



October 21, 2021

Manoj Gupta
Gupta Real Estate
4350 West High View Drive
Franklin, WI 53132
Via Electronic Mail Only to manoj4350@gmail.com

Subject: Liability Clarification and “No Action Required” Determination Letter
Village Mini Mart, 201 North Rochester Street, Mukwonago, Wisconsin 53132
Parcel #: MUKV 1976-091-022
BRRTS Activity Name: Village Mini Mart
BRRTS #: 07-68-588586 and 09-68-588589, FID #: 268270640

Dear Mr. Gupta:

The Wisconsin Department of Natural Resources (DNR) received a request for a liability clarification and a “No Action Required” determination request from Manoj Gupta from Gupta Real Estate on behalf of Gupta Real Estate on October 12, 2021 (Request). The Request was submitted with the appropriate review fee for the site location (Property) identified above. The purpose of this letter is to provide Gupta Real Estate clarification as to environmental liabilities and current environmental conditions at the Property. Wisconsin Statutes (Wis. Stat.) § 292.55(1)(d)1 authorizes the DNR to issue a letter to a person seeking assistance concerning the liability of a person owning or leasing a property for environmental pollution at a property, the type and extent of environmental pollution at a property, the adequacy of an environmental investigation, or any other matter related to a request for assistance. This type of letter contains a DNR determination as to whether response actions are needed under Wisconsin Administrative Code (Wis. Admin. Code) chs. NR 700 to 799 based on the discharge of one or more hazardous substances, or the presence of environmental pollution at the Property. The DNR based this letter on review of environmental reports that were provided in the Request:

- Liability clarification letter request, completed Form 4400-237, signed October 19, 2021, including a cover letter and attachments.
- *Underground Storage Tank Site Assessment*, dated June 21, 2021 by General Engineering Company (GEC).

The DNR also reviewed DNR files for Gardners Mini Mart, 201 North Rochester Street, Mukwonago (BRRTS #: 03-68-000596).

PROPERTY USE

The Property consists of a half-acre parcel of land that was used as a gas station. It is improved with a two-story building that was used as a convenience store. The balance of the property is paved parking and driveway areas.

Refer to the attached figure for a map of the Property.

BACKGROUND AND ENVIRONMENTAL SUMMARY

The Property has operated as a gas station. The Property is in the Village of Mukwonago and is bounded by North Rochester Street to the east and commercial properties to the north, south and west. A closed leaking underground storage tank (LUST) case is associated with the Property (BRRTS #: 03-68-000596). The case was opened in 1989 because petroleum contamination was identified during the removal of an underground storage tank system at the Property. The case was closed in 2000 with residual petroleum volatile organic compounds (PVOCs) in the groundwater on the southeast side of the Property.

In June 2021, the underground storage tank (UST) system, which included three fiberglass unleaded gasoline USTs, fiberglass piping, and dispensers, was removed from the Property. Two of the tanks were located on the southeast side of the Property, and one tank was located south of the onsite building. No groundwater was encountered in the tank cavity, and native soil was identified as sand with cobbles. The tanks were inspected after removal, and no holes or cracks were identified. GEC conducted a tank system site assessment (TSSA) to document the removal which included the collection of eight soil samples from native soil beneath the dispensers, piping and from the tank excavation cavities. The presence of pea gravel in the tank excavation cavities prevented the collection of sidewall and base samples in these areas. The soil samples were laboratory analyzed for PVOCs and naphthalene.

Laboratory analytical results identified benzene above Wis. Admin. Code ch. NR 720 residual contaminant levels (RCLs) for groundwater pathway in two samples collected at 11 and 13 feet below ground surface (bgs) in the tank cavity on the southeast side of the Property. The residual groundwater contaminated with PVOCs is located in the area of these two soil samples. During the LUST investigation, groundwater was identified at 9 to 12 feet bgs. Groundwater was not encountered during the TSSA sampling because of an unseasonable dry spring. The TSSA soil samples in this area were collected at the soil water table interface.

The DNR concurs with GEC's conclusion that the benzene contamination identified in the tank cavity on the southeast side of the Property is associated with the closed LUST case.

DETERMINATIONS

Wis. Stat. ch. 292 and Wis. Admin. Code chs. NR 700 to 799 require those who are responsible for a hazardous substance discharge or environmental pollution to take 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. Wis. Stat. § 292.55 authorizes the department to issue clarification letters concerning liability for environmental pollution.

Hazardous substance discharges or environmental pollution have been discovered on the Property. The DNR has determined that the contamination is likely from a known Leaking Underground Storage Tank (LUST) case that was previously closed by the DNR. A site is closed when the department with authority determines that the responsible party at the time conducted appropriate remediation to clean up a site to the extent practicable to protect human health and the environment, and that the work performed met the requirements in Wis. Admin. Code § NR 726.05. The discharges or environmental pollution currently on the Property appear to be part of the residual contamination that was known to remain when the site was closed. Based on the information provided at this time, the DNR has determined that the site does not meet the requirements in Wis. Admin. Code § NR 727.13 to be reopened and no response actions are required.

SOIL MANAGEMENT

As described above, benzene contamination is present in the soil in the tank cavity area on the southeast side of the Property. The concentrations of benzene detected in the soil do not require further action at this time, but this soil may require management as a solid waste if it is excavated in the future. The property owner at the time of excavation must determine whether the material is considered solid or hazardous waste and ensure that any storage, grading, excavation or disposal is in compliance with applicable regulations. Soil that meets the criteria to be considered "exempt soil" may be managed without department approval. See *Exempt Soil Management: A Self-Implementing Option for Soil Excavated During a Response Action under Wis. Admin. Code chs. NR 700 through NR 750 Applicability (RR-103)* for more information (visit dnr.wi.gov, search "RR-103"). Contaminated soil may be managed in accordance with Wis. Admin. Code ch. NR 718 with prior DNR approval.

As with any environmental assessment, some areas of the Property were not assessed, the number of samples collected were limited based on professional judgment and financial considerations, and environmental 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 DNR in your request for this letter. The DNR makes no determination concerning the presence or absence of hazardous substances or environmental pollution on the Property other than those identified in the documents and reports listed above, which you submitted to the DNR. In the future, if the DNR becomes aware of new information concerning the contaminants referenced above or the presence of any other contaminants on the Property, the DNR will evaluate that data at that time to determine if any response actions are required.

CLOSING

This letter, site and case-related information and DNR contacts can be found online in the Bureau for Remediation and Redevelopment Tracking System (BRRTS) on the Web (BOTW); go to dnr.wi.gov and search "BOTW." Use the BRRTS ID # found at the top of this letter. The site can also be found on the map view, Remediation and Redevelopment Sites Map (RRSM) by searching "RRSM."

If you have any questions regarding this letter, please contact me at 414-639-4007, or alice.egan@wisconsin.gov.

Sincerely,



Alice Egan
Southeast Region Project Manager
Remediation and Redevelopment Program

Attachment: Site Plan and Soil Sample Location Map, 6/18/2021, GEC.

cc:

Margaret Brunette, DNR, Remediation and Redevelopment Program – Margaret.Brunette@wisconsin.gov
Michael Prager, DNR, Remediation and Redevelopment Program – Michael.Prager@wisconsin.gov



LAND INFORMATION SYSTEMS DIVISION

Site Plan and Soil Sample Location Map



Legend

Red Rectangles: Former USTs
Red Dot: Piping Sample
Red Squares: Dispenser Locations

Blue Lines: Limits of Excavation

Note: Due to the large amount of pea gravel backfill many of the sidewall and bottom samples could not be collected due to concerns with regard to cave in along North Rochester Street, the driveway to the south and along the south side of the site building.

0 16.95 Feet

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Notes:

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