



March 18, 2024

Dr. Qefli Neziri  
Innovative Properties Group LLC  
3519 S 33<sup>rd</sup> Street  
Milwaukee, WI 53221  
*Sent via electronic mail to [qefnez@yahoo.com](mailto:qefnez@yahoo.com)*

SUBJECT: Variance Request #1 Not Approved  
One Hour Martinizing, 1233 South Military Avenue, Green Bay, Wisconsin  
DNR BRRTS Activity # 02-05-217270, FID # 405008780

Dear Dr. Neziri :

The Wisconsin Department of Natural Resources (DNR) received your February 6, 2024, request for variance (the Variance Request) of Wis. Admin. Code § NR 169, known as the Dry Cleaner Environmental Response Program (DERP). A variance was requested for the above-mentioned site to Wis. Admin. Code § NR 169.11(3), which requires that applicants shall obtain and document concurrence from the department project manager before incurring eligible immediate action costs that exceed \$10,000.

Your consultant, Paul Killian with GEI Consultants, submitted an interim action workplan along with appropriate cost estimates, as required by Wis. Admin. Code NR § 169.11, to the DNR on November 22, 2019, and DNR provided cost approval for \$10,650 on November 26, 2019. To date, the DNR has not received a reimbursement request for this approved work. The Variance Request includes invoices for work that was not previously approved within the interim action workplan, and requests that these costs be eligible for reimbursement under DERP. The invoices included with the Variance Request span from May 12, 2020, to January 2, 2024, and total \$109,585. Supporting documentation with details of the work performed for the associated costs was not included within the Variance Request.

DNR reviewed the Variance Request and determined that it does not meet criteria within Wis. Admin. Code § NR 169.29 (1), which states:

In considering a variance request, the department shall take into account factors such as good cause, circumstances beyond the control of the owner or operator seeking reimbursement, whether the variance is essential to effect necessary actions or departmental objectives, and whether special circumstances make the variance in the best interest of the state.

However, per Wis. Admin. Code § NR 169.11(3), you are able to submit \$10,000 of the \$109,585, for which you did not have prior approval before incurring costs, for potential reimbursement as an eligible immediate action. All incurred costs are subject to the eligibility requirements listed under § NR 169.13 (2), Eligible Costs, and will be reviewed for compliance. All other requirements for investigation and remediation of the release as well as DERP requirements also apply. Reimbursement is contingent upon availability of funding and a final determination regarding the eligibility of costs at the time of claim review.

As a reminder from the DNR's letter regarding the status of the Drycleaner Environmental Response Fund (DERF), sent to you on October 27, 2020, there is currently a **projected wait time of more than 10 years** after receipt of new claims prior to payment and there is no guarantee funds will be available to pay new claims prior to the sunset date of June 30, 2032. DNR's authority to implement DERP is limited by statute, and DNR does not

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have authority to make statutory changes. The DNR will have no statutory authority to make payments when the funding source is exhausted, regardless of eligibility or whether a claim was received prior to the 2032 sunset date. Thus, it is impossible to guarantee that previously submitted claims or future submitted claims will be reimbursed.

The responsibility to investigate and clean up environmental contamination is independent of the status of DERF or claims already submitted that are in line for reimbursement. 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 this state, Wis. Stat. § 292.11(3). If funds are not available to reimburse claims, responsible parties are still responsible to take the actions necessary.

Additional information on pending reimbursement requests, payments by site, program revenue, projected revenue decline and more can be found at [dnr.wi.gov/aid/DERF.html](http://dnr.wi.gov/aid/DERF.html) under the "Fund stats" tab.

The DNR appreciates your efforts to restore the environment at this site. If you have any questions regarding the content of this letter, please contact me at 920-366-5685 or [Josie.Schultz@Wisconsin.gov](mailto:Josie.Schultz@Wisconsin.gov).

Sincerely,



Josie Schultz  
Hydrogeologist  
Remediation & Redevelopment Program

cc: Benjamin Brand, Kelly & Brand Attorneys at Law, LLC ([bbrand@kellybrandlaw.com](mailto:bbrand@kellybrandlaw.com))  
Sandy Flesher, DERP Fund Manager ([Sandra.flesher@wisconsin.gov](mailto:Sandra.flesher@wisconsin.gov))