



DECEMBER 15, 2022

Oneida County
BRRTS # 02-44-584094
EMAILED

Richard Lewandowski
Husch Blackwell LLC
33 East Main Street, Suite 300
Madison, WI 53703
richard.lewandowski@huschblackwell.com

Michael J. Fugle
Oneida County Corporation Counsel
P.O. Box 400
Rhineland, WI 54501
mfugle@co.oneida.wi.us

— Steven R. Sorenson
City of Rhineland Attorney
von Briesen & Roper, S.C
55 Jewelers Park Drive, Suite 400
Neenah, WI 54956
steven.sorenson@vonbriesen.com

Subject: ENFORCEMENT CONFERENCE SUMMARY LETTER

Dear Messrs. Lewandowski, Sorenson, and Fugle:

Thank you for attending the enforcement conference held on Monday, October 3, 2022, at 9:00 am by teleconference to discuss the alleged violations of state hazardous substance spill laws at the Rhineland- Oneida County Airport (Airport) property located at 3375 Airport Road, Rhineland, Oneida County, Wisconsin, as alleged in the September 22, 2022, notice of violation (NOV). The NOV was issued to the responsible party group (RP Group) which includes the City of Rhineland, Oneida County, and the Rhineland – Oneida County Airport. A list of the teleconference attendees is included at the end of this letter.

The Department of Natural Resources (DNR) recognizes that over the last few years the RP Group has taken some actions as documented in communications between the DNR and the RP Group (see BRRTS case 0244584094 at [WDNR.EM/RR BOTW \(wi.gov\)](http://WDNR.EM/RR.BOTW.wi.gov)). More specifically, the RP Group (1) retained a consultant, (2) sampled thirteen private wells and two affected municipal wells in March 2022, (3) provided alternative water to two homes that exceeded the EPA's 2016 health advisory level of 70 parts per trillion (ppt) combined for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS), and (4) submitted an initial site investigation work plan in July 2022. The DNR's primary concerns are enumerated in more detail below. Succinctly, they are (1) adequate sampling of all potentially affected private wells, (2) accurate health advisory information to residents and alternate sources of safe water for those residents whose wells exceed DHS recommended standards; and longer-term, (3) ensuring completion of an adequate site investigation and any necessary remedial actions to restore the environment to the extent practical.

During the enforcement conference, representatives of the Airport provided a brief background on the history of the Airport as follows. The Airport is a commercial Federal Aviation Administration (FAA) 139 airport which has been in operation since 1942. The property is governed by an airport commission and is owned by the City of Rhineland and Oneida County. Aqueous Film Forming Foam (AFFF) which contains per- and polyfluoroalkyl

substances (PFAS) is required by the FAA for firefighting use at the Airport. The RP Group stated that the Airport has never had a fire where AFFF was used in response; live fire training has used water only; and the FAA requires on-site equipment testing including both AFFF and water. The Airport recently acquired a mobile testing unit for equipment testing which captures the AFFF/water mixture.

Discussions then centered on the circumstances that gave rise to the NOV and actions taken to-date to resolve the alleged violations.

Violation 1 – Release response actions. The RP Group representatives identified that there was a delay in moving forward with response actions due to their initial consultant (Mead and Hunt) withdrawing from the project in July 2021. The RP Group then solicited bids to hire their current consultant (AECOM). AECOM submitted a site investigation workplan (SIWP) on July 1, 2022, to the DNR. The RP Group stated the SIWP has also been submitted to the FAA for their required review and the FAA is half-way through their 90-day review window. The RP Group also stated any subsurface work at the Airport requires a FAA review and approval of proposed work.

On December 9, 2019, the DNR issued a responsible party letter to the RP Group. At the time of the enforcement conference, the DNR did not have documentation of site investigation efforts. Even though samples from a number of potentially affected wells were collected in March 2022, the DNR previously identified approximately 20 additional private wells that should be sampled and the results reported to DNR. In addition, the degree and extent of the contamination is required through site investigation efforts.

Violation 2 – Sample results notification and reporting. The RP Group and AECOM identified that they believe they met the 10-day requirement for notification to the DNR for the samples collected on March 15 and 16, 2022. AECOM received an email with analytical results from the laboratory late on Friday, April 8, 2022, and AECOM forwarded the data to the RP Group on Tuesday, April 13, 2022. The laboratory data with a map and data table was submitted to the DNR's electronic submittal portal on April 28, 2022. Letters with analytical data, dated June 3, 2022, were sent by the RP Group to the potable well owners/occupants.

The DNR identified that the June 3, 2022, notification letters from the RP Group to the potable well owners/occupants exceeded the 10-day requirement to notify the well owners/occupants of their well water sample results. Furthermore, the DNR was not provided copies of the notification letters until September 27, 2022. In addition, the required summary report, including a preliminary analysis of the cause and significance of the contamination, as well as all contaminants observed in the samples even if there are no groundwater quality standards, has not yet been provided to the DNR or the well owners/occupants. Two example documents are attached to this letter for reference.

Violation 3 – Immediate Actions – providing alternate water supply. RP Group representatives identified two homes on Fox Ranch Road with concentrations of PFOA and PFOS over the 70 ppt combined drinking water standard approved by the DNR Natural Resources Board and adopted by the state Legislature. The RP Group stated that those two homes were first supplied bottled water from the RP Group and were later provided water filtration pitchers (Zero Water pitcher brand).

The DNR identified that the Wisconsin Department of Health Services' (DHS) recommended health-based groundwater standard of 20 ppt combined for PFOA and PFOS plus four precursor compounds is the level currently advised. The DNR recommends that the RP group offer to provide an alternate water supply to all potable well owners/occupants whose wells exceed the DHS recommended standard, regardless of if the well owner/occupants have previously been offered alternative water. In the enforcement conference, the RP Group stated they would discuss the other sample results and would get back to the DNR as to whether the RP Group would provide an alternative water supply to the additional affected residents.

Violation 4 – Adequate Site Investigation Work Plan. The DNR identified that the July 1, 2022, SIWP does not currently include additional deeper monitoring wells (piezometers) to determine the horizontal and vertical degree and extent of contamination in the deeper aquifer, which is known to be contaminated. RP Group representatives and AECOM explained the SIWP contains a scoping statement that includes historical background that would be part of a normal Phase I report. The SIWP is considered the first step of their phased approach to the investigation and is currently under review by the FAA. The RP Group represented that it is likely that the FAA would need to start their 90-day review over if the SIWP is modified to include additional wells on the airport property. RP Group representatives requested clarification if they can continue to proceed with the existing SIWP currently under review by the FAA.

The DNR has determined the current SIWP should proceed with the FAA review, as stated in the October 6, 2022, email from Chris Saari. However, the DNR identified that the SIWP does not incorporate an investigation including the known existing impacted potable wells and municipal wells and indicated that the DNR might request a revised SIWP be submitted in the future to address this data gap. The DNR also identified that additional deeper monitoring wells (piezometers) will be necessary to determine the horizontal and vertical degree and extent of contamination.

The RP Group stated several times that the City of Rhineland and Oneida County face financial hardships in working on this site and requested any assistance, either financially or with DNR staff assistance, to complete the work required. The DNR explained the DNR likely does not have funds or staff to aid responsible parties with the required work outlined in the NOV, but DNR Remediation and Redevelopment staff on the call committed to exploring that possibility with their program managers. The DNR recommended that the RP Group look into their insurance coverage and any potential FAA grants to fund site investigation and remedial actions. The RP Group stated they are not eligible for insurance coverage until a discharge has been proven.

As discussed during the enforcement conference, the DNR looks forward to continued and frequent communication with the RP Group. The DNR requests your cooperation in resolving the alleged violations and completing the following actions below without delay:

- A. Offer and provide an alternate water supply to potable well owners/occupants that exceed the DHS health-based recommended groundwater standards, including offering alternative water to well owners/occupants who have been offered alternative water in the past, per the June 2, 2022, DHS drinking water health advisory letter, which is attached for your reference. The DHS health-based recommendation for PFOA and PFOS plus four precursor compounds remains current and valid.
- B. Resample all potable wells previously sampled as specified in the October 25, 2021, AECOM PFAS Workplan - Areawide Potable Well Investigation. Provide sample results with a preliminary analysis of cause and significance of any contaminant concentrations observed to the DNR and well owners/occupants within 10 business days of receipt, as required under Wis. Admin. Code § NR 716.14(1). Contact the other well owners/occupants that declined or were not reachable to request permission to sample their wells.
- C. Work with the DNR and DHS to draft a notification letter to well owners/occupants to accompany future sampling results that accurately states the health-based advice from DHS so that occupants may make their own informed health-based decisions about their drinking water.
- D. Provide a written summary of the RP Group's efforts described during the enforcement conference (e.g., knocking on doors/making phone calls) to contact the remaining potable well owners/occupants that were not sampled in March of 2022. Include well owners/occupant names, when and how they were contacted, and the responses received.
- E. Provide the summary report required in Violation #2 including the Wisconsin unique well number, a preliminary analysis of the cause and significance of any contaminant concentration observed in the samples and identify any substances observed in the samples to the DNR.
- F. Please provide all correspondence between the RP Group and the FAA in relation to the review of the July 1, 2022, SIWP so that DNR can better understand the FAA review process.

Please provide a written response letter with your intentions for returning to and remaining in compliance for each of the alleged violations. In addition, given the financial issues raised by the RP Group, the state is willing to help the RP Group seek federal funding to support the sampling of wells and/or providing alternative water if this remains an issue that prevents compliance. The DNR would appreciate your response letter by January 18, 2023. As discussed, the DNR has the option to close out the case, write orders, or refer the case to Department of Justice if voluntary compliance is not reached.

Thank you to all attendees and everyone involved in the RP Group. Our collective goal is to obtain the proper documentation and actions for you to move forward with compliance to ensure safety for residents. Transparency and notification of the public is essential when health and safety issues are present. The DNR is dedicated to working with you through what we know is a challenging situation for your community.

If you have any technical questions regarding state hazardous substance spill requirements, please contact John Hunt, Hydrogeologist, at (715) 701-9383. If you have questions regarding this letter or the DNR's stepped enforcement process, please contact Jennie Pelczar at (920) 808-0045 or Jennifer.Pelczar@wisconsin.gov.

Sincerely,

Jill Zalesny

Environmental Enforcement Supervisor

Enclosures: June 2, 2022, DHS Health Advisory letter with attachment (DHS publication #P-03212 titled Protect yourself and your family from PFAS in Drinking water)
Example summary reports

Ecc: Christopher Saari – Christopher.saari@wisconsin.gov

John Hunt – john.hunt@wisconsin.gov

Matthew Leitner – mleitner@flyrhineland.com

Richard Lewandowski (Counsel for Rhineland/Oneida County Airport) –
richard.lewandowski@huschblackwell.com

Steve Sorenson – (Counsel for City of Rhineland) – steven.sorenson@vonbriesen.com

Michael Fugle (Counsel for Oneida County Corporation) – mfugle@co.oneida.wi.us

Andrew Mott – AECOM – Andrew.mott@aecom.com

Dave Henderson – AECOM – Dave.henderson@aecom.com

Kristopher Hanus – City of Rhineland Mayor – khanus@rhinelandwi.us

Lisa Charbarneau – Oneida County Administrative Coordinator – lcharbar@co.oneida.wi

Teleconference Attendees:

NAME	TITLE	ADDRESS	PHONE	EMAIL
Matt Leitner	Airport Director	3375 Airport Road Rhineland, WI 54501	715-365-3418	mleitner@flyrhineland.com
Richard Lewandowski	Counsel for Airport, Husch Blackwell LLP	33 East Main Street, Suite 300 Madison, WI 53703	608-258-7388	Richard.lewandowski@huschblackwell.com

Michael Fugle	Corporation Counsel for Oneida County	P.O. Box 400 Rhineland, WI 54501	715-369-6155	mfugle@co.oneida.wi.us
Steve Sorenson	Counsel for City of Rhineland, von Briesen & Roper, S.C.	55 Jewelers Park Drive, Suite 400 Neenah, WI 54956	920-232-4846	steven.sorenson@vonbriesen.com
Zach Vruwink	City of Rhineland Administrator	135 South Stevens Street Rhineland, WI 54501	715-365-8600	zvruwink@rhinelandwi.us
Andrew Mott	AECOM – Project Manager	2985 South Ridge Road Green Bay, WI 54304	920-379-6024	Andrew.mott@aecom.com
Dave Henderson	AECOM – Project Manager	1555 N RiverCenter Drive Milwaukee, WI 53212	414-429-8304	Dave.henderson@aecom.com
John Hunt	Hydrogeologist	101 N Ogden Rd, Peshtigo, WI 54157	715-701-9383	JohnT.hunt@wisconsin.gov
Chris Saari	R&R Program Supervisor	2501 Golf Course Rd, Ashland, WI 54806	715-208-4004	Christopher.saari@wisconsin.gov
Jennifer Pelczar	Environmental Enforcement Specialist	625 E County Road Y, Suite 700, Oshkosh, WI 54901	920-808-0045	Jennifer.pelczar@wisconsin.gov