

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
Milwaukee Headquarters
2300 North Martin Luther King Drive
Milwaukee, WI 53212

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



June 9, 2016

FID#: 241222520
Milwaukee County
SW/Exemption

West Allis Hotel Ventures, LLC
Mr. Jeremy Droeszler, Project Executive
631 Cedar Street
Wisconsin Dells, WI 53965

Community Development Authority of the City of West Allis
Attn: Mr. John Stibal, Director of Development
7525 W. Greenfield Avenue
West Allis, WI 53214

Mr. Benjamin Verburg
Arcadis U.S., Inc.
126 North Jefferson Street, Suite 400
Milwaukee, WI 53202

Subject: Conditional Low Hazard Waste Grant of Exemption for the disposal of soils and waste materials from 8201 West Greenfield Avenue, West Allis, WI at the Juneau Highlands Site, 1960 South 67th Place, West Allis, WI

Your request for an exemption from solid waste regulations for approximately 3,250 cubic yards of soils and waste materials from the Proposed West Allis Hotel Ventures site (the Site) located at 8201 West Greenfield Avenue in West Allis, WI to be disposed of at the Juneau Highlands Site, located at 1960 South 67th Place in West Allis, WI has been reviewed and conditionally approved. This exemption is granted under s. 289.43(8), Stats., and is subject to conditions of the attached conditional grant of exemption. This exemption is limited to disposal of soils and waste materials from the Site. Please carefully read all conditions of this exemption before proceeding with this disposal activity.

It is the Department's opinion that the proposed disposal of the soils and waste materials characterized in the request will not cause environmental pollution provided that it is conducted in accordance with the proposed plan and conditions of this exemption. Please be advised that the department may consider additional measures for the continued use of the Juneau Highlands as a disposal site for contaminated soil and other waste materials.

You are responsible for obtaining any local, federal, or other applicable state permits to carry out the project. If the project will involve the disturbance of more than one acre of land at either the generating site or the disposal site, you may need a storm water permit; please contact the Department's Storm water Manager to determine what, if any, permit is needed.

If you have any questions regarding this grant of exemption, please contact Robert Grosch at 262-574-2148 or by e-mail at Rob.Grosch@Wisconsin.gov.

West Allis Hotel Ventures, LLC Conditional Low Hazard Grant of Exemption

June 9, 2016

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Sincerely,

A handwritten signature in black ink, appearing to read "Cynthia Moore". The signature is written in a cursive, flowing style.

Cynthia Moore
Supervisor, Waste and Materials Management Program
Southeast Region

C: Pam Mylotta – SER
James Zellmer, NER
Robert Grosch-- SER
Gerald DeMers – SER

PROJECT SUMMARY

An hotel complex is proposed to be constructed at 8201 West Greenfield Avenue in the City of West Allis, Wisconsin (the Site). An investigation of the site indicates that soil with low concentrations of contaminants and some waste materials (foundry sand fill) is present and requires off-site disposal. A Soil Management Plan (SMP) was prepared for the site in July 2015 and updated in November 2015. As part of the site development, a storm water best management practice(BMP) was identified. The excavation of the storm water BMP occurred in August 2015, Approximately 3,250 cubic yards of soils and waste materials with low concentrations of contaminants are proposed for disposal at the Juneau Highlands site located at 1960 South 67th Place in West Allis, Wisconsin.

The Juneau Highlands site is enrolled as a Voluntary Party Liability Exemption site with the WDNR. The disposal site meets the s. NR 718.12(1)(c), Wis. Adm. Code, locational criteria for management of contaminated soil; the disposal site is not in a floodplain, within 100 feet of any wetland or critical habitat area, within 300 feet of any navigable river, stream, lake, pond or flowage, within 100 feet of any on-site water supply well or 300 feet of any off-site water supply well, and soils will be placed more than 3 feet above the water table.

The soil and waste materials proposed for disposal at the Juneau Highlands site will originate from limited portions of the proposed development site. The soil samples from the Site were analyzed and results from these soil samples were compared to NR 720 RCLs for the groundwater pathway and direct contact.

Environmental and geotechnical reports were used to assist with the excavation at the Site. Excavated materials were separated and stockpiled into 33 piles at the Site for analytical testing. Each stockpile is approximately 250 cubic yards for a total excavated amount of approximately 8,000 cubic yards. The soils were separated into piles based on material(foundry sand fill or soil), PID field screening and visual observations. The material excavated included 13 piles of foundry sand fill which was located at the surface. The foundry sand fill is a combination of crushed gravel, slag, sand, bricks and clay. There were also 17 soil piles of native silty clay soils and 3 soil piles with elevated PID readings which were designated for landfill disposal. Soil and groundwater samples were taken by Arcadis and sent to Test America, Inc. for laboratory analysis. The soil analytical results indicated several Polycyclic Aromatic Hydrocarbons (PAHs) were detected in the fill soils at levels above their respective Residual Contaminant Levels (RCLs) as described in the Soil Cleanup Standards, ch. NR 720, Wis. Adm. Code.

Arcadis then submitted a sampling plan to evaluate the potential for PAHs to leach from the soils. Once the soil to groundwater RCL exceedances were confirmed, a companion soil sample was analyzed through Synthetic Precipitation Leaching Procedure(SPLP) extraction and analysis for PAHs to determine whether these contaminants would leach from the soils. The analytical results indicated: no VOCs from the foundry sand fill above the non-industrial direct contact residual contaminant level; PAHs were detected in the foundry sand fill, however, the SPLP tests indicate there is no leaching potential, indicating that these materials are not likely to leach from the soils and are not a significant risk to groundwater at these locations. The concentrations of contaminants is lower than the soils at the Juneau Highlands disposal site as both contain low-level PAHs.

An additional indication that the soils will not cause significant groundwater impacts is that no significant concentrations of PAHs were detected in the groundwater samples collected during the groundwater monitoring at the generator site.

BEFORE THE
STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

CONDITIONAL LOW HAZARD WASTE GRANT OF EXEMPTION
FOR THE DISPOSAL OF SOIL AND SOLID WASTE MATERIALS
FROM 8201 WEST GREENFIELD AVE., WEST ALLIS, WI
IN THE JUNEAU HIGHLANDS
AT 1960 SOUTH 67th PLACE, WEST ALLIS, WI

FINDINGS OF FACT

The Department of Natural Resources (Department) finds that:

1. West Allis Hotel Ventures, LLC (WAHV) owns property located at 8201 West Greenfield Avenue in the City of West Allis, Wisconsin.
2. The Community Development Authority of the City of West Allis(CDA), owns the Juneau Highlands(disposal site), located at 1960 South 67th Place, West Allis, Wisconsin.
3. On March 30, 2016, Benjamin Verburg of Arcadis U.S., Inc. (Arcadis), on behalf of WAHV submitted a request for a low hazard waste grant of exemption (LHE) to the Department for the disposal of approximately 3,250 cubic yards (cy) of excavated soil materials as fill at the Juneau Highlands.
4. The Department considered the following information that was submitted in connection with the low hazard waste exemption request:
 - a. A letter from Arcadis requesting a low hazard waste exemption on behalf of WAHV and received by the Department on March 30, 2016;
 - b. A report from Arcadis containing project information including:
 - 1.) A project description;
 - 2.) Soil analytical results;
 - 3.) Site location maps;
 - 4.) Proposed disposal site;
 - 5.) Laboratory analytical report; and,
 - 6.) Chain of custody records.
 - c. Soil quality summary data from samples taken at the development site.
 - d. Laboratory analytical results from Test America, Inc.
 - e. Water Leach test results - Lack of contaminant loss in water leachate tests at concentrations greater than the PAL, and the distance to potential receptors such as private drinking water supply wells make it very unlikely that there will be any impacts to groundwater.

6. Additional facts relevant to the review of the request for grant of exemption include the following:
 - a. The soils and waste materials proposed for disposal from the property located at 8210 West Greenfield Avenue, West Allis, are contaminated with low concentrations of PAHs and VOCs.
 - b. The residual contaminants of concern in the soils and wastes are low in leaching potential.
 - c. The disposal property is enrolled as a Voluntary Party Liability Exemption site with the WDNR.
7. The plan review fee of \$550 is required for this exemption approval. Payment of the review fee of \$550 will be billed by separate invoice and is due 30 days after the date of the invoice.
8. The soil and waste materials to be disposed of have been adequately sampled and analyzed to characterize the material for disposal at the Juneau Highlands site.
9. The Juneau Highlands property complies with the following locational criteria of NR 718.12(c), Wis. Adm. Code, in that the site is not:
 - a. Within a floodplain,
 - b. Within 100 feet of any wetland or critical habitat area,
 - c. Within 300 feet of any navigable river, stream, lake, pond, or flowage,
 - d. Within 100 feet of any on-site water supply well or 300 feet of any off-site water supply well,
 - e. Within 3 feet of the high groundwater level,
 - f. At a depth greater than the depth of the original excavation from which the contaminated soil was removed; and
 - g. Where the contaminated soil poses a threat to public health, safety, or welfare or the environment.
10. The Department has conducted a continuing review of the potential hazard to public health and the environment of solid waste facilities in general as well as this specific proposal. Based upon this review, the Department finds that regulation under s. 289, Stats., is not warranted in light of the low potential hazard to public health and the environment.
11. No significant concentrations of PAHs were detected in the groundwater samples collected during the groundwater monitoring at the generator site
12. The conditions set forth in this grant of exemption are necessary to assure protection of the environment and to prevent contamination of surface water. If the conditions are complied with, the proposed exemption will not inhibit compliance with the applicable provisions of ch. 30, 31, 160, and 280 to 299, and ss.1.11, 23.40, 59.692, 59.693, 60.627, 61.351, 61.354, 62.231, 62.234, and 87.30, Stats.

CONCLUSIONS OF LAW

1. Based on the foregoing, the Department has the authority under s. 289.43 (8), Stats., and s. NR 500.08(5), Wis. Adm. Code, to issue a grant of exemption if the exemption would not inhibit compliance with the applicable provisions of ch. 30, 31, 160, and 280 to 299 and ss. 1.11, 23.40, 59.692, 59.693, 60.627, 61.351, 61.354, 62.231, 62.234, and 87.30, Stats.
2. The Department has authority under s. 289.43(8)(c), Stats., to require periodic testing of solid wastes and impose other conditions on a grant of exemption if the conditions are needed to ensure compliance with the applicable provisions of ch. 30, 31, 160, and 280 to 299 and ss. 1.11, 23.40, 59.692, 59.693, 60.627, 61.351, 61.354, 62.231, 62.234, and 87.30, Stats.
3. The conditions set forth below are needed to ensure compliance with the applicable provisions of ch. 30, 31, 160, and 280 to 299 and ss. 1.11, 23.40, 59.692, 59.693, 60.627, 61.351, 61.354, 62.231, 62.234, and 87.30, Stats.
4. In accordance with the foregoing, the Department has the authority under s. 289.43(8), Stats. and s. NR 500.08(5) Wis. Adm. Code, to issue the following conditional grant of exemption.

CONDITIONAL GRANT OF EXEMPTION

In accordance with the authority granted to the Department under section 289.43(8)(b)3, Stats., the Department hereby grants WAHV, LLC, Arcadis and the CDA of the City of West Allis a low hazard waste exemption for the disposal of excavated soil and waste materials at the Juneau Highlands, subject to the following conditions:

General:

1. Material excavated from the generating site and placement at the disposal site shall be completed within 1 year of the effective date of this exemption, unless a written extension of this exemption is obtained from the Department prior to the expiration date.
2. A licensed solid waste hauler shall be used for transporting soil and waste materials on public roads from the generating site to the disposal site.
3. This exemption is limited to the soils and other waste materials generated from excavations at the generating site as characterized in the March 29, 2016 request. Soils and waste materials which are not consistent with the contaminant characteristics that have been reported to the Department for the generating site shall be segregated and disposed at a licensed landfill. Such materials shall not be accepted for disposal at the Juneau Highlands site.
4. Failure to maintain compliance with applicable laws, rules, regulations and terms and conditions of this exemption, for any reason, shall be grounds for immediate suspension or revocation of this exemption.

WAHV, LLC (waste generating) Site:

5. The construction activities and their resulting structures shall not prevent the completion of remedial response actions.
6. This grant of exemption shall not be construed as a site closure under ch. NR 726, Wis. Adm. Code.
7. Erosion control measures shall be conducted and maintained in accordance with ch. NR 151, Wis. Adm. Code and the storm water permit for the site.
8. A Construction Documentation Report shall be prepared within 60 days of the completion of soil and waste material disposal from 8201 W. Greenfield Avenue at the Juneau Highlands which provides the following:
 - a. A brief narrative of activities including dates of construction, summaries of quantities hauled to Juneau Highlands, how loads originating from 8201 West Greenfield Avenue were documented and any problems encountered during construction.
 - b. Quantities and documentation (such as an invoice) for soils and waste materials excavated from 8201 West Greenfield Avenue that were disposed at a licensed landfill.

Juneau Highlands (disposal) Site:

9. Erosion control measures shall be conducted and maintained in accordance with ch. NR 151, Wis. Adm. Code, to minimize erosion and prevent pollution of surface water or groundwater.
10. Any disposal activities at Juneau Highlands shall be conducted in a manner that would not result in any of the following:
 - a. Pose a threat to public health, safety, or welfare or the environment.
 - b. Cause or exacerbate an attainment or exceedance of any preventative action limit or enforcement standard at any applicable point of standards application as defined in ch. NR 140, Wis. Adm. Code.
 - c. Cause a violation of surface water quality standards in chs. NR 102 to 106, Wis. Adm. Code.
 - d. Cause a violation of air quality standards contained in chs. NR 400 to 499, Wis. Adm. Code.
 - e. Cause a vapor action level in indoor air to be attained or exceeded.
11. This exemption shall be limited to disposal of no more than 3,250 cubic yards of soils and waste materials from the WAHV project located at 8201 West Greenfield Avenue, West Allis, at Juneau Highlands.
12. Access to Juneau Highlands shall be limited by a locked gate at the entrance to the operation and it shall be kept locked when an attendant is not on duty. The attendant shall inspect each incoming load and reject wastes that do not appear to be consistent with materials approved for acceptance by this exemption.
13. Soils disposed at Juneau Highlands shall not be re-excavated or removed from the site without the Department's prior written approval.

14. Final Cover - A final cover shall be constructed above all contaminated soil and waste materials approved under a grant of exemption from the department once the fill elevations are within 2 feet of the final contours shown on the Soil Stockpile Area (Figure 3) of the March 29, 2016 exemption request and report from Arcadis. The cover shall consist of the following (top to bottom):
- a. One foot of topsoil.
 - b. One foot of uncontaminated soil or native soil.
 - c. The Department shall be notified one week prior to soil cover placement so an inspection of the cover construction can be scheduled:
 - i One week prior to placement of the one foot of uncontaminated soil layer.
 - ii Upon completion of topsoil and seeding.The department will charge WAHV an inspection fee as identified in NR 520, Table 2, for Beneficial Reuse sites for each site inspection performed.
 - d. A construction documentation report shall be submitted to the Department 60 days after the completion of the soil cover. The report shall include the amount of cover material placed on the site, the location(s) from which it originated, soil testing results, maps showing testing locations, maps showing thicknesses and contours of the clean soil layer, clay layer and topsoil layer, final contours, explanations of any problems encountered during the cover construction and solutions, and other pertinent information. Photographs documenting growing vegetation on the cover shall also be provided. Construction Documentation Review fees in NR 520, Table 2 for Beneficial Reuse sites apply to review of the report.
 - e. A final cover inspection and maintenance plan shall be prepared and submitted to the Department for review and concurrence.
15. Within 60 days of reaching final fill elevations, the disposal site shall be documented by geographic positioning in accordance with s. NR 716.15(5)(d), Wis. Adm. Code, and submitted to the Department for recording on its GIS tracking system.
16. This exemption shall transfer with changes in property ownership of the Juneau Highlands site. 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 of Natural Resources shall be contacted to discuss any proposed changes to avoid activities that could violate the statute.

This grant of exemption is based on the information available to the Department as of the date of approval. If additional information, project changes or other circumstances indicate a possible need to modify this exemption, the Department may ask that further information relating to this activity be provided. Likewise, the Department accepts proposals to modify exemptions, as provided for in state statutes and administrative codes. Unless specifically noted, the conditions of this grant of exemption do not supersede or replace any previous conditions of approval for these two properties.

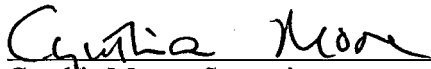
NOTICE OF APPEAL RIGHTS

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.

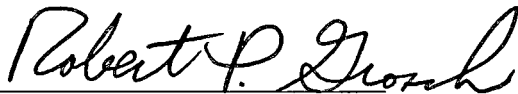
For judicial review of a decision pursuant to section 227.52 and 227.53, Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review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

Dated: June 9, 2016

DEPARTMENT OF NATURAL RESOURCES
For the Secretary



Cynthia Moore, Supervisor
Waste and Materials Management Program
Southeast Region



Robert Grosch, P.E., Environmental Engineer
Waste and Materials Management Program
Southeast Region