State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
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Madison, WI 53707-7921

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WISCONSIN
DEPT. OF NATURAL RESOURCES

February 16, 2024

Richard Keene
BBC Real Estate, LLC
82572 Tremetina Court
Indio, CA 92203
Via Email Only to richman54660@yahoo.com

Subject: Off-site liability exemption for the property located at 112 and 114 Juneau St., Tomah, WI (Parcel #s 286-01884-0000 and 286-01885-0000)
Source Site: Band Box Cleaners, Inc., 1217 Superior Ave., Tomah, WI
DNR BRRTS Activity #s: 02-42-525072 and 07-42-589446

Dear Mr. Keene:

The Wisconsin Department of Natural Resources (DNR) reviewed your request for an off-site liability exemption determination letter for the property identified above (the Property). Refer to the attached "Figure 2: Detailed Site Map" for a map of the Property. The DNR received a $700 fee for providing this letter pursuant to Wisconsin Statute (Wis. Stat §§ 292.13 (2) and (3), and Wisconsin Administrative (Wis. Admin.) Code ch. NR 749.

Request
You requested that the DNR determine if BBC Real Estate, LLC is exempt from Wis. Stat. §§ 292.11(3), (4) and (7)(b) and (c), with respect to the existence of a hazardous substance discharge that may be migrating onto the Property from another source.

Wis. Stat. § 292.13(2) requires the DNR 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 DNR reviewed information about the Property, including sampling results for the Property and other sites contained in the following documents:

- *Off-Site Liability Exemption and Liability Clarification Application Form* (Form 4400-201) dated March 21, 2022
- Email message from Richard Keene dated November 11, 2023, that answered questions asked by DNR staff regarding the ownership of the LLC.
- *Phase II Environmental Site Assessment, 1216 McClean Avenue*, prepared by REI Engineering dated February 9, 2022
- *Vapor Sampling and Groundwater Monitoring Report, Band Box Cleaners (Tomah)*, prepared by Metco dated December 20, 2013
- *Update Report, Band Box Cleaners & Laundry, Inc*, prepared by REI Engineering dated April 11, 2019
- *Update Report, Band Box Cleaners & Laundry, Inc*, prepared by REI Engineering dated September 17, 2021
- *Update Report, Band Box Cleaners & Laundry, Inc*, prepared by REI Engineering dated February 2, 2022
- *Update Report, Band Box Cleaners & Laundry, Inc*, prepared by REI Engineering dated September 27, 2022
- *Update Report, Band Box Cleaners & Laundry, Inc*, prepared by REI Engineering dated August 10, 2023

The DNR considered the documents listed above in making the determinations presented in this letter.

Background

BBC Real Estate, LLC is the owner of the Property, which is comprised of two tax parcels west of the alley (with a prior address of 1216 McLean Ave) as depicted on the attached map. The building on the Property was built in the early 2000s and was occupied by a uniform distribution business and commercial laundry plant to process garments and mats. The Property was not the location of the dry cleaning machines or operations, and dry cleaning chemicals were not used on the Property. The Property has been vacant since the business moved off premises on February 1, 2021. Before the current building was built, the Property was used for residential housing, a medical clinic and church.

Band Box Cleaners & Laundry, Inc. owned the Property and an adjoining parcel located at 1217 Superior Avenue, from which the hazardous substance discharge originated (the "Source Property"). Band Box Cleaners & Laundry, Inc. operated as a commercial cleaning business on the Source Property from 1956 until the corporation was dissolved on December 31, 2021. Upon dissolution of Band Box Cleaners & Laundry, Inc., ownership of the Source Property and the Property was transferred to the Jerry R. Keene and Margaret M. Keene Family Trust (the Trust). Ownership of the Property was then transferred from the Trust to BBC Real Estate, LLC, and the Source Property was transferred to BBC Superior, LLC. Information provided to the DNR explained that each LLC is owned by the same three individuals, with each person having a one-third ownership interest in each LLC. The Source Property is currently leased to Band Box Clean, LLC, who currently operate a cleaning business on the Source Property.

Band Box Cleaners & Laundry, Inc. began an environmental site investigation for contamination originating from the Source Property in April 2004 (BRRTS #02-42-525072) after a nearby environmental investigation for petroleum contamination detected chlorinated compounds in samples collected from groundwater monitoring wells. Since that time, an extensive monitoring well and piezometer network has been installed to define the nature, degree and extent of groundwater contamination that originated from the Source Property.

Groundwater flow is generally in a northerly to north easterly direction. The primary location for the discharge of chlorinated compounds to the environment was identified in the southern portion of the Source Property. The off gassing of chlorinated compounds has the potential to create a health concern in the form of contaminated vapors. The sub-slab vapors were evaluated at numerous buildings in the vicinity of the Source Property. The commercial building across the alley, located at 115 W. Council Street, was impacted by vapors contaminated with chlorinated solvents. To mitigate the vapor threat, a soil vapor extraction (SVE) system was installed on that property to remediate the chlorinated solvents in the soil; the SVE system is still in operation. Based on the results from the groundwater investigation, contaminated groundwater may have migrated onto the Property from the Source Property.

The information provided to the DNR to date about the history of the operations at the Property indicates that dry cleaning chemicals and other chlorinated solvents were not used or stored on the Property and that no discharges of dry cleaning chemicals or other chlorinated solvents originated from the Property. The purpose of the *Phase II Environmental Site Assessment* conducted by REI Engineering, dated February 9, 2022, was to evaluate the potential for contamination at the Property that may be migrating from the Source Property. Sub-slab vapor samples were collected on January 26, 2022, from beneath the building located on the Property, and soil samples were collected on January 27, 2022, from the parking lot area. Contaminated vapors in sub-slab samples were identified beneath the building on the Property; however, the contaminant concentrations were at levels well below vapor risk screening levels (VRSLs). Volatile organic compounds (VOCs) were not detected in soil samples collected from the parking lot area of the Property.

Determination
Based upon the available information and in accordance with Wis. Stat. § 292.13, the DNR makes the following determinations regarding the presence of tetrachloroethylene (PCE) and trichloroethene (TCE), along with other VOCs such as acetone, benzene, dichlorodifluoromethane, ethanol, ethylbenzene, isopropyl alcohol, methyl ethyl ketone, toluene, and xylene contamination that were detected in vapors beneath the building on the Property. All detections are well below the large commercial, small commercial, and residential VRSLs. Groundwater beneath the Property was not evaluated; however, due to the proximity to the Source Property and the current understanding of the extent of the plume, groundwater contamination may have migrated to the Property.

The DNR, based on the information available, determined that BBC Real Estate, LLC 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 property that is not possessed or controlled by BBC Real Estate, LLC.
2. BBC Real Estate, LLC did not possess or control the hazardous substance on the property on which the discharge originated.
3. BBC Real Estate, LLC did not cause the discharge.
4. BBC Real Estate, LLC will not have liability under the Spill Law for investigation or remediation of the contamination originating from the Source Property and migrating to the Property, provided that BBC Real Estate, LLC does not take possession or control of the property on which the discharge originated.

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

1. The facts upon which the DNR based its determination are accurate and do not change.
2. BBC Real Estate, LLC agrees to allow the following parties to enter the Property to take action to respond to the discharge: the DNR 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. BBC Real Estate, LLC agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge.
4. BBC Real Estate, LLC agrees to any other condition that the DNR determines is reasonable and necessary to ensure that the DNR and any other authorized party can adequately respond to the discharge.

Responsibilities for Continuing Obligations
In addition to the conditions above, after the contamination at the Source Property is remediated, the DNR's approval of the cleanup may include continuing obligations at the Source Property as well as at the 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, BBC Real Estate, LLC may also be required to notify the DNR prior to constructing a water supply well on the Property. If a party's request for cleanup approval includes requirements for the Property, the party is required to notify BBC Real Estate, LLC before the DNR reviews the proposal for final approval of the clean-up.

Conclusion
The DNR has determined that BBC Real Estate, LLC has met the requirements for the off-site liability exemption under Wis. Stat. § 292.13. Please note that the DNR may revoke the determinations made in this letter if it determines that any of the requirements under Wis. Stat. § 292.13, cease to be met.

Future owners of the Property are eligible for the off-site liability exemption under Wis. Stat. § 292.13 if they meet the requirements listed in that statute section. If BBC Real Estate, LLC sells all or part of the Property to a third party that does not own or operate the Source Property at 1217 Superior Avenue and did not cause the hazardous substance discharge that migrated onto the Property, the future owner would qualify for the off-site exemption, provided the relevant conditions are met. The determinations in this letter regarding the off-site liability exemption, however, only apply to BBC Real Estate, LLC, and may not be transferred or assigned to other parties. The DNR will provide a written determination to prospective purchasers or future owners of this Property, if such a determination is requested in accordance with the requirements of Wis. Stat. § 292.13.

Site, case-related information and DNR contacts can be found online in the Bureau for Remediation and Redevelopment Tracking System (BRRTS) on the Web (BOTW); go to dnr.wi.gov and search "BOTW." Use the BRRTS ID # found at the top of this letter. The site can also be found on the map view, Remediation and Redevelopment Sites Map (RRSM) by searching "RRSM."

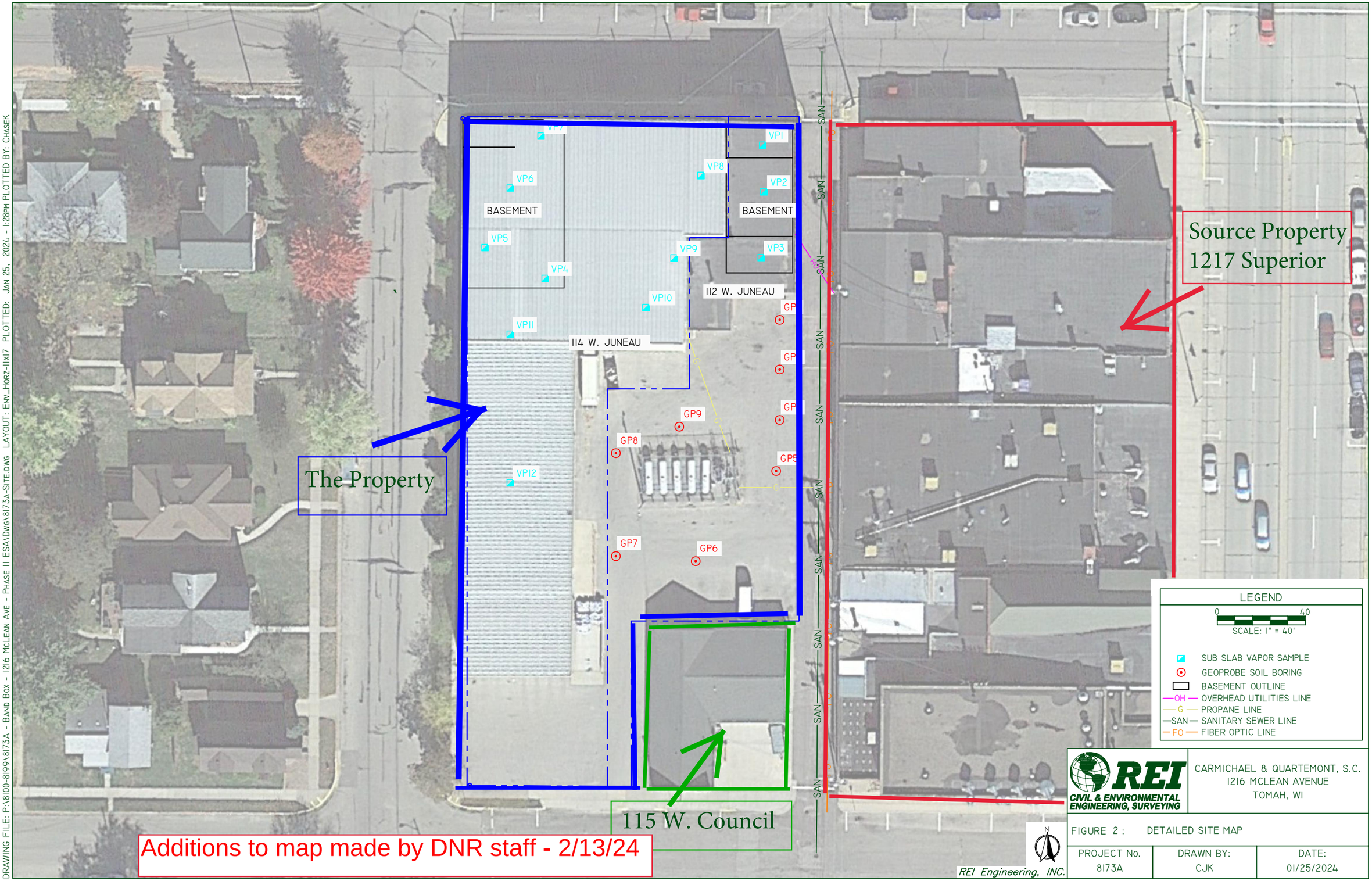
If you have any questions or concerns regarding this letter, please contact me at 608-219-2240 or Timothy.Zeichert@wisconsin.gov.

Sincerely,

Tim Zeichert
Hydrogeologist
Remediation & Redevelopment Program

Attachment:
Figure 2, Detailed Site Map, 01/25/2024

cc:
Andrew Delforge, REI, adelforge@reiengineering.com
Michael Prager, DNR, Remediation and Redevelopment Program - Michael.Prager@wisconsin.gov
Peter Raymond, DNR, Remediation and Redevelopment Program – Peter.Raymond@wisconsin.gov



REI CIVIL & ENVIRONMENTAL ENGINEERING, SURVEYING

CARMICHAEL & QUARTEMONT, S.C.
1216 MCLEAN AVENUE
TOMAH, WI

FIGURE 2 : DETAILED SITE MAP

PROJECT No.	DRAWN BY:	DATE:
8173A	CJK	01/25/2024

DRAWING FILE: P:\8100-8199\8173A - Band Box - 1216 McLean Ave - Phase II ESA\DWG\8173A-Site.dwg LAYOUT: ENV_HORZ-11X17 PLOTTED: JAN 25, 2024 - 1:28PM PLOTTED BY: CHASEK