



JUL 19 2018

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

Subject: Request for Further Modification to the Modified Umpire Recommendation for the Local Government Unit Cost Recovery Action for the Manitowoc City / Former Newton Tn 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 June 26, 2018, modification to your February 9, 2018, umpire recommendation regarding the Local Government Unit Cost Recovery Action for the Manitowoc City / Former Newton Tn Gravel Pit Site ("Site").

This letter requests further modification of your recommendation as modified by your June 26, 2018, letter. Under Wis. Stat. § 292.35(6) the department may approve an umpire's recommendation as submitted or may require modifications; the umpire must then distribute the approved recommendation. Pursuant to Wis. Stat. § 292.35(6)(a), you modified your recommendation following receipt of a June 14, 2018, letter from the department containing the department's requested modifications. While the modifications in your June 26, 2018 letter address part of the department's request, the department requires the following revisions to fully address its June 14, 2018, request:

- A. In your June 26, 2018, letter, the first listed revision sufficiently addresses the status of the site investigation; however, the department requests that you add, to your first listed revision, the following statement: "A letter from the department to the City of Manitowoc, dated May 14, 2018, described the additional actions needed to bring the site investigation toward completion. This letter explained that existing or new contaminants discovered may warrant additional response actions." Additional site investigation work shall be proposed by AECOM in site investigation work plans submitted to the department for review. If any additional remedial actions are needed, then AECOM will need to submit a remedial action plan addendum to the department for review.
- B. In your letter, within the second listed revision, you wrote: "If any pollutant discovered in this additional investigation entered the environment from a non-settling responsible party, that party or parties should pay all the costs described above." The department requests deletion of this sentence such that the modified recommendation is consistent with the department's request that additional costs arising from both known contaminants and additionally discovered contaminants will be addressed by the City of Manitowoc and any responsible parties that did not settle by negotiated agreement pursuant to Wis. Stat. § 292.35(5), as stated in the department's June 14, 2018, response to your February 9, 2018, recommendation.

Mr. Kevin Lyons
Request for Further Modification to the Modified Umpire Recommendation
Manitowoc City / Former New Tn Gravel Pit
BRRTS # 02-36-000268

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,



for
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