

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
Southeast Region Headquarters
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Milwaukee WI 53212-3128

Scott Walker, Governor
Cathy Stepp, Secretary
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January 5, 2011

FID #: 246105750
SW/APP

*Rowe & King
waste #*

Daren Daniels
Holy Redeemer Church
3500 Mother Daniels Way
Milwaukee WI 53209

JAN 6 2011 *JH*

Dear Mr. Daniels:

The Department is rescinding the June 17, 2010 conditional grant of exemption for removal of contaminated soils from the Bishop's Creek Community Development Corporation. The reasons for this determination are contained in the attachment. Please call me at (414) 263-8694 if you have questions on this matter.

Sincerely,

Franklin C. Schultz
Waste & Materials Management Supervisor

cc.- Jason Bartley – Environmental & Development Solutions, Inc.
Kevin Bugel – Giles Engineering
John Hnat - SER

BEFORE THE STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES
WITHDRAWAL OF THE GRANT OF EXEMPTION FOR THE
DISPOSAL OF SOIL IN THE TOWN OF CEDARBURG

FINDINGS OF FACT

The Department finds that:

1. Bishop's Creek Community Development Corporation (BC) owns a redevelopment project located at 4763 N.32nd Street in the City of Milwaukee, Wisconsin (the site).
2. BC generated soil material from construction activity on the site.
3. On June 18, 2010, the Department received a letter dated June 17, 2010 from Environmental & Development Solutions, Inc. on behalf of BC, requesting a solid waste low hazardous exemption in accordance with s. 289.43(8), Wis. Stats, for the disposal of up to 1,000 cubic yards of soil material. Attached to this letter were analytical results for soil and groundwater at the site.
4. On July 2, 2010, the Department approved the request for a solid low hazard exemption for the site.
5. The Department has reason to believe that all relevant soil data from the site was not submitted with the low hazardous exemption request. Specifically, results from the report entitled "Master Site Investigation Southern Area" submitted by Drake Environmental on March 2, 2007 indicates chromium, lead and arsenic contamination that was not part of the low hazard exemption request.
6. The exemption request indicated the presence of polyaromatic hydrocarbons (PAHs) in parts per billion while an earlier submittal shows these results in parts per million.
7. The Department has reason to believe that soils identified for removal from BC's in the exemption request site have not been managed according to the project as proposed.

CONCLUSIONS OF LAW

1. According to s. 289.01, Wis. Stats., soil material not considered clean fill is a solid waste.
2. S. 289.43(8), Wis. Stats., the Department is required to conduct a continuing review of the potential hazard to public health or the environment of various types of solid wastes.

WITHDRAWAL OF THE CONDITIONAL GRANT OF EXEMPTION

In accordance with the authority granted to the Department under s. 289.43(8), Wis. Stats., the Department withdraws the low hazard solid waste exemption granted to BC on July 2, 2010.

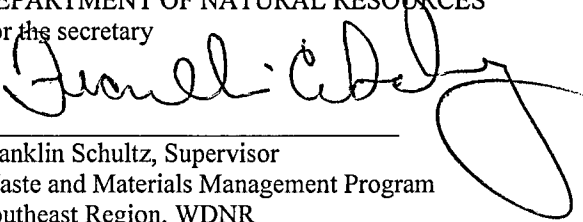
NOTIFICATION OF APPEAL RIGHTS

If you believe you have a right to challenge this decision made by the Department, you should know that Wisconsin Statutes, Administrative Codes and case law establish time periods and requirements for reviewing Department decisions.

To seek judicial review of the Department's decision, ss. 227.52 and 227.53, Wis. Stats., establish criteria for filing a petition for judicial review. Such a petition shall be filed with the appropriate circuit court and shall be served on the Department. The petition shall name the Department of Natural Resources as the respondent.

Date: Jan. 6, 2011

DEPARTMENT OF NATURAL RESOURCES
For the secretary



Franklin Schultz, Supervisor
Waste and Materials Management Program
Southeast Region, WDNR