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DEPT. OF NATURAL RESOURCES

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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November 26, 1999

BRRTS#:02-30-235426
Facility-ID #: 230054000
ERP/LUST: **ERP**

Mr. Merlin Nelson
Kip Nelson Services
5910 49th Street
Kenosha, WI

SUBJECT: Reported Contamination at 5700 49th Street – Kip Nelson Services

Dear Mr. Nelson:

On June 23, 1999, Mike Ellenbecker of the Department of Natural Resources notified the Bureau of Remediation and Redevelopment that waste oil and mercury has contaminated the soil at the above referenced site.

Based on the information submitted to the Wisconsin Department of Natural Resources (WDNR), we believe you are responsible for restoring the environment at the referenced site under Section 292, Wisconsin Stats., known as the hazardous substances spills law. Utilizing information submitted to the Department, this case has been assigned an unknown ranking due to the lack of information concerning soil and groundwater contamination. Your responsibility to restore this site is as follows:

WDNR Southeast Region Prioritization and Scoring Policy

Due to the WDNR workload, it is necessary to rank all contamination cases for review priority. Lower priority cases do not have assigned project managers, however, responsible parties are required to proceed with investigation and clean-up efforts. Until a priority has been assigned to this site, you should proceed with the required response work, submitting all plans and reports, along with status reports, to this office. The WDNR will notify you if your site will receive active oversight.

Your responsibilities include investigating the extent of the contamination and then selecting and implementing the most appropriate remedial action. Enclosed is information to help you understand what you need to do to ensure your compliance with the spills law.

The purpose of this letter is threefold: 1) to describe your legal responsibilities, 2) to explain what you need to do to investigate and clean up the contamination, and 3) to provide you with information about cleanups, environmental consultants, possible financial assistance, and working cooperatively with the Department of Natural Resources.

Legal Responsibilities:
Your legal responsibilities are defined both in statute and in administrative codes. The hazardous substances spill law, Section 292.11 (3) Wisconsin Statutes, and states:

* RESPONSIBILITY. A person who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge to the air, lands, or waters of the state.

Wisconsin Administrative Codes chapters NR 700 through NR 728 establish requirements for emergency and interim actions, public information, site investigations, design and operation of remedial action systems, and case closure. Chapter NR 708 includes provisions for immediate actions in response to limited contamination. Wisconsin Administrative Code chapter NR 140 establishes groundwater standards for contaminants that reach groundwater.

Steps to Take:
The longer contamination is left in the environment the farther it can spread and the more it may cost to clean up. Quick action may lessen damage to your property and neighboring properties and reduce your costs in investigating and cleaning up the contamination. To ensure that your cleanup complies with Wisconsin's laws and administrative codes, you should hire a professional environmental consultant who understands what needs to be done. These are the first four steps to take:

1. Within 30 days of receipt of this correspondence, please submit written verification (such as a letter from the consultant) that you have hired an environmental consultant. You will need to work quickly to meet this timeline.

2. Within 60 days of receipt of this correspondence, your consultant must submit a workplan and schedule for the investigation. The consultant must follow the DNR administrative codes and technical guidance documents. Please include with your workplan a copy of any previous information that has been completed (such as an underground tank removal report or a preliminary excavation report).

3. Please inform DNR of what is being done at your site. Submittal requirement timelines depend on the contaminants at the site. As described in s. NR 700.11, if the site meets criteria for a "simple site", progress reports must be submitted semi-annually, beginning 6 months from the initial notification date. If the site meets criteria for a "complex site", the site investigation report and a draft remedial options report must be submitted to DNR within 30 days of completion of both reports. Your consultant must clearly document the extent and degree of soil and groundwater contamination and submit a proposal for cleaning it up.

4. For complex sites, per s. NR 724.13(3), you or your consultant must provide a brief report at least every 90 days, starting after the remediation system begins operation. The reports should summarize the work completed since the last report. Quarterly reports need only include one or two pages of text, plus any relevant maps and tables. However, should conditions at your site warrant, we may require more frequent contacts with the Department.

Due to the number of contaminated sites and our staffing levels in DNR's Southeast Region, we will be unable to provide workplan approvals for investigations or remedial actions. To maintain your compliance with the spills law and chs. NR 700 through NR 728, do not delay the investigation and cleanup of your site by waiting for DNR response. We have provided detailed technical guidance to environmental consultants. Your consultant is expected to know our technical procedures and administrative codes and should be able to answer your questions on meeting cleanup requirements.

Your correspondence and reports regarding this site should be sent to:

Brenda Brown, Program Assistant
Remediation & Redevelopment Program
Wisconsin Department of Natural Resources
Box 12436
Milwaukee WI 53212

Unless otherwise requested, please send only one copy of plans and reports. **To speed processing, correspondence should reference the BRRTS *and* FID numbers shown at the top of this letter.**

Information for Site Owners:
Enclosed is a list of environmental consultants and some tips on selecting one. If you are eligible for reimbursement of costs under Wisconsin's PECFA program (see last paragraph) you will need to compare at least three consultants' proposals before hiring a consultant. Consultants and laboratories working in the PECFA program are required to carry errors and omissions insurance to help protect you against unsuitable work. Also enclosed are materials on controlling costs, understanding the cleanup process, and choosing a site cleanup method. Please read this information carefully.

If you are interested in obtaining the protection of limited liability under s. 292, Stats., please call Pat Chung at 414-263-8688 for more information. The liability exemption under s. 292 Stats., is available to persons who meet the definition of "voluntary party" in s. 292.15 and receive DNR approval for the response actions taken at the property undergoing cleanup. The Department will determine eligibility for this program on a case-by-case basis, prior to the "voluntary party" developing a scope of work for conducting a ch. NR 716 site investigation at the property.

Financial Information:
Reimbursement from the Petroleum Environmental Cleanup Fund (PECFA) is available for the costs of cleaning up contamination from eligible petroleum storage tanks. The fund is administered by the Department of Commerce (Commerce). Please contact the PECFA Bureau of the Department of Commerce at (608) 266-2424 for more information on eligibility and regulations for this program.

Thank you for your cooperation.

Sincerely,

Brenda J Brown

Brenda Brown, Program Assistant
414-263-8680

CC: Mr. Mike Ellenbecker
Department of Natural Resources
Remediation & Redevelopment
9531 Rayne Road
Sturtevant, WI 53177