State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
101 S. Webster Street
Box 7921
Madison WI 53707-7921

Tony Evers, Governor
Preston D. Cole, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711

August 17, 2020

DAVID ELKOUBY
BROADWAY EQUITIES LLC
1 ROSE ST
CEDARHURST NY 11516

Subject: **Reminder to Include Evaluation of Emerging Contaminants in Site Investigation**
PHOENIX PRODUCTS CO INC
6161 N 64TH ST
BRRTS# 02-41-285692
FID# 241334060

Greetings:

This letter is being sent to all Responsible Parties (RPs) that currently have an open contamination site on the DNR's Bureau for Remediation and Redevelopment Tracking System (BRRTS). The purpose of this letter is to remind RPs to assess emerging contaminants and their potential impacts as early in the cleanup process as possible, preferably during the site investigation phase. Emerging contaminants include perfluoroalkyl and polyfluoroalkyl substances (PFAS), 1,4-dioxane and others. While many RPs and their consultants have been assessing emerging contaminants, there have been several situations where these substances had not been evaluated at the time a case closure request was submitted. In some cases, this resulted in the need for additional field work which ultimately delayed case closure.

It is the responsibility of RPs to evaluate hazardous substance discharges and environmental pollution including emerging contaminants under the Wis. Admin. Code NR 700 rule series. Emerging contaminants discharged to the environment, including certain PFAS, meet the definition of hazardous substance and/or environmental pollution under Wis. Stat. § 292.01:

- Wis. Stat. § 292.01 (3) "Discharge" means, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying or dumping.
- Wis. Stat. § 292.01 (4) "Environmental pollution" means contaminating ... air, land, or waters of the state or making the same injurious to public health ...
- Wis. Stat.§ 292.01 (5) "Hazardous substance" means any substance ... which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics ...

Per Wis. Admin. Code § NR 716.07 and Wis. Admin. Code § NR 716.09, site investigation scoping and work plans should include an evaluation of potential PFAS compounds and other applicable emerging contaminants that were historically or are presently produced, used, handled, or stored at the site. The evaluation should include any available information on whether any products containing PFAS were used in any process services, the duration of PFAS-containing product use, the type of PFAS contained in the product, and any areas of the site where PFAS-containing products may have been used, stored, managed, or discarded. Site investigation work plans should also include a sampling and analysis strategy to be used during field investigation that considers all information in the evaluation conducted under Wis. Admin. Code § NR 716.07.

Responsible parties should also be aware that case closure decisions issued under Wis. Admin. Code ch. NR 726 are based on information on file at the time of the closure request and apply only to the hazardous substance discharge or environmental pollution that was investigated and remediated under the Wis. Admin. Code NR 700 rule series. If DNR receives new evidence about a closed site which indicates a PFAS discharge occurred at the site prior to case closure, and the discharge was not evaluated in the site investigation, please be aware that DNR may evaluate the site under the Wis. Admin. Code § NR 727.13 criteria for reopening of closed cases.

DNR can provide technical assistance at any point throughout the investigation and cleanup process for a fee. These services can be requested using the Technical Assistance and Environmental Liability Clarification Form (4400-237) by visiting dnr.wi.gov, search "4400-237." Requesting technical assistance from DNR early in the process can help save time and money during the cleanup process.

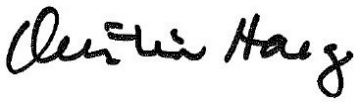
DNR has developed guidance to help RPs and their consultants comply with the requirements described above. The guidance can help select the appropriate chemicals for analysis when conducting a Wis. Admin. Code ch. NR 716 site investigation. The Site Investigation Scoping Guidance (RR-101) can be found by visiting dnr.wi.gov, search "RR-101."

Additional information on PFAS is available from The Interstate Technology Regulatory Council (ITRC) at: https://pfas-1.itrcweb.org/fact-sheets/.

DNR appreciates your efforts to restore the environment at this site. If you have any questions regarding anything outlined in this letter, or would like to arrange a meeting, please contact the DNR Project Manager assigned to your site.

BINYOTI AMUNGWAFOR
(414) 263-8607
binyoti.amungwafor@wisconsin.gov

Sincerely,



Christine Haag
Program Director
Remediation & Redevelopment Program

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JEFFREY KONKEL
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8711 W PORT AVE
MILWAUKEE WI 53224

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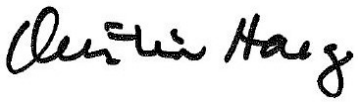

Christine Haag
Program Director
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