



February 27, 2020

File Ref BRRTS: 07-68-585311  
09-68-585312

Gerard Flood  
von Briesen & Roper, s.c.  
411 East Wisconsin Avenue, Suite 1000  
Milwaukee, WI 53202

Subject: Liability Clarification and “No Action Required” Determination, per Wis. Admin. Code NR § 716.05(2).  
Choice Cleaners – Lake Country Square Mall, 601 Ryan Street, Pewaukee, Wisconsin  
Parcel #: PWV0883991

Dear Mr. Flood:

**Purpose**

The purpose of this letter is to provide you with clarifications as to environmental liabilities and current environmental conditions at 601 Ryan Street, Pewaukee, Wisconsin (“the Property”). The Property consists of approximately 11 acres of land located in Waukesha County, identified by tax parcel number PWV0883991. Refer to the attached figure for a site map of the Property.

**Summary Determination**

Hazardous substance discharges or environmental pollution have occurred on the Property. However, the Wisconsin Department of Natural Resources (“the department”) has determined that no response actions are required. The department has made this determination based on the data made available to the department and the criteria in Wis. Admin. Code § NR 716.05.

**Request**

On February 11, 2020, Blaine Schroyer from Terracon Consultants, Inc. (Terracon) requested on your behalf that the department issue a liability clarification letter under Wis. Stat. § 292.55. The letter contains a determination as to whether response actions are needed under the Wis. Admin. Code NR 700 rule series based on the discharge of one or more hazardous substances or presence of environmental pollution at the Property. The department received the fee for providing assistance, in accordance with Wis. Admin. Code § NR 749.04(1).

For the department to make this determination, you have requested a review of the following documents:

- *No Action Required Request*, February 10, 2020 by Terracon;
- *Notification for Hazardous Substance Discharge*, December 13, 2019 by Terracon;
- *Limited Site Investigation*, December 9, 2019 by Terracon.

The department examined the reports listed above and provides the following summary of the case and opinions concerning environmental conditions at the Property.

### **Background and Summary of Environmental Conditions**

The Property is in the Village of Pewaukee in Waukesha County, Wisconsin. It is bounded by State Highway 16 to the north, commercial properties to the east, residences to the south and Pewaukee's water tower to the west. The Property was undeveloped until 1990 when the current building was constructed. The Property includes a 64,630-square-foot multi-tenant retail building, paved parking areas, grassy areas and a road that connects to Ryan Street. Tenants include a former grocery store, dry cleaner, nail salon, chiropractor, insurance agent, Goodwill, hair salon and former restaurant. A closed Environmental Repair Program (ERP) case Choice Cleaners – Lake Country Square Mall with BRRTS # 02-68-226376 is associated with the Property from the onsite dry cleaner Choice Dry Cleaner. The case was closed in 2002 with a Preventive Action Limit (PAL) exemption in groundwater for tetrachloroethylene (PCE).

In 2019, a limited site investigation was conducted by Terracon. One soil boring was installed to a depth of 16 feet southwest of Choice Dry Cleaner. Soil identified in the boring included sandy clay. Two soil samples were collected and were laboratory analyzed for volatile organic compounds (VOCs). The soil boring was converted to a temporary groundwater monitoring well. One groundwater sample was collected and was laboratory analyzed for VOCs. One sub-slab vapor monitoring point VP-1 was installed in the Choice Dry Cleaner building near the dry-cleaning machine. One vapor sample was collected and was laboratory analyzed for VOCs.

Laboratory analytical results did not identify VOCs in the soil samples. Laboratory analytical results identified toluene in the groundwater sample but well below its Wis. Admin. Code ch. NR 140 preventive action limit (PAL). Cis-1,2-dichloroethylene was identified in the groundwater sample above its PAL but below its Wis. Admin. Code ch. NR 140 enforcement standard (ES). Cis-1,2-dichloroethylene is a breakdown product of PCE. The detection of cis-1,2-dichloroethylene appears to be associated with the closed ERP case and is not indicative of a new discharge. Laboratory analytical results identified dichlorodifluoromethane (Freon-12) in the vapor sample above its small commercial vapor risk screening level (VRSL). Freon-12 was used as a refrigerant and in foam insulation and is not associated with dry cleaning operations. No other VOCs were identified in the vapor sample. Because of the Freon-12 exceedance Terracon installed five additional vapor points. VP-1R was installed in the same location as VP-1 to confirm the Freon-12 exceedance. Three vapor points were installed in the former grocery store, and one vapor point was installed in a former restaurant located between the grocery store and Choice Dry Cleaner. One vapor sample was collected from each vapor point and was laboratory analyzed for VOCs. Freon-12 was identified in the vapor sample collected from VP-1R but below its small commercial VRSL. It appears that Freon-12 identified in the vapor samples beneath Choice Dry Cleaner may be associated with foam insulation beneath the dry cleaner building and is not indicative of a discharge to the environment.

### **Liability Determination**

Wis. Stat. ch. 292 and Wis. Admin. Code chs. NR 700-754 require those who are responsible for a hazardous substance discharge or environmental pollution to take actions necessary to respond to the contamination. Wis. Stat. § 292.55, authorizes the department to issue clarification letters concerning liability for environmental pollution.

The data summarized above indicates that one or more hazardous substance discharges or environmental pollution has been discovered on the Property. However, based on the criteria in Wis. Admin. Code § NR 716.05(2)(a) and Wis. Admin. Code §§ NR 708.09 (1) and (2), the department has determined that no response actions, including further site investigation activities, are required under Wis. Admin. Code chs. NR 700-754 to respond to these identified discharges or environmental pollution. However, as with any property, if soil is excavated in the future, the property owner at the time of excavation must determine whether the material is considered a solid or hazardous waste and ensure that any storage, treatment or disposal complies with applicable standards and rules.

As with any environmental assessment, all areas of the Property were not assessed, the numbers of samples collected were limited based on professional judgment and financial considerations, and samples were not analyzed for all parameters. This letter relates and refers only to those conditions described above and to information and data you submitted to the department in your request for this letter. The department makes no determination concerning the presence or absence of hazardous substances or environmental pollution, other than those identified in the documents and reports listed above, which you submitted to us. In the future, if the department becomes aware of new information concerning the contaminants referenced above, or the presence of other contaminants on the Property, the department will evaluate that data at that time to determine if any response actions are required. Whenever possible, the department requires the person who caused the discharge to take the appropriate response actions.

The Bureau for Remediation and Redevelopment Tracking System (BRRTS) identification number for this activity is shown at the beginning of this letter. The department tracks information on all case determinations such as this letter in a department database that is available online at [dnr.wi.gov](http://dnr.wi.gov) and search: "BOTW". Since there is no action required for this case, the department will identify this site activity as a "No Action Required" determination.

If you have any questions, please contact me at (414) 263-8626, by writing to the address at the top of this letter or by email to [alice.egan@wisconsin.gov](mailto:alice.egan@wisconsin.gov).

Sincerely,



Alice Egan  
Hydrogeologist - Remediation & Redevelopment Program  
Southeast Region

Attachment: Exhibit 2, Site Diagram, November, 2019 by Terracon

cc: Blaine Schroyer, Terracon (electronic)  
Stan Hack, Lake Country Square, LLC (electronic)  
Margaret Brunette, Wisconsin Department of Natural Resources (electronic)



LEGEND	
	APPROXIMATE SITE BOUNDARY

IMAGE SOURCE: GOOGLE EARTH PRO  
 DIAGRAM IS FOR GENERAL LOCATION ONLY, AND IS NOT INTENDED FOR CONSTRUCTION PURPOSES

Project Mngr:	AJL	Project No.	58197210
Drawn By:	PJS	Scale:	AS SHOWN
Checked By:	AJL	File No.	58187210C1
Approved By:	BRS	Date:	11/2019

**Terracon**  
 Consulting Engineers and Scientists

9856 SOUTH 57th STREET FRANKLIN, WI 53132  
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SITE DIAGRAM	
LAKE COUNTRY SQUARE 601 RYAN STREET PEWAUKEE, WISCONSIN	

EXHIBIT
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