



July 21, 2022

Four D Investments LLC
Attn: Mr. Dale Smith
505 Grand Ave
Little Chute, WI 54140
Sent via Electronic Mail Only to dsmith@tanncorporation.com

Subject: Off-site liability exemption for property located at 505 Grand Avenue, Little Chute, Wisconsin with soil and groundwater contamination from an off-site source
Parcel # 260045800, BRRTS # 07-45-590053

Dear Mr. Smith:

Purpose

The Department of Natural Resources ("the department") recently reviewed your request for an off-site exemption letter for the property located at 505 Grand Avenue, Little Chute, Wisconsin, which will be referred to in this letter as "the Property." Refer to the attached *Boring Location Map*, Figure 3, dated September 2021, for a map of the Property. The department received a \$700 fee for providing this letter pursuant to Wis. Stat. §§ 292.13 (2) and (3), and Wis. Admin. Code ch. NR 749.

Summary Determination

The department, based on the information made available to it, confirms that Four D Investments, LLC qualifies for the off-site liability exemption, and Four D Investments, LLC is not responsible for investigation or cleanup of the contamination that originated on a neighboring property. The Property owner may be responsible for limited actions that are described in this letter, under Wis. Stat. §§ 292.12 and 292.13, for the soil and groundwater contamination that migrated onto the Property.

Based on the determination that Four D Investments, LLC is not responsible for investigation or cleanup of the contamination, this letter also acts as a rescission of the responsible party letter that was issued to Four D Investments, LLC on March 28, 2022. Therefore, no action is required by Four D Investments LLC, so the Four D Investments LLC case, BRRTS # 02-45-589437, will be changed to a No Action Required (NAR) case, with the revised BRRTS # 09-45-589437.

Request

You have requested that the department determine if Four D Investments, LLC is exempt from Wis. Stats. §§ 292.11(3), (4) and (7)(b) and (c), (commonly known as the "Spill Law"), with respect to the existence of a hazardous substance discharge in the soil and groundwater that you believe is migrating onto the Property from an off-site source.

Wis. Stats. § 292.13(2) requires the department to issue, upon request, a written determination regarding a liability exemption for a person who possesses or controls property that is contaminated by an off-site discharge when certain conditions are met. To make this determination, the department reviewed information about the Property, including soil and groundwater sampling data for the Property and/or other sites contained in the following documents:

- Off-Site Liability Exemption and Liability Clarification Application form (Form 4400-201), signed June

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17, 2022;

- Documentation and Off-Site Exemption Request for the Property Located 505 Grand Avenue in Little Chute, Wisconsin, June 17, 2022, Friess Environmental Consulting, Inc.;
- Limited Site Investigation Report, October 11, 2021, Terracon Consultants, Inc.; and
- Site Investigation and Interim Action Report, December 13, 2019, Terracon Consultants, Inc.

Background

The department considered the documents listed above in making the determinations presented in this letter. In July of 2021, The Village of Little Chute hired Terracon Consulting, Inc. to perform soil and groundwater sampling on the Property as part of their due diligence to potentially acquire the Sandies Dry Cleaners & Laundry (Former) - SL site (“the Sandies site”) via a method that would qualify the Village for the local government unit (LGU) environmental liability exemption. The Sandies site has documented release(s) of volatile organic compounds (VOCs), which included elevated concentrations of perchloroethylene (PCE). Soil samples were obtained from one boring location (P-8) on the Property; one foot below ground surface (bgs) had 6,420 ug/kg PCE and five feet bgs had 263 ug/kg PCE. A grab groundwater sample from the same location also detected 161 ug/L PCE in groundwater. The sampling location is shown on the attached *Boring Location Map*, Figure 3, dated September 2021. On November 19, 2021, DNR sent a letter to Four D Investments, LLC, requesting historical land use information for the Property be submitted to the department by January 18, 2022, so the department could continue their evaluation and determine who was responsible for the VOC contamination detected. No response was received, so the department issued a responsible party (RP) letter to Four D Investments, LLC on March 28, 2022.

On June 24, 2022, as part of the Off-Site Liability Exemption Request (the “Request”), the department received the requested historical land use information that was outlined in the letter sent to Four D Investments, LLC on January 18, 2022.

Determination

Based upon the available information and in accordance with Wis. Stat. § 292.13, the department concurs that the VOC contamination in shallow soil and groundwater discovered on the Property at sampling point P-8 on the attached *Boring Location Map*, Figure 3, dated September 2021, is related to the Sandies site based on the following information provided in the Request:

- The release on the Sandies site is from a surficial spill as documented in Warden Michael Young’s 2011 case activity report documenting an interview with a bartender who worked in the tavern next door that witnessed pumping of liquid out the back door of the drycleaner and pooling onto the ground surface.
- Boring logs show granular material (sand and gravel) overlying a silty clay layer present at approximately 1 to 2.5 feet below ground surface. Surficial contamination likely travelled from the Sandies site through this granular material, along the impermeable silty clay barrier layer, to the area of contamination on the Property.
- No basement is present between the Sandies site’s contamination and boring P-8 where shallow soil contamination was discovered on the Property. The garage building present between the contamination and P-8 is slab-on-grade and likely has coarse fill beneath to act as a preferential pathway.
- The historical use of the Property includes use as a grocery store, beer depot, antique store, youth center, insurance office, and baker’s outlet; none of which are associated with use of PCE or VOCs.
- In combination with the information outlined above, the site investigation and remedial action data collected for the Sandies site shows that the contamination in soil and groundwater discovered on the Property is associated with the Sandies site.

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The department, based on the information available, determined that the Property owner met the conditions in Wis. Stats. § 292.13 to qualify for the liability exemption, including but not limited to the following provisions:

1. The hazardous substance discharge originated from a source on property that is not possessed or controlled by Four D Investments, LLC.
2. Four D Investments, LLC did not possess or control the hazardous substance on the property on which the discharge originated.
3. Four D Investments, LLC did not cause the discharge.
4. Four D Investments, LLC will not have liability under the Spill Law for investigation or remediation of the soil and groundwater contamination originating from off-site onto the Property, provided that Four D Investments, LLC does not take possession or control of the property on which the discharge originated.

Exemption Conditions

The department's determination, as set forth in this letter, is subject to compliance with the following conditions, as specified in Wis. Stats. §§ 292.13(1) and (1m).

1. The facts upon which the department based its determination are accurate and do not change.
2. Four D Investments, LLC agrees to allow the following parties to enter the Property to take action to respond to the discharge: the department and its authorized representatives; any party that possessed or controlled the hazardous substance or caused the discharge; and any consultant or contractor of such a party.
3. Four D Investments, LLC agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge.
4. Four D Investments, LLC agrees to any other condition that the department determines is reasonable and necessary to ensure that the department and any other authorized party can adequately respond to the discharge.
5. With respect to soil, vapor or sediment contamination only, Four D Investments, LLC agrees to take one or more specified actions directed by the department, if the department determines that the actions are necessary to prevent an imminent threat to human health, safety or welfare or to the environment. This would occur after the department made a reasonable attempt to notify the party who caused the hazardous substance discharge about that party's responsibilities to investigate and clean up the discharge.

Responsibilities for Continuing Obligations

In addition to the conditions above, after the contamination at the source property is remediated, the department's approval of the cleanup may include continuing obligations at the source property as well as your Property. Often residual contamination remains after an approved environmental cleanup is complete. This approval may include requirements to maintain engineering controls, such as a cap or soil cover, to reduce the impact of the contamination. In that event, you may also be required to notify the DNR prior to constructing a water supply well on your Property. If the neighboring property owners request for cleanup approval includes requirements for your Property, the party conducting the cleanup is required to notify you before the DNR reviews the proposal for final approval of the clean-up.

Conclusion

The department granted Four D Investments, LLC an off-site exemption under Wis. Stats. § 292.13. Please note that the department may revoke the determinations made in this letter if it determines that any of the requirements under Wis. Stats. § 292.13, cease to be met.

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Future Property owners are eligible for the exemption under Wis. Stats. § 292.13, if they meet the requirements listed in that statute section. The determinations in this letter regarding a liability exemption, however, only apply to Four D Investments, LLC, and may not be transferred or assigned to other parties. The department will provide a written determination to future owners of this Property, if such a determination is requested in accordance with the requirements of Wis. Stats. § 292.13.

The Bureau for Remediation and Redevelopment Tracking System (BRRTS) identification number for this activity is shown at the top of this letter. The department tracks information on all determinations such as this in a department database available online at dnr.wi.gov and search: "BOTW".

If you have any questions or concerns regarding this letter, please contact me at (920) 366-5685, or by email at josie.schultz@wisconsin.gov.

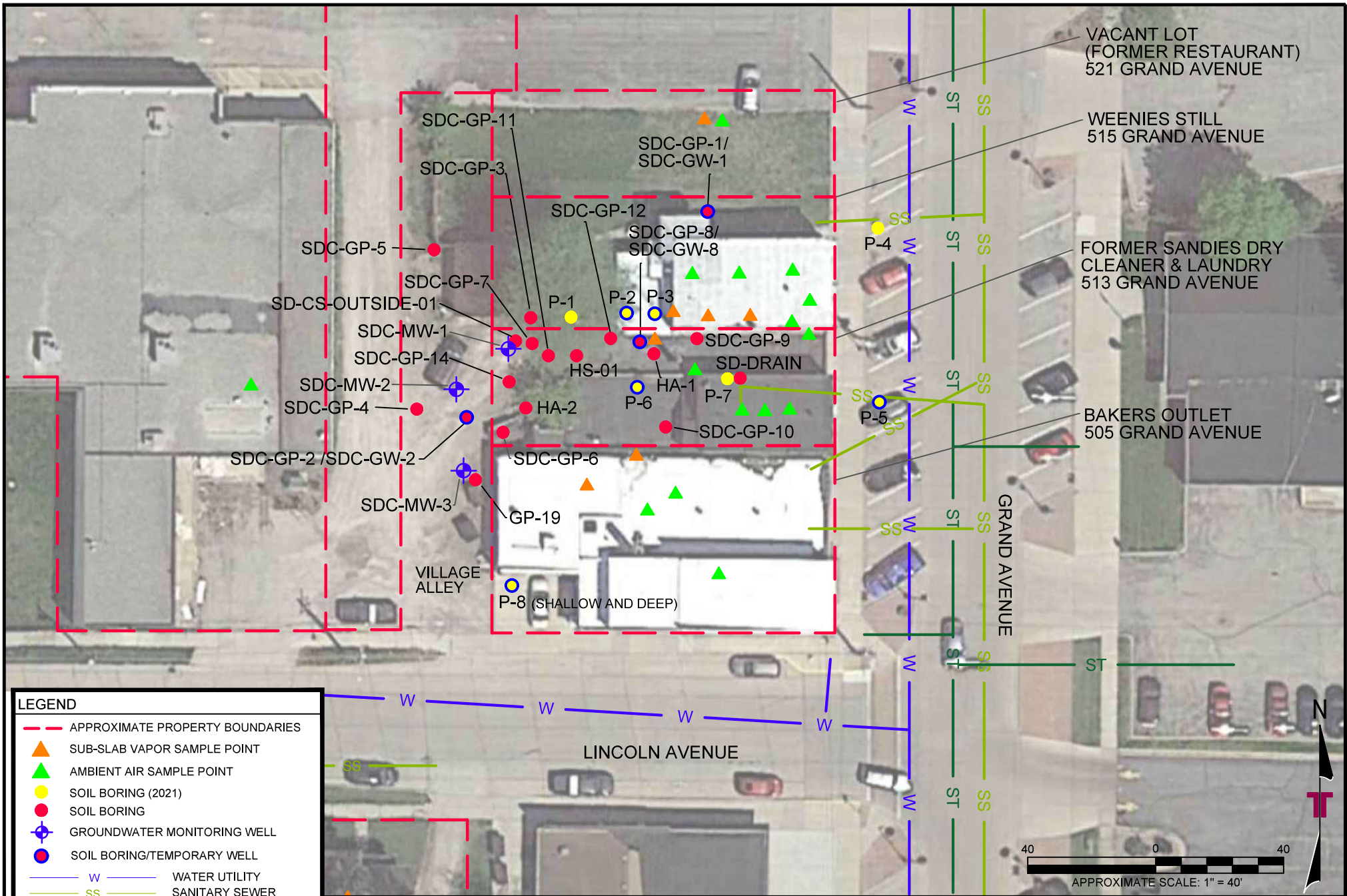
Sincerely,



Josie Schultz
Project Manager
Remediation & Redevelopment Program

Attachment: *Boring Location Map*, Figure 3, dated September 2021

cc: Deborah Smith (bakersoutlet@sbcglobal.net)
Trenton Ott, Freiss Environmental Consulting, Inc. (tott@fecinc.us)
Dave Kittel, Village of Little Chute (david.kittel@littlechutewi.org)
Mylan Koski, Terracon Consultants, Inc. (makoski@terracon.com)
David Linskens, 1687 Princeton Place #5, Green Bay, WI 54302
Michael Prager, DNR (Michael.Prager@wisconsin.gov)
Tauren Beggs, DNR (Tauren.Beggs@wisconsin.gov)



LEGEND

- APPROXIMATE PROPERTY BOUNDARIES
- ▲ SUB-SLAB VAPOR SAMPLE POINT
- ▲ AMBIENT AIR SAMPLE POINT
- SOIL BORING (2021)
- SOIL BORING
- ⊕ GROUNDWATER MONITORING WELL
- SOIL BORING/TEMPORARY WELL
- W WATER UTILITY
- SS SANITARY SEWER
- ST STORM SEWER

SANITARY SEWER LATERAL LOCATIONS ESTIMATED FROM VILLAGE OF LITTLE CHUTE-PROVIDED UTILITY DRAWINGS

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

Project Mngr:	KLK	Project No.	58217064
Drawn By:	PJS	Scale:	AS SHOWN
Checked By:	KLK	File No.	58217064C1
Approved By:	SAH	Date:	9/2021

Terracon
 Consulting Engineers and Scientists

9856 SOUTH 57th STREET FRANKLIN, WI 53132
 PH. (414) 423-0255 FAX. (414) 423-0566

BORING LOCATION MAP

SANDIES DRY CLEANER & LAUNDRY (FORMER)
 513 GRAND AVENUE
 LITTLE CHUTE, WISCONSIN

FIGURE

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