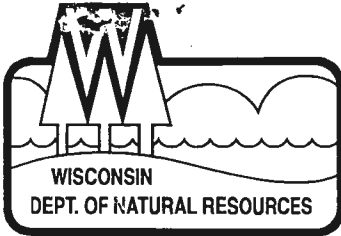


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State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Scott McCallum, Governor  
Darrell Bazzell, Secretary

101 S. Webster St.  
P.O. Box 7921  
Madison, Wisconsin 53707-7921  
Telephone 608-266-0848  
FAX 608-266-6983

December 21, 2001

**CERTIFIED MAIL**  
**Return Receipt Requested**

Walter Nickel Trust  
761 N400W  
Logan, Utah 84321

Scott B. Fleming  
Weiss, Berzowski & Brady, LLP  
Attorney for Ronald Nickel  
700 N. Water St.  
Milwaukee, WI 53202-4273

**Subject: Request for Reimbursement of Costs Associated with the Investigation & Remediation of Contamination at Sanitary Transfer and Landfill, Delafield, WI; Notification of Intent to File Lien**

To Whom It May Concern:

The Department of Natural Resources (Department) has been attempting to work with you since at least 1982 to remediate the above-referenced property. See legal description of the property, attached to this letter and marked as Exhibit A. (NOTE: the Department reserves the right to amend this legal description, if necessary, since the Department has conflicting information regarding the legal description of the property). DNR issued a conditional plan approval for abandoning the landfill in August 1982. On or about January 22, 1987, DNR modified the 1982 plan approval. Sanitary Transfer and Landfill did not comply with the 1987 modified plan approval. On September 12, 1989, the State of Wisconsin filed a complaint against the defendants, Sanitary Transfer and Landfill, Inc. ("Sanitary"), Walter N. Nickel Trust, Walter N. Nickel, Trustee, and Ronald W. Nickel (Case No. 89-CV-2176). On October 11, 1990, an Amended Judgment and Order was entered to resolve Case. No. 89-CV-2176. The Court ordered Sanitary to pay to the State the sum of \$30,000 as forfeitures and penalties, in three installments of \$10,000 each, due on June 30, 1991, June 30, 1992, and June 30, 1993. The Court also ordered Sanitary to comply with all the terms and requirements set forth in the Abandonment Plan Conditional Approval ("Conditional Approval"), dated August 20, 1982, and the Modification to Closure Plan Approval ("Modification"), dated January 22, 1987.

The Order further provided that if Sanitary would timely submit the monitoring data required and otherwise comply with the terms and conditions in the Conditional Approval and the Modification during the time periods from June 1, 1990, through May 31, 1993, the State would waive payment of the forfeitures and penalties. The Trust notified the Department on August 7, 1991 that Sanitary did not have any resources to implement the Modification. Sanitary failed to timely submit the monitoring data required and failed to comply with the terms and conditions in the Conditional Approval and Modification. The State has been using money from the Environmental Fund to monitor the Property and to haul away leachate since 1991.

As of November 30, 2001, the Department has incurred costs of \$1,852,037.32 to contract for the installation, operation and maintenance of the groundwater extraction system, soil and groundwater monitoring, leachate removal, and installation of monitoring wells to continue evaluation of the contaminant plume, and for the Department's costs, such as salary, fringe benefits and indirect costs. A summary of these costs is enclosed with this letter.

**Under the authority of s. 292.11, (7)(b), Wis. Stats., the Department has the ability to recover all actual and necessary expenses incurred in this investigation and remediation. This letter and enclosed summary of costs constitutes the Department's formal request for reimbursement of the costs to date associated with the investigation and remediation of the contamination on the property.**

**The Department is also notifying you in accordance with s. 292.81(4), Wis. Stats. that sixty (60) days after the date of this letter, unless you have reimbursed the Department for the \$1,852,037.32 in costs associated with the investigation and remediation of the contamination on the property, the Department will file the attached lien on the property specifically identified in the attached legal description, with the Register of Deeds in Waukesha County. The purpose of the lien is to provide a mechanism for the Department to recover the money expended to date for the costs incurred by the Department in investigating and remediating the contamination on the property. After the lien is filed, it will remain on the property until the funds are recovered.**

Additionally, the Department estimates that additional funds will need to be expended at this property, for the following activities: completion of the landfill gas extraction system (approximately \$500,000), construction of a landfill cap (approximately \$3,000,000), groundwater monitoring at the landfill and selected private wells in the area, future operation and maintenance costs of the gas extraction system, leachate hauling and general maintenance of the site (all estimated to cost approximately \$100,000 per year). These costs do not include added costs associated with the development of a closure plan by an environmental consultant.

As you may know, this case has been referred to the Department of Justice to proceed with enforcement action. **We are requesting that you respond within 30 days of receipt of this letter.** Your written response should include your intentions to reimburse the Department's costs to date and whether you intend to assume responsibility for the continued operation of the landfill gas extraction system and other remediation required at the property. If you are unable or unwilling to pay for remediation and assume operation and maintenance of the landfill gas extraction system, the Department will advise the Department of Justice to proceed with its enforcement options.

If you have any questions, please feel free to call me at the number below. You can reach Thomas Wentland, Remediation & Redevelopment Engineer for Southeast Region, in regard to any technical questions you have regarding the remediation of the property, at (414) 229-0853.

Sincerely,



Judith M. Ohm  
Attorney

Bureau of Legal Services  
(608)266-9972

Enclosures

cc: Thomas Wentland—SER Annex  
Lorraine Stoltzfus—DOJ  
Bob Strous—RR/3

DELAFIELD SANITARY LANDFILL--DNR COSTS

12/17/2001

<u>Fiscal Year</u>	<u>Perm/Proj Salaries</u>	<u>Fringe</u>	<u>Contracts</u>	<u>Indirect</u>	<u>Total</u>
1992	\$5,393.11	\$1,866.02	\$54,049.95	\$1,779.94	\$63,089.02
1993	\$8,353.95	\$2,890.47	\$241,823.55	\$2,329.84	\$255,397.81
1994	\$3,315.16	\$1,180.20	\$110,855.30	\$942.23	\$116,292.89
1995	\$2,566.72	\$913.75	\$385,657.75	\$810.25	\$389,948.47
1996	\$22,973.54	\$8,491.02	\$455,845.92	\$7,576.67	\$494,887.15
1997	\$14,917.82	\$5,513.63	\$145,562.00	\$4,566.43	\$170,559.88
1998	\$8,767.90	\$3,333.56	\$102,180.81	\$2,865.62	\$117,147.89
1999	\$7,411.22	\$2,521.95	\$46,723.56	\$2,522.18	\$59,178.91
2000	\$5,626.22	\$1,892.66	\$45,257.64	\$1,622.57	\$54,399.09
2001	\$9,681.62	\$3,085.02	\$89,571.79	\$2,961.86	\$105,300.29
2002 (thru 11/01)	\$2,402.21	\$906.37	\$21,772.98	\$754.36	\$25,835.92
Totals	\$91,409.47	\$32,594.65	\$1,699,301.25	\$28,731.95	\$1,852,037.32

Document Number

### Notice of Lien

Under the authority of s. 292.11(7) (a), Wis. Stats. the Department of Natural Resources (" the Department") has expended funds to investigate and remediate hazardous substances on the following property, owned by Walter Nickel Trust:

**See Exhibit A, Legal Description and Sketch of Lands, which is attached to this Notice of Lien**

(NOTE: The Department reserves the right to amend this Legal Description, if necessary, since the Department has conflicting information regarding the Legal Description for the property)

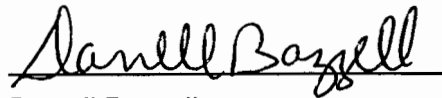
Under s. 292.81 (3), Wis. Stats., when the Department expends funds to investigate and remediate hazardous substance contamination, the Department may file a lien for the amount expended for such purposes with the Register of Deeds in the county where the contaminated property is located.

The amount expended by the Department in this case as of November 30, 2001, is \$1,852,037.32. The Department expects to expend additional funds for the remediation of this property in the future. Another Notice of Lien will be filed when the amount of the additional funds expended is known. The property remains subject to this lien until the amount owed is paid in full. This lien is superior to all other liens that are or have been filed against the property, except that if the property is residential property, as defined in s. 895.52 (1) (i), Wis. Stats., the lien does not affect any valid prior lien, as defined in s. 292.81 (1), Wis. Stats., on that residential property.

The Department certifies that to the best of its knowledge and belief, all information contained in this Lien is correct, and this lien represents a legal encumbrance upon the property. Based on the above information and the authority of s. 292.81 (3), Wis. Stats., the Department claims a lien against the interest which the owners have in the above-described property in the amount of \$1,852,037.32.

Department of Natural Resources

By:



Darrell Bazzell,  
Secretary

Recording Area

Name and Return Address

Parcel Identification Number (PIN)

### AUTHENTICATION OR ACKNOWLEDGEMENT

Signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

State of Wisconsin, County of Dane  
My Commission is permanent.

This document was drafted by the Department of Natural Resources

LEGAL DESCRIPTION:

Being a part of the SW 1/4 of the SW 1/4 of Section 22, and a part of the NW 1/4 of the NW 1/4 of Section 27, all in T7N, R18E, City of Delafield, Waukesha County, Wisconsin, more fully described as follows:

Beginning at the SW corner of said Section 22; thence N.00°-50'-23"W., along the West line of said SW 1/4, 551.35 feet to a point being at the SW corner of Kettle Court West, a 60 foot wide public road; thence S.86°-20'-00"E., along the southerly right-of-way line of Kettle Court West, 808.46 feet to a point of curvature; thence continuing along said southerly right-of-way line, 101.33 feet along the arc of a curve to the left with a radius of 331.91 feet, whose chord bears N.84°-55'-15.5"E., 100.93 feet to a point of reverse curvature; thence continuing along said southerly right-of-way line 52.76 feet along the arc of a curve to the right with a radius of 50.00 feet, whose chord bears S.73°-35'-46"E., 50.34 feet to a point of reverse curvature, said point being on the westerly right-of-way line of Kettle Drive, a 60 foot wide public road; thence along said westerly right-of-way line, 25.80 feet along the arc of a curve to the left with a radius of 173.00 feet, whose chord bears S.47°-38'-24"E., 25.78 feet to a point of tangency; thence continuing along said westerly right-of-way line S.51°-54'-45"E., 303.88 feet to a point of curvature; thence continuing along the westerly right-of-way line of Kettle Drive, 266.81 feet along the arc of a curve to the right, with a radius of 279.00 feet, whose chord bears S.24°-31'-00"E., 256.76 feet to a point of tangency; thence continuing along said westerly right-of-way line S.02°-52'-45"W., 221.21 feet to a point; thence N.88°-19'-00"E., along the southerly right-of-way line of Kettle Court East, a 60 foot wide public road, 13.00 feet to the East line of the West 1/2 of the NW 1/4 of said Section 27; thence S.01°-08'-19"E., along the East line of the West 1/2 of said NW 1/4, 821.39 feet to a point being on the North line of Cherokee Woods Addition No. Three, a recorded subdivision; thence S.77°-32'-32"W., along said North line, 1339.16 feet to a point being on the West line of the NW 1/4 of said Section 27; thence N.01°-01'-44"W., along said West line, 1275.00 feet to the SW corner of Section 22, and place of beginning. Said lands containing 2,103,013 square feet (48.2785 acres).

