



## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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November 5, 2007

Ms. Jenny Hanson  
RER Acquisitions LLC  
90 South 7th Street Suite 4500  
Minneapolis, MN 55402

Subject: Request for DNR Comments on the Investigation and Remedial Process at the Greenfield Site, including the Allis-Chalmers Property, BRRTS# 02-41-000963

Dear Ms. Hanson:

On September 10, 2007 we received a letter from you which requested two actions by the Department of Natural Resources (the "Department"): (1) written approval of the site investigation workplan submitted to the Department in June 2007, and (2) clarification of the regulatory process for the investigation and remediation of the site. This letter addresses both of those requests. The Department has received the appropriate review fee of \$500 for this request, in accordance with ch. NR749, WAC.

### Site description

The site (the "Site") consists of four parcels of land south of Morgan Avenue and west of 116<sup>th</sup> Street in the City of Greenfield (the "City"). Those four parcels, as shown on the attached map, are:

- Parcel 1: Former Allis Chalmers licensed solid waste landfill;
- Parcel 2: City of Greenfield compost facility;
- Parcel 3: Milwaukee County unlicensed solid waste landfill; and
- Parcel 4: City of Greenfield's DFZ unlicensed solid waste landfill.

The entire Site was originally a gravel pit, and later waste materials were filled on all of the parcels. Wastes consist primarily of foundry sand, street sweeping, storm sewer cleanout, and demolition wastes with lesser amounts of other materials. Parcel 1 was licensed as the Allis-Chalmers landfill (license #293). It is our understanding that RER Acquisitions LLC (RER), as the proposed purchaser of all four parcels, intends to develop these parcels into single and multifamily residences.

### Site Investigation

On June 5<sup>th</sup>, 2007 a work plan entitled "Site Investigation Work Plan, The Greenfield Site." was submitted to the Department by Geomatrix Consultants for RER. Clarifications of the workplan were provided to the Department by Geomatrix on June 19, 2007 via e-mail. The Department has given verbal approval to the workplan. By this letter, we are providing you with our written concurrence on the work that you have proposed.

## Regulatory Process

### Eligibility to enter the Voluntary Party Liability Exemption Process

You correctly point out in your letter that at least one of the parcels of the proposed development is likely not eligible for the Voluntary Party Liability Exemption (VPLE). The Allis Chalmers landfill on Parcel 1 was licensed as a solid waste facility (License #293) under s. 144.44, Stats. (any reason you are using old statute number) This type of facility is excluded from the VPLE process by s. 292.15(7)(d), Wis. Stats. If you are seeking a "final" Department determination on whether one or more of these four parcels is eligible for the VPLE process, we recommend that you submit an VPLE application for each property to the Department with the appropriate fee. It is recommended that you do so as early in the process as possible to ensure the investigation conducted is adequate to comply with s. 292.15, Wis. Stats.

### Compliance with Chapters NR 500 and 700, Wis Admin. Code

In partnership with the City, an investigation of the four parcels has begun, partially funded using Brownfields Site Assessment Grants (SAG #s: SAG-480, SAG-481, SAG-483), awarded to the City of Greenfield. It is our understanding that RER intends to complete a site investigation of the environmental conditions at and around the 4 parcels, and provide a single SI report to the Department. Because these are waste sites or facilities, RER will need to obtain a building on abandoned landfill exemption, per s. NR 506.085, WAC, as part of the regulatory approvals needed for development of these four parcels. RER will need to submit an Exemption Application (Forms 4400-226 and 4400-226A) to the Department. Further information on this topic can be found at:  
[http://www.dnr.state.wi.us/org/aw/rr/rbrownfields/historic\\_fill.htm](http://www.dnr.state.wi.us/org/aw/rr/rbrownfields/historic_fill.htm).

The Department recommends that you collect the necessary samples for this important approval as you conduct the ch. NR 716, WAC, site investigation. Upon completion of the site investigation, you may request that the Department provide technical comments on your SI report. If this is the case, please submit \$750 to the Department with your request. If not, then it is appropriate to move forward and complete the remedial action plan, per ch. NR722, WAC, for the Site. [Jim – are there technical standards in ch 500 we should reference for Parcel 1?] For all 4 parcels, the remedial action plan should include the information necessary to make the building on abandoned landfill (BAL) exemption determination, per s. NR 506.085, WAC. In addition:

- For Parcel 1, which is a licensed solid waste landfill, you must submit the necessary site investigation and remedial action plan (RAP) information for the various Department approvals. The Department will need to issue to RER a ch. NR 500 Closure Plan Modification for the licensed landfill portion of the Site. This will entail a \$1,650 fee to address the costs of the Department modifying the existing solid waste closure plan for the Allis Chalmers site. The Department will issue the closure plan modification approval at the same time it approves the RAP for the Site. The Department will determine, based on the results of the SI and post-remedy sampling whether or not any long-term groundwater monitoring will be necessary at Parcel 1, due to the licensed status of the parcel.

- For Parcels 2 through 4, at a minimum, the Site's RAP should contain the information necessary to make the BAL determination. In addition, the site investigation data should assist RER in determining what remedial actions, if any, are necessary to protect public health, welfare, safety and environment given the intended use as housing. The fee to cover the BAL approvals and the RAP review is \$750.
- For Parcels 1 through 4, because the Site meets the statutory definition of a landfill, any soil or fill material graded or excavated from the subsurface will need to be disposed of in accordance with state and federal laws. RER should include a waste management plan as part of the RAP for both the remedial actions and redevelopment activities.

Upon completion of the necessary remedial actions, RER may request that the Department grant closure for those parcels where a hazardous substance was discharged to the environment and the remedial activities meet the provisions of ch. NR 726, Wis. Admin. Code. For those parcels where residual soil or groundwater contamination would require a land use control in accordance with s. 292.12, Wis. Admin. Code or listing on the GIS Registry of closed remediation sites, in accordance with ch. NR 726, Wis. Admin. Code, RER would need to pay the appropriate GIS Registry fees, along with a closure fee of \$750 per parcel.

A ch. NR 726, WAC, closure letter issued by the Department indicates that no further environmental response action is necessary at the site under the state's Spill Law, ch. 292.11, based upon the information available to the Department at that time. The Department can only require further action under the Spill Law to address a previously closed case "if information regarding the site or facility conditions indicates that contamination on or from the site or facility poses a threat to public health, safety, welfare or the environment." (s. NR 726.09(1), Wis. Adm. Code.) With respect to the Site, this "reopener" provision would apply to Parcels 2 through 4. However, because Parcel 1 is a licensed landfill, the owner of the property would be subject to the conditions of the existing solid waste license.

In the event that the Department determines that the only approvals necessary at one or more of the parcels (excluding Parcel 1) is the BAL exemption, RER may request a general liability clarification letter from the Department. To request a letter clarifying the liability issues associated with the Site, we recommend that RER fill out this form: Technical Assistance and Environmental Liability Clarification Request Form (Form 4400-237).

The Department hopes that this letter assists you in understanding the steps that are necessary in moving ahead with the clean up and redevelopment of this Site. If you have any questions or comments regarding this letter, please contact Jim Walden at 608-267-7572 or [james.walden@wisconsin.gov](mailto:james.walden@wisconsin.gov).

cc: Michael Prager – RR  
Jim Schmidt – SER  
Frank Schultz – SER

Chris Thompson – Geomatrix Consultants

Attachment: Map