



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Matthew J. Frank, Secretary
Gloria L. McCutcheon, Regional Director

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April 6, 2010

Mr. Patrick Schloss
City of West Allis – Community Development Authority
7525 West Greenfield Avenue
West Allis, WI 53214

Subject: Conditional Grant of Exemption for the Development Where Solid Waste was Disposed
BRRTS # 07-41-262281 FID # 241222520

Mr. Schloss:

We have received your request for a grant of exemption from regulation under s. NR 506.085, Wis. Adm. Code. Your application includes an evaluation that there is currently soil and groundwater contamination in excess of applicable standards at this location and that the proposed development will not result in future exceedances of applicable environmental standards or endanger public health and safety. Methane gas was also found to be present at dispersed locations around the site. Based on that evaluation, the Department is issuing this general grant of exemption from the prohibitions contained in s. NR 506.085, Wis. Adm. Code for the property at 1960 South 67th Street, West Allis, Wisconsin. You must comply with the conditions of this grant of exemption in order to maintain the exemption. This grant of exemption is limited to the proposed changes, a manufacturing facility and parking lot, as 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.

Please review the information contained in the publication *Development at Historic Fill Sites and Licensed Landfills: Considerations and Potential Problems* PUB-RR-685 to assist you in preventing environmental or safety problems during and after development.

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 Thomas A. Wentland at 920-892-8756 Ex. 3028.

Sincerely,

James A. Schmidt, Supervisor
Remediation and Redevelopment Section
Southeast Region

Cc: ARCADIS
City of West Allis Building Inspection

BEFORE THE

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

CONDITIONAL GRANT OF EXEMPTION
FOR
DEVELOPMENT ON A PROPERTY
WHERE SOLID WASTE HAS BEEN DISPOSED

FINDINGS OF FACT

The Department finds that:

1. The City of West Allis, Community Development Authority owns the property located at 1960 South 67th Street, West Allis, Wisconsin.
2. Based on information provided by the applicant lime slurry, foundry sand, cinders and construction and demolition waste is present on the site.
3. Arcadis Infrastructure has submitted a request for exemption received February 2, 2010 for an exemption from the prohibition in NR 506.085, Wis. Adm. Code.
4. Methane gas was detected on the site but is not expected to endanger public health and safety.
5. Based upon the evaluation provided to the Department, development at the property is not expected to cause future exceedances of applicable soil and groundwater standards.
6. The Department further concurs that 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 ch. NR 500.08(4), Wis. Adm. Code to issue an exemption from the prohibition in ch. 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 ch. NR 500.08(4), Wis. Adm. Code, to issue the following conditional grant of exemption.

CONDITIONAL GRANT OF EXEMPTION

The Department hereby issues an exemption to the City of West Allis, Community Development Authority from the prohibition in ch. NR 506.085, Wis. Adm. Code for development on a property which contains solid waste as proposed in the submittal received February 2, 2010 subject to the following conditions:

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 ch. 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 ch. NR 500.03(62), Wis. Adm. Code.
4. No action related to the development of the property may be taken which will cause a detrimental effect on groundwater, as defined in ch. NR 500.03(62), Wis. Adm. Code, or will cause or exacerbate an attainment or exceedance of any preventive action limit or enforcement standard at a point of standards application in ch. NR 140, Wis. Adm. Code.
5. 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 ch. NR 445.03, Wis. Adm. Code.
6. No action related to the development of the property may be taken which will cause an exceedance of a soil clean up standard in ch. NR 720, Wis. Adm. Code.
7. Safeguards should be taken to prevent methane gas from collecting in the structure. The installation of vents, trenches, methane alarms, flexible membrane liners under foundations, and constructing with slab foundations may prevent the migration of methane into the building. At a minimum, the external venting system should consist of a 6 to 12 inch gravel layer laid directly over the waste with an interconnected system of 4-inch diameter polyvinyl chloride (PVC) or corrugated drainage pipe installed in the top 4 inches of the gravel. A vapor barrier consisting of a minimum 30-mil thick polyethylene geomembrane welded at the seams or other approved systems providing a continuous barrier between the venting system and the floor slab shall be installed. Filter fabric or a 6-inch layer of fine sand should be placed on top of the geomembrane to act as a cushion.
8. This grant of exemption should not be construed as a site closure under ch. NR 726.
9. The development construction activities shall be coordinated with the approved remedial response actions and shall not prevent the completion of the approved remedial response actions.
10. 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 of Natural Resources should be contacted to discuss any proposed changes to avoid activities that could violate the statute.

11. 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.

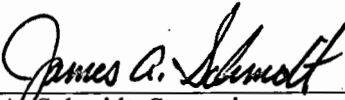
NOTICE OF APPEAL RIGHTS


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 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: 14-12-2010

DEPARTMENT OF NATURAL RESOURCES
For the Secretary


James A. Schmidt, Supervisor
Remediation and Redevelopment Section
Southeast Region


Thomas A. Wentland
Waste Management Engineer
Remediation and Redevelopment Section
Southeast Region