

July 23, 2018

Daniel L. Meyer, Secretary
Wisconsin Department of Natural Resources
101 S. Webster Street
P.O. Box 7921
Madison, WI 53707-7921

Re: 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) D&K File #56068.06416

Dear Secretary Meyer:

After reviewing your June 14, 2018 letter requiring Modification of my February 9, 2018 Recommendation, I spoke with counsel for the City of Manitowoc and with Tauren Beggs. Both described facts unknown prior to the February 9, 2018 Recommendation. Based on those facts and the facts in your letter, I revise my Recommendation as follows:

1. 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. The Site investigation is incomplete. The AECOM preliminary remedial action plan, approved by the Department in a letter dated July 7, 2017, should be revised to require whatever additional investigation, interim measures, and remedial actions may be necessary for remediation of the Site.
2. The City of Manitowoc and all responsible parties that did not settle with the City during the Wis. Stat. § 292.35 negotiation period should pay all the costs of the additional Site investigation, revision of the remedial action plan, and all additional remedial actions, whether interim or permanent.
3. In all other respects, the Recommendation of February 9, 2018 is affirmed and incorporated by referenced in this modification.

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Respectfully submitted,

Davis & Kuelthau, s.c.


Kevin J. Lyons

KJL:dmr

cc: Ned Witte, Godfrey Kahn – via email
Kathleen McDaniel, City of Manitowoc – via email
Tauren Beggs, Remediation and Redevelopment Program, Northeast Region – via email
Molly Schmidt, Remediation and Redevelopment Program, Central Office – via email