State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
Plymouth Service Center
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Plymouth, WI 53073

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WISCONSIN
DEPT. OF NATURAL RESOURCES

June 28, 2021

Mr. Matt Burbach
FIP Master Funding 1, LLC
2425 E. Camelback Road, Suite 700
Phoenix, AZ 85016

Subject: Off-site Liability exemption for property located at 200 Industrial Drive, Fredonia, WI 53021 with groundwater and vapor contamination from an off-site source
Parcel # 09-035-14-006.00
BRRTS# 07-46-558070

Dear Mr. Burbach:

Purpose
The Department of Natural Resources ("the department") recently reviewed your request for an off-site exemption letter for the property located at 200 Industrial Drive, Fredonia, WI 53021, which will be referred to in this letter as "the Property." Refer to the attached figure, Figure 3, *1121001378 Guy & O'Neill Headquarters Wisconsin*, EBI Consulting, dated March 23, 2021, for a map of the Property. The department received a $700 fee for providing this letter pursuant to Wis. Stat. §§ 292.13 (2) and (3), and Wis. Admin. Code ch. NR 749.

Summary Determination
The department, based on the information made available to it, confirms that FIP Master Funding 1, LLC qualifies for the off-site liability exemption, and FIP Master Funding 1, LLC is not responsible for investigation or cleanup of the contamination that originated on a neighboring property. The Property owner may be responsible for limited actions that are described in this letter, under Wis. Stat. §§ 292.12 and 292.13, for the groundwater and subsequent vapor contamination that migrated onto the Property. The Property owner is responsible for any discharges of hazardous substances whose source originates on the Property.

Request
You have requested that the department determine if FIP Master Funding 1, LLC is exempt from Wis. Stats. §§ 292.11(3), (4) and (7)(b) and (c), (commonly known as the " Spill Law"), with respect to the existence of a hazardous substance discharge in the groundwater and vapor, that you believe is migrating onto the Property from an off-site source.

Wis. Stats. § 292.13(2) requires the department to issue, upon request, a written determination regarding a liability exemption for a person who possesses or controls property that is contaminated by an off-site discharge when certain conditions are met. To make this determination, the department reviewed information about the Property, including soil, groundwater and vapor sampling data for the Property and/or other sites contained in the following documents:

- *Off-Site Liability Exemption and Liability Clarification Application* form (Form 4400-201), dated April 27, 2021
- *Phase I Environmental Site Assessment, Guy & O'Neill Headquarters*, dated March 24, 2021, EBI Consulting

- *Site Investigation Report, Phillip's Plastics Corporation, Fredonia, Wisconsin*, dated October 2001, ENSR International
- *Site Investigation Report Addendum for the Phillip's Plastics Corporation Fredonia, Wisconsin*, dated June, 2008, ENSR AECOM
- *NR 716 Site Investigation Addendum Report Former HVC Site, 600 South Milwaukee Street, Fredonia, Wisconsin*, dated October 5, 2018, Ramboll
- *Subsurface Investigation and Off-Site Contamination Exemption Request Kaydee International, Ltd/Donald Sales,* dated June 30, 1998, Moraine Environmental, Inc.
- *Summarization of Investigative Activities, Groundwater Monitoring Results and Closure Request Kaydee International, Ltd/Donald Sales,* dated August 20, Moraine Environmental, Inc.
- *Screening Site Inspection Report for Modern Metals of Wisconsin,* dated February 2010, Wisconsin Department of Natural Resources

Background

The department issued an offsite liability exemption letter for contamination from an off-site source to the former Property owner, Guy & O'Neill, Inc., on February 8, 2012. FIP Master Funding 1, LLC purchased the property from Guy & O'Neill. The Phillip's Plastics and Modern Metals sites are located hydraulically upgradient from the Property and are known sources of chlorinated solvent contamination in the area soil, groundwater and vapor. Phillips-Medisize Corporation (formerly Phillip's Plastics) conducted sub-slab vapor testing on the Property in 2017 as part of their offsite site investigations required under Wis. Admin. Code ch. NR 716. All detected contaminants were below vapor risk screening levels for large industrial settings. No vapor mitigation is needed at this time based on current conditions and property use. The department is requiring an additional round of vapor sampling in the building on the Property by the responsible party for the source property. The need for any vapor mitigation in the building will be evaluated again when those results become available.

The department considered the documents listed above in making the determinations presented in this letter. The Property is approximately 12 acres with a 19,000 square foot slab-on-grade facility used for the manufacture of personal hygiene and other types of wet wipes since 2012. Prior to 2012 the Property was a plastics injection-molding facility with the original building being constructed on former agricultural land in 1980. The Property is listed in the department's Bureau for Remediation and Redevelopment Tracking System (BRRTS) as having diesel range organics (DRO) contamination from a release at a hydraulic injection molding line trench that received a no-action-required determination by the department on April 12, 2018.The Property is also listed as having a closed case of a separate hydraulic oil spill on January 19, 1995.

Determination

Based upon the available information and in accordance with Wis. Stat. § 292.13, the department makes the following determinations regarding the presence of the following contaminants in the vapor detected in the sub-slab samples, at concentrations below vapor risk screening levels for large industrial settings, at points GPV-1 to GPV-8: (see attached map, Figure 19, *Industrial Building Sub-slab Vapor Sampling Locations*, Ramboll, October 4, 2018) tetrachloroethene in GPV-1 though GPV-8; 1,1,1-trichloroethane in GPV-1, GPV-2, GPV-4, and GPV-5; and trichloroethene in GPV-1 through GPV-4. The department makes the following determinations regarding the presence of the following contaminants in the groundwater, detected in monitoring wells on the Property: (see attached map, Figure 10, *Groundwater Remedial Investigation Areas*, Ramboll, October 3, 2018) 1,1,1-trichloroethane in MW-7, and MW-15; 1,1-dichloroethene in MW-15; cis-1,2-dichloroethene in MW-15; trichloroethene in MW-7, MW-7P, MW-8, MW-9, MW-9D, and MW-15; 1,1-dichloroethane in MW-15; trans 1,2-dichloroethene in MW-15, and vinyl chloride in MW-15.

The department, based on the information available, determined that the Property owner met the conditions in Wis. Stats. § 292.13 to qualify for the liability exemption, including but not limited to the following provisions:

1. The hazardous substance discharge originated from a source on a property that is not possessed or controlled by FIP Master Funding 1, LLC.
2. FIP Master Funding 1, LLC did not possess or control the hazardous substance on the property on which the discharge originated.
3. FIP Master Funding 1, LLC did not cause the discharge.
4. FIP Master Funding 1, LLC will not have liability under the Spill Law for investigation or remediation of the soil or groundwater contamination originating from off-site onto the Property, provided that FIP Master Funding 1, LLC does not take possession or control of the property on which the discharge originated.

Exemption Conditions

The department's determination, as set forth in this letter, is subject to compliance with the following conditions, as specified in Wis. Stats. §§ 292.13(1) and (1m).

1. The facts upon which the department based its determination are accurate and do not change.
2. FIP Master Funding 1, LLC agrees to allow the following parties to enter the Property to take action to respond to the discharge: the department and its authorized representatives; any party that possessed or controlled the hazardous substance or caused the discharge; and any consultant or contractor of such a party.
3. FIP Master Funding 1, LLC agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge.
4. FIP Master Funding 1, LLC agrees to any other condition that the department determines is reasonable and necessary to ensure that the department and any other authorized party can adequately respond to the discharge. This condition includes access to the offsite responsible party for sampling at the Property.
5. With respect to soil, vapor or sediment contamination only, FIP Master Funding 1, LLC agrees to take one or more specified actions directed by the department, if the department determines that the actions are necessary to prevent an imminent threat to human health, safety or welfare or to the environment. This would occur after the department made a reasonable attempt to notify the party who caused the hazardous substance discharge about that party's responsibilities to investigate and clean up the discharge.

Responsibilities for Continuing Obligations

In addition to the conditions above, after the contamination at the source property is remediated, the department's approval of the cleanup may include continuing obligations at the source property as well as your Property. Often residual contamination remains after an approved environmental cleanup is complete. This approval may include requirements to maintain engineering controls, such as a cap or soil cover, to reduce the impact of the contamination. In that event, you may also be required notify the department prior to constructing a water supply well on your Property. If the neighboring property owners request for cleanup approval includes requirements for your Property, the party conducting the cleanup is required to notify you before the department reviews the proposal for final approval of the clean-up.

Conclusion

The department granted FIP Master Funding 1, LLC an off-site exemption under Wis. Stats. § 292.13. Please note that the department may revoke the determinations made in this letter if it determines that any of the requirements under Wis. Stats. § 292.13, cease to be met.

Future Property owners are eligible for the exemption under Wis. Stats. § 292.13, if they meet the requirements listed in that statute section. The determinations in this letter regarding a liability exemption, however, only apply to FIP Master Funding 1, LLC, and may not be transferred or assigned to other parties. The department will

provide a written determination to future owners of this Property, if such a determination is requested in accordance with the requirements of Wis. Stats. § 292.13.

The Bureau for Remediation and Redevelopment Tracking System (BRRTS) identification number for this activity is shown at the top of this letter. The department tracks information on all determinations such as this in a department database available online at dnr.wi.gov and search: "BOTW".

If you have any questions or concerns regarding this letter, please contact me at 262-416-8643, or by email at johnm.feeney@wisconsin.gov.

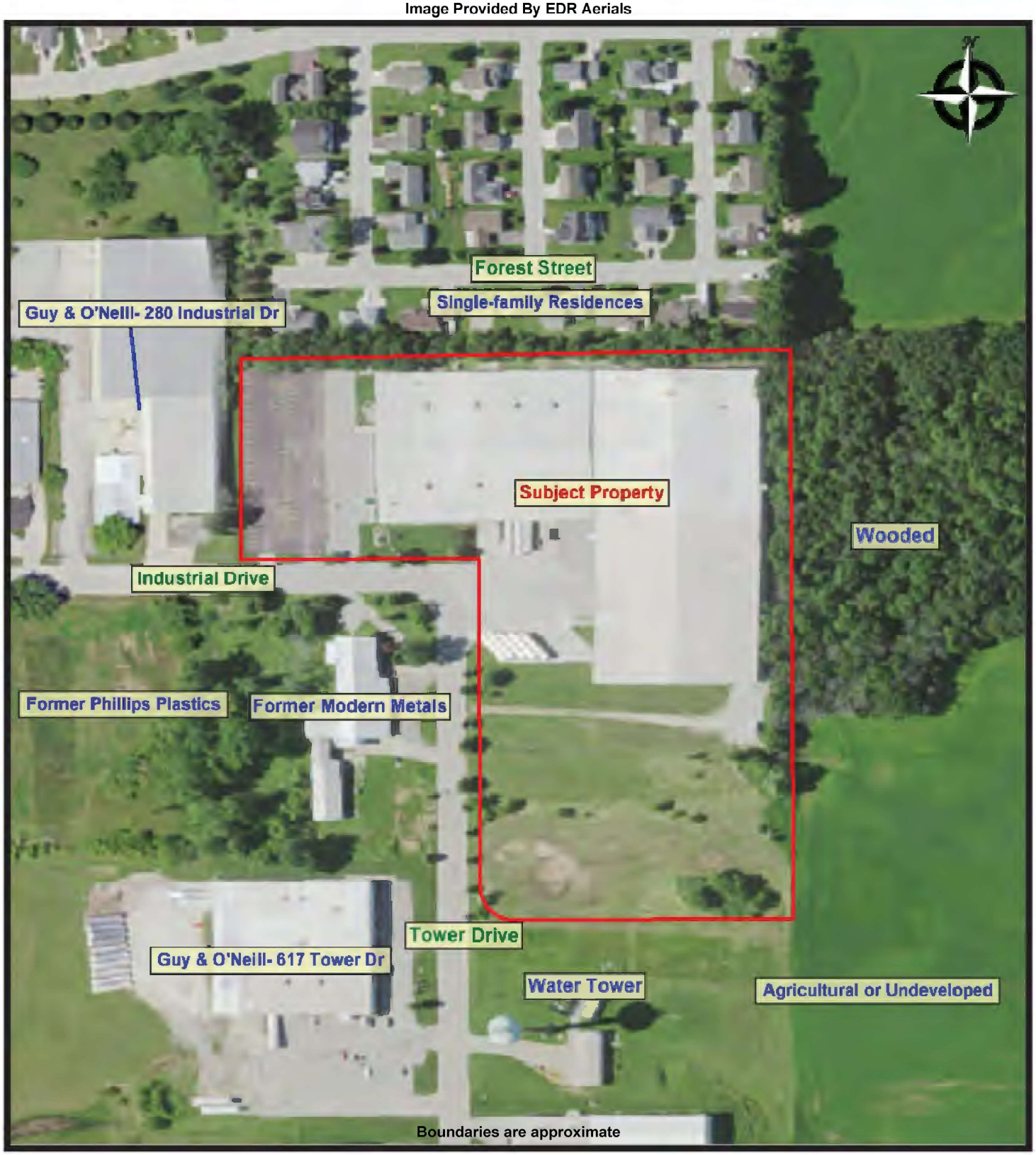
Sincerely,

John Feeney, PG
Hydrogeologist
Wisconsin Department of Natural Resources

Attachments: Figure 3, 1121001378 Guy & O'Neill Headquarters Wisconsin, EBI Consulting March 23, 2021
Figure 19, Industrial Building Sub-slab Vapor Sampling Locations, Ramboll, October 4, 2018
Figure 10, Groundwater Remedial Investigation Areas, Ramboll, October 3, 2018

cc: Mr. Michael Prager, RR/5 (electronic)
Mr. Brian Kilcoyne, EBI Consulting, Inc.
Ms. Margaret Brunette, Regional Land Recycling Team Contact (electronic)

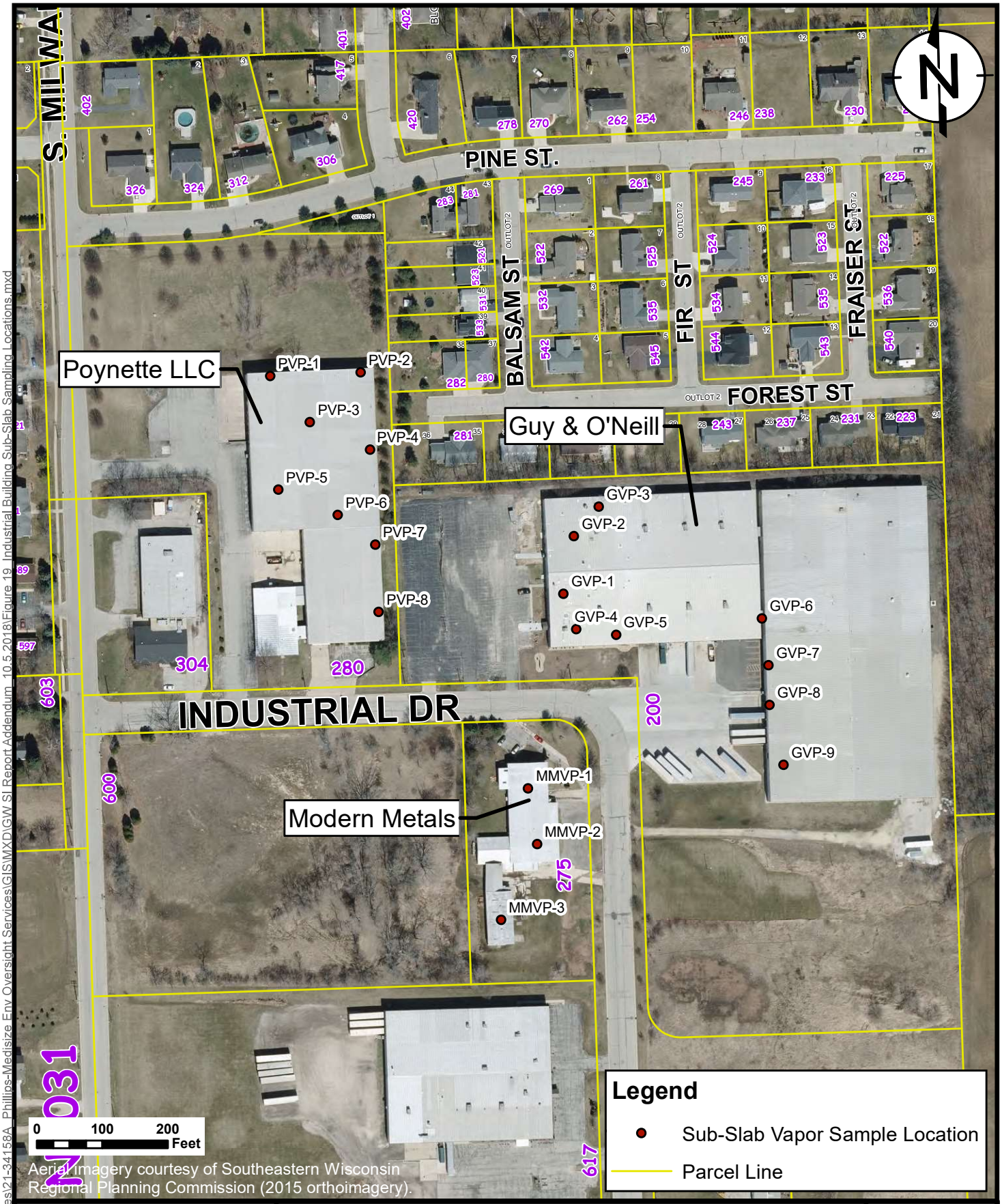
Image Provided By EDR Aerials



EBI Consulting
environmental | engineering | due diligence

FIGURE 3
1121001378 GUY & O'NEILL HEADQUARTERS WISCONSIN
200 Industrial Drive
Fredonia, Wisconsin 53021

PROJ. MGR: Adrienne Perez	DATE: 3/23/2021
DRAWN BY: Cynthia Brown	PROJ. #: 1121001378



M:\Client Project Files\21-34158A_Phillips-Medisize Env Oversight Services\GIS\MXD\GW SI Report Addendum_10.5.2018\Figure 19_Industrial Building Sub-Slab Sampling Locations.mxd

RAMBOLL

DRAFTED BY: JCF | DATE: 10/4/2018

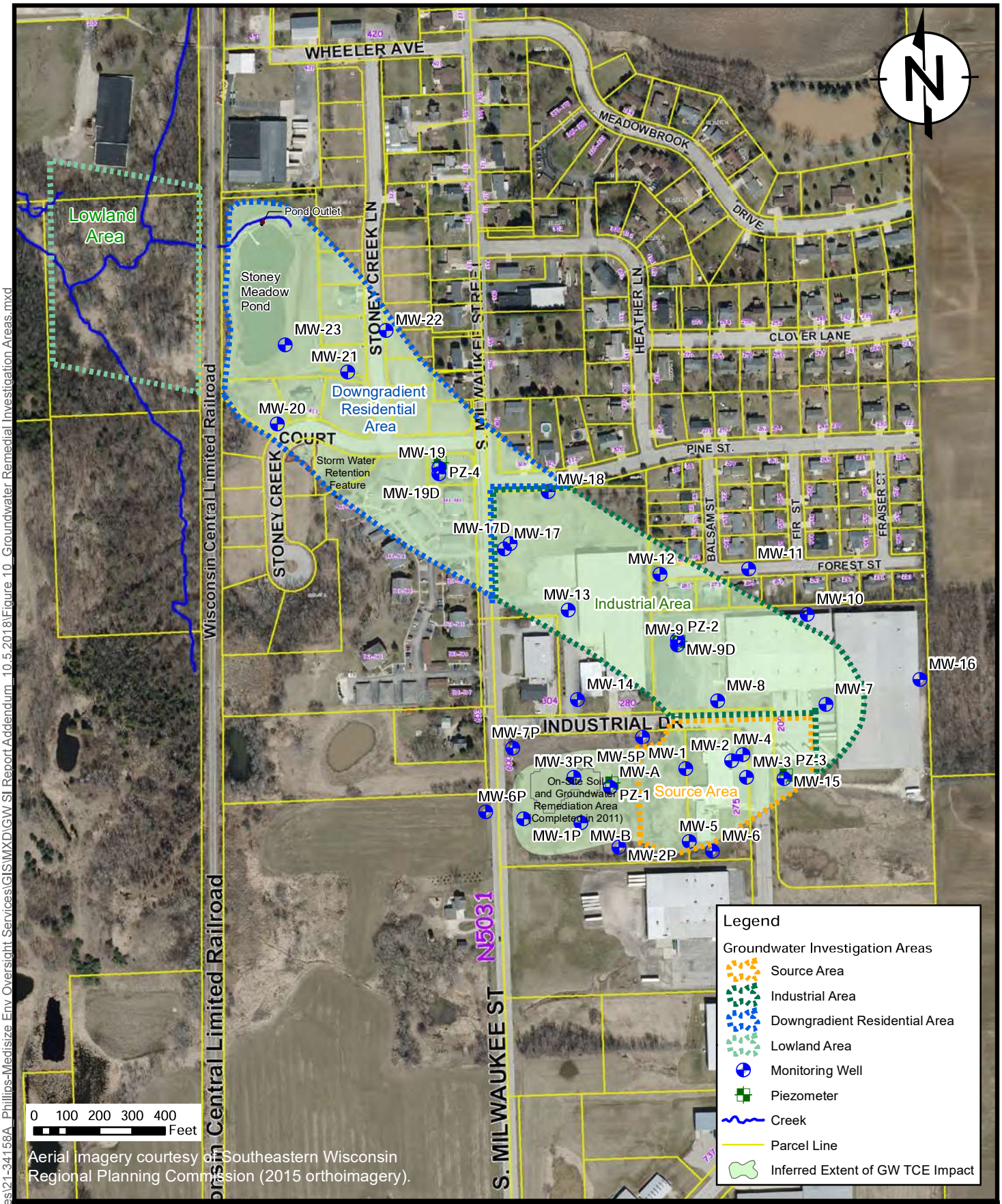
INDUSTRIAL BUILDING SUB-SLAB VAPOR SAMPLING LOCATIONS

FORMER HVC, INC.

FREDONIA, WISCONSIN

FIGURE **19**

1690004812



Aerial imagery courtesy of Southeastern Wisconsin Regional Planning Commission (2015 orthoimagery).

RAMBOLL

DRAFTED BY: JCF | DATE: 10/3/2018

GROUNDWATER REMEDIAL INVESTIGATION AREAS

FORMER HVC, INC.

FREDONIA, WISCONSIN

FIGURE 10

1690004812

M:\Client Project Files\21-34158A_Phillips-Medisize Env Oversight Services\GIS\MXD\GW SI Report Addendum_10.5.2018\Figure 10_Groundwater Remedial Investigation Areas.mxd