



September 22, 2022

Oneida County
BRRTS # 02-44-584094
Hand delivered

Matthew Leitner, Airport Director
Rhineland-Oneida County Airport
3375 Airport Road
Rhineland, WI 54501
mleitner@fly-rhi.org

Scott Holewinski, County Board Chairman
Oneida County
4507 Blackberry Hills Terrace
Rhineland, WI 54501
sholewinski@co.oneida.wi.us

Kristopher Hanus, Mayor
City of Rhineland
135 South Stevens Street
Rhineland, WI 54501
khanus@rhinelandwi.us

Subject: **NOTICE OF VIOLATION / NOTICE OF CLAIM / ENFORCEMENT TELECONFERENCE**

Dear Messrs. Leitner, Hanus, and Holewinski:

This letter is to advise you that the Department of Natural Resources (department) has reason to believe that the Rhineland-Oneida County Airport, the City of Rhineland, and Oneida County (responsible party (RP Group)) is in violation of the state hazardous substance spill law, Ch. 292, Wisconsin Statutes (Wis. Stats.), at the facility located at 3375 Airport Road, Rhineland, Oneida County, Wisconsin (the Site).

The RP Group is a "responsible party" under s. NR 700.03(51), Wisconsin Administrative Code (Wis. Adm. Code), and is required to take a response action under ch. 292, Wis. Stats., as identified in the responsible party letter sent to you on December 9, 2019. (BRRTS# 02-44-584094)

The department alleges the following violations:

- 1. Section 292.11(3), Wis. Stats. HAZARDOUS SUBSTANCE SPILLS.**
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.
- 2. Section NR 716.14(1), Wis. Adm. Code. SAMPLE RESULTS NOTIFICATION REQUIREMENTS.**
Samples from water supply wells. Responsible parties shall report all water supply well sampling results to the department and to the well owner, and occupant as applicable, within 10 business days after receiving the sampling results. The report to the department shall include the Wisconsin unique well number for drinking water wells, a preliminary analysis of the cause and significance of any contaminant concentrations observed in the samples and an identification of any substances that

attain or exceed ch. [NR 140](#) preventive action limits, as well as any other substances observed in the samples for which there are no ch. [NR 140](#) groundwater quality standards. The responsible party shall notify both the remediation and redevelopment project manager and the regional drinking and groundwater specialist or water supply engineer of all water supply well sample results.

3. Section NR 708.05(4)(f) and 708.11 Wis. Adm. Code.

IMMEDIATE ACTIONS. Specific Actions. Providing alternate water supplies to persons whose water supply has been or is likely to be affected by the migration of contamination.

INTERIM ACTIONS. Responsible parties shall evaluate the need for interim action prior to initiating a site investigation and during a site investigation. Interim action shall be taken where it is necessary to contain or stabilize a discharge of a hazardous substance or environmental pollution, in order to minimize any threat to public health, safety, or welfare or the environment. When an interim action is warranted, responsible parties shall implement an interim action as soon as facility or site-related information makes it possible to do so, in compliance with the requirements of this chapter.

4. Section NR 716.01. Wis. Adm. Code.

PURPOSE. The purpose of this chapter is to ensure that site investigations provide the information necessary to define the nature, degree and extent of contamination, define the source or sources of contamination, determine whether any interim actions, remedial actions, or both are necessary at the site or facility, and allow an interim or remedial action option to be selected that complies with applicable environmental laws. Nothing in this chapter shall be construed to require plans or reports that are more detailed or complex than is justified by the known scope of contamination or the complexity of the site or facility. This chapter is adopted pursuant to ss. [227.11 \(2\)](#), [287.03 \(1\) \(a\)](#), and [289.06](#), Stats., and ch. [292](#), Stats.

On June 24, 2019, the department was notified of groundwater contamination of per- and polyfluoroalkyl substances (PFAS) in the City of Rhineland's municipal well #7. The department issued a responsible party (RP) letter on December 9, 2019, requiring the RP Group to address the PFAS contamination discovered at municipal well #7 and the airport (the Site).

Based on the reports submitted by the RP Group and meetings/discussions with the department, the department believes the RP Group has:

- Failed to take actions to restore the environment and minimize harmful effects to the environment by not submitting a Site Investigation Work Plan (SIWP) within 60-days of the issuance of the RP letter that meets the requirements under ch. NR 716 Wis. Adm. Code site scoping, and not taking interim actions to contain/stabilize the discharge of a hazardous substance. After 2.5 years since the issuance of the RP letter, the RP Group has not yet installed monitoring wells/piezometers to define the degree and extent of the contamination or evaluated remedial options to minimize the discharge of the PFAS contaminants.
- Failed to supply all water supply well sampling results to potable well owners/occupants and failed to submit the summary report to the department (both the Remediation and Redevelopment Program and the Drinking and Groundwater Program) within 10-days of receiving the laboratory data. The RP Group has not supplied the well sampling results to the potable well owners/occupants or provided the required summary report to the two department programs.
- Failed to take immediate action to provide alternate water supply to potable well owners/occupants with impacted wells above the Wisconsin Department of Health Services recommended enforcement standards (20 ng/l - parts per trillion) and the cumulative risk hazard index (1) for per- and polyfluoroalkyl substances (PFAS). The RP Group has not provided alternate water supply to the potable well owners/occupants with potable wells that exceed the above numbers.
- Failed to submit an adequate SIWP based on existing information at the Site. The RG Group has not submitted a SIWP that addresses the known PFAS contamination at depth in the aquifer.

We have scheduled a Teleconference to discuss this matter in more detail:

Teleconference Date and Time: Monday, October 3, 2022 at 9:00 A.M. CST
Teleconference Call Number: toll-free number (608)-571-2209
conference ID #231159626

Prior to the EC the department is requesting the following documentation:

- 1. Within 3 days of the receipt of this letter provide copies of all correspondence (with any attachments) to well owners of their laboratory results and any additional correspondence with them regarding arrangements for alternate water supply. Send an electronic copy (no paper copy needed) of this information directly to me at Jennifer.pelczar@wisconsin.gov.**
- 2. Submit a revised SIWP with the associated fee that addresses the deep aquifer contamination and other site scoping requirements.**
- 3. Provide a response on the actions taken in relation to contacting the well owners that have declined sampling or were unresponsive to sampling their wells in light of the recent sampling results of neighboring potable wells identified in the June 3, 2022, summary letter (attached).**
- 4. Provide all copies of all reports/correspondence prepared by Mead & Hunt, AECOM and any laboratories which analyzed samples collected from the site or from wells.**

We request you join the teleconference, as it is an important opportunity to discuss the circumstances surrounding the alleged violations and to learn your perspective on this matter. Please note that to encourage a candid and productive conversation, attendance is limited to you, your legal counsel, and others with the technical expertise necessary to understand, evaluate and correct the violations. A fact sheet describing an enforcement conference is enclosed.

Please be advised that the department is authorized under Chapter 292, Wisconsin Statutes to seek injunctive or other appropriate relief for violations of spill pollution laws, including forfeitures of not more than \$5,000 per day of violation. Each day of violation is considered a separate offense. In addition, the department has the authority under s. 292.94, Wis. Stats., to assess non-reimbursable fees as specified in ch. NR 749, Wis. Admin. Code, to parties involved in enforcement actions.

This Notice of Violation constitutes a Notice of Claim and Fulfills the requirements of s. 893.80, Wis. Stats.

If you have any questions or need to reschedule the teleconference, please contact me at (920) 808-0045.

Sincerely,



Jennifer Pelczar
Environmental Enforcement Specialist

Enclosures: Enforcement Conference Fact Sheet, June 3, 2022 department letter.

cc: Christopher Saari – Christopher.saari@wisconsin.gov
John Hunt – john.hunt@wisconsin.gov
Trevor Nobile – trevor.nobile@wisconsin.gov
Christine Haag – christine.haag@wisconsin.gov
Richard Lewandowski (Counsel for Rhineland/Oneida County Airport) – richard.lewandowski@huschblackwell.com
Steve Sorenson – (Counsel for City of Rhineland) – ssorenson@vonbriesen.com
Michael Fugle (Counsel for Oneida County Corporation) – mfugle@co.oneida.wi.us



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.



June 3, 2022

MR KRISTOPHER HANUS
MAYOR
CITY OF RHINELANDER
135 S STEVENS ST
RHINELANDER WI 54501

MR SCOTT HOLEWINSKI
ONEIDA COUNTY BOARD CHAIR
4507 BLACKBERRY HILLS TR
RHINELANDER WI 54501

MR MATTHEW LEITNER
RHINELANDER-ONEIDA COUNTY AIRPORT
3375 AIRPORT DR
RHINELANDER WI 54501

SUBJECT: Follow-up to Conference Call on May 19, 2022
Contamination Detected Adjacent to Rhinelander-Oneida County Airport
BRRTS Activity #02-44-584094

Dear Messrs. Hanus, Holewinski and Leitner:

During a conference call on May 19, 2022, between the DNR and representatives of the Rhinelander-Oneida County Airport, the City of Rhinelander, and Oneida County (referred to as the RP Group), the RP Group committed to completing certain actions within various timeframes following the meeting. Per our discussion, the RP Group had committed to sending an email to the DNR "by early next week" (so during the week of May 23-27) on when the RP Group could meet these commitments:

- By May 25, the RP Group was going to provide appropriate notification of well results to well owners, as required under Wis. Admin. Code § NR 716.14. Copies of the notifications were to be sent to the DNR and the Department of Health Services. As of the date of this letter, the DNR has not received copies of any of these notifications.
- During the week of May 23-27, the City of Rhinelander committed to contacting each well owner that had previously declined sampling or had not provided a response, letting the well owners know of the recent potable well detections and urging the well owners to allow their wells to be sampled. The contact would have a requested reply-by date of June 1. As of the date of this letter, the DNR has not received copies of any of these contacts.
- During the week of May 23-27 or the week of May 30-June 3, the RP Group would submit the Site Investigation Work Plan, as required under Wis. Admin. Code § NR 716.09. As of the date of this letter, the DNR has not received this Work Plan.

The DNR did not receive your email regarding commitments mentioned above, nor have we received any updates on the status of other outstanding commitments. The DNR is therefore requesting that you provide us with an update on the status of these commitments, and whether any work has been completed to address the concerns that the DNR has raised regarding notification of results, and provision of an alternative water supply to affected well owners, as soon as possible. The DNR considers this situation to present serious public health and environmental concerns that warrant immediate action.

Thank you for your attention to this matter.

Sincerely,



Christopher A. Saari
Northern Region Team Supervisor
Remediation and Redevelopment Program

cc: Christine Haag – DNR RR/5
Trevor Nobile – DNR Milwaukee
Carrie Stoltz – DNR Rhinelander
Phil Bower – DNR LS/8
Mark Pauli – DNR Rhinelander
Kyle Burton – DNR Green Bay
Roy Irving – DHS
Nathan Kloczko – DHS
Richard Lewandowski – Husch Blackwell
Michael Fugle – Oneida County
Steven Sorenson – von Briesen & Roper