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REGISTER'S OFFICE
WINNEBAGO COUNTY, WI
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JULIE PAGEL
REGISTER OF DEEDS

RECORDING FEE 13.00
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OF PAGES 2

T03-13-19-04-10-007

Document Number

AFFIDAVIT

Legal Description of the Property:

Lot 4 and the West 1/2 of Lot 3 of Block 1 in REPLAT BLOCK 21 & LOTS 7, 8, 9, 10, 11, 12, 13 & 14 of BLOCK 20, in the Fifth Ward, in the City of Menasha, Winnebago County, Wisconsin.

STATE OF WISCONSIN)
)
COUNTY OF WINNEBAGO)

Recording Area

Name and Return Address:

Jennifer Easterly
WI Department of Natural Resources
625 E. CTY Y, Suite 700
Oshkosh, WI 54901-9731

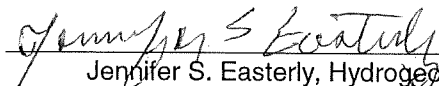
I, Jennifer S. Easterly, being first duly sworn, state that:

1. I am a Hydrogeologist, employed by the Wisconsin Department of Natural Resources (herein after "the Department") at its Oshkosh Service Center, 625 E. County Rd Y, Suite 700, City of Oshkosh, Winnebago County, Wisconsin.
2. I have knowledge of the facts herein set forth and believe the same to be true.
3. The Department has determined that petroleum product discharged to the property which is located at 637 Broad Street, City of Menasha, Winnebago County Wisconsin, and which has the above captioned legal description, (the "Property"), has contaminated soil and groundwater in the vicinity. The Property is listed as owned by Randy A. Holewinski, on the most recent quit claim deed at the Winnebago County Register of Deeds.
4. On December 4, 2002, the Department received a fax notification report from OMNNI Associates that a pit containing waste oil was discovered during a real estate inspection by ACRE Realty. Obvious waste oil product and soil contamination was observed during the inspection. OMNNI Associates collected 6 soil samples from the pit which contained elevated Diesel Range Organics (DRO) and polycyclic aromatic hydrocarbons (PAHs). A groundwater sample was also collected on December 4, 2002 that showed elevated volatile organic compounds (VOCs) above the enforcement standards of ch. NR 140 Wis. Adm. Code. Department representatives visited the site on December 5, 2002 and noted that the pit was actually an old dug well that had been improperly abandoned under ch. NR 800 Wis. Adm. Code and utilized as a waste oil disposal area.
5. On November 5, 2003 a letter was sent to both Karla and Randy Holewinski at the following address's; 404 Manitowoc Street, Menasha, WI and 105 N Lake Street, Neenah, WI respectively advising both parties of their statutory requirement to restore the environment at the property. No response was received from either party.
6. On November 24, 2003, a Notice of Violation letter (NOV) was sent to both Karla and Randy Holewinski for their failure to take action to investigate and remediate the contamination on the Property. This NOV also requested they attend an enforcement conference on December 17, 2003 which was moved to January 13, 2004 due to a conflict with the Holewinski's schedule.
7. On January 13, 2004, an enforcement conference was held with Karla and Randy Holewinski. The Holewinski's agreed the stockpiled contaminated soil on the Property was to be disposed of no later than February 13, 2004. A consultant was to be hired no later than March 1, 2004.
8. On February 17th, 2004 Randy Holewinski requested an extension to dispose of the soil due to it being frozen in place. An extension was granted to March 26, 2004. A summary of the enforcement conference was mailed on February 17, 2004. Both Karla and Randy Holewinski failed to respond by the deadline of March 1st to hire a consultant.
9. On November 22, 2004, the Department sent a letter to Randy Holewinski to request a status update on the contaminated soil which was originally stockpiled on site. The Department has no documentation that the soil was properly disposed in a licensed landfill.

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In Re: Property Located in the
City of Menasha, Winnebago County,
Described above:

10. On May 25, 2005, the Department sent a letter to both Karla and Randy Holewinski requesting an update within the next 15 days on the case. In addition, the letter requested the contaminated soil disposal documentation as none had been received even though the soil was removed from the site. The Department received no response to that letter.
11. On September 9, 2005, a second Notice of Violation letter was sent to both Karla and Randy Holewinski for their failure to take action to investigate and remediate the contamination on the Property. This letter also provided the Holewinski's the opportunity to demonstrate their inability to pay for completing the investigation and cleanup of the Property. This opportunity was provided in response to the Property owners indicating they were financially unable to proceed with the cleanup. The Department received no response to that letter.
12. On October 9, 2005, the Ability to pay documents were again delivered to Randy Holewinski by Department warden Amy Egstad. Randy Holewinski completed the documents and delivered them to the Oshkosh DNR office on October 14, 2005, stating that he was financially unable to pay for the cleanup.
13. On October 10, 2005, Karla Holewinski filed a quit claim deed to transfer her ownership in the property to Randy A Holewinski as sole owner of the property.
14. On May 11, 2006 the Department sent a Third Notice of Violation letter to Mr. Holewinski informing him that the Department determined that it believed that he was financially unable to investigate and remediate the Property and that it would record a deed affidavit of contamination on the Property if satisfactory action to restore the environment did not commence. That letter requested a written response by May 27, 2006 and provided Mr. Holewinski the opportunity to meet to discuss this determination prior to filing the deed affidavit. The Department received no response to that letter.
15. The Department believes that removal or treatment of the contaminated soil, and/or groundwater monitoring, are required on the Property under the authority of s. 292.11(3), Wisconsin Statutes.
16. As the Department believes that petroleum contamination currently found in the soil and groundwater on the Property with the above legal description, will continue to discharge into the environment, subsequent purchasers of the Property could be held responsible for investigation and clean-up costs under s. 292.11(3), Wis. Stats.


Jennifer S. Easterly, Hydrogeologist

Subscribed and sworn to before me this 26th day of Sept., 2006.


Notary Public, State of Wisconsin

My commission expires on: 12-20-2009

This document was drafted by the Wisconsin Department of Natural Resources.