State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
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April 21, 2022

Mr. David Pierce
Magnetek
560 Rush Street
Lexington, TN 38351
Via Electronic Mail Only to david.pierce@cmworks.com

Subject: Off-site liability exemption for property located at the Magnetek Electric Property FMR site, 400 South Prairie Avenue, Waukesha, WI 53186 with groundwater contamination from an off-site source
Parcel #: WAKC1334131
BRRTS #s: 02-68-000243, 07-68-589180, FID #: 268013130

Dear Mr. Pierce:

Purpose

The Department of Natural Resources (DNR) reviewed your request that the department determine if owners of the Former Magnetek Electric Property site (the Magnetek site) 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 groundwater that you believe is migrating onto the Property from an off-site source. A $700 fee was provided pursuant to Wis. Stat. §§ 292.13 (2) and (3), and Wis. Admin. Code ch. NR 749 to provide a written determination regarding liability. This letter explains that the DNR cannot approve the off-site liability exemption as there is evidence that discharges of chlorinated volatile organic compounds (CVOCs) have occurred on the Magnetek site and may have, at least in part, contributed to groundwater contamination at this site.

Determination

The request for an off-site liability exemption pertaining to groundwater contamination is based on the findings of a recently conducted Phase I Environmental Site Assessment (ESA) and that groundwater at the immediately upgradient Ventura Foods Inc site (BRRTS #: 02-68-582266) is impacted with the same contaminants as to those found at the Magnetek site.

The Phase I Environmental Site Assessment did not identify past activities at the site that would result in a significant discharge of CVOCs. However, even if past manufacturing operations at the site are not known to have used CVOCs, a discharge of these compounds could still have occurred. CVOC contamination was identified in unsaturated soil samples collected near the southwest corner and southern end of the main manufacturing building indicating that CVOCs have been discharged at the property in the past. Trichloroethene has been detected in groundwater samples collected from west of this building at greater concentrations than what has been found upgradient which may also suggest that a source of CVOC contamination is present on the site.

The DNR agrees that contaminated groundwater migrates onto the Magnetek site from the immediately upgradient Ventura site. However, as the presence of on-site sources has not been ruled out as contributors to groundwater impacts, the DNR cannot agree that all groundwater contamination identified on the Magnetek site is a result of offsite sources. The Magnetek site therefore does not qualify for the off-site liability exemption.

Conclusion

The DNR recommends that you continue to address the issues outlined in our 'Review of Closure Documentation' (February 21, 2020) letter and determining the extent of contamination west of Sentry drive. Closure of this case will depend on the downgradient extent of groundwater contamination being defined and the potential for associated vapor intrusion to be assessed. The City of Waukesha would be willing to allow you to access the Clean Water Plant property to continue the investigation of CVOC contamination. They recommend that you contact the Public Works Director to negotiate access.

If you have any questions or concerns regarding this letter, please contact me at (414) 405-0764, or by email at paul.grittner@wisconsin.gov.

Sincerely,

Paul Grittner
Hydrogeologist
Remediation & Redevelopment Program

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