

September 7, 2018

Mr. John Aliota
Hampton Properties, LLC
261 East Hampton Avenue
Milwaukee, WI 53217

Subject: Off-Site Liability Exemption for the Property Located at 249 East Hampton Avenue, Milwaukee, WI with Soil, and/or Groundwater Contamination from an Off-Site Source

FID: 341301950
BRRTS: 07-41-582152

Dear Mr. Aliota:

Purpose

The Department of Natural Resources ("the Department") has recently reviewed your request for an off-site exemption letter for the property located at 249 East Hampton Avenue, Milwaukee, Wisconsin, which will be referred to in this letter as "the Property." Refer to the attached Figure 2, Site Aerial Map, for a site map of the Property. The Department received a \$700 fee for providing this letter pursuant to s. 292.13 (2) and (3), Stats, and ch. NR 749, Wis. Admin. Code.

Summary Determination

The Department, based on the information made available to it, is confirming that John Aliota qualifies for the off-site liability exemption, and John Aliota is not responsible for investigation or cleanup of the contamination that originated on a neighboring property. The Property owner would have limited responsibility under ss. 292.12 and 292.13, Stats, for the soil and/or groundwater contamination that originated on a neighboring property.

Request

You have requested that the Department determine if John Aliota is exempt from ss. 292.11(3), (4) and (7)(b) and (c), Wis. Stats. (commonly known as the "Hazardous Substance Spill Law"), with respect to the existence of a hazardous substance in the soil and/or groundwater that you believe is migrating onto the Property from an off-site source.

Section 292.13(2), Wis. Stats., requires the Department to issue upon request, a written determination regarding a liability exemption for a person who possesses or controls property that is contaminated by an off-site source, when certain conditions are met. In order to make this determination, the Department has reviewed information about the Property, including soil and/or groundwater sampling data for the Property and/or other sites contained in the following documents:

- The Off-Site Liability Exemption and Liability Clarification Application dated September 4, 2018
- "Request for Off-Site Liability Exemption Clarification 249 East Hampton Avenue Milwaukee, Wisconsin", submitted by Key Engineering, dated August 31, 2018
- Milwaukee County Land Information Parcel Report, dated August 28, 2018
- Warranty Deed dated June 24, 1082
- "Phase 1 Environmental Site Assessment 245-261 East Hampton Avenue Milwaukee, Wisconsin", by Friess Environmental Consulting, Inc., dated August 16, 2018

- "Site Investigation Report One Hour Martinizing Cleaners 285 East Hampton Avenue, Milwaukee, Wisconsin", by Environmental Forensic Investigations, Inc., dated June 2, 2015
- "Remedial Progress Report and Groundwater Treatment Plan One Hour Martinizing 285 E. Hampton Ave Milwaukee, Wisconsin", by Enviroforensics, dated June 22, 2018
- GIS Registry (Form 4400-280) and GIS Registry Checklist (Form 4400-245) for One Hour Martinizing BRRTS #03-41-002225, closure date March 1, 2017

Background

The Department considered the documents listed above in making the determinations presented in this letter. The Property consists of five commercial businesses that includes Upper Crust Pizza, Wisco Vapes, Hampton Self-Serve Laundry, Aliota's Restaurant, and a Dairy Queen in a separate onsite building. The Property has been affected by chlorinated solvents and petroleum in soil and groundwater contamination from the One Hour Martinizing property located east of the Property at 285 East Hampton Avenue, Milwaukee, Wisconsin.

Determination

Based upon the available information and in accordance with s. 292.13, Stats., the Department makes the following determinations regarding the presence of tetrachloroethene (PCE), trichloroethene (TCE), vinyl chloride, cis- and trans-1,2 dichloroethene, benzene, toluene, MTBE, and trimethylbenzenes in the soil and/or groundwater as indicated in the attached maps Figures 6, 7, 10, and 11 (Key Engineering).

The Department, based on the information available, has determined that the Property owner/lessee has met the conditions in s.292.13, Stats., to qualify for the liability exemption, including but not limited to the following provisions:

1. The hazardous substance discharge originated from a source on property that is not possessed or controlled by John Aliota.
2. John Aliota did not possess or control the hazardous substance on the property on which the discharge originated.
3. John Aliota did not cause the discharge.
4. John Aliota will not have liability under the Hazardous Substance Spill Law for investigation or remediation of the soil and groundwater contamination from off-site onto the Property, provided that, John Aliota does not take possession or control of the property on which the discharge originated.

Exemption Conditions

The Department's determination, as set forth in this letter, is subject to the following conditions being complied with, as specified in ss. 292.13(1) and (1m), Wis. Stats:

1. The facts upon which the Department based its determination are accurate and do not change.
2. John Aliota agrees to allow the following parties to enter the Property to take action to respond to the discharge: The Department and its authorized representatives; any party that possessed or controlled the hazardous substance or caused the discharge; and any consultant or contractor of such a party.
3. John Aliota agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge.
4. John Aliota agrees to any other condition that the Department determines is reasonable and necessary to ensure that the Department and any other authorized party can adequately respond to the discharge.
5. With respect to soil and groundwater contamination, John Aliota agrees to take one or more specified actions

directed by the Department, if the Department determines that the actions are necessary to prevent an imminent threat to human health, safety or welfare or to the environment. This would occur after the Department has made a reasonable attempt to notify the party who caused the hazardous substance discharge about that party's responsibilities to investigate and clean up the discharge.

Responsibilities for Continuing Obligations

In addition to the conditions above, after the contamination at the source property is remediated, the Department's approval of the clean-up may include continuing obligations at the source property as well as your Property. Often residual contamination remains after an approved environmental cleanup is completed. This approval may include requirements to maintain engineering controls, such as a cap or soil cover, to reduce the impact of the contamination. In that event, you may also be required to obtain DNR approval to construct a water supply well on your Property. If the request for cleanup approval includes requirements for your Property, the party conducting the cleanup is required to notify you before the DNR reviews the proposal for final approval of the clean-up.

Conclusion

The Department has granted John Aliota an off-site exemption under s. 292.13, Stats. Please note that the Department may revoke the determinations made in this letter if it determines that any of the requirements under ss. 292.13, Stats., cease to be met.

Future Property owners are eligible for the exemption under s. 292.13, Stats., if they meet the requirements listed in that statute section. The determinations in this letter regarding a liability exemption, however, only apply to John Aliota, may not be transferred or assigned to other parties. The Department will provide a written determination to future owners of this Property, if such a determination is requested in accordance with the requirements of s. 292.13, Wis. Stats.

The Bureau for Remediation and Redevelopment Tracking System (BRRTS) identification number for this activity is shown at the top of this letter. The Department tracks information on all determinations such as this in a Department database that is available on the Internet at: <http://dnr.wi.gov/topic/Brownfields/botw.html>

If you have any questions or concerns regarding this letter, please contact me at 414-263-8644, or by email: john.hnat@wisconsin.gov

Sincerely,

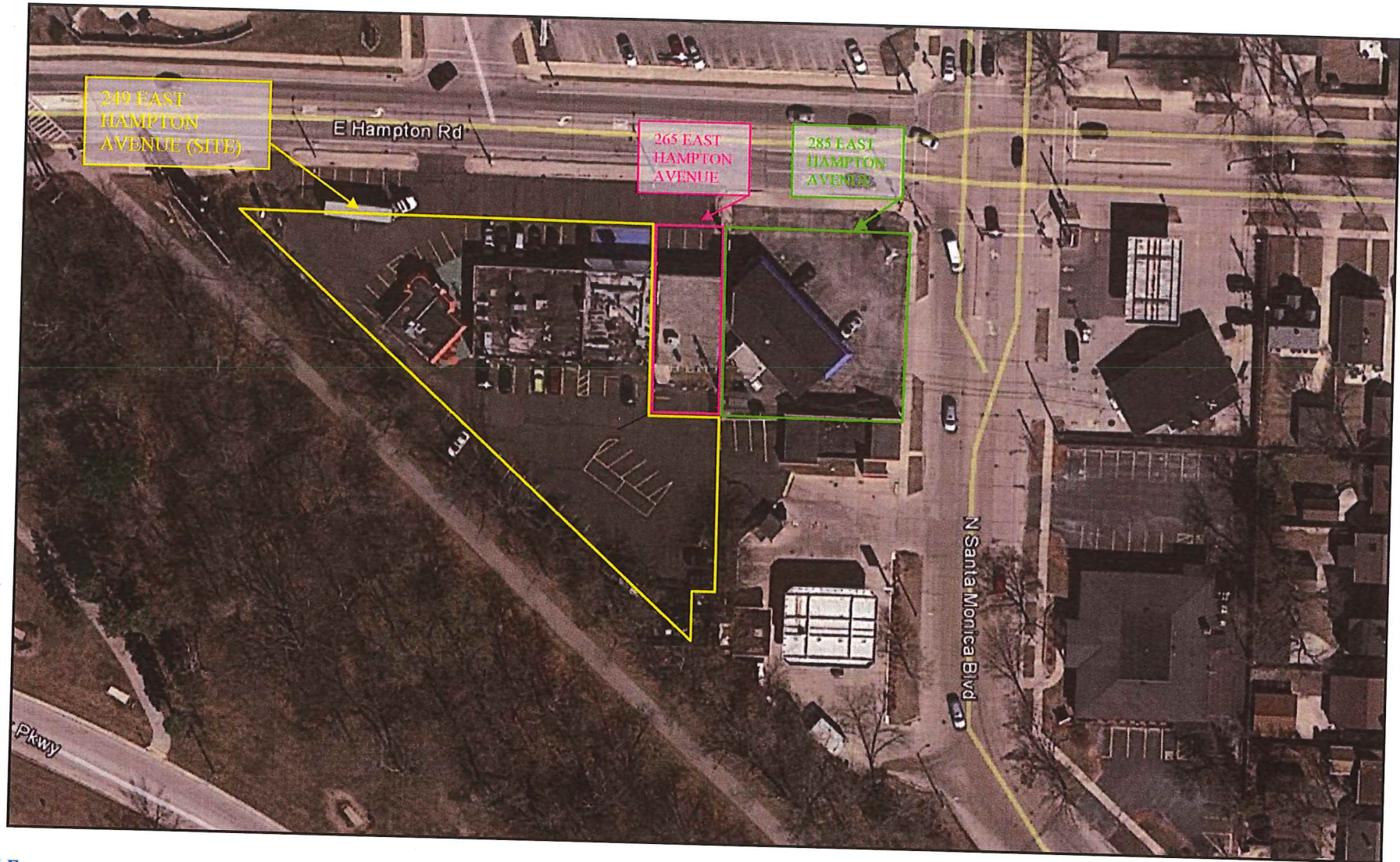


John J. Hnat, P.G., C.P.G.
Project Manager/Hydrogeologist
Southeast Region
Remediation and Redevelopment Program

Attachments:

- Figure 2, Site Aerial Map 249 East Hampton Avenue Milwaukee, Wisconsin, Key Engineering Group, Ltd., dated August 28, 2018
- Figure 6, PCE in Soil Isoconcentration Map for One Hour Martinizing 285 East Hampton Avenue Milwaukee, Wisconsin, Key Engineering Group, Ltd., dated October 6, 2014
- Figure 7, PCE in Groundwater Isoconcentration Map for One Hour Martinizing 285 East Hampton Avenue Milwaukee, Wisconsin, Key Engineering Group Ltd., dated February 27, 2015
- Figure 10, Soil Sample Analytical Results Map for One Hour Martinizing 285 East Hampton Avenue Milwaukee, Wisconsin, Key Engineering Group Ltd., dated April 13, 2015
- Figure 11, Groundwater Analytical Results Map for One Hour Martinizing 285 East Hampton Avenue Milwaukee, Wisconsin, Key Engineering Group Ltd., dated January 20, 2015

C: Michael Prager – WDNR Madison, RR/5 (electronic)
Margaret Brunette – WDNR SER HQ (electronic)
Toni L. Schoen – Key Engineering
WDNR SER Files



SCALE
1 INCH = APPROXIMATELY 75 FEET



Source:
Google Earth

Project No:
1808-1039

Date:
August 28, 2018

FIGURE 2
SITE AERIAL MAP
249 EAST HAMPTON AVENUE
MILWAUKEE, WISCONSIN



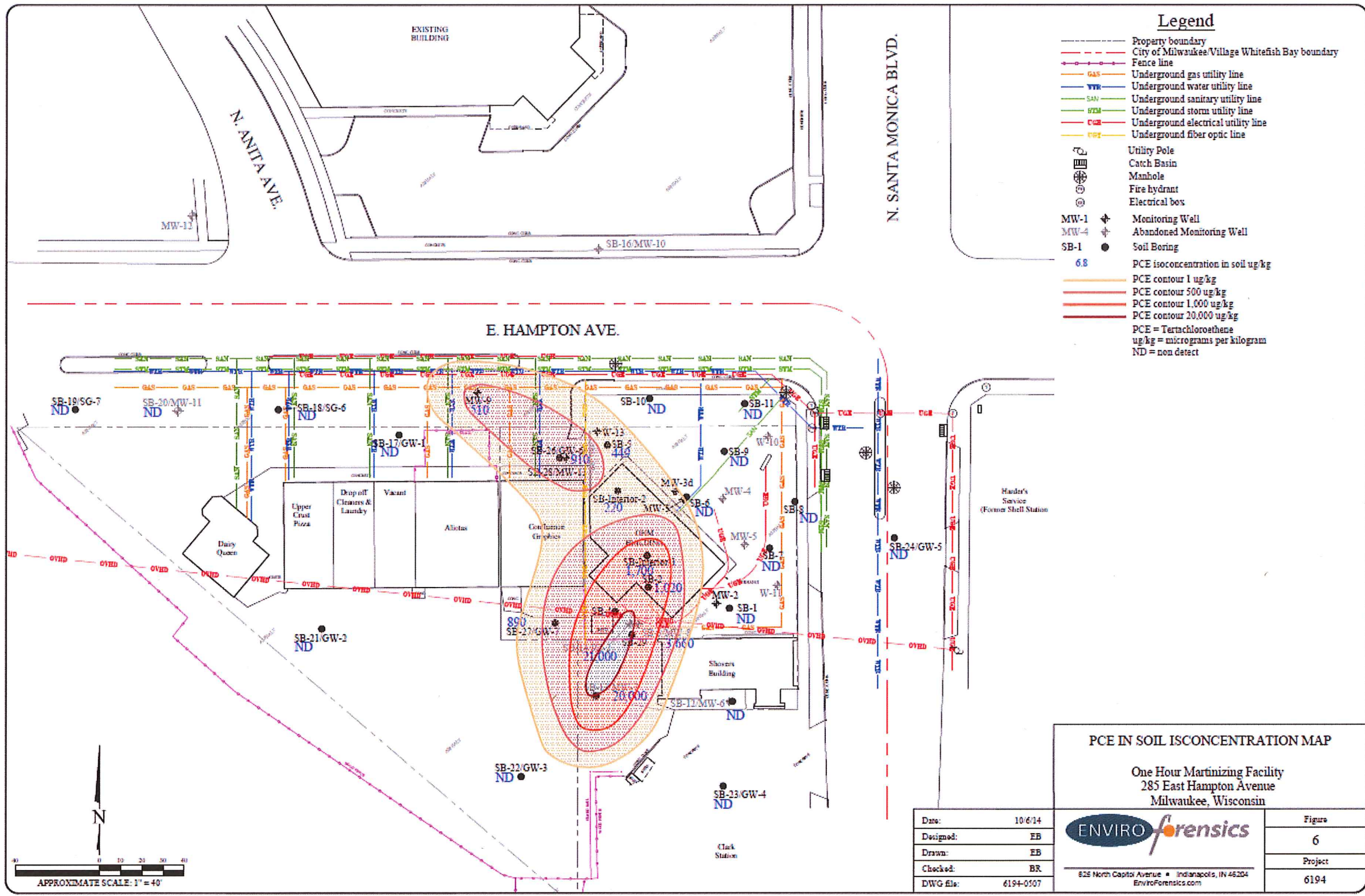


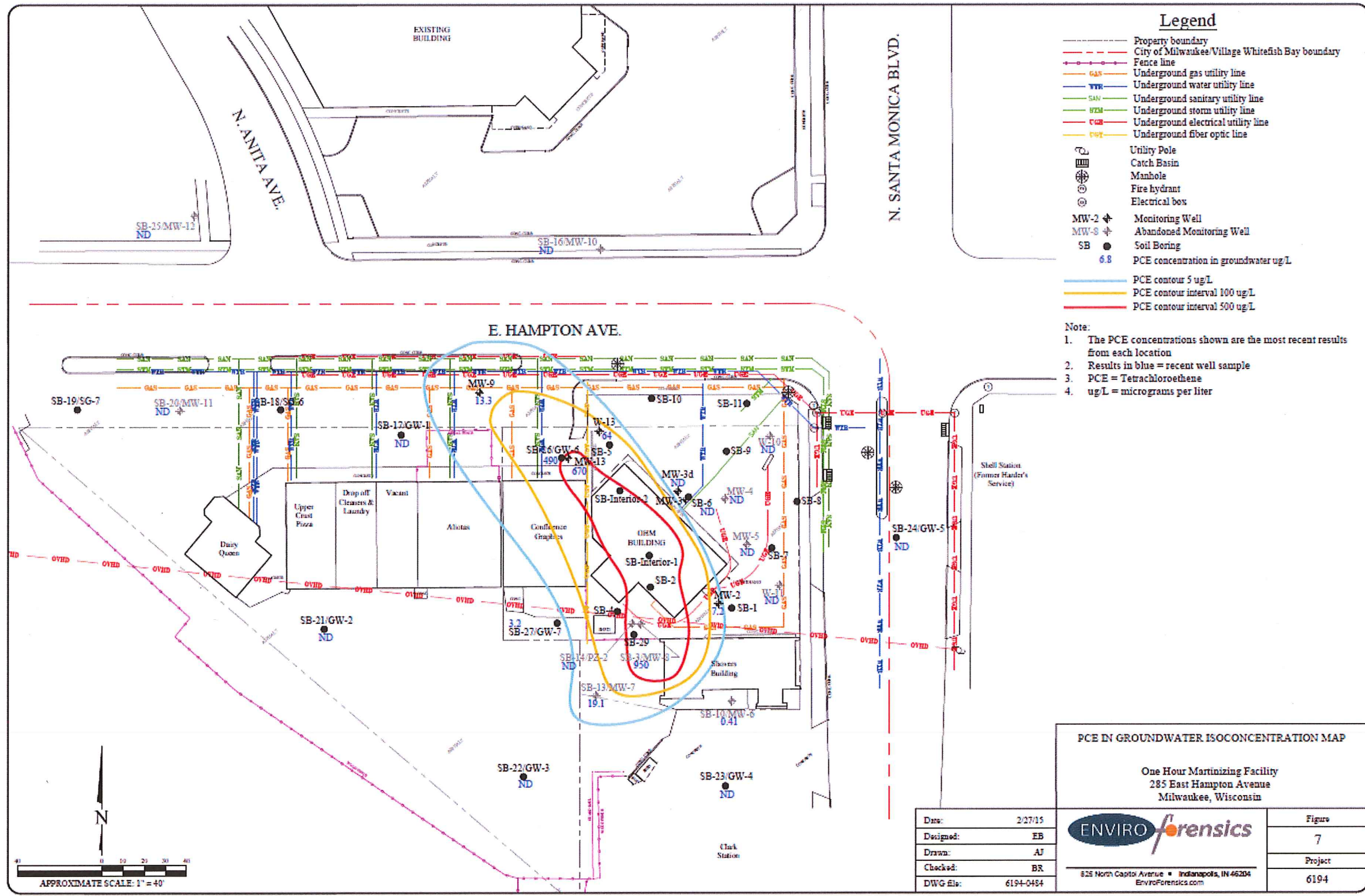
FIGURE 6
PCE IN SOIL ISOCONCENTRATION MAP FOR ONE HOUR MARTINIZING
285 EAST HAMPTON AVENUE
MILWAUKEE, WISCONSIN



Source:
Enviro Forensics

Project No:
1808-1039





Source:
Enviro Forensics

Project No:
1808-1039

FIGURE 7
PCE IN GROUNDWATER ISOCONCENTRATION MAP FOR ONE HOUR MARTINIZING
285 EAST HAMPTON AVENUE
MILWAUKEE, WISCONSIN



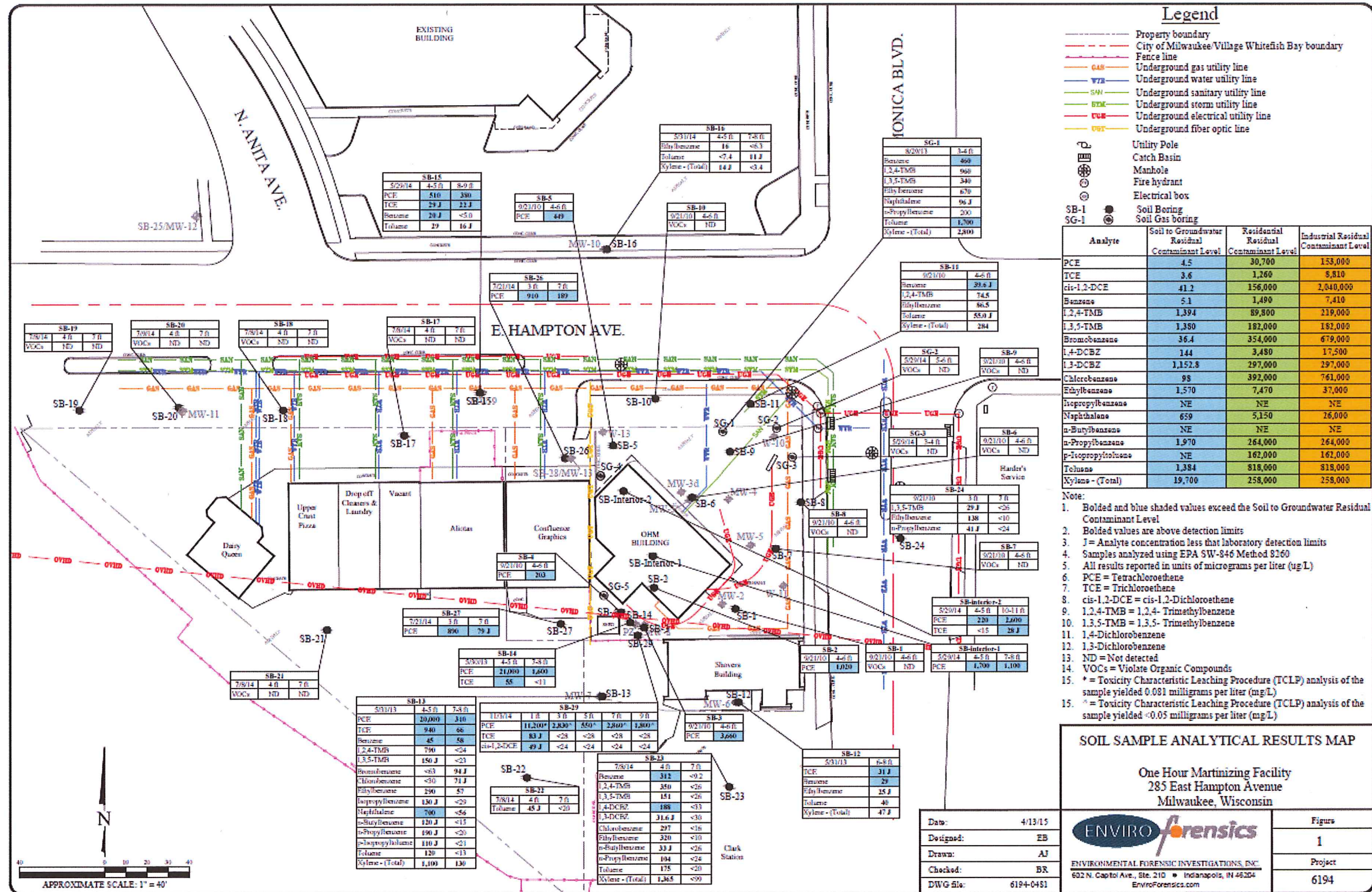


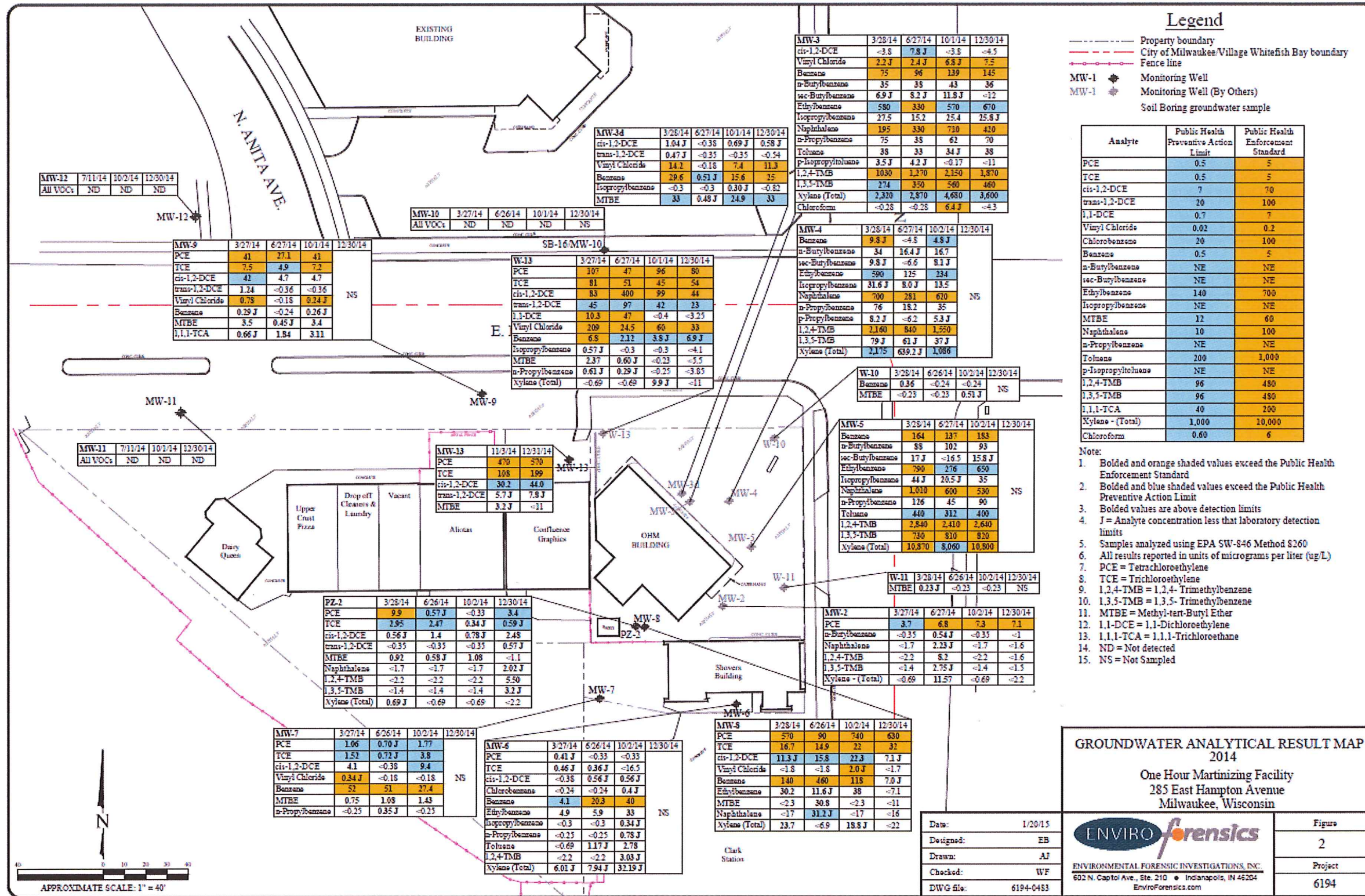
FIGURE 10
SOIL SAMPLE ANALYTICAL RESULTS MAP FOR ONE HOUR MARTINIZING
285 EAST HAMPTON AVENUE
MILWAUKEE, WISCONSIN



Source:
Enviro Forensics

Project No:
1808-1039





Source:
Enviro Forensics

Project No:
1808-1039

FIGURE 11
 GROUNDWATER ANALYTICAL RESULTS MAP 2014 FOR ONE HOUR MARTINIZING
 285 EAST HAMPTON AVENUE
 MILWAUKEE, WISCONSIN

