


Moll, John G - DNR (Gregory)

From: Robert Cigale <bob@endpointcorporation.com>
Sent: Thursday, June 2, 2022 10:56
To: Moll, John G - DNR (Gregory); Mylotta, Pamela A - DNR
Cc: Ramanauskas, Peter; Misky, David; lhziemba@michaelbest.com; Ben Caya
Subject: Requested Review Clarification
Attachments: 02-41-000023 - Request Clarification Letter - 060222.pdf

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Based on our conversation yesterday afternoon, we understand the Wisconsin Department of Natural Resources (WDNR) was requesting a clarification regarding the approvals requested associated with the proposed redevelopment of the Former Milwaukee Die Casting Company (MDCC) site at 4132 North Holton Avenue. Based on this request, we have prepared the attached letter. In order to move forward with the purchase of the property and to close on the necessary financing for the project, both the City of Milwaukee and the representative lenders are requesting the WDNR and the United States Environmental Protection Agency (USEPA) provide an approval of the viability of the proposed redevelopment of the site as described in the documents previously submitted. The development teams fully understands that ongoing discussions and clarifications of the specific details will be necessary to obtain final approval of the means and methods of construction and continuing obligations; however, at this time, we are asking the WDNR to approve in concept the redevelopment plan for the site and for the USEPA to approve of the future high occupancy use of the redeveloped site.

Thanks, Bob



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Mr. J. Gregory Moll, P.G.
Remediation and Redevelopment Program
Southeast Region – Milwaukee Service Center
1027 W. St. Paul Ave.
Milwaukee, WI 53233

June 2, 2022

Subject: Request Clarification Letter
4132 Holton LLC
4132 North Holton Street, Milwaukee Wisconsin
BRRTS: 02-41-000023

Dear Greg:

Thank you for your time yesterday afternoon to discuss the various submittals to the Wisconsin Department of Natural Resources (“WDNR” or the “Department”) prepared by Endpoint Solutions Corp. (Endpoint) on behalf of 4132 Holton LLC. As we discussed on that call, 4132 Holton LLC is the prospective purchaser of the property located at 4132 North Holton Street in Milwaukee, Wisconsin (the Property) from the Redevelopment Authority of the City of Milwaukee (RACM). 4132 Holton LLC has been in discussions with RACM about the purchase of the Property to construct a building for light industrial manufacturing and warehouse space which would house Spike Brewing’s manufacturing operations. Spike Brewing is a locally-owned manufacturer of stainless-steel home-brewing equipment; including brew kettles, fermenters and accessories.

The intent of this letter is to provide additional clarity regarding 4132 Holton LLC’s request of WDNR. 4132 Holton LLC understands that there are identified responsible parties that have been working with the WDNR’s Bureau of Remediation and Redevelopment to complete the necessary site investigation and, if appropriate, remedial activities at the Property, pursuant to the state’ Spill Statute. In addition, per the WDNR’s June 1, 2018 *Approval of Remedial Action and Post-Removal Site Control Plan*, we understand that several continuing obligations apply to the Property including a requirement to notify the WDNR in advance of certain activities occurring at the Property, such as removal or replacement of the existing Clay Cap, Soil Cover, and Topsoil Cover, excavation or grading of the land surface, filling on capped or covered areas, and construction or placement of a building or other structure.

If successful in acquiring the Property, 4132 Holton LLC’s intent is to redevelop the Property which will include several of the above activities (i.e., modification to the Cap areas, excavation and grading of the land surface, placement of additional fill and construction of a building for light industrial manufacturing). Before finalizing its purchase of the Property, 4132 Holton LLC is seeking WDNR’s concurrence that the general development concept proposed by 4132 Holton LLC is permissible at the Property given the continuing obligations and other Property-specific restrictions that apply. We understand that the Department will likely require additional design plan-level details regarding site construction and related matters; however, at this stage, 4132

Holton LLC is simply seeking the Department's confirmation that the proposed development plans for the Property can generally be approved. The critical elements that 4132 Holton LLC is seeking approval for are the following:

- Modification of the Cap to facilitate redevelopment;
- Placement of the proposed light industrial manufacturing building on the Property; and,
- Modification of the low occupancy limitation.

4132 Holton LLC has sought a coordinated review process with WDNR and the U.S. Environmental Protection Agency (USEPA) and we understand that USEPA will be considering the occupancy limitation modification.

PRIOR SUBMITTALS

4132 Holton LLC has summarized its proposed future plans in a few different submittals to the WDNR and USEPA. On January 18, 2022, Endpoint, on behalf of 4132 Holton LLC, submitted a document titled "*Post-Removal Site Control Plan Modification Request*" which summarized the proposed development plan, including details regarding the proposed cap modification and a request for modification of the occupancy limitation.

After receiving feedback from WDNR and USEPA, on May 13, 2022, Endpoint, on behalf of 4132 Holton LLC, submitted a document titled "*Remedial Action Options Report*" that, among other things, provided additional details regarding the proposed site development, site construction and proposed Materials Management Plan. While we used that title based on feedback provided by the WDNR, we now realize that title may be confusing because 4132 Holton LLC is not one of the responsible parties for the open environmental repair program (ERP) case on the Property (BRRTS 02-41-000023), nor is 4132 Holton LLC weighing in on the status of the Property's site investigation and/or remediation status. Any and all decisions about the Property's site investigation and remediation status, including the Remedial Action Options that may apply to the Property, are the concern of the responsible parties – not 4132 Holton LLC. To that end, we want to clarify that the document submitted on May 13, 2022 would probably be more correctly characterized as a general request for Technical Assistance or a Post-Removal Site Control Plan Modification Request. We would suggest a modification to this effect in the BRRTS listing for the Property.

Regardless of the report titles, in order for 4132 Holton LLC to move forward with transaction and financing matters for the proposed project, we are seeking the Department's review and approval of 4132 Holton LLC's proposed modification of the Cap to facilitate site development, placement of the proposed light industrial manufacturing building on the Property, and modification of the low occupancy limitation.

MODIFICATION OF THE CAP TO FACILITATE REDEVELOPMENT

As detailed in the documents previously submitted on behalf of 4132 Holton LLC, the site redevelopment plan includes the importation and placement of additional fill materials to create a level developable site; thereby, creating a thicker exposure barrier to the underlying contaminated

soils. In addition, the construction of the proposed building and parking and drive areas will create additional layers of exposure barriers consisting of concrete floor slabs and pavements and asphalt pavements.

OCCUPANCY LIMITATION

Regarding the coordinated review process that is being utilized between the Department and USEPA, we want to be clear that we are seeking confirmation that the low occupancy limitation that currently applies to the Property may be modified as described in the prior submittals. This is a critical element to 4132 Holton LLC's due diligence regarding the Property because if the low occupancy limitation is maintained, the proposed development will not be able to occur on the Property.

ACCESS

We understand that the responsible parties will require access to the Property going forward and we acknowledge that 4132 Holton LLC will reasonably cooperate and coordinate with the responsible parties regarding their necessary access measures. 4132 Holton LLC anticipates entering into an access agreement with the responsible parties to allow access to the Property, existing monitoring wells and piezometers to perform monitoring activities, as necessary, and to coordinate with the responsible parties and their consultants regarding access for any necessary active remedial measures.

DESIGN DETAILS

Lastly, we received a few comments from you this morning regarding some of the details related to the May 13th *Remedial Action Options Report* submittal. Clarifications associated with these comments are presented below. Your comments are followed by our responses in italics.

1. Section 4.6.1 states the topsoil component of the Topsoil Cover Cap, Soil Cover Cap, and Clay Cap will not be removed when engineered soil fill is placed on the site to achieve proposed grades. Section 8.2 states the topsoil component of the Soil Cover Cap and the Clay Cap will be removed for site redevelopment. Clarification is needed for whether the topsoil component of the protective caps will or will not be removed, and if removed, how will it be managed.

Per the Geotechnical Evaluation performed by Giles Engineering Associates, Inc. in May 2022, the Site is mantled by topsoil consisting of dark brown silty clay with little amounts of sand and organic matter. The thickness of this topsoil layer ranged between approximately four-inches (4") and 16". In general, the topsoil layer was thickest (approximately eight-inches [8"] to 16") within the Topsoil Cover Area, while the topsoil layer over the Soil Cover area ranged between approximately four-inches (4") to eight-inches (8").

Based on the low organic content of the topsoil layer, it is not imperative that this layer of material be removed prior to the placement of the engineered fill. However, if it is determined that the topsoil layer needs to be removed in selected areas, the topsoil present within the Soil Cover and Clay Cap Areas will be removed and stockpiled for reuse as necessary on the Site. As the topsoil layer in these areas was placed on top of clean

imported fill, the removal of the topsoil can proceed without concern for entrainment of residually contaminated soils. Should the topsoil layer within the Topsoil Cover Area require removal, the topsoil would be removed and direct loaded for offsite disposal as potential PCB-contaminated soils with concentrations less than the industrial direct contact residual contaminant level (RCL). More details regarding the specific Material Management Plan will be included in the pending Design Report.

2. The proposed grading plan shown on Figure 11 does not represent what is described in the report. Section 4.3.3 states a single bioretention basin will be constructed in the southeast part of the site and stormwater runoff will drain via sheet flow across paved portions of the site to this basin. Section 4.3.3 also states there will be controlled discharge from the basin to the ground surface, while Figure 13 shows discharge via a stormwater sewer to Manhole 6. Figure 11 also shows stormwater runoff will be directed to a second bioretention basin in the northeast part of the site and Figure 13 shows a stormwater sewer in the area of this basin. Construction of a basin in the north part of the site is also mentioned in Section 6.2 of the Report. Clarification is needed to show and describe the proposed site grade and stormwater management features that will be constructed.

The design of the Site has been evolving as we have proceeded. At present, the stormwater plan for the Site includes a single storm water basin in the southeast corner of the Site which discharges to the storm sewer system via Manhole 6. Clarifications to the text and figures associated with the stormwater plan will be addressed in the pending Design Report.

3. Figure 11 shows a stormwater bioretention basin that will be constructed in the south part of the site where a 6-inch Topsoil Cover Cap and a 2-foot Soil Cover Cap exist. Figure 14 of the Report shows a cross-section of the basin with the base extending 6-inches into the 2-foot Soil Cover Cap; however, the majority of the basin will be constructed where a 6-inch Topsoil Cover Cap exists. A cross-section should be provided to show the basin base in relation to the Topsoil Cover Cap and the underlying contaminated soil. An explanation should also be provided for why the basin will not be constructed with an impervious liner to prevent water infiltration to underlying residual contaminated soil.

A second cross-section will be prepared and included in the pending Design Report to show the relation of the stormwater basin to the Topsoil Cover. According to the Civil Engineer responsible for the design of the stormwater features, the stormwater basin is being designed to include an impermeable membrane. This detail will be added to the text and figures in the pending Design Report.

4. Section 4.3.3 states a sanitary sewer lateral from the proposed building will connect to an existing sanitary sewer east of the site at Manhole 4 after PCBs have been cleaned from the sanitary sewer. Section 5.2 of the Report states construction dewatering will discharge to a new sanitary sewer relay main to be constructed in N. Holton St. prior to site development. Clarification is needed for why a new sanitary sewer lateral from the proposed building will not connect to the sanitary sewer in N. Holton St. and how construction dewatering will be managed if neither sanitary sewer is available at the time of construction.

Discussions with the Milwaukee Metropolitan Sewage District (MMSD) were ongoing during preparation of the Remedial Action Options Report (RAOR). Following submission

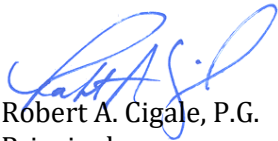
of the RAOR to the Department, it was determined that the timing of the proposed sewer cleaning would likely not meet the needs of the proposed development; therefore, the decision has been made to install the sanitary relay main in the North Holton Avenue right-of-way. These changes will be addressed in the pending Design Report.

CLOSING

As discussed, 4132 Holton LLC is committed to working with the Department and USEPA to address any open or remaining questions about the proposed site development, materials management plan or other related matters. If you have any questions regarding this request, please feel free to contact me directly at 414-858-1202 or Leah Ziembra at Michael Best & Friedrich at 608-283-4420.

Sincerely,

Endpoint Solutions



Robert A. Cigale, P.G.
Principal

cc: Pamela Mylotta, WDNR (via E-Mail)
Peter Ramanauskas, U.S. EPA (via E-Mail)
David Misky, Redevelopment Authority of the City of Milwaukee (via E-Mail)
Leah Ziembra, Michael Best & Friedrich LLP (via E-Mail)