

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor  
George E. Meyer, Secretary  
Ronald W. Kazmierczak, Regional Director

Oshkosh Service Center  
625 East County Road Y, Suite 700  
Oshkosh, Wisconsin 54901-97313  
Telephone 920-424-3050  
FAX 920-424-4404

December 14, 1999

Mr. Joseph Bauer  
Yakes, Bauer, Kindt, & Phillips, SC  
P.O. Box 1338  
Oshkosh, WI 54902-1338

SUBJECT: **Conditional** Case Closure of  
Battis Brothers Inc., 570 Main Street, Oshkosh  
**WDNR BRRTS ID # 03-71-198206**

Dear Mr. Bauer:

The above referenced case file has been reviewed by the WDNR's Northeast Region Case Closure Committee. This panel reviews environmental remediation cases for compliance with state laws, standards, and guidelines to maintain consistency in the closeout of cases. After careful review, the Committee has decided to grant a **conditional** case closure. At this time, it appears that actions have been taken to the extent practicable to restore the environment and minimize the harmful effects from this discharge to the air, lands and waters of the state.

**First Condition: Soil or Groundwater Use Restriction**

The WDNR is requiring no further remedial action at this time on the condition that *the property owner sign and file the attached "Declaration of Restriction" with the County Register of Deeds office and send proof of this filing to the Department.* The attached restriction also includes maps, which should also be filed with the text. The deed restriction includes information concerning the property impacted by the restriction that has been provided by you and/or your consultant (or attorney). The restriction is a Department standard format and has been drafted with oversight from Department attorneys. Please contact me if you have any questions or concerns regarding the restriction as written.

Please note that case closure is dependent upon the filing of this deed restriction. *If the restriction is not filed with the County Register of Deeds, the case remains active and continued sampling of the monitoring wells at the site will be required.* A workplan of the sampling schedule and maintenance of the monitoring wells will be required within 90 days of the date of this letter if verification of the restriction filing is not received as indicated above.



**Second Condition: Monitoring Well Abandonment**

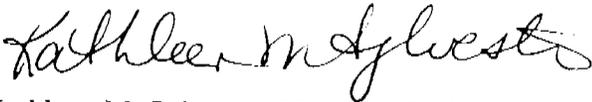
*After* filing the restriction with the appropriate county, all monitoring wells, sumps, and/or boreholes and remedial systems must be abandoned according to Chapter NR 141, Wisconsin Administrative Code. The abandonment forms (#3300-5B) should be sent to my attention.

Until verification of **both** the restriction and abandonment documentation is received, the DNR will continue to track this facility as an active BRR site.

Please be aware that this letter does not absolve the current or any future owner of this property, from future decisions regarding this site or impacts which may be discovered and/or traced to past or future activities at this site. If additional information in the future indicates that further investigation and/or remediation is warranted, the Department will require that appropriate action be taken at that time.

The Department appreciates your efforts to protect and restore the environment at this site. If you have any questions regarding this letter, please contact me at (920) 424-0399.

Sincerely,



Kathleen M. Sylvester, Hydrogeologist  
Bureau for Remediation & Redevelopment

- cc: Case File – OSH
- Mr. Carl Harrman, 1705 White Swan Drive, Oshkosh, WI 54901
- Steve Bouc, Bouc Environmental Services & Technology, 3905 CTH C, Manitowoc, WI 54220
- Lori Huntoon, Site Review Section Chief, Bureau of PECFA, Dept of Commerce,  
P.O. Box 7970, Madison, WI 53707

7218976

REGISTERED  
Winnebago County Wis  
Received for record  
this 21st day of  
March  
A.D. 1989  
2:56 o'clock PM

*Joseph N. Bauer*  
Notary Public

RETURN TO Joseph N. Bauer, Esq.  
141 N. Sawyer Street  
Oshkosh, WI 54902

Allan J. Gibson, as Personal Representative of the estate of  
Hazel C. Gibson

("Decedent"),

for a valuable consideration conveys, without warranty, to  
Battis Bros., Inc.

Grantee,  
the following described real estate in Winnebago County,  
State of Wisconsin (hereinafter called the "Property"):

Tax Parcel No:

Lots Two (2) and Seven (7) of Block "A" in MERRITTS SECOND ADDITION, City of  
Oshkosh, County of Winnebago, State of Wisconsin. Fourth Ward, per Leach's  
Map of 1894.

TRANSFER  
\$ 270.00  
FEE

ENERGY  
CODE  
7

Personal Representative by this deed does convey to Grantee all of the estate and interest in the Property which  
the Decedent had immediately prior to Decedent's death, and all of the estate and interest in the Property which the  
Personal Representative has since acquired.

Dated this 21st day of MARCH, 1989

(SEAL)

(SEAL)

Allan J. Gibson

Personal Representative

Personal Representative

AUTHENTICATION

ACKNOWLEDGMENT

Signature(s) of Allan J. Gibson, Personal Representative STATE OF WISCONSIN

of Hazel C. Gibson Estate

authenticated this 21st day of MARCH, 1989

*John G. Movroydis*

• John G. Movroydis

TITLE: MEMBER STATE BAR OF WISCONSIN

(If not, authorized by § 706.06, Wis. Stats.)

THIS INSTRUMENT WAS DRAFTED BY

Attorney John G. Movroydis

Neenah, WI 54956

(Signatures may be authenticated or acknowledged. Both are not necessary.)

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ the above named

to me known to be the person who executed the foregoing instrument and acknowledge the same.

Notary Public \_\_\_\_\_ County, Wis.  
My Commission is permanent. (If not, state expiration date: \_\_\_\_\_, 19\_\_\_\_)

\*Names of persons signing in any capacity should be typed or printed below their signatures.

Document Number

GROUNDWATER USE RESTRICTION

Declaration of Restrictions

In Re: Lots Two (2) and Seven (7) of Block "A" in MERRITTS SECOND ADDITION, City of Oshkosh, County of Winnebago, State of Wisconsin, Fourth Ward, per Leach's Map of 1894.

Also known as 570 North Main Street, Oshkosh.

COPY

Recording Area

Name and Return Address

STATE OF WISCONSIN )  
 ) ss  
COUNTY OF WINNEBAGO )

Parcel Identification Number (PIN)

WHEREAS, Battis Bros., Inc. is the owner of the above-described property.

WHEREAS, one or more waste oil discharges have occurred on this property. Waste Oil-contaminated groundwater above ch. NR 140, Wis. Adm. Code, enforcement standards existed on this property at the following location: Temporary Well #TW for Vinyl Chloride of 1 microgram per liter (ug/l) as identified on Figure 1, which is hereby attached and made a part of this restriction.

WHEREAS, it is the desire and intention of the property owner to impose on the property restrictions which will make it unnecessary to conduct further groundwater or soil remediation activities on the property at the present time.

WHEREAS, natural attenuation has been approved by the Department of Natural Resources to remediate groundwater contamination exceeding ch. NR 140 Wis. Adm. Code groundwater standards within the boundaries of this property.

WHEREAS, construction of wells where the water quality does not comply with drinking water standards in ch. NR 809 Wis. Adm. Code is restricted by chs. NR 811 and NR 812, Wis. Adm. Code. Special well construction standards or water treatment requirements, or both, or well construction prohibitions may apply.

NOW THEREFORE, the owner hereby declares that all of the property described above is held and shall be held, conveyed or encumbered, leased, rented, used, occupied and improved subject to the following limitation and restrictions:

Anyone who proposes to construct or reconstruct a well on this property is required to contact the Department of Natural Resources' Bureau of Drinking Water and Groundwater,

or its successor agency, to determine what specific requirements are applicable, prior to constructing or reconstructing a well on this property. No well may be constructed on this property unless applicable requirements are met.

If construction is proposed on this property that will require dewatering, or if groundwater is to be otherwise extracted from this property, while this groundwater use restriction is in effect, the groundwater shall be sampled and analyzed for contaminants that were previously detected on the property and any extracted groundwater shall be managed in compliance with applicable statutes and rules.

This restriction is hereby declared to be a covenant running with the land and shall be fully binding upon all persons acquiring the above-described property whether by descent, devise, purchase or otherwise. This restriction benefits and is enforceable by the Wisconsin Department of Natural Resources, its successors or assigns. The Department, its successors or assigns, may initiate proceedings at law or in equity against any person or persons who violate or are proposing to violate this covenant, to prevent the proposed violation or to recover damages for such violation.

Any person who is or becomes owner of the property described above may request that the Wisconsin Department of Natural Resources or its successor issue a determination that one or more of the restrictions set forth in this covenant is no longer required. Upon the receipt of such a request, the Wisconsin Department of Natural Resources shall determine whether or not the restrictions contained herein can be extinguished. If the Department determines that the restrictions can be extinguished, an affidavit, attached to a copy of the Department's written determination, may be recorded to give notice that this deed restriction, or portions of this deed restriction, are no longer binding.

By signing this document, \_\_\_\_\_ [Print Name] asserts that he/she is duly authorized to sign this document on behalf of **Battis Bros., Inc.**

IN WITNESS WHEREOF, the owner of the property has executed this Declaration of Restrictions, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

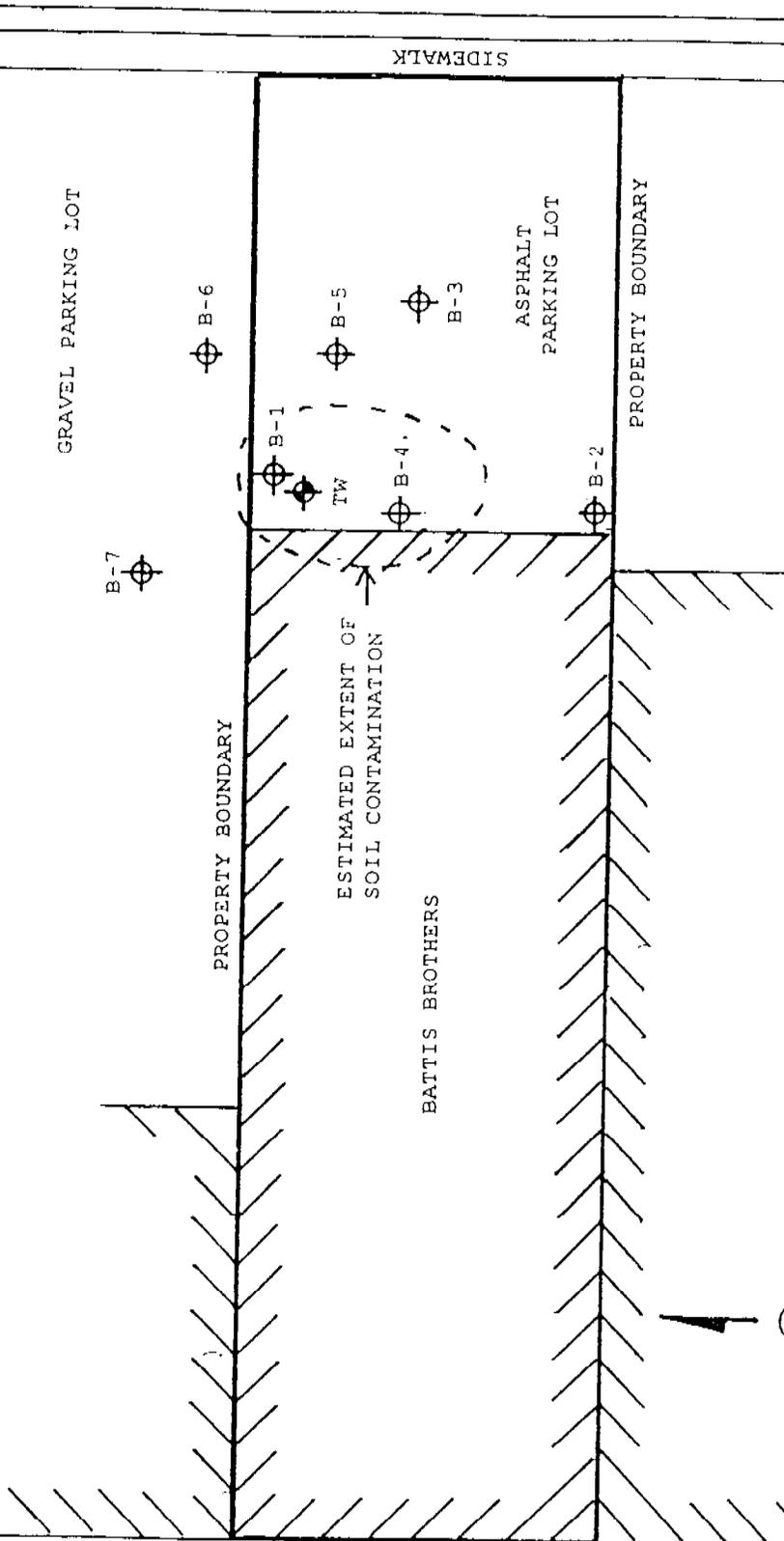
Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
My commission \_\_\_\_\_

BATTIS BROTHERS  
570 N MAIN STREET  
OSHKOSH, WISCONSIN 54901

MAIN STREET

SIDEWALK



JEFFERSON STREET

SIDEWALK

GRAVEL PARKING LOT

ASPHALT  
PARKING LOT

PROPERTY BOUNDARY

PROPERTY BOUNDARY

BATTIS BROTHERS

ESTIMATED EXTENT OF  
SOIL CONTAMINATION

LEGEND

- B-1 SOIL PROBE BORING
- TW TEMPORARY WELL



SCALE 1" = 30"

FIGURE 1

BATTIS BROTHERS  
570 N MAIN STREET  
OSHKOSH, WISCONSIN 54901

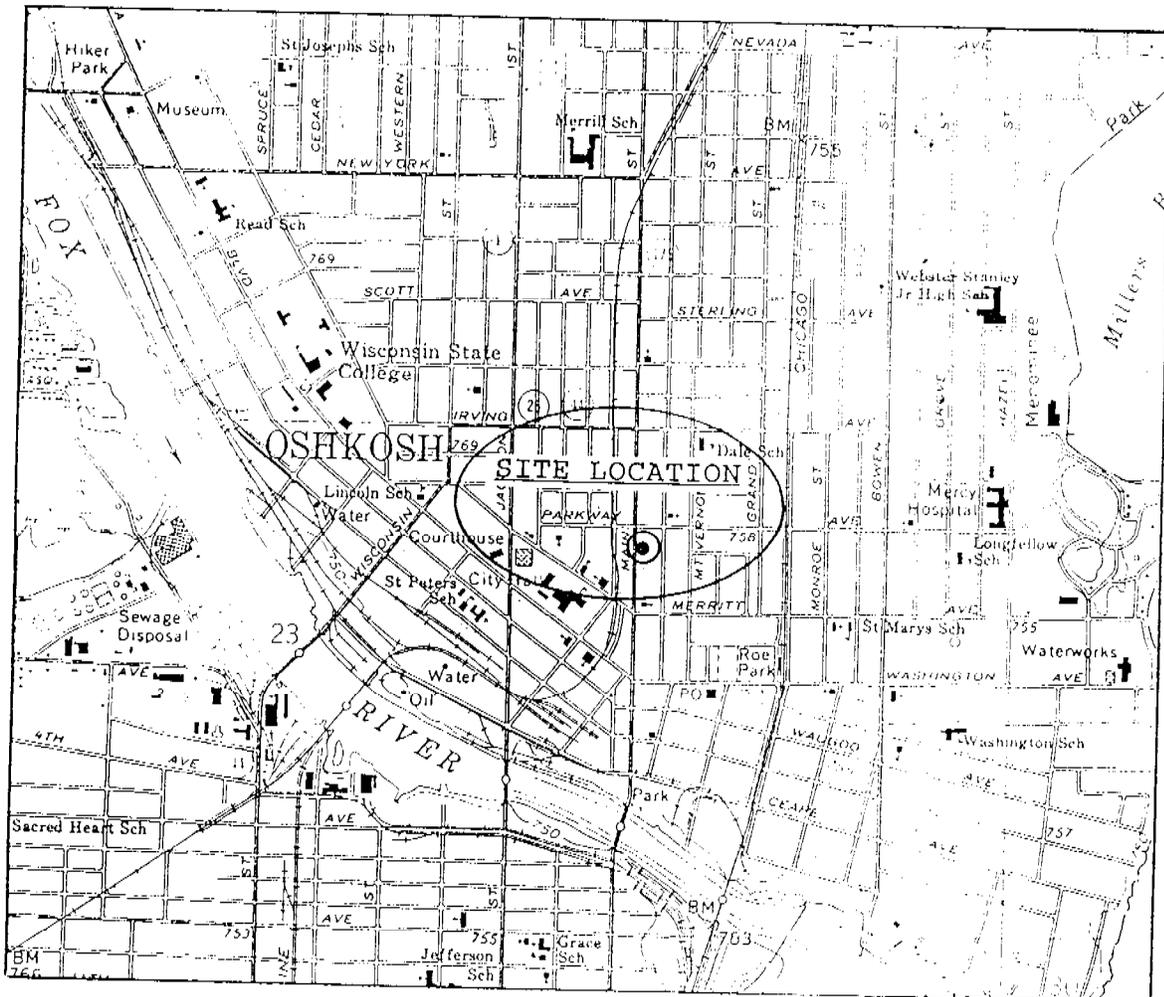


FIGURE 1  
SITE LOCATION MAP

SIDEWALK

BATTIS BROTHERS  
570 N MAIN STREET  
OSHKOSH, WISCONSIN 54901

PROPERTY BOUNDARY

GRAVEL PARKING LOT

GRID  
ORIGIN

ESTIMATED EXTENT OF  
SOIL CONTAMINATION

ASPHALT  
PARKING LOT

BATTIS BROTHERS

B-7

B-6

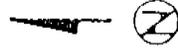
B-1

TW

B-5

B-4

B-3



LEGEND

B-4 SOIL PROBE BORING

TW TEMPORARY WELL

FIGURE 2

TABLE III

## SUMMARY OF GROUNDWATER ANALYSIS RESULTS

All Results In ug/l

	<u>B6W</u>	<u>B5W</u>	<u>TEMP</u>	<u>ES</u>	<u>PAL</u>
Benzene	<0.27	<0.27	4.0	5	0.5
s-Butylbenzene	<0.29	<0.29	4.0		
t-Butylbenzene	<0.32	<0.32	0.51 Q		
n-Butylbenzene	<0.29	<0.29	6.0		
1,3-Dichlorobenzene	<0.34	<0.34	0.45 Q	1250	125
1,4-Dichlorobenzene	<0.30	<0.30	0.39 Q	75	15
1,2-Dichloroethane	<0.37	<0.37	2.4	5	0.5
1,2-Dichlorobenzene	<0.25	<0.25	7.5	600	60
1,2-Dichloropropane	<0.35	<0.35	1.4	5	0.5
Ethylbenzene	<0.32	<0.32	12	700	140
Isopropylbenzene	<0.26	<0.26	3.4		
p-Isopropyltoluene	<0.24	<0.24	4.1		
Naphthalene	<0.35	<0.35	19	40	8
n-Propylbenzene	<0.76	<0.76	8.4		
Toluene	<0.27	<0.27	2.4	343	68.6
Trimethylbenzenes	<0.49	<0.49	211	480	96
Vinyl Chloride	<0.20	<0.20	1.0	0.2	0.02
Total Xylenes	<0.67	<0.67	80	620	124
Anthracene	--	--	0.099Q	3000	600
Benzo(a)pyrene	--	--	0.077Q	0.2	0.02
Benzo(b)fluoranthene	--	--	0.11 Q	0.2	0.02
Benzo(g,h,i)perylene	--	--	0.12 Q		
Chrysene	--	--	0.18 Q	0.2	0.02
Fluoranthene	--	--	0.21	400	80
Indeno(1,2,3-cd)pyrene	--	--	0.12 Q		
1-Methylnaphthalene	--	--	2.5 Q		
2-Methylnaphthalene	--	--	2.2 Q		
Phenanthrene	--	--	1.2		
Pyrene	--	--	0.34	250	50
Lead	--	--	3.0	15	1.5
Cadmium	--	--	0.28	5	0.5

Q - Detected, but below the limit of quantification

-- Indicates not tested