
From: Witte, Edward <nwitz@gklaw.com>
Sent: Monday, November 09, 2020 1:51 PM
To: Nelson, William J - DNR
Cc: Perzan, Christopher P; Alido, Ferdinand; Rodriguez, Beata; richardg@kprginc.com
Subject: RE: DHS Vapor Communication to Phoenix Heights Residents - ERP Case # 02-68-098404 Navistar [GK-Active.FID2891820]

Bill,

The purpose of this communication is to document the objection of Navistar, Inc. to the correspondence that the State of Wisconsin Department of Health Services and Department of Natural Resources indicated late last week it would transmit to owners of residential properties in an area of Waukesha known as the Phoenix Heights subdivision, formed roughly by Perkins Avenue to the north, Whiterock Avenue to the west, East Main Street to the south and the continuation of Perkins Avenue to the East.

Navistar objects to the State's communication because it contains legal and technical inaccuracies regarding the responsibility of Navistar for the environmental conditions that have been identified in the Phoenix Heights area. Navistar, through its consultant, KPRG, and through my office, provided revisions to the proposed letter, in response to the request of the WDNR. However, these revisions were selectively incorporated into the State's final draft. When I wrote you, after you related to me that just one word had been excluded from our proposed revision that I had submitted to Mark Drews of the WDNR, to specifically object to the State transmitting the inaccurate letter, you got back to me, in your message of November 5, 2020, below, to effectively advise Navistar that it was "too late" and that the State would proceed with distributing the letter.

Navistar has been consistent in its approach to the investigation and response activities in the Phoenix Heights area. To accommodate the WDNR, Navistar conducted groundwater and vapor phase investigations south of Perkins Avenue in the Phoenix Heights area. This has now expanded to vapor intrusion investigations and installation of vapor mitigation measures in up to 100 residences. Navistar has convincingly demonstrated that its former manufacturing activities north of Perkins Avenue are not the source of the contamination in the Phoenix Heights area. This is perhaps most comprehensively documented [in the detailed analysis that KPRG submitted to WDNR dated November 15, 2018 \("Groundwater Impacts South of Perkins Avenue"\)](#) (available in the WDNR BRRTS database). The November 15, 2018 report establishes a clear basis for concluding that former industrial and railroad activity in the Phoenix Heights area are likely primary sources of the groundwater and vapor phase VOC contamination in the area. Navistar has expressed its disappointment and concern that KPRG's analysis has never received the technical review it deserves from WDNR.

Navistar revised the DHS and WDNR communication to residents of this area last week to correct the possible interpretation of the letter that Navistar is the party responsible for the Phoenix Heights contamination or that Navistar in any way concurs with that perspective. Navistar maintains that the position presented by the State is technically indefensible. Navistar reiterates its request that the WDNR look seriously at the evidence presented by KPRG in its November 15, 2018 report. Navistar remains prepared to assist the WDNR in this consideration.

Please confirm that this e-mail has been uploaded and added as a hyperlinked entry in the Former Navistar/RMG Foundry BRRTS file (BRRTS # 02-68-098904).

Thank you for your attention to this matter. Please contact me with any questions.

Ned

Edward Witte | Attorney
414.287.9518 direct | nwitz@gklaw.com

From: Nelson, William J - DNR <William.Nelson@wisconsin.gov>
Sent: Thursday, November 5, 2020 12:39 PM
To: Witte, Edward <nwitz@gklaw.com>
Subject: RE: DHS Vapor Communication to Phoenix Heights Residents - ERP Case #02-68-098404 Navistar [GK-Active.FID2891820]

[EXTERNAL] This message originated from outside your domain.

Good afternoon Ned,

Following up on our call two hours ago, Mark Drews and I just met with DHS to request additional changes to the letter. DHS informed us the letters were executed and with their mailing personnel. I wanted to share this information with you as soon as I had it to provide you direction in the event you wished to draft a letter to the DNR regarding disagreement with any specific statements in the DHS letter on behalf of your client.

Please let me know if you would like to discuss any related issues and we can set up a time for a call.

Best,
Bill

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Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

William J. Nelson
Phone: (608) 267-7456
william.nelson@wisconsin.gov

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From: Nelson, William J - DNR
Sent: Thursday, November 5, 2020 9:10 AM
To: Witte, Edward <nwitz@gklaw.com>
Subject: RE: DHS Vapor Communication to Phoenix Heights Residents - ERP Case #02-68-098404 Navistar [GK-Active.FID2891820]

Ned,

I've forwarded your email. I am attempting to reach Pam Mylotta. I will call you at 10 AM.

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Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

William J. Nelson
Phone: (608) 267-7456
william.nelson@wisconsin.gov

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From: Witte, Edward <nwitte@gklaw.com>
Sent: Thursday, November 5, 2020 8:34 AM
To: Nelson, William J - DNR <William.Nelson@wisconsin.gov>
Subject: FW: DHS Vapor Communication to Phoenix Heights Residents - ERP Case #02-68-098404 Navistar [GK-Active.FID2891820]

Bill,

Further to my e-mail, please see attached. Please advise Mark Drews, Pam Mylotta and DHS that Navistar does not consent to this revised letter being distributed.

Ned

Edward Witte | Attorney
414.287.9518 direct | nwitte@gklaw.com

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From: Drews, Mark D - DNR <Mark.Drews@wisconsin.gov>
Sent: Wednesday, November 4, 2020 11:19 AM
To: richardg@kprginc.com; Witte, Edward <nwitte@gklaw.com>; Perzan, Christopher P <Chris.Perzan@Navistar.com>; Alido, Ferdinand <Ferdinand.Alido@Navistar.com>
Cc: Drews, Mark D - DNR <Mark.Drews@wisconsin.gov>; Mylotta, Pamela A - DNR <Pamela.Mylotta@wisconsin.gov>
Subject: FW: DHS Vapor Communication to Phoenix Heights Residents - ERP Case #02-68-098404 Navistar [GK-Active.FID2891820]

[EXTERNAL] This message originated from outside your domain.

Ned,
Please see the proposed changes to the letter.

We are committed to service excellence.
Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Mark Drews
Cell Phone: 414-207-2133
Mark.Drews@wisconsin.gov

From: Koch, Amanda A - DHS <Amanda.Koch@dhs.wisconsin.gov>
Sent: Wednesday, November 04, 2020 10:53 AM
To: Drews, Mark D - DNR <Mark.Drews@wisconsin.gov>
Cc: Mylotta, Pamela A - DNR <Pamela.Mylotta@wisconsin.gov>; Nelson, William J - DNR

<William.Nelson@wisconsin.gov>; Walden, James E -DNR <jamese.walden@wisconsin.gov>

Subject: RE: DHS Vapor Communication to Phoenix Heights Residents - ERP Case #02-68-098404 Navistar [GK-Active.FID2891820]

No problem; I genuinely enjoy this kind of work and hope we see a positive outcome!

All—please see the attached for final template mailers that we expect to mail out tomorrow (Thursday, 11/5) to area property owners. Mark, feel free to share this with Navistar. If all looks well, I will go ahead and share these final mailers with the ProHealth Hispanic Outreach Center team.

Thank you!
Amanda