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KYLE J FRANSON
ONEIDA COUNTY, WI
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Document Number

DEED RESTRICTION

Recording Area

Name and Return Address
Kollin Schade
VP Superior Refining Company LLC
2407 Stinson Ave
Superior, WI 54880

RH 9328-1101
Parcel Identification Number (PIN)

Declaration of Restrictions

This Declaration of Restrictions regards land in Oneida County, Wisconsin, legally described as follows:

See attached **EXHIBIT A**.

STATE OF WISCONSIN)
) ss
COUNTY OF ONEIDA)

WHEREAS, Superior Refining Company LLC, a Delaware limited liability company, is the owner of the above-described property.

The property owner is coordinating cleanup of environmental contamination with the Wisconsin Department of Natural Resources (WDNR), and the cleanup is being tracked under the Remediation and Redevelopment Program's database as the "Calumet Superior Site, BRRTS #02-44-000513."

WHEREAS, one or more discharges of polychlorinated biphenyls (PCBs) have occurred on this property and, as of December 2016 when soil samples were most recently collected, PCB-contaminated soil remained on this property at the following location:

See attached **EXHIBIT B**, comprised of maps/sketches denoted as Figures 1 and B.2.b.

WHEREAS, it is the desire and intention of the property owner to impose on the property restrictions that will make it unnecessary to conduct further soil remediation activities on the property at the present time.

NOW THEREFORE, the owner hereby declares that all of the property described above is held and shall be held, conveyed or encumbered, leased, rented, used, occupied, and improved subject to the following limitation and restrictions:

The direct-contact cover system that existed on the above-described property in the location shown on the attached map, labeled **EXHIBIT C**, on the date that this restriction was signed shall be maintained in compliance with the Maintenance Plan dated August 30, 2018, that was submitted to the WDNR by Gannett Fleming, Inc., as required by section NR 724.13 (2), Wis. Adm. Code (October 1999). A copy of the maintenance plan is attached hereto as **EXHIBIT C** and also can be found at 1965 Apache Lane, Rhinelander, Wisconsin, 54501. This cover system

must be maintained in order to prevent direct contact with residual soil contamination that might otherwise pose a threat to human health. If soil that remains on the property in the location or locations described above where there is residual contamination is excavated in the future, the soil must be sampled and analyzed; may be considered solid or hazardous waste if residual contamination remains; and must be stored, treated, and disposed in compliance with applicable statutes and rules.

In addition, the following activities are prohibited on any portion of the above-described property where a cover system is required, as shown on **EXHIBIT C**, unless prior written approval has been obtained from the WDNR or its successor or assign: (1) Removing the existing barrier or cover; (2) Replacing with another barrier; (3) Excavating or grading of the land surface; (4) Filling on covered or paved areas; (5) Plowing for agricultural cultivation; (6) Constructing or placing a building or other structure in an area where a soil cover or other barrier is required; and (7) Changing the use or occupancy of the property to a residential exposure setting, which may include certain uses, such as a single or multiple family residences, a school, day care, senior center, hospital, or similar residential exposure setting.

All properties with residual contamination must obtain WDNR approval prior to construction or reconstruction of a water supply well, in compliance with Wis. Adm. Code s. NR 812.09(4)(w).

This restriction is hereby declared to be a covenant running with the land and shall be fully binding upon all persons acquiring the above-described property whether by descent, devise, purchase, or otherwise. This restriction inures to the benefit of and is enforceable by the WDNR, its successors, or assigns. The WDNR, its successors, or assigns may initiate proceedings at law or in equity against any person or persons who violate or are proposing to violate this covenant, to prevent the proposed violation or to recover damages for such violation.

Any person who is or becomes owner of the property described above may request that the WDNR or its successor issue a determination that one or more of the restrictions set forth in this covenant are no longer required. Upon the receipt of such a request, the WDNR shall determine whether or not the restrictions contained herein can be extinguished. If the WDNR determines that the restrictions can be extinguished, an affidavit, attached to a copy of the WDNR's written determination, may be recorded by the property owner or other interested party to give notice that this deed restriction, or portions of this deed restriction, are no longer binding.

This deed restriction is also made under Federal Law, CFR 761.61(a)(8)(i)(A) to notify any potential purchaser of the property:

1. That the land has been used for PCB remediation waste disposal and is restricted to use as a low occupancy area as defined in 40 CFR § 761.3.

2. Of the existence of a cap and requirements to maintain the cap.
3. That contamination meeting and exceeding applicable clean-up levels remains at the site, and/or under the direct-contact cover system. See **EXHIBIT C**.

By signing this document, Kollin Schade asserts that he is duly authorized to sign this document on behalf of the Superior Refining Company LLC.

IN WITNESS WHEREOF, the owner of the property has executed this Declaration of Restrictions, this 4 day of Sept, 2018.

Superior Refining Company LLC
By: Kollin Schade
Printed Name: Kollin Schade
Title: Refinery Manager

Subscribed and sworn to before me this 4 day of Sept, 2018.

Kim M Kowitz

Notary Public, State of Wisconsin
My commission expires 9/18/20

KIM M. KOWITZ
Notary Public
State of Wisconsin

This document was drafted by Gannett Fleming, Inc., based on a model deed restriction provided by the WDNR. Clifford Wright

EXHIBIT A

LEGAL DESCRIPTION FOR PIN RH 9328-1101

A parcel of land being a part of the SW 1/4 of the SW 1/4, Section 28, Township 37 North, Range 9 East, described as follows: Commencing at the Southwest corner of Section 28; thence N. 5°45'32" E. along the West line of Section 28 a distance of 275.61 feet to an iron pipe and the place of beginning of the parcel to be described; thence continue N. 5°45'32" E. along the West line of said Section 28 a distance of 281.94 feet to an iron pipe marking the intersection with the Southerly right of way line of the Minneapolis, St. Paul and Sault Ste. Marie Railroad, thence Easterly and Northerly along said right of way line to an iron pipe marking its intersection with the East line of the SW 1/4 SW 1/4, thence S. 4°43'32" W. along the East line of the SW 1/4 SW 1/4 a distance of 822.37 feet to an iron pipe on the Northerly right of way line of the Town Road; thence N. 80°29'28" W. along the Northerly boundary of the Town Road a distance of 641.44 feet to an iron pipe; thence N. 9°30'32" E. a distance of 200.0 feet to an iron pipe; thence N. 80°29'28" W. a distance of 300.0 feet to an iron pipe; thence S. 9°30'32" W. a distance of 200.0 feet to an iron pipe in the Northerly right of way line of the Town Road; thence N. 80°29'28" W. along said right of way line a distance of 496.83 feet to an iron pipe on the West line of the SW 1/4 SW 1/4 and the place of beginning. Except that part conveyed in Vol. 316 of Deeds, page 111, Document No. 230746 and except that part conveyed in Vol. 375 of Records, page 407, Document No. 270541.

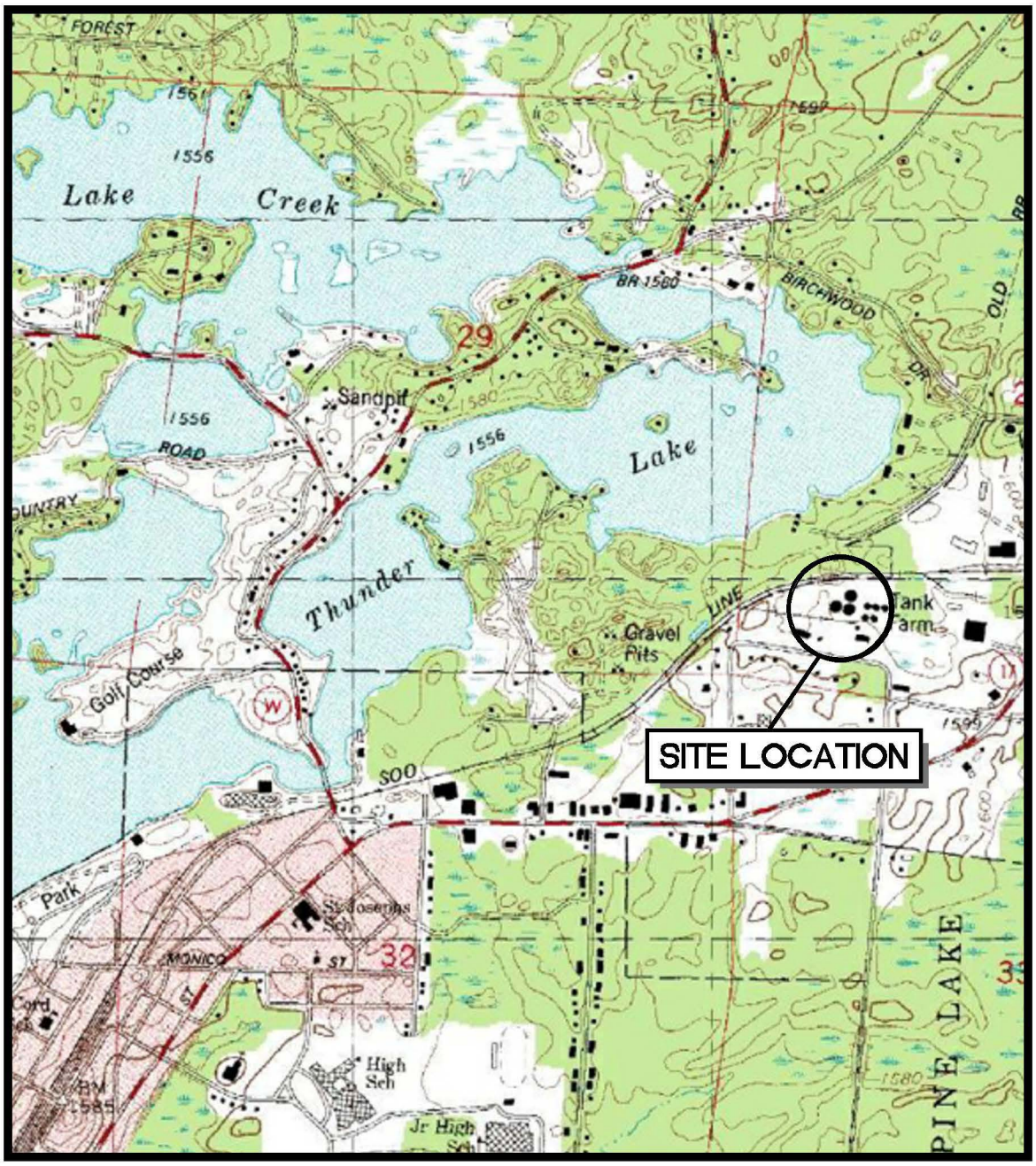
Oneida County, Wisconsin.

EXHIBIT B

MAPS/SKETCHES

Figure 1: Location Map

Figure B.2.b: Residual Soil Contamination (May 2017)



SCALE: 1 INCH ~ 0.25 MILE

7.5 MIN TOPOGRAPHIC MAP
RHINELANDER, WISCONSIN
1982

N

NOTE:
Parcel ID: RH 9328-1101

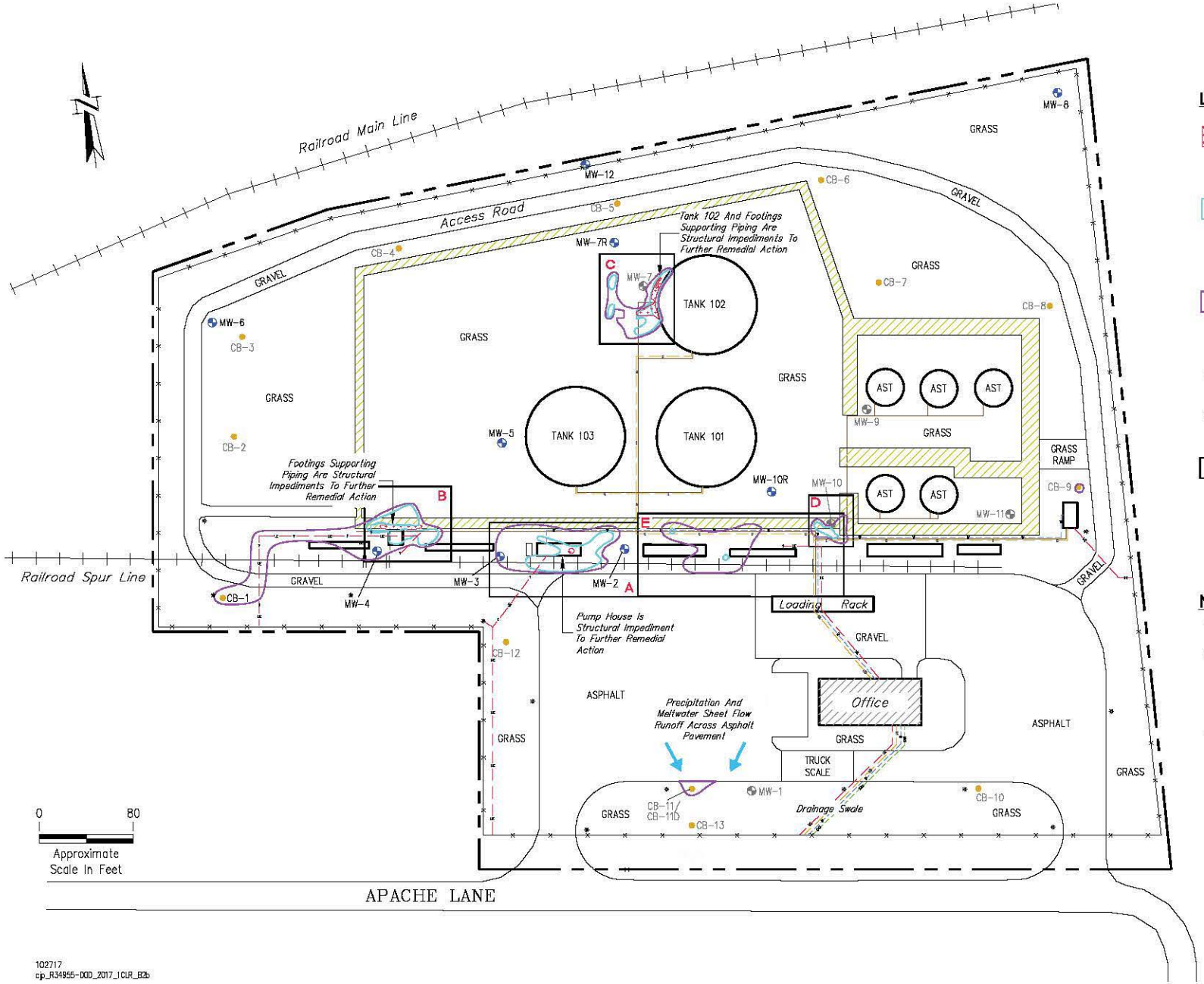
LOCATION MAP

RHINELANDER ASPHALT TERMINAL
CALUMET SUPERIOR, LLC
1965 APACHE LANE
RHINELANDER, WISCONSIN

011718
ccw_L34955-000_2018_0117_F01

Gannett Fleming

FIGURE B.2.b



LEGEND

- ESTIMATED EXTENT OF SOIL CONTAINING PCBs>20 PPM (2017)
- ESTIMATED EXTENT OF SOIL WITH ONE OR MORE PCBs AT OR ABOVE AN NR 720 INDUSTRIAL DIRECT CONTACT RCL (2017)
- ESTIMATED EXTENT OF SOIL WITH ONE OR MORE PCBs AT OR ABOVE AN NR 720 SOIL TO GROUNDWATER PATHWAY RCL (2017)
- CB-8 CLOSURE ASSESSMENT SOIL BORING (DEC. 2016)
- MW-8 MONITORING WELL
- A CORRESPONDING INSET MAP SHOWS DETAIL
- PIPING
- STRUCTURE
- BERM
- FENCE
- AREA OF OPERATION
- UNDERGROUND ELECTRIC LINE
- ABOVEGROUND GAS LINE
- UNDERGROUND GAS LINE
- UNDERGROUND WATER LINE
- SANITARY SEWER
- LIGHT POLE

A MW-2/PUMP HOUSE AREA SEE FIG. B.2.b.1

B MW-4/FORMER ASPHALT PIT AREA SEE FIG. B.2.b.2

C MW-7/TANK 102 AREA SEE FIG. B.2.b.3

D MW-10 AREA SEE FIG. B.2.b.4

E PUMP/LOADING AREA SEE FIG. B.2.b.5

NOTES

1. PARCEL ID: RH 9328-1101.
2. THIS FIGURE IS BASED ON A DRAWING FROM THE ATEC REPORT DATED JULY 6, 1992 AND A 2016 GOOGLE EARTH AERIAL PHOTO.
3. PIPING AND UTILITY LOCATIONS ARE APPROXIMATE AND NOT ALL PIPING AND UTILITIES ARE SHOWN.
4. SHADED MONITORING WELLS HAVE BEEN ABANDONED.
5. KNOWN PCB SOURCES/ DISCHARGE POINTS ON SITE INCLUDE THE RELEASE OF HEAT TRANSFER FLUID, PRIMARILY IN THE EARLY TO MID-1970S, FROM ABOVE GRADE ALUMINUM PIPING.

RESIDUAL SOIL CONTAMINATION (MAY 2017)

RHINELANDER ASPHALT TERMINAL
CALUMET SUPERIOR, LLC
1965 APACHE LANE
RHINELANDER, WISCONSIN

102717
cp_R34955-DOD_2017_1CLR_B2b

EXHIBIT C

MAINTENANCE PLAN

Figure D.2: Location Map

Continuing Obligations Inspection and Maintenance Log

COVER MAINTENANCE PLAN

Date: August 30, 2018
Property Located at: 1965 Apache Lane, Rhinelander, Wisconsin, Oneida County
BRRTS #02-44-000513
Parcel ID# RH 9328-1101

Introduction

This document is the Maintenance Plan for a direct-contact cover system/cap addressing residual soil contamination at the above-referenced property in accordance with the requirements of s. NR 724.13(2), Wis. Adm. Code. The maintenance activities described relate to existing conditions, per Wisconsin Department of Natural Resources (WDNR) guidance. More site-specific information may be found in:

- The case file in the WDNR Rhinelander regional office.
- BRRTS on the Web (the WDNR's online database of contaminated sites).
- The GIS Registry PDF file (includes information on the nature and extent of contamination).
- The WDNR project manager for Oneida County.

Description of Residual Contamination

Residual contaminated subsurface soil onsite in limited areas is impacted by polychlorinated biphenyls (PCBs). The estimated extent of soil with one or more PCBs at or above an NR 720 industrial direct contact Residual Contaminant Level (RCL) and perimeter of the area where the cover system, fence, and "PCB-Impacted Soil" warning signs are to be maintained in accordance with this Maintenance Plan are shown on Figure D.2 (Exhibit C).

Description of the Cover to be Maintained

Cover system components include vegetated soil, current building/tank/structure foundations, and a gravel drive near the loading rack. The existing vegetated soil cover currently maintains a well-established crop of grass with no erosion and is mowed on a routine basis during the growing season. In addition, "PCB-Impacted Soil" signs will be posted on the perimeter fence as shown on Figure D.2.

Cover Purpose

The direct-contact cover system/cap serves as a barrier to prevent direct human contact with residual soil contamination that might otherwise pose a threat to human health. Based on the current and future land use of the property, the cap should function as intended unless disturbed.

COVER MAINTENANCE PLAN

Annual Inspection and Maintenance Activities

The direct-contact cover system (i.e., vegetated soil, building/tank/structure foundations, and gravel drive), perimeter fence, and "PCB-Impacted Soil" signs at the subject property will be inspected once a year, normally in the spring after all snow and ice are gone, for erosion, settling, vegetative damage, cracking, and other potential problems that can cause exposure to underlying impacted soils. Any area of erosion, settling, vegetative damage, cracking, etc. and the condition of the perimeter fence and "PCB-Impacted Soil" signs will be documented. A log of the inspections and all repairs will be maintained by the property owner(s). A Continuing Obligations Inspection and Maintenance Log is attached (Exhibit C). The inspection logs will be kept at the site and available for submittal or inspection by representatives of the WDNR or its successor upon their request.

If problems are noted during the annual inspections or at any other time during the year, repairs will be scheduled as soon as practical. If necessary maintenance activities expose the underlying soil, the owner must inform maintenance workers of the direct-contact exposure hazard and provide them with appropriate personal protection equipment. The owner must also sample any soil that is excavated from the site prior to disposal to ascertain if it is contaminated. The soil must be treated, stored, and disposed of by the owner in accordance with applicable local, state, and federal law.

In the event any portion of the direct-contact cover system is to be removed or replaced, the replacement cover system/barrier must provide at least equal direct-contact protection to the underlying contaminated soil. In addition, written approval from the WDNR is required prior to conducting any activity that could change the condition of or disturb one or more of the cover system components. Any replacement cover system/barrier will be subject to the same maintenance and inspection guidelines as outlined in this Maintenance Plan, unless indicated otherwise by the WDNR or its successor.

Prohibited Activities and WDNR Notification Requirements

The following activities, outside of those required for cap maintenance, are prohibited on the property within the area of the cover system/cap unless prior written approval has been obtained from the WDNR or its successor:

1. Removing or replacing the cap with another barrier. Any replacement cap would be subject to the same guidelines as outlined in this Maintenance Plan, unless indicated otherwise by the WDNR or its successor.
2. Excavating or grading of the land surface.
3. Filling on covered or paved areas.
4. Plowing for agricultural cultivation.

COVER MAINTENANCE PLAN

5. Constructing or placing a building or other structure in an area where a soil cover or other barrier is required.
6. Changing the facility from its current industrial, low-occupancy use condition to a commercial or residential exposure setting, including single or multiple family residence, a school, day care, senior center, hospital, or similar commercial or residential exposure setting.

The property owner will a) notify the WDNR if any pertinent problem occurs for two or more successive inspections, b) maintain a copy of this Maintenance Plan, c) make it available to all interested parties (i.e., on-site employees, contractors, future building owners, etc.) for viewing upon request, and d) keep this Maintenance Plan up to date and revised as necessary, per NR 724.13(4).

Amendment or Withdrawal of the Maintenance Plan

This Maintenance Plan may be amended or withdrawn by the property owner and its successors with the written approval of the WDNR or its successor.

Contact Information

Property owner:
Kollin Schade, VP
Superior Refining Company LLC
2407 Stinson Avenue, Superior, WI 54880
(715) 398-8453

Signature: Kollin Schade

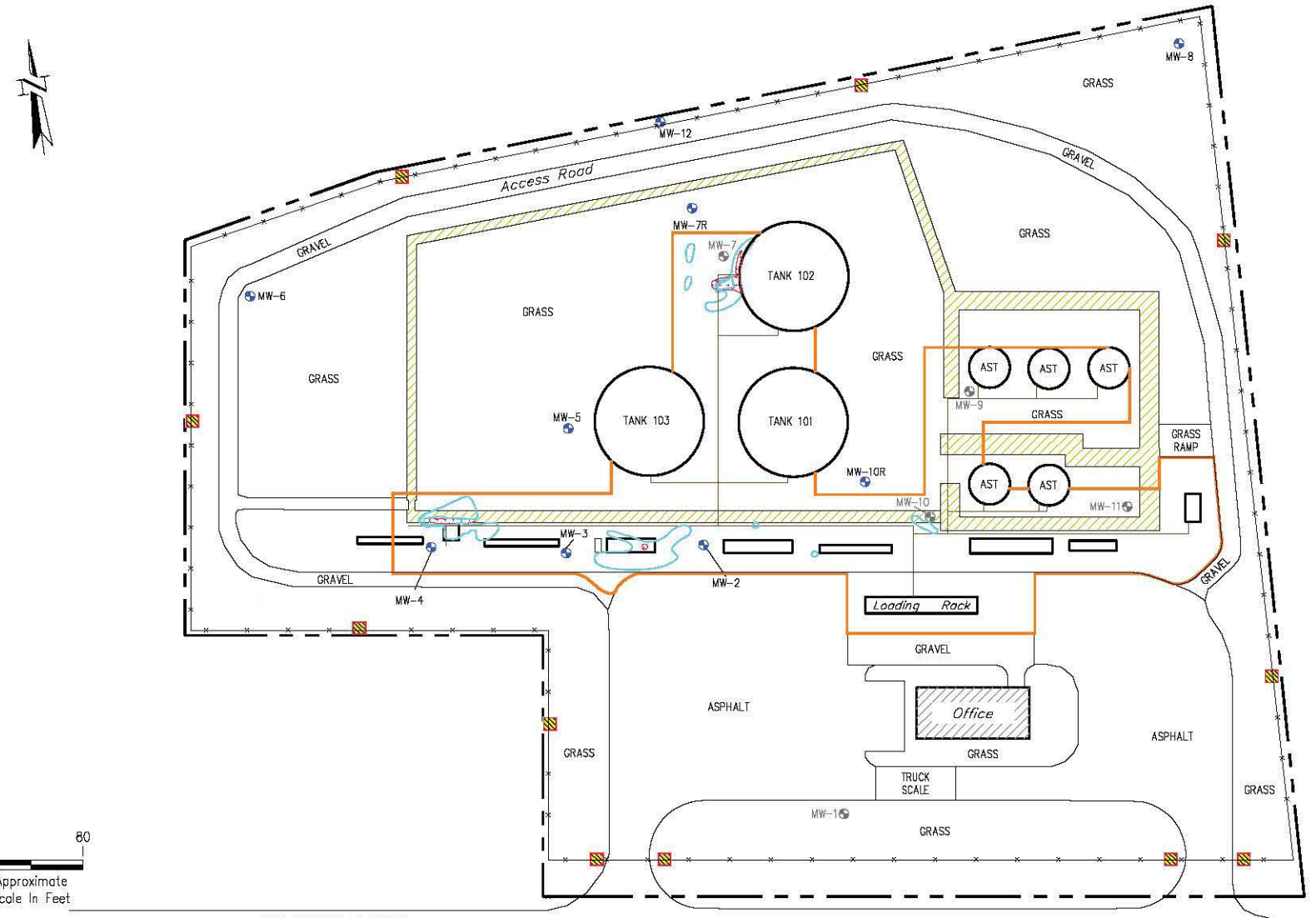
Kollin Schade, VP

Consultant:
Cliff Wright
Gannett Fleming, Inc.
8025 Excelsior Drive, Madison, WI 53717-1900
(608) 836-1500 ext. 6722

WDNR Project manager:
John Sager
WDNR Service Center, 1701 North 4th Street, Superior, WI 54880
(715) 392-7822

Gannett Fleming

FIGURE D.2



LEGEND

- PERIMETER OF THE DIRECT CONTACT COVER SYSTEM
- PCB-IMPACTED SOIL SIGN
- AREA OF SOIL CONTAINING PCBs>20 ppm POST OCTOBER 2015 EXCAVATION
- ESTIMATED EXTENT OF SOIL WITH ONE OR MORE PCBs AT OR ABOVE AN NR 720 INDUSTRIAL DIRECT CONTACT RCL (2017)
- PIPING
- STRUCTURE
- FENCE
- AREA OF OPERATION
- MW-8 MONITORING WELL
- BERM

NOTES

1. PARCEL ID: RH 9328-1101
2. PIPING LOCATIONS ARE APPROXIMATE AND NOT ALL PIPING IS SHOWN.
3. SHADED MONITORING WELLS HAVE BEEN ABANDONED.
4. THIS FIGURE IS BASED ON A DRAWING FROM AN ATEC REPORT DATED JULY 6, 1992 AND A 2016 GOOGLE EARTH AERIAL PHOTO.

LOCATION MAP

RHINELANDER ASPHALT TERMINAL
CALUMET SUPERIOR, LLC
1965 APACHE LANE
RHINELANDER, WISCONSIN

102717
cjp_R34955-000_2017_1QLR_D02

State of Wisconsin
Department of Natural Resources
dnr.wi.gov

Continuing Obligations Inspection and Maintenance Log

Form 4400-305 (2/14)

Directions: In accordance with s. NR 727.05 (1) (b) 3., Wis. Adm. Code, use of this form for documenting the inspections and maintenance of certain continuing obligations is required. Personal information collected will be used for administrative purposes and may be provided to requesters to the extent required by Wisconsin's Open Records law [ss. 19.31-19.39, Wis. Stats.]. When using this form, identify the condition that is being inspected. See the closure approval letter for this site for requirements regarding the submittal of this form to the Department of Natural Resources. A copy of this inspection log is required to be maintained either on the property, or at a location specified in the closure approval letter. Do NOT delete previous inspection results. This form was developed to provide a continuous history of site inspection results. The Department of Natural Resources project manager is identified in the closure letter. The project manager may also be identified from the database, BRRTS on the Web, at http://dnr.wi.gov/botw/SetUpBasicSearchForm.do, by searching for the site using the BRRTS ID number, and then looking in the "Who" section.

Activity (Site) Name	BRRTS No.
Calumet Superior LLC Rhinelander Asphalt Ter	02-44-000513

Inspections are required to be conducted (see closure approval letter):

- (●) annually
- ( ) semi-annually
- ( ) other – specify _____

When submittal of this form is required, submit the form electronically to the DNR project manager. An electronic version of this filled out form, or a scanned version may be sent to the following email address (see closure approval letter):

Inspection Date	Inspector Name	Item	Describe the condition of the item that is being inspected	Recommendations for repair or maintenance	Previous recommendations implemented?	Photographs taken and attached?
		☐ monitoring well ☒ cover/barrier ☐ vapor mitigation system ☒ other: perimeter fence and warning signs			○ Y ○ N	○ Y ○ N
		☐ monitoring well ☐ cover/barrier ☐ vapor mitigation system ☐ other:			○ Y ○ N	○ Y ○ N
		☐ monitoring well ☐ cover/barrier ☐ vapor mitigation system ☐ other:			○ Y ○ N	○ Y ○ N
		☐ monitoring well ☐ cover/barrier ☐ vapor mitigation system ☐ other:			○ Y ○ N	○ Y ○ N
		☐ monitoring well ☐ cover/barrier ☐ vapor mitigation system ☐ other:			○ Y ○ N	○ Y ○ N
		☐ monitoring well ☐ cover/barrier ☐ vapor mitigation system ☐ other:			○ Y ○ N	○ Y ○ N

Continuing Obligations Inspection and Maintenance Log

{Click to Add/Edit Image}

Date added:

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