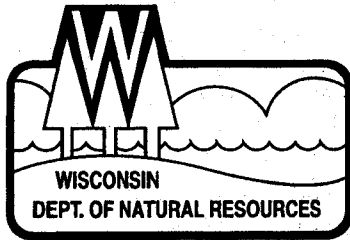


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State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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August 30, 2001

Mr. Tony Murphy
Ashland City Administrator
601 Main Street West,
Ashland, WI 54806

RE: Clarification of Environmental Liability for Property Located within the Ashland/NSP Lakefront Site

Dear Mr. Murphy:

On May 19, 2000, Earth Tech, on behalf of the City of Ashland, submitted a request to the Wisconsin Department of Natural Resources ("DNR") for a "No Further Action Determination" for the suspected environmental contamination associated with historic deposition of fill materials and solid waste at the Ashland/NSP Lakefront Site ("the Site"). The Ashland/Northern States Power Lakefront Site is made up of several properties within the city of Ashland ("the City") and about 10 acres of sediment and surface waters in Chequamegon Bay. The properties comprising the site include, from south to north, the Northern States Power Company facility ("NSP"), Wisconsin Central Limited railroad corridor ("WCL"), Kreher Park – including the city of Ashland's old wastewater treatment plant – and the contaminated sediments and surface waters of Chequamegon Bay. The Site boundaries include U.S. Highway 2 to the south, Prentice Avenue to the east, Ellis Avenue to the west and Chequamegon Bay to the north. The City was notified by the DNR on November 20, 1997 of its responsibility to investigate and remediate, if necessary, any contamination originating from solid waste disposal at the Site, that was controlled by the City.

Background

The State of Wisconsin has been investigating contamination at the Site since 1991. The City of Ashland first notified the Department of contamination of the city owned portion of the site (what is now Kreher Park) in 1989. At that time the city initiated an investigation which determined volatile organic compound ("VOC") and polynuclear aromatic hydrocarbon ("PAH") contamination of the soils and groundwater. In 1991 the Department started the process to further investigate the City's property to determine the potential source or sources of that contamination. Over the past ten years a number of phases of investigation have been carried out on the City's property and have expanded out to include the rest of the Site. From those investigations, the DNR has documented that widespread VOC and PAH contamination, including free phase oils and tars, exists across the site. Evidence of some solid waste disposal on the city owned parcel has also been documented. Based on this information, the DNR sent a "Potential Responsible Party" letter to the City. The 1997 letter stated "By no means does the Department mean to imply that the City of Ashland is responsible for the generation, management or disposal of coal tar or creosote in the area. Therefore, the DNR did not ask the City to investigate or remediate the VOC and PAH, oils/tars in the area. Through the above mentioned investigations carried out by the DNR and NSP (now Xcel), the degree and extent of the solid waste disposal has been determined. The risk to human health and the environment posed by the solid waste has also been examined.



Issues

As you know, the entire Site has been proposed for listing on the U. S. Environmental Protection Agency ("EPA") National Priorities List for the Superfund program. . Through the investigations it was found that a manufactured gas plant operated on the portion of the site currently owned by NSP/ Xcel Energy. . The VOC and PAH oil/tar contamination at the site is consistent with waste produced by manufactured gas plant processes. The Department is continuing to work with Xcel Energy to define the degree, extent, source areas and conduits that have contributed to the manufactured gas plant (MGP) wastes, which extend across the Site. As the Site moves through the Superfund process, a remedial investigation (RI) and feasibility study (FS) will be completed. Although the solid waste disposal is not part of the site contamination that is of concern, removal, treatment and/or disposal of that material may be a necessary part of complete remediation.

Determination

The City's "Request for No Further Action Determination" was made under Chapter NR 708, Wis. Admin. Code. The Department believes that a "liability clarification letter" issued under section 292.55, Wis. Stats., is more applicable to this situation. Therefore, the Department is making the following determinations regarding liability for the solid waste previously disposed on City property that is part of the Site. As stated previously, investigation has shown that solid waste and associated contamination is located on property owned by the City. The solid waste and associated contamination has been investigated and the risk to human health and the environment has been adequately assessed. Based on this information, the Department has determined that no investigation or remediation of this solid waste is necessary at this time. As we have discussed, if during the remediation or future development of the City owned portion of the Ashland/NSP Lakefront Site, the solid wastes or associated contamination (such as the lead contaminated soils) delineated during the investigations need to be removed, these materials will have to be handled, analyzed, treated and/or disposed of in a manner that complies with state and federal laws.

The Department wishes to continue in working with the City as well as other interested parties to complete the investigation and remediation of this site. The city previously agreed to reroute the current storm water discharges onto the Site as part of the remedial efforts. The Department hopes that a schedule for conducting that work will be submitted soon. If you have any questions or comments on this issue feel free to call.

Sincerely



Jamie Dunn
Hydrogeologist

Cc: Mark Gordon – RR/3
Franc Fennessy – AD/5
John Robinson – Rhinelander
Deborah Johnson – LS/5
Mr. Geoff Nokes – Wisconsin Central Limited Railroad
Mr. David Crass – Michael Best & Friedrich, One South Pinckney, PO Box 1806, Madison, WI 53701
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