



September 9, 2022

Colin Van Sluys
Corky's Union 76
W62 N245 Washington Avenue
Cedarburg, WI 53012
Via Electronic Mail Only to vansluyscolin@yahoo.com

Subject: Liability Clarification and "No Action Required" Determination Letter
Corky's Union 76, W62 N245 Washington Avenue, Cedarburg, Wisconsin 53012
Parcel #: 130670206002
BRRTS Activity Name: Corkys Union 76 Station
BRRTS #: 07-46-590390 and 09-46-590499, FID #: 246065270

Dear Mr. Van Sluys:

The Wisconsin Department of Natural Resources (DNR) received a request for a liability clarification and a "No Action Required" determination request from David Lennon from Moraine Environmental, Inc. (Moraine) on behalf of Corky's Union 76 on August 11, 2022 (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 Corky's Union 76 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 and other documents that were provided in the Request:

- Liability clarification letter request, completed Form 4400-237, signed August 10, 2022, including a cover letter and attachments.
- *Phase II Environmental Site Assessment (ESA) Report*, dated July 14, 2022 by Moraine.

The DNR also reviewed DNR files for Corkys Union 76 Station (BRRTS # 03-46-001656).

PROPERTY USE

The Property consists of a 0.36-acre parcel of land that is currently used for auto repair. It is improved with a one-story building. The balance of the Property is an asphalt drive and parking lot and grass covered areas.

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

BACKGROUND AND ENVIRONMENTAL SUMMARY

The Property is in the City of Cedarburg. It is bounded by Washington Avenue to the east, Fairfield Street to the south, residences to the west and a commercial property to the north. A closed leaking underground storage tank (LUST) case BRRTS # 03-46-001656 is associated with the Property. The case was closed on October 8, 2002 with residual petroleum impacted soil and groundwater and a structural impediment.

A Phase I ESA was conducted and identified the historic and current use of the Property as recognized environmental conditions (RECs). A Phase II Environmental Site Assessment (ESA) was conducted in 2022 to investigate the RECs. Five soil probes were installed across the Property. Two soil samples were collected from each probe and were laboratory analyzed for volatile organic compounds (VOCs), polycyclic aromatic hydrocarbons (PAHs), Resource Conservation and Recovery Act (RCRA) metals and polychlorinated biphenyls (PCBs). The probe locations were converted into small diameter groundwater monitoring wells. One groundwater sample was collected from each well and was laboratory analyzed for VOCs, PAHs, RCRA metals and PCBs. Three sub-slab vapor points were installed in the onsite building. One vapor sample was collected from each vapor point and was laboratory analyzed for VOCs.

Laboratory analytical results of the soil did not identify any contaminants above Wis. Admin. Code ch. NR 720 residual contaminant levels or background threshold values. Laboratory analytical results of the groundwater identified benzene above its Wis. Admin. Code ch. NR 140 enforcement standard (ES) at well SP/SD-4. All other contaminants were below their respective Wis. Admin. Code ch. NR 140 preventive action limits or were below detection limits. Laboratory analytical results of the vapor samples were below their respective vapor risk screening levels for all contaminants.

The benzene ES exceedance at well SP/SD-4 appears to be associated with the closed LUST activity BRRTS # 03-46-001656 because it is in the location of that activity's residual groundwater plume.

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 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, petroleum contamination is present in the soil on the southeast side of the Property that is associated with the closed LUST case. The concentrations of petroleum volatile organic compounds 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: Figure 1, Sample Location Map, Moraine

cc:

David Lennon, Moraine – moraine@execpc.com

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

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



FIGURE 1

SAMPLE LOCATION MAP

W62 N245 WASHINGTON AVE

CEDARBURG, WI 53012

