



August 7, 2018

BRAD & TERESA KESELUK
BAYSIDE FORESTRY EQUIPMENT INC
9222 E COUNTY RD L
SOLON SPRINGS WI 54873

KEEP THIS DOCUMENT WITH YOUR PROPERTY RECORDS

SUBJECT: Approval of Remedial Actions with Continuing Obligations
Bayside Forestry Equipment Inc.
9222 East County Road L, Solon Springs, Wisconsin
DNR BRRTS #03-16-000971 PECFA #54873-8210-22-A
FID #816104630
Parcel ID #BE-004-000736-00

Dear Mr. and Mrs. Keseluk:

The Bayside Forestry Equipment, Inc. site was historically used as an automotive repair and towing business, a retail petroleum fuel station, and it is currently used as a custom dock building facility. The property is about four acres in size and is in the Town of Bennett, Douglas County. The Department of Natural Resources (DNR) was notified of a petroleum release on the property on November 11, 1995. Site Investigation Workplans were submitted to the DNR on March 5, 1996 and December 17, 2015. An Environmental Site Investigation Report (SIR) was received by the DNR on April 24, 2017. The site is now in the remediation phase - which will last until the case is closed - regardless of the availability of PECFA funding.

The DNR has reviewed the remedial actions proposed by REI, which include injection of carbon-based remedial materials, limited soil excavation and placement of a direct contact cover. Based on our review, the proposed remedial action is approved. The specific approval of the injection request was provided on August 6, 2018 under separate cover.

The DNR has authority under Wis. Stat. § 292.12(2), to impose limitations on a property as part of a remedial action approval to insure conditions at the site and affected adjacent properties remain protective of public health, safety, welfare, and the environment. This letter specifies the conditions with which any current or future owner of the property must comply to insure the site does not pose a threat. These conditions or "continuing obligations" are intended to aid with a pathway to closure for your remedial efforts for the site based on the correspondence, and the data provided, and is issued under Wis. Adm. Code §§ NR 726 and 727.

You, future property owners, and occupants of the property must comply with the continuing obligations as explained in the conditions of this "Approval of Remedial Actions with Continuing Obligations" letter. Please read over this letter closely to ensure that you comply with all conditions and other on-going requirements. Provide this letter and any attachments listed at the end of this letter to anyone who purchases, rents or leases this property from you. Certain continuing obligations also apply to rights-of-way (ROW) holders. These are identified within each continuing obligation.

Continuing Obligations

- Residual soil contamination exists that must be properly managed should it be excavated or removed.
- A geomembrane and aggregate cover must be maintained over contaminated soil and the DNR must be notified and approve any changes to this barrier.

The attached DNR fact sheet “Continuing Obligations for Environmental Protection,” RR-819, helps to explain a property owner’s responsibility for continuing obligations on their property. The fact sheet may be obtained at <http://dnr.wi.gov/files/PDF/pubs/rr/RR819.pdf>.

Continuing Obligations Packet

This site will be included on the Bureau for Remediation and Redevelopment Tracking System (BRRTS on the Web) at <http://dnr.wi.gov/topic/Brownfields/clean.html>, to provide public notice of residual contamination and of any continuing obligations. The site can also be viewed on the Remediation and Redevelopment Sites Map (RRSM), a map view, under the Continuing Obligations Packet (formerly known as the GIS Registry) layer, at the same web address.

DNR approval prior to well construction or reconstruction is required for all sites shown on the Continuing Obligations database, in accordance with s. NR 812.09 (4) (w), Wis. Adm. Code. This requirement applies to private drinking water wells and high capacity wells. To obtain approval, complete and submit Form 3300-254 to the DNR Drinking and Groundwater program’s regional water supply specialist. This form can be obtained on-line at <https://dnr.wi.gov/files/PDF/forms/3300/3300-254.pdf>.

All site information is also on file at the DNR’s Central Office, at 101 South Webster Street in Madison. This letter and information that was submitted with your remedial action plan is on the Web.

Prohibited Activities

Certain activities are prohibited at closed sites because maintenance of a barrier is intended to prevent contact with any remaining contamination. When a barrier is required, notification to the DNR is necessary before making a change, to determine if further action is needed to maintain the protectiveness of the remedy employed. The following activities are prohibited on any portion of the property where a cover or barrier is required, as shown on the attached Figure 7, Estimated Extent of Proposed Soil Excavation, prepared by REI and dated April 20, 2017 by 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; or
- 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.

Compliance with the requirements of this letter is a responsibility to which the current property owner and any subsequent property owners must adhere. DNR staff will conduct periodic prearranged inspections to ensure that the conditions included in this letter and any cover maintenance plan are met. If these requirements are not followed, the DNR may take enforcement action under Wis. Stat. § 292.11, to ensure compliance with the specified requirements, limitations or other conditions related to the property.

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

Department of Natural Resources
Attn: Ralph Smith – RR/5
PO Box 7921
Madison, WI 53707-7921

Residual Soil Contamination (Wis. Adm. Code § NR 718, §§ 500 to 536, or Wis. Stat. § 289)

Soil contamination is present in the vicinity of the former pump island, including the ROW, as depicted on the attached Figure 7, Estimated Extent of Proposed Soil Excavation. If soil in the specific locations described above is excavated in the future, the property owner or ROW holder at the time of excavation must sample and analyze the excavated soil to determine if contamination remains. If sampling confirms that contamination is present, the property owner or right-of-way holder at the time of excavation will need to determine whether the material is considered solid or hazardous waste and ensure that any storage, treatment or disposal is in compliance with applicable standards and rules. Contaminated soil may be managed in accordance with Wis. Adm. Code § NR 718, with prior DNR approval. This continuing obligation also applies to the Town of Bennett and/or Douglas County as the ROW holder(s) for the adjacent portion of County Road L, and the Department of Transportation (DOT) as the ROW holder for the adjacent right-of-way located at the southwest corner of the intersection of County Road L and the southbound lanes of US Highway 53.

In addition, all current and future owners and occupants of the property and right-of-way holders need to be aware that excavation of the contaminated soil may pose an inhalation or other direct contact hazard and as a result special precautions may need to be taken to prevent a direct contact health threat to humans.

Cover or Barrier (Wis. Stat. § 292.12 (2) (a), Wis. Adm. Code §§ NR 726.15 and NR 727.07)

A geomembrane and aggregate direct contact cover or barrier will be installed in the specific location shown on the attached Figure 7, Estimated Extent of Proposed Soil Excavation, as part of the proposed remedial action. The cover or barrier shall be maintained in compliance with the “Cover or Barrier Maintenance Plan Attachment D.1.” to prevent direct contact with residual soil contamination that might otherwise pose a threat to human health.

A request may be made to modify or replace a cover or barrier. Before removing or replacing the cover or barrier, you must notify the DNR at least 45 days before taking an action. The replacement or modified cover or barrier must be protective of the revised use of the property and must be approved in writing by the DNR prior to implementation. A cover or barrier for industrial land uses, or certain types of commercial land uses may not be protective if the use of the property were to change such that a residential exposure would apply. This may include, but is not limited to single or multiple family residences, a school, day care, senior center, hospital or similar settings. In addition, a cover or barrier for multi-family residential housing use may not be appropriate for use at a single-family residence.

The maintenance plan and inspection log (DNR form 4400-305) are to be kept up-to-date and on-site at 9222 East County Road L in Solon Springs. Inspections shall be conducted annually, in accordance with any cover maintenance plan. Submit the inspection log to the DNR and interested parties upon request.

The DNR appreciates your efforts to restore the environment at this site. If you have any questions regarding these decisions or anything outlined in this letter, please contact Project Manager Ralph Smith at (608) 261-6543, or at ralph.smith@wisconsin.gov. You can also contact me at (715) 685-2920, or by email at christopher.saari@wisconsin.gov.

Sincerely,

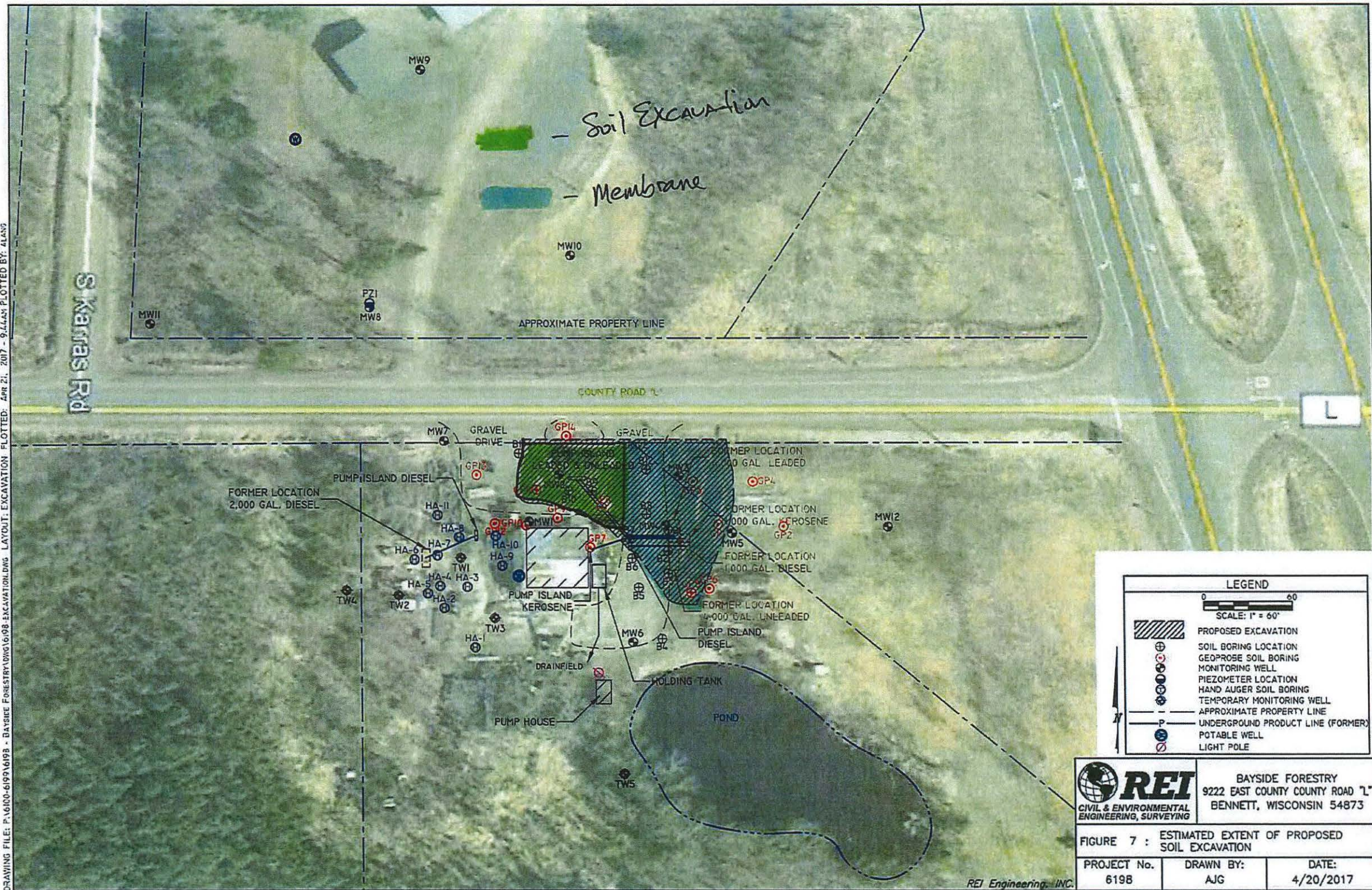


Christopher A. Saari
Northern Region Team Supervisor
Remediation and Redevelopment Program

Attach: Figure 7, Estimated Extent of Proposed Soil Excavation, REI, April 20, 2017
Continuing Obligations for Environmental Protection, DNR Publication RR-819

Cc: Dave Larsen – REI (via email)
Ralph Smith – DNR Project Manager (via email)
Shar TeBeest – DOT (via email)
Town of Bennett (via email)
Douglas County Highway Department (via email)

DRAWING FILE: P:\6100-6199\6198 - BAYSIDE FORESTRY\DWG\6198 EXCAVATION.DWG LAYOUT: EXCAVATION PLOTTED: APR 21, 2017 - 9:44AM PLOTTED BY: ALANS



LEGEND

0 60
SCALE: 1" = 60'

- PROPOSED EXCAVATION
- SOIL BORING LOCATION
- GEOPROBE SOIL BORING
- MONITORING WELL
- PIEZOMETER LOCATION
- HAND AUGER SOIL BORING
- TEMPORARY MONITORING WELL
- APPROXIMATE PROPERTY LINE
- UNDERGROUND PRODUCT LINE (FORMER)
- POTABLE WELL
- LIGHT POLE

REI
CIVIL & ENVIRONMENTAL
ENGINEERING, SURVEYING

BAYSIDE FORESTRY
9222 EAST COUNTY ROAD "L"
BENNETT, WISCONSIN 54873

FIGURE 7 : ESTIMATED EXTENT OF PROPOSED SOIL EXCAVATION

PROJECT No.	DRAWN BY:	DATE:
6198	AJG	4/20/2017

REI Engineering, INC.



Continuing Obligations for Environmental Protection Responsibilities of Wisconsin Property Owners Wis. Stat. § 292.12

Purpose

This fact sheet is intended to help property owners understand their legal requirements under s. 292.12, Wis. Stats., regarding continuing obligations that arise due to the environmental condition of their property.

Introduction

The term “continuing obligations” refers to certain actions for which property owners are responsible following a completed environmental cleanup. They are sometimes called environmental land use controls or institutional controls. These legal obligations, such as a requirement to maintain pavement over contaminated soil, are most often found in a cleanup approval letter from the state.

Less commonly, a continuing obligation may apply where a cleanup is not yet completed but a cleanup plan has been approved, or at a property owned by a local government that is exempt from certain cleanup requirements.

What Are Continuing Obligations?

Continuing obligations are legal requirements designed to protect public health and the environment in regard to contamination that remains on a property.

Continuing obligations still apply after a property is sold. Each new owner is responsible for complying with the continuing obligations.

Background

Wisconsin, like most states, allows some contamination to remain after cleanup of soil or groundwater contamination (residual contamination). This minimizes the transportation of contamination and reduces cleanup costs while still ensuring that public health and the environment are protected.

The Department of Natural Resources (DNR), through its Remediation and Redevelopment (RR) Program, places sites or properties with residual contamination on a public database in order to provide notice to interested parties about the residual contamination and any associated continuing obligations. Please see the “Public Information” section on page 3 to learn more about the database. (Prior to June 3, 2006, the state used deed restrictions recorded at county courthouses to establish continuing obligations, and those deed restrictions have also been added into the database.)

Types of Continuing Obligations

1. Manage Contaminated Soil that is Excavated

If the property owner intends to dig up an area with contaminated soil, the owner must ensure that proper soil sampling, followed by appropriate treatment or disposal, takes place. Managing contaminated soil must be done in compliance with state law and is usually done under the guidance of a private environmental professional.

2. Manage Construction of Water Supply Wells

If there is soil or groundwater contamination and the property owner plans to construct or reconstruct a water supply well, the owner must obtain prior DNR approval to ensure that well construction is designed to protect the water supply from contamination.

Other Types of Continuing Obligations

Some continuing obligations are designed specifically for conditions on individual properties. Examples include:

- keeping clean soil and vegetation over contaminated soil;
- keeping an asphalt “cover” over contaminated soil or groundwater;
- maintaining a vapor venting system; and
- notifying the state if a structural impediment (e.g. building) that restricted the cleanup is removed. The owner may then need to conduct additional state-approved environmental work.

It is common for properties with approved cleanups to have continuing obligations because the DNR generally does not require removal of all contamination.

Property owners with the types of continuing obligations described above will find these requirements described in the state’s cleanup approval letter or cleanup plan approval, and *must*:

- comply with these property-specific requirements; and
- obtain the state’s permission before changing portions of the property where these requirements apply.

The requirements apply whether or not the person owned the property at the time that the continuing obligations were placed on the property.

Changing a Continuing Obligation

A property owner has the option to modify a continuing obligation if environmental conditions change. For example, petroleum contamination can degrade over time and property owners may collect new samples showing that residual contamination is gone. They may then request that the DNR modify or remove a continuing obligation. Fees are required for the DNR’s review of this request and for processing the change to the database (\$1050 review fee, \$300/\$350 database fee). Fees are subject to change; current fees are found in Wis. Admin. § NR 749 online at http://docs.legis.wisconsin.gov/code/admin_code/nr/700/749.

Public Information

The DNR provides public information about continuing obligations on the Internet. This information helps property owners, purchasers, lessees and lenders understand legal requirements that apply to a property. The DNR has a comprehensive database of contaminated and cleaned up sites, *BRRTS on the Web*. This database shows all contamination activities known to the DNR. Site specific documents are found under the *Documents* section. The information includes maps, deeds, contaminant data and the state’s closure letter. The closure letter states that no additional environmental cleanup is needed for past contamination and includes information on property-specific continuing obligations. If a cleanup has not been completed, the state’s approval of the remedial action plan will contain the information about

continuing obligations.

Properties with continuing obligations can generally be located in the DNR's *RR Sites Map*. RR Sites Map provides a map view of contaminated and cleaned up sites, including sites with continuing obligations, and links to *BRRTS on the Web*. *BRRTS on the Web* and *RR Sites Map* are part of the Wisconsin Remediation and Redevelopment Database (WRRD) at <http://dnr.wi.gov/topic/Brownfields/wrrd.html>.

If a completed cleanup is shown in *BRRTS on the Web* but the site documents cannot be found in the documents section, the DNR's closure letter can still be obtained from a regional office. For assistance, please contact a DNR Environmental Program Associate (see the RR Program's Staff Contact web page at dnr.wi.gov/topic/Brownfields/Contact.html).

Off-Site Contamination: When Continuing Obligations Cross the Property Line

An off-site property owner is someone who owns property that has been affected by contamination that moved through soil, sediment or groundwater from another property. Wis. Stat. § 292.13 provides an exemption from environmental cleanup requirements for owners of "off-site" properties. The DNR will generally not ask off-site property owners to investigate or clean up contamination that came from a different property, as long as the property owner allows access to his or her property so that others who are responsible for the contamination may complete the cleanup.

However, off-site property owners are legally obligated to comply with continuing obligations on their property, even though they did not cause the contamination. For example, if the state approved a cleanup where the person responsible for the contamination placed clean soil over contamination on an off-site property, the owner of the off-site property must either keep that soil in place or obtain state approval before disturbing it.

Property owners and others should check the *Public Information* section above if they need to:

- determine whether and where continuing obligations exist on a property;
- review the inspection, maintenance and reporting requirements, and
- contact the DNR regarding changing that portion of the property. The person to contact is the person that approved the closure or remedial action plan.

Option for an Off-Site Liability Exemption Letter

In general, owners of off-site properties have a legal exemption from environmental cleanup requirements. This exemption does not require a state approval letter. Nonetheless, they may request a property-specific liability exemption letter from the DNR if they have enough information to show that the source of the contamination is not on their property. This letter may be helpful in real estate transactions. The fee for this letter is \$700 under Chapter NR 749, Wis. Adm. Code. For more information about this option, please see the RR Program's Liability web page at dnr.wi.gov/topic/Brownfields/Liability.html.

Legal Obligations of Off-Site Property Owners

- Allow access so the person cleaning up the contamination may work on the off-site property (unless the off-site owner completes the cleanup independently).
- Comply with any required continuing obligations on the off-site property.

Required Notifications to Off-Site Property Owners

1. The person responsible for cleaning up contamination must notify affected property owners of any proposed continuing obligations on their off-site property **before** asking the DNR to approve the cleanup. This is required by law and allows the off-site owners to provide the DNR with any technical information that may be relevant to the cleanup approval.

When circumstances are appropriate, an off-site neighbor and the person responsible for the cleanup may enter into a “legally enforceable agreement” (i.e. a contract). Under this type of private agreement, the person responsible for the contamination may also take responsibility for maintaining a continuing obligation on an off-site property. This agreement would not automatically transfer to future owners of the off-site property. The state is not a party to the agreement and cannot enforce it.

2. If a cleanup proposal that includes off-site continuing obligations is approved, the DNR will send a letter to the off-site owners detailing the continuing obligations that are required for their property. Property owners should inform anyone interested in buying their property about maintaining these continuing obligations. For residential property, this would be part of the real estate disclosure obligation.

More Information

For more information, please visit the RR Program’s Continuing Obligations website at dnr.wi.gov/topic/Brownfields/Residual.html.

This document is intended solely as guidance and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations and is not finally determinative of any of the issues addressed. This guidance does not create any rights enforceable by any party in litigation with the State of Wisconsin or the Department of Natural Resources. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.

The Wisconsin Department of Natural Resources provides equal opportunity in its employment, programs, services, and functions under an Affirmative Action Plan. If you have any questions, please write to Chief, Public Civil Rights, Office of Civil Rights, U.S. Department of the Interior, 1849 C. Street, NW, Washington, D.C. 20240.

This publication is available in alternative format (large print, Braille, etc.) upon request. Please call for more information. Note: If you need technical assistance or more information, call the Accessibility Coordinator at 608-267-7490 / TTY Access via relay - 711

Purpose

This cover sheet summarizes continuing obligations regarding environmental conditions on this property. Continuing obligations are legal mechanisms that:

- 1) Require or restrict certain actions to protect human health or the environment.
- 2) Minimize human and natural resource exposure to contamination, and/or
- 3) Give notice of the **existence** of residual contamination

Learn more about continuing obligations at <http://dnr.wi.gov/topic/brownfields/residual.html>

DNR Property Information:

DNR Approval Date: 08/07/2018

BRRTS #: 03-16-000971 (No Dashes) FID #: 816104630

ACTIVITY NAME: Bayside Forestry Equipment, Inc.

PROPERTY ADDRESS: 9222 East County Road L

MUNICIPALITY: Solon Springs

PARCEL ID #: BE-004-00736-00

***WTM COORDINATES:**

X: 380324 Y: 665159

**Coordinates are in WTM83, NAD83 (1991)*

WTM COORDINATES REPRESENT:

- Approximate Center Of Continuing Obligations
- Approximate Source Parcel Center

Please visit <http://dnr.wi.gov/topic/brownfields/wrrd.html> for additional DNR site information.

EPA Superfund Information (if applicable):

EPA ID: To view more information click on the EPA ID.

SITE NAME:

Requirements for all properties with Continuing Obligations

- 1. Properly manage contaminated soil if it is excavated. Sample and arrange appropriate treatment or disposal.
- 2. DNR approval is required if a water supply well will be constructed or reconstructed.

Site-Specific Requirement(s) - (BRRTS Action Code)

- A "cap" over the contaminated area must be: (222)
 - Constructed & Maintained
 - Maintained
- A structural impediment (e.g. building) is present which inhibited investigation/cleanup. Further environment work may be required if the impediment is removed. (224)
- A vapor mitigation system must be: (226)
 - Constructed & Maintained
 - Maintained
- DNR has directed a local government unit (LGU) to take an action and a LGU liability exemption applies. This exemption does not transfer to future private owners. (230)
- The need for vapor control technology must be evaluated if a building will be constructed. (228)
- Another type of continuing obligation has been established in DNR's remedial action plan approval. (228)
Explain:
- The approved soil cleanup level is suitable for industrial use of the property. (220)
- DNR has approved construction on an abandoned landfill and certain maintenance requirements apply. (402) or (404)