

ORDINANCE NO. 2020-78

AN ORDINANCE AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AN AGREEMENT WITH BROWNFIELD RESTORATION GROUP (BRG) TO COMPLETE THE UNDERGROUND STORAGE TANK REMEDIATION AT 301 WEST MAIN STREET (FORMER WORLD IMPORTS SITE) AS REQUIRED BY THE DEPARTMENT OF COMMERCE, DIVISION OF STATE FIRE MARSHAL, BUREAU OF UNDERGROUND STORAGE TANK REGULATIONS (BUSTR), AND DECLARING AN EMERGENCY.

WHEREAS, the City of Kent would like to enter into an agreement with Brownfield Restoration Group (BRG), a qualified environmental consulting firm recognized as a Certified Professional (CP) firm by the State of Ohio Environmental Protection Agency (OEPA) in order to complete the Tier 1 source investigation at 301 West Main Street, including the required monitoring well installations, sampling and reporting BUSTR has specified are needed in order to close the open World Imports file; and

WHEREAS, the anticipated cost will not exceed \$25,000.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Kent, Portage County, Ohio, at least three-fourths (3/4) of all members elected thereto concurring:

SECTION 1. That the City Manager, or his designee, is hereby authorized to execute an agreement with Brownfield Restoration Group (BRG) in order to complete the World Imports open case file, in substantial compliance with the terms of Exhibit "A", attached hereto.

SECTION 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council, and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements of Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of this City, for which reason and other reasons manifest to this Council, this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force immediately after passage.

PASSED: August 19, 2020
Date

J. Fiala
Jerry T. Fiala
Mayor and President of Council

EFFECTIVE: August 19, 2020
Date

ATTEST: Amy Wilkens
Amy Wilkens
Clerk of Council

I, AMY WILKENS, CLERK OF COUNCIL FOR THE CITY OF KENT, COUNTY OF PORTAGE, AND STATE OF OHIO, AND IN WHOSE CUSTODY THE ORIGINAL FILES AND RECORDS OF SAID COUNCIL ARE REQUIRED TO BE KEPT BY THE LAWS OF THE STATE OF OHIO, HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF ORDINANCE No. _____, ADOPTED BY THE COUNCIL OF THE CITY OF KENT ON _____, 20____.

AMY WILKENS
CLERK OF COUNCIL
(SEAL)



Department of Commerce

Division of State Fire Marshal
Mike DeWine, Governor
Sheryl Maxfield, Director

June 16, 2020

DAVE RULLER, CITY MANAGER
CITY OF KENT
301 SOUTH DEPEYSTER STREET
KENT, OHIO 44240

SITE: WORLD IMPORTS
301 W MAIN ST
KENT OH
PORTAGE COUNTY
RELEASE #67002010-N00001

RE: SITE STATUS

Dear City Manager Ruller:

The State Fire Marshal, Bureau of Underground Storage Tank Regulations ("BUSTR") has established an enforcement program for resolving non-compliance with underground storage tank ("UST") environmental regulations as quickly and efficiently as possible. Some time ago, the file for the former World Imports facility, located at what was then 301 West Main Street, was referred to my attention in BUSTR's Enforcement Section for potential action. In reviewing the file recently, I discovered that BUSTR has not been in contact with the City of Kent ("City") for several years about this matter; as a result, I believe that it would be more appropriate to send this letter reminding you of the site's status and your legal obligations with respect to it, instead of issuing a Notice of Violation.

Site Background

On September 10, 1996, the City removed two waste oil USTs from the former World Imports property, by then owned by the City. The closure assessment performed at the time indicated that contamination was present; that indication was confirmed by additional environmental investigations performed by the City over the next several years. The most recent report submitted by the City was a Tier 1 Evaluation conducted pursuant to the 1999 version of BUSTR's corrective action rule. It requested that BUSTR issue a finding of No Further Action but upon review BUSTR found that there was no monitoring well placed in the tank cavity and that, in any case, the samples submitted to the laboratory for analysis were above the proper holding temperature and therefore cannot be relied upon to accurately reflect the soil and groundwater conditions. Due to these deficiencies, BUSTR was unable to consider a finding of No Further Action.

Because the corrective action was not complete, in 2009 BUSTR moved the release file to the next version of the corrective action rule, the 2005 rule, and required the City to conduct a Tier 1 Source Investigation ("TISI") pursuant to that version and to submit the appropriate report, either a Tier 1 Evaluation or a Tier 1

Bureau of Underground Storage Tank
Regulations
8895 East Main Street
Reynoldsburg, OH 43068 U.S.A.

614 | 752 7938
Fax 614 | 752 7942
TTY/TDD 800 | 750 0750
www.com.ohio.gov

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Notification (depending on the environmental sampling results). To date, however, none has been received and the City is in violation of the of the following provision of the Ohio Administrative Code:

- 1301:7-9-13(H)(3) Failure to submit a Tier 1 Evaluation or a Tier 1 Notification report.

I would note that the corrective action rule has undergone additional revisions since 2009. The current version of that rule is dated 2017, and the City may elect to perform a TISI under that version if it wishes.

Under ordinary circumstances, a release which has gone unaddressed for such a length of time would be a strong candidate for formal enforcement action. As I noted earlier, though, BUSTR has not been in touch with the City for quite some time and I believe it would be more appropriate to allow the City the opportunity to review this letter and to take steps to initiate the necessary corrective actions.

Finally, BUSTR understands that the current situation surrounding the coronavirus may impact the availability of contractors to address your corrective action obligations. BUSTR does expect, however, that the City will keep us apprised of its compliance efforts.

Thank you in advance for your cooperation. I strongly urge that the City or its consultant contact our site coordinator for Portage County, Mr. Ryan Siath, to discuss the relative merits of a TISI. Mr. Siath can be reached directly at (614) 387-7416. If you have any questions about this letter or the enforcement process in general, please feel free to contact me at david.sauer@com.state.oh.us or by telephone at (614) 752-7096.

Sincerely,



David N. Sauer
Enforcement Coordinator

cc: Hope L. Jones, Law Director, City of Kent
Corrective Action File
Enforcement File

Bureau of Underground Storage Tank Regulations
8895 East Main Street
Reynoldsburg, OH 43068 U.S.A.

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Fax 614 | 752 7942
TTY/TDD 800 | 750 0750
www.com.ohio.gov

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