



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

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FID# 246003780

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Program Director
Remediation & Redevelopment Program



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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

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