



JUN 14 2018

Mr. Kevin Lyons
Davis & Kuelthau, s.c.
111 E. Kilbourn Ave., Suite 1400
Milwaukee, WI 53202

Subject: Required Modifications to the Umpire Recommendation for the Local Government Unit Cost Recovery Action for the City of Manitowoc / Former Newton Gravel Pit Site (BRRTS #02-36-000268) pursuant to Wis. Stat. § 292.35(6)

Dear Mr. Lyons,

The Wisconsin Department of Natural Resources (“department”) is in receipt of your February 9, 2018, recommendation regarding the Local Government Unit Cost Recovery Action for the City of Manitowoc / Former Newton Gravel Pit Site (“Site”). Pursuant to Wis. Stat. § 292.35(6)(a), you have made a recommendation (“recommendation”) regarding the design and implementation of the remedial action plan and the contribution of funds for investigation and remedial action by the local governmental unit and the responsible parties that did not reach an agreement under Wis. Stat. § 292.35(5).

This letter serves as the department’s initial response to this recommendation, pursuant to Wis. Stat. § 292.35(6)(a). Under Wis. Stat. § 292.35(6) the department may approve the umpire’s recommendation as submitted or may require modifications; the umpire must then distribute the approved recommendation.

Following the submission of this recommendation, the department informed the City of Manitowoc (“the city”) that the site investigation required under Wis. Admin Code ch. NR 716 was incomplete. On April 6, 2018, department staff met with representatives of the city to discuss the site investigation, and in a subsequent letter, dated April 30, 2018, informed the city that it would hold its review of the umpire’s recommendation until the site investigation is complete. On May 14, 2018, the department sent a letter to the city, detailing activities that need to be completed per Wis. Admin. Code ch. NR 716 to finish the site investigation.

The department requests that the umpire revise and resubmit the recommendation for approval to the department with the following modifications:


1. Include an acknowledgement of the department’s recent communications to the city that the site investigation of the Site is not complete and remedial actions may be required in addition to the actions described in the preliminary remedial action plan prepared by AECOM and approved by the department in a letter dated July 7, 2017; and,
2. Revise the recommendation to state that the City and any responsible parties that did not settle by negotiated agreement pursuant to Wis. Stat. § 292.35(5) are responsible for any further costs of any additional response actions, such as site investigation, interim actions, and remedial actions, that may be required pursuant to Wis. Stat. ch. 292.

Your service as an umpire under the Wis. Stat. § 292.35 process is appreciated – thank you for your patience as we continue the final steps of this process. If you have any questions or concerns relating to

the department's role in the Wis. Stat. § 292.35 cost recovery process, please contact Molly Schmidt at (608) 267-7500. For questions relating to the Site, please contact Tauren Beggs at (920) 662-5178.

Sincerely,



 Daniel L. Meyer
Secretary

Cc:

Edward Witte, Godfrey Kahn
Kathleen McDaniel, City of Manitowoc
Tauren Beggs, Remediation and Redevelopment Program, Northeast Region
Molly Schmidt, Remediation and Redevelopment Program, Central Office