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April 11, 2019

Mr. Tauren Beggs
Wisconsin Department of Natural Resources
2984 Shawano Avenue
Green Bay, WI 54313-6727

Subject: Request for Extension of Design Management Zone
Lemberger Landfill and Lemberger Transport and Recycling Superfund Site
Town of Franklin, Wisconsin

Dear Tauren:

As you are aware, the Lemberger Sites Remediation Group (LSRG) in conjunction with U.S. Environmental Protection Agency (USEPA) and the Wisconsin Department of Natural Resources (WDNR) are working towards implementing Monitored Natural Attenuation (MNA) as a long-term remedial solution for the Lemberger Landfill (LL; BRRTS No. 02-36-000112) and the Lemberger Transport and Recycling (LTR; BRRTS No. 02-36-000113) in the Town of Franklin, Manitowoc County, Wisconsin (the Site). As part of this effort, the project team that includes the Wisconsin Department of Natural Resources (WDNR), United States Environmental Protection Agency (USEPA), and the Lemberger Sites Remediation Group (LSRG) have discussed amending the point of standards application to include the design management zone (DMZ) as defined by NR 140.22 (3). In accordance with the Table 4 of NR140.22 (3) (d) the DMZ currently extends horizontally from the limits of waste at each landfill to a point 300 feet laterally as shown on Figure 1. The LSRG wishes to expand the current DMZ as allowed under NR 140.22(3)(b) that states that the WDNR can consider expansion or reduction of the DMZ by a horizontal distance up to 50 percent of the current DMZ. The purpose of this letter is to serve as our request for such an expansion.

NR 140.22(3)(c) lists 10 factors that the WDNR will consider when evaluating expansion of the DMZ. These factors are listed below along with a brief description of the relevant information as it pertains to the Site. Additional information on each of these factors can be found in previous project submittals – most recently the Monitored Natural Attenuation Report (TRC 2018).

1. **Nature, thickness, and permeability of unconsolidated materials, including topography** – The Lemberger landfills are underlain by heterogeneous glacial sediments that range in thickness from approximately 10 feet at the LTR to 70 feet to the north of the LTR. The sediment is divided into a saturated perched upper granular unit (UGU) that is 20 feet or less in thickness, underlain by a clay cohesive unit (CU) that serves as an aquitard and measures from less than 10 feet to 40 feet in thickness. These units are underlain by a lower granular unit (LGU) that ranges in thickness from being absent beneath parts of the LTR to 40 feet north of the landfills. The LGU is partially saturated and underlain by bedrock. The hydraulic conductivity of the UGU is approximately 3.1×10^{-1} cm/sec (878 ft/day) and the permeability of the LGU is approximately 2.6×10^{-2} cm/sec (74 ft/day) (Malcolm Pirnie 1998).
2. **Nature and permeability of bedrock** – The glacial sediment is underlain by over 200 feet of Niagaran dolomite bedrock that serves as the local aquifer. The dolomite is vuggy and very fossiliferous in part, with variable primary porosity and secondary fracture porosity. The bedrock topography is irregular but generally slopes to the west towards the Branch River. There are some bedrock exposures along Hempton Lake Road, at a quarry south of the LTR, and a quarry prospect immediately west of the LTR. Elsewhere, the rock is found at depths up to 70 feet bgs. The hydraulic conductivity of the bedrock unit is highly variable ranging from 0.233 cm/sec to 1.78×10^{-6} cm/sec with an average value of 2.5×10^{-3} cm/sec (7.1 ft/day) (RMT 2006).
3. **Groundwater depth, flow direction and velocity** – Where present, groundwater is encountered at a depth of approximately 4 to 14 feet bgs in the UGU. Groundwater in the UGU flows west towards the Branch River. The depth to groundwater in the LGU/bedrock wells ranges from 25 to 40 feet bgs. Groundwater in the LGU and bedrock are hydrologically connected, and the aquifer flows north and west towards the Branch River. The groundwater velocity in the LGU/bedrock is approximately 0.89 ft/day (TRC 2018).
4. **Waste volume, waste type and characteristics, including waste loading** – The actual volume of waste remaining in the 21-acre LL is not known, but the waste averages approximately 10 feet in thickness. The waste consists of fly ash, industrial solid waste, and municipal solid waste. Much of the waste in the 16-acre LTR was removed during remediation activities in 1996. The amount of any remaining material is unknown, as is the amount of any residual mass that has diffused into the soil and bedrock. Wastes have not been placed in the landfills since 1976 and remedial actions have mitigated continued releases to groundwater.

5. **Contaminant mobility** – Solid wastes in the LL are contained within a slurry wall and the CU. There are low concentrations of volatile organic compounds (VOCs) in the leachate, but ongoing monitoring indicates the containment measures are effective in protection of groundwater. Low concentrations of chlorinated VOCs (CVOCs) are found in groundwater downgradient of the LTR. The extent of CVOCs at or above the WDNR WAC NR 140 Enforcement Standard (ES) extends approximately 2200 feet north of the LTR (Figure 2) and has been steadily decreasing by natural processes (Figure 3).
6. **Distances to property boundary and surface waters** – Property boundaries and the current DMZ are shown on Figure 1. At the LL, the limit of waste is within 100 feet of the property boundaries to the east and south. To the north and west, the distance is approximately 500 – 600 feet. The waste limits at the LTR are within 80 (Sunnyslope Road) to over 350 feet of the property boundary. There is an unnamed intermittent stream approximately 900 feet west of the LL. A small farm pond is located approximately 600 feet west the LTR. The LL is approximately 3300 feet east of the Branch River and the LTR is approximately 2400 feet east of an unnamed tributary that flows into the Branch River.
7. **Engineering design of the facility, practice or activity** – A Remedial Investigation and Feasibility Study (RI/FS) was completed for the Site in 1992 and source control remedial activities were completed in 1996. Remedial activities included waste containment and isolation at the LL and waste removal and groundwater extraction and disposal (i.e. “pump-and-treat”) for the LTR. At the LL, wastes were consolidated into the center of the site and a containment wall was constructed by excavating three feet into the CU with continuous backfilling with a bentonite slurry. The LL was then covered with a clay cap and a leachate withdrawal system was installed. At the LTR, waste trenches were exhumed and drums, various other containers, soil and some liquids were removed for proper offsite disposal. The site was then filled, graded and fitted with a composite cap and graded to control surface water runoff to reduce infiltration. A groundwater pump-and-treat system was installed with three shallow sumps and six extraction wells located throughout the plume. The pump-and-treat system was operated for 9 years and an evaluation of its effectiveness concluded that the system had become inefficient compared with natural rates of CVOC reduction (RMT 2004). Both facilities are fenced to restrict egress and inspected bi-annually. An Institutional Control Plan (ICP) is in place that places restrictions on the depths of any new groundwater wells within an

approximately 3-square mile area that extends well beyond the area of impacted groundwater.

8. **Life span of the facility, practice or activity** – the landfills have been closed since 1976. The remedial measures are expected to continue until the groundwater concentrations reach acceptable levels throughout the DMZ. The estimated time for cleanup to occur for wells outside the current DMZ is 2031 (TRC 2018).
9. **Present and anticipated uses of land and groundwater** – The area around the facility is currently used for agriculture and light residential development. The Ridgeview Landfill is an active municipal solid waste landfill located directly northeast of the Site. It is likely that the Ridgeview Landfill will expand to the northeast and east of the Site in the future. Groundwater is used for domestic supply, although institutional controls include a WDNR-enforced Special Casing Area that requires any new water supply wells to extend casing to a depth of 250 feet bgs to extract groundwater only below that depth. The maximum vertical extent of the plume is approximately 160 feet bgs.
10. **Potential abatement options if an enforcement standard is exceeded** – Groundwater with CVOCs (primarily trichloroethene) above the ES originally extended up to 5000 feet north of the LTR. Presently, CVOCs extend approximately 2000 feet from the LTR and that extent continues to recede (Figure 3). Groundwater monitoring is accomplished through an extensive network of 42 monitoring wells that are positioned for the timely identification of any future changes in the distribution of CVOCs. In addition, groundwater monitoring is also conducted at 19 private water supply wells to determine if the wells are impacted. In the event of evidence of expansion of the area of CVOC impacts above the ES, the LSRG will consult with USEPA and WDNR to determine the proper mitigative measure(s). This could include enhanced monitoring and if expansion of the plume is confirmed, designing an engineered response to mitigate ant risks to human health or the environment.

The LSRG appreciates your consideration to expand the DMZ 150 feet beyond its present boundary as provided under NR 140.22 (3). The expanded DMZ will assist us in our determination that the site groundwater outside the DMZ can reach cleanup standards within a reasonable timeframe. TRC recently completed a natural attenuation evaluation for the Site (TRC 2018) that gives definitive evidence that CVOCs will naturally diminish to reach cleanup goals. This change is warranted because active groundwater remediation is known to be of limited effectiveness (RMT 2004) compared to natural attenuation and this was proven through detailed analysis (TRC 2018). This is especially true for older

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releases such as the Lemberger Landfills, where the constituents are sequestered deep within the bedrock matrix making any further methods of cleanup not only ineffective but also unnecessary. Twenty years of monitoring at the Site has clearly demonstrated a receding plume that poses no current or future risk.

Again, we appreciate the cooperation and expertise that WDNR and USEPA has provided in our efforts to advance the site to MNA through a Record of Decision in 2019. If you have any questions regarding this request, please contact us.

Sincerely,

TRC Environmental Corporation

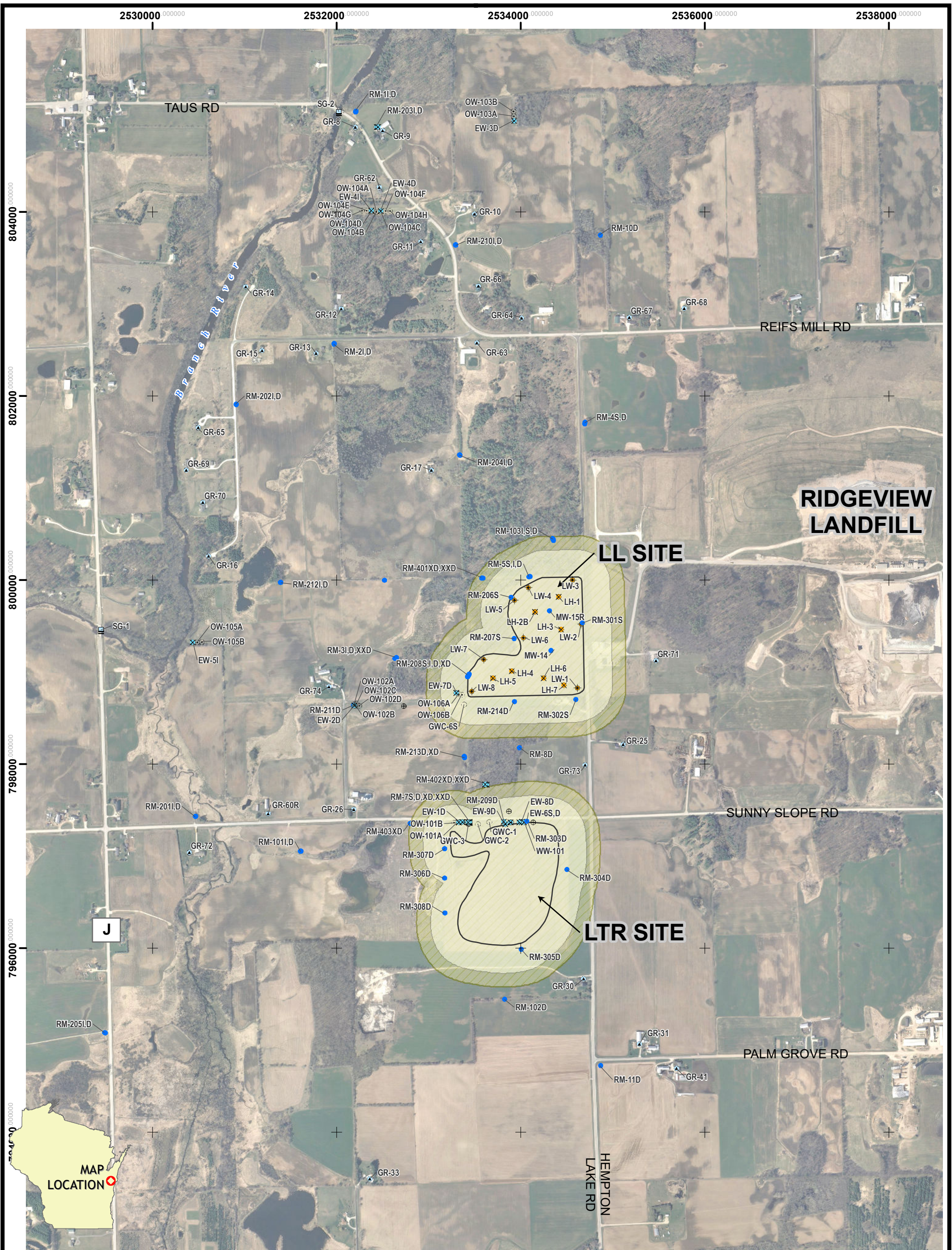

Christopher D. Krause, PE
Senior Project Manager


James Wedekind PG
Senior Geologist

Attachments: Figure 1 – Site Map Showing Current and Proposed DMZ
Figure 2 – Trichloroethene (TCE) Concentrations LGU and Bedrock
Units Q3 2017
Figure 3 – Total CVOC Isoconcentration Map of Molar Concentrations
Over Time

References

- Malcolm Pirnie. 1998. Lemberger Sites Remedial Action Modeling Report, Lemberger Landfills RD/RA Operable Unit 1. October 1998.
- RMT. 2004. Assessment of Remedial Action Effectiveness. Lemberger Landfill and Lemberger Transport and Recycling Sites, Town of Franklin, Wisconsin. June 2004.
- RMT. 2006. Field Investigation of Bedrock Characteristics. Lemberger Transport and Recycling Site, Town of Franklin, Wisconsin. June 2006.
- RMT. 2007. Leachate Head Evaluation Report for the Lemberger Landfill. October 2007.
- TRC. 2018. Monitored Natural Attenuation Report for the Lemberger Transport and Recycling, Inc. and Lemberger Landfill Superfund Sites Groundwater Operable Unit OU-1, Town of Franklin, Manitowoc County, Wisconsin. December 2018.

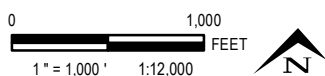


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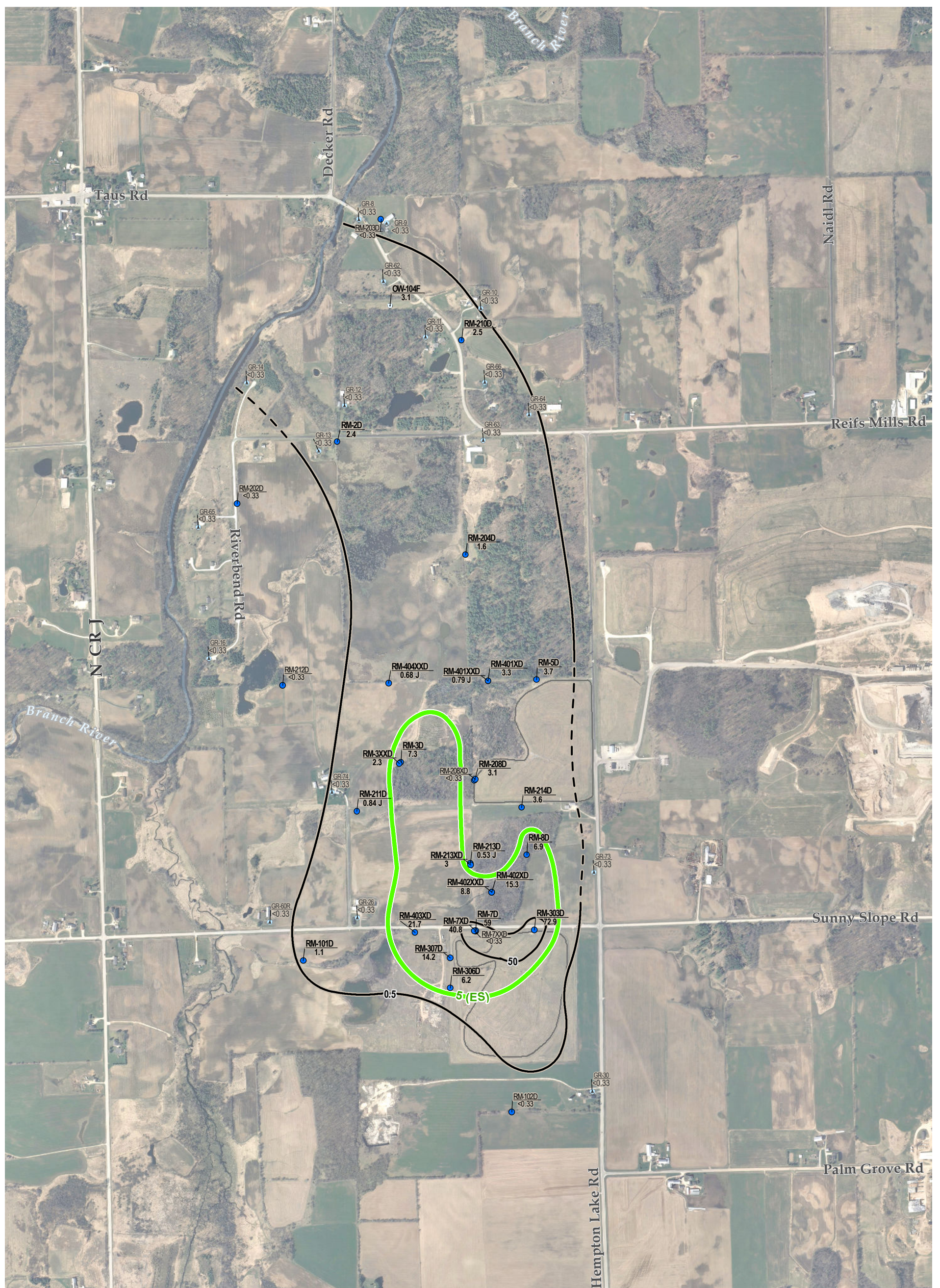
- | | | | |
|---|-------------------------------|---|---------------|
| ⊕ | BEDROCK BORING | 👤 | LANDFILL AREA |
| ⊙ | GW COLLECTION SUMP (GWC) | 👤 | 300 FT DMZ |
| ✕ | GW EXTRACTION WELL (EW) | 👤 | 450 FT DMZ |
| ⊙ | GW OBSERVATION WELL (OW) | | |
| ✕ | LEACHATE HEAD WELL (LH) | | |
| ✕ | LEACHATE WITHDRAWAL WELL (LW) | | |
| ● | MONITORING WELL (RM) | | |
| ⊙ | RESIDENTIAL WELL (GR) | | |
| ⊞ | STAFF GAUGE (SG) | | |

NOTES

1. AERIAL IMAGERY FROM MANITOWOC COUNTY, 2010.
2. MAP COORDINATES ARE WISCONSIN STATE PLANE, SOUTH ZONE, NAD 83, US SURVEY FOOT.



PROJECT: LEMBERGER SITES		
TOWN OF FRANKLIN, WISCONSIN		
MNA REPORT		
SHEET TITLE: SITE MAP SHOWING CURRENT AND PROPOSED DMZ		
DRAWN BY: R. SUEMNIGHT	SCALE: 1:12,000	PROJ. NO. 322766
CHECKED BY: M. WESTOVER		FILE NO. 322766-001.mxd
APPROVED BY: J. WEDEKIND	DATE PRINTED:	FIGURE 1
DATE: MARCH 2019		
		708 Heartland Trail, Suite 3000 Madison, WI 53717 Phone: 608.826.3600 www.trcsolutions.com

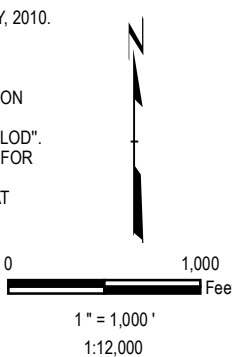


LEGEND

- RESIDENTIAL WELL (GR)
- GW OBSERVATION WELL (OW)
- MONITORING WELL (RM)
- 25** SAMPLE RESULT (µg/L) **BOLD** IF DETECT
- ISOCONCENTRATION CONTOUR (DASHED WHERE INFERRED) (µg/L)
- ENFORCEMENT STANDARD (ES) CONTOUR (µg/L)

NOTES:

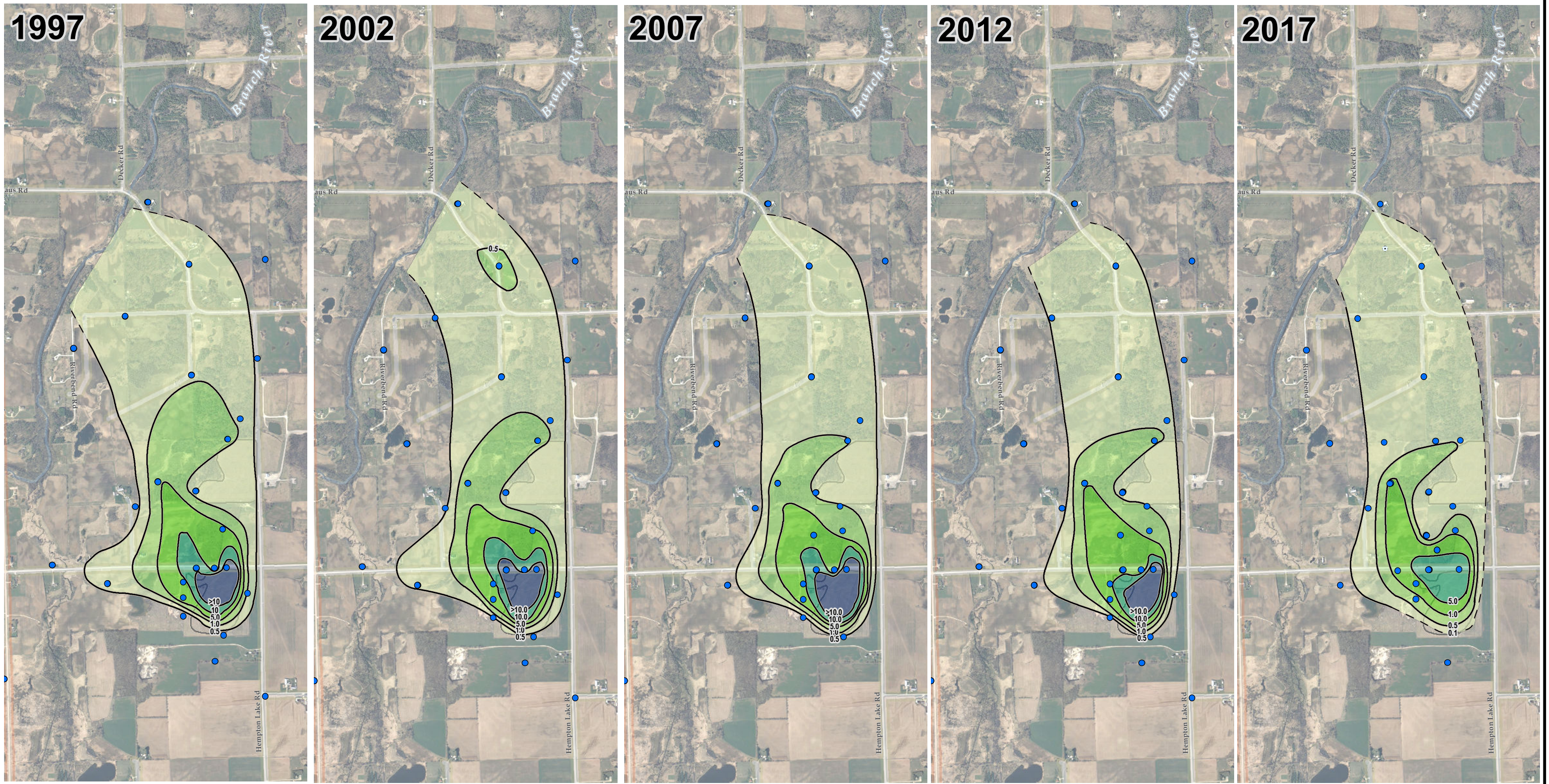
1. AERIAL IMAGERY FROM MANITOWOC COUNTY, 2010.
2. ANALYTICAL RESULTS ARE SHOWN IN: µg/L.
3. "J" = RESULT IS BETWEEN THE LIMIT OF DETECTION (LOD) AND THE LIMIT OF QUANTITATION (LOQ).
4. NON-DETECT RESULTS ARE REPORTED AS "<LOD".
5. RESIDENTIAL WELL RESULTS ARE NOT USED FOR CONTOURING.
6. THE HIGHEST OBSERVED CONCENTRATION AT EACH WELL NEST WAS USED TO CONTOUR CONCENTRATIONS.



PROJECT:		LEMBERGER SITES TOWN OF FRANKLIN, WISCONSIN 2018 MNA REPORT	
TRICHLOROETHENE (TCE) CONCENTRATIONS LGU AND BEDROCK UNITS 2017 Q3			
DRAWN BY:	R. SUEMNICHT	SCALE:	1:12,000
CHECKED BY:	M. WESTOVER	PROJ. NO.:	322766
APPROVED BY:	J. WEDEKIND	FILE NO.:	322766-002.mxd
DATE:	MARCH 2019	DATE PRINTED:	
			FIGURE 2



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LEGEND

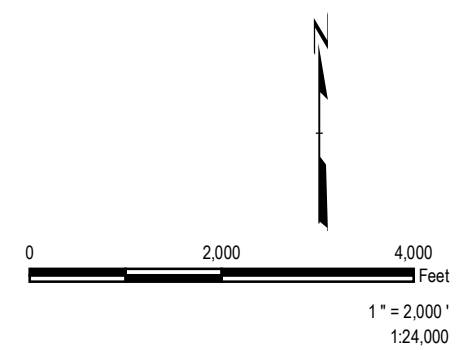
CVOC CONCENTRATIONS (µmol/L)

- 0.1 - 0.5 µmol/L
- 0.5 - 1 µmol/L
- 1 - 5 µmol/L
- 5 - 10 µmol/L
- >10 µmol/L

● MONITORING WELL (RM)

ISOCONCENTRATION CONTOUR (DASHED WHERE INFERRED) (µmol/L)

- NOTES:**
1. AERIAL IMAGERY FROM MANITOWOC COUNTY, 2010.
 2. TOTAL CVOC CONCENTRATIONS INCLUDE THE SUM OF PCE, TCE, CIS- AND TRANS-, 1,2-DCE, VC, 1,1,1-TCA, 1,1-DCA, 1,1-DCE, AND CHLOROETHENE. TOTALS INCLUDE ESTIMATED ("J"-FLAGGED) RESULTS. NON-DETECT WERE COUNTED AS ZERO IN THE CALCULATION OF TOTAL CVOCs.
 3. THE MONITORING WELL LOCATIONS SHOWN ARE THE LOCATIONS WITH DATA USED TO GENERATE THE ISOCONCENTRATION CONTOURS.
 4. WELL IDs AND POSTED DATA ARE INCLUDED FOR EACH OF THE INDIVIDUAL PLUME MAPS IN APPENDIX D.



PROJECT:		LEMBERGER SITES TOWN OF FRANKLIN, WISCONSIN 2018 MNA REPORT	
TITLE:		TOTAL CVOC ISOCONCENTRATION MAP OF MOLAR CONCENTRATIONS OVER TIME	
DRAWN BY:	R. SUEMNICHT	PROJ NO.:	322766
CHECKED BY:	M. WESTOVER	FIGURE 3	
APPROVED BY:	J. WEDEKIND		
DATE:	MARCH 2019		
		708 Heartland Trail, Suite 3000 Madison, WI 53717 Phone: 608.826.3600 www.trcsolutions.com	
FILE NO.:		322766-003.mxd	

Notice: Use this form to request a **written response (on agency letterhead)** from the Department of Natural Resources (DNR) regarding technical assistance, a post-closure change to a site, a specialized agreement or liability clarification for Property with known or suspected environmental contamination. A fee will be required as is authorized by s. 292.55, Wis. Stats., and NR 749, Wis. Adm. Code., unless noted in the instructions below. Personal information collected will be used for administrative purposes and may be provided to requesters to the extent required by Wisconsin's Open Records law [ss. 19.31 - 19.39, Wis. Stats.].

Definitions

"Property" refers to the subject Property that is perceived to have been or has been impacted by the discharge of hazardous substances.

"Liability Clarification" refers to a written determination by the Department provided in response to a request made on this form. The response clarifies whether a person is or may become liable for the environmental contamination of a Property, as provided in s. 292.55, Wis. Stats.

"Technical Assistance" refers to the Department's assistance or comments on the planning and implementation of an environmental investigation or environmental cleanup on a Property in response to a request made on this form as provided in s. 292.55, Wis. Stats.

"Post-closure modification" refers to changes to Property boundaries and/or continuing obligations for Properties or sites that received closure letters for which continuing obligations have been applied or where contamination remains. Many, but not all, of these sites are included on the GIS Registry layer of RR Sites Map to provide public notice of residual contamination and continuing obligations.

Select the Correct Form

This form should be used to request the following from the DNR:

- Technical Assistance
- Liability Clarification
- Post-Closure Modifications
- Specialized Agreements (tax cancellation, negotiated agreements, etc.)

Do not use this form if one of the following applies:

- Request for an **off-site liability exemption or clarification** for Property that has been or is perceived to be contaminated by one or more hazardous substances that originated on another Property containing the source of the contamination. Use DNR's Off-Site Liability Exemption and Liability Clarification Application Form 4400-201.
- Submittal of an Environmental Assessment for the **Lender Liability Exemption**, s 292.21, Wis. Stats., **if no response or review by DNR is requested**. Use the Lender Liability Exemption Environmental Assessment Tracking Form 4400-196.
- Request for an **exemption to develop on a historic fill site** or licensed landfill. Use DNR's Form 4400-226 or 4400-226A.
- **Request for closure** for Property where the investigation and cleanup actions are completed. Use DNR's Case Closure - GIS Registry Form 4400-202.

All forms, publications and additional information are available on the internet at: dnr.wi.gov/topic/Brownfields/Pubs.html.

Instructions

1. Complete sections 1, 2, 6 and 7 for all requests. Be sure to provide adequate and complete information.
2. Select the type of assistance requested: Section 3 for technical assistance or post-closure modifications, Section 4 for a written determination or clarification of environmental liabilities; or Section 5 for a specialized agreement.
3. Include the fee payment that is listed in Section 3, 4, or 5, unless you are a "Voluntary Party" enrolled in the Voluntary Party Liability Exemption Program **and** the questions in Section 2 direct otherwise. Information on to whom and where to send the fee is found in Section 8 of this form.
4. Send the completed request, supporting materials and the fee to the appropriate DNR regional office where the Property is located. See the map on the last page of this form. A paper copy of the signed form and all reports and supporting materials shall be sent with an electronic copy of the form and supporting materials on a compact disk. For electronic document submittal requirements see: <http://dnr.wi.gov/files/PDF/pubs/rr/RR690.pdf>

The time required for DNR's determination varies depending on the complexity of the site, and the clarity and completeness of the request and supporting documentation.

Technical Assistance, Environmental Liability Clarification or Post-Closure Modification Request

Form 4400-237 (R 12/18)

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Section 1. Contact and Recipient Information

Requester Information

This is the person requesting technical assistance or a post-closure modification review, that his or her liability be clarified or a specialized agreement and is identified as the requester in Section 7. DNR will address its response letter to this person.

Last Name	First	MI	Organization/ Business Name
Krause	Kristopher	K	TRC Environmental Corporation
Mailing Address			City
708 Heartland Trail, Suite 3000			Madison
			State
			WI
			ZIP Code
			53717
Phone # (include area code)	Fax # (include area code)	Email	
(608) 826-3737	(608) 826-3941	kkrause@trccompanies.com	

The requester listed above: (select all that apply)

- Is currently the owner
- Is currently leasing the Property
- Is a lender with a mortgage interest in the Property
- Is considering selling the Property
- Is considering acquiring the Property
- Other. Explain the status of the Property with respect to the applicant:

Requester is environmental consultant for the group of potentially responsible parties.

Contact Information (to be contacted with questions about this request)

Select if same as requester

Contact Last Name	First	MI	Organization/ Business Name
Krause	Kristopher	D	TRC Environmental Corporation
Mailing Address			City
708 Heartland Trail, Suite 3000			Madison
			State
			WI
			ZIP Code
			53717
Phone # (include area code)	Fax # (include area code)	Email	
(608) 826-3637	(608) 826-3941	kkrause@trccompanies.com	

Environmental Consultant (if applicable)

Contact Last Name	First	MI	Organization/ Business Name
Krause	Kristopher	S	TRC Environmental Corporation
Mailing Address			City
708 Heartland Trail, Suite 3000			Madison
			State
			WI
			ZIP Code
			53717
Phone # (include area code)	Fax # (include area code)	Email	
(608) 826-3637	(608) 826-3941	kkrause@trccompanies.com	

Attorney (if applicable)

Contact Last Name	First	MI	Organization/ Business Name
Potts	Brian	H.	Perkins Coie
Mailing Address			City
33 East Main Street			Madison
			State
			WI
			ZIP Code
			53703
Phone # (include area code)	Fax # (include area code)	Email	
(608) 663-7493	(608) 663-7499	BPotts@perkinscoie.com	

Property Owner (if different from requester)

Contact Last Name	First	MI	Organization/ Business Name
Lemberger	Kenneth		
Mailing Address			City
10007 Reif's Mill Road			Whitelaw
			State
			WI
			ZIP Code
			54247
Phone # (include area code)	Fax # (include area code)	Email	
(920) 732-4324			

Technical Assistance, Environmental Liability Clarification or Post-Closure Modification Request

Form 4400-237 (R 12/18)

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Section 2. Property Information				
Property Name Lemberger Landfill and Lemberger Transport and Recycling Superfund Site			FID No. (if known)	
BRRTS No. (if known) 02-36-000112/02-36-000113		Parcel Identification Number		
Street Address 6114 Hempton Lake Rd		City Franklin		State WI
County Manitowoc		Municipality where the Property is located <input type="radio"/> City <input checked="" type="radio"/> Town <input type="radio"/> Village of Franklin		ZIP Code 54247
		Property is composed of: <input type="radio"/> Single tax parcel <input checked="" type="radio"/> Multiple tax parcels		Property Size Acres

1. Is a response needed by a specific date? (e.g., Property closing date) Note: Most requests are completed within 60 days. Please plan accordingly.

No Yes

Date requested by: 05/15/2019

Reason: To obtain ROD amendment within this Fiscal Year for USEPA.

2. Is the "Requester" enrolled as a Voluntary Party in the Voluntary Party Liability Exemption (VPLE) program?

- No. **Include the fee that is required for your request in Section 3, 4 or 5.**
 Yes. **Do not include a separate fee.** This request will be billed separately through the VPLE Program.

**Fill out the information in Section 3, 4 or 5 which corresponds with the type of request:
 Section 3. Technical Assistance or Post-Closure Modifications;
 Section 4. Liability Clarification; or Section 5. Specialized Agreement.**

Section 3. Request for Technical Assistance or Post-Closure Modification

Select the type of technical assistance requested: **[Numbers in brackets are for WI DNR Use]**

- No Further Action Letter (NFA) (Immediate Actions) - NR 708.09, [183] - **Include a fee of \$350.** Use for a written response to an immediate action after a discharge of a hazardous substance occurs. Generally, these are for a one-time spill event.
- Review of Site Investigation Work Plan - NR 716.09, [135] - **Include a fee of \$700.**
- Review of Site Investigation Report - NR 716.15, [137] - **Include a fee of \$1050.**
- Approval of a Site-Specific Soil Cleanup Standard - NR 720.10 or 12, [67] - **Include a fee of \$1050.**
- Review of a Remedial Action Options Report - NR 722.13, [143] - **Include a fee of \$1050.**
- Review of a Remedial Action Design Report - NR 724.09, [148] - **Include a fee of \$1050.**
- Review of a Remedial Action Documentation Report - NR 724.15, [152] - **Include a fee of \$350**
- Review of a Long-term Monitoring Plan - NR 724.17, [25] - **Include a fee of \$425.**
- Review of an Operation and Maintenance Plan - NR 724.13, [192] - **Include a fee of \$425.**

Other Technical Assistance - s. 292.55, Wis. Stats. [97] (For request to build on an abandoned landfill use Form 4400-226)

- Schedule a Technical Assistance Meeting - **Include a fee of \$700.**
- Hazardous Waste Determination - **Include a fee of \$700.**
- Other Technical Assistance - **Include a fee of \$700.** Explain your request in an attachment.

Post-Closure Modifications - NR 727, [181]

- Post-Closure Modifications: Modification to Property boundaries and/or continuing obligations of a closed site or Property; sites may be on the GIS Registry. This also includes removal of a site or Property from the GIS Registry. **Include a fee of \$1050, and:**
 - Include a fee of \$300 for sites with residual soil contamination; and
 - Include a fee of \$350 for sites with residual groundwater contamination, monitoring wells or for vapor intrusion continuing obligations.

Attach a description of the changes you are proposing, and documentation as to why the changes are needed (if the change to a Property, site or continuing obligation will result in revised maps, maintenance plans or photographs, those documents may be submitted later in the approval process, on a case-by-case basis).

**Technical Assistance, Environmental Liability
Clarification or Post-Closure Modification Request**

Form 4400-237 (R 12/18)

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Skip Sections 4 and 5 if the technical assistance you are requesting is listed above and complete Sections 6 and 7 of this form.

Section 4. Request for Liability Clarification

Select the type of liability clarification requested. Use the available space given or attach information, explanations, or specific questions that you need answered in DNR's reply. Complete Sections 6 and 7 of this form. **[Numbers in brackets are for DNR Use]**

"Lender" liability exemption clarification - s. 292.21, Wis. Stats. [686]

❖ **Include a fee of \$700.**

Provide the following documentation:

- (1) ownership status of the real Property, and/or the personal Property and fixtures;
- (2) an environmental assessment, in accordance with s. 292.21, Wis. Stats.;
- (3) the date the environmental assessment was conducted by the lender;
- (4) the date of the Property acquisition; for foreclosure actions, include a copy of the signed and dated court order confirming the sheriff's sale.
- (5) documentation showing how the Property was acquired and the steps followed under the appropriate state statutes.
- (6) a copy of the Property deed with the correct legal description; and,
- (7) the Lender Liability Exemption Environmental Assessment Tracking Form (Form 4400-196).
- (8) If no sampling was done, please provide reasoning as to why it was **not** conducted. Include this either in the accompanying environmental assessment or as an attachment to this form, and cite language in s. 292.21(1)(c)2., h.-i., Wis. Stats.:
 - h. The collection and analysis of representative samples of soil or other materials in the ground that are suspected of being contaminated based on observations made during a visual inspection of the real Property or based on aerial photographs, or other information available to the lender, including stained or discolored soil or other materials in the ground and including soil or materials in the ground in areas with dead or distressed vegetation. The collection and analysis shall identify contaminants in the soil or other materials in the ground and shall quantify concentrations.
 - i. The collection and analysis of representative samples of unknown wastes or potentially hazardous substances found on the real Property and the determination of concentrations of hazardous waste and hazardous substances found in tanks, drums or other containers or in piles or lagoons on the real Property.

"Representative" liability exemption clarification (e.g. trustees, receivers, etc.) - s. 292.21, Wis. Stats. [686]

❖ **Include a fee of \$700.**

Provide the following documentation:

- (1) ownership status of the Property;
- (2) the date of Property acquisition by the representative;
- (3) the means by which the Property was acquired;
- (4) documentation that the representative has no beneficial interest in any entity that owns, possesses, or controls the Property;
- (5) documentation that the representative has not caused any discharge of a hazardous substance on the Property; and
- (6) a copy of the Property deed with the correct legal description.

Clarification of local governmental unit (LGU) liability exemption at sites with: (select all that apply)

- hazardous substances spills - s. 292.11(9)(e), Wis. Stats. [649];
- Perceived environmental contamination - [649];
- hazardous waste - s. 292.24 (2), Wis. Stats. [649]; and/or
- solid waste - s. 292.23 (2), Wis. Stats. [649].

❖ **Include a fee of \$700, a summary of the environmental liability clarification being requested, and the following:**

- (1) clear supporting documentation showing the acquisition method used, and the steps followed under the appropriate state statute(s).
- (2) current and proposed ownership status of the Property;
- (3) date and means by which the Property was acquired by the LGU, where applicable;
- (4) a map and the ¼, ¼ section location of the Property;
- (5) summary of current uses of the Property;
- (6) intended or potential use(s) of the Property;
- (7) descriptions of other investigations that have taken place on the Property; and
- (8) (for solid waste clarifications) a summary of the license history of the facility.

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Section 4. Request for Liability Clarification (cont.)

Lease liability clarification - s. 292.55, Wis. Stats. [646]

❖ **Include a fee of \$700 for a single Property, or \$1400 for multiple Properties and the information listed below:**

- (1) a copy of the proposed lease;
- (2) the name of the current owner of the Property and the person who will lease the Property;
- (3) a description of the lease holder's association with any persons who have possession, control, or caused a discharge of a hazardous substance on the Property;
- (4) map(s) showing the Property location and any suspected or known sources of contamination detected on the Property;
- (5) a description of the intended use of the Property by the lease holder, with reference to the maps to indicate which areas will be used. Explain how the use will not interfere with any future investigation or cleanup at the Property; and
- (6) all reports or investigations (e.g. Phase I and Phase II Environmental Assessments and/or Site Investigation Reports conducted under s. NR 716, Wis. Adm. Code) that identify areas of the Property where a discharge has occurred.

General or other environmental liability clarification - s. 292.55, Wis. Stats. [682] - Explain your request below.

❖ **Include a fee of \$700 and an adequate summary of relevant environmental work to date.**

No Action Required (NAR) - NR 716.05, [682]

❖ **Include a fee of \$700.**

Use where an environmental discharge has or has not occurred, and applicant wants a DNR determination that no further assessment or clean-up work is required. Usually this is requested after a Phase I and Phase II environmental assessment has been conducted; the assessment reports should be submitted with this form. This is not a closure letter.

Clarify the liability associated with a "closed" Property - s. 292.55, Wis. Stats. [682]

❖ **Include a fee of \$700.**

- Include a copy of any closure documents if a state agency other than DNR approved the closure.

Use this space or attach additional sheets to provide necessary information, explanations or specific questions to be answered by the DNR. We request WDNR Technical Assistance for review of a letter requesting WDNR approval of a expansion of the Design Management Zone (DMZ) as per NR 140.22(3)(b) at the Lemberger Landfills Superfund Site (Site) in Franklin, WI. This expansion has been discussed with the USEPA and WDNR for several years as a means to support an amendment to the Record of Decision (ROD) for the Site. The expansion will allow USEPA to better demonstrate that natural attenuation of constituents in the groundwater is a viable remedial strategy for the Site.

Section 5. Request for a Specialized Agreement

Select the type of agreement needed. Include the appropriate draft agreements and supporting materials. Complete Sections 6 and 7 of this form. More information and model draft agreements are available at: dnr.wi.gov/topic/Brownfields/lgu.html#tabx4.

Tax cancellation agreement - s. 75.105(2)(d), Wis. Stats. [654]

❖ **Include a fee of \$700, and the information listed below:**

- (1) Phase I and II Environmental Site Assessment Reports,
- (2) a copy of the Property deed with the correct legal description.

Agreement for assignment of tax foreclosure judgement - s.75.106, Wis. Stats. [666]

❖ **Include a fee of \$700, and the information listed below:**

- (1) Phase I and II Environmental Site Assessment Reports,
- (2) a copy of the Property deed with the correct legal description.

Negotiated agreement - Enforceable contract for non-emergency remediation - s. 292.11(7)(d) and (e), Wis. Stats. [630]

❖ **Include a fee of \$1400, and the information listed below:**

- (1) a draft schedule for remediation; and,
- (2) the name, mailing address, phone and email for each party to the agreement.

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Section 6. Other Information Submitted

Identify all materials that are included with this request.

Send both a paper copy of the signed form and all reports and supporting materials, and an electronic copy of the form and all reports, including Environmental Site Assessment Reports, and supporting materials on a compact disk.

Include one copy of any document from any state agency files that you want the Department to review as part of this request. The person submitting this request is responsible for contacting other state agencies to obtain appropriate reports or information.

- Phase I Environmental Site Assessment Report - Date: _____
- Phase II Environmental Site Assessment Report - Date: _____
- Legal Description of Property (required for all liability requests and specialized agreements)
- Map of the Property (required for all liability requests and specialized agreements)

Analytical results of the following sampled media: Select all that apply and include date of collection.

- Groundwater
- Soil
- Sediment
- Other medium - Describe: _____

Date of Collection: _____

- A copy of the closure letter and submittal materials
- Draft tax cancellation agreement
- Draft agreement for assignment of tax foreclosure judgment
- Other report(s) or information - Describe: Letter requesting expansion of the DMZ as per NR 140.22(3)(b)

For Property with newly identified discharges of hazardous substances only: Has a notification of a discharge of a hazardous substance been sent to the DNR as required by s. NR 706.05(1)(b), Wis. Adm. Code?

- Yes - Date (if known): _____
- No

Note: The Notification for Hazardous Substance Discharge (non-emergency) form is available at:
dnr.wi.gov/files/PDF/forms/4400/4400-225.pdf.

Section 7. Certification by the Person who completed this form

- I am the person submitting this request (requester)
- I prepared this request for: _____
Requester Name

I certify that I am familiar with the information submitted on this request, and that the information on and included with this request is true, accurate and complete to the best of my knowledge. I also certify I have the legal authority and the applicant's permission to make this request.


Signature

April 11, 2019
Date Signed

Senior Project Manager
Title

(608) 826-3637
Telephone Number (include area code)

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Section 8. DNR Contacts and Addresses for Request Submittals

Send or deliver one paper copy and one electronic copy on a compact disk of the completed request, supporting materials, and fee to the region where the property is located to the address below. Contact a DNR regional brownfields specialist with any questions about this form or a specific situation involving a contaminated property. For electronic document submittal requirements see: <http://dnr.wi.gov/files/PDF/pubs/rr/RR690.pdf>.

DNR NORTHERN REGION

Attn: RR Program Assistant
Department of Natural Resources
223 E Steinfest Rd Antigo, WI 54409

DNR NORTHEAST REGION

Attn: RR Program Assistant
Department of Natural Resources
2984 Shawano Avenue
Green Bay WI 54313

DNR SOUTH CENTRAL REGION

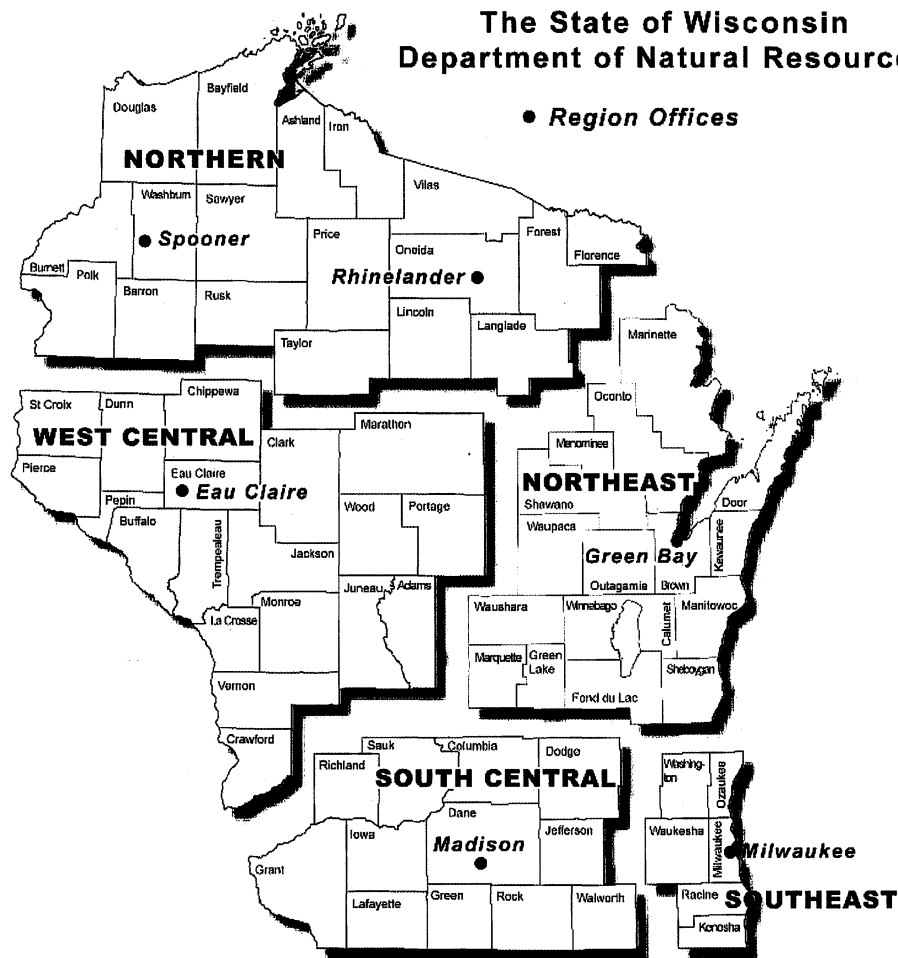
Attn: RR Program Assistant
Department of Natural Resources
3911 Fish Hatchery Road
Fitchburg WI 53711

DNR SOUTHEAST REGION

Attn: RR Program Assistant
Department of Natural Resources
2300 North Martin Luther King Drive
Milwaukee WI 53212

DNR WEST CENTRAL REGION

Attn: RR Program Assistant
Department of Natural Resources
1300 Clairemont Ave.
Eau Claire WI 54702



Note: These are the Remediation and Redevelopment Program's designated regions. Other DNR program regional boundaries may be different.

DNR Use Only			
Date Received	Date Assigned	BRRTS Activity Code	BRRTS No. (if used)
DNR Reviewer		Comments	
Fee Enclosed? <input type="radio"/> Yes <input type="radio"/> No	Fee Amount \$	Date Additional Information Requested	Date Requested for DNR Response Letter
Date Approved	Final Determination		