

Sent Via Email

May 4, 2012

Mark D. Daniel, Registered Agent
Madison-Kipp Corporation
201 Waubesa Street
Madison, WI 53708-8043

Casetrack ID#2011-SCEE-023

Subject: **NOTICE OF VIOLATION**

Dear Mr. Daniel:

The Department of Natural Resources has reason to believe that Madison-Kipp Corporation (MKC) is in violation of Ch. 292, Stats. at property located at 201 Waubesa Street, Madison, WI. Specifically, we believe MKC is in violation of the following:

- Failure to immediately notify WDNR of unauthorized discharge of hazardous substance; in violation of s. 292.11(2)(a), Wis. Stats. The discharge meets the following statutory definition of hazardous substance: "any substance or combination of substances 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.
- Failure to 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 as required by s. 292.11 (3), Wis. Stats.

Based on a March 16, 2006 letter from RSV Engineering, Inc. to Mr. Mark Meunier, MKC was aware of the presence of PCB contamination since at least 2006. MKC did not immediately report the spill to the Department or take action to minimize the harmful effects from the discharge to the air, lands or waters of the state during the intervening time.

On April 19, 2012, the Department issued a responsible party letter to MKC which outlined a number of steps to take to address the PCB contamination. As of the date of this letter, MKC failed to satisfactorily respond to the following items:

1. By April 29, 2012 submit a formal spill notification form.
2. By April 29, 2012 submit a schedule for completing the investigation and immediate or interim actions under ch. NR 708, Wis. Admin. Code.
3. By May 1, 2012 submit a bimonthly progress report.

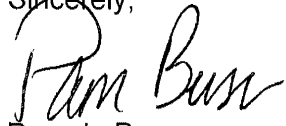
We are asking that this information be submitted to Linda Hanefeld by May 9, 2012.

If you have questions or would like to schedule an Enforcement Conference to discuss the alleged violations and your perspective on the circumstances surrounding this matter, please contact me at 608-275-3306 within 7 days of receipt of this letter. Alternatively, within 7 days you may provide information in writing that you would like the Department to consider in its decision.

Please be advised that violations of Ch. 292, Wis. Stats., may be referred to the Department of Justice to obtain court ordered compliance and penalties up to \$5,000 per day of violation.

If you have questions regarding this letter, please contact me at 608-275-3306.

Sincerely,



Pamela Buss
Environmental Enforcement Specialist

Enclosures – March 16, 2006 RSV Engineering Letter
April 19, 2012 Department Letter

cc: Linda Hanefeld, Team Supervisor, SCR Remediation and Redevelopment Program
Mike Schmoller, SCR
Mark Meunier, Madison Kipp Corporation
David A. Crass, Michael Best and Friedrich
Steven Tinker, Assistant Attorney General, DOJ
Bradley Grams & Peter Ramanauskas, EPA, Region V



Engineers • Land Surveyors • Environmental Scientists

March 16, 2006

Mr. Mark Meunier
Vice President of Human Resources
Madison-Kipp Corporation
PO Box 3037
Madison, Wisconsin 53704

RE: Updated Phase I Environmental Site Assessment
Madison-Kipp Corporation
201 Waubesa Street
Madison, Wisconsin

Dear Mr. Meunier:

At the request of Madison-Kipp Corporation ("MKC"), RSV Engineering, Inc. ("RSV") has completed an update of the Phase I Environmental Site Assessment ("Phase I ESA") completed in April 2002 by URS Corporation at the MKC facility located at 201 Waubesa Street in Madison, Wisconsin ("Subject Property"). This update has been completed pursuant to Section 4.6 of ASTM Practice E 1527-00 – Continued Viability of Environmental Site Assessment. The updated portions of our work product included the following tasks:

- A walk-through of the Subject Property and surrounding area;
- Interview with Mr. Jim Lenz of MKC;
- Interview with fire and building inspectors of the City of Madison and
- Updated database search.

Site Visit:

RSV completed a site walk-through on Wednesday, February 8, 2006, accompanied by Mr. Lenz. Photos from the site visit are included in Appendix A; a copy of an updated Environmental Data Resources ("EDR") database search for the facility is included in Appendix B.

Soil and groundwater investigation and remediation activities have been proceeding at the Subject Property since approximately 1996. Since that time, soil has been remediated by means of chemical injection in three areas, and additional remediation is planned for the spring/summer of 2006. Groundwater remediation activities are also planned for the same time period. Personal communications with MKC staff has also indicated that historically, oils that may have been PCB-containing may have been used for dust suppression prior to paving the parking area/loading dock area at the northeastern quadrant of the facility. Based on information from the chemical injection contractor, RSV understands that the reagent used for the soil remediation should remediate PCB contaminants, as well as the target compounds. Consequently, MKC is essentially

remediating PCB impacts along with the chlorinated volatile organic compounds, which are the subject of the ongoing investigation and remediation activities.

Mr. Lenz indicated that there have been no changes in facility practices or material handling since URS's 2002 study, and RSV observed no changes in site activities. In 2002, Mr. Lenz indicated that PCB-containing light ballasts were used at the facility, and that MKC utilized appropriate recycling practices for replacement. Mr. Lenz also indicated that asbestos-containing materials ("ACMs") are present in floor tiles and building materials, including roofing felt and siding. ACMs were also present in the insulation for a boiler, which has since been removed.

In general, the facility is very clean, and few chemicals are used. The most significant changes that have occurred have likely resulted in a cleaner facility, including the removal of a boiler system and the filling (with concrete) of numerous historic pits and trenches within the manufacturing facility.

With the exception of scrap metal, which is placed in bins and collected by a metal recycler and office waste, solid waste is drummed and staged for appropriate disposal (Photo 1). Disposal is conducted by a contracted, licensed waste hauler.

Liquid chemicals used at the facility are primarily water-based cooling fluids. These fluids are collected in pans beneath equipment and beneath grating in areas, as shown in Photos 2 through 4.

Bulk chemicals are primarily stored in drums above collection pans, or in bermed tanks (Photo 5). Liquid waste is then transferred via piping to the wastewater treatment area. Figure 7 shows the reverse osmosis treatment unit. This treatment system yields treated waste water and brine. The waste water is then discharged to the Madison Metropolitan Sanitary Sewer system. Brine from the treatment system is also removed by a contracted waste hauler.

Due to winter weather conditions, the site could not be inspected for stressed vegetation or other indications of a contaminant release; however, RSV conducts the site soil and groundwater monitoring at the facility, and has not observed indications of surface releases.

City of Madison Records:

The City of Madison Fire inspector's office was contacted on February 23, 2006. They indicated that no recent violations of fire codes have been recorded for the facility.

Database Search:

There were changes in status, as well as facility names for numerous sites over the past 4 years; however, these did not affect the recognized environmental condition ("REC") status of any sites. Numerous additions also appear in the current EDR report, as summarized below.

Conclusions:

Based on the investigation summarized above, and the assessment conducted in 2002 RSV identifies the following RECs:

- Remaining soil and groundwater contamination: This represents a known presence of environmental impacts caused by on-site releases. It is noted that MKC is actively working to remediate these conditions.
- PCB-containing ballasts: This REC was presented in the 2002 study. Based on the understanding that the use of these lighting fixtures has not changed, this represents an REC. However, MKC utilizes appropriate recycling practices, and no further action is necessary unless renovation activities are pursued, in which case appropriate disposal would be required.
- Asbestos-containing materials: Although the boiler has been removed, RSV understands that some ACMs remain in the facility structure.
- PCB oils in asphalt sub-base: Although there have been no tests to demonstrate the actual presence of PCBs in the gravel base beneath the asphalt at the site, RSV understands that the spreading of potentially PCB-containing oils for dust suppression was practiced at the Subject Property prior to paving. However, as indicated above, RSV understands that the chemical injection process being utilized for soil remediation is also capable of remediating impacts from PCB releases.

RSV appreciates the opportunity to provide our environmental services. If you have any questions about the work completed, or require any additional information, please contact us.

Sincerely,

RSV ENGINEERING, INC.



Robert J. Naulta, P.G.
Principal Hydrogeologist

4.2.2 Liquid Storage

The Subject Property contains no underground storage tanks. Several above ground storage tanks are present, including:

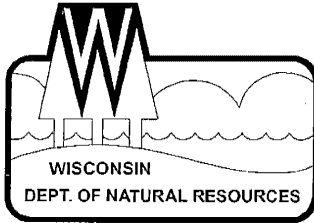
TANK SIZE (gallons)	DATE INSTALLED	STRUCTURE	LEAK PREVENTION	CONTENTS
Two 10,000	1994	Polyethylene	Secondary concrete containment	Wastewater.
One 4,000	1994	Polyethylene	Secondary concrete containment	Distilled water.
One 500	1998	Polyethylene	None	Surge tank for reverse osmosis treatment.
One 5,000	1991	Stainless steel	None	Cooling water.
Two 2,000	2001	Steel	None	Diethylene glycol
One 4,000	2001	Double-walled steel	Leak detection	Diesel fuel.
One 250	2001	Steel	None	Hydraulic fluid.
One 250	1982	Steel	None	Fuel oil.
Two 2,000	Unknown	Steel	None	Liquid propane
1,350	Unknown	Steel	Located in sealed room with scrubber	Chlorine.
One 2,000	1990	Polyethylene	Secondary concrete containment; separate room	Sodium hydroxide.
36,000 pounds	1991	Double-walled steel	None	Liquid nitrogen.
10,800	2009	Polyethylene	None	Recycled water

Numerous smaller containers are used, as well, typically for temporary storage or task-based transport. These include 55-gallon drums and totes.

4.2.3 Polychlorinated Biphenols (PCBs)

MKC uses no equipment that utilize oils containing PCBs. As indicated above, the database report cites the presence of PCB-containing transformers. However, MG&E has indicated that none of the transformers located on the site contain PCBs.

No PCB-containing light ballasts are used at the facility. However, it is suspected that prior to paving the north parking area, oils were occasionally spread to control dust. These oils may have contained PCBs. No testing has confirmed this, but the potential presence of PCBs in the sub-pavement constitute an REC.



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Scott Walker, Governor
Cathy Stepp, Secretary

South Central Region Headquarters
3911 Fish Hatchery Road
Fitchburg, Wisconsin 53711-5397
Telephone 608-275-3266
FAX 608-275-3338
TDD 608-275-3231

HAND DELIVERED

April 19, 2012

Mr. Mark Meunier
Madison Kipp Corporation
201 Waubesa Street
Madison WI 537

SUBJECT: Responsibilities for PCB Contamination: Madison Kipp Property, 201 Waubesa Street, Madison WI

Dear Mr. Meunier:

On March 26, 2012 Jennine Cota Trask, representing Arcadis, sent an email to the Department of Natural Resources (DNR) that polychlorinated biphenyls (PCBs) had been detected at the site described above. Based on the information that has been submitted to the DNR regarding this site, we believe you are responsible for investigating and restoring the environment at the above-described site under Section 292.11, Wisconsin Statutes, known as the hazardous substances spills law and the federal Toxic Substances Control Act, known as TSCA.

The March 26, 2012 email informing us of the PCB soil contamination along the eastern property line was handled inappropriately. You are well aware of the procedures and responsibilities for spill notification – those procedures were not followed. We have opened a new case file regarding this contamination. For the record, we now have two separate contamination cases for Madison Kipp.

In response, on March 26, DNR requested additional information of you regarding the PCB situation. In particular, DNR requested a report be provided to the state as soon as possible addressing the PCB contaminated soil generation, testing and disposal. Additionally, we asked: Was there only a single analysis or multiple tests run? What volume of soils is planned for offsite disposal and do we know from where within the trench these soils came from? We expressed concern about the possibility of Kipp having re-buried PCB contaminated soil.

On April 2, the DNR conferred with the Wisconsin Department of Justice (DOJ), Deputy Attorney General Steve Tinker, and he requested of your legal counsel, David Crass, the following information:

“The DNR received the composite soil sample results from ARCADIS for the trenching stockpile. The DNR believes that additional soil samples are needed to determine the nature of the PCB and VOC soil problems at the site. The DNR requests the following from Madison-Kipp:

“Collect discrete soil samples for total PCB and VOC analysis. Samples should be collected from locations adjacent to but outside the current trench footprint spaced approximately 15-30 feet apart. Sample locations shall cover from the northern to the southern end of the SVE lines. Sampling will be phased starting on the north end of the line. The first phase will cover the area around the transformers to a point 100 feet



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south of the transformers. Closer sample spacing (15 feet) will be used in this phase of work.

“Two samples will be collected per location at the depth of:

Sample Depths	0-1 foot
	2-3 feet

“Accepted sample collection, preservation and documentation protocols will be used.

“A final written report, consistent with NR 700 code requirements, with lab sheets is required.

“The first phase of work to be completed by May 1, 2012.”

To date, DNR and DOJ have not heard from you as to whether you intend to proceed with this work.

Because your detect level of 110 ppm was in excess of TSCA’s 50 ppm trigger level, per federal law, we conferred with the Environmental Protection Agency on April 13. Your responsibilities under the federal Toxic Substance Control Act and state law are noted below.

Your responsibilities in this situation

This letter, in part, describes your legal responsibilities as a person who is responsible under the Wisconsin spills law and TSCA and explains what you need to do to investigate and clean up the PCB contamination.

Legal Responsibilities:

Your legal responsibilities are defined both in state and federal statute and in administrative codes and federal regulations. The hazardous substances spill law, Section 292.11 (3) Wisconsin Statutes, states:

STATE 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 the state.

Wisconsin Administrative Code chapters NR 700 through NR 749 establish requirements for emergency and interim actions, public information, site investigations, design and operation of remedial action systems, and case closure. Wisconsin Administrative Code chapter NR 140 establishes groundwater standards for contaminants that reach groundwater.

FEDERAL RESPONSIBILITY. The Toxic Substances Control Act (TSCA) section 6(e) requires clean-up of PCB contamination; clean-up options for substances under the jurisdiction of that law are found in 40 C.F.R. 761.61. You will need to either follow the “expedited coordinated review process” found in the “One Cleanup Program Memorandum of Agreement (MOA),” dated November 21, 2006, and located at <http://dnr.wi.gov/org/aw/r/cleanup/ocp.pdf>, or you can elect to contact EPA regional staff directly to determine site-specific investigation and cleanup requirements for the TSCA-jurisdiction substances. Please notify the DNR within 10 days of the date of this letter as to which path you have elected to comply with. If you plan to work directly with EPA regarding

the TSCA-level PCBs, please contact Peter Ramanauskas, USEPA Region 5, at 312-886-7890 or Ramanauskas.peter@epa.gov.

Further, for the soils that you have already transported off your property for disposal, you will need to work with EPA on the proper documentation of those actions. The EPA regional contact is: Bradley Randall Grams, USEPA Region 5, at 312-886-7747 or grams.bradley@epa.gov.

Steps to Take:

The longer contamination is left in the environment, the farther it can spread and the more it may cost to clean up. Quick action may lessen damage to your property and neighboring properties and reduce your costs in investigating and cleaning up the contamination. To ensure that your cleanup complies with both federal and Wisconsin's laws and administrative codes, you should hire a professional environmental consultant who understands what needs to be done. These are the first steps to take:

1. In anticipation of our meeting with you on Monday, April 23, DNR has planned an internal meeting this Friday to lay out mandatory steps and reporting you must adhere to for the comprehensive investigation and clean up of your site. Accordingly, the Department is directing Madison Kipp Corporation to submit any materials, documents, data, maps or other information regarding the PCB issues, on and off the Kipp site, within 24 hours of receipt of this letter, that is, by 10:30 a.m. on Friday, April 20.
2. Within the next 10 days you or your consultant shall submit a formal spill notification form, which can be located at <http://dnr.wi.gov/topic/Spills/report.html>.
3. Within the next 10 days you or your consultant shall submit a schedule for completing the investigation and immediate or interim actions under ch. NR 708, Wis. Admin. Code, within the timeframes specified in this letter. The consultant must comply with the requirements set in TSCA and in the NR 700 Wis. Adm. Code rule series, as applicable.
4. By May 1, 2012, you or your consultant shall complete the phase I site investigation requested by Steve Tinker, DOJ, on April 2. Samples shall be collected from locations adjacent to but outside the current trench footprint spaced approximately 15-30 feet apart. Sample locations shall cover from the northern to the southern end of the SVE lines. Sampling will be phased starting on the north end of the line. The first phase will cover the area – *both on and off your property* -- around the transformers to a point 100 feet south of the transformers. Closer sample spacing (15 feet) will be used in this phase of work. Two samples will be collected per location at the depth of: 0-1 foot; and 2-3 feet. Accepted sample collection, preservation and documentation protocols will be used. Submittal of a final written report, consistent with NR 700 code requirements, with lab sheets, is required by May 1.
5. Within 90 days from the date of this letter, DNR expects that the complete PCB-related site investigation, clean-up activities and report will be completed and submitted. This shall be conducted as an immediate or interim action under ch. NR 708, Wis. Admin. Code. The NR 700 reports and documentation shall be provided to the DNR within this 90-day timeframe.
6. In accordance with ch. NR 700.11(2)(d), Wis. Admin. Code, you are required to provide the DNR with bimonthly progress reports, the first and 15th of each month, that specify: (1) the actions taken to date; (2) the actions planned in the forthcoming two weeks; and (3) the results of any sampling and analysis, including but not limited to lab data sheets, and maps of where sampling has occurred

and is planned. Any interim or immediate actions planned or taken shall also be included in this bi-monthly update.

Sites where discharges to the environment have been reported are entered into the Bureau for Remediation and Redevelopment Tracking System ("BRRRTS"), a version of which appears on the DNR's internet site. You may view the information related to your site at any time (<http://dnr.wi.gov/botw/SetUpBasicSearchForm.do>) and use the feedback system to alert us to any errors in the data.

All correspondence regarding this site should be sent to the shown EPA contact and:

Linda Hanefeld
Remediation and Redevelopment Program
Wisconsin Department of Natural Resources
3911 Fish Hatchery Road
Fitchburg WI 53719
Linda.Hanefeld@Wisconsin.gov

The Department cannot emphasize enough the serious nature of this situation. It is imperative that you provide the state and the public with the information both DNR and the Department of Justice have requested. The fact is, there is heightened neighborhood concern about your site and this contamination was found near the property line. We hope your lack of response is not an indication of a lack of urgency.

Please be advised that if this work is not done in a complete and timely manner, DNR will take the actions necessary to ensure that it is completed. The DNR's actions may include, but are not limited to, civil judicial or civil administrative actions for injunctive relief. DNR reserves its rights to take action under s. 292.11, 292.31, or 292.81, Wis. Stats., to request that the EPA's Superfund Removal program's assistance, or take action under s. 107 of CERCLA to recover costs from those persons who are potentially responsible parties, including those that caused the discharge, who are exercising possession or control over the discharge of hazardous substance.

If you have questions regarding this letter, please contact Linda Hanefeld at 608-275-3310.

Sincerely,



Linda Hanefeld, Team Supervisor
SCR Remediation and Redevelopment Program

cc: Bradley Grams, US EPA, Region V
Peter Ramanuskas, USEPA, Region V
David A. Crass, Michael Best and Friedrich