



March 7, 2022

City of Green Bay Redevelopment Authority
Attn: Mr. Matt Buchanan
100 North Jefferson Street, Room 608
Green Bay, WI 54301
Via Electronic Mail Only to Matthew.Buchanan@greenbaywi.gov

Subject: Conditional Approval of Remedial Action Plan and Approval to Manage Contaminated Soil on-site under Wis. Admin. Code § NR 718.12
Green Bay & Western Rail (Frmr) – Area Wide Fill, 100 West Mason Street, Green Bay, WI
DNR BRRTS Activity # 02-05-579141; FID # 405258590

Dear Mr. Buchanan:

On February 7, 2022, Ms. Lynelle Caine of Stantec Consulting Services Inc. (Stantec) submitted the *Remedial Action & Materials Management Plan* (RAP/MMP) on your behalf requesting approval of a proposed cap and to manage up to 3,200 cubic yards of contaminated soil on the same site from which it will be excavated in accordance with Wisconsin Administrative (Wis. Admin.) Code § NR 718.12. Supplemental information regarding this request was also provided on February 17, 2022, as a revised RAP/MMP including some minor text revisions and updated figures. 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).

Contaminated soil (urban fill) containing volatile organic compounds (VOCs), polycyclic aromatic hydrocarbons (PAHs) and metals above the groundwater pathway and/or direct contact residual contaminant levels (RCLs) is present throughout this site identified as the Green Bay & Western Rail (Frmr) – Area Wide Fill site at 100 West Mason street in the City of Green Bay, WI (Site or Property). Up to 3,200 cubic yards of contaminated soil generated as part of trail construction is proposed to be reused in the trail area or be placed under the 2-foot cap in the central portion of the future lawn area. This cap is already placed in the lawn area so this will require removal of the existing 2-foot clean soil cap, placement of contaminated soil and new filter fabric followed by replacement of the 2-foot clean soil cap. The intent is to create a mounding area on the lawn. Some contaminated soil will also be generated on-site during water main construction activities. The soil will be reused along the water main if possible or otherwise placed in the mounding area on the lawn prior to capping. In addition to the existing contaminated urban fill soil, additional contaminated soil from the Larsen Green North site (BRRTS # 02-05-578858) was deposited on this Property in 2020 as part of a MMP approval and capped. Prior to placement of contaminated soil in 2020, the grade was raised with clay to get out of the floodplain. An approval through Wis. Admin. Code NR 718.12 has been requested to manage the contaminated soil along a 50-foot wide strip adjacent to the Fox River (future public trail) as well as on the central portion of the Property in the mound area. All contaminated soil will be reused on the Property where it was generated and capped appropriately.

Wis. Admin. Code §§ NR 722.05(4)(a) states that a site investigation report (SIR) is required to be completed prior to selecting a remedial action. No SIR had been submitted prior to the RAP. Under the site circumstances this is acceptable; however, the submittal of an SIR will be required prior to closure being requested. This SIR also needs to include an emerging contaminant scoping statement. The DNR believes that the site investigation already completed in the future redevelopment area is adequate, and conditionally approves the RAP and MMP.

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Wis. Admin. Code § NR 718.12 Approval

This letter grants an approval to manage contaminated soil on-site under Wis. Admin. Code § NR 718.12.

Approval is based on the following:

Compliance with Locational Criteria

Managing contaminated soil in areas of the Site identified on the southern portion of the trail on the attached map (Figure 3, Landscape – Layout Key and Overstory Plan, 1/25/2022) and on the central portion of the Site as outlined on the attached map (Figure 1, Cut/Fill Elevation Banding, 2/3/2022) of the RAP/MMP will meet the locational criteria listed under Wis. Admin. Code § NR 718.12 (1) (c), except for the following:

- Within 300 feet of any navigable river, stream, lake, pond or flowage (Fox River);
- Within 3 feet of the high groundwater level;
- Where the contaminated soil poses a threat to public health, safety or welfare or the environment.

Grant of exemption to Wis. Admin. Code § NR 718.12 (1) (c) 3, 5 and 7

In consideration of unavailability of other environmentally suitable alternatives and the fact that the contaminated soil will be adequately capped, along with no confirmed groundwater standards exceedances for PAHs, VOCs and metals, the DNR grants an exemption to the location criteria of Wis. Admin. Code § 718.12 (1) (c) 3, 5 and 7, and will allow placement of contaminated soil that may pose a threat to public health, safety or welfare or the environment within 300 feet of a navigable river (Fox River) and within 3 feet of the high groundwater level.

Characterization of Soil to be Excavated

Soil samples were collected for analysis of contaminants previously detected or expected to be present at this Site including polychlorinated biphenyls (PCBs), VOCs, PAHs and metals, from areas most likely to contain residual contamination. Based on an estimated volume of up to 3,200 cubic yards of material, and a sampling frequency of one sample per 533 cubic yards based on soil samples collected within the proposed trail area, the sampling protocol described in Wis. Admin. Code § NR 718.12 (1) (e) was not met. However, the DNR has determined that the material proposed to be excavated mainly in the proposed trail area was adequately characterized due to the number of soil samples collected throughout the Site and DNR knowledge of contaminants generally present within urban soil fill at similar sites within the City of Green Bay.

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 contaminated soil at the Green Bay & Western Rail (Frmr) – Area Wide Fill 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 Green Bay & Western Rail (Frmr) – Area Wide Fill site, and any subsequent Property owners, must comply with the following continuing obligations at this Site, established under Wis.

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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 Keld Lauridsen at 2984 Shawano Avenue, Green Bay, WI 54313.

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 and Future Solid Waste Management

If contaminated soil that was managed as proposed in the RAP/MMP 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 locations where contaminated soil is proposed to be managed at the Green Bay & Western Rail (Frmr) – Area Wide Fill site is depicted on the attached map (Figure 1, Cut/Fill Elevation Banding, 2/3/2022)

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

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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

A trail consisting of pavement and landscaped areas is proposed to be installed and maintained over contaminated soil that will be managed at the Green Bay & Western Rail (Frmr) – Area Wide Fill site as proposed in the RAP/MMP. This cap will be in addition to the soil cap already existing on the central portion of the Property. Cap inspection and maintenance activities will apply to the proposed barrier (trail) as well as the existing soil cap on the central portion of the Property. 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). A map is attached which shows where contaminated soil is proposed to be managed and the extent of the proposed cover. Once constructed, inspections of the trail and soil 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.

The required cap maintenance will prohibit 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 the trail or soil 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 expected to be completed within 18 months. 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 Green Bay & Western Rail (Frmr) - Area Wide Fill site.

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- 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 Green Bay & Western Rail (Frmr) - Area Wide Fill site.
- h. A finalized cover maintenance plan for the entire Site.

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 RAP/MMP. Any contaminated soil that is excavated or otherwise disturbed at the Green Bay & Western Rail (Frmr) - Area Wide Fill 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) The City of Green Bay Redevelopment Authority is responsible for obtaining any local, federal or other applicable state permits to carry out the project.

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 and this RAP/MMP approval are listed in the database entry identified by BRRTS activity # 02-05-579141.

DNR appreciates your efforts to protect the environment at this Site. If you have any questions regarding this approval decision, please contact me, Keld Lauridsen, by calling (920) 510-8294, or by email at Keld.Lauridsen@wisconsin.gov.

Sincerely,



Roxanne N. Chronert
Team Supervisor, Northeast Region
Remediation & Redevelopment Program

Attachments:

- Figure 3, Landscape–Layout Key and Overstory Plan, 1/25/2022
- Figure 1, Cut/Fill Elevation Banding, 2/3/2022

cc: Lynelle Caine, Stantec Consulting Services Inc. (Lynelle.Caine@stantec.com)
Crystal von Holdt, DNR (crystal.vonholdt@wisconsin.gov)

