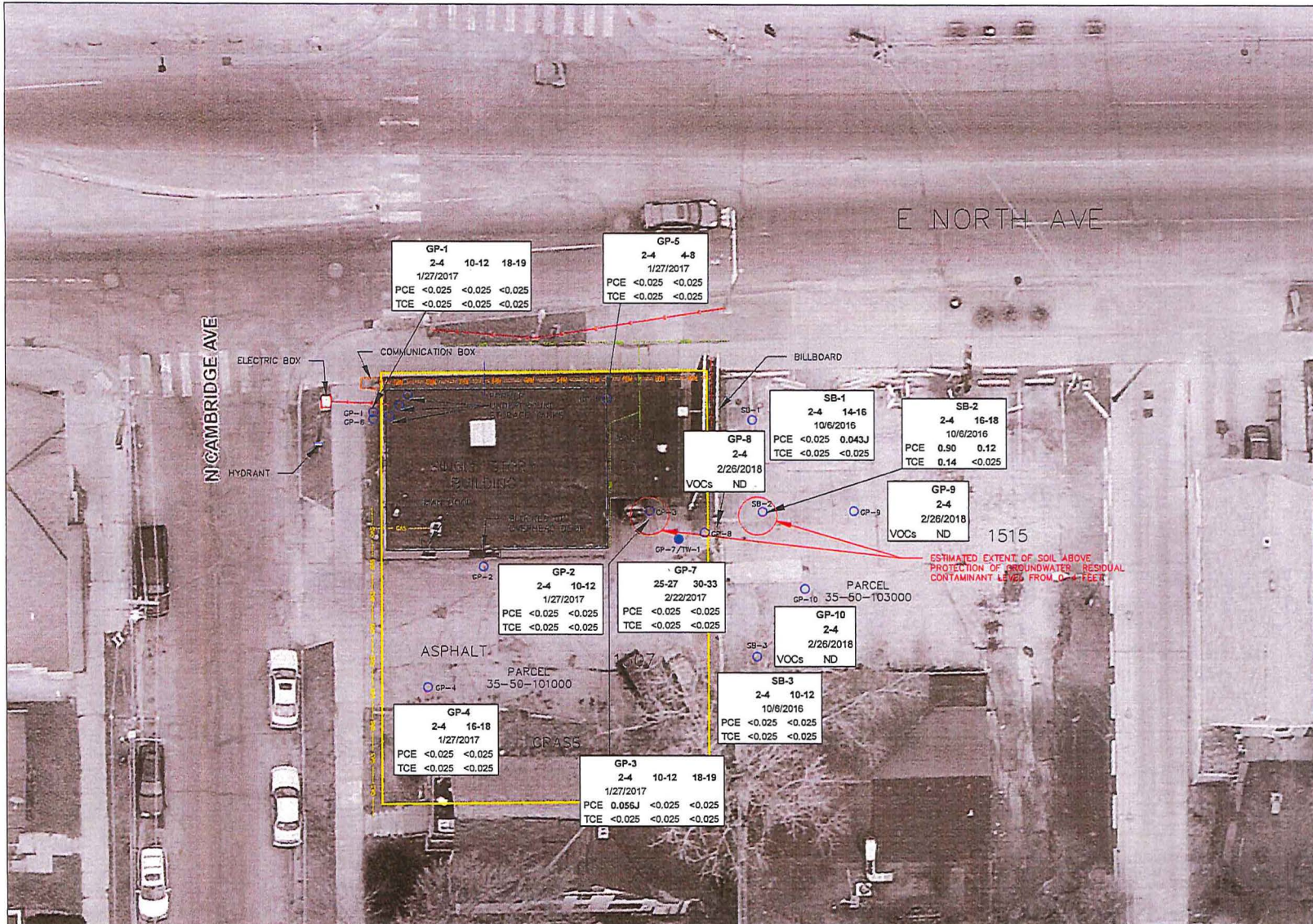


Nancy D. Ryan, Hydrogeologist  
Remediation and Redevelopment Program

Attachment: Figure 3. Soil Analytical Results

c: Toni Schoen, Key





**LEGEND**

- SOIL BORING LOCATION
- SOIL BORING/TEMPORARY WELL
- PROPERTY LINE
- COMMUNICATION
- WATER
- ELECTRIC
- STORM & SEWER
- GAS

BaP BENZO(A)PYRENE  
 Pb LEAD  
 ND NOT DETECTED  
 PCE TETRACHLOROETHENE  
 TCE TRICHLOROETHENE  
 VOCs VOLATILE ORGANIC COMPOUNDS

NOTES:  
 BOLD CONCENTRATIONS EXCEED PROTECTION OF GROUNDWATER RESIDUAL CONTAMINANT LEVELS.  
 UNDERLINED CONCENTRATIONS EXCEED NON-INDUSTRIAL DIRECT CONTACT RESIDUAL CONTAMINANT LEVELS.  
 SOIL CONCENTRATIONS ARE REPORTED IN MILLIGRAMS PER KILOGRAMS (mg/kg).

SCALE IN FEET

**FIGURE 3**  
**SOIL ANALYTICAL RESULTS**  
 1507 EAST NORTH AVENUE  
 MILWAUKEE, WISCONSIN

DESIGNED BY	DATE
CAT	4/12/2018
APPROVED BY	PROJECT
TLS	1701-0525-0001
	SHEET NO.
	1

**KEY**  
 ENGINEERING  
 GROUP LTD.

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 MILWAUKEE, WI 53202  
 414.224.8300 (tel) - 414.224.8383 (fax)

Apr 12, 2018 -- 5:17am F:\Work In Progress\1701-0525 1507 E North Ave\CAD\April 2018\1507 E N BASE.dwg