



Mark Parkinson, Governor  
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH  
AND ENVIRONMENT

www.kdheks.gov

Division of Environment

July 8, 2010

**CERTIFIED LETTER—RETURN RECEIPT REQUESTED**

Mr. Bill Morse  
Senior Environmental Engineer  
Sunoco, Inc.  
100 Green Street  
Marcus Hook, PA 19601

**RE: NO FURTHER ACTION DETERMINATION FOR THE FORMER SUNOCO BULK OIL FACILITY**

**Name of Voluntary Party:** Sunoco, Inc.  
**Legal Description of Property:** SW ¼, NW ¼, Section 14, T19S, R11E  
**Property Location:** 227 Payton Street, Emporia, Lyon County, Kansas

**Voluntary Agreement No. 06VCP0045**

Dear Mr. Morse,

The Kansas Department of Health and Environment (KDHE) has completed its review of the available documents as of July 8, 2010 for the subject property. Based on the information presented in the documents, petroleum hydrocarbons and volatile organic compounds (VOCs) in soil and groundwater were identified at the subject property. The attached determination summary identifies the nature and status of the contamination detected.

KDHE's evaluation of the available documents for the subject property indicates that petroleum hydrocarbons and VOCs contamination impacting the subject property are present at levels that do not exceed the KDHE approved risk-based cleanup levels. KDHE has determined that contamination at the subject property does not pose a significant risk to human health or the environment. Therefore, pursuant to Kansas Statutes Annotated, K.S.A. 65-34-161 *et seq.*, KDHE declares that No Further Action is necessary at the subject property. This No Further Action determination is issued to Sunoco, Inc. and extends to successors and assigns of the subject property. This determination is conditioned upon Sunoco, Inc. recording in the office of the Register of Deeds in and for Lyon County, KDHE's determination summary describing the contamination remaining at the subject property, the enclosed legal map showing property boundaries and this letter containing KDHE's No Further Action determination. **An affidavit (form enclosed) indicating that the enclosures have been attached to the property deed must be returned to KDHE prior to termination of the voluntary agreement.**

NO FURTHER ACTION DETERMINATION LETTER

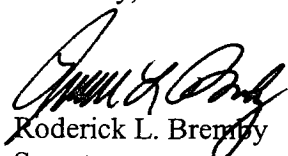
July 8, 2010

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KDHE's No Further Action determination applies only to the subject property as identified on the attached map and is based exclusively on information provided to KDHE through July 8, 2010. This determination pertains only to the identified known conditions on the subject property and does not account for activities that may be conducted at the subject property which could cause future releases of contaminants.

If you have any questions concerning KDHE's determination for no further action, please contact Project Manager, Andrea Schiller at (785) 296-0489 or legal counsel, Paul Marx at (785) 296-5334.

Sincerely,

  
Roderick L. Bremby  
Secretary

RLB/as

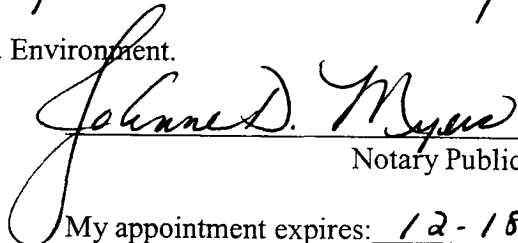
Attachments: KDHE No Further Action Determination Summary  
Legal map showing property boundaries  
Affidavit form

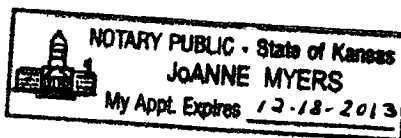
cc: Rick Bean > Jerry Lineback > Andrea Schiller > File (C3-056-72043, 2)  
Paul Marx, KDHE-Legal  
David Stutt > Renee Brown, KDHE-SEDO

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State of Kansas )  
County of Shawnee )

This instrument was acknowledged before me on July 27, 2010 by  
Roderick L. Bremby as Secretary of the  
Kansas Department of Health and Environment.

  
Notary Public  
My appointment expires: 12-18-2013



KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT  
BUREAU OF ENVIRONMENTAL REMEDIATION  
1000 SW Jackson, Suite 410  
Phone: (785) 296-1673 Fax: (785) 296-7030

**VOLUNTARY CLEANUP AND PROPERTY REDEVELOPMENT PROGRAM**

**NO FURTHER ACTION DETERMINATION SUMMARY**

SUMMARY DATE: July 8, 2010

PROPERTY NAME: Former Sunoco Bulk Oil Facility  
227 Peyton Street, Emporia, Kansas  
SW ¼, NW ¼, Section 14, T 19S, R 11E, Lyon County

PREPARED BY: Project Manger: Andrea Schiller Date: 7/8/10

REVIEWED BY: Unit Chief: [Signature] Date: 7-8-10

Section Chief: [Signature] Date: 7-15-10

**CONTAMINANTS IDENTIFIED AT PROPERTY:**

**Soil:** Ethylbenzene (CAS #100-41-4); Toluene (108-88-3); Xylene (1330-20-7); Naphthalene (91-20-3); Phenanthrene (85-01-8); Fluorene (86-73-7); 2-Methylnaphthalene (91-57-6); Total Petroleum Hydrocarbons – Gasoline Range Organics (TPH-GRO); Total Petroleum Hydrocarbons – Diesel Range Organics (TPH-DRO)

**Groundwater:** Ethylbenzene (100-41-4); Toluene (108-88-3); Xylene (1330-20-7); Naphthalene (91-20-3); TPH-GRO; TPH-DRO

**CONTAMINANTS EVALUATED AT PROPERTY:**

**Soil:** Benzene, Toluene, Ethylbenzene, Xylene (BTEX), Ethylene dibromide (EDB), Ethylene dichloride (EDC), Methyl-tert-butyl-ether (MTBE), and Naphthalene (by EPA method 8260); Polycyclic Aromatic Hydrocarbons (PAHs) (by EPA method 8270); TPH-GRO (by Iowa method OA-1); TPH-DRO (by Iowa method OA-2)

**Groundwater:** BTEX, EDB, EDC, MTBE, and Naphthalene (by EPA method 8260); PAHs (by EPA method 8270); TPH-GRO (by Iowa method OA-1); TPH-DRO (by Iowa method OA-2)

## NO FURTHER ACTION DETERMINATION SUMMARY

Bill Morse – Former Sunoco Bulk Oil Facility, 227 Peyton Street property

July 8, 2010

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The former Sunoco bulk oil facility (approximately 0.13 acres) is located at 227 Peyton Street, Emporia, Lyon County, Kansas. Sunoco, Inc. (Sunoco) leased the property from the Atchison, Topeka, Santa Fe Railroad (now Burlington Northern Santa Fe Railway, BNSF) in 1930 for use as a bulk oil facility. From 1978 to approximately 1993, Sunoco subleased the site to Grieg Oil, which has since dissolved. Currently, the site is gravel-covered with a concrete pad. All other onsite improvements, including tanks and warehouse, have been removed. Surrounding properties are also vacant and undeveloped. The BNSF mainline tracks are approximately 100 feet north of the site.

An investigation, conducted at the property on behalf of BNSF in September 2004, included five borings (GP1-GP5). Soil samples collected from the borings indicated elevated levels of TPH-GRO, ranging from 6.35 mg/kg (GP2) to 116 mg/kg (GP4); TPH-DRO ranging from 14 mg/kg (GP4) to 540 mg/kg (GP5); toluene ranging from 0.0131 mg/kg (GP1) to 0.0313 mg/kg (GP2); ethylbenzene at 0.0136 mg/kg (GP1); xylene ranging from 0.0788 mg/kg (GP4) to 0.143 mg/kg (GP5). TPH-GRO exceeded the Kansas Risk-based Standards (RSKs) for the soil to groundwater residential pathway. As a result of the investigation, BNSF reported the site to the KDHE Bureau of Environmental Remediation – Remedial Section. Sunoco, as the former site operator, was encouraged to address the contamination through the Voluntary Cleanup and Property Redevelopment Program (VCPRP). Voluntary Agreement 06VCP0045 was executed by the Secretary on December 26, 2006.

Voluntary Cleanup Investigation (VCI) activities took place at the site in February 2008 and June 2009. Eight soil borings (SB6-SB13) were drilled, with four borings completed as monitoring wells (MW1-MW4). Soil was noted as being stiff, plastic clay with little sand and silt at the bottom of the borings. Borings were completed to refusal, which was assumed bedrock, most likely the Auburn Shale. Groundwater flow was determined to be southeasterly. Soil and groundwater samples were collected and analyzed for BTEX, MTBE, EDB, EDC, Naphthalene, PAHs, TPH-GRO, and TPH-DRO.

Soil analytical results indicated mostly low concentrations of contaminants; however, two samples did exceed the residential RSKs for the soil to groundwater pathway. Naphthalene was detected at SB8/MW2 at a concentration of 2.88 mg/kg and TPH-GRO was detected at SB9 and SB8/MW2 at concentrations of 58.5 mg/kg and 160 mg/kg, respectively. Other contaminants detected included phenanthrene ranging from 0.0136 mg/kg (SB11) to 0.571 mg/kg (SB8/MW2); fluorine at 0.10 mg/kg (SB8/MW2); 2-methylnaphthalene at 0.77 mg/kg (SB8/MW2); and TPH-DRO at 27.5 mg/kg (SB8/MW1) to 255 mg/kg (SB8/MW2). With the exception of the naphthalene and TPH-GRO impacts, no other contaminant concentration exceeded either the soil pathway or soil to groundwater pathway residential RSKs.

Groundwater analytical results indicated slight impacts during the 2008 VCI activities, none of which exceeded the groundwater pathway residential RSKs. Ethylbenzene, toluene, xylene, naphthalene, and TPH-GRO were detected at MW1 at concentrations of 0.0018 mg/l, 0.00096 mg/l, 0.0116 mg/l, 0.0011 mg/l, and 0.0715 mg/l, respectively. TPH-DRO was noted at MW2 at 0.06

## NO FURTHER ACTION DETERMINATION SUMMARY

Bill Morse – Former Sunoco Bulk Oil Facility, 227 Peyton Street property  
July 8, 2010

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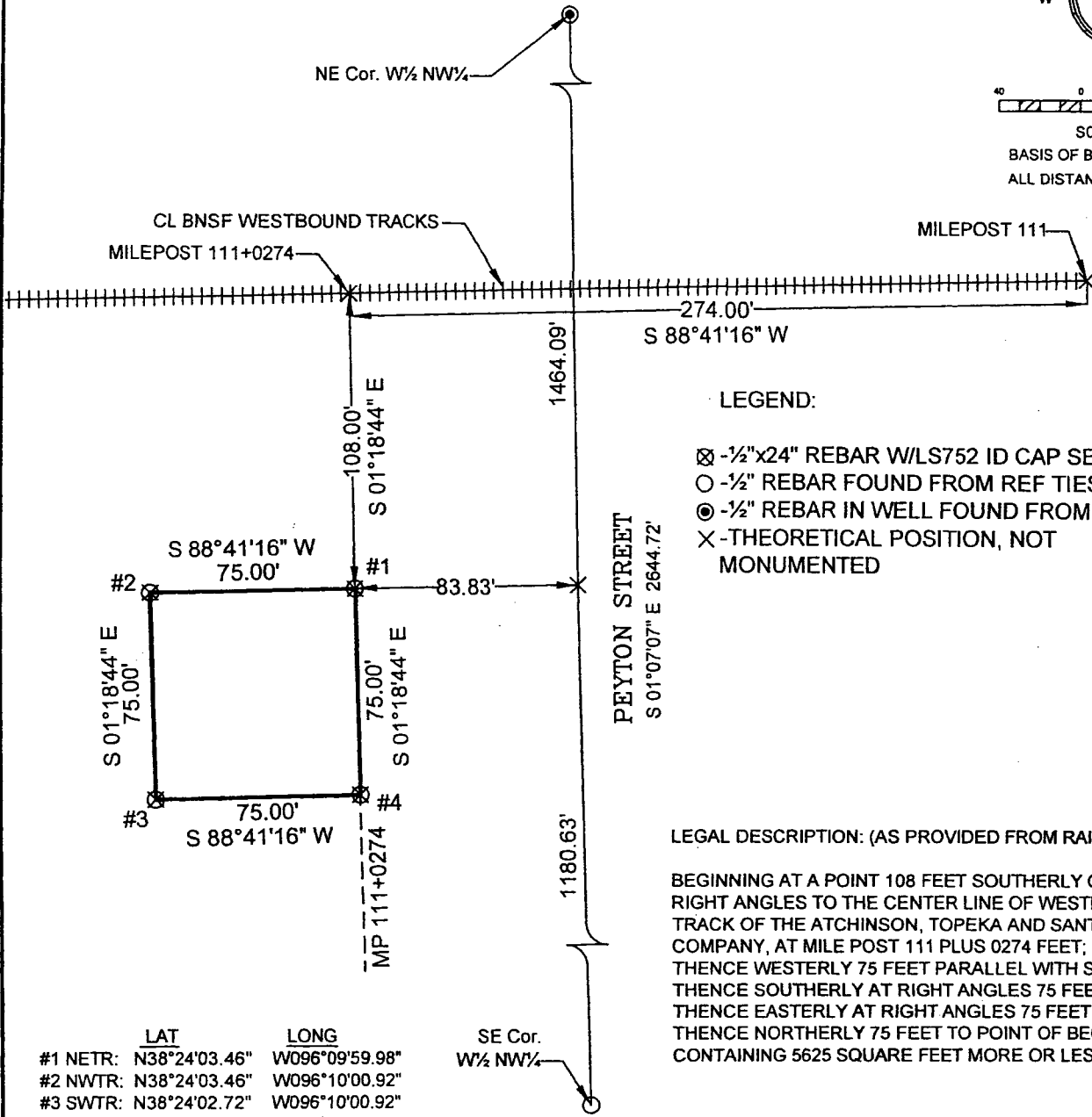
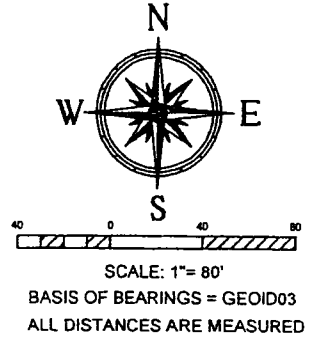
mg/l. During 2009 VCI activities, naphthalene was noted at MW3 at 0.00032 mg/l.

Following the two phases of VCI activities, Sunoco requested exemption from the soil to groundwater pathway, based on KDHE BER Policy RS-045. BER RS-045 states that soil to groundwater RSKs may not be appropriate if groundwater contamination is not present despite many years of soil contamination. KDHE subsequently determined that, despite the site being leased for bulk oil operations from 1930 to 1993 and the presence of contamination exceeding the residential RSKs for the soil to groundwater pathway, groundwater at the site had not been impacted above the groundwater RSKs. Therefore, KDHE approved the exclusion of the soil to groundwater pathway. With the soil to groundwater pathway no longer applicable to the site, none of the remaining impacts exceed the RSKs.

In summary, the former Sunoco bulk oil facility does not appear to be significantly impacted as a result of the previous site operations and an apparent onsite contaminant source was not detected during the VCI. Detected contaminant concentrations appear to be more indicative of residual impacts. Several impacts did exceed the residential RSKs for the soil to groundwater pathway; however, KDHE determined that because groundwater had not been impacted above residential RSKs, the soil to groundwater pathway can be excluded. With the exclusion of the soil to groundwater pathway, no impacts onsite exceed the RSKs. Therefore, all requirements for the VCPRP have been met and KDHE has issued a NFA for insignificant contamination for the Sunoco facility.

**REPORT OF SURVEY**

A TRACT IN THE NORTHWEST QUARTER OF SECTION 14,  
TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS



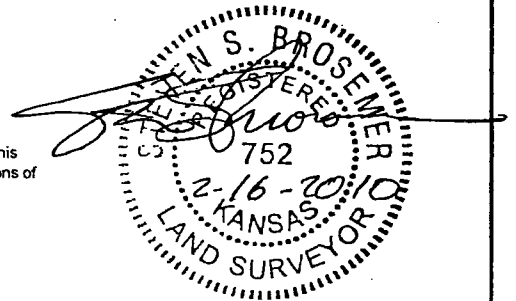
State of Kansas)  
) ss  
County of Lyon )

Certification:

This is to certify and acknowledge that I, Steven S. Brosemer, a licensed Land Surveyor in said County and State, did prepare this report under my direct supervision. Further, that this report and survey do not show or certify to ownership, easements, restrictions of record or that certain corners were not monumented by agreement with the client, unless otherwise stated.

NOTE: This document is not original unless the seal, signature, and date are blue ink.

CLIENT: THE SOURCE GROUP



GeoTech, Inc. 1512 W. 6th SUITE I, EMPORIA, KS 66801 (620)342-7491 FAX: (620)342-8722	PROJECT #:	FIELD DATE:	DRAWN BY:	SHEET(S)
	10030-02.dwg	02/12/2010	BH	1 OF 1

**AFFIDAVIT**

STATE OF KANSAS            )  
  ) SS:  
COUNTY OF LYON            )

COMES NOW, \_\_\_\_\_, an adult and after being duly sworn, state:

1. I am the person who made application to place the following property into the Voluntary Cleanup and Property Redevelopment Program:

0.13 acres  
227 Payton Street  
Emporia, Kansas 66801  
SW ¼, NW ¼, Section 14, T 19S, R 11E, Lyon County

2. I received a No Further Action Determination Letter and a No Further Action Determination Summary from the Kansas Department of Health and Environment (KDHE) regarding the above described property within the context of the Voluntary Cleanup and Property Redevelopment Program.

3. I had a map prepared of the above described property by *Geo Tech, Inc.* and submitted the map to KDHE for approval.

4. On \_\_\_\_\_, \_\_\_\_\_, I filed the original No Further Action Determination Letter and No Further Action Determination Summary issued by KDHE and the KDHE approved property map with the Register of Deeds for the County in which the property is located.

\_\_\_\_\_  
Affiant

Subscribed and sworn to before me, a Notary Public for the above county and state on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My appointment expires on: \_\_\_\_\_, \_\_\_\_\_



# CONCURRENCE SHEET

## BUREAU OF ENVIRONMENTAL REMEDIATION

July 8, 2010

This concurrence form is for your review and comments for the enclosed document; please be advised that this is the ORIGINAL INSTRUMENT.

IN THE MATTER OF:

CASE NUMBER: 06VCP0045

No Further Action Determination for:

Former Sunoco Bulk Oil Facility  
227 Payton Street, Emporia, Kansas  
SW ¼, NW ¼, Section 14, T 19S, R 11E, Lyon County

	Name	Date	Comments
Project Manager	Andrea Schiller	7/8/10	
Unit Chief	Greg J. Lundberg	7-16-10	
Section Chief	Rich Beas	7-16-10	
Bureau Manager	Gary Bloch	7/20/10	
Legal Office	Paul J. Marx	7/16/10	
Director of Legal	M. Anders	7/22/10	
Director of Env.	Les Fleming GM	7-23-10	
General Counsel	Anders	7/22/10	
Secretary	Paul & Co. Inc.	7/26/2010	

PLEASE RETURN ORIGINAL TO PROJECT MANAGER AFTER SIGNED BY SECRETARY

Return to Andrea Schiller, BER, Suite 410

Please notarize Secretary Bremby's Signature

Received

JUL 23 2010

DIRECTOR OF ENVIRONMENT  
DEPT. OF HEALTH & ENVIRONMENT