

Borski, Jennifer - DNR

From: Rob Biersteker <rob.biersteker@luvata.com>
Sent: Thursday, May 23, 2019 9:35 AM
To: Borski, Jennifer - DNR; Hecker, Michael; Mike Boozer
Cc: Hammerton, JP; Wayne Fassbender; Sam Edwards (sam.edwards@luvata.com)
Subject: Re: DNR Comments on Public Participation Plan for Appleton Wire (Former), BRRTS #02-45-000015
Attachments: Luvata Appleton - Response to J. Borski - 5.23.2019 15087432-v2.docx; Appleton SWPPP.pdf

Dear Ms. Borski:

Please see our responses below (attachments) to the items posed via your email of May 21, 2019, which includes both responses to specific questions, as well as a few clarification points regarding some of the overarching responses.

While we wish to be as responsive as possible, additional time may be needed to fully address Question 3F concerning the hydrogen tank's setback and Question 4 regarding the Department of Homeland Security (DHS) items due to the upcoming holiday weekend, and difficulty in reaching the right people. For those items, we will do our best to get you any further information by a week from Friday, or May 31, 2019.

Thank you in advance for your appreciation of these important issues. Luvata looks forward to being able to continue to work cooperatively with WDNR and Albany International moving forward.

Sincerely

Rob Biersteker

From: "Borski, Jennifer - DNR" <Jennifer.Borski@wisconsin.gov>
To: "Hammerton, JP" <JP.Hammerton@albint.com>
Cc: Wayne Fassbender <wfassbender@enviroforensics.com>, "Sam Edwards (sam.edwards@luvata.com)" <sam.edwards@luvata.com>, "rob.biersteker@luvata.com" <rob.biersteker@luvata.com>
Date: 05/21/2019 04:09 PM
Subject: DNR Comments on Public Participation Plan for Appleton Wire (Former), BRRTS #02-45-000015

JP,

DNR reviewed the Public Participation Plan for the proposed remedial action at this site, submitted in accordance with ch. NR 714, Wis. Admin. Code. Please forward this response as appropriate.

DNR offers the following comments for Albany's consideration:

- A public service announcement should be prepared in advance of the work in case needed (or, if deemed necessary, proactively sent to local TV/Radio/Newspaper in case complaints are received);
- NR 714 signs should be posted on the fence restricting access to the east parking lot prior to initiation of the work (available at DNR offices from RR staff);
- Government units – the local Alderperson for District 2 could be included in the distribution since there are a significant number of residences involved: <https://www.appleton.org/government/common-council/council-members/district-2-vered-meltzer-alderperson-and-council-vice-president>
- The proposed area for flyer distribution is approved with one exception – properties north of Spring Street are beyond the one block buffer area targeted for notification;
- Informational Flyer:
 - A second flyer specifically for Luvata workers may be appropriate to address items unique to them (e.g., parking, warehouse replacement, concrete cutting);
 - Serif font is easier on the eyes;
 - Highlight up front that drinking water is safe;
 - “Chrome stabilization”, “immobile precipitates”, “site remediation” is not layman’s language. The flyer should be less complex.
 - Clarify the environmental cleanup work is being accomplished by Albany International as opposed to Luvata;
 - A number for 24/7 contact should be provided (i.e., cell phone) or a hotline set up and clarify who the person works for. This contact name and phone number should also be included on the sign at the site;
 - The photos are not value-added and could be replaced with a sketch/map of where the temporary warehousing and remedial activities will take place;
 - Include an updated schedule for staging, active work, completion once logistics are worked out;
 - Include hours of operation for the work (in compliance with local ordinance) (e.g., 7:30 a.m. – 3:00 p.m. Mon-Fri);
 - Call out that protective gear will be worn in the work zone for those with direct exposure to the contamination and construction dust;
 - Concrete cutting is not applicable to the general neighborhood and does not need to be included in the general informational flyer;
 - Call out the sidewalk closure on west side of Meade St.;
 - Contamination does extend off-site onto Appvion property to the south and to the east into N. Lawe St. but this could be easily communicated with a basic sketch.

DNR recommends a second draft informational flyer be prepared for review by DNR and Luvata management prior to distribution in the community. If there are specific questions from Luvata staff received by Luvata management, Albany or EnviroForensics during the logistics planning, answers to these questions should be shared in a flyer specific for Luvata employees so all shifts receive the same information.

I am happy to discuss any of these points with you or review another draft. Thanks for your work on this important piece of the cleanup. Let me know if you have any questions.

We are committed to service excellence.

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

Jennifer Borski
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dnr.wi.gov



1. The soil blending activity planned to take place within the warehouse and just north of the warehouse does not require a DNR storm water permit because less than one acre is being disturbed outside of the facility. Routine protection at storm drain inlets will need to take place with either silt fence or, more appropriately for the paved surfaces, silt socks with sand bags to assure contact. Type D protection for the inlet is preferred. Our storm water staff does not believe that the City requires storm water permits for erosion control when there is less than an acre either but Albany will need to verify with either Sue Olson or John Peters (erosion control) at DPW. The ordinance is on the City's website. There will be no discussion of storm drain protection in the conditional approval of the technical RAP.

Luvata believes there may be some confusion as to our concerns regarding storm water. While we agree with, and understand the Department's position regarding erosion control as it relates to construction related activities associated with Albany's planned actions, our concerns revolve around compliance with Luvata's existing industrial storm water permitting requirements. Luvata is classified by the WDNR as a Tier I "Heavy industrial" facility due to its Standard Industrial Classification (SIC) Code of 3351. As you know, the primary purpose of the industrial storm water permit is to mitigate the potential for the discharge of not only sediment (which is the primary purpose of construction permits through erosion control), but for potential storm water exposures and discharges of chemical contaminants associated with industrial facilities.

Eight potential contaminants of concern are identified in Luvata's Storm Water Pollution Prevention Plan (SWPPP), including as follows:

- pH
- Oil & grease
- Total suspended solids (TSS)
- Biological oxygen demand (BOD)
- Metals (nickel, copper, manganese, and zinc)

Luvata's SWPPP identifies six (6) different outfalls of concern (Please see attached scaled diagram). Of these six outfalls, Outfalls No. 5 and 6, which include the loading dock storm drain, are of concern for potential chromium releases as a result of remedial and trucking activities associated with Albany's RAP. As such, the protection of these outfalls need to be addressed to ensure compliance from an industrial storm water perspective, with some direction as to whether Luvata will be granted a waiver or an exemption from addressing SWPPP requirements as they relate to this project due to the remedial nature, or if it will be required to amend its SWPPP during the work period, and conduct additional monitoring of these outfalls for potential chromium contaminated discharges. If your note was meant to indicate that such activities will be exempt from Luvata's compliance perspective, apologies for any confusion. However, if that is still unclear, we would appreciate further guidance on the matter.

There are other logistical reporting concerns under requirements separate from stormwater, such as SARA Section 313 reporting requirements and hazardous waste reporting requirements for the Bi-Annual Hazardous Waste Report due in 2020. While we believe these issues can be addressed between Luvata and Albany, we present them only as examples of the additional matters that require proper planning on a going forward basis.

2. General fugitive dust control requirements apply to all remedial activity at the site. This means that no dust may leave the property and that the soil blending work will need to be controlled by the nature of the moist soil or be wetted as proposed by Albany. Particulate monitoring is not required. The remedial action does not require a DNR air permit because it is not a stationary source (e.g., a facility) and is temporary. Fugitive dust control requirements also apply to truck traffic. There will be no discussion of fugitive dust control in the conditional approval of the technical RAP.

Thank you for the clarification. As a facility with a regulated air permit, Luvata understands the general requirements. However, in the interest of health and safety, including that of our employees and stakeholders, fugitive dust generation remains a legitimate concern due to the nature of the contaminant. Hexavalent chromium is regulated by OSHA at 29 CFR Part 1910.1026 for General Industry, and 29 CFR Part 1926.1126 for the Construction Industry. Both standards set a low exposure Action Level and Permissible Exposure Limitation for airborne chromium. As the WDNR can appreciate, OSHA requires that Luvata utilize monitoring or “objective data” to demonstrate that actual exposures are below these limits for both general industry and construction related activities. Objective data, as defined by OSHA, requires certain specific types of information be utilized. Additionally, OSHA interpretive guidance adopts a low recommended surface contamination limit.

Luvata does not believe that relying solely on the concept that “wet methods” are being used to mitigate the generation of fugitive dusts meets OSHA’s criterion for “objective data.” We believe monitoring and contingency measures need to be considered to ensure safety concerns are met for our employees, visitors to the site, and nearby stakeholders.

While we understand Mr. Fassbender’s comments that fugitive dust monitors would likely not be helpful, as they may detect iron containing dusts from the treatment chemicals, and that no real-time monitoring method for hexavalent chromium exists, we nevertheless believe additional measures and controls can be implemented. For example, we identified that a recent hexavalent chromium project (the “Jersey City Chromium Cleanup” project, which can be referenced at <http://www.jerseycitychromiumcleanup.com/hs/airmonitoring.cfm>) required daily analysis of both fixed and mobile fugitive dust monitors during remedial activities to ensure hazardous dusts did not leave the site. While we have not investigated the logistics of the actions used at the Jersey City Site, and recognize that there may be some distinctions between the nature of the project, we believe it would be prudent for Albany to obtain more details to evaluate whether or not similar actions should be taken for this project.

Supplementing our concerns for potential exposures to fugitive dusts containing hexavalent chromium is USEPA's recent Federal Register Notice regarding exposure assessments to hexavalent chromium under Federal and State cleanup requirements, in which EPA announced a 45-day public comment period associated with the release of the Systematic Review Protocol for Hexavalent Chromium [Cr(VI)] IRIS Assessments. The 45-day public comment period began March 15, 2019 and ended April 29, 2019. (Please see Federal Register / Vol. 84, No. 51 / Friday, March 15, 2019). We believe EPA's updated exposure assessment protocols may provide new or additional information that should be taken into account when evaluating the potential for fugitive dust exposures that can result from implementation of the RAP.

3. Yesterday was the first I became aware that liquid product or hazardous waste may need to be stored in temporary warehousing to allow Luvata's continuous operation during remedial activities. The DNR's understanding is that Albany will need full access to the current warehouse for the remedial action and strongly encourages the remedy to take place this construction season. As a result, I need to better understand the type of items Luvata needs to place in temporary warehousing during this work and any building spec requirements in order to assist Albany with design plans and construction. Specific questions are listed below:

A. Will liquid product be stored in temp warehousing?

Yes. Flammable materials are used as proprietary process ingredients, and must be stored as required by NFPA and OSHA standards, in addition to Luvata's insurance carrier requirements, in an intrinsically safe storage room, also known as a "control area" under Wisconsin Building Codes and the International Building Code (IBC), as adopted by the State of Wisconsin.

The current flammable storage room is approximately 15 x 10 feet in size. A suitable storage area meeting regulatory, consensus, and insurance carrier "control area" requirements will need to be designed and proposed consistent with the "control area" design concepts and limitations of all applicable standards. As part of the consideration as to whether the "control area" requirements are met, there will need to be an assessment by a qualified firm as to whether the area can be meeting things such as fire wall resistance ratings, building size, room sizes, and material classifications and limits according to IBC criteria.

We are aware that temporary flammable storage rooms or containers are available for lease on the market, but are unsure if such units would meet the criteria stated above. This would have to be assessed by a qualified firm as well.

B. Will haz waste be stored in temp warehousing?

Yes. Luvata will need a temporary designated hazardous waste storage area. Luvata is currently classified as a Small Quantity Generator, and is allowed to accumulate up to 6,000 kilograms of hazardous waste prior to shipment off-site. This equates to up to approximately twenty-four (24) fifty-five gallon drums for which room would be needed to store this material prior to transport.

Additionally, consistent with WDNR and USEPA hazardous waste requirements, this storage area cannot be located within 50 feet of the facility's property line. Recently issued Hazardous Waste Generator Improvement Rules promulgated by USEPA have allowed this restriction to be relaxed by the local fire marshal, but to our knowledge, Wisconsin has not yet adopted these federal changes but is in the process of doing so.

Finally, as was conveyed regarding product storage, necessary security and restrictions will need to be in-place to ensure no unauthorized individuals, including trespassers, can access the materials.

C. Is temperature control necessary?

Temperature control in regards to cooling is not necessary for either the hazardous waste storage area or flammable storage room, but the material cannot be allowed to freeze, should remedial actions continue into the winter months. Additionally, fire protection and intrinsically safe electrical systems and lighting are required by code and insurance carrier requirements.

D. What flooring is acceptable for the stored items and traffic anticipated? (e.g., is the existing asphalt adequate?)

Impermeable flooring (asphalt, concrete, and/or chemical resistant plastic polymer) with appropriate diking is required to meet USEPA Spill Prevention, Control, and Countermeasure (SPCC) requirements, in addition to Luvata's insurance carrier requirements, for the hazardous waste storage and flammable liquid storage areas. The facility's SPCC plan will need to be updated to accommodate the temporary storage location and spill response measures. In regards to warehouse flooring, we are unsure as to whether or not the existing asphalt pavement in the west parking lot can support industrial loadings for material storage racks due to point loading of the rack supports and the weight of materials that are stored on the racks. Additionally, heavy fork truck traffic is utilized to move 10,000 pound plus wire coil stacks. We are not aware of any conventional use of asphalt for these purposes and imagine that the existing pavement may present safety hazards during its use under these conditions, and ultimately, could result in failure in certain locations. This of course would need to be verified by an industrial engineer or qualified construction firm.

E. Where is the storm water inlet(s) from the west parking lot?

The open-grate manhole is located in the middle of the west parking lot. This would necessarily be captured in the middle of the proposed temporary structure. Please see the attached diagram taken from the Facility's SWPPP, which is scaled to size. Should a temporary warehouse ultimately be determined to be a feasible option after considering all of the other matters that need to be addressed, storm water drainage controls for this area will need to be implemented as well.

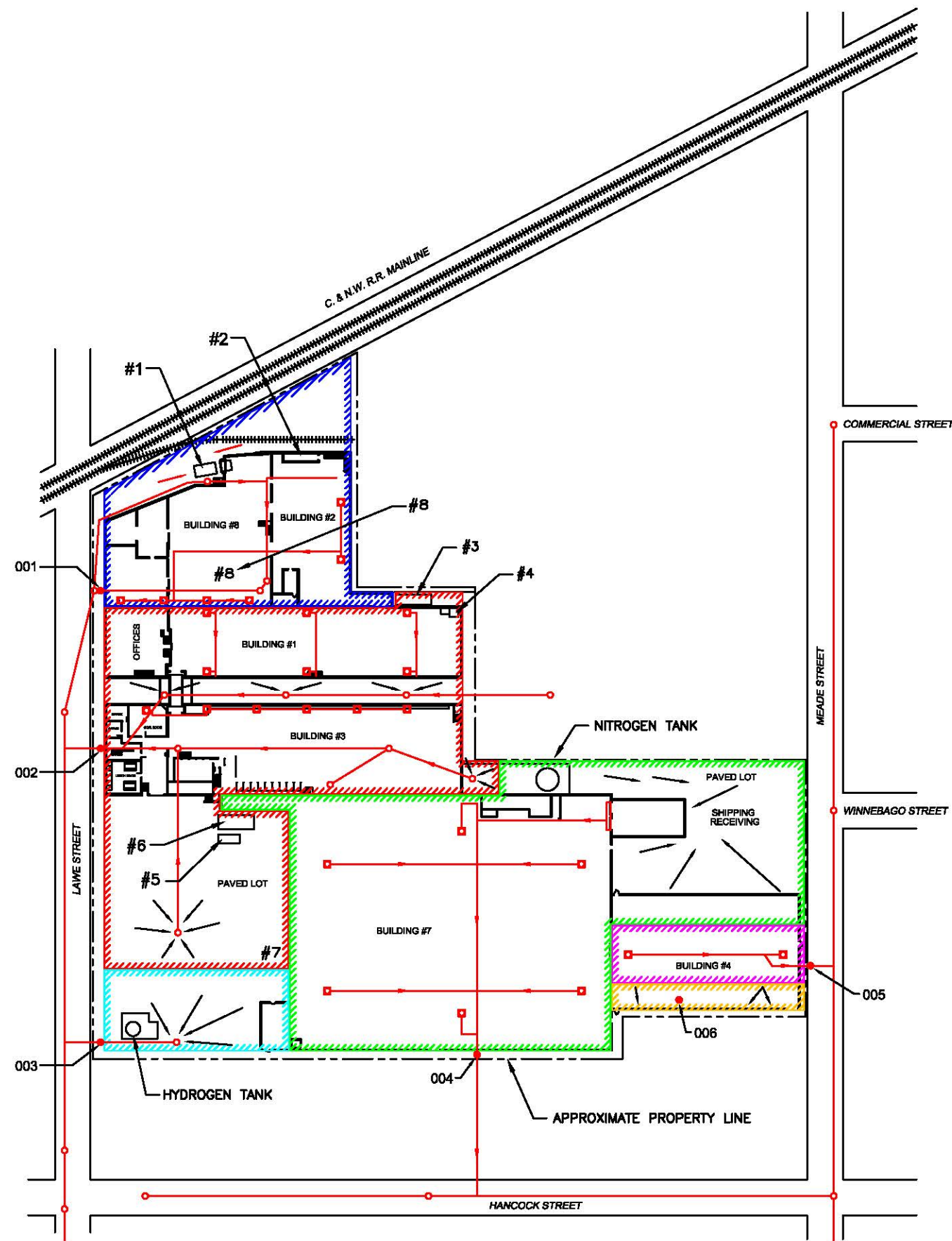
F. Where is the underground piping from the tank in the parking lot and what is the setback requirement from the tank?

Luvata is in the process of acquiring this information, and at this point, it cannot confirm how much time it will take to provide. The hydrogen tank was installed by Praxair, and is owned by them, meaning some of the necessary information will need to be provided by them. Considerable work was required by both Luvata and Praxair to obtain the necessary permits for the tank's installation from both the State and the City of Appleton due to the hazards of the material and its proximity to the public right-of-way.

In addition, and as was mentioned during our meeting, the regulations governing setbacks and other requirements, such as constructing a temporary structure over or near the top of an underground supply line, are extremely complex upon a quick cursory review. These requirements are governed by a multitude of regulatory bodies and consensus standards, including the Wisconsin Department of Agriculture, Trade and Consumer Protection Agency (ATCP), NFPA, Compressed Gas Association (CGA), IBC, and municipal requirements from the City of Appleton. Complicating this regulatory matrix is the fact that each regulatory body references, or incorporates by reference, other regulatory bodies resulting in an extremely complex regulatory matrix that does not allow for a simple answer to this question. While we believe the setback is 75 feet based on our experience with the tank's installation, we cannot formally verify this fact, as Luvata did not construct the tank. Luvata is currently in the process of contacting the appropriate experts at Praxair for their opinion on this matter, as it too complex for Luvata to undertake by itself. We will provide more information on this matter as soon as it is available, but expect the impending Memorial Day holiday may delay a final response.

4. Dept. of Homeland Security restrictions need to be identified soon to coordinate this remedy but also for continued operation of the groundwater pump and treat system and routine monitoring. For example, if the warehouse is physically separated from the manufacturing and secured and the contractors are restricted to the east parking lot and warehouse, are these contractors and subcontractors subject to DHS requirements? I leave this to Luvata and Albany to work out but please let me know if there is any assistance needed from DNR.

Luvata appreciates the offer to assist. However, under 6 CFR Part 27, Luvata is not authorized to discuss the details of Homeland Security Restrictions with individuals or other entities without such individuals and entities having a "need to know" and having Chemical Vulnerability Information (CVI) authorization and clearance from the U.S. Department of Homeland Security. Luvata conveyed to Albany and the WDNR the potential for "DHS required" background contractor screening at the meeting of May 20, 2011. Luvata is in the process of obtaining clarification on this matter, and respectfully requests that the WDNR and Albany keep this comment confidential and not disclose the facility's DHS regulatory status in a public manner for national security concerns as required by 6 CFR Part 27. Once we obtain clarification on this issue, we will provide a more definitive response.



LEGEND

- 006 = STORM WATER OUTFALL AND NUMBER
- = MANHOLE OR CATCH BASIN
- = ROOF DRAIN
- = RUNOFF DIRECTION
- - - = APPROXIMATE PROPERTY BOUNDRY
- //// = DRAINAGE AREA
- ||||| = RR TRACKS

ITEM BMP IMPLEMENTATION AREAS

- #1 = GENERAL REFUSE DUMPSTER
- #2 = RAILROAD RECEIVING DOCKS
- #3 = BAG HOUSE
- #4 = BUHLER OIL TANK
- #5 = SCRAP METAL ROLLOFF
- #6 = CARD BOARD COMPACTOR
- #7 = WASTE OIL LOADING ACTIVITIES
- #8 = EBNER ROOF VENT

- /// DRAINAGE AREA #1
13,860 SQ. FT., 90% IMPERVIOUS
- /// DRAINAGE AREA #2
39,560 SQ. FT., 99% IMPERVIOUS
- /// DRAINAGE AREA #3
8,260 SQ. FT., 100% IMPERVIOUS
- /// DRAINAGE AREA #4
47,990 SQ. FT., 99% IMPERVIOUS
- /// DRAINAGE AREA #5
3,970 SQ. FT., 100% IMPERVIOUS
- /// DRAINAGE AREA #6
2,270 SQ. FT., 100% IMPERVIOUS

STORM WATER BASE DRAINAGE MAP
 LUVATA APPLETON, LLC
 APPLETON, WISCONSIN

Project Title and Address



NORTH

STORM WATER BASE DRAINAGE MAP
SCALE: 1" = 60'-0"

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|-------------------------------------|--------------------|
| Approved By: MBoozer | Figure 1 |
| Date Approved: 12/18/2006 | |
| Date Drawn: 12/18/2006 | |
| Drawn by: UPDATED MGB | |