



August 30, 2023

Mr. Luke Soper
JP Neighborhood Shops, LLC.
N2028 Wedgewood Drive East
La Crosse, WI 54601
Via email only – lukewsoper@gmail.com

Subject: Off-site Liability exemption for property located at 1820 Jackson Street, La Crosse, WI 54601 with vapors and groundwater contamination from an off-site source
Parcel # 70247

Dear Mr. Soper:

Purpose

The Department of Natural Resources ("the department") recently reviewed your request for an off-site exemption letter for the property located at 1820 Jackson Street, La Crosse, WI 54601, which will be referred to in this letter as "the Property." Refer to the attached "Attachment 1" 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 JP Neighborhood Shops, LLC. qualifies for the off-site liability exemption, and Luke Soper 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 vapors and groundwater contamination that migrated onto the Property. The Property owner is responsible for any discharges of hazardous substances whose source originates on the Property.

Request

You have requested that the department determine if JP Neighborhood Shops, 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 vapors 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 vapors 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) dated July 5, 2023

Background

The department considered the documents listed above in making the determinations presented in this letter. Groundwater contamination from the former One Hour Cleaners Jackson Street site migrated onto the Property and was delineated by monitoring wells DMW-2, MW-4, and MW-6. The monitoring wells identified volatile

organic compounds (VOCs) causing groundwater contamination on the Property. Low level detections of polycyclic aromatic hydrocarbons (PAHs) were also detected in MW-4 and MW-6 formerly located on The Property. Sub-slab and indoor air sampling in the Jackson Plaza Basement show the presence of VOCs in vapors at the Property as well.

The department understands a 1,000-gallon fuel oil tank was removed from the Property on May 1, 2023. A tank system service and closure assessment report were submitted and indicated that there were no signs of contamination present at the time of closure.

Determination

Based upon the available information and in accordance with Wis. Stat. § 292.13, the department makes the following determinations regarding the presence of contamination in the groundwater and vapors. Ethylbenzene, toluene, xylenes, naphthalene, trimethylbenzenes, tetrachloroethene, bromodichloromethane, benzo(b)fluoranthene, and benzo(a)pyrene were present in groundwater at the Property when MW-4 and MW-6 were last sampled by the One Hour Cleaners Jackson Street and Bions Mobil sites. Tetrachloroethene was present in vapors below the Property's slab and in the basement when vapor samples were taken in July 2012.

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 JP Neighborhood Shops, LLC .
2. JP Neighborhood Shops, LLC. did not possess or control the hazardous substance on the property on which the discharge originated.
3. JP Neighborhood Shops, LLC. did not cause the discharge.
4. JP Neighborhood Shops, LLC. will not have liability under the Spill Law for investigation or remediation of the soil, vapor or groundwater contamination originating from off-site onto the Property, provided that JP Neighborhood Shops, 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. JP Neighborhood Shops, 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. JP Neighborhood Shops, LLC. agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge.
4. JP Neighborhood Shops, 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, JP Neighborhood Shops, 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 JP Neighborhood Shops, 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 JP Neighborhood Shops, 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 (715) 492-2304, by email at matthewa.thompson@wisconsin.gov.

Sincerely,



Matt Thompson
Hydrogeologist - Remediation & Redevelopment

cc: Michael Prager, Remediation & Redevelopment (electronic)
Robert Langdon, SCS Engineers (electronic)