



June 19, 2023

PSAM, LLC  
Attn: Susan Krueger  
926 Baldwin Street  
Neenah WI 54956  
Sent via email only to: 2susiek@gmail.com

Subject: Off-site Liability exemption for property located at 1233 S. Commercial Street, Neenah WI with groundwater contamination from an off-site source  
BRRTS # 07-71-592049; Parcel # 80205220000

Dear Ms. Krueger:

### **Purpose**

The Department of Natural Resources ("the department") recently reviewed your request for an off-site exemption letter for the property located at 1233 S. Commercial Street in Neenah Wisconsin, which will be referred to in this letter as "the Property." Refer to the two attached figures for maps of the Property in relation to surrounding properties. 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 PSAM, LLC qualifies for the off-site liability exemption, and PSAM, 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 groundwater contamination that migrated onto the Property.

### **Request**

You have requested that the department determine if PSAM, 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 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 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) received May 3, 2023;
- Case closure documentation from Shilobrits Cleaners (02-71-228433) and Phillips 66 (03-71-002008)

### **Background**

The department considered the documents listed above in making the determinations presented in this letter. The Property is an approximately 167' by 88' commercial lot in the City of Neenah. A commercial building is located on the eastern portion of the lot and the remainder consists of paved parking and green space. Groundwater

contamination was identified on the Property during site investigation activities for the Shilobrits Cleaners (02-71-228433) and Phillips 66 (03-71-002008) sites. Cleanup actions were conducted at each of these sites and the department determined that the cleanup was sufficient and case closure letters were issued by the department. As part of the standard case closure process, notices of residual groundwater contamination were provided to the owner of the Property. Besides the contamination in groundwater that has migrated from the two sites described above, there has been no reported release of a hazardous substance at the Property.

### **Determination**

Based upon the available information and in accordance with Wis. Stat. § 292.13, the department makes the following determinations regarding the presence of perchloroethene (PCE), trichloroethene (TCE), cis-1,2-dichloroethene, and vinyl chloride in groundwater that was detected at monitoring well locations P4, CPZ1 and CMW5 and benzene in groundwater that was detected at MW-5 and PZ1. Monitoring well locations are identified in the attached figures.

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 PSAM, LLC.
2. PSAM, LLC did not possess or control the hazardous substance on the property on which the discharge originated.
3. PSAM, LLC did not cause the discharge.
4. PSAM, LLC will not have liability under the Spill Law for investigation or remediation of the groundwater contamination originating from off-site onto the Property, provided that PSAM, 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. PSAM, 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. PSAM, LLC agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge.
4. PSAM, 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.

### **Responsibilities for Continuing Obligations**

In addition to the conditions above, the following continuing obligation was applied to Property as part of the case closure for the two source properties.

#### **Residual Groundwater Contamination** (Wis. Admin. Code ch. NR 140 and § NR 812.09(4)(w))

Groundwater contamination which equals or exceeds the enforcement standards for PCE, TCE, cis-1,2-dichloroethane, and vinyl chloride in groundwater at monitoring well locations P4, CPZ1 and CMW5 and benzene in groundwater at MW-5 and PZ1 was detected on the Property. To construct a new well or reconstruct

an existing well, the property owner must obtain prior DNR approval. Additional casing may be necessary to prevent contamination of the well.

#### **Additional Environmental Considerations**

Contaminated groundwater is present on the Property in the above-described sample locations, which are shown on the attached maps. Owners and occupants of the Property should be aware that construction over the contaminated groundwater may in some conditions result in vapor migration of contaminants into enclosed structures or migration along newly placed underground utility lines. The potential for vapor inhalation and means of mitigation should be evaluated when planning any future redevelopment, and measures should be taken to ensure the continued protection of public health, safety, welfare, and the environment at the Property.

#### **General Wastewater Permits for Construction-related Dewatering Activities (Wis. Admin. Code ch. NR 200)**

The DNR's Water Quality Program regulates point source discharges of contaminated water, including discharges to surface waters, storm sewers, pits, or to the ground surface. This includes discharges from construction-related dewatering activities, including utility work and building construction.

If the property owner or any other person plans to conduct such activities, that person must contact the Water Quality Program and, if necessary, apply for the required discharge permit. If residual soil or groundwater contamination is likely to affect water collected in a pit/trench that requires dewatering, a general permit for discharge of *Contaminated Groundwater from Remedial Action Operations* may be needed. If water collecting in a pit/trench that requires dewatering is expected to be free of pollutants other than suspended solids, oil and grease, a general permit for pit/trench *Dewatering Operations* may be needed. Additional information can be obtained by visiting the DNR website at "dnr.wi.gov," search "wastewater general permits."

#### **Conclusion**

The department granted PSAM, 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.

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 PSAM, 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](http://dnr.wi.gov) and search: "BOTW".

If you have any questions or concerns regarding this letter, please contact me at (920) 808-0170, by email at [Kevin.McKnight@wisconsin.gov](mailto:Kevin.McKnight@wisconsin.gov).

Sincerely,



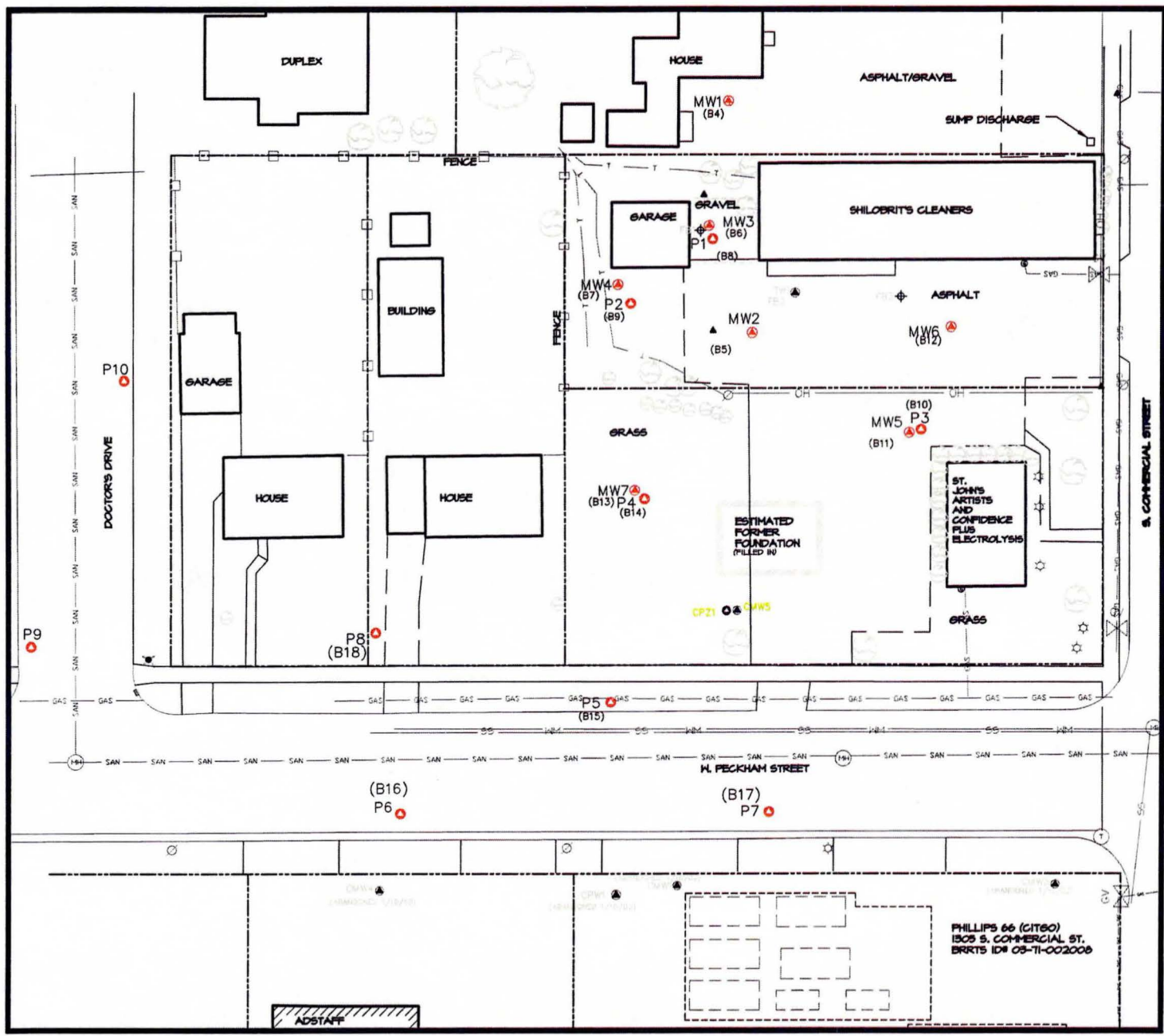
Kevin D. McKnight  
Hydrogeologist/Project Manager  
Remediation and Redevelopment Program

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PSAM, LLC - Susan Krueger  
PSAM LLC, BRRTS# 07-71-592049  
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Attachments: Figure 2, Site Map, REI, April 13, 2001  
Figure 2, Site Detail Map, OMNNI Associates, June 17, 2005

cc: Michael Prager RR/5 - Michael.Prager@wisconsin.gov  
Tauren Beggs NER - Tauren.Beggs@wisconsin.gov  
Steven Frassetto, Menn Law Firm Ltd - Steven-Frassetto@mennlaw.com



0' 6' 15' 30'  
 SCALE: 1" = 30'  
 LOCAL GRID NORTH  
 N

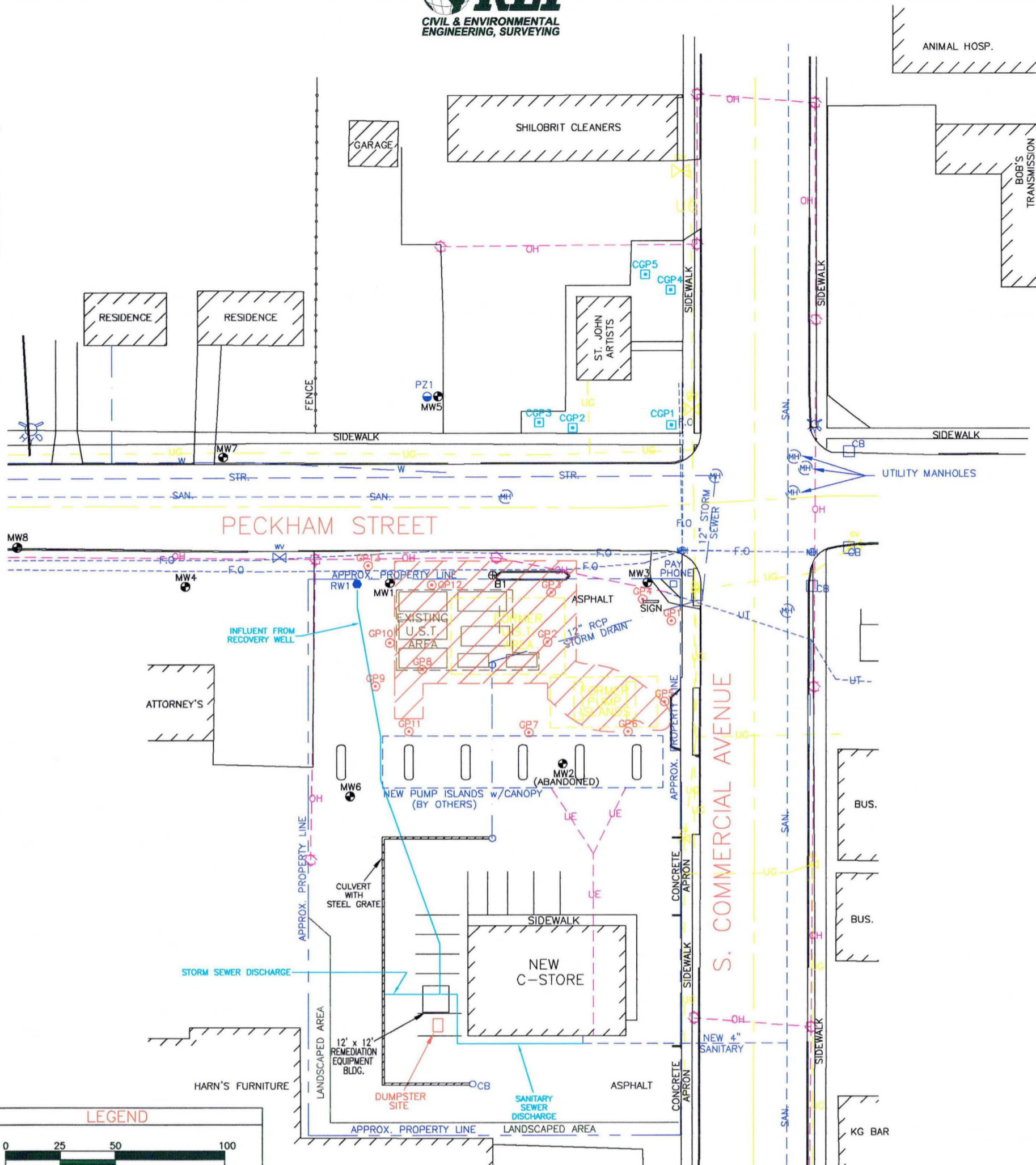
- LEGEND:**
- MW1 (red circle with triangle) OMNNI Well Location
  - P1 (red circle) OMNNI Piezometer Location
  - (B1) (red circle) OMNNI Boring Location
  - FE- (circle with cross) Existing Fischer Soil Boring Location and I.D. No.
  - CMW5 (circle with triangle) Existing REI Well Location and I.D. No.
  - DRW1 (circle with triangle) Existing REI Groundwater Recovery Well
  - CPZ1 (circle with triangle) Existing Piezometer Location and I.D. No. - REI
  - DRW1 (circle with triangle) REI Abandoned Well Location (1/10/03)
  - Estimated Underground Storage Tank Location at Phillips 66
  - - - Limit of Excavation at Phillips 66
  - Building Face
  - - - Approximate Property Line
  - Edge of Asphalt
  - - - Edge of Gravel
  - - - Fiber Optic Line
  - Storm Inlet
  - SS Storm Sewer
  - SAN Sanitary Sewer
  - W&H Watermain and Hydrant
  - Catch Basin
  - GV Gas Line with Gas shutoff Valve
  - Gas Meter
  - OH Overhead Electrical
  - ⊙ Power Pole
  - ⊛ Light Pole
  - ⊙ Tree/Shrub

**FIGURE 2**  
 SITE DETAIL MAP

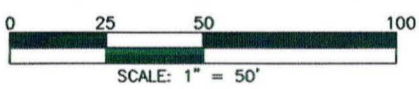
SHILOBRIT'S CLEANERS  
 1231 COMMERCIAL STREET  
 NEENAH, WISCONSIN

**OMNI ASSOCIATES**  
 ONE SYSTEMS DRIVE  
 APPLETON, WI 54914  
 PHONE (920) 735-6900  
 FAX (920) 835-8100

PROJECT MANAGER:	PROJECT NO:	N1707A01
PROJECT ENGINEER:	CAD FILE NO:	SITE_1
DRAWN BY:	D.D.	SCALE: 1" = 30'
REVIEWED BY:	DATE:	8/17/2008



**LEGEND**



- CONFIRMATORY GEOPROBE SOIL BORING
- GEOPROBE SOIL BORING
- RECOVERY WELL
- MONITORING WELL
- SOIL BORING
- PIEZOMETER
- CATCH BASIN
- WATER VALVE
- STORM SEWER LINE
- SANITARY SEWER LINE
- BURIED ELECTRICAL
- UTILITY POLE
- OVERHEAD UTILITIES
- BURIED FIBER OPTIC LINE
- BURIED PHONE LINE
- BURIED GAS LINE
- GAS VALVE
- SOIL EXCAVATION AREA
- REMEDIATION PIPING

KRIST OIL COMPANY  
1305 S. COMMERCIAL AVENUE  
NEENAH, WISCONSIN

FIGURE 2 : SITE MAP

PROJECT No.  
0479

PREPARED BY:  
TAW

DATE:  
4/13/2001