



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Scott Walker, Governor  
Cathy Stepp, Secretary

South Central Region Headquarters  
3911 Fish Hatchery Road  
Fitchburg, Wisconsin 53711-5397  
Telephone 608-275-3266  
FAX 608-275-3338  
TDD 608-275-3231

**HAND DELIVERED**

April 19, 2012

Mr. Mark Meunier  
Madison Kipp Corporation  
201 Waubesa Street  
Madison WI 537

SUBJECT: Responsibilities for PCB Contamination: Madison Kipp Property, 201 Waubesa Street, Madison WI

Dear Mr. Meunier:

On March 26, 2012 Jennine Cota Trask, representing Arcadis, sent an email to the Department of Natural Resources (DNR) that polychlorinated biphenyls (PCBs) had been detected at the site described above. Based on the information that has been submitted to the DNR regarding this site, we believe you are 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 and the federal Toxic Substances Control Act, known as TSCA.

The March 26, 2012 email informing us of the PCB soil contamination along the eastern property line was handled inappropriately. You are well aware of the procedures and responsibilities for spill notification – those procedures were not followed. We have opened a new case file regarding this contamination. For the record, we now have two separate contamination cases for Madison Kipp.

In response, on March 26, DNR requested additional information of you regarding the PCB situation. In particular, DNR requested a report be provided to the state as soon as possible addressing the PCB contaminated soil generation, testing and disposal. Additionally, we asked: Was there only a single analysis or multiple tests run? What volume of soils is planned for offsite disposal and do we know from where within the trench these soils came from? We expressed concern about the possibility of Kipp having re-buried PCB contaminated soil.

On April 2, the DNR conferred with the Wisconsin Department of Justice (DOJ), Deputy Attorney General Steve Tinker, and he requested of your legal counsel, David Crass, the following information:

“The DNR received the composite soil sample results from ARCADIS for the trenching stockpile. The DNR believes that additional soil samples are needed to determine the nature of the PCB and VOC soil problems at the site. The DNR requests the following from Madison-Kipp:

“Collect discrete soil samples for total PCB and VOC analysis. Samples should be collected from locations adjacent to but outside the current trench footprint spaced approximately 15-30 feet apart. Sample locations shall cover from the northern to the southern end of the SVE lines. Sampling will be phased starting on the north end of the line. The first phase will cover the area around the transformers to a point 100 feet



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south of the transformers. Closer sample spacing (15 feet) will be used in this phase of work.

“Two samples will be collected per location at the depth of:

Sample Depths	0-1 foot
	2-3 feet

“Accepted sample collection, preservation and documentation protocols will be used.

“A final written report, consistent with NR 700 code requirements, with lab sheets is required.

“The first phase of work to be completed by May 1, 2012.”

To date, DNR and DOJ have not heard from you as to whether you intend to proceed with this work.

Because your detect level of 110 ppm was in excess of TSCA’s 50 ppm trigger level, per federal law, we conferred with the Environmental Protection Agency on April 13. Your responsibilities under the federal Toxic Substance Control Act and state law are noted below.

**Your responsibilities in this situation**

This letter, in part, describes your legal responsibilities as a person who is responsible under the Wisconsin spills law and TSCA and explains what you need to do to investigate and clean up the PCB contamination.

**Legal Responsibilities:**

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

STATE 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 749 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.

FEDERAL RESPONSIBILITY. The Toxic Substances Control Act (TSCA) section 6(e) requires clean-up of PCB contamination; clean-up options for substances under the jurisdiction of that law are found in 40 C.F.R. 761.61. You will need to either follow the “expedited coordinated review process” found in the “One Cleanup Program Memorandum of Agreement (MOA),” dated November 21, 2006, and located at <http://dnr.wi.gov/org/aw/rr/cleanup/ocp.pdf>, or you can elect to contact EPA regional staff directly to determine site-specific investigation and cleanup requirements for the TSCA-jurisdiction substances. Please notify the DNR within 10 days of the date of this letter as to which path you have elected to comply with. If you plan to work directly with EPA regarding

the TSCA-level PCBs, please contact Peter Ramanauskas, USEPA Region 5, at 312-886-7890 or [Ramanauskas.peter@epa.gov](mailto:Ramanauskas.peter@epa.gov).

Further, for the soils that you have already transported off your property for disposal, you will need to work with EPA on the proper documentation of those actions. The EPA regional contact is: Bradley Randall Grams, USEPA Region 5, at 312-886-7747 or [grams.bradley@epa.gov](mailto:grams.bradley@epa.gov).

### **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 both federal and Wisconsin's laws and administrative codes, you should hire a professional environmental consultant who understands what needs to be done. These are the first steps to take:

1. In anticipation of our meeting with you on Monday, April 23, DNR has planned an internal meeting this Friday to lay out mandatory steps and reporting you must adhere to for the comprehensive investigation and clean up of your site. Accordingly, the Department is directing Madison Kipp Corporation to submit any materials, documents, data, maps or other information regarding the PCB issues, on and off the Kipp site, within 24 hours of receipt of this letter, that is, by 10:30 a.m. on Friday, April 20.
2. Within the next 10 days you or your consultant shall submit a formal spill notification form, which can be located at <http://dnr.wi.gov/topic/Spills/report.html>.
3. Within the next 10 days you or your consultant shall submit a schedule for completing the investigation and immediate or interim actions under ch. NR 708, Wis. Admin. Code, within the timeframes specified in this letter. The consultant must comply with the requirements set in TSCA and in the NR 700 Wis. Adm. Code rule series, as applicable.
4. By May 1, 2012, you or your consultant shall complete the phase I site investigation requested by Steve Tinker, DOJ, on April 2. Samples shall be collected from locations adjacent to but outside the current trench footprint spaced approximately 15-30 feet apart. Sample locations shall cover from the northern to the southern end of the SVE lines. Sampling will be phased starting on the north end of the line. The first phase will cover the area – *both on and off your property* -- around the transformers to a point 100 feet south of the transformers. Closer sample spacing (15 feet) will be used in this phase of work. Two samples will be collected per location at the depth of: 0-1 foot; and 2-3 feet. Accepted sample collection, preservation and documentation protocols will be used. Submittal of a final written report, consistent with NR 700 code requirements, with lab sheets, is required by May 1.
5. Within 90 days from the date of this letter, DNR expects that the complete PCB-related site investigation, clean-up activities and report will be completed and submitted. This shall be conducted as an immediate or interim action under ch. NR 708, Wis. Admin. Code. The NR 700 reports and documentation shall be provided to the DNR within this 90-day timeframe.
6. In accordance with ch. NR 700.11(2)(d), Wis. Admin. Code, you are required to provide the DNR with bimonthly progress reports, the first and 15<sup>th</sup> of each month, that specify: (1) the actions taken to date; (2) the actions planned in the forthcoming two weeks; and (3) the results of any sampling and analysis, including but not limited to lab data sheets, and maps of where sampling has occurred

and is planned. Any interim or immediate actions planned or taken shall also be included in this bi-monthly update.

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.

All correspondence regarding this site should be sent to the shown EPA contact and:

Linda Hanefeld  
Remediation and Redevelopment Program  
Wisconsin Department of Natural Resources  
3911 Fish Hatchery Road  
Fitchburg WI 53719  
[Linda.Hanefeld@Wisconsin.gov](mailto:Linda.Hanefeld@Wisconsin.gov)

The Department cannot emphasize enough the serious nature of this situation. It is imperative that you provide the state and the public with the information both DNR and the Department of Justice have requested. The fact is, there is heightened neighborhood concern about your site and this contamination was found near the property line. We hope your lack of response is not an indication of a lack of urgency.

Please be advised that if this work is not done in a complete and timely manner, DNR will take the actions necessary to ensure that it is completed. The DNR's actions may include, but are not limited to, civil judicial or civil administrative actions for injunctive relief. DNR reserves its rights to take action under s. 292.11, 292.31, or 292.81, Wis. Stats., to request that the EPA's Superfund Removal program's assistance, or take action under s. 107 of CERCLA to recover costs from those persons who are potentially responsible parties, including those that caused the discharge, who are exercising possession or control over the discharge of hazardous substance.

If you have questions regarding this letter, please contact Linda Hanefeld at 608-275-3310.

Sincerely,



Linda Hanefeld, Team Supervisor  
SCR Remediation and Redevelopment Program

cc: Bradley Grams, US EPA, Region V  
Peter Ramanauskas, USEPA, Region V  
David A. Crass, Michael Best and Friedrich