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

October 27, 2020

BRRTS # 02-71-550915
FID # 471008120
Site Status: OPEN
Date Site Closed:

602 MURDOCK LLC
ATTN: ALBERT BLESER
PO BOX 233
BUTTES DES MORTS, WI 54927

Subject: Status of Dry Cleaner Environmental Response Fund (DERF),
Environmental Responsibility and DERF Eligibility for Emerging Contaminants
FOX VALLEY LAUNDRIES
602 W MURDOCK AVE, OSHKOSH, WI

Greetings:

This letter is being sent to all Responsible Parties (RPs) and applicants, agents and payees for the Dry Cleaner Environmental Response Program/Fund (DERF) that currently have an open contamination site and select closed contamination sites on the Department of Natural Resources (DNR) Bureau for Remediation and Redevelopment Tracking System (BRRTS).

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2. There is currently a **projected wait time of more than 10 years** after receipt of new claims prior to payment and there is no guarantee funds will be available to pay new claims prior to the sunset date of June 30, 2032;

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Financial Viability of DERF in Critical Condition

In late 2019, DNR projected an annual 9% to 12% decline in DERF revenue through the sunset date of June 30, 2032, based on a reducing trend of active dry cleaners in the industry. This steady decline in part explains the funding shortfall and anticipated 10 year wait to receive payment on submitted claims as calculated in 2019. The history of DERF and explanation of the funding source is explained in an Attachment to this letter for your reference.

Actual revenue for DERF in fiscal year 2020 (which ended June 30, 2020) is less than what was projected in 2019. Recent calculations showed an actual 17.26% decline in revenue this fiscal year compared to last fiscal year. DNR will not know the long-term effect of the COVID-19 pandemic on the dry cleaner industry for some time and if there will be additional businesses closing, which may affect the already limited revenue for DERF even further. DNR will monitor

actual revenue and re-evaluate the projected revenue decline in 2021. DNR will continue to update the estimated payment date for claims waiting to be paid as information on revenue is received.

DNR's authority to implement DERF is limited by statute, and DNR does not have authority to make statutory changes. The DNR will have no statutory authority to make payments when the funding source is exhausted, regardless of eligibility or whether a claim was received prior to the 2032 sunset date. Thus, it is impossible to guarantee that previously submitted claims or future submitted claims will be reimbursed.

Additional information on pending reimbursement requests, payments by site, program revenue, projected revenue decline and more can be found at dnr.wi.gov/aid/DERF.html under the "Fund stats" tab.

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Emerging Contaminant Investigation and Cleanup Activities Not Eligible for Reimbursement under DERF

Wisconsin Administrative Code ("Wis. Admin. Code") § NR 169.03 clarifies DERF applies to contamination of a discharge of a "dry cleaning product". Wisconsin Statute ("Wis. Stats.") §292.65 (1) (e) defines a dry-cleaning product as a "hazardous substance used to clean apparel or household fabrics…" Eligibility for expenses hinges on this definition.

On August 17, 2020, the DNR issued a state-wide letter to RPs for all open sites regarding emerging contaminants in general. Specifically, perfluoroalkyl and polyfluoroalkyl substances (PFAS) may be of concern at sites resulting from contamination from dry cleaners. As RPs work with their consultants on site investigation scoping at open sites to determine if their site needs to perform an investigation for PFAS or other emerging contaminants, it is important to clarify that PFAS is not a product used to clean. Therefore, costs incurred relating to the investigation or cleanup of this hazardous substance are not eligible expenses under Wis. Admin. Code ch. NR 169 (DERF).

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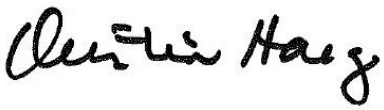

Christine Haag
Program Director
Remediation & Redevelopment Program

Attachment

ATTACHMENT

The Dry Cleaner Environmental Response Program (DERP) and Fund (DERF) was created in 1997 Wisconsin Act 27 to provide financial assistance awards for reimbursement of certain eligible costs of investigation and cleanup of contamination from dry cleaning solvents at certain dry-cleaning facilities. Eligible claimants to the program had to have submitted a Potential Claim Notification by the deadline of August 30, 2008. There were applications to enter DERP from 230 locations. There are currently 107 open contamination sites and 114 closed contamination sites with the remaining locations not tied to an identified release to the environment. The program and fees have a statutory sunset of June 30, 2032, (35 years after creation) per Wis. Stats. § 292.65 (14) and Wis. Admin. Code § NR 169.31 (2).

DERP is funded by license fees paid quarterly by every operator of an active dry-cleaning facility that include:

- 2.8% of the gross receipts from the previous three months for dry cleaning;
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These fees are collected quarterly by the Department of Revenue (DOR) and transferred to the DNR to administer the program. At the start of this program, there were 350 licensed dry cleaners in the state. That number dropped to 135 in 2020.

Initially, claims for reimbursement were paid immediately after being audited by DNR. Due to the significant levels of contamination from the historical dry-cleaning industry, complexity in investigating and cleaning up chlorinated solvents and a decline in the revenue funding source, a waiting period to pay claims developed in 2006. The following changes took place to repair the fund:

- In 2008, the license fee increased from 1.8% to 2.8% of gross receipts.
- In 2009, a loan of $6.2 million from the Environmental Fund was obtained.

No other legislative changes have occurred. Compounding the issue is the general decline in demand for dry cleaners resulting in a decline in the revenue that funds the grant program, as discussed in the letter above.

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BRRTS # 02-71-550915
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Date Site Closed:

FOX VALLEY LAUNDRIES
ATTN: CHRIS MOKLER
110 CIMARRON CT
OSHKOSH, WI 54902

Subject: Status of Dry Cleaner Environmental Response Fund (DERF),
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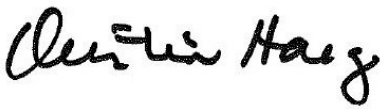

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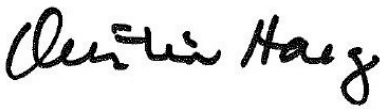

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