

From: Coogan, Thomas J - DNR
Sent: Wednesday, May 11, 2022 4:00 PM
To: Treadwell, Nathan - MUN; alehocky@towncounsellaw.com
Cc: Schmenk, Colin R -DNR; Beggs, Tauren R - DNR; Ashenfelter, Barry J - DNR; Larson, Gena M - DNR
Subject: Schwan Oil Co - Bulk Plt Site, BRRTS # 03-45-001398
Attachments: Wis. DNR – Info about brownfield properties and the local governmental unit (LGU) exemption.docx; 4400-265.pdf; csa-resolution (1).doc; RR110.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Hortonville officials,

It was great chatting with you all yesterday. In follow-up from our discussions, below you will find links to many of the topics we discussed, as well as additional resources. Please don't hesitate to call with any questions.

Topics covered:

- **Local Government Resources:** §292.11(9)(e) Wis. Stats. provides a liability exemption for local governments to acquire property through various methods (e.g., tax delinquency, etc.) <https://dnr.wisconsin.gov/topic/Brownfields/LGU.html>. I've attached various links for you. Feel free to give Barry Ashenfelter a call with any questions. Barry is cc'd on this email, but he can also be reached at 920-470-1905.

Financial Assistance:

- **Wisconsin Assessment Monies (WAM):** Program administered by the DNR to fund Phase I & II Environmental Site Assessments and Limited Site Investigations at Brownfield sites throughout Wisconsin. The services are provided via Contractor Services, in which DNR contracted environmental contractors perform the environmental assessment work. As I mentioned, the requirements to apply are an application, signed access agreement and municipal resolution. WAM funds can be utilized as part of financial match requirements with other funding sources, such as Wisconsin Economic Development Corporation (WEDC) Site Assessment Grants. The funding is provided to the DNR by the U.S. Environmental Protection Agency (USEPA). Current WAM funding is committed to other projects (end of the grant), but EPA will be announcing new awards very soon and we anticipate receiving an influx of \$600,000 to WAM. Once EPA alerts DNR of the grant, we should have those funds available beginning October 1, 2022 if not sooner. I've attached the WAM application (4400-265), access agreement (RR110) and model municipal resolution (csa-resolution - we are currently working on turning this model resolution into a DNR form). My contact information is below.

More information: <https://dnr.wisconsin.gov/topic/Brownfields/wam.html>

- **Ready for Reuse:** A grant and loan program used for environmental cleanup at Brownfields throughout WI. You can find details regarding the R4R Program at <https://dnr.wisconsin.gov/topic/Brownfields/rlf.html>
Gena Larson: (608) 400-9215 or Gena.Larson@Wisconsin.gov

Additional financial resources can be found at
<https://dnr.wisconsin.gov/topic/Brownfields/Financial.html>

The link includes funding information from Wisconsin Economic Development Corporation (WEDC). WEDC's Regional Economic Development Director in your area is Naletta Sanchez. Naletta's contact information is (608) 210-6830 or Naletta.sanchez@wedc.org.

Other information you may find helpful:

- **Bureau of Remediation and Redevelopment Tracking System (BRRTS):** DNR's database that provides information on contaminated properties and other cleanup and redevelopment activities in WI.
You can find BRRTS at <https://dnr.wisconsin.gov/topic/Brownfields/botw.html>. Additionally, the DNR has **RR Sites Map** which is a mapping system that provides information about contaminated properties in WI. You can find RR sites map at <https://dnr.wisconsin.gov/topic/Brownfields/rasm.html>
 - Schwan Oil Co: BRRTS # 03-45-001398. You can find the site file by searching BRRTS.
 - **Note:** Although BRRTS has a list of a lot of sites listed, there are many brownfields sites that we likely don't know about.
- **General Liability Clarification (GLC) letter:** <https://dnr.wi.gov/files/pdf/pubs/rr/RR619.pdf>
For a fee DNR can provide a general liability clarification letter that goes over much of what's listed above (primarily the Local Gov't Exemption).
- Wisconsin Cleanup Rules and Laws: <https://dnr.wisconsin.gov/topic/Brownfields/Laws.html>
- Brownfields and Redevelopment information: <https://dnr.wisconsin.gov/topic/Brownfields>

Green Team Meeting Feedback

Please consider filling out a brief survey as it helps us improve our Green Team meetings and the information and resources we provide. You can find a link to the survey at <https://www.surveymonkey.com/r/MGQD29D>

This is a lot of information to digest. Again, please don't hesitate to contact us directly with any questions.

Sincerely,

Tom

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Tom Coogan

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Wisconsin Assessment Monies Manager
Bureau of Remediation and Redevelopment/EM Division
Wisconsin Department of Natural Resources
P.O. Box 7921, Madison, WI 53707
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dnr.wi.gov



Sample Municipal Resolution
Department of Natural Resources
Wisconsin Assessment Money (WAM) - Contractor Services Award

Resolution of (Applicant)

A RESOLUTION authorizing the submittal of an award application for the _____ property by the (Authorized Representative) for WAM Contractor Services.

WHEREAS, (Applicant) recognizes that the environmental assessment of brownfields is an important part of protecting Wisconsin's resources; and

WHEREAS, the (Applicant) will allow employees from the Department of Natural Resources access to inspect the award site or facility and award records; and

IT IS, THEREFORE RESOLVED THAT:

The (Applicant) Board requests services and assistance available from the Wisconsin Department of Natural Resources under the WAM Contractor Services Award program and will comply with state and federal rules for the program; and

HEREBY AUTHORIZES the (Authorized Representative) to act on the behalf of the (Applicant) to: submit an application to the State of Wisconsin for contractor services under the WAM program, sign documents, and take necessary action to comply with approved award activities.

Adopted this _____ day of _____, 20____

By a vote of: ____ in favor, ____ opposed, and ____ abstain

BY: _____ secretary/clerk of (Applicant)

DNR Remediation & Redevelopment
RR-110, Guidance: Site Access Permission Agreement for Wisconsin Assessment Monies (WAM)
Contractor Services Awards
January 2021

PURPOSE: Agreement WAM applicants must submit to the DNR granting DNR staff, authorized representatives, agents and contractors permission to access the property(ies) for which the WAM grant monies will be used to assess. The agreement must be signed by the property owner or authorized representative.

INSTRUCTIONS:

Grey highlighted text contains areas where users need to insert basic information, make a selection from options, or use the language supplied only if applicable.

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. 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.

**Wisconsin Department of Natural Resources Site Access Permission Assignment
for Wisconsin Assessment Monies (WAM) Contractor Services Awards**

I, , as owner or authorized representative of the property owner (the “owner”) of the property located at street address, city, also described as insert legal description or parcel number(s), County, Wisconsin, referred to herein as the “Property,” hereby assign permission to the Wisconsin Department of Natural Resources (the “department”) and its employees, duly authorized representatives, agents and contractors, to enter upon and have access at reasonable times to the Property so that the department may, based on awarded contractor services, perform activities including but not limited to the following:

- (1) *Conduct a site visit to complete a Phase I Environmental Site Assessment*
- (2) *Conduct a Phase II Environmental Site Assessment*
- (3) *Conduct a Limited NR 716 Site Investigation*
- (4) *Install soil borings*
- (5) *Install and maintain permanent or temporary groundwater monitoring wells*
- (6) *Collect soil samples and water samples*
- (7) *Install and maintain sub-slab vapor probes, collect sub-slab vapor samples and abandon sub-slab vapor probes*
- (8) *Collect indoor air samples*
- (9) *Abandon the groundwater monitoring wells installed by the department when the wells are no longer needed.*

The permission that is granted herein is effective beginning the date the Permission Agreement is signed and shall remain in effect for one calendar year. If, after six months from the effective date, I wish to withdraw permission for continued access, I shall notify the department of that fact in writing. The department shall, within 90 days after receiving such notice, either cease/finalize activities on the property or obtain a court order to allow continued access.

I understand that the investigation activities may result in the generation of waste soil, groundwater or other materials collectively known as investigative derived waste. The department and its representatives, agents or contractors will ensure that the investigative derived waste is properly containerized and transported by a licensed waste hauler to the appropriate disposal or treatment facility. I agree that the investigative derived waste may be temporarily stored on the Property at a location agreed upon by me and the department until the investigative activities are complete or access under this Permission Assignment ends, whichever is earlier. I agree to not move or tamper with the investigative derived waste temporarily stored on the Property. I agree to sign, as the generator of the investigative derived waste, any waste characterization forms, waste manifests or other documentation required for proper transport and disposal of the investigative derived waste. I will sign these forms prior to the time the department removes the investigative derived waste from the Property or at the time I withdraw my permission for continued access, whichever is earlier.

The department will report all sampling results to me and occupants, as appropriate, within 10 business days of receiving the sample results. When soil, water, sediment or vapor samples are collected on the Property, split samples will be provided to the me if I request split samples and if I provide sample containers to the department before the samples are collected.

I am the owner of the Property or have authorization to sign on behalf of the owner entity and execute this Permission Assignment.

I agree to inform occupants of the Property (e.g., tenants), if any, of the requirements of this Permission Assignment and to provide occupants with a copy of the executed Permission Assignment.

I agree to not damage or interfere with soil, water, vapor, air or other sampling equipment that is installed as permitted under this Permission Assignment. I agree to notify third parties who plan to conduct any activity on the Property that monitoring wells have been installed on the Property. If the activity could result in damage to monitoring wells, I will instruct the third parties to contact the department regarding the location of the monitoring wells and to discuss how damage may be prevented. I understand that I am responsible for any damage to monitoring wells if I or any of my agents or representatives cause that damage.

I understand that the department, in the course of conducting investigation, may find that a hazardous substance discharge or environmental pollution exists on the Property. If this occurs, these findings must be reported to the department under Wis. Stat. § 292.11(2).

I understand that if the department discovers a hazardous substance discharge or environmental pollution on the Property, any current owner of this Property, along with any identifiable causer of the contamination, may be required to take additional response actions pursuant to Wis. Stat. § 292.11(3), to restore the environment to the extent practicable and minimize the harmful effects from the discharge to the air, lands or waters of this state. Exemptions may apply under Wis. Stat. § 292.11(9)(e), 292.13, 292.15 or 292.21.

I have read this entire Permission Assignment and understand its contents. I have had the opportunity to discuss the Permission Assignment with the department and ask questions about its content.

[Insert entry notification requirements here, if applicable. For example: The department and/or the department's contractor shall notify the owner of the Property by telephone or email of any planned activity on the Property at least 48 hours in advance of entering the Property.]

Signature Page to follow.

IN WITNESS WHEREOF:

Property Owner (Print)

Signature of Property Owner or Authorized Representative

Date

Mailing Address

Email Address

Phone Number

Contact information for occupants, tenants or lessees (if different than owner):

Name of Occupant

Email Address

Phone Number

Wis. DNR – state and federal info about brownfield properties and the local governmental unit (LGU) environmental liability exemption

<https://dnr.wi.gov/files/PDF/pubs/rr/RR055.pdf> - Local Government Environmental Liability Exemptions in Wisconsin

<https://dnr.wi.gov/files/PDF/pubs/rr/RR508.pdf> - Lenders and Representatives Environmental Liability Exemptions

<https://dnr.wisconsin.gov/topic/Brownfields/LGU.html> - web page about LGUs and contaminated property

<https://dnr.wisconsin.gov/topic/Brownfields/WRRD.html> - info and links for DNR's online database of known contaminated sites, and a related GIS mapping application

<https://dnr.wisconsin.gov/topic/Brownfields/Liability.html> - web page about environmental liability in Wisconsin

<https://dnr.wi.gov/files/PDF/pubs/rr/RR664.pdf> - Negotiated agreements for brownfield cleanup and reuse

https://dnr.wisconsin.gov/sites/default/files/topic/Brownfields/rr/usepaLGUacquisition_guide_202006esign.pdf - federal info about federal CERCLA (aka Superfund) liability protection opportunities

<https://www.epa.gov/brownfields/brownfields-all-appropriate-inquiries> - federal info about EPA's "all appropriate inquiries" rule. Direct your environmental consultants to make sure they follow the all appropriate inquiries rule prior to LGU purchase so your LGU obtains some protections against Superfund liability. DNR and state law oversees most cleanups in Wis., but it does not hurt to also get some federal liability protection too.

<https://dnr.wisconsin.gov/topic/Brownfields/Fees.html> – DNR technical and liability assistance for contaminated properties

<https://dnr.wisconsin.gov/topic/Brownfields> - DNR web page about brownfield redevelopment