

April 29, 2019

Mr. Eric Ogden  
Oak Creek Rawson Industrial, LLC  
100 S. Wacker Drive, Suite 950  
Chicago, IL 60606

SUBJECT: Approval to Manage Solid Waste under Wis. Admin. Code § NR718.12 for On-Site Management Biogenesis (Former), 610 W. Rawson Avenue, Oak Creek, WI  
DNR BRRTS # 02-41-107191 & 06-41-582006 FID # 241020010

Dear Mr. Ogden:

On February 13, 2019, The Sigma Group, Inc. (Sigma) submitted a NR 718 Exemption Request on your behalf requesting to manage up to 25,500 cubic yards of contaminated soil on the same site from which it will be excavated, in accordance with Wis. Admin. Code § NR 718.12. Supplemental information regarding this request was also provided after the original request, with the final request received on April 16, 2019. The Wisconsin Department of Natural Resources (DNR) received the applicable database fee in accordance with Wis. Admin. Code § NR 749.04 (1). The submittals were reviewed under the applicable VPLE review fee schedule.

It is noted that Sigma is also requesting a “low hazard exemption” from the DNR’s Waste and Material Management (WMM) Program for off-site disposal of up to 5,000 cubic yards of waste soil, if necessary during site redevelopment activities. The review and approval of that request is being conducted by the WMM Program and is not included in this approval.

The property was occupied by a former bulk fuel oil storage, mixing and distribution facility from the 1960s until 1985. This was followed by Biogenesis Enterprises/BioVersal (Biogenesis), a chemical manufacturer of industrial cleaners (e.g., surfactants/dispersants, fire suppressants and odor control products) and cleaners for use in surface/soil/sediment washing processes until 2016. The property has been vacant since that time, although many improperly stored drums and totes remained inside and outside of the three buildings until late 2018. The 10.5-acre property is planned to be redeveloped with a 180,000 square foot slab-on-grade one-story building on the south side, with paved parking lots to the north and south, three water detention ponds on the east side, and green space areas around the building and along property lines. All contaminated soil is to be capped by the building foundation, paved parking areas, or green space.

The redevelopment activities are anticipated to result in the movement and replacement on site of approximately 25,500 cubic yards of known and potentially contaminated soil. In addition, approximately 2,185 tons of soil contaminated with volatile organic compounds (VOCs), polycyclic aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs) and metals is planned to be excavated and disposed at a licensed landfill. An additional 1,700 tons of excess contaminated soil may also be disposed of at a licensed landfill, if encountered. Sigma included a detailed description of soil movement and filling plans within the NR 718 Exemption Request. The plans include, but are not limited to, backfilling the remedial excavation areas with lesser contaminated soil moved from the north and east sides of the property. At remedial excavation areas that must be backfilled at depths greater than four feet below ground surface, backfill material will be limited to material from areas where contaminant concentrations were detected at less than applicable residual contaminant levels (RCLs). An

exemption to Wis. Admin. Code § NR 718.12 has been requested to manage/cut the lesser contaminated soil identified primarily on the north and east sides of the property to fill the remedial excavation areas and low areas mainly in the middle and southern portions of the property.

### **Wis. Admin. Code § NR 718.12 Exemption**

This letter grants an exemption from the solid waste requirements in Wis. Stat. ch. 289 and Wis. Admin. Code chs. NR 500 to NR 538 for the proposed contaminated material management activities. Approval of the exemption is based on the following:

#### **Compliance with Locational Criteria**

Managing contaminated waste material in areas of the site identified on *Figure C102: Anticipated Cut/Fill Plan with Soil Quality Areas* of the NR 718 Exemption Request 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;
- Within 3 feet of the high groundwater level;
- At a depth greater than the depth of the original excavation from which the contaminated soil was removed.

#### **Grant of Exemption to Wis. Admin. Code § NR 718.12 (1) (c) 3, 5 and 6**

In consideration of the age of the releases and limited groundwater contamination, and of the proposed responses that include remedial soil excavations and extensive site capping as part of redevelopment, the DNR grants exemptions to the location criteria of Wis. Admin. Code § NR 718.12 (1) (c) 3, 5 and 6 and will allow placement of contaminated waste material within 300 feet of a navigable river, within three feet of the high groundwater level, and at a depth greater than the depth of the original excavation from which the contaminated soil was removed.

#### **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 VOCs, PAHs, PCBs and metals, from areas most likely to contain residual contamination. Based on an estimated volume of 25,500 cubic yards of material, and a sampling frequency of 1 sample per 112 cubic yards, the sampling protocol described in Wis. Admin. Code § NR 718.12 (1) (e) has been met.

#### **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 Former Biogenesis site is expected to meet the criteria of Wis. Admin. Code § NR 726.13 (1) (b) 1 to 5. Per the NR 718 Exemption request, Sigma will submit a work plan to the DNR for approval after completion of the soil movement and reuse on site, describing confirmation soil sampling that will be conducted to confirm that material reused within the green space areas does not pose a risk via the direct-contact pathway. If laboratory analytical results indicate that shallow soil in any green space area presents a direct contact risk, additional remedial actions must be proposed to mitigate the direct contact risk in the identified areas.

Sigma stated that a sub-slab venting system will be incorporated into the proposed building structure to address any residual VOC impacts that remain within the proposed building footprint following completion of the remedial excavation activities and excavation associated with foundation and utility construction. Details on the proposed venting system were included as part of Sigma's Remedial Action Plan, dated February 1, 2019.

**Notice Provided Prior to Commencing Soil Management Activities**

Per Wis. Admin. Code § NR 718.12 (2), the DNR was provided with at least seven days' notice 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.

Oak Creek Rawson Industrial, LLC and any subsequent property owners must comply with the following continuing obligations, established under Wis. Admin. Code § NR 718.12 (2) (d) at this site, to ensure that conditions will remain protective. DNR staff will conduct periodic, pre-arranged inspections to ensure that the conditions included in this letter and the attached draft maintenance plan 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 exemption meet the requirements of Wis. Admin. Code § NR 718.12 (2) (e) and are available in Portable Document Format (PDF) on the DNR's Bureau for Remediation and Redevelopment Tracking 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](http://dnr.wi.gov) and search "RRSM".

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](http://dnr.wi.gov), search "RR-819".

Please send written notifications in accordance with the following requirements to:

Wisconsin Department of Natural Resources  
Remediation and Redevelopment Program  
Attn: Environmental Program Associate  
2300 N. Dr. Martin Luther King, Jr. Drive  
Milwaukee, WI 53212-3128

***Future Solid Waste Management***

If solid waste that was managed as proposed in the NR 718 Exemption 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.

Solid waste may be managed in accordance with Wis. Admin. Code § 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 solid waste may pose a hazard, and special precautions may be necessary to prevent a health threat to humans.

The location(s) where contaminated soil is proposed to be managed at the Former Biogenesis site is depicted on the attached *Figure C102: Anticipated Cut/Fill Plan with Soil Quality Areas*.

Depending on site-specific conditions, construction over contaminated soils 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 must 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 potable 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](http://dnr.wi.gov), search "3300-254".

#### Maintenance of a Cover

A pavement cap, building foundation and soil green spaces are proposed to be installed and maintained over contaminated soil that will be managed at the Former Biogenesis site as proposed in the NR 718 Exemption Request dated April 1, 2019. The Proposed Cap Maintenance Plan that describes the inspection and maintenance activities that will apply to the proposed barriers, is attached. An updated maintenance plan must be provided to the DNR after the barrier has been constructed if changes are required and must address actual site conditions (Wis. Admin. Code § NR 724.15 (3) (h)). A map is attached that shows where contaminated material is proposed to be managed and the extent of the proposed cover. Once constructed, inspections of the engineered cap and building foundation will be required (per Wis. Admin. Code § NR 724.13), and submittal of inspection reports may also be required per 727.05 (1) (b) 3.

The Proposed Cap Maintenance Plan prohibits certain activities in areas where maintenance of a cover or barrier is intended to prevent contact with any remaining contamination. The following activities are prohibited on any portion of the property where the barrier is required, unless prior written approval has been obtained from the DNR:

- 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 material management activities must be reported to the DNR following the requirements of Wis. Admin. Code ch. NR 706.
- 2) Material management activities exempted by this letter are scheduled to be completed by the end of summer 2019. Notify the DNR if this schedule will change.
- 3) This exemption is granted under Wis. Admin. Code § NR 718.12 and applies only to the specific activities described within the submitted NR 718 Exemption Request. Any contaminated material that is excavated or otherwise disturbed at the Former Biogenesis site, not covered under this or another exemption, must be managed in compliance with the requirements of Wis. Admin. Code chs. NR 500 through NR 538. The management of contaminated material 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 750.
- 4) Oak Creek Rawson Industrial, LLC 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 Bureau of Remediation and Redevelopment Tracking System (BRRTS) database. All documents and project milestones related to the cleanup of the Former Biogenesis site are listed in the database entry identified by BRRTS Activity # 02-41-107191.

We appreciate your efforts to protect the environment at this site. If you have any questions regarding this approval decision, please contact me at (414) 263-8757 or at [Linda.Michalets@wisconsin.gov](mailto:Linda.Michalets@wisconsin.gov).

Sincerely,

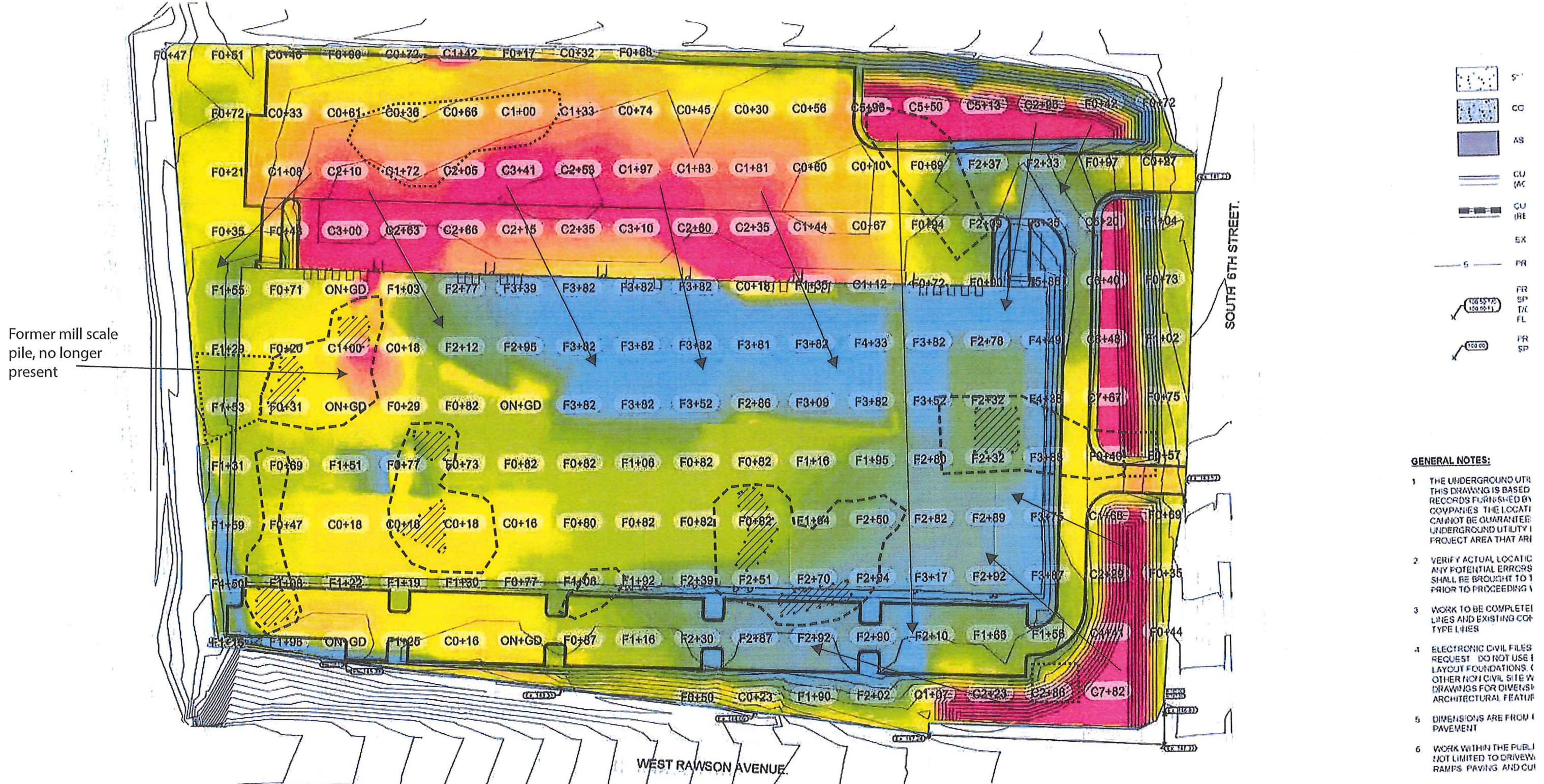


Linda M. Michalets  
Hydrogeologist  
Remediation and Redevelopment Program

Attachments: *Figure C102: Anticipated Cut/Fill Plan with Soil Quality Areas*, April 16, 2019 report  
*Proposed Cap Maintenance Plan*, January 2019

cc: Mr. Stephen Meer, The Sigma Group, Inc.  
Mr. Paul Grittner, DNR (electronic only)





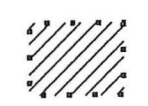
Former mill scale pile, no longer present

- GENERAL NOTES:**
- 1 THE UNDERGROUND UTILITIES SHOWN IN THIS DRAWING IS BASED ON RECORDS FURNISHED BY THE UTILITIES COMPANIES. THE LOCATION OF UNDERGROUND UTILITIES CANNOT BE GUARANTEED. VERIFY ACTUAL LOCATION PRIOR TO PROCEEDING WITH WORK.
  - 2 VERIFY ACTUAL LOCATION OF UNDERGROUND UTILITIES. ANY POTENTIAL ERRORS SHALL BE BROUGHT TO THE ATTENTION OF THE CLIENT PRIOR TO PROCEEDING WITH WORK.
  - 3 WORK TO BE COMPLETED WITHIN THE PUBLIC RIGHT-OF-WAY. EXISTING UTILITIES SHALL BE PROTECTED.
  - 4 ELECTRONIC CIVIL FILES REQUESTED. DO NOT USE FOR LAYOUT FOUNDATIONS. OTHER NON-CIVIL SITE WORK DRAWINGS FOR DIMENSIONS AND ARCHITECTURAL FEATURES.
  - 5 DIMENSIONS ARE FROM THE EXISTING PAVEMENT.
  - 6 WORK WITHIN THE PUBLIC RIGHT-OF-WAY. NOT LIMITED TO DRIVEWAYS, RAMP, PAVING AND CURBS.

Takeoff Quantities  
 Topsoil Strip 6,602 CY    Topsoil Respread 1,480 CY  
 Cut 11,766 CY            Fill 22,618 CY  
 Excavation Spoils 2,557 CY  
 Sewer Spoils 4,400 CY



= Limits of material containing concentrations of VOCs greater than RCLs



= Limits of targeted remedial excavation areas.



= Limits of material containing concentrations of PAHs, PCBs, metals greater than RCLs



= anticipated material movement during grading

Figure C102: Anticipated Cut/Fill Plan with Soil Quality Areas



PROPOSED CAP MAINTENANCE PLAN  
610 W. RAWSON AVENUE, OAK CREEK, WISCONSIN  
JANUARY 2019

*Description of Contamination*

Based on soil sampling results, soil contaminated by select volatile organic compounds (VOCs), polychlorinated biphenyls (PCBs), and polynuclear aromatic hydrocarbons (PAHs) is located at varying depths across the site as illustrated in the attached *Figures*.

*Description of maintenance action(s)*

Soil generated during proposed site redevelopment from the northern portion of the site and/or from excavations associated with utilities or foundations will be re-used within the proposed building footprint within other site locations based on geotechnical suitability and re-use criteria defined in the *Soil Management Plan* for the site. Soils containing contaminant concentrations greater than applicable Residual Contaminant Levels (RCLs) re-used as fill at the site will be required to be capped by a barrier, which will consist of a minimum 4-inch thick concrete floor slab, minimum 3.5-inch thick layer of asphalt pavement over gravel base course or minimum 12-inch thick layer of clean soil over a warning layer fabric. The anticipated locations for on-site re-use of material are shown on the attached Cut/Fill figure and figures attached to the NR 718 management request.

Cover Barrier Purpose

The cover over the re-used soil will serve as an engineered barrier to prevent direct contact with residual soil contamination that might otherwise pose a threat to human health. The soil cover will also act as a limited infiltration barrier over impacted soil to limit potential soil-to-groundwater contaminant migration. Based on the future use of the property, the barriers will function as intended.

Annual Inspection

The asphalt or concrete paved surfaces or clean soil cover overlying the contaminated soil areas will be inspected once a year, normally in the spring after all snow and ice has fully thawed, for deterioration and other potential problems that can cause additional infiltration into or exposure to underlying soils. The inspections will be performed by the property owner or their designated representative. The inspections will be performed to evaluate damage due to settling, exposure to the weather, and other factors. Any area where underlying soil has become or is likely to become exposed will be documented. A log of the inspections and any repairs will be maintained by the property owner and is included as the attached Cap Inspection Log. The log will include recommendations for necessary repair of any areas where underlying soils are exposed. Once repairs are completed, they will be documented in the inspection log. A copy of the inspection log will be kept at the address of the property owner and available for submittal or inspection by Wisconsin Department of Natural Resources ("WDNR") representatives upon their request.

Maintenance Activities

If problems are noted during the annual inspections or at any other time during the year, repairs will be scheduled as soon as practical. Repairs can include filling or larger construction operations. In the event that necessary maintenance activities expose the underlying historic fill, the owner must inform maintenance workers of the direct contact

exposure hazard and provide them with appropriate personal protection equipment ("PPE"). The owner must also sample any soil that is excavated from the site prior to disposal to ascertain if contamination remains. The soil must be treated, stored and disposed of by the owner in accordance with applicable local, state and federal law.

In the event the paved surfaces overlying the historic fill are removed or replaced, the replacement barrier must be equally thick. Any replacement barrier will be subject to the same maintenance and inspection guidelines as outlined in this *Maintenance Plan* unless indicated otherwise by the WDNR or its successor.

The property owner, in order to maintain the integrity of the barrier will maintain a copy of this Maintenance Plan at the office of the property manager and make it available to all interested parties (i.e. on-site employees, contractors, future property owners, etc.) for viewing.

Prohibition of Activities and Notification of DNR Prior to Actions Affecting a Cover or Cap

The following activities are prohibited on any portion of the property where a barrier is required as shown on the attached map, unless prior written approval has been obtained from the Wisconsin Department of Natural Resources: 1) removal of the existing barrier; 2) replacement with another barrier; 3) excavating or grading of the land surface; 4) filling on capped or paved areas; 5) plowing for agricultural cultivation; or 6) construction or placement of a building or other structure.

Amendment or Withdrawal of Maintenance Plan

This Maintenance Plan can be amended or withdrawn by the property owner and its successors with the written approval of WDNR.

Contact Information

January 2019

Site Owner & Operator: Oak Creek Rawson Industrial, LLC.  
c/o Mr. Eric Ogden  
100 S. Wacker Drive, Suite 950  
Chicago, IL 60606

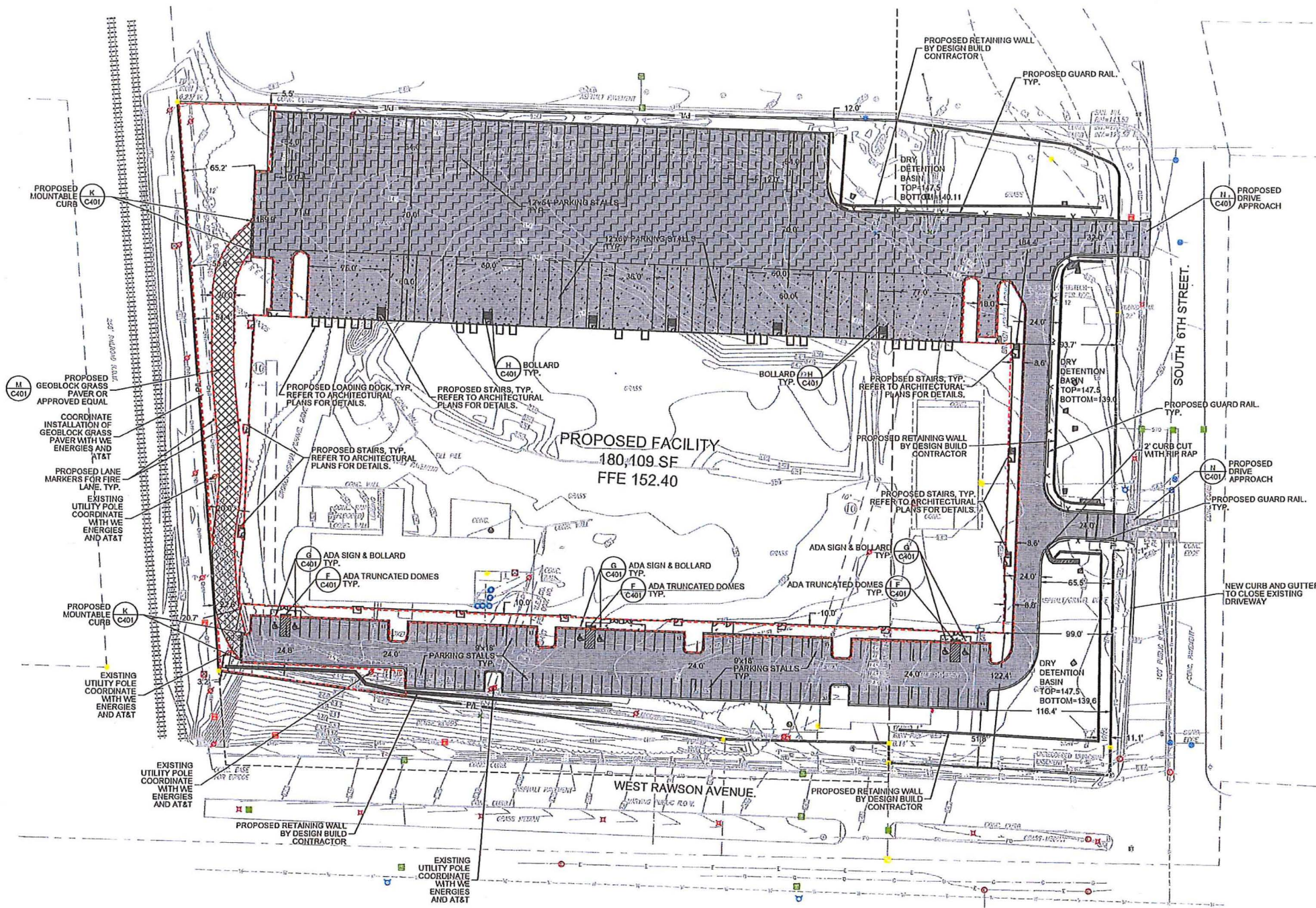
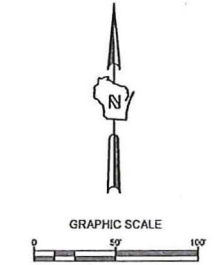
Consultant: THE SIGMA GROUP, INC.  
1300 W. Canal Street  
Milwaukee, WI 53233  
(414) 643-4200  
Stephen Meer, P.E.

WDNR: Ms. Linda Michalets  
Wisconsin Department of Natural Resources  
2300 N. Dr. Martin Luther King Jr. Drive  
Milwaukee, WI 53212  
(414) 263-8757



**SITE INFORMATION:**  
 TOTAL SITE = 10.49 AC  
 TOTAL DISTURBED AREA = 9.67 AC  
 EXISTING IMPERVIOUS AREA = 0.81 AC  
 PROPOSED IMPERVIOUS AREA = 7.65 AC (74.8%)  
 PROPOSED PARKING = 120 SPACES (5 HANDICAP)

**THE SIGMA GROUP**  
 Engineering & Construction  
 www.thesigmagroup.com  
 1300 West Canal Street  
 Milwaukee, WI 53233  
 Phone: 414-643-4200  
 Fax: 414-643-4210



**LEGEND:**

	5' THICK CONCRETE WALK	(A C401)
	CONCRETE PAVEMENT	(B C401)
	ASPHALT PAVEMENT (HEAVY DUTY)	(D C401)
	ASPHALT PAVEMENT	(C C401)
	GEOBLOCK GRASS PAVER FIRE LANE OR APPROVED EQUAL	(M C401)
	CURB & GUTTER (ACCEPT)	(E C401)
	CURB & GUTTER (REJECT)	(E C401)
	PROPOSED GUARD RAIL	(A C404)

- GENERAL NOTES:**
1. THE UNDERGROUND UTILITY INFORMATION SHOWN ON THIS DRAWING IS BASED ON FIELD LOCATIONS AND/OR RECORDS FURNISHED BY MUNICIPALITIES AND UTILITY COMPANIES. THE LOCATION AND ACCURACY OF WHICH CANNOT BE GUARANTEED. THERE MAY BE ADDITIONAL UNDERGROUND UTILITY INSTALLATIONS WITHIN THE PROJECT AREA THAT ARE NOT SHOWN.
  2. VERIFY ACTUAL LOCATIONS AND INVERTS IN THE FIELD. ANY POTENTIAL ERRORS, OMISSIONS, OR DISCREPANCIES SHALL BE BROUGHT TO THE ATTENTION OF THE ENGINEER PRIOR TO PROCEEDING WITH CONSTRUCTION.
  3. WORK TO BE COMPLETED IS INDICATED IN BOLD TYPE LINES AND EXISTING CONDITIONS ARE INDICATED BY LIGHT TYPE LINES.
  4. ELECTRONIC CIVIL FILES ARE AVAILABLE UPON WRITTEN REQUEST. DO NOT USE ELECTRONIC CIVIL FILES TO LAYOUT FOUNDATIONS, COLUMN LINES, LIGHT POLES, OR OTHER NON CIVIL SITE WORK. REFER TO ARCHITECTURAL DRAWINGS FOR DIMENSIONS OF BUILDING AND ARCHITECTURAL FEATURES.
  5. DIMENSIONS ARE FROM FACE OF CURB OR EDGE OF PAVEMENT.
  6. WORK WITHIN THE PUBLIC RIGHT OF WAY, INCLUDING BUT NOT LIMITED TO DRIVEWAY OPENINGS, SIDEWALK AND RAMPS, PAVINGS, AND CURB AND GUTTER SHALL BE COMPLETED PER MUNICIPAL AND/OR COUNTY REQUIREMENTS AND STANDARDS.

= Anticipated Area Where Greenspace Cap May Be Required

SOUTH 6TH STREET & WEST RAWSON AVENUE  
 OAK CREEK, WISCONSIN

**SITE PLAN**

FINAL PLAN RESUBMITTAL TO CITY 02/12/19  
 FINAL PLAN SUBMITTAL TO CITY 01/22/19  
 NO. REVISION DATE BY

DRAWING NO.	16366 - Site Dimension Plan.dwg
DRAWN BY:	TPM
DATE:	3/5/19
PROJECT NO:	16366
CHECKED BY:	JBL
APPROVED BY:	CTR
SHEET NO:	

**C100**

File: H:\ISA Commercial\16366\_Bn & Rawson\030 CAD\C - Civil\16366 - Site Dimension Plan.dwg 3/5/2019 2:49 PM  
 CALL DIGGERS HOTLINE 1-800-242-8511 TOLL FREE  
 WE PROVIDE GUARANTEED PROTECTION FOR YOUR INVESTMENT  
 MILWAUKEE AREA 259-1181



THE UNDERGROUND UTILITY INFORMATION SHOWN ON THIS MAP IS BASED ON FIELD MARKINGS AND INFORMATION FURNISHED BY UTILITY COMPANIES AND THE LOCAL MUNICIPALITY. WHILE THIS INFORMATION IS BELIEVED TO BE RELIABLE, ITS ACCURACY AND COMPLETENESS CANNOT BE GUARANTEED.