

AFFIDAVIT FOR A HAZARDOUS WASTE  
DISPOSAL SITE

I Daniel Lex, being an elected official for the Town of Aniwa, Shawano County, Wisconsin depose and say that the property owned by the Town of Aniwa recorded in Vol. 211 page 544, Document No. 197449, further described as "all that part of the (SE) Southeast (¼) Quarter of the (NW) Northwest (¼) Quarter lying east of the C. & N. W. R. R. Section Nineteen (19) Township Twenty-Nine (29) North Range Eleven (11) East" is a former arsenic pesticide storage and disposal site as referenced in Wisconsin Department of Natural Resources Consent Order No. LMD-88-13, hereto attached.

Daniel Lex  
Chairman, Town of Aniwa

Subscribed and sworn to before me  
this 11th day of February, 1992.

Kenneth O. Schram Sr  
Notary Public, State of Wisconsin

My Commission expires KENNETH O SCHRAM SR  
Notary Public, Shawano Co., WI  
My Commission Expires Oct. 24, 1992

REGISTERS OFFICE  
SHAWANO COUNTY, WI SS u  
Received for Record this 12  
day of Feb A.D. 1992 at 3:55  
o'clock P. M. AND Recorded in Vol. 711  
of Records, Pages 64-67  
Sally Radman Register

BEFORE THE  
STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

In the Matter of Clean Up of Arsenic )  
Contaminated Soils in the Town of )      CONSENT ORDER NO.  
Aniwa, Shawano County, Wisconsin )      LMD-88-13

FINDINGS OF FACT

The Department finds that:

1. In January, 1983, Wisconsin Department of Natural Resources (Department) personnel responded to a request by the Town of Aniwa (Town) to investigate potential contamination on property owned by the Town. The site is located at T29N, R11E, Section 19, SE 1/4 of the NW 1/4 in Shawano County. On this property was a storage shed, which was used to store arsenic pesticides (grasshopper poison).
2. Department personnel visited the site on January 13, 1983. They discovered white and green powders on the dirt floor of the shed. Sampling results indicated that the soil base of the shed was contaminated with arsenic. The Department requested that the Town conduct an investigation to determine the extent of contamination.
3. Town officials indicated that several drums of arsenic pesticide were buried at the site in 1975. In August, 1983, the town excavated soil on the SW corner of the shed to check for possible buried drums. During the excavation, liquid and powder in metal and wooden drums were uncovered. At that point the excavation was halted and the excavation was filled in. The town fenced off the area and posted warning signs.
4. In May, 1984, an Extent of Contamination Survey was performed on the site. Eight drums were found and contained on the site. Approximately 60 cubic yards of contaminated soil were excavated and secured on site.
5. The Department contracted with Chemical Waste Management for final excavation, pick up, transport and disposal of the contaminated soils. The Department also contracted for the installation of a groundwater monitoring well system. Total contractor and material costs were \$25,423.00.
6. In a March 25, 1985, letter to the Town, the Department informed the Town of its responsibility to sample and analyze the groundwater, to record with the Register of Deeds a notation on the property title explaining that the

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site had been used for the storage and disposal of arsenical pesticides, and to revegetate and maintain the site as needed to provide an impervious cap over the disposal area. This letter explained that if the Town agreed to take responsibility for these three items, the Department would not seek reimbursement of the \$25,423.00 spill fund expenditures.

7. In a June 17, 1988, letter, the Town board agreed to take responsibility for the three items listed in 6. above.

#### CONCLUSIONS OF LAW

The Department concludes that:

1. Arsenic pesticides are is a "hazardous substance" as that phrase is defined in section 144.01(4m), Wisconsin Statutes.
2. The Town had possession of, and control over, the arsenic pesticides at the time of burial and subsequent discharge and has the responsibility under section 144.76(3), Wisconsin Statutes, to take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from any discharge to the air, land or waters of this State.
3. The Department has the authority under section 144.76(7)(c), Wisconsin Statutes, to issue orders for the protection of public health, safety of welfare.
4. This Consent Order is reasonable and necessary to accomplish the purposes of section 144.76, Wisconsin Statutes, and is enforceable under the provisions of chapter 144, Wisconsin Statutes.

#### CONSENT ORDER

The parties to this Consent Order (the Town and the Department) hereby agree to the following:

1. The Town shall, within 30 days of the effective date of this Consent Order, submit to the Department for approval a groundwater sampling and analysis plan for the arsenic contamination site. This plan shall contain at a minimum the procedures that will be followed for proper bailing, sampling and analysis of the groundwater monitoring wells on a quarterly basis.
2. The Town shall, within 30 days of the date the Department approves the groundwater sampling plan, the Town shall implement the plan as approved.

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3. The Town shall, within 30 days of the effective date of this Consent Order, submit documentation to the Department that a notation on the property title was filed with the Register of Deeds that states that the site had been used for the storage and disposal of arsenical pesticides.
3. The Town shall, within 60 days of the effective date of this Consent Order, submit to the Department for approval a long term care plan for the site. This plan shall include provisions to revegetate and maintain the site as needed to insure the integrity of an impervious cap at a minimum.
4. The long term care plan for the site shall be implemented by the Town, within 90 days of the Department approval, according to the terms of the Department approval.
5. This Consent Order is effective immediately on signature of both parties.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By John LaFontaine  
John LaFontaine  
Acting Assistant Administrator  
Division of Enforcement

2/27/90  
Date

WAIVER AND STIPULATION

The Town of Aniwa hereby waives further notice and its statutory right to demand a hearing before the Department of Natural Resources regarding the foregoing Finding of Facts, Conclusions of Law, and Consent Order and to challenge the Consent Order in circuit court under sections 227.52 and 227.53, Wisconsin Statutes, or under any other provision of Law. The Town further stipulates and agrees that the Consent Order is effective and enforceable upon being signed by both parties and may be enforced in accordance with sections 144.98 and 144.99, Wisconsin Statutes. The undersigned, Ms. Emily Gardner, Town Clerk, certifies that she is authorized by the Town to execute such Consent Order, Waiver and Stipulation.

By Emily Gardner  
Emily Gardner  
Town Clerk  
Town of Aniwa, Shawano County

2-13-90  
Date