

March 14, 2019

Mr. Michael Schmoller
WDNR
3911 Fish Hatchery Road
Fitchburg, WI 53711-5367

**SUBJECT: GLC Request
4002 Dental Building, LLC Property
4002 Monona Drive
Madison, Wisconsin
Project # T218047**

Dear Mr. Schmoller:

True North Consultants, Inc. (True North) has prepared this letter to request a General Liability Clarification (GLC) letter from the Wisconsin Department of Natural Resources (WDNR) for the Lender(s) of the 4002 Dental Building, LLC Property located at 4002 Monona Drive in Monona, Wisconsin (*property*). The WDNR previously issued an Off-Site Liability Exemption for the current property owner dated January 8, 2019.

Background

True North was initially retained by Hoey Apothecary (Buyer) to conduct a Phase 1 ESA of the *property* in order to satisfy the requirements of the lender (Monona Bank). During the Phase 1 ESA activities, True North identified a former dry-cleaning operation, located to the north of the *property*, as being an “open” Wisconsin Department of Natural Resources (WDNR) Environmental Repair Program (ERP) site. Review of soil and groundwater data from the open ERP site indicated a strong possibility of the *property* having been impacted by soil, groundwater, and/or soil vapor contamination. The open ERP site was identified as a *recognized environmental condition*.

Sub-slab sampling was completed in order to evaluate the potential for vapor intrusion at the *property* from the former dry-cleaning facility ERP site. Results of the sub-slab sampling, reported to the WDNR by True North in a GLC request dated December 21, 2018.

The WDNR issued an off-site liability exemption on January 8, 2019 to 4002 Dental Building, LLC indicating that the *property* owner has met the conditions in s.292.13, Stats. To qualify for the liability exemption for the perchloroethylene (PCE) contamination identified at the *property* in groundwater and vapor.

General Liability Clarification Request

True North, on behalf of Monona Bank, WBD, Inc., and the U. S. Small Business Administration (Lenders), requests that the WDNR issue a GLC letter that would establish the following:



- Contamination identified in sub-slab sampling appears to have migrated to the *property* from the Paul's Classic Cleaners site. The concentrations of PCE and TCE identified is further supported by documented contamination from soil boring GB-22 and MW-5 which were installed as part of site investigation activities conducted by SCS Engineers on behalf of the Paul's Classic Cleaners open ERP site.
- The Lenders are not responsible for further investigation and/or remediation of CVOC contamination present at the *property*. This responsibility would be that of the Responsible Party (RP) of the Paul's Classic Cleaners open ERP site (BRRTS #: 02-13-368525).
- Continuing obligations of the *property* owner would be limited to allowing the RP or WDNR reasonable access to the *property* in order to further site investigation, remedial action, and/or vapor mitigation activities associated with the currently open Paul's Classic Cleaners ERP site.
- Once closure for the Paul's Classic Cleaners ERP site has been awarded, the continuing obligation for the *property* owner would be limited to maintaining any VMS installed at the *property* and properly managing any contaminated soil or groundwater generated as a waste from the *property*.

A completed Form 4400-237 has been included with this letter for completion of the GLC letter. A check (Check No. 3036) was previously submitted to the WDNR for this request.

Since the real estate transaction is scheduled for April 1, 2019, we ask that this request be addressed as quickly as possible. Please contact me at 608.577.8315 or cvalcheff@consulttruenorth.com with any questions. Thank you for prompt assistance with this project.

Regards,

TRUE NORTH CONSULTANTS, INC.

Christopher H. Valcheff
Principal Consultant

Enclosures: Completed WDNR Form 4400-237

cc: Ms. Laura Peterson, Monona Bank (Lender)
Mr. Nick Drewson, WBD, Inc. (Lender) and U.S. SBA (Lender)
Ms. Janell Hoey and Mr. Kevin Hoey, Hoey Apothecary (Buyer)
Ms. Deb Ersland, Key Commercial Real Estate (Buyer RE Agent)

Notice: Use this form to request a **written response (on agency letterhead)** from the Department of Natural Resources (DNR) regarding technical assistance, a post-closure change to a site, a specialized agreement or liability clarification for Property with known or suspected environmental contamination. A fee will be required as is authorized by s. 292.55, Wis. Stats., and NR 749, Wis. Adm. Code., unless noted in the instructions below. Personal information collected will be used for administrative purposes and may be provided to requesters to the extent required by Wisconsin's Open Records law [ss. 19.31 - 19.39, Wis. Stats.].

Definitions

"Property" refers to the subject Property that is perceived to have been or has been impacted by the discharge of hazardous substances.

"Liability Clarification" refers to a written determination by the Department provided in response to a request made on this form. The response clarifies whether a person is or may become liable for the environmental contamination of a Property, as provided in s. 292.55, Wis. Stats.

"Technical Assistance" refers to the Department's assistance or comments on the planning and implementation of an environmental investigation or environmental cleanup on a Property in response to a request made on this form as provided in s. 292.55, Wis. Stats.

"Post-closure modification" refers to changes to Property boundaries and/or continuing obligations for Properties or sites that received closure letters for which continuing obligations have been applied or where contamination remains. Many, but not all, of these sites are included on the GIS Registry layer of RR Sites Map to provide public notice of residual contamination and continuing obligations.

Select the Correct Form

This form should be used to request the following from the DNR:

- Technical Assistance
- Liability Clarification
- Post-Closure Modifications
- Specialized Agreements (tax cancellation, negotiated agreements, etc.)

Do not use this form if one of the following applies:

- Request for an **off-site liability exemption or clarification** for Property that has been or is perceived to be contaminated by one or more hazardous substances that originated on another Property containing the source of the contamination. Use DNR's Off-Site Liability Exemption and Liability Clarification Application Form 4400-201.
- Submittal of an Environmental Assessment for the **Lender Liability Exemption**, s 292.21, Wis. Stats., **if no response or review by DNR is requested**. Use the Lender Liability Exemption Environmental Assessment Tracking Form 4400-196.
- Request for an **exemption to develop on a historic fill site** or licensed landfill. Use DNR's Form 4400-226 or 4400-226A.
- **Request for closure** for Property where the investigation and cleanup actions are completed. Use DNR's Case Closure - GIS Registry Form 4400-202.

All forms, publications and additional information are available on the internet at: dnr.wi.gov/topic/Brownfields/Pubs.html.

Instructions

1. Complete sections 1, 2, 6 and 7 for all requests. Be sure to provide adequate and complete information.
2. Select the type of assistance requested: Section 3 for technical assistance or post-closure modifications, Section 4 for a written determination or clarification of environmental liabilities; or Section 5 for a specialized agreement.
3. Include the fee payment that is listed in Section 3, 4, or 5, unless you are a "Voluntary Party" enrolled in the Voluntary Party Liability Exemption Program **and** the questions in Section 2 direct otherwise. Information on to whom and where to send the fee is found in Section 8 of this form.
4. Send the completed request, supporting materials and the fee to the appropriate DNR regional office where the Property is located. See the map on the last page of this form. A paper copy of the signed form and all reports and supporting materials shall be sent with an electronic copy of the form and supporting materials on a compact disk. For electronic document submittal requirements see: <http://dnr.wi.gov/files/PDF/pubs/rr/RR690.pdf>

The time required for DNR's determination varies depending on the complexity of the site, and the clarity and completeness of the request and supporting documentation.

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Section 1. Contact and Recipient Information

Requester Information

This is the person requesting technical assistance or a post-closure modification review, that his or her liability be clarified or a specialized agreement and is identified as the requester in Section 7. DNR will address its response letter to this person.

Last Name Peterson	First Laura	MI	Organization/ Business Name Monona Bank
Mailing Address 6430 Bridge Road			City Monona
			State WI
			ZIP Code 53713
Phone # (include area code) (608) 443-1980	Fax # (include area code)	Email lpeterson@mononabank.com	

The requester listed above: (select all that apply)

- | | |
|--|--|
| <input type="checkbox"/> Is currently the owner | <input type="checkbox"/> Is considering selling the Property |
| <input type="checkbox"/> Is renting or leasing the Property | <input type="checkbox"/> Is considering acquiring the Property |
| <input type="checkbox"/> Is a lender with a mortgagee interest in the Property | |
| <input checked="" type="checkbox"/> Other. Explain the status of the Property with respect to the applicant: | |

**WBD, Inc. and the U.S. Small Business
Administration
4618 South Biltmore Lane
Madison, WI 53718**

Monona Bank and WBD, Inc. and the U.S. Small Business Administration will be providing financing to the Buyer for purchasing this property. Closing scheduled for April 1, 2019.

Contact Information (to be contacted with questions about this request)

Select if same as requester

Contact Last Name Peterson	First Laura	MI	Organization/ Business Name Monona Bank
Mailing Address 6430 Bridge Road			City Monona
			State WI
			ZIP Code 53713
Phone # (include area code) (608) 443-1980	Fax # (include area code)	Email lpeterson@mononabank.com	

Environmental Consultant (if applicable)

Contact Last Name Valcheff	First Chris	MI	Organization/ Business Name True North Consultants, Inc.
Mailing Address 525 Junction Road, Suite 1900			City Madison
			State WI
			ZIP Code 53717
Phone # (include area code) (608) 577-8315	Fax # (include area code) (608) 237-2453	Email cvalcheff@consulttruenorth.com	

Section 2. Property Information

Property Name 4002 Dental Building, LLC Property			FID No. (if known)
BRRTS No. (if known)		Parcel Identification Number 251/0710-093-0401-6	
Street Address 4002 Monona Drive			City Madison
			State WI
			ZIP Code 53716
County Dane	Municipality where the Property is located <input checked="" type="radio"/> City <input type="radio"/> Town <input type="radio"/> Village of Madison	Property is composed of: <input checked="" type="radio"/> Single tax parcel <input type="radio"/> Multiple tax parcels	Property Size Acres 0.49

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1. Is a response needed by a specific date? (e.g., Property closing date) Note: Most requests are completed within 60 days. Please plan accordingly.

- No Yes

Date requested by: 04/01/2019

Reason: Real Estate Transaction pending

2. Is the "Requester" enrolled as a Voluntary Party in the Voluntary Party Liability Exemption (VPLE) program?

- No. **Include the fee that is required for your request in Section 3, 4 or 5.**
 Yes. **Do not include a separate fee.** This request will be billed separately through the VPLE Program.

Fill out the information in Section 3, 4 or 5 which corresponds with the type of request:

Section 3. Technical Assistance or Post-Closure Modifications;
Section 4. Liability Clarification; or Section 5. Specialized Agreement.

Section 3. Request for Technical Assistance or Post-Closure Modification

Select the type of technical assistance requested: [Numbers in brackets are for WI DNR Use]

- No Further Action Letter (NFA) (Immediate Actions) - NR 708.09, [183] - **Include a fee of \$350.** Use for a written response to an immediate action after a discharge of a hazardous substance occurs. Generally, these are for a one-time spill event.
- Review of Site Investigation Work Plan - NR 716.09, [135] - **Include a fee of \$700.**
- Review of Site Investigation Report - NR 716.15, [137] - **Include a fee of \$1050.**
- Approval of a Site-Specific Soil Cleanup Standard - NR 720.10 or 12, [67] - **Include a fee of \$1050.**
- Review of a Remedial Action Options Report - NR 722.13, [143] - **Include a fee of \$1050.**
- Review of a Remedial Action Design Report - NR 724.09, [148] - **Include a fee of \$1050.**
- Review of a Remedial Action Documentation Report - NR 724.15, [152] - **Include a fee of \$350**
- Review of a Long-term Monitoring Plan - NR 724.17, [25] - **Include a fee of \$425.**
- Review of an Operation and Maintenance Plan - NR 724.13, [192] - **Include a fee of \$425.**

Other Technical Assistance - s. 292.55, Wis. Stats. [97] (For request to build on an abandoned landfill use Form 4400-226)

- Schedule a Technical Assistance Meeting - **Include a fee of \$700.**
- Hazardous Waste Determination - **Include a fee of \$700.**
- Other Technical Assistance - **Include a fee of \$700.** Explain your request in an attachment.

Post-Closure Modifications - NR 727, [181]

- Post-Closure Modifications: Modification to Property boundaries and/or continuing obligations of a closed site or Property; sites may be on the GIS Registry. This also includes removal of a site or Property from the GIS Registry. **Include a fee of \$1050, and:**
- Include a fee of \$300 for sites with residual soil contamination; and
- Include a fee of \$350 for sites with residual groundwater contamination, monitoring wells or for vapor intrusion continuing obligations.

Attach a description of the changes you are proposing, and documentation as to why the changes are needed (if the change to a Property, site or continuing obligation will result in revised maps, maintenance plans or photographs, those documents may be submitted later in the approval process, on a case-by-case basis).

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Skip Sections 4 and 5 if the technical assistance you are requesting is listed above and complete Sections 6 and 7 of this form.

Section 4. Request for Liability Clarification

Select the type of liability clarification requested. Use the available space given or attach information, explanations, or specific questions that you need answered in DNR's reply. Complete Sections 6 and 7 of this form. **[Numbers in brackets are for DNR Use]**

"Lender" liability exemption clarification - s. 292.21, Wis. Stats. [686]

❖ **Include a fee of \$700.**

Provide the following documentation:

- (1) ownership status of the real Property, and/or the personal Property and fixtures;
- (2) an environmental assessment, in accordance with s. 292.21, Wis. Stats.;
- (3) the date the environmental assessment was conducted by the lender;
- (4) the date of the Property acquisition; for foreclosure actions, include a copy of the signed and dated court order confirming the sheriff's sale.
- (5) documentation showing how the Property was acquired and the steps followed under the appropriate state statutes.
- (6) a copy of the Property deed with the correct legal description; and,
- (7) the Lender Liability Exemption Environmental Assessment Tracking Form (Form 4400-196).
- (8) If no sampling was done, please provide reasoning as to why it was **not** conducted. Include this either in the accompanying environmental assessment or as an attachment to this form, and cite language in s. 292.21(1)(c)2., h.-i., Wis. Stats.:
 - h. The collection and analysis of representative samples of soil or other materials in the ground that are suspected of being contaminated based on observations made during a visual inspection of the real Property or based on aerial photographs, or other information available to the lender, including stained or discolored soil or other materials in the ground and including soil or materials in the ground in areas with dead or distressed vegetation. The collection and analysis shall identify contaminants in the soil or other materials in the ground and shall quantify concentrations.
 - i. The collection and analysis of representative samples of unknown wastes or potentially hazardous substances found on the real Property and the determination of concentrations of hazardous waste and hazardous substances found in tanks, drums or other containers or in piles or lagoons on the real Property.

"Representative" liability exemption clarification (e.g. trustees, receivers, etc.) - s. 292.21, Wis. Stats. [686]

❖ **Include a fee of \$700.**

Provide the following documentation:

- (1) ownership status of the Property;
- (2) the date of Property acquisition by the representative;
- (3) the means by which the Property was acquired;
- (4) documentation that the representative has no beneficial interest in any entity that owns, possesses, or controls the Property;
- (5) documentation that the representative has not caused any discharge of a hazardous substance on the Property; and
- (6) a copy of the Property deed with the correct legal description.

Clarification of local governmental unit (LGU) liability exemption at sites with: (select all that apply)

- hazardous substances spills - s. 292.11(9)(e), Wis. Stats. [649];
- Perceived environmental contamination - [649];
- hazardous waste - s. 292.24 (2), Wis. Stats. [649]; and/or
- solid waste - s. 292.23 (2), Wis. Stats. [649].

❖ **Include a fee of \$700, a summary of the environmental liability clarification being requested, and the following:**

- (1) clear supporting documentation showing the acquisition method used, and the steps followed under the appropriate state statute(s).
- (2) current and proposed ownership status of the Property;
- (3) date and means by which the Property was acquired by the LGU, where applicable;
- (4) a map and the ¼, ¼ section location of the Property;
- (5) summary of current uses of the Property;
- (6) intended or potential use(s) of the Property;
- (7) descriptions of other investigations that have taken place on the Property; and
- (8) (for solid waste clarifications) a summary of the license history of the facility.

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Section 4. Request for Liability Clarification (cont.)

- Lease liability clarification - s. 292.55, Wis. Stats. [646]
- ❖ **Include a fee of \$700 for a single Property, or \$1400 for multiple Properties and the information listed below:**
 - (1) a copy of the proposed lease;
 - (2) the name of the current owner of the Property and the person who will lease the Property;
 - (3) a description of the lease holder's association with any persons who have possession, control, or caused a discharge of a hazardous substance on the Property;
 - (4) map(s) showing the Property location and any suspected or known sources of contamination detected on the Property;
 - (5) a description of the intended use of the Property by the lease holder, with reference to the maps to indicate which areas will be used. Explain how the use will not interfere with any future investigation or cleanup at the Property; and
 - (6) all reports or investigations (e.g. Phase I and Phase II Environmental Assessments and/or Site Investigation Reports conducted under s. NR 716, Wis. Adm. Code) that identify areas of the Property where a discharge has occurred.

General or other environmental liability clarification - s. 292.55, Wis. Stats. [682] - Explain your request below.

- ❖ **Include a fee of \$700 and an adequate summary of relevant environmental work to date.**
- No Action Required (NAR) - NR 716.05, [682]
- ❖ **Include a fee of \$700.**
- Use where an environmental discharge has or has not occurred, and applicant wants a DNR determination that no further assessment or clean-up work is required. Usually this is requested after a Phase I and Phase II environmental assessment has been conducted; the assessment reports should be submitted with this form. This is not a closure letter.
- Clarify the liability associated with a "closed" Property - s. 292.55, Wis. Stats. [682]
- ❖ **Include a fee of \$700.**
- Include a copy of any closure documents if a state agency other than DNR approved the closure.

Use this space or attach additional sheets to provide necessary information, explanations or specific questions to be answered by the DNR. Phase 1 ESA has been completed. Nearby dry cleaning operation, BRRTS #02-13-368525, is open ERP site that has been identified as a recognized environmental condition in the Phase 1 ESA. Sub-slab vapor sampling performed at the property. Results show exceedance of VRSL for small commercial and residential properties. Off-Site Liability Exemption issued for property owner on January 8, 2019.

Lender (Monona Bank and WBD, Inc. and the U.S. Small Business Administration) request similar letter to clarify that the future investigation/remediation of the property, including any vapor mitigation system requirements, will be the responsibility of the RP for the nearby dry cleaning operations and clarify the continuing obligations that would be associated with the property once the RP receives "closure" from the WDNR for the open ERP site.

Section 5. Request for a Specialized Agreement

Select the type of agreement needed. Include the appropriate draft agreements and supporting materials. Complete Sections 6 and 7 of this form. More information and model draft agreements are available at: dnr.wi.gov/topic/Brownfields/lgu.html#tabx4.

- Tax cancellation agreement - s. 75.105(2)(d), Wis. Stats. [654]
- ❖ **Include a fee of \$700, and the information listed below:**
 - (1) Phase I and II Environmental Site Assessment Reports,
 - (2) a copy of the Property deed with the correct legal description.
- Agreement for assignment of tax foreclosure judgement - s.75.106, Wis. Stats. [666]
- ❖ **Include a fee of \$700, and the information listed below:**
 - (1) Phase I and II Environmental Site Assessment Reports,
 - (2) a copy of the Property deed with the correct legal description.
- Negotiated agreement - Enforceable contract for non-emergency remediation - s. 292.11(7)(d) and (e), Wis. Stats. [630]
- ❖ **Include a fee of \$1400, and the information listed below:**
 - (1) a draft schedule for remediation; and,
 - (2) the name, mailing address, phone and email for each party to the agreement.

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Section 6. Other Information Submitted

Identify all materials that are included with this request.

Send both a paper copy of the signed form and all reports and supporting materials, and an electronic copy of the form and all reports, including Environmental Site Assessment Reports, and supporting materials on a compact disk.

Include one copy of any document from any state agency files that you want the Department to review as part of this request. The person submitting this request is responsible for contacting other state agencies to obtain appropriate reports or information.

Phase I Environmental Site Assessment Report - Date: 11/16/2018 Previously submitted 12/21/2018 to WDNR

Phase II Environmental Site Assessment Report - Date: 12/14/2018

Legal Description of Property (required for all liability requests and specialized agreements)

Map of the Property (required for all liability requests and specialized agreements)

Analytical results of the following sampled media: Select all that apply and include date of collection.

Groundwater Soil Sediment Other medium - Describe: Vapor

Date of Collection: 11/19/2018

A copy of the closure letter and submittal materials

Draft tax cancellation agreement

Draft agreement for assignment of tax foreclosure judgment

Other report(s) or information - Describe: _____

For Property with newly identified discharges of hazardous substances only: Has a notification of a discharge of a hazardous substance been sent to the DNR as required by s. NR 706.05(1)(b), Wis. Adm. Code?

Yes - Date (if known): _____

No

Note: The Notification for Hazardous Substance Discharge (non-emergency) form is available at:
dnr.wi.gov/files/PDF/forms/4400/4400-225.pdf.

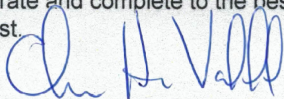
Section 7. Certification by the Person who completed this form

I am the person submitting this request (requester)

I prepared this request for: Laura Peterson

Requester Name

I certify that I am familiar with the information submitted on this request, and that the information on and included with this request is true, accurate and complete to the best of my knowledge. I also certify I have the legal authority and the applicant's permission to make this request.



Signature

March 14, 2019

Date Signed

Principal Consultant - True North Consultants, Inc.

Title

(608) 577-8315

Telephone Number (include area code)

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Section 8. DNR Contacts and Addresses for Request Submittals

Send or deliver one paper copy and one electronic copy on a compact disk of the completed request, supporting materials, and fee to the region where the property is located to the address below. Contact a [DNR regional brownfields specialist](#) with any questions about this form or a specific situation involving a contaminated property. For electronic document submittal requirements see: <http://dnr.wi.gov/files/PDF/pubs/rr/RR690.pdf>.

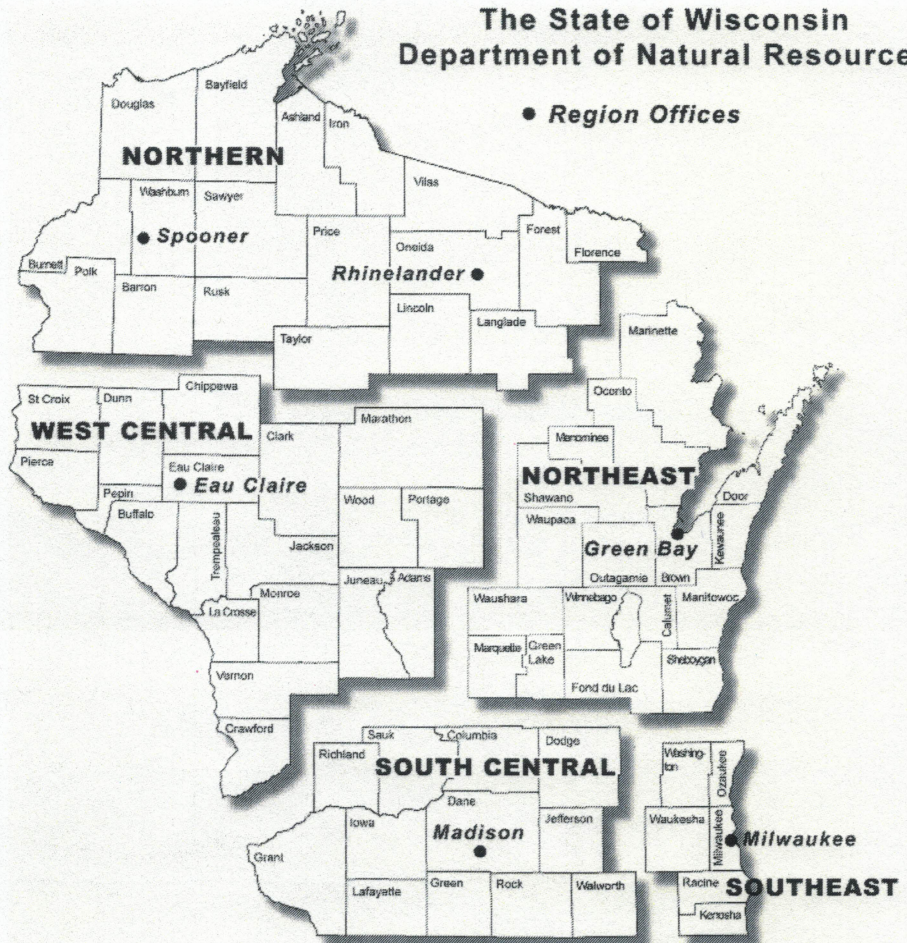
DNR NORTHERN REGION
 Attn: RR Program Assistant
 Department of Natural Resources
 223 E Steinfest Rd Antigo, WI 54409

DNR NORTHEAST REGION
 Attn: RR Program Assistant
 Department of Natural Resources
 2984 Shawano Avenue
 Green Bay WI 54313

DNR SOUTH CENTRAL REGION
 Attn: RR Program Assistant
 Department of Natural Resources
 3911 Fish Hatchery Road
 Fitchburg WI 53711

DNR SOUTHEAST REGION
 Attn: RR Program Assistant
 Department of Natural Resources
 2300 North Martin Luther King Drive
 Milwaukee WI 53212

DNR WEST CENTRAL REGION
 Attn: RR Program Assistant
 Department of Natural Resources
 1300 Clairemont Ave.
 Eau Claire WI 54702



Note: These are the Remediation and Redevelopment Program's designated regions. Other DNR program regional boundaries may be different.

DNR Use Only			
Date Received	Date Assigned	BRRTS Activity Code	BRRTS No. (if used)
DNR Reviewer		Comments	
Fee Enclosed? <input type="radio"/> Yes <input type="radio"/> No	Fee Amount \$	Date Additional Information Requested	Date Requested for DNR Response Letter
Date Approved	Final Determination		