

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
1701 North 4th Street
Superior WI 54880

Scott Walker, Governor
Daniel L. Meyer, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
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September 18, 2018

Mr. Kollin Schade
Superior Refining Company LLC
2407 Stinson Avenue
Superior, WI 54880

Subject: Superior Refining Company LLC
2407 Stinson Avenue
Superior, WI 54880
DNR SERTS Activity # 20180426NO16-1
DNR FID # 816009590
DNR BRRTS Activity # 02-16-581317

Dear Mr. Schade:

On April 26, 2018, Superior Refining Company LLC (Superior Refining), notified the Department of Natural Resources (department) that hazardous substances were discharged to the environment as a result of an explosion and fire at Superior Refining, 2407 Stinson Avenue, Superior, Wisconsin. Based on the information that has been submitted to the department regarding these discharges, the department believes Superior Refining is responsible for investigating and restoring the environment under Wis. Stats. § 292.11, known as the hazardous substances spill law.

Wis. Stats. § 292.11(3), 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.

In response to a hazardous substance discharge, Wis. Admin. Code chs. NR 700 - NR 754 establish requirements for emergency and interim actions, public information, site investigations, design and operation of remedial action systems, and case closure. Wis. Admin. Code ch. NR 140 establishes groundwater standards for hazardous substance discharges that reach groundwater.

Superior Refining initiated immediate actions under Wis. Admin. Code ch. NR708 to control the migration, contain and recover the hazardous substances released during the explosion and fire of April 26, 2018. The department believes the immediate actions taken to address the hazardous substance discharges will not be sufficient to remediate the site to the point that no further response action under Wis. Admin. Code § NR708.09 will be applicable. Therefore, this letter serves as notice that the

department believes a Site Investigation compliant with Wisc. Admin. Code ch. NR716 (SI) is required to define the degree and extent of hazardous substance discharges and provide information necessary to develop interim actions and remedial options pursuant to Wis. Admin. Code ch. NR708 and NR722.

The following information provides the timeframes and **required** steps to take. Unless otherwise approved by department in writing, Superior Refining must complete the work by the timeframes specified.

1. Pursuant to Wis. Admin. Code § NR716.09, a Wis. Admin. Code ch. NR716 Site Investigation Work Plan (SIWP) is required to be submitted within **60 days** of receiving this notice.
2. You may proceed with the SI upon department notification to proceed. If the department has not responded within 30 days from submittal of the SIWP, you are required to proceed with the SI within 90 days of submitting the SIWP (Wis. Admin. Code § NR716.11(2g)). If a fee for department review has been submitted, the SI is required to begin within 60 days of receiving department approval (Wis. Admin. Code § NR716.11(2r)).
3. Within 60 days after completion of the SI and receipt of supporting data, you must submit a Site Investigation Report (SIR) to the department (Wis. Admin. Code § NR716.15(1)(a)).
4. A Remedial Actions Options Report (RAOR) is required to be submitted to the department within 60 days after submitting the SIR (Wis. Admin. Code § NR722.13(1)). The RAOR shall include an evaluation of Green and Sustainable Remediation opportunities as required by Wis. Adm. Code § NR 722.09(2m).
5. Work conducted for adherence to the requirements of Wisc. Admin. Code chs. NR700 - 754 must be conducted by personnel that meet the requirements established in Wisc. Admin. Code ch. NR712.
6. Compliance with Wis. Admin. Code ch. NR 714 regarding public participation and notification is required. This includes continued evaluation of need for public participation and notification, contents of notification and methods of public notification.

Since activities associated with the above described discharges are moving from immediate actions to site investigation and remedial action, the department is transferring this site from the Spills Program to the Environmental Repair (ERP) Program for continued regulatory oversight of the cleanup. The department has assigned Bureau for Remediation and Redevelopment Tracking System (BRRTS) Activity Number 02-16-581317 to this investigation and remedial action.

Sites where discharges to the environment have been reported are entered into BRRTS, a version of which appears on the department'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 Superior Refining requests formal written responses from the department on specific submittals, please be aware that a review fee is required in accordance with Wis. Adm. Code ch. NR 749. 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 54880
john.sager@wisconsin.gov

Unless otherwise directed, submit one paper copy and one electronic copy of plans and reports. Guidance for submittal of electronic documents can be found at <https://dnr.wi.gov/files/PDF/pubs/rr/RR690.pdf>. To speed processing, correspondence should reference the BRRTS and FID numbers shown at the top of this letter.

Site Investigation and Vapor Pathway Analysis

As you develop the SIWP, we want to remind you to include an assessment of the vapor intrusion pathway. Wis. Admin. Code ch. NR 716, outlines the requirements for investigation of contamination in the environment. Specifically, Wis. Admin. Code § 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, Wis. Admin. Code § 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 department 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>.

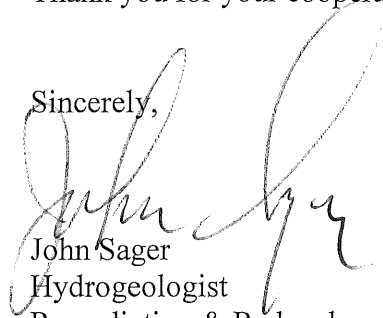
Additional Information:

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.

If you have questions, call the DNR Project Manager John Sager at 715-392-7822 for more information or visit the Bureau for Remediation and Redevelopment web site at the address above.

Thank you for your cooperation.

Sincerely,



John Sager
Hydrogeologist
Remediation & Redevelopment Program

Cc: File