



March 19, 2021

FINCANTIERI MARINETTE MARINE
ATTN: WARREN NETZOW
1600 ELY STREET
MARINETTE WI 54143

Subject: Approval to Manage Contaminated Soil under Wis. Admin. Code § NR 718.12 on Site
Marinette Marine Bldg 34, 1600 Ely Street, Marinette, Wisconsin
DNR BRRTS Activity #02-38-587281

Dear Mr. Netzow:

On December 24, 2020, Robert Meller, Foth Infrastructure & Environment, LLC, submitted a *Request to Manage Materials under Wis. Admin. Code § NR 718.12* on your behalf (“Request”). The Request presents a plan to manage 14,500 cubic yards of contaminated soil on the same site from which it will be excavated in accordance with Wis. Admin. Code § NR 718.12. The Wisconsin Department of Natural Resources (DNR) received all applicable technical assistance and database fees for providing review and response, in accordance with Wis. Admin. Code § NR 749.04 (1). Supplemental information regarding this request was also provided on February 12, 2021 and March 12, 2021. The Wisconsin Department of Natural Resources (DNR) received all applicable technical assistance and database fees for providing review and response, in accordance with Wis. Admin. Code § NR 749.04 (1).

It is anticipated that approximately 14,500 cubic yards of excavated soil material will be reused on site to both raise the grade below Building B-35 and provide general fill within and around the new buildings’ (B-34 and B-35) footprints during construction. These excavated soils will represent a portion of the total excavated volume to facilitate the installation of the Building B-34 foundation slab, construct the subgrade stormwater management system, and perform regrades. Contaminated material is impacted by polycyclic aromatic hydrocarbons (PAHs), volatile organic compounds (VOCs), per- and polyfluoroalkyl substances (PFAS), polychlorinated biphenyls (PCBs), and metals (primarily arsenic and lead).

Wis. Admin. Code § NR 718.12 Approval

This letter grants an approval to manage contaminated soil under Wis. Admin. Code § NR 718.12 on site. Approval is based on the following:

Compliance with Locational Criteria

Managing contaminated soil in areas of the site identified on Figure 2, Soil Boring and Construction Detail, December 2020, included in the Request, will meet the locational criteria listed under Wis. Admin. Code § NR 718.12 (1) (c), except for the following:

- Within a floodplain;
- Within 3 feet of the high groundwater level.

Grant of exemption to Wis. Admin. Code § NR 718.12 (1) (c) 1. & 5.

In consideration of the proposed cap and similar locational characteristics of the soil being managed, the DNR grants an exemption to the location criteria of Wis. Admin. Code § 718.12 (1) 1. and 5. and will allow placement of contaminated waste material within a floodplain and within 3 feet of the high groundwater level.

Characterization of Soil to be Excavated

Soil samples from 15 soil borings were collected for analysis of contaminants previously detected or expected to be present at this site including VOCs, PAHs, metals, and PCBs from areas most likely to contain residual contamination. The Reports recommends a characterization sampling frequency of one sample per 1,000 cubic yards for an estimated volume of 14,500 cubic yards of material. This sampling frequency is not sufficient based on the isolated detections of arsenic in concentrations greater than the industrial direct contact standard and benzene in concentrations greater than the soil to groundwater pathway standard. The DNR is requiring the sampling protocol described in Wis. Admin. Code § NR 718.12 (1) (e) be followed. In addition, the DNR is requiring managed contaminated soil be characterized for the 33 PFAS compounds on the DNR list.

Submittal of a Soil Management Plan

A complete soil management plan, as defined by Wis. Admin. Code §§ NR 718.12 (2) (b) and (c), was provided to the DNR.

Assessment of Risk Posed by Soil Management

The proposed management of solid waste at the Marinette Marine Corp site is expected to meet the criteria of Wis. Admin. Code §§ NR 726.13 (1) (b) 1 to 5.

Notice Provided Prior to Commencing Soil Management Activities

Per Wis. Admin. Code § NR 718.12 (2), the DNR was provided with written notice at least seven days prior to commencing the proposed material management.

Requirement of Continuing Obligations

You have acknowledged that the continuing obligations described below will be required as a condition of managing the contaminated material on your property as proposed.

The current property owner of the Marinette Marine Building 34 site, and any subsequent property owners, must comply with the following continuing obligations at this site, established under Wis. Admin. Code § NR 718.12 (2) (d), to ensure that conditions will remain protective. DNR staff will conduct periodic, pre-arranged inspections to ensure that the conditions included in this letter are met. If these requirements are not followed, the DNR may take enforcement action under Wis. Stat. ch. 292 to ensure compliance with the specified requirements, limitations or other conditions related to the property.

Documents submitted to the DNR to request the Wis. Admin. Code § NR 718.12 approval meet the requirements of Wis. Admin. Code § NR 718.12 (2) (e) and are available in PDF on the DNR's Bureau for Remediation and Redevelopment Tracking System (BRRTS) on the Web (BOTW) and RR Sites Map (RRSM), to provide public notice of remaining contamination and continuing obligations. Both BOTW and RRSM are available at dnr.wi.gov, search "WRRD."

More information on responsibilities related to continuing obligations can be found in the DNR publication "Continuing Obligations for Environmental Protection" (RR-819), which can be found at dnr.wi.gov, search "RR-819."

Please send written notifications in accordance with the following requirements to David Neste, DNR Project Manager.

Send documents to the DNR using the RR Program Submittal Portal at dnr.wi.gov, search “RR submittal portal” (<https://dnr.wi.gov/topic/Brownfields/Submittal.html>). Questions on using this portal can be directed to the contact below or to the environmental program associate (EPA) for the regional DNR office. Visit dnr.wi.gov, search “RR contacts” and select the EPA tab (<https://dnr.wi.gov/topic/Brownfields/Contact.html>). More information on submitting electronic documents can be found in the DNR publication “Guidance for Electronic Submittal for the Remediation and Redevelopment Program” (RR-690), which can be found at dnr.wi.gov, search “RR-690.”

Residual Soil Contamination

If contaminated soil that was managed as proposed in the Request is excavated in the future, the property owner at the time of excavation will have the following responsibilities per Wis. Admin. Code § NR 727.05 (1) (d):

- determine if contamination is present;
- determine whether the material is considered solid or hazardous waste; and
- ensure that any storage, treatment or disposal is in compliance with applicable statutes and rules.

Excavated contaminated soil may be managed in accordance with Wis. Admin. Code ch. NR 718 with DNR pre-approval. In addition, all current and future property owners and occupants of the property need to be aware that excavation of the contaminated soil and solid waste may pose a hazard, and special precautions may be necessary to prevent a health threat to humans.

If material that will be managed under this approval includes solid waste other than soil, it may be required to obtain approval from the DNR prior to excavating the waste or constructing any structure over the materials per Wis. Admin. Code § NR 506.085.

The location(s) where contaminated soil is proposed to be managed at the site is depicted on the attached Soil Borings and Construction Detail, Figure 2, December 2020.

Depending on site-specific conditions, construction over contaminated soil or groundwater may also result in vapor migration of contaminants into enclosed structures or migration along underground utility lines. The potential for vapor intrusion and means of mitigation may need to be evaluated when planning any future redevelopment, and measures may need to be taken to ensure the continued protection of public health, safety, welfare and the environment at the site.

The DNR’s approval prior to well construction or reconstruction is required where contaminated soil was managed, in accordance with Wis. Admin. Code § NR 812.09 (4) (w). This requirement applies to private drinking water wells and high capacity wells. To obtain approval, complete and submit DNR Form 3300-254 to the DNR Drinking and Groundwater Program’s regional water supply specialist. This form is available at dnr.wi.gov, search “3300-254.”

Maintenance of a Cover

An impervious cover (i.e. building and/or parking lot) is proposed to be installed and maintained over contaminated soil that will be managed at the site as referenced in the Request. A maintenance plan must be provided to the DNR once the barrier has been constructed and must address actual site conditions per Wis. Admin. Code § NR 724.15 (3) (h). Once constructed, inspections of the impervious cover will be required per Wis. Admin. Code § NR 724.13, and submittal of inspection reports may also be required per Wis. Admin. Code

§ 727.05 (1) (b) 3. Notification to the DNR is required before changing to a non-industrial use if the cover is approved for industrial land use, per Wis. Admin. Code § NR 727.07 (3) to ensure that the cover will be protective for that use.

The maintenance plan prohibits certain activities in areas where maintenance of a cover or barrier is intended to prevent contact with any remaining soil contamination. The following activities are prohibited on any portion of the property where impervious cover is required, unless prior notification is provided to DNR to determine whether further action may be necessary to protect human health, safety, or welfare of the environment (§ NR 727.07):

- removal of the existing barrier or cover;
- replacement with another barrier or cover;
- excavating or grading of the land surface;
- filling on covered or paved areas;
- plowing for agricultural cultivation;
- construction or placement of a building or other structure;
- changing the use or occupancy of the property to a residential exposure setting, which may include certain uses, such as single or multiple family residences, a school, day care, senior center, hospital or similar residential exposure settings.

Other Information

- 1) Any hazardous substance discharge discovered during contaminated soil management activities must be reported to the DNR following the requirements of Wis. Admin. Code ch. NR 706.
- 2) Contaminated soil management activities approved by this letter are scheduled to be completed within one year. Notify the DNR if this schedule will change.
- 3) Unless otherwise directed by the DNR, documentation of contaminated soil management activities shall be provided within 60 days of the completion of this project. The documentation must comply with the requirements of Wis. Admin. Code § NR 724.05 (2) and § NR 724.15 (3). Documentation must include:
 - a. A cover letter that contains the information required by Wis. Admin. Code § NR 724.05(2) (e) 1.
 - b. Owner contact and property location information for the site.
 - c. Maps, drawings and cross sections that depict how contaminated soil was managed.
 - d. A synopsis of the work conducted and an explanation as to how it complied with the contaminated soil management plan and the conditions in this approval.
 - e. A description of any changes made to the planned management activity and an explanation as to why they were necessary for the project.
 - f. Any field observations or results of monitoring conducted during the management activity.
 - g. A description of how new site conditions are protective of human health, safety, welfare and the environment at the site.
 - h. A cover maintenance plan.

The DNR will request that incomplete documentation be amended as allowed by Wis. Admin. Code § NR 724.07 (2).

- 4) This approval is granted under Wis. Admin. Code § NR 718.12 and applies only to the specific activities described within the submitted Request. Any contaminated soil that is excavated or otherwise disturbed at

the site, not covered under this or another approval, must be managed in compliance with the requirements of Wis. Admin. Code chs. NR 500 through NR 599. The management of contaminated soil on a property that does not comply with these rules may be considered a hazardous substance discharge or environmental pollution and would be required to be addressed by the process outlined in Wis. Admin. Code chs. NR 700 to NR 799.

- 5) Fincantieri Marinette Marine is responsible for obtaining any local, federal or other applicable state permits to carry out the project.
- 6) Characterization sampling parameters are required to include analysis for the 33 PFAS compounds on the DNR list.
- 7) Any contaminated soil reuse on-site must be placed under newly constructed surfaces or beneath buildings, not in berms as discussed as a possibility in the Report.
- 8) This approval for management of contaminated soil, is being issued prior to the full extent of the contamination being defined in order to facilitate the timely construction of buildings 34 and 35. Please keep in mind that additional investigation will be necessary to define the degree and extent of the contamination for the contaminants of concern, this may include sampling to extend beyond your property boundaries if there is potential that contamination has affected neighboring parcels.

All remediation sites are included in DNR's BRRTS database. All documents and project milestones related to the cleanup of each of the involved sites are listed in the database entry identified by BRRTS activity # 02-38-587281.

DNR appreciates your efforts to protect the environment at this site. If you have any questions regarding this approval decision, please contact me by calling (920) 362-2072, or by email at david.neste@wisconsin.gov.

Sincerely,



David Neste
Hydrogeologist - Project Manager
Remediation and Redevelopment Program

Attachments:

- Soil Borings and Construction Detail, Figure 2, December 2020

cc: Bob Meller, Foth Infrastructure & Environment, LLC (via email: bob.meller@foth.com)