

From: City of Cedarburg - Mikko Hilvo <mhilvo@ci.cedarburg.wi.us>
Sent: Thursday, November 17, 2022 7:14 PM
To: Rozeboom, David B - DNR
Cc: City of Cedarburg - Mike O'Keefe; Vitale, Matthew J - DNR
Subject: RE: Cedarburg Information (Amcast)

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David,

Thank you. This helps us better understand what is going on and what is required for the site remediation. Greatly appreciate your quick response. As you get more information that you are able to share with us we would appreciate updates. We would like to have better communication between the City and the DNR as we continue to evaluate this project and how we all can work together to ensure that the site gets cleaned up and redeveloped in a timely manner. We are always willing to set up a zoom meeting or come meet with you in-person if that helps. Thank you again for the clarification on this issue.

Mikko Hilvo

From: Rozeboom, David B - DNR <David.Rozeboom@wisconsin.gov>
Sent: Thursday, November 17, 2022 4:31 PM
To: City of Cedarburg - Mikko Hilvo <mhilvo@ci.cedarburg.wi.us>
Cc: City of Cedarburg - Mike O'Keefe <mokeefe@ci.cedarburg.wi.us>; Vitale, Matthew J - DNR <Matthew.Vitale@wisconsin.gov>
Subject: RE: Cedarburg Information (Amcast)

Mikko,

A claim that investigation and cleanup at the Amcast property cannot be completed until after EPA submits their action plan would not be accurate. It also does not address several other issues agreed upon by Oliver Fiontar, LLC., as outlined in the attached Negotiated Agreement #1. I've worked with the DNR project manager, Matt Vitale, to provide more detailed information on the status of DNR requirements and how that interacts with EPA's actions.

The EPA is in the process of finalizing the draft Proposed Plan for cleanup work at the site, which will lead to a signed Record of Decision (ROD) dictating what cleanup actions EPA will take at the site. EPA's actions may not address all of WI DNRs NR 700 requirements.

In Negotiated Agreement #1 between the DNR and Oliver Fiontar, LLC ("the Company"), signed in 2018, the Company agreed to perform any response actions that the Department determined are necessary to comply with Wis. Stats. ch. 292 and Wis. Admin. Code chs. NR 700 through 754, and that are not otherwise contemplated as part of the Superfund ROD. The language in Negotiated Agreement #1 does

not prevent the property owner from conducting environmental cleanup work at their site. It encourages communication with the DNR and EPA so that any planned redevelopment and/or cleanup work does not interfere with the EPA's plans. It specifically references the property owner's ability to conduct response actions (environmental cleanup work) and manage contaminated soil during redevelopment as long as they receive approval of their plans from the DNR and EPA.

Negotiated Agreement #1 includes a Schedule of Response Actions (in Addendum D) that the property owner agreed to comply with, including "Mitigate and halt the migration of PCB contamination beyond the boundaries of the Properties" and submitting a site investigation work plan for the Properties that meets Wis. Admin. Code ch. NR 716 requirements (to complete the environmental investigation on the properties).

A work plan was submitted to the DNR in April 2019, and after review, was not approved by the DNR in August 2019. A notice of violation (attached) was sent to the property owner from the DNR in July 2020, asserting the noncompliance with these portions of the agreement and the corresponding statutes and administrative code. A notice of violation follow-up was sent to the property owner in May 2021 (attached) alleging additional violations.

None of this prevents the property owner from submitting an updated site investigation work plan or proceeding with the required investigation and cleanup work needed to redevelop the site before the EPA ROD is finalized and the EPA conducts their cleanup action.

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Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Dave Rozeboom, P.G.

West Central Region Team Supervisor
Remediation and Redevelopment Program
Wisconsin Department of Natural Resources
Phone: 715-215-2078

David.Rozeboom@wisconsin.gov



From: City of Cedarburg - Mikko Hilvo <mhilvo@ci.cedarburg.wi.us>
Sent: Thursday, November 17, 2022 9:17 AM
To: Rozeboom, David B - DNR <David.Rozeboom@wisconsin.gov>
Cc: City of Cedarburg - Mike O'Keefe <mokeefe@ci.cedarburg.wi.us>
Subject: RE: Cedarburg Information (Amcast)

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David,

Thank you for your quick response. Is the issue that the EPA has not issued their action plan for the site? It is our understanding that the property owner is not able to do any environmental cleanup on the site until the EPA submits their action plan for the site and then has it approved by the DNR as well. Based on the recent visit by the EPA that plan will not be done until sometime in 2023. The actual cleanup will happen sometime in 2024/2025 depending on federal funding for the superfund site. Is the property owner allowed to do environmental cleanup work on the site without these approvals?

Mikko J. Hilvo, MPA, ICMA-CM
City Administrator
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Cedarburg, WI 53012
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From: Rozeboom, David B - DNR <David.Rozeboom@wisconsin.gov>

Sent: Thursday, November 17, 2022 8:29 AM

To: City of Cedarburg - Mikko Hilvo <mhilvo@ci.cedarburg.wi.us>

Cc: City of Cedarburg - Mike O'Keefe <mokeefe@ci.cedarburg.wi.us>

Subject: RE: Cedarburg Information (Amcast)

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Good Morning,

I spoke with a local citizen about their concerns regarding the status of the environmental cleanup at the former Amcast property in Cedarburg. I explained the responsible party (property owner) is currently not in compliance with Wis Stat. Ch. 292 (Spills Law), and Wis. Adm. Code NR 700. As a result, the DNR is currently in our agency's enforcement process, seeking further action. Because we are in the enforcement process, I am unable to share specific details.

Our [online database for this site](#) demonstrates that necessary work is not being accomplished to address environmental concerns at this property. The database does not indicate the current status of the enforcement case because active enforcement actions are not public record.

Let me know if you have any questions.

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Dave Rozeboom, P.G.

West Central Region Team Supervisor
Remediation and Redevelopment Program
Wisconsin Department of Natural Resources
Phone: 715-215-2078
David.Rozeboom@wisconsin.gov



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Good Morning,

I recently received an email from a resident that stated that they have been in contact with you in regards to the Amcast environmental cleanup site in our community. To better understand the citizens concerns on the site would you be able to let me know the extent of your conversation and share with me any information that was shared with the resident? Thank you.

Mikko J. Hilvo, MPA, ICMA-CM
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STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

IN THE MATTER OF:

NEGOTIATED AGREEMENT #1

A WIS. STAT. § 75.106 AGREEMENT BETWEEN THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES AND OLIVER FIONTAR LLC, TO INVESTIGATE AND CLEAN UP ENVIRONMENTAL CONTAMINATION AT THE FORMER AMCAST INDUSTRIAL CORPORATION PROPERTIES IN CEDARBURG, WISCONSIN

OZAUKEE COUNTY PARCELS: 13-051-01-05-000, 13-050-21-09-000, and 13-050-21-08-000.

U.S. EPA SUPERFUND SITE ID: WIN000510210.

DNR BRRTS Numbers: 02-46-000795, 04-46-243223, 04-46-243336, 07-46-581557.

RECITALS

WHEREAS, the Wisconsin Department of Natural Resources (the “Department”) is an administrative agency of the State of Wisconsin, created and charged by the Wisconsin Legislature with the enforcement of certain state laws concerning the protection of the environment and natural resources of the State, in particular, for purposes of this agreement, Wisconsin Statutes (“Wis. Stat.”) chapter (“ch.”) 292 and Wisconsin Administrative Code (“Wis. Admin. Code”) chapters (“chs.”) NR 700 through NR 754.

WHEREAS, Oliver Fiontar, LLC (the “Company”) is a Limited Liability Company registered in Wisconsin, with its Registered Agent identified on the Wisconsin Department of Financial Institutions’ website as Daniel Joseph Burns III (“Mr. Burns”), N105 W7585 Chatham St., Cedarburg, WI 53012-3255.

WHEREAS, the Company is attempting to acquire real property located near the intersection of Hamilton Road and Johnson Avenue, on opposite east-west sides of a narrow Milwaukee and Northern Railroad Company right-of-way, in the city of Cedarburg, Ozaukee County, Wisconsin, which together consists of three county tax parcels numbered 13-051-01-05-000, 13-050-21-09-000, and 13-050-21-08-000 and which are further described in Section III below, and are identified on the map included as Addendum A. For purposes of this Agreement parcel 13-051-01-05-000 will be referred to as the “Amcast North Property” and parcels 13-050-21-09-000 and 13-050-21-08-000 will be referred to as the “Amcast South Property,” and all three parcels together will be referred to as the “Properties”.

WHEREAS, the two most recent previous owners of the Properties were the Meta-Mold Aluminum Company and the Amcast Industrial Corporation, both of which are now bankrupt.

WHEREAS, the Properties total approximately eight (8) acres in size and are located within the boundaries of the larger federal Amcast Industrial Corporation Superfund Site, U.S. EPA ID: WIN000510210, (the “Superfund Site”), which the U.S. Environmental Protection Agency (“EPA”) placed on the Superfund National Priorities list (“NPL”) in 2009. The Properties are considered the source of environmental contamination identified to date within the Superfund Site (as depicted on the map in Addendum B).

WHEREAS, the 2015 Final Remedial Investigation (“RI”) Report, related to remedial investigation activities at the Superfund Site, prepared for EPA by CH2M Hill, and a 2017 Remedial Alternatives Evaluation Report prepared for EPA by CH2M, are public documents and shall constitute the “environmental assessment” required by Wis. Stat. § 75.106(2)(e).

WHEREAS, on June 4, 2018, the Department received a request for a Wis. Stat. § 75.105 tax cancellation agreement, along with the \$700.00 fee required by Wis. Admin. Code ch. NR 749 from Mr. Burns on behalf of the Company.

WHEREAS, after receiving the request for a Wis. Stat. § 75.105 agreement from the Company, the Department was informed by the Ozaukee County Corporation Counsel that the Ozaukee County Treasurer and Board of Supervisors preferred to transfer the County’s right to acquire title to the Properties to the Company via Wis. Stat. § 75.106. On July 5, 2018, Mr. Burns sent an email to the Department stating that this change of statutes was acceptable to the Company and that the Company now requested a Wis. Stat. § 75.106 agreement. The Department accepted this change request.

WHEREAS, before a judgment is issued under Wis. Stat. § 75.521, or a tax deed is executed under Wis. Stat. § 75.14, Wis. Stat. § 75.106 authorizes the governing body of a county to assign to a person or company the county's right to take judgment with respect to any parcel that is subject to foreclosure under Wis. Stat. § 75.521 or to take a tax deed with respect to any parcel subject to Wis. Stat. § 75.14, if all of the provisions in the law are met by the person or company.

WHEREAS, Wis. Stat. § 292.11(7)(d) authorizes the Department to negotiate and enter into agreements containing a schedule for conducting non-emergency actions required under Wis. Stat. § 292.11(3) with a person or company that possesses or controls a hazardous substance that was discharged into the environment.

WHEREAS, once the Company acquires title to the Properties the Company possesses and controls the Properties and all related hazardous substance discharges to the environment, and is required, under Wis. Stat. § 292.11(3), to take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharges to the air, lands or waters of this state.

WHEREAS, the Company is responsible, by state statute, for all environmental contamination on and originating from the Properties on the day the Company obtains title to the Properties.

WHEREAS, the Company agrees to allow EPA access to the Properties and not interfere with EPA’s response actions to implement the Superfund Site’s Record of Decision (“ROD”) consistent with the National Contingency Plan (“NCP”) and all applicable and appropriate requirements.

WHEREAS, the Department agrees to exercise its enforcement discretion and allow EPA to undertake those response actions identified in the ROD at the Properties.

WHEREAS, the Company agrees to perform any response actions that the Department determines are necessary to comply with Wis. Stats. ch. 292 and Wis. Admin. Code chs. NR 700 through 754, and that are not otherwise contemplated as part of the Superfund ROD.

WHEREAS, the Company agrees to comply with Wis. Stat. ch. 292 and Wis. Admin. Code chs. NR 700 through NR 754 when performing any voluntary response actions and contaminated materials management, such as management of contaminated soil and other solid waste.

WHEREAS, Wisconsin state statutes and administrative rules assigning responsibilities to the possessor or controller of a contaminated property do not conflict with the federal Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") statutes, nor do they present an obstacle to achieving CERCLA goals at the Superfund Site, and Department directives based on these state laws are not preempted by CERCLA at the Properties.

WHEREAS, the EPA intends to implement remedial actions at the Superfund Site following completion of the ROD, and as federal funds are available for such work, and the Department and the Company understand the importance of continued communication and consultation with EPA as the terms of this Agreement are implemented to ensure that response actions directed by state law, and development actions taken by the Company, do not impede or otherwise interfere with EPA's Superfund Site remedial action efforts.

NOW THEREFORE, the Company and the Department hereby agree as follows:

I. DEFINITIONS

For purposes of this Agreement, the definitions in Wis. Stat. ch. 292 and the Wis. Admin. Code chs. NR 700 through NR 754 rule series shall apply, and:

- A. "BRRTS" means the Bureau of Remediation and Redevelopment Tracking System, a Department database that provides information about contaminated properties and other activities related to the investigation and cleanup of contaminated soil or groundwater in Wisconsin.
- B. "One Cleanup Program Memorandum of Agreement" (OCP MOA) means the document dated June 2011, implemented via Publ-RR-786 and revised in October 2011 and March 2013 that sets forth the procedures to be used when addressing PCB response action cases through the Wis. Admin. Code chs. NR 700 through 754 processes.
- C. "The Properties" means the real property located near the intersection of Hamilton Road and Johnson Avenue, on opposite east-west sides of a narrow Milwaukee and Northern Railroad Company property/easement, in the city of Cedarburg, Ozaukee County, Wisconsin, which together consists of three county tax parcels numbered 13-051-01-05-000, 13-050-21-09-000, and 13-050-21-08-000 (hereafter referred to as the "Properties"), and which are further illustrated on the maps included in Addendums A and B to this Agreement. For purposes of this Agreement, when not referring to the Properties as a whole, parcel 13-051-01-05-000 will be referred to as "Amcast North Property" and parcels 13-050-21-09-000 and 13-050-21-08-000 will be referred to as "Amcast South Property."
- D. "Response" or "response action" means any action taken to identify or respond to a hazardous substance discharge or to environmental pollution, including emergency and non-emergency immediate actions, investigations, interim actions and remedial actions, per. Wis. Admin. Code § 700.03(50), as well as similar actions taken by EPA.

- E. "NR 700 Site" means, for purposes of this Agreement, the Properties, until the EPA completes remediation of the Superfund Site, or the EPA transfers lead responsibility for the Superfund Site to the Department.
- F. "Superfund Site" means the area of land identified by U.S. EPA ID: WIN000510210, which the U.S. Environmental Protection Agency ("EPA") placed on the Superfund National Priorities list ("NPL") in 2009, and as depicted on the map in Addendum B.
- G. "Work" means any response actions, as defined in Wis. Admin. Code § NR 700.03 and called for in this Agreement, in accordance with Wis. Stat. ch. 292 and Wis. Admin. Code.

II. PARTIES BOUND AND GENERAL CONDITIONS

- A. The Department and Company (the "Parties") each consent to comply with the following Negotiated Agreement (the "Agreement") entered into pursuant to Wis. Stat. §§ 75.106, 292.11 and 292.31, and Wis. Admin. Code chs. NR 700 through NR 754 and NR 500 through NR 555.
- B. This Agreement shall apply to and be binding upon the undersigned parties. The undersigned representative of each party certifies that he or she is fully authorized by the party whom he or she represents to enter into this Agreement and to execute and legally bind such party to the terms of this Agreement.
- C. The Company agrees to undertake all actions required by the terms and conditions of this Agreement and consents to and will not contest or legally challenge the validity of this Agreement, or the Department's authority to enter into this Agreement. Nothing in this section prohibits the use of the Agreement or the attachments to it, which are specifically incorporated herein by reference, as evidence of the Agreement's existence by any party to enforce the obligations, rights or defenses afforded by the Agreement.
- D. All activities to be undertaken pursuant to this Agreement shall be performed in accordance with the requirements of all applicable federal, state and local laws and regulations. The Company shall submit monthly updates to the Department and EPA Superfund staff assigned to the Amcast Superfund Site to provide information about response action and development activities undertaken and planned at the Properties, unless written approval is obtained from Department staff to reduce the frequency of such monthly updates in the future. All reasonable efforts must be made to coordinate and complement all response action and redevelopment work on the Properties with the Department and the EPA. No actions taken by the Company may interfere with any planned or ongoing EPA response actions.
- E. The Company shall be responsible for ensuring that all contractors, consultants, firms and other companies or entities ("Contractors") acting under or for it with respect to matters included herein comply with the terms of this Agreement. The Company shall provide a copy of this Agreement to the Contractors prior to their performance of any work on the Properties.

III. NR 700 SITE LOCATION AND DESCRIPTION

NR 700 Site Name: AMCAST INDUSTRIAL CORPORATION

NR 700 Site Location: The Properties are the NR 700 Site, which is located in Section 35, Township 10 North, Range 21 East, in the City of Cedarburg, Ozaukee County, Wisconsin. It is located on the south side of Cedarburg at N39 W5789 Hamilton Road, with portions of the properties located on the north and south sides of Hamilton Road and west of Cedar Creek. It consists of three Ozaukee County Parcels, numbered 13-051-01-05-000, 13-050-21-09-000, and 13-050-21-08-000, and further described as:

<u>Tax Parcel Nos.:</u>	<u>Legal Description:</u>	<u>Mailing Address:</u>
13-051-01-05-000	213/537/539 140/218 82/507 Lots 5 & 6 Blk 1 Assessor's Plat No 2	N37 W5684 Hamilton Road Cedarburg, WI 53012
13-050-21-09-000	245/81 113/509 88/630 Lots 9 & 10 Blk 21 Assessor's Plat	N39 W5789 Hamilton Road Cedarburg, WI 53012
13-050-21-08-000	245/79 245/81 Lot 8 Blk 21 Assessor's Plat	Abutting Johnson Avenue Cedarburg, Wisconsin

NR 700 Site History and Physical Conditions:

The Amcast North Property is the site of the most recent aluminum die-casting operations. This Property is fenced and consists of the former manufacturing plant building, paved asphalt area, and grassy corridors along the sides of the building. The Amcast South Property is the location of the original foundry (now demolished) and includes an office building, a Quonset storage building, an asphalt parking lot on the northern half of this Property, and a former disposal area on the southern half of this Property that contains buried waste. Storm sewers from the Amcast North Property are connected to the Wilshire Pond storm water retention basin. Investigations at the Amcast North Property have reported the detection of PCBs in the following areas: in stormwater; at former, apparent loading areas on the north side of the building and the southwest corner of the building; the residential yards located to the north and east; and within the storm sewer system. The highest concentrations of PCBs in soil at Amcast North are generally limited to the top 5 feet and occur on the grounds surrounding the building (for example, grassy or asphalt-paved areas). The only metal compound detected in Amcast North soil above an RSL concentration is arsenic, within the range of naturally occurring values. The highest concentrations of total PAHs at Amcast North are generally limited to the top 5 to 6 feet of soil and predominately occur on the northeast, southeast, and southwest corners of this Property. None of the detected VOC concentrations in soil samples exceed its respective RSL for individual VOC compounds.

Known Hazardous
Substance(s):

The three monitoring wells sampled at Amcast North have historically had groundwater concentrations of chromium, lead, arsenic, bis(2-ethylhexyl)phthalate, and total PCBs that exceed the MCL/ES.

Investigations at the Amcast South Property have detected the presence of PCBs in soils in the following locations: below the parking lot, the railroad right-of-way east of the parking lot, the fill and subsurface soils below the former disposal area, the storm sewer system, and the groundwater. The highest concentrations of PCBs at Amcast South are generally limited to the former disposal area at the south end of the site, with some elevated surface soil concentrations adjacent to the Quonset building and west of the former disposal area. The spatial distribution of PAHs in surface and subsurface soils roughly correlates with the distribution of PCBs, except that the highest concentrations of PAHs are found in surface soil, whereas the highest concentrations of PCBs are found at depth in the former disposal area. VOCs were not detected in soil samples at Amcast South, and RSL exceedances for metal constituents were limited to arsenic and lead. Historical or recent groundwater from well samples at Amcast South contained concentrations that exceed their respective MCL/ES for metals, VOCs, SVOCs, and/or PCBs in 6 of 10 wells. Groundwater concentrations of metals detected above the MCL/ES include lead, arsenic, and manganese. PAH constituents detected above the MCL/ES in the Amcast South wells include benzo(a)pyrene, benzo(b)fluoranthene, and chrysene, which were detected at GMMW-4 located in the former disposal area. (Source: 2015 Final Remedial Investigation Report.)

IV. WORK TO BE PERFORMED BY COMPANY

- A. General. All Response Actions at the Properties, either voluntarily taken or under the direction of the Department, shall be performed in compliance with Wis. Admin. Code chs. NR 700 through NR 754, Wis. Stat. ch. 292, the Department's OCP MOA, CERCLA, TSCA, and all other applicable local, state and federal laws. This includes complying with applicable local, state and federal laws that apply to the handling of solid waste, including contaminated soil at the Properties. The Company shall request that the Department pre-approve all materials management handling of contaminated soil and other solid waste that will not otherwise be managed at an operating solid waste facility licensed to accept such materials. This includes proper notifications to and approvals from the EPA for any contaminated materials that are planned to be excavated or managed by the Company. The Company shall pay the Department the appropriate fees for such reviews, consistent with Wis. Admin. Code ch. NR 749. The Company is responsible for taking all response actions at the Properties that the Department determines are necessary to comply with local, state and federal laws in the event that the EPA Superfund program does not do so.

- B. Consultant Qualifications. All Response Actions to be performed by the Company pursuant to this Agreement shall be conducted under the direction and supervision of a qualified hydrogeologist and a qualified professional engineer, as defined in Wis. Admin. Code ch. NR 712. The requirements for qualified consultants are listed in Addendum C. A copy of this Agreement shall be provided to each consultant hired to perform the Response Actions required by this Agreement and shall assure that any contracts are conditioned so as to require performance of the Response Actions in conformity with the terms of this Agreement.
- C. Reporting. The Company shall provide progress reports to the Department on the status of the Response Actions, in accordance with the requirements in Wis. Admin. Code chs. NR 700 through NR 754, especially the submittal timelines identified in NR 700.11. See publication [DNR RR-967, NR 700 Process and Timeline Overview](#). The Department may, at its discretion, change the period for reporting or direct that no further reporting is required if a written request to do so is submitted by the Company.
- D. Approvals. All Response Actions to be conducted by the Company pursuant to this Agreement must be approved by the Department in consultation with EPA Superfund before the Response Actions occur. Such Response Actions shall employ sound scientific, engineering and construction practices and shall be consistent with and performed in accordance with applicable federal, state, and local laws, including the OCP MOA.
- E. Due Care. The Company shall be responsible for mitigating or halting all continuing discharges of hazardous substances from migrating from the Properties, in particular the utility systems at the Properties. The Company shall not conduct any response or redevelopment actions that create an unacceptable exposure to contamination or cause a discharge of a hazardous substances. The Company agrees not to take any response actions or redevelopment actions that would interfere with any response actions in the Superfund ROD.
- F. Reuse Plans. The Company shall notify the Department of the intended future land use of the Properties per the terms of Addendum D to this Agreement. Included with this notification, the Company shall provide sufficiently detailed redevelopment plans for the Properties, as well as updates to the redevelopment plans in the event that the conceptual redevelopment plans change. Included in this notification the Company shall inform the Department of any planned soil excavation activities, soil penetration activities, including the installation of soil probes, soils borings and/or groundwater monitoring wells, and/or other earth-moving work and development/construction work on the Properties before the Superfund remedy is completed, and explain how the Company will protect public health, safety, welfare, and the environment.
- G. Contaminated Soil Movement. The Company shall notify the Department and EPA at least 30 days prior to the completion of any contaminated soil excavation activities, soil penetration activities, including the installation of soil probes, soils borings and/or groundwater monitoring wells, or other earth-moving or development work on the Properties. Soil and other waste material removed from the Properties and managed at a licensed landfill does not require pre-approval from the Department.

- H. Landfill Obligations and Exemption to Build. The Company shall take all response actions directed by the Department to address any contamination issues associated with the landfill on the NR700 Site and receive appropriate pre-approvals to build on a historic landfill.
- I. Case Closure. The Company will prepare the necessary response action documents and submit the NR700 Site information for Wis. Admin. Code ch. NR 726 case closure upon being notified by the Department that all necessary response actions have been undertaken at the Site.
- J. Continuing Obligations. The Company shall comply with Wis. Stat. § 292.12, with respect to residual contamination, and undertake the Response Actions necessary to have the NR 700 Site listed on the Department database.
- K. Schedule of Response Actions. The Company shall comply with all terms, timing, and conditions identified in the Schedule of Response Actions document that is included in this Agreement as Addendum D.

V. DEPARTMENT APPROVALS

After receipt of the appropriate Wis. Admin. Code ch. NR 749 fee and subsequent review of any plan, report or other deliverable that is required to be submitted for approval pursuant to this Agreement or if the Company requests that the Department review and approve, the Department shall (i) approve, in whole or in part, the submission, (ii) approve the submission upon specified conditions, (iii) disapprove, in whole or in part, the submission or (iv) any combination of the foregoing in consultation with EPA Superfund.

Upon receipt of a notice of disapproval, or if required by an approval upon specified conditions, the Company will correct the deficiencies and resubmit the plan, report or other deliverable for approval.

VI. PROJECT COORDINATORS

- A. The Department and the Company shall each designate a respective Project Coordinator and Alternate Project Coordinator under Section VII, Submission of Documents and Correspondence.
- B. To the extent possible, communications between the Company and the Department concerning the Properties or work shall be directed through the appropriate Project Coordinator. In the event the Project Coordinator is not readily available, communication shall be directed to the Alternate Project Coordinator. Each Project Coordinator/Alternate Project Coordinator shall be responsible for assuring that communications are properly disseminated and processed among the respective parties.
- C. Any party may change its designated Project Coordinator or Alternate Project Coordinator by notifying the other parties, in writing, at least five (5) business days prior to the change.

VII. SUBMISSION OF DOCUMENTS AND CORRESPONDENCE

Documents, including reports, plans, approvals, conditional approvals, disapprovals and correspondence to be submitted pursuant to this Agreement shall be sent to the following address or alternate address as the Company or the Department may hereafter designate in writing:

Documents and correspondence to be submitted to the Department shall be delivered to the Department Project Coordinator:

Margaret Brunette
2300 N. Martin Luther King Jr. Dr.
Milwaukee, WI 53212
(414) 263-8557
Margaret.Brunette@wisconsin.gov

Or Alternate Department Project Coordinator
Judy Fassbender
101 S. Webster St.
Madison, WI 53707-7921
(608) 266-7278
judy.fassbender@wisconsin.gov

Documents and correspondence to be submitted to the Company shall be sent to:

Oliver Fiontar, LLC
Daniel Joseph Burns III - Member
N105 W7585 Chatham St., Cedarburg, WI 53012-3255
(414) 881-0003
djburns@drakecg.com

All reports, plans, notices and other documents required to be submitted under this Agreement shall be deemed to be submitted on the date they are date-stamped at the Department, if mailed, or sent by messenger, or on the date they are received, if delivered electronically. The Company shall provide to the Department electronic versions of any reports, plans, notices or other documentation in addition to a paper version, consistent with the Wis. Admin. Code chs. NR 700 through NR 754 rule series and recommend that this be done so in accordance with Department publication [RR-690](#), *Guidance for Submitting Documents to the Remediation and Redevelopment Program*.

VIII. ACCESS

- A. The employees and authorized representatives of the Department and EPA shall have the authority to enter the Properties at all reasonable times for the purpose of inspecting records, operating logs, contracts and other documents relating to the implementation of this Agreement; reviewing the progress of the Company in implementing this Agreement; conducting tests; documenting activities being conducted or conditions at the Properties using a camera, sound or video recording, or other documentary type equipment, and verifying the data submitted to the Department by the Company.
- B. The Company shall permit such authorized representatives to inspect and copy all records, files, photographs, documents, and other writings, including all sampling and monitoring data, which pertain to this Agreement. The Company shall honor all reasonable requests for such access by the Department or EPA conditioned only upon presentation of proper credentials.
- C. Nothing herein shall be construed as restricting the inspection or access authority of the Department under any statute or rule.

- D. In the event the Properties are transferred to a third party before the completion of all response action work on the Properties, the Company shall provide, in any such transfer agreement, provisions allowing access to the site for the Company, any identified responsible parties and the Department and their consultants, contractors and representatives. In the event that the Department objects to the transfer, the Department may terminate the Agreement.

IX. STIPULATED PENALTIES FOR FAILURE TO COMPLY WITH SCHEDULE OF RESPONSE ACTIONS

Pursuant to Wis. Admin. Code § NR 728.07(2), which requires that this Agreement include a provision for stipulated penalties if the response action is not completed in accordance with the Agreement schedule, the Company agrees to the following penalties for failure to complete the non-emergency Response Actions in Addendum D: 1) For failure to complete a scheduled response action by a respective deadline, the Company shall forfeit \$1,000 for each violation, pursuant to Wis. Stat. § 292.99(1). 2) Each day of continued violation is a separate offense.

X. DISPUTE RESOLUTION

- A. Any dispute regarding this Agreement shall in the first instance be the subject of informal negotiations between the parties to the dispute. The period for informal negotiations shall not exceed twenty (20) days from the time the dispute arises, unless it is extended by written agreement of the parties to the dispute. The dispute shall be considered to have arisen when one party sends the other parties a written Notice of Dispute.
- B. In the event that the parties cannot resolve a dispute by informal negotiations under the preceding paragraph, then the Company shall have thirty (30) days after the conclusion of the informal negotiation period to invoke the formal dispute resolution procedures of this section by serving on the Department a written Statement of Position on the matter in dispute, including but not limited to any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by the Company.
- C. Within thirty (30) days after receipt of Statement of Position, the Department will serve on the Company its Statement of Position, including but not limited to any factual data, analysis or opinion supporting that position and all supporting documentation relied upon by the Department. Within twenty (20) days after receipt of the Department's Statement of Position, the Company may submit a Reply.
- D. Following receipt of the Company's Statement of Position, the Secretary of the Department will issue a final decision under Wis. Stat. § 227.47. The Company shall have, and retain, all remedies provided under law to appeal or contest any such decision by the Secretary of the Department.
- E. The invocation of formal dispute resolution procedures under this section shall not extend, postpone or affect in any way any obligation of the Company under this Agreement, not directly in dispute, unless the Department agrees otherwise.

XI. VIOLATIONS

Pursuant to Wis. Stat. § 292.11(7)(e), the Department may refer violations of this Negotiated Agreement to the Wisconsin Department of Justice for enforcement under Wis. Stat. § 299.95. The Company shall have, and retain, all remedies provided under law to contest any such alleged violation(s).

XII. EFFECTIVE DATE

This Negotiated Agreement is effective on the date the document is signed by the last of the parties herein.

XIII. CHOICE OF LAW

The laws of the State of Wisconsin shall govern the interpretation and performance of this Negotiated Agreement.

XIV. VENUE

The venue for any judicial action arising from this Agreement shall be state or federal court of competent jurisdiction located in Dane County, Wisconsin.

XV. SUBSEQUENT AMENDMENT

This Agreement may be amended by mutual consent of the Company and the Department. Any amendment of this Agreement shall be in writing, signed by the Department and the Company and shall have as the effective date that date on which the Department signed such amendment.

XVI. FEES

The Company shall obtain any necessary permits or approvals that may be required for the Response Actions and shall pay to the Department review fees for all Response Actions performed under this Agreement, in compliance with Wis. Stat. § 292.55 and Wis. Admin. Code ch. NR 749.

XVII. TERMINATION AND SATISFACTION

The provisions of this Agreement shall be deemed satisfied upon receipt by the Company of written notice of completion from the Department that the Company has demonstrated that the Response Actions, including any modified or additional Response Actions, or amendments, were completed in accordance with applicable local, state and federal statutes and regulations and the terms of this Agreement to the satisfaction of the Department. The termination and satisfaction of this Agreement shall be provided to the Company in writing upon the Department issuing Wis. Admin. Code ch. NR 726 case closure of the entire Properties under the appropriate provisions of Wis. Stat. ch. 292 and the Wis. Admin. Code chs. NR 700 through NR 754 rule series.

The written notice of completion and termination and satisfaction of this Agreement may exclude those provisions which, by their express terms, provide rights to the Department or impose obligations on the Company beyond such date. The Company may request a determination from the Department that the Work is complete under Wis. Admin. Code ch. NR 749. Any such request shall contain supporting documentation

necessary to support such a determination along with the required fee. If the Department determines that the Work is not complete, the Department shall specify the actions necessary to be undertaken by the Company to complete the Work. A determination by the Department that the Work is not complete shall be subject to the Dispute Resolution provision of this Agreement.

The Department reserves the right to terminate any approval issued under this Agreement in the event the Department determines that the Company obtained the approval by fraud, misrepresentation or a knowing failure to disclose material information. The Department further reserves the right to terminate this Agreement if the Department determines that the Company failed to make reasonable progress in undertaking the Response Actions required under the terms of this Agreement.

XVIII. ADDENDUMS

The following Addendums are attached to and incorporated into this Agreement:

Addendum A is a map of the Properties

Addendum B is a map of the Superfund Site

Addendum C identifies necessary consultant qualifications per Wis. Admin. Code ch. NR 712

Addendum D is the Schedule of Response Actions

XIX. EXECUTION IN COUNTERPARTS

This Agreement may be executed in separate counterparts, each of which shall be deemed an original. Each party to this Agreement shall execute two (2) duplicate original counterparts and shall circulate the same to all other parties identified in this Agreement.

By signing below, the below authorized representatives of each party agree to be so bound:

WISCONSIN DEPARTMENT OF NATURAL RESOURCES


By: Bart Sponseller
Deputy Division Administrator
Environmental Management Division

August 2, 2018
Date

OLIVER FIONTAR, LLC

By: Daniel Joseph Burns III
Registered Agent

Date

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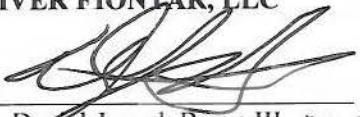
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WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By: Bart Sponseller
Deputy Division Administrator
Environmental Management Division

Date

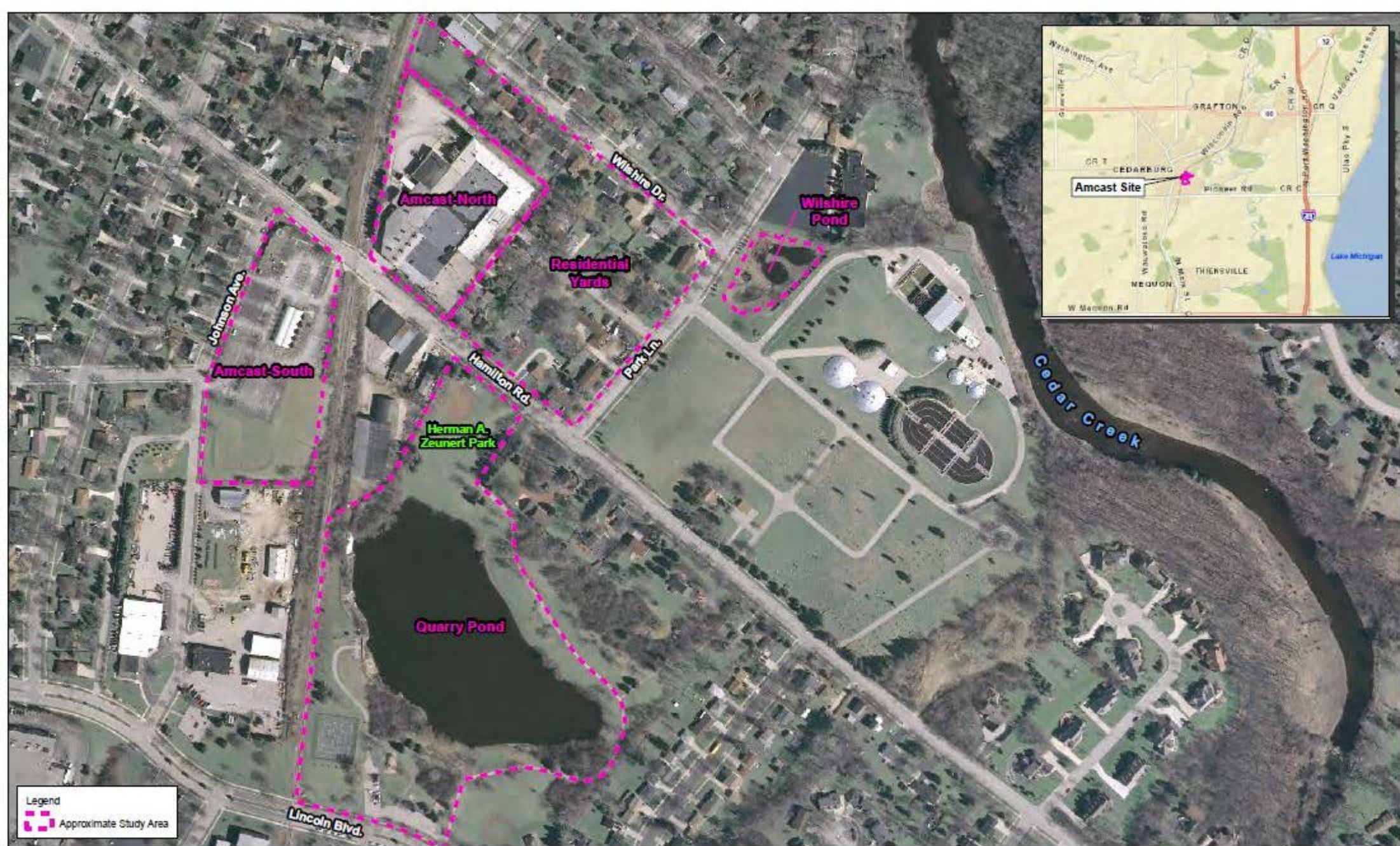
OLIVER FIONTAR, LLC



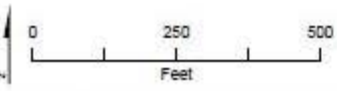
By: Daniel Joseph Burns III - *MEMBER*
Registered Agent

8/2/18

Date



Legend
 [Dashed Pink Line] Approximate Study Area



AMCAST AGREEMENT -- ADDENDUM B (SUPERFUND SITE MAP)

Figure 1-1
 Site Location Map
 Data Evaluation Report
 Amcast Industrial Site Cedarburg, WI

AMCAST AGREEMENT -- ADDENDUM C (QUALIFICATIONS)

Chapter NR 712

PERSONNEL QUALIFICATIONS FOR CONDUCTING ENVIRONMENTAL RESPONSE ACTIONS

NR 712.01 Purpose.
 NR 712.02 Applicability.
 NR 712.03 Definitions.
 NR 712.05 Sampling and field work requirements.

NR 712.07 Requirements for submittal preparation.
 NR 712.09 Submittal certification.
 NR 712.11 Exemptions.

Note: Corrections made under s. 13.93 (2m) (b) 7., Stats., Register, February, 1997, No. 494.

NR 712.01 Purpose. This chapter establishes minimum standards for experience and professional qualifications for persons who perform and provide certain services or scientific evaluations associated with specified environmental response actions. This chapter is adopted pursuant to s. 227.11 (2) and ch. 292, Stats.

History: Cr. Register, April, 1994, No. 460, eff. 5-1-95; am., Register, February, 1995, No. 482, eff. 3-1-96; CR 12-023; am. Register October 2013 No. 694, eff. 11-1-13.

NR 712.02 Applicability. (1) Except as provided in s. NR 712.11, this chapter applies to work performed by environmental consultants hired by the department under the authority of s. 292.11 or 292.31, Stats.

(2) Except as provided in s. NR 712.11, this chapter applies to all sampling and field work conducted during any response action being taken to satisfy the requirements of chs. NR 700 to 754, including the preparation of phase I or phase II environmental site assessments.

(3) Except as provided in s. NR 712.11, this chapter applies to any person who provides engineering services or performs any scientific evaluation associated with a remedial action or any of the interim actions specified in chs. NR 700 to 754 for a site, facility or portion of a site or facility that is subject to regulation under ch. 292, Stats., regardless of whether there is direct involvement or oversight by the department. This chapter also applies to any person who provides engineering services or performs any scientific evaluation associated with a response action taken by a person seeking the liability exemption under s. 292.15, Stats.

Note: Responsible parties who take an immediate action or interim action that does not involve the construction or operation of on-site treatment or an engineering control, as specified in s. NR 708.11 (4), are not required to hire personnel who meet the qualifications in this chapter, except that sampling and field work that is being done in conjunction with the immediate or interim action must comply with the requirements of this chapter.

(4) The department may exercise enforcement discretion on a case-by-case basis and choose to regulate a site, facility, or a portion of a site or facility under only one of a number of potentially applicable statutory authorities. However, where overlapping restrictions or requirements are applicable, the more restrictive shall control. The department shall, upon receipt of a written request and appropriate ch. NR 749 fee from a responsible party, provide a letter that indicates which regulatory program or programs the department considers to be applicable to a site or facility.

Note: Sites, facilities or portions of a site or facility that are subject to regulation under ch. 292, Stats., may also be subject to regulation under other statutes, including the solid waste statutes in ch. 289, Stats., or the hazardous waste management act, ch. 291, Stats., and the administrative rules adopted pursuant to those statutes. In addition, federal authorities such as CERCLA, RCRA, or TSCA may also apply to a site or facility or portions of a site or facility. One portion of a site or facility may be regulated under a different statutory authority than other portions of that site or facility.

History: Cr. Register, April, 1994, No. 460, eff. 5-1-95; am. (3), Register, February, 1996, No. 482, eff. 3-1-96; CR 12-023; am. (2) to (4) Register October 2013 No. 694, eff. 11-1-13.

NR 712.03 Definitions. In this chapter:

Published under s. 35.93, Stats. Updated on the first day of each month. Entire code is always current. The Register date on each page is the date the chapter was last published.

(1) "Hydrogeologist" means a person who is licensed as a hydrogeologist or registered as a geologist with the department of safety and professional services, and is a graduate of an accredited institution of higher education and who has successfully completed 30 semester hours or 45 quarter hours of course work in geology. At least 6 semester hours or 9 quarter hours of the geology course work shall be hydrogeology, geohydrology or ground-water geology. This person shall also have acquired, through education and field experience, the ability to direct the drilling of borings and the installation and development of wells, describe and classify geologic samples, and evaluate and interpret geologic and hydrogeologic data.

Note: The term registered geologist means a Professional Geologist that has been licensed in accordance with the provisions in ch. GHSS 2, Wis. Adm. Code and the term licensed hydrogeologist means a Professional Hydrogeologist that has been licensed in accordance with the provisions in ch. GHSS 3, Wis. Adm. Code.

(2) "Professional engineer" means an engineer registered with the department of safety and professional services.

(3) "Scientist" means a person who is a graduate of an accredited institution of higher education and who has successfully completed the necessary credit hours to receive a degree in a field of scientific expertise applicable to environmental response actions, including, but not limited to, geology, chemistry, agronomy, crops and soils, soil science, toxicology and biology.

(4) "Supervised field experience" means experience collecting samples of air, soil, water or other media completed with guidance from, and oversight by, a person who meets the requirements of s. NR 712.05 (2).

(5) "Supervision" means personal, active oversight and control of the preparation of submittals.

Note: Supervision of field personnel may be by telephone or other form of remote communication, unless otherwise specified in this chapter.

History: Cr. Register, April, 1994, No. 460, eff. 5-1-95; corrections in (1), (2) made under s. 13.92 (4) (b) 6., 7., Stats., Register February 2012 No. 674; CR 12-023; am. (1) Register October 2013 No. 694, eff. 11-1-13.

NR 712.05 Sampling and field work requirements.

(1) GENERAL. All sampling, field work and development of plans for field activities for response actions being taken to satisfy the requirements of ss. NR 708.09 to 708.15 or chs. NR 716 to 754 shall be conducted by or under the supervision of a professional engineer, hydrogeologist or scientist, unless sub. (2) or an exemption in s. NR 712.11 is applicable.

(2) SAMPLING FOR IMMEDIATE AND INTERIM ACTIONS NOT INVOLVING TREATMENT OR ENGINEERING CONTROLS. For immediate actions and interim actions that do not involve treatment or engineering controls, samples of air, soil, water or other media for field measurement or analytical laboratory analysis are not required to be collected under the supervision of a professional engineer, hydrogeologist or scientist, but shall be collected by one of the following, unless the sampling is exempt under s. NR 712.11 (2):

(a) A graduate of a vocational or technical school with course work in science or engineering who has 40 hours of supervised field experience; or

(b) Any person who has all of the following:

1. 40 hours of training in collecting, preserving, filtering and transporting environmental samples and decontaminating sampling equipment that meets the requirements of sub. (4) (a).

2. 80 hours of supervised field experience that meets the requirements of sub. (4) (a).

3. A letter or certificate that meets the requirements of sub. (4) (b).

(3) SAMPLING FOR INTERIM ACTIONS INVOLVING TREATMENT OR ENGINEERING CONTROLS AND REMEDIAL ACTIONS. For remedial actions and interim actions that involve treatment or engineering controls, samples of air, soil, water or other media for field measurements or analytical laboratory analysis shall be collected by a professional engineer, hydrogeologist, scientist or any one of the following working under the supervision of a professional engineer, hydrogeologist or scientist, unless the sampling is exempt under s. NR 712.11 (2):

(a) A graduate of a vocational or technical school with course work in science or engineering who has 40 hours of supervised field experience; or

(b) Any other person who has all of the following:

1. 40 hours of training in collecting, preserving, filtering and transporting environmental samples and decontaminating sampling equipment that meets the requirements of sub. (4) (a).

2. 80 hours of supervised field experience that meets the requirements of sub. (4) (a).

3. A letter or certificate that meets the requirements of sub. (4) (b).

(4) TRAINING AND EXPERIENCE. (a) Training and supervised field experience required by subs. (2) and (3) shall include sampling methods for all media that a person is expected to sample in the course of his or her employment.

(b) A letter or certificate documenting the supervised field experience and training shall be signed and dated by the person conducting the training. The person conducting the training must meet the qualifications specified in sub. (2). The letter or certificate shall be kept on file with the employer. Documentation of supervised field experience and training shall be provided to the department upon request.

(5) SOIL BORING LOGS. (a) The written descriptions of soil and rock on soil boring logs shall be prepared by a graduate of an accredited institution of higher education with a major in an appropriate science or engineering specialty. This person shall have acquired, through education and actual field experience, the ability to direct the drilling of borings, classify geologic samples and evaluate and interpret geologic and hydrogeologic data. The following academic disciplines are considered appropriate science specialties for preparers of soil boring logs: earth sciences, geochemistry, geology, geophysics, hydrogeology and soil science. The following engineering majors are considered appropriate engineering specialties for preparers of soil boring logs: environmental, civil, geological, geotechnical, mining, mineral, petroleum, agricultural and geophysical.

(b) The logs shall be developed in accordance with the requirements of ch. NR 141 and shall be signed by the person that developed the written description in the boring logs of the soil and rock.

History: Cr. Register, April, 1994, No. 460, eff. 5-1-95; CR 12-023: am. (1) Register October 2013 No. 694, eff. 11-1-13.

NR 712.07 Requirements for submittal preparation.

(1) Submittals that are prepared to satisfy the requirements of s. NR 708.11 (4) or 708.13 or chs. NR 716 to 754, which require the performance of engineering services or scientific evaluations, including phase I and phase II environmental site assessments shall be prepared by or under the supervision of a professional engineer, hydrogeologist, or scientist, except as provided in s. NR 712.11. All phases of work necessary to obtain data, develop conclusions, recommendations and prepare submittals shall be con-

ducted or supervised by the professional engineer, hydrogeologist, or scientist.

Note: The department recommends that at a minimum, ASTM standards be followed when conducting Phase I and Phase II environmental site assessments. EPA's requirements contained in 40 CFR Part 312 must be followed in order to be eligible for the liability protections contained in CERCLA.

(2) Submittals prepared to satisfy the requirements of ch. NR 722 or 724 or s. NR 708.11 (4), including free product removal conducted in accordance with s. NR 708.13, for response actions taken to address groundwater contamination shall be jointly prepared by, or under the supervision of, a professional engineer and a hydrogeologist.

(3) Submittals prepared to satisfy the requirements of ch. NR 722 or 724 or s. NR 708.11 (4) for response actions that address any media other than groundwater shall be prepared by, or under the supervision of, a professional engineer.

Note: This chapter is not intended to authorize the practice of professional engineering in violation of ch. 443, Stats.

(4) Hydrogeologists shall prepare or supervise the preparation of submittals involving the assessment of groundwater conditions at a site or facility, when prepared to satisfy the requirements of ch. NR 716.

(5) Submittals addressing any media other than groundwater, which are prepared to satisfy the requirements of ch. NR 716 or 720, shall be prepared by or under the supervision of a professional engineer, a hydrogeologist or a scientist.

History: Cr. Register, April, 1994, No. 460, eff. 5-1-95; am. (5), Register, March, 1995, No. 471, eff. 5-1-95; am. (2) and (3), Register, April, 1995, No. 472, eff. 5-1-95; CR 12-023: am. (1) Register October 2013 No. 694, eff. 11-1-13.

NR 712.09 Submittal certification. **(1)** Submittals prepared by, or under the supervision of, a professional engineer, a hydrogeologist or a scientist shall be dated and certified by the professional engineer, hydrogeologist or scientist using the appropriate certification set forth in sub. (3). The responsibility for signing the certification may not be delegated to others.

(2) The act of signing the certification means that the professional engineer, hydrogeologist or scientist certifies that, to the best of her or his knowledge, all information contained in the submittal is correct and the submittal was prepared in accordance with all of the applicable requirements of chs. NR 708 to 754. Conclusions and recommendations in the submittal shall represent the certifier's best professional opinions and judgments.

(3) The appropriate certification in pars. (a) to (c) shall be attached to all submittals to the department to demonstrate that the requirements of s. NR 712.07 have been met.

(a) The following certification shall be attached to any submittal that is required to be prepared by, or under the supervision of, a professional engineer under s. NR 712.07 (2), (3) or (5):

"I, _____, hereby certify that I am a registered professional engineer in the State of Wisconsin, registered in accordance with the requirements of ch. A-E 4, Wis. Adm. Code; that this document has been prepared in accordance with the Rules of Professional Conduct in ch. A-E 8, Wis. Adm. Code; and that, to the best of my knowledge, all information contained in this document is correct and the document was prepared in compliance with all applicable requirements in chs. NR 700 to 726, Wis. Adm. Code."

Signature, title and P.E. number

P.E. stamp

(b) The following certification shall be attached to any submittal that is required to be prepared or to have its preparation supervised by a certified hydrogeologist under s. NR 712.07 (2), (4) or (5):

"I, _____, hereby certify that I am a hydrogeologist as that term is defined in s. NR 712.03 (1), Wis. Adm. Code, am registered in accordance with the requirements of ch. GHSS 2, Wis. Adm. Code, or licensed in accordance with the requirements of ch. GHSS 3, Wis. Adm. Code, and that,

to the best of my knowledge, all of the information contained in this document is correct and the document was prepared in compliance with all applicable requirements in chs. NR 700 to 726, Wis. Adm. Code.”

Signature and title

Date

(c) The following certification shall be attached to any submittal that is required to be prepared or to have its preparation supervised by a certified scientist under s. NR 712.07 (5):

“I, _____, hereby certify that I am a scientist as that term is defined in s. NR 712.03 (3), Wis. Adm. Code, and that, to the best of my knowledge, all of the information contained in this document is correct and the document was prepared in compliance with all applicable requirements in chs. NR 700 to 726, Wis. Adm. Code.”

Signature and title

Date

History: Cr. Register, April, 1994, No. 460, eff. 5-1-95; CR 12-023: am. (2), (3) (b) Register October 2013 No. 694, eff. 11-1-13.

NR 712.11 Exemptions. (1) GENERAL. The following submittals are exempt from the requirements of this chapter:

(a) Submittals related to research projects prepared by, or under the supervision of, employees of state or federal educational or research institutions who have the training, but not the experience, registration or education needed to be a professional engineer, hydrogeologist or scientist. This exemption applies only to persons preparing or supervising the preparation of a submittal pursuant to s. NR 712.07, not to field personnel covered under s. NR 712.05.

(b) Analytical laboratory reports prepared by laboratories that are certified or registered under ch. NR 149 or the U.S. EPA contract laboratory program.

(c) Plans or specifications for air emission treatment devices that are submitted to the department’s bureau of air management for approval.

(d) Plans or specifications submitted to the department’s bureau of water quality for approval of lagoon or treatment system abandonment.

(e) Plans and specifications submitted to the department to meet the requirements of ch. NR 108.

Note: Section NR 108.04 (2) (c) requires the final plans and specifications for wastewater treatment devices to be submitted under the signature and the seal of a professional engineer.

(f) Tank closure assessments performed in accordance with the requirements of ch. ATCP 93 by a site assessor certified by the department of agriculture, trade and consumer protection, and any other plans, specifications or reports required by the department of agriculture, trade and consumer protection not specifically required by chs. NR 700 to 754.

(g) Plans for the landspreading of soil contaminated only with fertilizers or regulated pesticides.

(2) SAMPLING. (a) Sampling that is conducted in compliance with all of the following conditions is exempt from the requirements of s. NR 712.05 (1) to (3), except as provided in par. (b):

1. The sampling is conducted by responsible parties or by an employee of the responsible parties in compliance with all of the requirements of chs. NR 700 to 726, except s. NR 712.05 (1) to (4).

2. The sampling is conducted by responsible parties or by an employee of the responsible parties in accordance with all applicable sampling protocols established by the department. A description of sampling and sample preservation methods shall be provided to the department by the responsible parties at the time that the sampling results are submitted.

3. A statement is included in the submittals that describes the education, training and experience that qualifies the person who collected the samples to take samples without meeting the requirements of s. NR 712.05 (2).

(b) The department may reject any sampling results submitted under this subsection if the department determines that the samples were not taken in accordance with the requirements of this subsection and all other applicable sections of chs. NR 700 to 754, or that the person taking the samples was not qualified to do so based on the statement submitted to the department under par. (a) 3. If the department rejects any sampling results, the department shall provide the responsible parties with specific reasons for the rejection in writing. The responsible parties shall hire a consultant who meets the qualifications of s. NR 712.05 to conduct any required sampling if the department directs them to do so in writing.

History: Cr. Register, April, 1994, No. 460, eff. 5-1-95; am. (1) (f), Register, February, 1997, No. 494, eff. 3-1-97; correction in (1) (f) made under s. 13.93 (2m) (b) 7., Stats., Register September 2007 No. 621; correction in (1) (f) made under s. 13.92 (4) (b) 7., Stats., Register February 2012 No. 674; CR 12-023: am. (1) (d), (f), (2) (b) Register October 2013 No. 694, eff. 11-1-13; corrections in (1) (f) made under s. 13.92 (4) (b) 6., 7., Stats., Register October 2013 no. 694.

ADDENDUM D -- SCHEDULE OF RESPONSE ACTIONS

AUG. 2018: 75.106 AGREEMENT BETWEEN DEPARTMENT AND OLIVER FIONTAR, LLC

The Company agrees, per the terms of the Agreement and this Addendum D, that upon taking title to the Properties it will commence and complete the following actions on the Properties, within the timeframes listed in Wis. Admin. Code § NR 700.11 (see also Department publication RR-967), in compliance with Wis. Admin. Code chs. NR 700 – 754, and by submitting the appropriate technical review fees per Wis. Admin. Code ch. NR 749 for each individual submittal.

The Department will share all documents and materials submitted by the Company with EPA Superfund and will consult with EPA Superfund with respect to all Company response actions at the Properties. The Department strongly recommends that the Company also consult regularly with EPA Superfund to obtain their advice and approval for response actions at the Properties.

SCHEDULE OF REQUIRED COMPANY RESPONSE ACTIONS AT THE PROPERTIES

1. Mitigate and halt the migration of PCB contamination beyond the boundaries of the Properties, per Wis. Stat. § 292.11(3).
 - a. Schedule: Immediate and ongoing.
2. Notify the Department in writing of the intended use of the Properties, industrial or non-industrial.
 - a. Schedule: No later than 30 days after acquiring title to the Properties
3. Submit to the Department a sufficiently detailed redevelopment plan for the Properties, to inform the Department's regulatory decision-making process.
 - a. Schedule: No later than 60 days after acquiring title to the Properties.
4. Submit the following documents to the Department, along with a request for technical assistance and the appropriate fee, using Department Form 4400-237, and take no related response actions at the Properties until receiving Department approval of the documents submitted. These documents should also be submitted to EPA for their review and approval.
 - a. A site investigation work plan for the Properties that meets Wis. Admin. Code ch. NR 716 requirements. The work plan may include references to the EPA's Superfund Remedial Investigation (RI) Report if the RI satisfies parts or all of the ch. NR 716 site investigation requirements.
 - i. Schedule: No later than 60 days after acquiring title to the Properties.

ADDENDUM D -- SCHEDULE OF RESPONSE ACTIONS

AUG. 2018: 75.106 AGREEMENT BETWEEN DEPARTMENT AND OLIVER FIONTAR, LLC

- b. No pre-activity approval from the Department is required for the following activities on the Properties:
 - i. Immediate or emergency response actions per Wis. Admin. Code § NR 708.05;
 - ii. Groundwater sampling conducted at monitoring wells that exist on the Properties when legal title is acquired by the Company;
 - iii. Abandoned container contents assessment;
 - iv. Waste disposal at a licensed facility.

- c. Pre-activity approval from the Department is required, and must be requested at least 45 days prior to the proposed activity, for all environmental assessment, investigation, and remedial action activities on the Properties not identified in sub. “b” above, which include, but are not limited to, the following:
 - i. Soil probe and/or boring installation;
 - ii. Monitoring well construction;
 - iii. Interim actions under Wis. Admin. Code § NR 708.11.

- d. A soil sampling and materials management plan per Wis. Admin. Code ch. NR 718.
 - i. Schedule: At least 45 days prior to beginning the work if material will be managed at a location other than a licensed disposal facility.

- e. A remedial actions options report per Wis. Admin. Code chs. NR 722 and 724. This report should also include the following:
 - i. A remedial design report per Wis. Admin. Code ch. NR 724.
 - ii. A report identifying how compliance with the relevant Wis. Admin. Code ch. NR 720 soil standards will be attained.
 - iii. A report identifying how the Company will comply with federal TSCA requirements for PCBs and other waste materials.
 - 1. Schedule: No later than 60 days after submittal of the site investigation report.

- 5. Notify the Department of all hazardous substance discharges at the Properties that are discovered or otherwise identified, per Wis. Stat. § 292.11(2) and Wis. Admin. Code ch. NR 706.
 - a. Schedule: Immediate and ongoing.

ADDENDUM D -- SCHEDULE OF RESPONSE ACTIONS

AUG. 2018: 75.106 AGREEMENT BETWEEN DEPARTMENT AND OLIVER FIONTAR, LLC

6. Comply with Wis. Admin. Code chs. NR 700 – 754 until the Department approves case closure per Wis. Admin. Code ch. NR 726.
 - a. Schedule: Immediate and ongoing.

7. Comply will all continuing obligations in effect at the Properties, per Wis. Stat. § 292.12, before and after case closure is granted per Wis. Admin. Code ch. NR 726.
 - a. Schedule: As necessary.

8. Prepare the necessary response action documents and submit the information to the Department for case closure upon being notified by the Department that all necessary response actions have been taken at the Properties.

END



July 23, 2020

EMAIL
CERTIFIED MAIL
RETURN RECEIPT

Mr. Daniel Joseph Burns III, Member
Oliver Fiontar, LLC
N105 W7585 Chatham Street
Cedarburg, WI 53012-3255
Email: djburns@drakecg.com

FID #: 246003780 / 246175820
BRRTS #: 02-46-583162, 02-46-583163, 02-46-583164
Remediation – Ozaukee County

Subject: **NOTICE OF VIOLATION**

Dear Mr. Burns:

The Department of Natural Resources (department) has reason to believe that Oliver Fiontar, LLC is in noncompliance with state Remediation and Redevelopment laws ch. 292, Wisconsin Statutes (Wis. Stats.) and ch. NR 716, Wisconsin Administrative Code (Wis. Adm. Code). The alleged noncompliance / violation is associated with the properties known as the Amcast North Property and Amcast South Property (Properties). These violations are based on the failure of Oliver Fiontar, LLC to mitigate and halt the migration of PCB contamination beyond the boundaries of the Properties and failure to submit a comprehensive Site Investigation Work Plan. The Department alleges the following violations:

- **Section 292.11(3), Wis. Stats.: 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 this state.**

To date, Oliver Fiontar, LLC has conducted minimal and inadequate activities to mitigate and halt the migration of PCB contamination beyond the boundaries of the Properties. Information provided in the required monthly reports note there are actions being taken to reduce off-site discharge but does not provide any detail on what those actions are, what actions have been taken to address movement off-site, or evaluation of their effectiveness.

- **Section NR 716.09, Wis. Adm. Code: Site investigation work plan.**
 - (1) **GENERAL. Unless otherwise directed by the department, in cases where a site investigation is required under s. NR 716.05, responsible parties shall submit a work plan to the department within 60 days of receiving notification that a site investigation is required, describing the intended scope and conduct of a field investigation. One paper**

copy and one electronic copy of the plan shall be submitted to the department, unless otherwise directed by the department, in accordance with s. NR 700.11(3g).

(2) CONTENTS. The work plan shall include all of the following information, unless otherwise directed by the department: (see attachment for full language)

(3) DEPARTMENT REVIEW OF SUBMITTED WORK PLANS.

(a) The department may instruct responsible parties to proceed without departmental review of work plans submitted under this section.

(b) Responsible parties that are not instructed to proceed under par. (a) shall wait before initiating the field investigation until the department has approved or conditionally approved the work plan, except that if the department has not reviewed the work plan within 30 days after its receipt by the department, the responsible parties shall proceed with the field investigation.

(c) If the department disapproves a work plan submitted under this section, the department shall provide the responsible parties, in writing, the basis for disapproval and a deadline for providing a revised work plan.

(d) The lack of a response from the department, after the department's receipt of a work plan, may not be construed to mean that the department has approved the work plan.

- **Section NR 716.11, Wis. Adm. Code: Field Investigation (see attachment for full language)**

Drake Consulting Group, LLC (Drake), on behalf of Oliver Fiontar, LLC, submitted Work Plan for Additional Brownfield Redevelopment Related Soil, Groundwater and Vapor Assessment Activities at the Former Amcast Facility, City of Cedarburg, Ozaukee County, Wisconsin, Drake Project Number J16001, dated April 18, 2019. A review of the submittal deemed it to be insufficient to meet the requirements of s. NR 716.09, Wis. Adm. Code for the minimum contents for a site investigation work plan. The department issued a letter to Oliver Fiontar, LLC and Drake dated August 27, 2019 outlining the deficiencies and requesting a revised workplan be submitted within 45 days of the letter. To date, Oliver Fiontar, LLC has not submitted a revised workplan. To date, Oliver Fiontar, LLC has not conducted a field investigation at the Properties meeting the requirements of state law.

In order to come into compliance, a site investigation work plan addressing the criteria in ch. NR 716, Wis. Adm. Code must be submitted immediately.

Please note that it is the department's position that the dispute resolution process outlined in Negotiated Agreement #1, dated August 2, 2018 has ended based on the failure of Oliver Fiontar, LLC to submit a Statement of Position within twenty (20) days after receipt of the department's Statement.

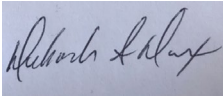
Please be advised that violations of ch. 292, Wis. Stats., may be referred to the Department of Justice to obtain court ordered compliance and penalties up to \$5,000 per violation. Each day of continued violation is a separate offense.

If you have questions or would like to schedule an Enforcement Teleconference to discuss the alleged violations and your perspective on the circumstances surrounding this matter, please contact me at (715) 421-9914 or via email at Deborah.Dix@wisconsin.gov within 14 days of receipt of this letter.

Alternatively, you may provide information in writing that you would like the department to consider in its decision.

The department's enforcement decision will be based upon available information if you do not schedule an Enforcement Teleconference or provide written information within 14 days of receipt of this letter.

Sincerely,



Deborah S. Dix
Environmental Enforcement Specialist

Enc. Environmental Enforcement Conference

cc: Pam Mylotta, WDNR
Christine Haag, WDNR
William J. Nelson, LS/8
Krista McKim, EPA (mckim.krista@epa.gov)
Daniel Joseph Burns III, President, Drake Consulting Group, LLC,
118 North Green Bay Road, Suite 2, Thiensville, WI 53092-1623
(djburns@drakecg.com)



Environmental Enforcement Conference

An Enforcement Conference (EC) is a meeting between Department of Natural Resources (Department) staff and representatives of a person or business that the Department believes has violated an environmental law. The Department issues a Notice of Violation (NOV) when it has reason to believe that a violation of a permit condition, administrative rule or statutory requirement has occurred. The NOV either offers or schedules an EC.

Why Should I Attend?

The EC is an important opportunity to discuss the Department's basis for the alleged violation(s) and learn more about what happened, why it may have happened, and any factors you believe the Department should consider, such as steps that have been or will be taken to stop the violation, correct any effects of the violation, and prevent violations from occurring in the future. It is also your opportunity to explain why you might disagree with the factual and legal conclusions underlying the NOV.

Historic data shows that most violations are resolved at the EC level, without the need for court ordered compliance and/or penalties. In situations where the significance of the violation warrants further enforcement action, your cooperative efforts to resolve the violation and prevent future violations will help minimize your legal and financial liability.

Who Should Attend the EC?

Department staff involved in the EC typically consists of an Environmental Enforcement Specialist and regulatory staff that are familiar with the issues identified in the NOV.

While not required, you may seek representation by legal counsel or the assistance of an environmental consultant to prepare for and/or attend the EC. The EC is most productive when all involved are well-prepared to discuss the allegations and any corrective actions that may be necessary.

To ensure a productive candid discussion, participation in the EC is limited to the person or business involved and others with the legal or technical expertise necessary to understand, evaluate, mitigate and correct the violation. The EC is not an open meeting under state law and the Department will limit participation to those directly involved in the resolution of the matter.

What Happens if I don't Attend the EC?

If a party is unable to attend the EC, they should immediately contact the Environmental Enforcement Specialist at the phone number in the NOV to reschedule. When a party refuses to attend the EC and provides no further information to the Department, the Department's enforcement decision will be based upon available information.

What Happens Following the EC?

The EC is part of the Department's stepped enforcement process. At the EC, Department staff will explain the process and options available to address the alleged violation. Generally, the options range from closing the matter with no further action to referral to the Wisconsin Department of Justice (DOJ) or to U.S. EPA, for further enforcement action. In limited circumstances, the Department can issue citations, which are handled in local court similar to traffic offenses. If a case is referred to DOJ, the DOJ may initiate an action in court on behalf of the State. The State typically asks the Court to impose financial penalties and order completion of any necessary corrective actions. In most of the Department's cases, a cooperative return to compliance with any necessary restoration results in close out of the case. At close out, the Department will send a letter advising of no further enforcement action.



May 27, 2021

Mr. Daniel Joseph Burns III, Member
Oliver Fiontar, LLC
N105 W7585 Chatham Street
Cedarburg, WI 53012-3255
djburns@drakecg.com

FID #246003780 / 246175820
BRRTS #: 02-46-583162, 02-46-583163, 02-46-583164
Remediation – Ozaukee County

Subject: July 23, 2020 Notice of Violation – Follow-up

Dear Mr. Burns:

The Department of Natural Resources (department) issued a Notice of Violation (NOV) on July 23, 2020 outlining multiple alleged violations. In response, on October 16, 2020, the department received the Addendum to the April 2019 Work Plan for the Former Amcast Site – Oliver Fiontar, LLC Brownfield Redevelopment Parcels in Cedarburg, Wisconsin (SIWP Addendum) prepared for Oliver Fiontar, LLC by Drake Consulting Group, LLC (Drake). The SIWP Addendum was submitted without a fee for a review and response by the department. The submittal of a SIWP is required per Wisconsin Administrative Code (Wis. Adm. Code) § NR 716.09, as this site is subject to enforcement and regulation under Wisconsin Statutes (Wis. Stats.) ch. 292 and the Negotiated Agreement #1, a Wis. Stats. § 75.106 Agreement between the department and Oliver Fiontar, LLC signed August 2, 2018 (Agreement). To prevent future delays, the department requires all future submittals for this site to be accompanied by the appropriate Wis. Adm. Code ch. 749 review fee. The department has authority to require fees for sites subject to enforcement actions under Wis. Adm. Code § NR 728.06.

Department staff completed a review of the SIWP Addendum and based on the information provided, the combined April 2019 Work Plan and October 2020 SIWP Addendum are not approved based on the following:

1. The department disagrees with Drake's assertion on page 3 of the SIWP Addendum that "the CH2M Final RI Report met/meets the statutory requirements outlined in the NR 700 regulations, specifically the requirements contained in NR 716, with regard to the required investigative activities associated with the Amcast North, Amcast Central and Amcast South properties." The requirements of Wis. Adm. Code ch. NR 716 for a site investigation are not complete as the degree and extent of soil and groundwater contamination on the Amcast North, Amcast Central and Amcast South parcels have not been fully defined as required in §§ NR 716.11(5)(e) and (f), Wis. Adm. Code.
2. A summary of the groundwater sampling conducted by Drake was presented in the SIWP addendum, but there was no assessment of the data to determine where additional monitoring wells are needed to define the degree and extent of contamination associated with the three parcels, as required under Wis. Adm. Code § NR 716.11(5)(f).

3. An evaluation of emerging contaminants is required per § NR 716.09, Wis. Adm. Code and as directed in a letter from the department to Daniel Burns, dated August 17, 2020, **Reminder to Include Evaluation of Emerging Contaminants in Site Investigation** (enclosed):

“Per Wis. Adm. Code § NR 716.07 and Wis. Adm. Code § NR 716.09, site investigation scoping and work plans should include an evaluation of potential PFAS compounds and other applicable emerging contaminants that were historically or are presently produced, used, handled, or stored at the site. The evaluation should include any available information on whether any products containing PFAS were used in any process services, the duration of PFAS-containing product use, the type of PFAS contained in the product, and any areas of the site where PFAS-containing products may have been used, stored, managed, or discarded. Site investigation work plans should also include a sampling and analysis strategy to be used during field investigation that considers all information in the evaluation conducted under Wis. Adm. Code § NR 716.07.”

4. The SIWP Addendum does not comply with Wis. Adm. Code ch. NR 712 because the required certification language and signature are missing.

In order to come into compliance, please provide a complete revised Site Investigation Work Plan (SIWP), not an addendum, that proposes activities intended to define the degree and extent of contamination, identify necessary remedial actions, and otherwise address the above requirements.


In addition to the above items, the July 2020 NOV addressed deficiencies in the monthly reports regarding the lack of detail on actions being taken to mitigate and halt the migration of PCB contamination beyond the boundaries of the Amcast North, Amcast Central and Amcast South properties (the Properties). This continues to be an issue. For example:

- The monthly reports from October 2019 to April 2021 include the statement “Documentation of this activity and Drake’s plan for abandonment of select on-site utilities will be submitted to the WDNR under separate cover.” To-date, the department has not received any documentation (inspection logs, photographic documentation, or other evidence) that any work has been completed.
- The monthly reports from May 2019 to June 2020 included the statement “Conducted initial vapor assessment activities at the remaining building located on Amcast Central site and the building which will remain on the Amcast North site (per current redevelopment plan). Upon receipt and evaluation of the final laboratory analytical data a summary report will be prepared and submitted to the WDNR and U.S.EPA.” To-date, the department has not received any documentation of completion of this work. Please note, as required by § NR 716.14(2), Wis. Adm. Code, sample results must be submitted to the department within 10 business days of receiving the results.

In the future, please provide sufficient detail in the monthly reports to evaluate actions being taken at the Properties.

If you have technical questions, please contact Christine Haag at (608) 422-1148 or via email at Christine.Haag@wisconsin.gov, or provide questions to me either by phone at (715) 421-9914 or via email at Deborah.Dix@wisconsin.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah S. Dix", is placed on a light gray rectangular background.

Deborah S. Dix
Environmental Enforcement Specialist

Enc. August 17, 2020 Letter

cc. Pam Mylotta, WDNR
Christine Haag, WDNR
Dave Rozeboom, WDNR
Matt Vitale, WDNR
Attorney William J. Nelson, WDNR
Jeffrey Thomas, EPA (thomas.jeffrey@epa.gov)
Attorney Jacques Condon, Condon Law Firm LLC (jacques@condon-law.com)
Daniel Joseph Burns III, President, Drake Consulting Group LLC,
118 North Green Bay Road, Suite 2, Thiensville, WI 53092-1623
(djburns@drakecg.com)



August 17, 2020

DANIEL BURNS
C/O DANIEL BURNS III
N105 W7585 CHATHAM ST
CEDARBURG WI 53012

Subject: **Reminder to Include Evaluation of Emerging Contaminants in Site Investigation**
TAX KEY 13-050-21-09-000 (NON SF ACTIVITY)
N39 W5789 HAMILTON RD
BRRTS# 02-46-583162
FID# 246003780

Greetings:

This letter is being sent to all Responsible Parties (RPs) that currently have an open contamination site on the DNR's Bureau for Remediation and Redevelopment Tracking System (BRRTS). The purpose of this letter is to remind RPs to assess emerging contaminants and their potential impacts as early in the cleanup process as possible, preferably during the site investigation phase. Emerging contaminants include perfluoroalkyl and polyfluoroalkyl substances (PFAS), 1,4-dioxane and others. While many RPs and their consultants have been assessing emerging contaminants, there have been several situations where these substances had not been evaluated at the time a case closure request was submitted. In some cases, this resulted in the need for additional field work which ultimately delayed case closure.

It is the responsibility of RPs to evaluate hazardous substance discharges and environmental pollution including emerging contaminants under the Wis. Admin. Code NR 700 rule series. Emerging contaminants discharged to the environment, including certain PFAS, meet the definition of hazardous substance and/or environmental pollution under Wis. Stat. § 292.01:

- Wis. Stat. § 292.01 (3) "Discharge" means, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying or dumping.
- Wis. Stat. § 292.01 (4) "Environmental pollution" means contaminating ... air, land, or waters of the state or making the same injurious to public health ...
- Wis. Stat. § 292.01 (5) "Hazardous substance" means any substance ... which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics ...

Per Wis. Admin. Code § NR 716.07 and Wis. Admin. Code § NR 716.09, site investigation scoping and work plans should include an evaluation of potential PFAS compounds and other applicable emerging contaminants that were historically or are presently produced, used, handled, or stored at the site. The evaluation should include any available information on whether any products containing PFAS were used in any process services, the duration of PFAS-containing product use, the type of PFAS contained in the product, and any areas of the site where PFAS-containing products may have been used, stored, managed, or discarded. Site investigation work plans should also include a sampling and analysis strategy to be used during field investigation that considers all information in the evaluation conducted under Wis. Admin. Code § NR 716.07.

Responsible parties should also be aware that case closure decisions issued under Wis. Admin. Code ch. NR 726 are based on information on file at the time of the closure request and apply only to the hazardous substance discharge or environmental pollution that was investigated and remediated under the Wis. Admin. Code NR 700 rule series. If DNR receives new evidence about a closed site which indicates a PFAS discharge occurred at the site prior to case closure, and the discharge was not evaluated in the site investigation, please be aware that DNR may evaluate the site under the Wis. Admin. Code § NR 727.13 criteria for reopening of closed cases.

DNR can provide technical assistance at any point throughout the investigation and cleanup process for a fee. These services can be requested using the [Technical Assistance and Environmental Liability Clarification Form \(4400-237\)](#) by visiting dnr.wi.gov, search “4400-237.” Requesting technical assistance from DNR early in the process can help save time and money during the cleanup process.

DNR has developed guidance to help RPs and their consultants comply with the requirements described above. The guidance can help select the appropriate chemicals for analysis when conducting a Wis. Admin. Code ch. NR 716 site investigation. The [Site Investigation Scoping Guidance \(RR-101\)](#) can be found by visiting dnr.wi.gov, search “RR-101.”

Additional information on PFAS is available from The Interstate Technology Regulatory Council (ITRC) at: <https://pfas-1.itreweb.org/fact-sheets/>.

DNR appreciates your efforts to restore the environment at this site. If you have any questions regarding anything outlined in this letter, or would like to arrange a meeting, please contact the DNR Project Manager assigned to your site.

JENNIFER DORMAN
(414) 263-8683
jennifer.dorman@wisconsin.gov

Sincerely,



Christine Haag
Program Director
Remediation & Redevelopment Program



August 17, 2020

DANIEL BURNS
C/O DANIEL BURNS III
N105 W7585 CHATHAM ST
CEDARBURG WI 53012

Subject: **Reminder to Include Evaluation of Emerging Contaminants in Site Investigation**
TAX KEY 13-050-21-08-000 (NON SF ACTIVITY)
N39 W5789 HAMILTON RD
BRRTS# 02-46-583163
FID# 246003780

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This letter is being sent to all Responsible Parties (RPs) that currently have an open contamination site on the DNR's Bureau for Remediation and Redevelopment Tracking System (BRRTS). The purpose of this letter is to remind RPs to assess emerging contaminants and their potential impacts as early in the cleanup process as possible, preferably during the site investigation phase. Emerging contaminants include perfluoroalkyl and polyfluoroalkyl substances (PFAS), 1,4-dioxane and others. While many RPs and their consultants have been assessing emerging contaminants, there have been several situations where these substances had not been evaluated at the time a case closure request was submitted. In some cases, this resulted in the need for additional field work which ultimately delayed case closure.

It is the responsibility of RPs to evaluate hazardous substance discharges and environmental pollution including emerging contaminants under the Wis. Admin. Code NR 700 rule series. Emerging contaminants discharged to the environment, including certain PFAS, meet the definition of hazardous substance and/or environmental pollution under Wis. Stat. § 292.01:

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DNR can provide technical assistance at any point throughout the investigation and cleanup process for a fee. These services can be requested using the [Technical Assistance and Environmental Liability Clarification Form \(4400-237\)](#) by visiting dnr.wi.gov, search “4400-237.” Requesting technical assistance from DNR early in the process can help save time and money during the cleanup process.

DNR has developed guidance to help RPs and their consultants comply with the requirements described above. The guidance can help select the appropriate chemicals for analysis when conducting a Wis. Admin. Code ch. NR 716 site investigation. The [Site Investigation Scoping Guidance \(RR-101\)](#) can be found by visiting dnr.wi.gov, search “RR-101.”

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DNR appreciates your efforts to restore the environment at this site. If you have any questions regarding anything outlined in this letter, or would like to arrange a meeting, please contact the DNR Project Manager assigned to your site.

JENNIFER DORMAN
(414) 263-8683
jennifer.dorman@wisconsin.gov

Sincerely,



Christine Haag
Program Director
Remediation & Redevelopment Program



August 17, 2020

DANIEL BURNS
C/O DANIEL BURNS III
N105 W7585 CHATHAM ST
CEDARBURG WI 53012

Subject: **Reminder to Include Evaluation of Emerging Contaminants in Site Investigation**
TAX KEY 13-051-01-05-000 (NON SF ACTIVITY)
N37 W5684 HAMILTON RD
BRRTS# 02-46-583164
FID# 246175820

Greetings:

This letter is being sent to all Responsible Parties (RPs) that currently have an open contamination site on the DNR's Bureau for Remediation and Redevelopment Tracking System (BRRTS). The purpose of this letter is to remind RPs to assess emerging contaminants and their potential impacts as early in the cleanup process as possible, preferably during the site investigation phase. Emerging contaminants include perfluoroalkyl and polyfluoroalkyl substances (PFAS), 1,4-dioxane and others. While many RPs and their consultants have been assessing emerging contaminants, there have been several situations where these substances had not been evaluated at the time a case closure request was submitted. In some cases, this resulted in the need for additional field work which ultimately delayed case closure.

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Christine Haag
Program Director
Remediation & Redevelopment Program