State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
1027 W. Saint Paul Avenue
Milwaukee WI 53233

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June 2, 2025

Mr. Alex Kostner
Managing Partner
Orchard Park LLC
1579 S. 38th St., Suite 9
Milwaukee, WI 53215
Via Email Only to alex@orchardparkllc.com

Subject: Required VMS Commissioning Documentation for the On-Site Building
Regal Products (Former), 11331 W. Rogers St., West Allis, WI
BRRTS #02-41-000930, FID #241195020

Dear Mr. Kostner:

The Wisconsin Department of Natural Resources (DNR) is requiring that you submit commissioning documentation for the five vapor mitigation systems (VMSs) that were installed in 2012 to address the high trichloroethylene (TCE) concentrations detected in sub-slab vapor samples from beneath the building at the site identified above. Commissioning of each VMS is required to demonstrate that the vapor risk to the on-site building is effectively mitigated, per Wis. Admin. Code §§ NR 708.11, 724.15 and 724.17.

The DNR requests that the VMS installation, as-builts, and commissioning documentation be submitted **within 30 days**, to meet the requirements of Wis. Admin. Code § NR 724.15, if the systems were commissioned after installation. This documentation was requested in the DNR's April 28, 2022 letter to you. The DNR again requested this documentation in a letter dated September 1, 2023, at which time you were reminded that the documentation was required to be submitted within 60 days after the VMSs were installed. The DNR sent follow-up email requests to your consultant, Ken Wein, KWW Consulting, Inc., on January 21 and March 7, 2025. Mr. Wein responded on both occasions that the systems were being evaluated, but no documentation has been provided.

If the VMSs have not been appropriately commissioned, the DNR requests that you submit a work plan with the appropriate review fee **within 30 days** for DNR review and approval prior to completing these activities. The September 1, 2023 letter included detailed information about the documentation that is needed to verify that the VMSs are effectively mitigating the vapor intrusion risk at all five tenant spaces within the site building.

As the responsible party for this hazardous substance discharge, Orchard Park LLC has a legal responsibility under Wis. Stat. § 292.11 to investigate and clean up contamination resulting from the hazardous substance discharge. The DNR will work with you to move this site towards closure; however, this is the second request the DNR has made for this documentation. If the required documentation is not received **by July 3, 2025**, the DNR may initiate enforcement action against you for your failure to comply with Wis. Stat. ch. 292.

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Special Vapor Intrusion Concern with Trichloroethene

Contamination that includes TCE, a chlorinated solvent and common degreaser, is of special concern from a human health perspective due to its potential for acute (short-term) health risks at relatively low concentrations in air. Vapors can travel from contaminated soil or groundwater and along preferential pathways, such as within sewer lines, and enter occupied buildings. Since TCE is a contaminant of concern at the site, completion of the VMSs' commissioning and further assessment of the vapor intrusion pathway should be prioritized and completed as soon as possible.

As a reminder, the site investigation remains incomplete. It is apparent that the risk assessment for vapor migration through preferential pathways that include utility corridors is not yet complete. In addition to the former degreaser source identified within the building, improperly stored drums of chemicals may have resulted in contaminant discharges into the sewers. Sanitary sewer sampling will likely be needed and may be necessary to finish commissioning the VMSs. Refer to the DNR's *Guidance for Documenting the Investigation of Human-made Preferential Pathways Including Utility Corridors* (RR-649), available on the DNR website, search RR-649, for assistance in planning these investigation activities.

The DNR appreciates your cooperation and looks forward to an update regarding this site. If you have any questions, please contact me, the DNR Project Manager, at linda.michalets@wisconsin.gov or at 414-435-8010.

Sincerely,

Linda Michalets
Hydrogeologist
Remediation and Redevelopment Program

cc: Ken Wein, KWW Consulting, Inc. (*kenwein44@gmail.com*)