

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor
George E. Meyer, Secretary
Gloria L. McCutcheon, Regional Director

Southeast Regional Headquarters
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Milwaukee, Wisconsin 53212-0436
Telephone 414-263-8500
FAX 414-263-8483
TDD 414-263-8713

August 24, 1998

IN REPLY REFER TO FID#:241865960

Mr. John Cassandra
Birchwood Landscape Management
2401 West Mill Road
Glendale, WI 53209

Subject: Closure Request Pending Groundwater Use Restriction, Birchwood Landscape Management, 2401 West Mill Road, Glendale, WI

Dear Mr. Cassandra,:

At the request of your environmental consultant, Giles Engineering Associates, Inc., the Department has reviewed the groundwater use restriction placed on the property deed for the above mentioned site at the County Register of Deeds office on March 5, 1998.

Based on this documentation and documentation for using site specific soil cleanup standards previously provided to the department, it appears that the above-named site is in compliance with the requirements of chs. NR 700 to 724, Wis. Adm. Code. Therefore the department considers the case closed, having determined that no further action is necessary at the site at this time. However, the case may be reopened pursuant to s. NR 726.09, Wis. Adm. Code, if additional information regarding site conditions indicates that contamination on or from the site poses a threat to public health, safety or welfare or the environment.

If you have any questions regarding this letter, please contact me at the above address or at (414) 263-8546.

Sincerely,

Barbara G. Grundl
Hydrogeologist

cc: Jim Bannantine, Giles Engineering Associates, Inc.
SER case file



Quality Natural Resources Management
Through Excellent Customer Service



7498148

Declaration of Restrictions

REEL 4258 IMAG 850

REGISTER'S OFFICE } SS
Milwaukee County, WI }
RECORDED AT _____ - 10 45 AM

MAR - 5 1998
REEL 4258 IMAGE 850 to 853
Walter R. [unclear] REGISTER Incl.
OF DEEDS

Recording Area

Name and Return Address

Giles Engineering Associates, Inc
N 8 W 22350 Johnson Rd., A1
Waukesha, WI 53186

Parcel Identification Number (PIN)

7498148
RECORD 16.00

This information must be completed by submitter: document title, name & return address, and PIN (if required). Other information such as the granting clauses, legal description, etc. may be placed on this first page of the document or may be placed on additional pages of the document. Note: Use of this cover page adds one page to your documents and \$2.00 to the recording fee, Wisconsin Statutes, 59.517. WRDA 2/96

DECLARATION OF RESTRICTIONS

IN RE: Legal Description of the Property as it appears on the most recent deed. Certified Survey Map No. 885, NW¼ Sec. 30-8-22 Lot 1 Subj. to and incl: easements. Parcel Identification Number: 160-9001-000

WHEREAS, Jon and Kelly Kassander are the owners of the above described property (the "Property"); and

WHEREAS, a petroleum release from an underground storage tank (UST) has occurred on the above referenced Property. A benzene concentration of 760 µg/kg and a xylene concentration of 12,000 µg/kg exists in the soil at the location of GP3 and is limited from the ground surface to 5 feet below grade. These benzene and xylene concentrations exceed their respective Wisconsin Department of Natural Resources (WDNR) NR 720.09 residual contaminant levels of 5.5 µg/kg and 4,100 µg/kg, respectively, based on the protection of groundwater. It is estimated that a maximum of 200 cubic yards of petroleum contaminated soils exist on the Property. Groundwater contaminated with benzene and 1,2-dichloroethane at concentrations above Ch. NR 140 preventive action limits (PAL) and enforcement standards (ES), respectively, exist on this property. The most recent groundwater sampling event (April 4, 1997) revealed the presence of benzene at a concentration of 1.7 µg/L and a 1,2-dichloroethane concentration of 14.0 µg/L in the shallow groundwater aquifer in Monitoring Well No. MW2. This detected benzene concentration exceeds the WDNR Ch. NR 140 PAL of 0.5 µg/L and the detected 1,2-dichloroethane concentration exceeds the WDNR Ch. NR 140 ES of 5.0 µg/L. The shallow groundwater aquifer exists at 5 to 13 feet below grade and flows east to southeast. The locations of the monitoring wells and the extent of petroleum impacted soil and groundwater is shown in the attached Exhibit A.

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

WHEREAS, based on site specific soil cleanup standards, the WDNR has approved that the concentrations of petroleum compounds remaining in place on this property is in compliance with the requirements of Chs. NR 700 to 724, Wis. Adm. Code.

WHEREAS, in the event that these soils with contaminant concentrations in exceedance of the WDNR generic residual levels, are excavated, the owner of the Property would be responsible for managing the soils according to all applicable WDNR regulations.

WHEREAS, natural attenuation has been approved by the WDNR to remediate groundwater exceeding Ch. NR 140 groundwater standards within the boundaries of this Property. The WDNR has granted an exemption for groundwater that exceeds Ch. NR 140 preventive action limits and enforcement standards.

DECLARATION OF RESTRICTIONS (Continued)

WHEREAS, construction of wells where water quality exceeds the drinking water standards in Ch. NR 809 is restricted by Ch. NR 811 and Ch. NR 812. Special well construction standards or water treatment requirements, or both, or well construction prohibitions may apply.

NOW THEREFORE, Jon and Kelly Kassander hereby declare 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 restriction:

Anyone who proposes to construct or reconstruct a well on this Property is required to contact the WDNR, Bureau of Drinking Water and Groundwater, or its successor agency, to determine what specific prohibitions or requirements are applicable and to obtain WDNR approval, prior to constructing or reconstructing a well on this Property. No well may be constructed or reconstructed on this Property unless applicable requirements are met.

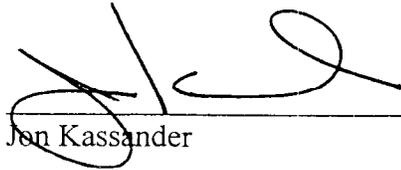
The approval of a site specific soil cleanup standard by the WDNR does not mean that the soils that met the standard could be excavated and transported as clean fill. The WDNR would be required to give approval under S. NR 718.14 before the soil could be used as fill at any new location other than a response action site (solid waste engineered landfill).

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 inures to the benefit of and is enforceable by the Wisconsin Department of Natural Resources, its successors or assigns. The WDNR, 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 the restriction 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 restriction contained herein can be extinguished. If the Wisconsin Department of Natural Resources determines that the restriction can be extinguished, an affidavit can be recorded to give notice that this groundwater use restriction is no longer binding.

DECLARATION OF RESTRICTIONS (Continued)

IN WITNESS WHEREOF, Jon and Kelly Kassander have executed this Declaration of Restriction this 5th day of March, 1998

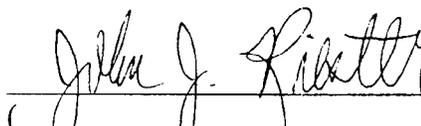


Jon Kassander

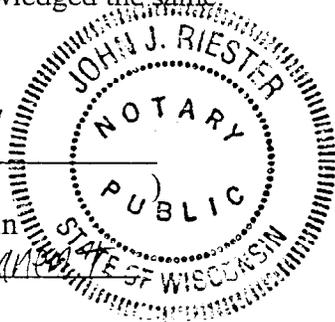
Kelly Kassander

Kelly Kassander

Personally came before me this 5th day of March, 1998 the above-named Jon Kassander and Kelly Kassander, respectively, and to me known to be the persons who executed the foregoing instrument and acknowledged the same.

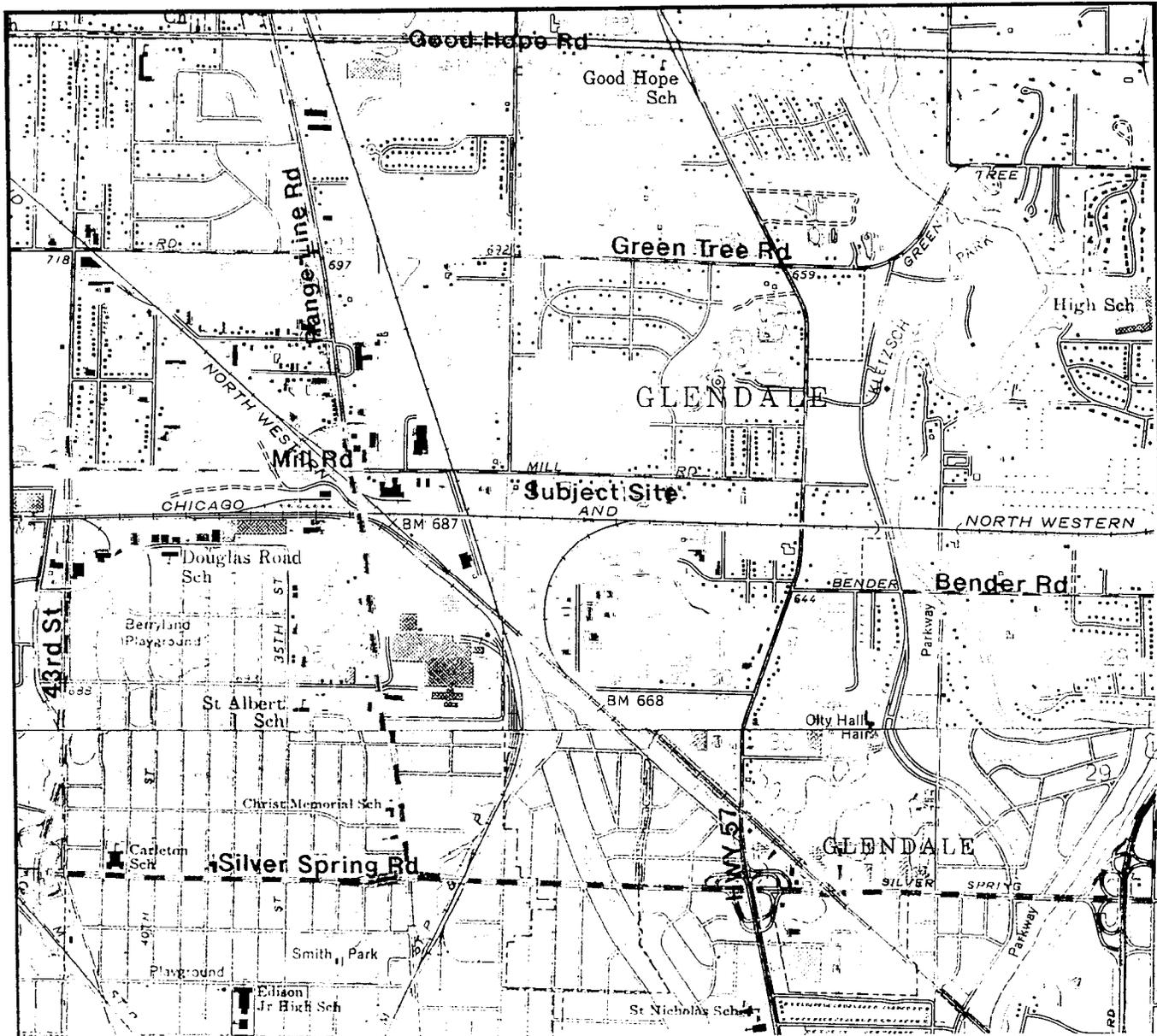


Notary Public, State of Wisconsin
My Commission: is permanent



This document was drafted by the Wisconsin Department of Natural Resources and after recording should be returned to:

Jon Kassander
2345 West Mill Road
Glendale, WI 53209



Source: USGS
Thiensville Quadrangle Map

Scale: 1"=2,000'

Figure 1

Site Location Map
Birchwood Landscape Management
2401 West Mill Road
Glendale, Wisconsin

Project No. 1E-9601018




GILES ENGINEERING ASSOCIATES, INC.
 GEOTECHNICAL, ENVIRONMENTAL
 AND CONSTRUCTION MATERIALS CONSULTANTS



7-8 1/2' DEPTH
 GRO = 129
 DRO = 171
 B < 25
 T < 25
 E = 1,760
 X = 620
 1,2,4-TMB = 4,650
 1,3,5-TMB = 1,430
 Napht = 438
 1,2,4-TMB < 25
 1,3,5-TMB < 25
 Napht < 25

12-14' DEPTH
 GRO < 2.0
 DRO = 12
 B < 25
 T < 25
 E < 25
 X < 25
 1,2,4-TMB < 25
 1,3,5-TMB < 25
 Napht < 25

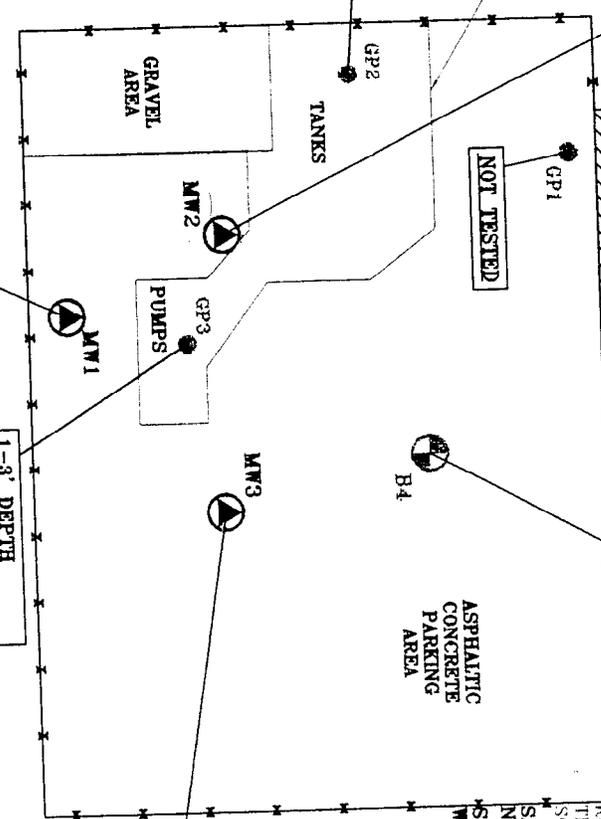
12-13 1/2' DEPTH
 GRO < 2.0
 DRO = 25
 B < 25
 T < 25
 E < 25
 X < 25
 1,2,4-TMB < 25
 1,3,5-TMB < 25
 Napht < 25

12-13 1/2' DEPTH
 GRO < 2.0
 DRO = 10
 B < 25
 T < 25
 E < 25
 X < 32
 1,2,4-TMB < 25
 1,3,5-TMB < 25
 Napht = 29

1-3' DEPTH
 GRO = 600
 DRO = 16
 B = 760
 T = 320
 E = BDL
 X = 12,000
 1,2,4-TMB = 550
 1,3,5-TMB = 8,500
 GRO = BDL
 DRO = BDL
 PVOC = BDL

12-13 1/2' DEPTH
 GRO < 1.9
 DRO = 11
 B < 25
 T < 25
 E < 25
 X < 25
 1,2,4-TMB < 25
 1,3,5-TMB < 25
 Napht < 25

LEGEND:
 B1 BORING NUMBER AND LOCATION
 MW1 MONITORING WELL NUMBER AND LOCATION
 GP1 "GEOPROB" NUMBER AND LOCATION



CHEMICAL KEY:
 -Napht: NAPHTHALENE
 -TMB: TRIMETHYLBENZENE
 -B: BENZENE
 -T: TOLUENE
 -E: ETHYLBENZENE
 -X: TOTAL XYLENES

ABBREVIATIONS:
 -BDL: BELOW DETECTION LIMIT
 -DRO: DIESEL RANGE ORGANICS
 -GRO: GASOLINE RANGE ORGANICS
 -PVOC: PETROLEUM VOLATILE ORGANIC COMPOUNDS
 -VOC: VOLATILE ORGANIC COMPOUNDS

NOTES:
 AND DRO RESULTS EXPRESSED IN MILLIGRAMS PER KILOGRAM (mg/kg) EQUIVALENT TO PARTS PER MILLION (ppm)
 VOC AND PVOC RESULTS EXPRESSED IN MICROGRAMS PER KILOGRAM (ug/kg) EQUIVALENT TO PARTS PER BILLION (ppb)

RESULTS INDICATED IN RED ARE ABOVE THE RESIDUAL CONTAMINANT LEVEL FOR SOIL SET FORTH IN TABLE 1 OF NR 720.09
 SAMPLES FROM GP3 WERE COLLECTED ON NOVEMBER 13, 1995
 SAMPLES FROM B4, P4 AND MW1 THROUGH MW3 WERE COLLECTED IN FEBRUARY 28-27, 1996

GILES ENGINEERING ASSOCIATES, INC.
 N6 W22960 JOHNSON RD.; WAUKESHA, WI, 53186
 (414)-544-0118

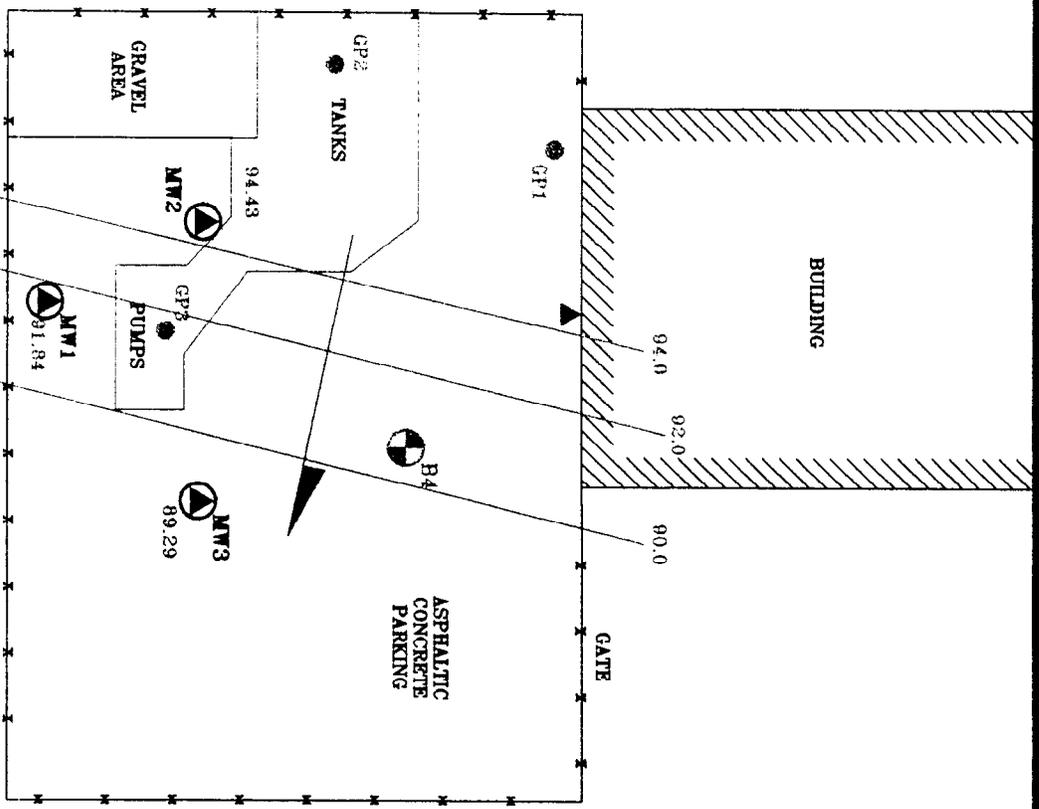
FIGURE 2 MONITOR WELLS, BORING, AND SOIL ANALYTICAL RESULTS
 GEOTECHNICAL LANDSCAPE MANAGEMENT
 2401 WEST HILL ROAD
 GLENDALE, WISCONSIN

DESIGNED	JEB	DRAWN	SDP	APPROVED	X	SCALE	1"=30'	DATE	3-15-96
PROJECT NO.: 1E-9601018		CAD No.: 86010183							

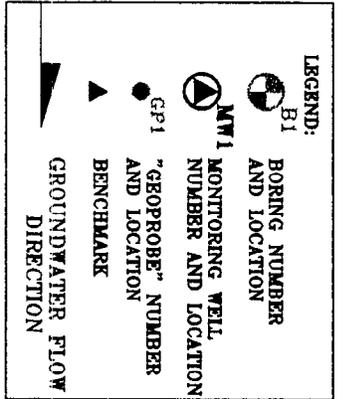


GRAVEL AREA

GRAVEL AREA



NOTE:
BORINGS ADVANCED WITH "GEOPROBE"
ON 11/13-14/95.



U STORE



GILES ENGINEERING ASSOCIATES, INC.
 NB #22950 JOHNSON RD., VAUDESHA, VA, 63196
 (414)-944-0118

FIGURE 3
 WATER TABLE ELEVATIONS AND ESTIMATED STATION GROUNDWATER FLOW
 DIRECTION LANDSCAPE MANAGEMENT (COLLECTED ON 2/27/95)
 STEPHANIE WISCONSIN

DESIGNED	DRAWN	APPROVED	SCALE	DATE
CJR	SDP	X	1"=80'	3-08-96
PROJECT NO.: 1E-9601018		CAD No.: 86010182		

TABLE 2
GROUNDWATER ANALYTICAL DATA
Birchwood Landscape Management
2401 W. Mill Road, Glendale, Wisconsin
Project No. 1E-9601018

Sample Point	Date	Petroleum-Volatile Organic Compounds (P/VOC)										P/VOC (sum)	SRO	DRO	NAPthalene	1,2-DCS
		Benzene	Ethylbenzene	MTBE	Toluene	1,2,4-TMB	1,3,5-TMB	o-Xylene	m-Xylene	p-Xylene	Styrene					
GP-3 ("grab" sample)	11/14/1995	3	19	<0.66	4.3	37	33	88	194.3	NA	NA	NA	NA	NA	NA	NA
	27-Feb-96	0.1	<0.1	<0.2	0.3	0.5	<0.2	<0.6	0.9	<29	195	0.3	<0.2			
	7-Jun-96	<0.4	<0.5	<0.1	<0.4	<0.5	<0.5	<1.2	0	<29	<22	NA	NA			
MW-1	10-Sep-96	<0.2	<0.3	<0.1	<0.2	<0.4	<0.3	<1.0	0	<29	NA	<0.4	<0.2			
	4-Apr-97	<0.4	<0.5	<0.1	<0.4	<0.5	<0.5	<0.8	0	NA	NA	NA	<0.3			
	27-Feb-96	3.5	31	<0.2	0.6	30	7.6	12.5	85.2	309	1090	2.3	5.9			
MW-2	7-Jun-96	5.3	13	<0.1	<0.4	9.7	4.2	4.2	36.4	307	1410	NA	NA			
	10-Sep-96	2	20	<0.1	<0.2	6.5	<0.3	1.6	30.1	NA	258	<0.4	1.3			
	4-Apr-97	1.7	56	<0.1	<0.4	4.4	2.9	8.7	113.3	NA	NA	NA	1.4			
MW-3	27-Feb-96	0.3	0.1	<0.2	0.3	0.6	0.3	<0.6	1.6	<29	299	0.3	<0.2			
	7-Jun-96	3.2	<0.5	<0.1	<0.4	<0.5	1.7	<1.2	4.9	38	78	NA	NA			
	10-Sep-96	0.3	<0.3	<0.1	<0.2	<0.4	<0.3	<1.0	0.3	<29	NA	<0.4	<0.2			
	4-Apr-97	<0.4	<0.5	<0.1	<0.4	<0.5	<0.5	<0.8	0	NA	NA	NA	<0.3			
MW-22 *	7-Jun-96	4.8	11	<0.1	<0.4	8.5	3.9	3.6	31.8	248	NA	NA	NA			
	10-Sep-96	2.4	32	<0.1	<0.2	13	0.9	4	52.3	374	NA	<0.4	5.4			
ES	NA	700	60	343	NA	NA	NA	620	NA	NA	NA	40	5			
PAL	NA	0.5	140	12	88.8	NA	NA	124	NA	NA	NA	8	0.5			

NA = Not applicable or laboratory analysis not run for analyte
 All results expressed in parts per billion (ppb); micrograms per liter (ug/L)
 MTBE = Methyl-tert-butyl-ether
 TMB = Tri-methylbenzene
 DCA = Dichloroethane
 * duplicate samples from MW-2
 Analyte levels reported in red are at or above the WDNR Enforcement Standards (ES)
 Analyte levels reported in green are at or above the WDNR Preventive Action Limit (PAL) but below the WDNR ES