



January 29, 2024

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

ALDER B LLC
ATTN: GIL ROGERS
PO BOX 638
SUPERIOR WI 54880

SUBJECT: Notice of Non-Compliance: Action Required by March 14, 2024
Notice of Potential Deed Affidavit per Wis. Admin. Code § NR 728.11
Alder B LLC Fmr Gas Station
203 39th Avenue East, Superior, Wisconsin
BRRTS Activity #03-16-584200

Dear Mr. Rogers:

This letter is to notify you that you are out of compliance with Wisconsin Statutes (Wis. Stat.) chapter 292 and Wisconsin Administrative (Wis. Admin.) Code chapters NR 700 through NR 799. On August 28, 2019, the Wisconsin Department of Natural Resources (DNR) notified you of your responsibilities to investigate the degree and extent of the contamination associated with the former filling station at the above-referenced site, located at 203 39th Avenue East, Superior, Wisconsin (Site). That letter is enclosed for your reference.

On July 17, 2020, the DNR sent you a letter requesting an update on the status of investigation and remediation of the Site. In response, the DNR received a letter, dated August 11, 2020, in which you stated you did not have the financial resources to proceed with investigative work. The DNR sent you another letter, dated December 6, 2023, again requesting a Site update and informing you of the DNR's intent to file a permanent deed affidavit on the property located at 203 39th Avenue East, Superior, Wisconsin (Property), per Wis. Admin. Code § NR 728.11. At this time, the DNR has not received a response to that letter or any information indicating that you have hired an environmental consultant or completed site investigation or remediation activities.

Notice of Non-Compliance

Please be aware that the DNR may initiate enforcement action against you for failure to comply with Wis. Stat. ch. 292. Your legal responsibilities are defined in Wis. Stat. chapter 292 and were also described in the August 28, 2019, responsible party letter. Wis. Stat. § 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.

Requirements for meeting statutory responsibilities are available in code. Wis. Admin. Code chs. NR 700 through 799 establish requirements for emergency and interim actions, public information, site investigations, design and operation of remedial action systems, and case closure. Ch. NR 708 includes provisions for immediate and interim actions in response to contamination, and Wis. Admin. Code ch. NR 140 establishes groundwater quality standards for contaminants that reach groundwater.

Notice of Potential Deed Affidavit

If you elect not to move forward with the necessary response actions, the DNR intends to file a deed affidavit on the Property per Wis. Admin. Code § NR 728.11(2), which states:

Where the department has information to demonstrate that the source of contamination is on the property and the property owner or other responsible party has failed to take adequate response action, the department may record an affidavit at the office of the register of deeds for the county in which the property is located...

This affidavit would provide notice to the public and any prospective purchaser of the existing contamination and the environmental liability associated with the Property.

Response Requested

The DNR is requesting that **within 45 days of the date of this letter, by March 14, 2024**, you provide a summary of any investigative and/or clean-up work completed at the Site. This summary should be submitted to the Project Manager for the Site at following address:

Grant Neitzel
Remediation and Redevelopment Program
Wisconsin Department of Natural Resources
1701 N. 4th Street
Superior, Wisconsin 54880

Please understand that you are in noncompliance and will remain in noncompliance until you fulfill your responsibilities under Wis. Stat. ch. 292. Failure to take the actions required by Wis. Stat. § 292.11 to address this contamination will cause the DNR to review this case for enforcement actions.

Additionally, regarding the potential deed affidavit, you must respond by **March 14, 2024**, and either indicate that the Property will be promptly investigated and remediated in compliance with applicable statutes and rules, or provide information which clearly demonstrates that there is no environmental contamination on the Property (Wis. Admin. Code § NR 728.11(2)(a)).

If you have questions, please contact DNR Project Manager Grant Neitzel by phone at (715) 919-7238 or email at Grant.Neitzel@Wisconsin.gov. You can also contact me at (715) 208-4004 or email at Christopher.Saari@wisconsin.gov. Thank you for your attention to this matter.

Sincerely,



Christopher A. Saari
Northern Region Team Supervisor
Remediation and Redevelopment Program

Enclosure: Responsible Party letter, DNR, August 28, 2019

cc: Grant Neitzel – DNR Superior (via email)