

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Matthew J. Frank, Secretary
John Gozdziwski, Regional Director

Northern Region Headquarters
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Rhineland, Wisconsin 54501
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December 2, 2010

MR JOHN LISOWSKI
RIVER VALLEY BANK
8590 HWY 51 N
PO BOX 1135
MINOCQUA WI 54548

Subject: Lender Liability Clarification and Current Environmental Conditions for the
Glidden Amoco Property, 288 Grant Street, Glidden, Wisconsin
WDNR BRRTS Activity #07-02556090

Dear Mr. Lisowski:

Purpose

On September 27, 2010, the Wisconsin Department of Natural Resources ("the Department") received a request, along with the required \$500 fee, for a lender liability clarification letter; the request letter was dated September 21, 2010. The purpose of this letter is to provide River Valley Bank with the requested clarification of its environmental liabilities as a lender and to discuss the status of known environmental contamination on the former Glidden Amoco property, ("the Property"), located at 288 Grant Street, in the Town of Jacobs, Ashland County.

Request

The September 21, 2010 letter requested a determination from the Department on whether River Valley Bank is eligible for the lender liability exemption under s. 292.21, Wis. Stats., for the Property that River Valley Bank has plans to acquire title to the property, pursuing a deed in lieu of foreclosure.

The following were also submitted with the request:

- Lender Liability Exemption Environmental Assessment Tracking Form, dated September 20, 2010; and
- *Phase I Environmental Site Assessment Report*, prepared by REI Engineering, Inc., and dated September 21, 2010

Background and Summary of Environmental Conditions

As stated above, River Valley Bank has not yet acquired the Property, but is currently pursuing a deed in lieu of foreclosure. Prior usage of the Property over the past eighty (80) years was reviewed as part of the *Phase I Environmental Site Assessment Report*. Certain standard historical information sources, such as Sanborn Fire Insurance Maps and city directories, did not exist for this area, apparently due to the rural

nature of the area surrounding the Property. Based upon available information, it appears that the Property was used as a tavern and hotel at least as far back as 1960. A gas station/convenience store was operated on the Property from 1998 until January 1, 2010, when the store was closed for business. Surrounding land uses include a mix of commercial and residential properties.

The *Phase I Environmental Site Assessment Report* identified the existence of a closed Leaking Underground Storage Tank (LUST) case on the Property; the case is identified as the Glidden Amoco, and has been assigned WDNR BRRTS Activity #03-02-552129. Although the *Phase I Environmental Site Assessment Report* states that this case was closed by the Department of Natural Resources, administrative authority for the Glidden Amoco LUST case was actually transferred to the Department of Commerce on April 9, 2009.

The Department of Commerce subsequently approved case closure on June 2, 2009. Closure of the Glidden Amoco LUST case included a continuing obligation for ongoing inspection and maintenance of an existing concrete and asphalt barrier cap to eliminate potential direct contact with contaminated soil. It should be noted that no environmental sampling was conducted as part of the current assessment of the Property, including the time between completion of sampling activities for the Glidden Amoco LUST case in October 2008 and February 2009 and when the gas station/convenience store was closed for business on January 1, 2010. However, the environmental assessment conducted by the Bank did not identify any areas at the Property that warranted sampling pursuant to s. 292.21(2) h and i, Stats. The Department concurs with that conclusion.

Exemption Conditions

Under Wisconsin's Hazardous Substance Spill Law (the "Spill Law"), Section 292.11, Wisconsin Statutes, a person who "possesses, controls or causes" a hazardous substance discharge, is liable for the cleanup. S. 292.21, Wis. Stats., provides a liability exemption for lenders and representatives. A lender is not subject to ss. 292.11(3), (4) or (7)(b) or (c), Wis. Stats., and is not liable under chapters 281, 285, 289 or 291 to 299, Wis. Stats., for a discharge of a hazardous substance that occurred on the Property, if the lender takes title, possession or control of the Property. Section 292.55(1)(d)1., Wis. Stats., authorizes the Department to issue letters concerning potential liability for environmental pollution.

The lender must meet the conditions in s. 292.21, Stats., to qualify for the liability exemption, including:

- The lender does not intentionally or negligently cause a new discharge of a hazardous substance or exacerbate an existing discharge.
- The lender notifies the Department of any known discharge of a hazardous substance.
- The lender conducts an environmental assessment of the Property not more than 90 days after the date the lender acquires title to, or possession or control of, the Property and files a complete copy of the environmental assessment with the Department not more than 180 days after the date the lender acquires title to, or possession or control of, the Property. The requirements for conducting an environmental assessment are found in s. 292.21 (1)(c) 2., Wis. Stats.
- If a discharge of a hazardous substance occurs on or after the date on which the lender acquires title to, or possession or control of, the Property, the lender implements an emergency action under s. NR 708.05, Wis. Adm. Code, in response to the discharge of the hazardous substance.
- For a hazardous substance released on or after the date on which the lender acquires title to, or possession or control of, the Property, the lender does not engage in the operation of a business at

the Property, complete work in progress or take other actions associated with conducting the conclusion of the borrower's business (s. 292.21(1)(c)1., Wis. Stats.).

- The lender agrees to allow the Department and any party that possessed or controlled or caused the hazardous substance discharge, and their consultants or contractors, to enter the real Property to take action to respond to the discharge.
- The lender agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge.
- The lender agrees to any other condition that the Department determines is reasonable and necessary to ensure that the Department or another person can adequately respond to the discharge.

Lender Liability Determinations

The Department has reviewed the materials submitted with River Valley Bank's request and makes the following liability determinations:

1. River Valley Bank has provided a copy of a Phase I Environmental Assessment report to the Department as evidence that there has been a previous known discharge of hazardous substances at the Property.
2. River Valley Bank has not intentionally or negligently caused a new hazardous substance discharge at the Property.
3. River Valley Bank has met the requirements for an environmental assessment under ss. 292.21(1)(c)1.d. and (1)(c)2.a. through i, Wis. Stats., including the requirement that an environmental assessment be conducted not more than 90 days after the date of acquisition of the Property. A Phase I Environmental Assessment was conducted in September 2010, and submitted to the Department in September 2010; within the 180-day timeframe. Further, the Bank is in the process of acquiring title to the Property through enforcement of a security interest.

The Department believes that the River Valley Bank would meet the conditions of an exempt lender in s. 292.21, Wis. Stats., if it takes title through the enforcement of a security interest. In addition, the Department agrees to exercise enforcement discretion under Wisconsin's Hazardous Waste Management Laws, regarding the provisions of ch. 291, Wis. Stats., and rules promulgated under that chapter. The Department will not hold River Valley Bank liable for the investigation or clean-up of the Property under either the state's Spill Law or Hazardous Waste Laws, if the following requirements are satisfied:

- River Valley Bank's method of acquiring title to, or possession, or control of real property is through the enforcement of a security interest;
- River Valley Bank properly manages any containerized hazardous waste materials in accordance with ch. NR 600, Wis. Admin. Code;
- the discharge of a hazardous substance was not caused by an action taken by River Valley Bank, or by a failure of River Valley Bank to act;
- River Valley Bank agrees that any material or environmental media generated at the Property (e.g., contaminated soil generated as part of trenching for utilities) will be managed in accordance with applicable federal and state laws; and

- River Valley Bank understands that a lender exemption, and the hazardous waste enforcement discretion decision by the Department, will continue throughout River Valley Bank's ownership of the Property and beyond, but is not transferable from River Valley Bank to future owners.

Please note that this letter does not exempt the existing underground storage tanks on the Property from compliance with federal and state requirements, including ch. COMM 10, Wis. Adm. Code. If you have questions regarding these requirements, you should contact the Department of Commerce.

In addition, River Valley Bank will need to comply with the continuing obligations outlined in the May 12, 2009 and June 2, 2009 closure letters from the Department of Commerce and the Pavement Cover Maintenance Plan dated April 30, 2009. A copy of the letters and the plan are attached.

If River Valley Bank meets all of the conditions for liability exemption eligibility under s. 292.21, Wis. Stats., that are listed above, River Valley Bank will not be held responsible under Wisconsin's Hazardous Substance Spill Law, s. 292.11, Wis. Stats., for hazardous substance discharges which were present on the Property prior to River Valley Bank acquiring title to, or possession and control of, the Property. If contamination is later discovered that was not revealed by the environmental assessment, River Valley Bank will not be subject to ss. 292.11(3), (4), or (7) (b) or (c), Wis. Stats., and will not be liable under chs. 281, 285, 289, 291, 292 or 293 to 299, Wis. Stats., for a discharge of a hazardous substance on the Property as long as River Valley Bank continues to comply with the requirements of s. 292.21(1)(c), Wis. Stats., and does not cause a new hazardous substance discharge or exacerbate an existing discharge on the Property.

This response letter relates only to the lender liability clarification and exemption and makes no determination for other persons concerning the presence or absence of hazardous substances other than those identified in the reports provided.

To determine what specific actions would satisfy the **federal** lender liability requirements under CERCLA, we advise that you contact either Thomas Krueger at (312) 886-0562) or by email to Krueger.Thomas@epamail.epa.gov, or John Tielsch at (312) 353-7447 or by email to Tielsch.John@epamail.epa.gov. Their mailing address U.S. EPA REGION 5, Office of Regional Counsel (C-14J), 77 W. Jackson Blvd., Chicago, IL 60604-3590. The U.S. EPA should be able to provide you with guidance on whether your current and proposed actions concerning the Property are consistent with the federal CERCLA lender liability requirements.

The Bureau for Remediation and Redevelopment Tracking System (BRRTS) identification number for the Property is included at the top of this letter. Please be aware that information on all determinations is tracked in a Department database that is available on the Internet at <http://dnr.wi.gov/org/aw/rr/>. See "BRRTS on the web" under "Contaminated Land Databases". If you have any questions or comments, please feel free to contact Department project manager Chris Saari at 715-685-2920, or by email at Christopher.Saari@Wisconsin.gov. Refer to the WDNR BRRTS Activity number at the top of this letter in any future correspondence.

Sincerely,



John Robinson
Northern Region Supervisor
Remediation & Redevelopment Program

Attachment: Department of Commerce Closure Letters of May 12, 2009 and June 2, 2009
Pavement Maintenance Plan

cc: Ken Lassa – REI Engineering, Inc., 4080 N 20th Ave, Wausau, WI 54401
Chris Saari – DNR Ashland
John Sager – DNR Rhinelander
Dan Kolberg – RR/3



ENVIRONMENTAL & REGULATORY SERVICES DIVISION
BUREAU OF PECFA
P.O. Box 8044
Madison, Wisconsin 53708-8044
TTY: Contact Through Relay
Fax: (608) 267-1381
Jim Doyle, Governor
Richard J. Leinenkugel, Secretary

May 12, 2009

Bob Prochnow
PO Box 181
Glidden, WI 54527

RE: Case Closure Consideration with Proposed Land Use Limitation for Direct Contact Risk
Commerce # 54527-9999-88-A DNR BRRTS # 03-02-552129
Glidden Amoco, 288 Grant St, Glidden

Dear Mr. Prochnow:

The Wisconsin Department of Commerce (Commerce) has reviewed the request for case closure prepared by your consultant, Northern Environmental Technologies Inc, for the site referenced above. It is understood that residual soil contamination remains on site. This letter serves as written notice that no further investigation or remedial action is necessary.

Please be aware that compliance with the requirements of this letter is a responsibility to which you, the current property owner and any subsequent property owners must adhere, pursuant to section 292.12, Wisconsin Stats. If these requirements are not followed, Commerce may take enforcement action under section 292.11, Wis. Stats., to ensure compliance with the specified requirements, limitations or other conditions related to the property, or this case may be reopened pursuant to section NR 726.09, Wis. Administrative Code. It is Commerce's intent to conduct inspections in the future to ensure that the conditions included in this letter, including compliance with the referenced maintenance plan, are met.

Well Abandonment Requirements

All six monitoring wells must be properly abandoned within 60 days and the appropriate documentation forwarded to Commerce at the letterhead address within 120 days of the date of this letter. Noncompliance with the abandonment requirement and deadline can result in enforcement action and financial penalties. A final closure letter will be sent after the abandonment requirements have been met.

Land Use Limitation Requirement to Address Direct Contact Risk

Commerce has determined that this site does not pose a significant threat to the environment and human health as long as the barrier cap at this property is maintained. Residual petroleum concentrations in soil exceeding standards for the protection of human health from direct contact with contaminated soil remain in the vicinity of the canopy covered dispenser islands (borings B700, B1900, B2100, B2200 and B2400). Therefore, the existing barrier cap must be maintained in accordance with the maintenance plan provided to prevent direct contact exposure to shallow contaminated soil. A site figure that indicates the approximate area with shallow residual petroleum contamination in soil and the barrier cap maintenance plan are enclosed for your review.

This limitation must be adhered to by the current property owner and any subsequent owner. Failure to adhere to this restriction may result in financial penalties from \$10 to \$5,000 per day in accordance with section 292.99(1), Wis. Stats.

The following activities are prohibited on any portion of the property where pavement is required, as identified on the attached map, unless prior written approval has been obtained from Commerce: 1) removal of the existing barrier; 2) replacement with another barrier; 3) excavating or grading of the land surface; 4) filling on capped or paved areas; 5) plowing for agricultural cultivation; or 6) construction or placement of a building or other structure.

Acceptance of the limitation to be imposed on the property makes it unnecessary to conduct additional soil remediation activities on the property at this time. In the future, you may request that Commerce review any new information to determine if the barrier requirement or maintenance plan can be changed or removed. If you do not want this limitation on your property, you must contact the undersigned to determine what remedial activities will be required, at your own expense, to close this case without the cap maintenance requirement.

GIS Registry of Closed Remediation Sites

Information submitted with your closure request will be included on the Department of Natural Resources (DNR) GIS Registry of Closed Remediation Sites. All sites on the Registry can be viewed via the Remediation and Redevelopment (RR) Sites Map at <http://dnr.wi.gov/org/aw/rr/gis/index.htm>. Because residual contamination remains at the time of case closure, if you intend to construct or reconstruct a potable well on this property, you must get prior DNR approval.

Residual Soil Contamination

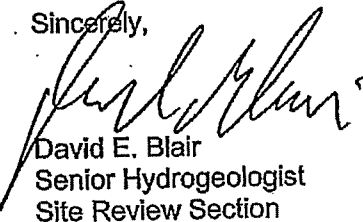
All current and future owners and occupants of the property need to be aware that excavation of contaminated soil may pose a hazard. Special precautions may be needed to prevent inhalation, ingestion or dermal contact with the residual contamination when it is removed. If soil is excavated, the property owner at the time of excavation must have the soil sampled and analyzed to determine if residual contamination remains. If sampling confirms that contamination is present, the property owner at the time of excavation must determine whether the material would be considered solid or hazardous waste and ensure that any storage, treatment or disposal is in compliance with applicable standards and rules. Costs for sampling and excavation activities conducted after the date of this letter are not eligible for PECFA reimbursement.

Claim Submittal Requirement

Timely filing of your final PECFA claim (if applicable) is encouraged. If your claim is not received within 120 days of the date of this letter, interest costs incurred after 60 days of the date of this letter will not be eligible for PECFA reimbursement.

Thank you for your efforts to protect Wisconsin's environment. If you have any questions, please contact me in writing at the letterhead address or by telephone at (608) 261-2515.

Sincerely,



David E. Blair
Senior Hydrogeologist
Site Review Section

Enclosure

cc: Hollie DePuydt, Bonestroo/Northern Environmental Technologies Inc



ENVIRONMENTAL & REGULATORY SERVICES DIVISION
BUREAU OF PECFA
P.O. Box 8044
Madison, Wisconsin 53708-8044
TTY: Contact Through Relay
Fax: (608) 267-1381
Jim Doyle, Governor
Richard J. Leinenkugel, Secretary

June 2, 2009

Bob Prochnow
PO Box 181
Glidden, WI 54527

RE: Final Closure with Land Use Limitation to Address Direct Contact Risk
Commerce # 54527-9999-88-A DNR BRRTS # 03-02-552129
Glidden Amoco, 288 Grant St, Glidden

Dear Mr. Prochnow:

The Wisconsin Department of Commerce (Commerce) has determined that this site does not pose a significant threat to human health and the environment as long as current and subsequent property owners adhere to the following limitation:

The barrier cap must be maintained in accordance with the submitted maintenance plan.

Commerce has the authority per section 292.12(2), Wis. Stats., to require the maintenance of a barrier cap at this property. Failure to adhere to this limitation may result in financial penalties from \$10 to \$5,000 per day in accordance with section 292.99(1), Wis. Stats. Commerce may conduct inspections to ensure compliance with the maintenance plan. In the future, you may request that Commerce review *new* information to determine if the cap requirement can be changed or removed.

The following activities are prohibited on any portion of the property where pavement, a building foundation, soil cover, engineered cap or other barrier is required, unless prior written approval has been obtained from Commerce: 1) removal of the existing barrier; 2) replacement with another barrier; 3) excavating or grading of the land surface; 4) filling on capped or paved areas; 5) plowing for agricultural cultivation; or 6) construction or placement of a building or other structure.

This site is now listed as "closed" on the Commerce database and will be included on the Department of Natural Resources (DNR) Geographic Information System (GIS) Registry of Closed Remediation Sites to address residual soil contamination. To review all sites on the GIS Registry web page, visit <http://dnr.wi.gov/org/aw/rr/gis/index.htm>. It is in your best interest to keep all documentation related to the environmental activities at your site.

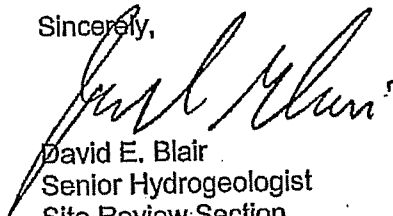
All current and future owners and occupants of the property need to be aware that excavation of contaminated soil may pose a hazard. Special precautions may be needed to prevent inhalation, ingestion or dermal contact with the residual contamination when it is removed. If soil is excavated, the property owner at the time of excavation must have the soil sampled and analyzed to determine if residual contamination remains. If sampling confirms that contamination is present, the property owner at the time of excavation must determine whether the material would be considered solid or hazardous waste and ensure that any storage, treatment or disposal is in compliance with applicable State regulations and standards.

Costs for sampling and excavation activities conducted after case closure are not eligible for PECFA reimbursement. However, if it is determined that any undisturbed remaining petroleum contamination poses a threat, the case may be reopened and further investigation or remediation may be required. If

this case is reopened, any original claim under the PECFA fund would also reopen and you may apply for assistance to the extent of remaining eligibility.

Thank you for your efforts to protect Wisconsin's environment. If you have any questions, please contact me in writing at the letterhead address or by telephone at (608) 261-2515.

Sincerely,

A handwritten signature in black ink, appearing to read "David E. Blair". The signature is written in a cursive style with a large initial "D".

David E. Blair
Senior Hydrogeologist
Site Review Section

cc: Hollie DePuydt, Bonestroo/Northern Environmental Technologies Inc

PAVEMENT COVER MAINTENANCE PLAN

April 30, 2009

Property Located at:
Glidden Amoco
288 Grant Street
Glidden Wisconsin 54527

WDNR BRRTS #03-02-552129
Commerce #54527-9999-88

Lot Eight (8), Block Four (4), Frazer and McLean's Addition to the Village of Chippewa Crossing,
now Village of Glidden, Town of Jacobs, Ashland County, Wisconsin

Tax ID #012-00292-0000

Introduction

This document is the Maintenance Plan for a pavement cover at the above-referenced property in accordance with the requirements of s. NR 724.13(2), Wisconsin Administrative Code. The maintenance activities relate to the existing paved surfaces occupying the area over the contaminated soil on-site. The contaminated soil is impacted by benzo(a)pyrene. The location of the paved surface to be maintained in accordance with this Maintenance Plan, as well as the impacted soil is identified in the attached map (Figure 3).

Cover and Building Barrier Purpose

The paved surface over the contaminated soil serves as a barrier to prevent direct human contact with residual soil contamination that might otherwise pose a threat to human health. Based on the current and future use of the property, the barrier should function as intended unless disturbed.

Annual Inspection

The paved surfaces overlying the contaminated soil and as depicted in Figure 3 will be inspected once a year, normally in the spring after all snow and ice is gone, for deterioration, cracks and other potential problems that can cause exposure to underlying soils. The inspections will be performed to evaluate damage due to settling, exposure to the weather, wear from traffic, increasing age and other factors. Any area where soils have become or are likely to become exposed will be documented. A log of the inspections and any repairs will be maintained by the property owner and is included as Exhibit B, Cap Inspection Log. The log will include recommendations for necessary repair of any areas where underlying soils are exposed. Once repairs are completed, they will be documented in the inspection log. A copy of the inspection log will be available at the property for the Wisconsin Department of Commerce ("WDCOM") review, unless otherwise directed in the case closure letter.

Maintenance Activities

If problems are noted during the annual inspections or at any other time during the year, repairs will be scheduled as soon as practical. Repairs can include patching and filling operations or they can include larger resurfacing or construction operations. In the event that necessary maintenance activities expose the underlying soil, the owner must inform maintenance workers

of the direct contact exposure hazard and provide them with appropriate personal protection equipment ("PPE"). The owner must also sample any soil that is excavated from the site prior to disposal to ascertain if contamination remains. The soil must be treated, stored and disposed of by the owner in accordance with applicable local, state and federal law.

In the event the paved surfaces overlying the contaminated soil are removed or replaced, the replacement barrier must be equally impervious. Any replacement barrier will be subject to the same maintenance and inspection guidelines as outlined in this Maintenance Plan unless indicated otherwise by the WDCOM or its successor.

The property owner, in order to maintain the integrity of the paved surfaces, will maintain a copy of this Maintenance Plan on-site and make it available to all interested parties (i.e. on-site employees, contractors, future property owners, etc.) for viewing.

Amendment or Withdrawal of Maintenance Plan

This Maintenance Plan can be amended or withdrawn by the property owner and its successors with the written approval of WDCOM.

Contact Information April 2009

Site Owner and Operator: Mr. Bob Prochnow
Post Office Box 181
Glidden, Wisconsin 54527

Consultant: Bonestroo
330 4th Avenue South
Park Falls, Wisconsin 54552

WCOMM: Mr. David Blair
Post Office Box 8044
Madison, Wisconsin 53708

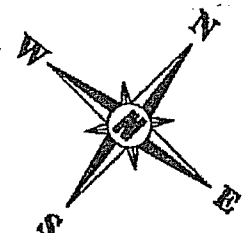
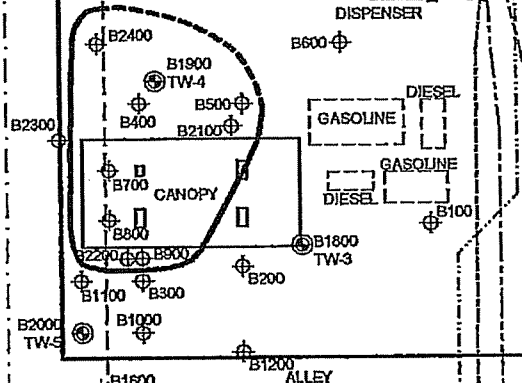
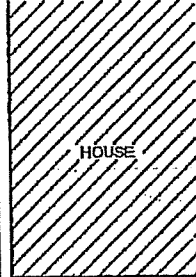
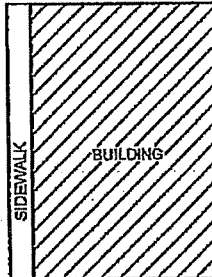
DAN'S MOBIL
 BRRTS#
 03-02-170209
 CLOSED
 12-12-07

GUDDEN FOOD
 MART
 BRRTS#
 03-02-000979
 OPEN

GUDDEN AMOCO
 BRRTS#
 03-02-552129
 OPEN

GRANT STREET

STATE HIGHWAY 13



LEGEND:

- UNDERGROUND STORAGE TANK
- B400 SOIL BORING LOCATION
- B1500 TW-1 TEMPORARY WELL LOCATION
- APPROXIMATE PROPERTY LINE
- SANITARY SEWER LOCATION
- GAS LINE LOCATION
- WATER MAIN
- ELECTRIC LINE
- TELEPHONE LINE
- UTILITY POLE
- SOIL CONTAMINATION CONTOUR, DASHED WHERE INFERRED

SCALE IN FEET



Northern Environmental

Hydrologists • Engineers • Surveyors • Scientists

330 South 4th Avenue, Park Falls, Wisconsin 54552
 Phone: 800-498-3913 Fax: 715-762-1844

WISCONSIN ▲ MICHIGAN ▲ ILLINOIS ▲ IOWA

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**SOIL CONTAMINATION
 CONTOUR MAP**

GLIDDEN BP STATION
 HIGHWAY 13
 GLIDDEN, WI

DATE: 04/30/09	DRAWN BY: NLB	TASK NUMBER: XXX	PROJECT NUMBER: 400-1264	FIGURE 3
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Exhibit B
Barrier INSPECTION LOG

Inspection Date	Inspector	Condition of Cap	Recommendations	Have Recommendations from previous inspection been implemented?