State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
Southeast Region Headquarters
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November 18, 2015

Tanja Wiley
Walnut and Vine Properties II, LLC
38 Fountain Square, Fifth Floor
Cincinnati, OH 45263

Subject: Reported Contamination at Multi-Use Commercial Property 8867 Sheridan Rd Kenosha, WI
DNR BRRTS Activity # 02-30-576408
DNR FID #230213500

Dear Ms. Wiley:

On November 11, 2015, Ed Buc from Terracon Consultants, Inc., on behalf of Walnut and Vine Properties II, LLC notified the Department of Natural Resources (DNR) that soil contamination had been detected at the site described above.

Based on the information that has been submitted to the DNR regarding this site, we believe Walnut and Vine Properties II, LLC is responsible for investigating and restoring the environment at the above-described site under Section 292.11, Wisconsin Statutes, known as the hazardous substances spills law.

This letter describes the legal responsibilities of a person who is responsible under section 292.11, Wis. Stats., explains what you need to do to investigate and clean up the contamination, and provides you with information about cleanups, environmental consultants, possible financial assistance, and working cooperatively with the DNR or the Department of Agriculture, Trade and Consumer Protection (DATCP).

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, 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 Code chapters NR 700 through NR 754 establish requirements for emergency and interim actions, public information, site investigations, design and operation of remedial action systems, and case closure. 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. The following information provides the timeframes and required steps to take. Unless otherwise approved by DNR in writing you must complete the work by the timeframes specified.

1. Within the next **30 days,** by December 18, 2015, you should submit written verification (such as a letter from the consultant) that you have hired an environmental consultant. If you do not take action within this time frame, the DNR may initiate enforcement action against you.

2. Within the next **60 days,** by January 18, 2016, you must submit a work plan for completing the investigation. The work plan must comply with the requirements in the NR 700 Wis. Adm. Code rule series and should adhere to current DNR technical guidance documents.

3. You must initiate the site investigation within 90 days of submitting the site investigation work plan. If a fee for DNR review has been submitted, the site investigation must begin within 60 days after receiving DNR comments.

4. Within 60 days after completion of the field investigation and receipt of the laboratory data, you must submit a Site Investigation Report to the DNR or other agency with administrative authority. For sites with agrichemicals contamination, your case will be transferred to the Department of Agriculture, Trade and Consumer Protection for oversight.

5. Within 60 days after submitting the Site Investigation Report, you must submit a remedial actions options report.

Sites where discharges to the environment have been reported are entered into the Bureau for Remediation and Redevelopment Tracking System ("BRRTS"), a version of which appears on the DNR's internet site. You may view the information related to your site at any time (http://dnr.wi.gov/botw/SetUpBasicSearchForm.do) and use the feedback system to alert us to any errors in the data.

If you want a formal written response from the department on a specific submittal, please be aware that a review fee is required in accordance with ch. NR 749, Wis. Adm. Code. If a fee is not submitted with your reports, you must complete the site investigation and cleanup to maintain your compliance with the spills law and chapters NR 700 through NR 754. **The timeframes specified above are required by rule, so do not delay the investigation of your site.** We have provided detailed technical guidance to environmental consultants. Your consultant is expected to know our technical procedures and administrative rules and should be able to answer your questions on meeting cleanup requirements. All correspondence regarding this site should be sent to:

David Hanson
Environmental Program Associate
Remediation and Redevelopment Program
Wisconsin Department of Natural Resources
2300 N. Martin Luther King Dr.
Milwaukee, WI 53212
david.hanson@wisconsin.gov

Unless otherwise directed, submit one paper copy and one electronic copy of plans and reports. To speed processing, correspondence should reference the BRRTS and FID numbers (if assigned) shown at the top of this letter.

Site Investigation and Vapor Pathway Analysis:
As you develop the site investigation work plan, we want to remind you to include an assessment of the vapor intrusion pathway. Chapter NR 716, Wisconsin Administrative Code outlines the requirements for investigation of contamination in the environment. Specifically, s. NR 716.11(3)(a) requires that the field investigation determine the "nature, degree and extent, both areal and vertical, of the hazardous substances or environmental pollution in all affected media". In addition, section NR 716.11(5)(g) and (h) contains the specific requirements for evaluating the presence of vapors in the sub-surface as well as in indoor air.

You will need to include documentation with the Site Investigation Report that explains how the assessment was done. If the vapor pathway is being ruled out, then the report needs to provide the appropriate justification for reaching this conclusion. If the pathway cannot be ruled out, then investigation and, if appropriate, remedial action must be taken to address the risk presented prior to submitting the site for closure. The DNR has developed guidance to help responsible parties and their consultants comply with the requirements described above. The guidance includes a detailed explanation of how to assess the vapor intrusion pathway and provides criteria which identify when an investigation is necessary. The guidance is available at: http://dnr.wi.gov/files/PDF/pubs/rr/RR800.pdf.

Additional Information for Site Owners:
We encourage you to visit our website at http://dnr.wi.gov/topic/Brownfields/, where you can find information on selecting a consultant, financial assistance and understanding the cleanup process. You will also find information there about liability clarification letters, post-cleanup liability and more.

If you have questions, call the DNR Project Manager Doug Cieslak at (262) 884-2344 for more information or visit the RR web site at the address above.

Thank you for your cooperation.

Sincerely,

FOR

David Hanson
Environmental Program Associate
Remediation & Redevelopment Program

Enclosures:

Selecting a Consultant – RR-502
http://dnr.wi.gov/files/PDF/pubs/rr/RR502.pdf

Environmental Services Contractor List – RR-024
http://dnr.wi.gov/files/PDF/pubs/rr/RR024.pdf

VPLE Fact Sheet #2
http://dnr.wi.gov/files/PDF/pubs/rr/RR506.pdf

Environmental Contamination Basics, RR-674
http://dnr.wi.gov/files/PDF/pubs/rr/RR674.pdf

cc: Ed Buc – Terracon Consultants, Inc.
WI DNR Case File