



February 22, 2019

File Ref: FID 618026530  
EAU CLAIRE COUNTY  
HW LIC

Becky Anderson  
WRR Environmental Services Co., Inc.  
5200 Ryder Rd.  
Eau Claire, WI 54701

**SUBJECT:** Conditional Approval of Class <sup>1</sup> License Modification  
Corrective Action Financial Assurance and Crushed Drum Storage

Dear Ms. Anderson:

This letter is to conditionally approve a Class <sup>1</sup> License Modification dated and received via email on December 11, 2018, for WRR Environmental Services Co., Inc. (WRR) located at 5200 Ryder Road, Eau Claire, WI, DNR license number 3161. The license modification request proposed changes to approval conditions related to the roll-off container (adjacent to the fuels room) used to stored crushed drums, and to owner financial assurance for corrective action.

Class <sup>1</sup> signifies that department approval is required, per Appendix I of ch. NR 670, Wisc. Adm. Code. A review fee of \$400 is required per Appendix II of ch. NR 670, Wisc. Adm. Code. The department received payment for this review fee in September of 2018.

#### FINDINGS OF FACT

1. The department issued a Final Determination to WRR dated September 25, 2014 that served as the conditional approval of an updated Feasibility Report and Plan of Operation (FPOR). Certain conditions of that approval were modified or added in a Class 2 license modifications dated February 2, 2016 and February 28, 2017.
2. The submittal to Deborah Dix, of the department's environmental enforcement program, dated April 17, 2018, indicated WRR's intent to propose the replacement of Condition 126, and other conditions related to financial assurance, by June 1, 2018.
3. In an email dated May 22, 2018, WRR submitted a proposal to modify approval conditions regarding the crushed drum storage container and corrective action financial assurance.
4. In an email dated June 15, 2018, the department provided initial review comments and questions regarding WRR's May 22, 2018 submittal.
5. In an email dated November 30, 2018, WRR submitted a revised proposal.
6. In an email dated November 30, 2018, the department requested a revised submittal with formatting changes.

7. In an email dated December 12, 2018, WRR submitted a revised proposal, consisting of a cover letter dated December 12, 2018 and Appendices 1, 2 and 3, to modify approval conditions regarding the crushed drum storage container and corrective action financial assurance. This represents the license modification request being conditionally approved today.
8. In a letter dated December 19, 2018. The department acknowledged receipt of WRR's December 12, 2018 request for a license modification.

#### CONCLUSIONS OF LAW

1. The department has promulgated chs. NR 660 to 679, Wis. Adm. Code, establishing minimum requirements for hazardous waste management under the authority of ch. 291, Wis. Stats.
2. The department has authority pursuant to s. 289.30(6), Wis. Stats., and s. NR 670.042., Wis. Adm. Code, to approve modifications to a license, or to a feasibility report and plan of operation.
3. In accordance with s. NR 670.042, Wis. Adm. Code, the department concludes that the revisions proposed in WRR's request dated December 12, 2018 requires approval by the department thought a class <sup>1</sup> license modification.

#### DETERMINATION AND CONDITIONS OF APPROVAL

Based on the foregoing Findings of Fact and Conclusions of Law, the department hereby conditionally approves WRR Environmental Services Company, Inc.'s (WRR) Class <sup>1</sup> modification request dated December 12, 2018, under s. NR 670.042(4)(b)l., Wis. Adm. Code, and s. 289.30(6), Wis. Stats., and in accordance with the license and the most recent FPOR approval and the conditions set forth as follows. Note that the conditions below may differ from those proposed by WRR in their December 12, 2018 license modification request.

1. The department has the right to modify this determination and to require additional information at any time. Nothing in this conditional approval shall relieve the owner or operator of the legal obligation to comply with applicable federal, state and local requirements. Except as may be expressly provided below, no other terms or conditions of the FPOR approval or license, or any subsequent modifications thereto, are affected by this determination.
2. Condition 69 of the final determination (approval) dated September 25, 2014 shall be replaced in its entirety with the following (to remove reference to "the covered dumpster"):
  69. The fuels building shall be maintained and operated in accordance with the criteria for a permanent total enclosure as specified in "Procedure T- Criteria for and Verification of a Permanent or Temporary Enclosure" under 40 CFR 52.741, Appendix B.
3. Condition 71 of the final determination (approval) dated September 25, 2014 shall be replaced in its entirety with the following:
  71. WRR shall inspect all storage containers used to accumulate discarded smaller containers (e.g., crushed drums, emptied drums), including but not limited to the covered dumpster located next to the fuels building. Inspections shall be conducted at least weekly to determine if leakage has occurred. The inspection occurrence and the results of these inspections shall be documented as part of the operating record. If there is leakage from the smaller discarded containers into the larger container, or from the larger container to the surrounding area, WRR shall make a waste

determination of the leaked material under s. NR 662.011, Wisc. Adm. Code, and manage the leaked material and the container accordingly. Releases of hazardous substances under s. 292 Wisc. Stats. must be reported, including releases that may be caused or contributed to by the infiltration of precipitation due to, for example, failure to effectively cover the storage container, or by non-leakproof cracks or gaps in the storage container.

4. Condition 88 of the final determination (approval) dated September 25, 2014 shall be replaced in its entirety with the following:

88.a. The Department reserves the right to require corrective action by WRR under the authority of s. 291.37, Wis. Stats., and chs. NR 664, subch. F, Wis. Adm. Code.

88.b. WRR shall comply with all requirements established in and pursuant to chs. NR 700 through NR 754, Wis. Adm. Code, and ch. 292, Wis. Stat., regarding Investigation and Remediation of Environmental Contamination, and all requirements established by the department's Remediation and Redevelopment (RR) program. WRR shall provide electronic copies of all reports required ch. NR 724, Wis. Adm. Code to the assigned hazardous waste program plan review staff, when they are submitted to the department's RR program. Nothing in this approval supersedes or otherwise affects WRR's obligation to comply with the requirements of NR 700 through 754, Wisc. Adm. Code and other requirements of the department's RR program.

5. Condition 89 of the final determination (approval) dated September 25, 2014 shall be replaced in its entirety with the following:

89. By January 15th of each year, WRR shall submit the annual Corrective Action Report ("CA Report"). This CA Report may be combined with the report required by the department's RR program pursuant to NR 724.13(3), Wisc. Adm. Code. Copies of the CA Report shall be sent to department's hazardous waste inspector assigned to WRR, the hazardous waste plan review staff person assigned to WR, and the department's RR program project manager for WRR. All information in the CA Report shall reflect conditions as of December 15 of the previous calendar year, unless stated otherwise (the "Effective Date"). In no case shall the Effective Date be earlier than the preceding October 1st. The CA Report shall include, at a minimum,

- a. A description of corrective action activities and results, and monitoring activities and results, for the reporting period (the time between the previous two Effective Dates), including but not limited to methods, data, data analysis, and conclusions.
- b. A description of the estimated remaining work and schedule to achieve case closure, as defined in s. 292.12 (1) (b), Wis. Stats ("Remaining Work") as of the Effective Date. Remaining Work shall include but not be limited to all activities required to design, implement, operate and manage corrective action and remediation work, including but not limited to corrective action system design and implementation, construction, system re-design and modifications, equipment maintenance and replacement, system operations, system testing and evaluation, component and system decommissioning, management of wastes and residuals, monitoring, laboratory and field tests, data analysis, recordkeeping, reporting, project management and administration. The Remaining Work shall also include any reasonably anticipated work required to be accomplished after case closure, including but not limited to continuing obligations per ch. NR 727, Wisc. Adm. Code.
- c. Stamped certifications by a Wisconsin-registered Professional Geologist and Professional Engineer.

6. Condition 90 of the final determination (approval) dated September 25, 2014 shall be replaced in its entirety with the following:

90. By April 1 of each year, WRR shall submit an annual Financial Assurance Report (“FA Report”). Copies of the FA Report shall be sent to department’s hazardous waste inspector assigned to WRR, the hazardous waste plan review staff person assigned to WR, and the department’s RR program project manager for WRR. At a minimum, the FA Report shall consider any department review comments regarding the CA Report, and include all of the following:

- a. A description of Remaining Work as of the Effective Date (see condition 89 for definitions of these terms).
- b. The estimated costs for Remaining Work, that are broken out by year and by task, and include unit costs, quantities, and extended costs (“Cost Estimate”). These cost estimates shall:
  - i. be estimated as of the Effective Date;
  - ii. be based on utilizing a third party to complete the Remaining Work, including but not limited to costs to manage and administer the work;
  - iii. not consider cost efficiencies for work that might otherwise be performed or facilitated by WRR; and
  - iv. include a minimum 10% contingency for unanticipated work.
- c. A detailed explanation of any changes in the Cost Estimate from the previously-established Cost Estimate (for any reason other than an inflation adjustment).
- d. Stamped certifications by a Wisconsin-registered Professional Geologist and Professional Engineer.
- e. A license modification in accordance with subch. D of NR 670, Wis. Adm. Code, to establish the Cost Estimate as part of the license, if the Cost Estimate is different than that in use at that time for determining the financial proof amount (for any reason other than an inflation adjustment).

7. Condition 136 of the final determination (approval) dated September 25, 2014 shall be replaced in its entirety with the following:

136. The current approved scope of work, schedule and cost estimate for corrective action is described in Gannet Fleming’s January 24, 2018 letter report to WRR, as provided to the department by WRR. The approved cost estimate is \$502,105 (in 2018 dollars). WRR shall maintain a financial assurance proof mechanism in this amount, as adjusted for inflation, or the amount established through Conditions 137, 138, and 139.

8. Condition 137 of the final determination (approval) dated September 25, 2014 shall be replaced in its entirety with the following:

137. By June 30 of each year, WRR shall provide to the department an updated financial assurance proof mechanism in the amount no less than the Cost Estimate included in the FA Report (see condition 90), and in accordance with any license modification approvals by the department.

9. Condition 138 of the final determination (approval) dated September 25, 2014 shall be replaced in its entirety with the following:

138. If the department requires a revised corrective action cost estimate, WRR shall provide to the Department an updated financial assurance proof mechanism in the amount no less than this revised cost estimate within 60 days of such requirement.

10. Condition 139 of the final determination (approval) dated September 25, 2014 shall be replaced in its entirety with the following:

139. At any time that WRR becomes aware of discoveries or information that result in an increase in the estimated corrective action cost estimate of more than 5%, WRR shall within 60 days, increase the amount of the financial assurance proof mechanism accordingly.

11. Within 90 days of this approval, WRR shall provide the department with documentation of compliance with the notice requirements, for persons on the facility mailing list and appropriate units of state and local government, specified in NR 670.042(1)(a)2.

This approval is based on the information available to the department as of the date of approval. If additional information, project changes or other circumstances indicate a possible need to modify this approval, the department may ask you to provide further information relating to this activity. Likewise, the department accepts proposals to modify approvals, as provided for in state statutes and administrative codes.

#### NOTICE OF APPEAL RIGHTS

If you believe you have a right to challenge this decision made by the department, you should know that Wisconsin statutes and administrative codes establish time periods and requirements for reviewing department decisions.

To seek judicial review of the department's decision, sections 227.52 and 227.53, Stats., establish criteria for filing a petition for judicial review. You have 30 days after the decision is mailed or otherwise served by the department to file your petition with the appropriate circuit court and serve the petition on the department. The petition shall name the Department of Natural Resources as the respondent.

If you have any questions, please contact Doug Coenen at [douglas.coenen@wisconsin.gov](mailto:douglas.coenen@wisconsin.gov) or 608-264-9258

Sincerely,



Andrea Keller  
Section Chief, Hazardous Waste Prevention & Management  
Waste and Materials Management Program



Doug Coenen, P.E.  
Waste Management Specialist, Hazardous Waste Prevention & Management  
Waste and Materials Management Program

cc: Ben Petrus, WDNR  
Deborah Dix, WDNR  
Jae Lee, USEPA Region 5