



April 27, 2022

MR JOHN ECKERT
8861 CTH H
EAGLE RIVER WI 54521

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Subject: **Notice of Non-Compliance: Action Required by June 1, 2022**
Notice of Potential Deed Affidavit per Wis. Admin. Code § NR 728.11
Owens Property, 8861 County Highway H, Eagle River, Wisconsin
BRRTS #02-44-584685 / FID #364000120

Dear Mr. Eckert:

This letter is to notify you that the Department of Natural Resources' (DNR) Remediation and Redevelopment Program believes you are out of compliance with Wisconsin Statutes (Wis. Stat.) chapter 292 and Wisconsin Administrative Code (Wis. Admin. Code) chapters NR 700 through NR 754. On November 14, 2019, the DNR notified you of your responsibilities to investigate the degree and extent of contamination and clean up the above-referenced site. You were notified as the suspected causer of hazardous substance discharges, and Ms. Susan Owens as the owner of the property in control of the hazardous substance discharges. That letter is attached for your reference.

In response to a complaint received by the DNR, several staff from the DNR and the Department of Transportation met with you and Ms. Owens on the property mentioned above on October 14, 2019. Numerous areas of staining and spills of what appeared to be petroleum products were observed, apparently resulting from your current auto salvage operations on the property. The Owens Property contamination case is considered a new and separate discharge from the other open discharge case (Zmek & Sons Wrecking, BRRTS # 02-44-548409) located at the same address.

On April 23, 2021, a status update request was sent to you as the current property owner; the DNR has not yet received a response to that letter.

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 both in Wis. Stat. ch. 292 and Wis. Admin. Code chs. NR 700 - 754 and are also described in the June 11, 2021, letter. In particular, 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.

Guidance for meeting statutory requirements is available in code. Wis. Admin. Code chs. NR 700 - 754 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 actions in response to limited contamination. 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 at your site, the department 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 department is requesting that within 30 days from date of letter, by **June 1, 2022**, you provide written documentation a consultant has been hired and a site investigation work plan will be submitted. This information should be submitted to the Project Manager for the Site at the following address:

Carrie Stoltz
Remediation and Redevelopment Program
Department of Natural Resources
107 Sutliff Avenue
Rhineland, WI 54501

Please understand that the Site appears to be out of compliance and will remain out of compliance until you fulfill all applicable statutory and administrative code requirements. Failure to take the actions required by Wis. Stat. ch. 292 to address this contamination will cause the DNR to take appropriate enforcement action.

Additionally, with regard to the potential deed affidavit, you **must respond by June 1, 2022**, 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 do not hesitate to contact Carrie Stoltz by phone at (715) 360-1966 or email at Carrie.Stoltz@Wisconsin.gov. You can also contact me at (715) 208-4004 or by 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

Enclosures:

- Responsible Party Letter, DNR, November 14, 2019
- Status Update Request Letter, DNR April 23, 2021

cc: Carrie Stoltz – DNR Rhinelander (via email)

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
107 Sutliff Avenue
Rhineland WI 54501-3349

Tony Evers, Governor
Preston D. Cole, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
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CERTIFIED MAIL/RETURN RECEIPT REQUESTED

November 14, 2019

Susan Owens
617 North Bond Street
Eagle River, WI 54521

John Eckert
193 Saltzberry Road
Eagle River, WI 54521

Subject: Reported Contamination at the Owens Property,
8861 County Hwy H, Eagle River, Wisconsin
DNR BRRTS Activity # 02-44-584685

Dear Ms. Owens and Mr. Eckert:

On October 14, 2019, myself and several Department of Natural Resources (department) staff, including staff from the Department of Transportation met with both of you on the property mentioned above. Numerous areas of staining and spills of petroleum products were observed during our visit. The department believes the petroleum spills observed on October 14, 2019 are a result of John Eckert's current auto salvage operations occurring on the property and are hazardous substance discharges as those terms are defined in Wis. Stats. ch. 292, commonly known as the 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.

Information available to the department regarding this Site indicates John Eckert, as suspected causer of the hazardous substance discharges and Susan Owens, as owner of the property and in control of the discharge are responsible for the discharge of a hazardous substance or other environmental pollution (hereafter referred to as "contamination") at the above-described site. "Site" refers to the property where the contamination occurred and any other property it has migrated to, as defined in Wisconsin Administrative Code ("Wis. Admin. Code") § NR 700.03(56).

This site is considered a new and separate hazardous substance discharge separate from the currently open Zmek's Wrecking site (BRRTS # 02-44-548409). Environmental Investigation and cleanup are required at both the Zmek's Wrecking site (BRRTS # 02-44-548409) and the Owens Property site (BRRTS # 02-44-548409).

This letter explains how to initiate the investigation and cleanup of contamination of the site, and how to access further information and assistance from the department. The longer contamination is left in the environment, the farther it can spread and the more it may cost to clean up. Quick action may lessen damage to your property and neighboring properties and reduce your costs in investigating and cleaning up the contamination.

Legal Responsibilities:

Persons meeting the definition of “responsible party” under Wis. Admin. Code § NR 700.03(51) must follow applicable law to address the discharge of a hazardous substance to the environment or other environmental pollution. Wisconsin Statutes (“Wis. Stats.”) ch. 292 and Wis. Admin. Code chs. NR 700 through NR 754 provide specific requirements for undertaking appropriate response actions to address contamination, including requirements for emergency and interim actions, public information, site investigations, remedy selection, design and operation of remedial action systems, and case closure.

General Recommendations for Responsible Parties:

The department recommends that you:

1. Hire a Qualified Environmental Consultant

To ensure response actions you plan to undertake comply with Wisconsin law, you should hire an environmental consultant within **30 days**, by December 16, 2019, to meet the regulatory deadlines listed below. A delay in hiring an environmental consultant could result in you missing key submittal deadlines.

Hiring a consulting firm with staff that have the appropriate State of Wisconsin qualifications to supervise and certify the submittals is a critical component and necessary to meet your requirements. Further, an environmental consultant should be knowledgeable of Wisconsin’s technical procedures and laws and be able to answer questions regarding cleanup requirements. Required qualifications for environmental consultants are specified in Wis. Admin. Code ch. NR 712. Program guidance is available, see *Wis. Admin. Code ch. NR 712 Qualifications and Certifications, RR-081*.

2. Properly Submit Reports on Time with Required Information Included

Wisconsin law includes timeframes for submitting technical documents and conducting work, as well as specifications for what should be included in those submittals. This letter provides a general overview of the timeframes and first steps to take for site investigation and cleanup. For an overview of timing requirements, please refer to *NR 700 Process and Timeline Overview, RR-967, enclosed*.

The department developed the publication *Guidance for Electronic Submittals for the Remediation and Redevelopment Program, RR-690*, to assist responsible parties and consultants in properly submitting documents. Wis. Admin. Code § NR 700.11(3g), and other specific provisions within Wis. Admin. Code ch. NR 700, outline the requirements for submittals, including electronic submittals. Consultants and representatives of responsible parties are required to submit one paper copy and one electronic copy of submittals, including case closure documents. The electronic version must be an exact duplicate of the paper version. Failure to submit both a paper copy and electronic copy delays acceptance of your submittals.

3. Consider the Benefits of a Fee-based Technical Review of your Submittals

In-depth department review of technical reports and submittals is available for a fee. The Remediation and Redevelopment (RR) Program project managers are available throughout the process to answer general questions

and provide general input as the site moves toward closure. However, if you want a formal written response from the department, a meeting or both on a specific submittal, a review fee will be required in accordance with Wis. Admin. Code ch. NR 749. **Obtaining technical assistance from department project managers throughout the process is an effective way to prevent problems and delays at the end of the process when case closure is requested.** Forms, a fee schedule, and further information on technical assistance is available at dnr.wi.gov and searching “brownfield fees”.

Required Steps to Take and Documents to Submit:

The steps listed below serve as a general overview only — all mandatory steps and submittals specified in state law must be met before the department can grant “case closure”, which is a determination by the department that no further cleanup is necessary at a site, as defined in Wis. Admin. Code § NR 700.03(3m).

1. **Scoping and Work Plan Submittal – NR 716.07 and 716.09:** The law requires that you appropriately scope out your site investigation and submit a work plan within **60 days of this notification**, by January 16, 2020, for completing a site investigation. The work plan must comply with the requirements in Wis. Admin. Code, chs. NR 700 through NR 754. For additional assistance, the department has extensive guidance on its web page at dnr.wi.gov and search “brownfield publications”.

Prior to and during a site investigation, you must evaluate whether any interim actions are needed to contain or stabilize a hazardous substance discharge or environmental pollution, pursuant to Wis. Admin. Code § NR 708.11. If you undertake an interim action (e.g., free product removal), you must submit documentation of the action per Wis. Admin. Code § NR 708.15.

As you develop the site investigation work plan, you must include an assessment of the vapor intrusion pathway. Wis. Admin. Code § NR 716.11(5) outlines the requirements for when to evaluate for the presence of vapors in the sub-surface and in indoor air. The results and conclusions from the vapor assessment must be included in the Wis. Admin. Code § NR 716.15 site investigation report whether or not you elected to take vapor samples. *Addressing Vapor Intrusion at Remediation & Redevelopment Sites in Wisconsin, RR-800*, is available to help responsible parties and their consultants comply with these requirements.

2. **Field Investigation – NR 716.11:** Following submission of the work plan, the site investigation must be started within the timeframe provided under law. The timeframe varies depending on whether you are requesting the department’s fee-based review of the work plan. If you do not request a fee-based review of the work plan, you must initiate the field investigation within 90 days of submitting the work plan, and you may proceed with the field investigation upon department notification to proceed; however, if the department has not responded within 30 days, from submittal of the work plan, you may then proceed with the field investigation. If a fee and request for department review of the work plan is submitted, the field investigation must begin within 60 days after receiving department approval.
3. **Sample Results Notification Requirements – NR 716.14:** You must report sampling results to the department, owners, occupants, and various other parties within 10 business days after receiving the sampling results, unless a different timeframe is approved by the department, in accordance with Wis. Admin. Code § NR 716.14.
4. **Site Investigation Report – NR 716.15:** Within 60 days after completion of the field investigation and receipt of the laboratory data, the law requires you to submit a Site Investigation Report (SIR) to the department. As part of the SIR or in the Remedial Actions Options Report (RAOR), if there is soil contamination, the responsible party shall identify the current land use (i.e., industrial or non-industrial) and zoning for the site or facility in accordance with Wis. Admin. Code § NR 720.05(5). Also, as part of the SIR

or in the RAOR, you must include any interim action report that may be required under Wis. Admin. Code § NR 708.15.

5. **Remedial Actions Options Report – NR 722:** Within 60 days after submitting the SIR, the law requires you to submit a RAOR. The selected remedy in the RAOR should include an evaluation of green and sustainable remediation criteria, as appropriate, as required by Wis. Admin. Code § NR 722.09(2m). This may be submitted as part of a broader SIR.
6. **Remedial and Interim Action Design, Implementation, Operation, Maintenance and Monitoring Reports – NR 724:** Unless otherwise directed by the department, the responsible party shall submit all plans and reports required in Wis. Admin. Code ch. NR 724.
7. **Notification of Residual Contamination or Continuing Obligations – NR 725:** In situations where notification is required, the responsible party must provide submittal(s) that confirms that continuing obligations have been identified and affected property owners have been notified by the responsible parties 30 days prior to case closure, as required by Wis. Admin. Code ch. NR 725.
8. **Semi-annual Reporting -- NR 700.11:** Wis. Admin. Code § NR 700.11(1)(a) requires responsible parties to submit semi-annual site progress reports to the department until final case closure is granted. The reports summarize the work completed over six months and additional work planned to adequately complete the response action at the site. Consultants may submit these reports on behalf of responsible parties. These reports are due in January and July of each year. Please refer to department publication *NR 700 Semi-Annual Site Progress Report, RR-082*, for more information.

Submittals required under Wis. Admin. Code chs. NR 700 - 726

These documents, as applicable, must be submitted to the department prior to the responsible party requesting case closure, unless otherwise directed by the department:

- ☐ Ch. NR 708 reports and documentation for any immediate or interim actions.
- ☐ Ch. NR 712 professional certifications and signatures are included with applicable submittals.
- ☐ Ch. NR 716 work plan(s) and site investigation report.
- ☐ Ch. NR 722 remedial action options report (exception is for Dry Cleaners Environmental Response Fund sites), with the selected remedial action identified.
- ☐ Ch. NR 724 design, construction documentation, operation, maintenance and monitoring plans and reports, including vapor mitigation commissioning.
- ☐ Ch. NR 725 submittal(s) that confirms that continuing obligations have been identified and affected property owners have been notified by the responsible parties 30 days prior to case closure.
- ☐ If requesting case closure, the Ch. NR 726 case closure form and documentation substantiating compliance with the NR 700 rule series.
- ☐ Ch. NR 749 fees have been paid, as applicable, including closure and database fees.
- ☐ Ch. NR 700 semi-annual site progress reports starting six months after notification.

Additional Information:

The department tracks information on all cleanup sites in a department database available at dnr.wi.gov and search "BOTW". The Bureau for Remediation and Redevelopment Tracking System (BRRTS) identification

number for this site is listed at the top of this letter. You may view information related to your site on this database at any time.

All correspondence regarding this site should be directed to:

Carrie Stoltz
Remediation and Redevelopment Program
Wisconsin Department of Natural Resources
107 Sutliff Avenue
Rhineland, WI 54501
Carrie.Stoltz@Wisconsin.gov

As previously noted, you are required to submit one paper copy and one electronic copy of plans and reports. To speed up processing, your correspondence should reference the BRRTS and Facility Identification (FID) numbers (if assigned) listed at the top of this letter.

Please visit the department's Remediation and Redevelopment Program website at dnr.wi.gov and search "Brownfields", for information on selecting a consultant, seeking financial assistance, and understanding the investigation and cleanup process. Information regarding review fees, liability clarification letters, post-cleanup liability and more is also available.

Information on *NR 700 Process and Timeline Overview*, *Selecting a Consultant*, *Environmental Services Contractor List*, *Environmental Contamination Basics*, *NR 700 Semi-Annual Site Progress Report*, and *Wis. Admin. Code ch. NR 712 Qualifications and Certifications* is enclosed.

If you have questions, please contact me at (715) 365-8942 or by email at Carrie.Stoltz@Wisconsin.gov for more information.

Thank you for your cooperation.

Sincerely,



Carrie Stoltz
Hydrogeologist
Remediation & Redevelopment Program
Northern Region

Enclosures:

NR 700 Process and Timeline Overview, RR-967
Selecting a Consultant, RR-502
Environmental Services Contractor List, RR-024
Environmental Contamination Basics, RR-674
NR 700 Semi-Annual Site Progress Report, RR-082
Wis. Admin. Code ch. NR 712 Qualifications and Certifications, RR-081

cc: Melissa Yarrington, WDNR Stormwater Management Specialists (via email)
Warden Chris Bartelt, WDNR (via email)
Deb Dix, WDNR Environmental Enforcement (via email)
Bob Germer, WDNR Waste and Materials Management (via email)
Joey Becker, WisDOT Salvage Investigator (via email)

State of Wisconsin
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107 Sutliff Avenue
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April 23, 2021

JOHN ECKERT
8861 COUNTY H
EAGLE RIVER, WI 54521

Subject: **Status Update Request**
Owens Property, 8861 County H, Eagle River, Wisconsin
DNR BRRTS Activity # 02-44-584685
DNR FID # 364000120

Dear Mr. Eckert:

You were notified on November 14, 2019 of your legal responsibilities under Wis. Stat. § 292.11, to address a hazardous substance discharge on the above referenced site (Site). A copy of this letter is attached for your review. The Department of Natural Resources (DNR) has not received any information from you concerning your response to this hazardous substance discharge. Submit the following items to the DNR by May 27, 2021:

- 1.) a written status update including hiring an environmental consultant
- 2.) A site investigation work plan.

As the responsible party for this hazardous substance discharge, you have a legal responsibility to investigate and clean up contamination resulting from the hazardous substance discharge. The DNR will work with you to move this site towards closure.

The legal responsibilities are defined both in statute and in administrative code. The hazardous substances spill law, Section 292.11(3), Wisconsin Statutes states "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."

Wisconsin Administrative Code chapters NR 700 through NR 749 establish requirements for emergency and interim actions, public information, site investigations, design and operation of remedial action systems, and case closure. Chapter NR 708 includes provisions for immediate actions in response to limited contamination. Wisconsin Administrative Code chapter NR 140 establishes groundwater standards for contaminants that reach groundwater.

The DNR appreciates your cooperation and looks forward to an update regarding this Site. Please contact me (715) 360-1966 or by email at: Carrie.Stoltz@Wisconsin.gov if you have any questions concerning this correspondence.

Sincerely,

Carrie Stoltz
Hydrogeologist - Remediation & Redevelopment Program
Northern Region

Enclosures: November 14, 2019 letter

cc: Brad Johnson, WDNR Wastewater Specialist (via email)
Chris Bartelt, WDNR Law Enforcement Supervisor (via email)
Deb Dix, WDNR Environmental Enforcement (via email)
Bob Germer, WDNR Waste and Materials Management (via email)
Joey Becker, WisDOT Salvage Investigator (via email)