



May 18, 2020

Mr. John Gackstetter
Hendricks Commercial Properties
525 Third Street, Suite 300
Beloit, Wisconsin 53511

Transmitted by electronic copy

Subject: Conditional Grant of Exemption for the Development of a Property
(Form 4400-226A) Where Historic Fill Material has been Disposed
Riverbend Stadium, 111 Shirland Avenue Beloit, Wisconsin
— BRRTS Number 02-54-001302 (Property Parcel Numbers 135-40073 and 135-40080)

Dear Mr. Gackstetter:

The Wisconsin Department of Natural Resources (“Department”) has received your request for a grant of exemption from regulation under s. NR 506.085, Wis. Adm. Code. The request and associated fees for development at a historic fill site were submitted by Brownfield Environmental Engineering (Brownfield) on behalf of Hendricks Commercial Properties and the Riverbend Stadium Authority Inc. The City of Beloit (Beloit) and the Riverbend Stadium Authority Inc. are the applicants on record. The request was received on May 4, 2020. The fees are for providing review and response in accordance with s. NR 749.04(1), Wis. Adm. Code.

The Department has reviewed your request and offers a conditional grant of exemption from the prohibitions contained in s. NR 506.085, Wis. Adm. Code to allow for development on a historic fill sites (attached). Reuse of existing soils on site will be conducted to the greatest extent possible and will include capping of contaminated materials according to management standards. A revised cap and maintenance plan will be submitted to the Department. Any excess waste materials will be disposed in an appropriate licensed landfill. This proposed action is technically adequate. The grant of exemption would be limited to the proposed development described in the submittal as a new baseball stadium and associated infrastructure. The proposal includes site regrading, utility installation, building construction and athletic field construction. If you are considering additional changes beyond those described in the application, a new application must be submitted to the Department for approval.

Please review the information contained in the publication *Development at Historic Fill Sites and Licensed Landfills: Considerations and Potential Problems* PUB-RR-685 <https://dnr.wi.gov/files/PDF/pubs/rr/RR685.pdf> to assist you in preventing environmental or safety problems during and after development.

The Department retains its right to modify or revoke this approval if circumstances or conditions change, or if new information is found which would warrant modification or revocation of this approval.

This approval is only applicable if Hendricks Commercial Properties and the Riverbend Stadium Authority Inc. proceeds with the Property development as is proposed.

You are reminded that this approval does not relieve you of obligations to meet all other applicable federal, state, and local permits, as well as zoning and regulatory requirements. If you have any questions concerning this letter, please contact Janet DiMaggio at (608) 275-3295 or by email to janet.dimaggio@wisconsin.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "St L Martin".

Steven L. Martin, P.G.
South Central Region Team Supervisor
Remediation and Redevelopment Program

cc: Bradley Brown, Brownfield Environmental Engineering Resources (e-copy)
Kristen Parker, Chapman and Cutler, LLP (e-copy)
Drew Pennington, City of Beloit (e-copy)
Janet DiMaggio, Remediation & Redevelopment Program, DNR (e-copy)

BEFORE THE
STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

CONDITIONAL GRANT OF EXEMPTION
FOR
DEVELOPMENT ON A PROPERTY

WHERE HISTORIC FILL HAS BEEN PLACED

FINDINGS OF FACT

The Wisconsin Department of Natural Resources (Department) finds that:

1. The City of Beloit (Beloit) owns the property at 111 Shirland Avenue (Property Parcel Numbers 135-40073 and 135-40080) and at 202 Shirland Avenue, Beloit, Wisconsin.
2. The 21.16-acre redevelopment project consists of both 111 and 202 Shirland Avenue (the “Property”) and is primarily vacant land with a bike path and Mill Street cutting through the north side of the Site. The south side of the Site (south of Shirland Avenue) is utilized by the City of Beloit Sewer/Water Department. The Illinois-Wisconsin border is located on the south side of the Site.
3. The Property consists of seven parcels (135-40030, 135-40025, 135-40020, 135-40005, 135-40080, 135-40073, and 135-40060) in Wisconsin and three parcels (0405152001, 0405151001, and 0406277001) in Illinois.
4. The property north of Shirland Avenue was formerly a coal gas manufacturing plant which was acquired by Beloit in two phases in 1956 and 1966. Beloit subsequently constructed a wastewater treatment plant on the north side of the Site. Wastewater treatment operations ceased in 1991.
5. The property south of Shirland Avenue was a former convenience store and gas station. In early 2012 the building and pump island canopy were razed. Beloit acquired the property in December 2012.
6. The request for an exemption for development on a historic fill site pertains only to the 111 Shirland Avenue property (Property Parcel Numbers 135-40073 and 135-40080).
7. Beloit is the applicant for the Conditional Grant of Exemption for development on a property where historic fill has been placed. The request includes a statement signed by a professional engineer and/or professional geologist or hydrologist relating to the proposed development and the environmental conditions at the property.
8. Historic fill material has been disposed of and remains at this property.
9. Brownfield Environmental Engineering Resources, LLC (Brownfield), on behalf of Beloit, has submitted a request received by the Department on May 4, 2020 for an exemption from the prohibition in s. NR 506.085, Wis. Adm. Code.
10. Brownfield, on behalf of Beloit, prepared and submitted additional information including the following:
 - a. Development at Historic Fill Site or Licensed Landfill Exemption Application Form 4400-226, prepared by Brownfield, dated May 3, 2020 and received by the Department on May 4, 2020.
 - b. Recommended Template for Request to Manage Materials under Wis. Admin. Code § NR 718.12 or NR 718.15 Form 4400-315, prepared by Brownfield, undated and received by the Department on May 4, 2020.

- c. Technical Assistance, Environmental Liability Clarification or Post-Closure Modification Request Form 4400-237, prepared by Brownfield, dated May 3, 2020 and received by the Department on May 4, 2020.
 - d. Soil Management Plan Riverbend Stadium – Beloit WI 53511, prepared by Brownfield, dated April 24, 2020 and received by the Department on May 4, 2020.
 - e. Hazardous Materials Health and Safety Plan Riverbend Stadium, 217 Shirland Avenue, Beloit Wisconsin, prepared by GZA, dated May 3, 2020 and received by the Department on May 4, 2020.
 - f. Limited Phase II Environmental Site Assessment, Riverbend Stadium – Beloit, WI 53511, prepared by Brownfield, dated March 16, 2020 and received by the Department on May 4, 2020.
 - g. Phase I Environmental Site Assessment, 55 Water St. and 217 Shirland Ave., Beloit, WI 53511, prepared by Brownfield, dated April 16, 2020 and received by the Department on May 4, 2020.
 - h. Additional information submitted by email on May 11, 2020 and May 15, 2020.
11. Historic contamination at the site is being managed in accordance with chs. NR 700-726, Wis. Adm. Code.
 12. The Soil Management Plan documented the areas of contaminated media and described how contaminated media will be managed during construction activities. The excavated contaminated fill/soils shall be reused on the site or they will be disposed of in a licensed disposal facility. Significant portions of the land are proposed to be developed with a building, ball field, or parking areas.
 13. If the conditions set forth below are complied with, the development of the property will not result in environmental pollution as defined in ss. 289.01(8) and 299.01(4), Wis. Stats.

CONCLUSIONS OF LAW

1. The Department has the authority under s. NR 500.08(4), Wis. Adm. Code, to issue an exemption from the prohibition in s. NR 506.085, Wis. Adm. Code, if the proposed development will not cause environmental pollution as defined in ss. 289.01(8) and 299.01(4), Wis. Stats.
2. The Department has authority to approve a grant of exemption with conditions if the conditions are necessary to ensure compliance with the applicable provisions of chapters NR 500 to 538, Wis. Adm. Code, or to assure that environmental pollution will not occur.
3. The conditions set forth below are necessary to ensure compliance with the applicable provisions of chapters NR 500 to 538, Wis. Adm. Code, and to assure that environmental pollution will not occur.
4. In accordance with the foregoing, the Department has the authority under s. NR 500.08(4), Wis. Adm. Code, to issue the following conditional grant of exemption.
5. The Department has authority to approve a grant of exemption with conditions if the conditions are necessary to ensure compliance with the applicable provisions of chapters NR 700-726, Wis. Adm. Code, or to assure that environmental pollution will not occur.
6. The conditions set forth below are necessary to ensure compliance with the applicable provisions of chapters NR 700-726, Wis. Adm. Code, and to assure that environmental pollution will not occur.
7. In accordance with the foregoing, the Department has the authority under s. NR 726.15, Wis. Adm. Code, to issue the following conditional grant of exemption.

CONDITIONAL GRANT OF EXEMPTION

The Department hereby issues an exemption to Hendricks Commercial Properties and the Riverbend Stadium Authority Inc. from the prohibition in s. NR 506.085, Wis. Adm. Code, for development on a property which

contains solid waste as proposed in the submittals received May 4, 2020. This approval only applies to those Property Parcels 135-40073 and 135-40080.

1. No action related to the development of the property may be taken which will cause a significant adverse impact on wetlands as provided in ch. NR 103, Wis. Adm. Code.
2. No action related to the development of the property may be taken which will cause a significant adverse impact on critical habitat areas, as defined in s. NR 500.03(55), Wis. Adm. Code.
3. No action related to the development of the property may be taken which will cause a detrimental effect on any surface water, as defined in s. NR 500.03(62), Wis. Adm. Code.
4. Beloit is responsible for obtaining any local, federal or other applicable state permits to carry out this project.
5. A WPDES permit shall be obtained from the WDNR Watershed Bureau, if any excavation is needed and groundwater is discharged from the excavation. Confirmation that the necessary permit(s) have been issued shall be provided to the R&R program.
 - a. The Department's Water Quality Program regulates point source discharges of contaminated water, including discharges to surface waters, storm sewers, pits, or to the ground surface. This includes discharges from construction related dewatering activities, including utility and building construction. If you or any other person plan to conduct such activities, you or that person must contact that program, and if necessary, apply for the necessary discharge permit. Additional information regarding discharge permits is available at <http://dnr.wi.gov/topic/wastewater/GeneralPermits.html>.
 - b. If residual soil or groundwater contamination is likely to affect water collected in a pit/trench that requires dewatering, a general permit for Discharge of Contaminated Groundwater from Remedial Action Operations may be needed. If water collecting in a pit/trench that requires dewatering is expected to be free of pollutants other than suspended solids and oil and grease, a general permit for Pit/Trench Dewatering may be needed.
6. A land disturbance of one-acre or more requires a construction site storm water permit. The Department's Water Quality Program issues these permits. Contact the Department's Stormwater Manager, Eric Rortvedt, eric.rortvedt@wisconsin.gov (608) 273-5612, to determine what, if any, permit is needed.
7. No action related to the development of the property may be taken which will cause a detrimental effect on groundwater, as defined in s. NR 500.03(62), Wis. Adm. Code, or will cause or exacerbate an attainment or exceedance of any preventive action limit or enforcement standard in ch. NR 140, Wis. Adm. Code.
8. No action related to the development of the property may be taken which will cause an emission of any hazardous air contaminant exceeding the limitations for those substances contained in s. NR 445.03, Wis. Adm. Code.
9. No action related to the development of the property may be taken which will cause an exceedance of a soil cleanup standard in ch. NR 720, Wis. Adm. Code.
10. Excavated contaminated soil/material shall be reused on the site if technically suitable and capped or be disposed in a licensed landfill as proposed in the April 24, 2020 Soil Management Plan.

11. Beloit/Brownfield shall notify the Department within 24 hours of discovering material that is not consistent with the contaminant characteristics that have been reported to the Department. Any material that is not consistent with acknowledged material must be segregated and tested to determine appropriate disposal options.
12. Documentation of the off-site disposal of contaminated soil/material excavated from the site and placement of the new 'cap' shall be provided to the Department within 90 days of completion of the work. The report shall include a description of the total volume of soil/material removed from the site and the name(s) of the landfill disposal facility where the waste was taken. Brownfield shall submit a documentation report to the Department within 90 days of substantial completion of the redevelopment project. The report shall contain the following items:
 - a. As-built drawings documenting compliance with the above conditions of approval;
 - b. A narrative description of how the above conditions were accomplished including relevant documentation;
 - c. Color photographs documenting construction aspects addressed in this approval;
 - d. Documentation of excavation and soil placement activities including volumes. The report shall also include the description of the total volume, final location and name of the landfill disposal facility where the excavated waste materials were taken;
 - e. A letter under the seal of a professional engineer registered in the State of Wisconsin certifying that the project has been constructed in substantial compliance with the above conditions and explaining any deviations from the approved plans; and
 - f. A draft Cap Maintenance Plan shall be submitted for review within 90 days of substantial completion of the construction at the Property.
13. This Property has a status of 'closed' with continuing obligations with BRRTS Numbers 02-54-001302. As such the NR 700 Wis. Admin. Code rule series shall be followed to obtain an approved post closure modification determination by the Department. This process includes the submittal of a documentation of vapor intrusion mitigation activities, the new cap, and cap maintenance plan.
14. The development construction activities shall be in accordance with chs. NR 700-726, Wis. Adm. Code, and shall not prevent the completion of remedial response actions if a discharge to the environment is discovered during site redevelopment.
15. This grant of exemption should not be construed as a post closure modification approval under ch. NR 727, Wis. Adm. Code.
16. This exemption shall transfer with changes in property ownership. In accordance with s.289.46(2), Stats., any person having or acquiring rights of ownership in land where a solid or hazardous waste disposal activity occurred may not undertake any activities on the land which may cause a significant threat to public health, safety or welfare. The Department should be contacted to discuss any proposed changes to avoid activities that could violate the statute.

This grant of exemption is limited to the proposed changes described in your application. If you are considering additional changes beyond those described in the application, a new application must be submitted to the Department for approval. The Department reserves the right to require the submittal of additional information and to modify this grant of exemption at any time, if in the Department's opinion, modifications are necessary. Unless specifically noted, the conditions of this grant of exemption do not supersede or replace any previous conditions of approval for this property.

NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions must be filed.

For judicial review of a decision pursuant to sections 227.52 and 227.53, Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

Dated: May 18, 2020

DEPARTMENT OF NATURAL RESOURCES
For the Secretary



Steven L. Martin P.G.
South Central Region Team Supervisor
Remediation and Redevelopment Program
Wisconsin Department of Natural Resources
3911 Fish Hatchery Road
Fitchburg, WI 53711



Janet DiMaggio, Hydrogeologist
Remediation and Redevelopment Program