



December 16, 2016

MR PATRICK EAGAN  
ICONICARE LLC  
901 DEMING WAY  
MADISON WI 53717

Subject: Conditional Approval for On-Site Management of Contaminated Soil under s. NR 718.12, Wis. Adm. Code, and Conditional Approval of Plans for Post Closure Modification under s. NR 727.07, Wis. Adm. Code  
**Generator property:** Eagle Point Senior Living (Proposed), 935 E. John St., Appleton, WI  
**DNR Site Name:** *Foremost Farms (Former)*  
**BRRTS #02-45-530084**  
Parcel Number: 311077200

Dear Mr. Eagan:

On October 24, 2016, IconiCare, LLC (IconiCare) submitted a request, *Soil and Waste Management Plan, Eagle Point Senior Living, 935 East John Street, Appleton, WI 54911, October 24, 2016, DNR BRRTS Number 02-45-530084, OMNNI Project Number M1445C16*, for approval under s. NR 718.12 Wis. Adm. Code, to allow disposal of excavated contaminated soil and waste at a location other than that from which it was excavated. The Wisconsin Department of Natural Resources (department) also received a *Soil and Waste Management Plan – Revised, Eagle Point Senior Living, 935 East John Street, Appleton, WI 54911, November 17, 2016, DNR BRRTS Number 02-45-530084, OMNNI Project Number M1445C16*. The two submittals together are referenced as the “SWMP”.

In addition, the department received a \$1,050 database modification fee and \$300 soil GIS Registry fee along with an application for a Post Closure Modification (PCM) in accordance with s. NR 727.07, Wis. Adm. Code on October 25, 2016 for 935 East John Street, Appleton, Outagamie County, Wisconsin (the “Property”). This PCM fee covers the \$700 technical assistance fee for providing review and response to the SWMP, in accordance with s. NR 749.04(1), Wis. Adm. Code.

The 8.1-acre Property has parcel number 311077200 and is currently owned by the Appleton Redevelopment Authority. Construction is anticipated to begin shortly after transfer of the Property, currently scheduled for early January 2017.

The department also received a *Development at a Historic Fill Site or Licensed Landfill Exemption Application* dated October 25, 2016 and revised submittal dated November 21, 2016 for a grant of exemption from regulation under s. NR 506.085, Wis. Adm. Code along with a separate \$700 technical assistance fee for providing the exemption, in accordance with s. NR 749.04(1), Wis. Adm. Code. Approval for management of waste at the Property is addressed under the *Conditional Case-by-Case Grant of Exemption for the Development of a Property Where Solid Waste has been Disposed, Foremost Farms (Former), 935 E. John St., Appleton, Outagamie County, Wisconsin, dated December 16, 2016*.

IconiCare, LLC

Conditional Approval for On-Site Management of Contaminated Soil under s. NR 718.12, WAC and

Conditional Approval for Post Closure Modification under s. NR 727.07, WAC

Foremost Farms (Former), 935 E. John St., Appleton, WI

BRRTS #02-45-530084

### Summary of proposed soil management activities

IconiCare proposes to disturb the soil caps at the Property previously approved by the department on May 16, 2014 and relocate approximately 11,330 cubic yards (yd<sup>3</sup>) of excavated contaminated and clean soil to other locations on the Property. This includes an estimated 3,350 yd<sup>3</sup> of contaminated material. IconiCare proposes to dispose of this material during redevelopment of the Property in accordance with s. NR 718.12 Wis. Adm. Code which exempts the facility from solid waste requirements in ch. 289, Stats. and ch.s NR 500 to 538 Wis. Adm. Code.

Proposed redevelopment activities include installation of infrastructure, site grading and development of the Eagle Point Senior Living campus. Per the SWMP, the campus is proposed to include an asphalt parking lot and drives, biofilter and stormwater pond, a senior living facility with, "...99 (senior residential) units...common areas...(including) library, game room, dining room and pub, two activity rooms, theater/chapel, beauty/barbershop, exercise pool, locker rooms, spa and exercise room... 70 underground parking stalls and individual storage lockers...walking paths along the Fox River, boating on a community boat, fishing, putting green, bocce ball, and shuffle board."

Contaminated soil is proposed to be capped with paved surfaces, a building or a minimum soil cap of six inches of clean soil and vegetation. The February 2014 *Cap Maintenance Plan and Material Handling Plan* is proposed to be revised following development of the Eagle Point Senior Living complex and prior to any future development phases.

Property boundaries and the proposed Eagle Point Senior Living campus layout can be found on *Figure No. 3, Eagle Point Senior Living Site Detail Map, 10/20/2016* by OMNNI Associates. Construction of the seven individual buildings labeled as "Future Single Family Development" on Figure 3 is not part of this conditional approval.

### Location standards: s. NR 718.12 (1)(c) Wis. Adm. Code

Information provided in the SWMP indicates that disposal of the contaminated soil complies with the locational criteria of s. NR 718.12(1)(c), Wis. Adm. Code so that soil will not be placed or replaced in the following areas:

- Within a floodplain;
- Within 100 feet of a wetland or critical habitat area;
- Within 100 feet of any on-site water supply well or 300 feet of any off-site water supply well;
- Within 3 feet of the high groundwater level;
- At a depth greater than the depth of the original excavation from which the contaminated soil was removed; and
- Where the contaminated soil poses a threat to public health, safety or welfare or the environment.

### Grant of exemption to s. NR 718.12(1)(c)3, Wis. Adm. Code

In consideration of Property dimensions (between 50 and 300 feet wide), topography, restrictions for placement of contaminated soil placed on the Property by the United States Army Corps of Engineers, waterfront location on the Fox River and proposed capping of contaminated soil, the department grants an exemption to the location criteria of s. NR 718.12(1)(c)3 and will allow placement of contaminated soil within 300 feet of a navigable river, stream, lake, pond, or flowage.

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### Soil Characterization

Soil proposed for excavation from the Property is primarily contaminated with polycyclic aromatic hydrocarbons (PAHs) and metals with some minor volatile organic compounds (VOCs). Based on site-wide historical soil sampling at the Property during investigation under BRRTS #02-45-530084 and identification of impacted soil fill site-wide, the department concurs that the material has been adequately characterized per s. NR 718.12(1)(e), Wis. Adm. Code.

### ss. NR 718.12 and NR 727.07, Wis. Am. Code Conditional Approval

Based on review of the NR 718.12 exemption request/soil management plan, NR 727.07 post closure modification request, and the requirements of ss. NR 718.12 and NR 727.07, Wis. Adm. Code, the department approves of disturbance of the existing soil cover, relocation of an estimated 3,350 yd<sup>3</sup> of contaminated soil on the Property from which it is excavated and construction of new covers.

Approval is conditioned upon compliance with the following:

1. FF-1, a multi-level monitoring well, was installed at 935 E. John St. in Appleton for the Kerwin Paper Co (Former) site by the responsible party for that site, BRRTS #02-45-221348. The multi-level well is for the investigation of chlorinated volatile organic compounds (CVOCs) released from the former Kerwin Paper Co property at 801 S. Lawe St. in Appleton. FF-1 will continue to be maintained and monitored as part of the Kerwin Paper Co (Former) site by that responsible party. **This multi-level well must be protected during redevelopment activities from damage or destruction** and is identified on the attached map, *Eagle Point Senior Living Site Detail Map*, 10/20/2016 by OMNNI Associates.
2. On-site management of excavated soil shall be completed within one year of the effective date of this letter unless a written extension of this condition is obtained from the department.
3. IconiCare shall manage excavated material in conformance with the approved SWMP and shall notify the department within 24 hours of discovering material that is not consistent with the contaminant characteristics that have been reported to the department. The material must be segregated and tested to determine appropriate disposal.
4. IconiCare shall not relocate more than 11,330 cy<sup>3</sup> of excavated soil unless written approval is granted by department.
5. IconiCare is responsible for obtaining any local, federal, or other applicable state permits to carry out the project.
6. IconiCare shall submit to the department, documentation of excavation and disposal activities within 60 days of completing the disposal activities. The report shall include description of total volume, placement location map and geographic position (determined accordance with the requirements of s. NR 716.15(5)(d)). No additional fees are required at the time of this submittal.
7. IconiCare shall comply with applicable requirements of ss. NR 718.12(2)(d) and (e) and NR 727.09, Wis. Adm. Code regarding continuing obligations and submit a revised *Cap Maintenance Plan and Material Handling Plan* within 60 days of construction completion for department review and approval. No additional fees are required at the time of this submittal.

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The department reserves the right to require the submittal of additional information or to modify or revoke this soil management approval if IconiCare fails to comply with the requirements of the proposed SWMP. The department also retains its right to modify or revoke this approval if circumstances or conditions change, or if new information is found which would warrant modification or revocation of this approval.

If you have any questions regarding this approval decision, please contact me in Oshkosh by phone at 920-424-7887 or by email at [jennifer.borski@wisconsin.gov](mailto:jennifer.borski@wisconsin.gov).

Sincerely,



Jennifer Borski

Hydrogeologist

Remediation & Redevelopment Program

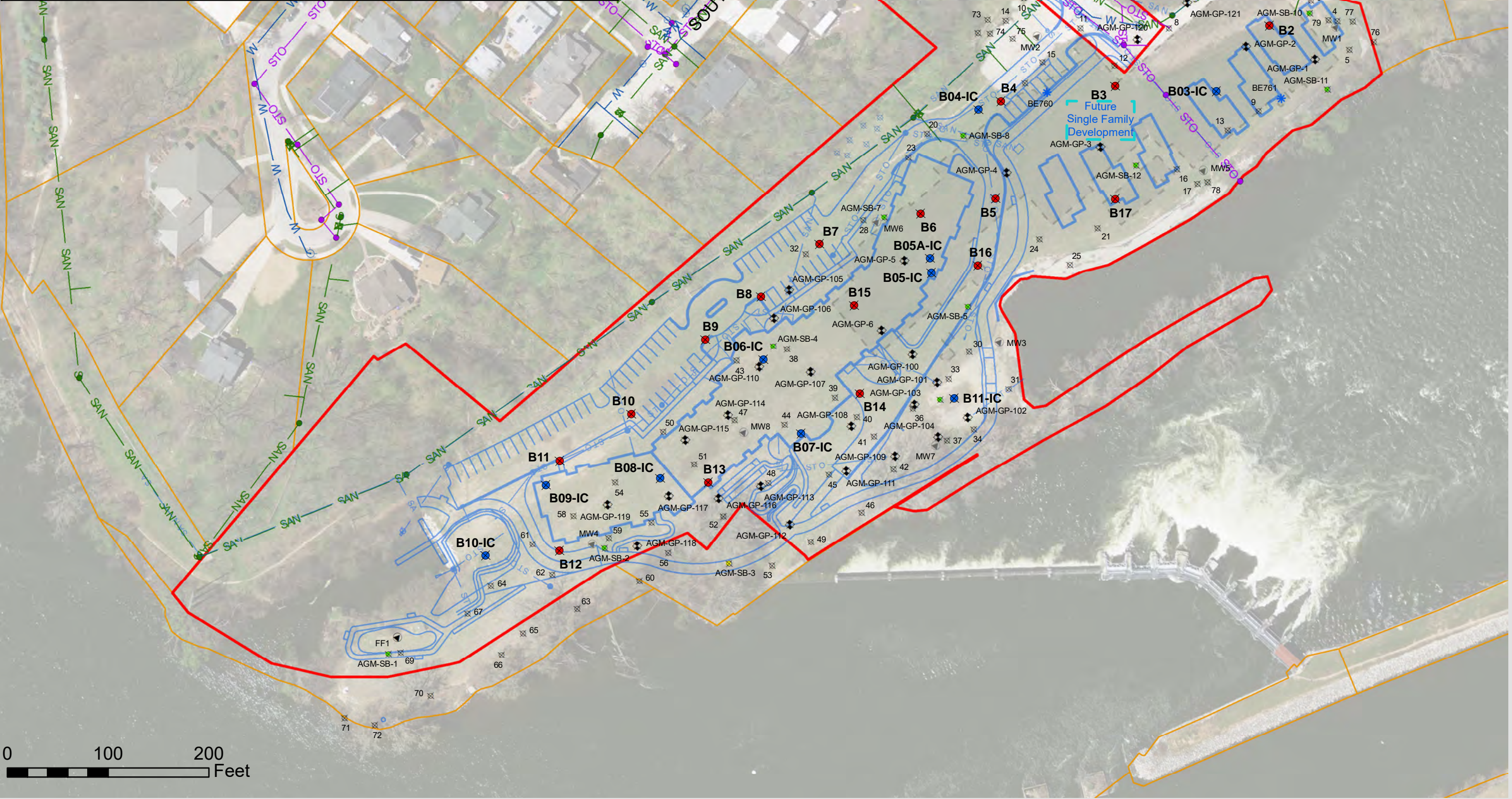
Attachments:

*Figure No. 3, Eagle Point Senior Living Site Detail Map, 10/20/2016 by OMNNI Associates*

cc: Patrick Eagan, IconiCare, LLC – [Patrick.eagan@iconicacreates.com](mailto:Patrick.eagan@iconicacreates.com)  
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Jim Kauer, AECOM – [james.kauer@aecom.com](mailto:james.kauer@aecom.com) (for BRRTS #02-45-221348)  
File – Kerwin Paper Co (Former), BRRTS #02-45-221348



Site	<b>Historical Boring Locations (approx)</b>	Former Building Extents (approx)
Parcels	Soil Boring	Soil Boring Locations (6/2016)
W Water Main	Geotechnical Boring	Soil Boring Locations (10/2014)
S Sanitary Sewer	Geotechnical/Environmental Boring	Soil Borings Locations (2/2013)
S Storm Sewer	Geoprobe Environmental Boring	
	<b>Historical Well Locations (approx)</b>	
	Abandoned Monitoring Well	
	Active Monitoring Well	
	Abandoned Water Well	



Project Manager: BDW  
 Project Engineer: BDW  
 Drawn By: JCW  
 Checked By: BDW  
 Date: 10/20/2016

**EAGLE POINT SENIOR LIVING  
 SITE DETAIL MAP**

CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN



SCALE:  
 1" = 100'  
 PROJECT NO.  
**M1445C16**  
 FIGURE NO.  
**3**

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