



October 25, 2017

Via Email (darsi.foss@wisconsin.gov) and US Mail

Ms. Darsi Foss, Bureau Director
Remediation & Redevelopment Program
Wisconsin Dept. of Natural Resources
101 S. Webster St., PO Box 7921
Madison, WI 53707-7921

Re: Barrett Landfill, Inc. v. City of New Berlin
Your Correspondence to Dino Antonopolous of August 21, 2017

Dear Ms. Foss:

I am writing to follow up on our exchange of voice mail messages. Although in your message you refer me to other persons in the DNR, I am writing to you as the person who signed the letter at issue.

As you mentioned in your voice mail, this matter has had a long and tortured history. Mr. Barrett has periodically, over time, sought the release of the funds that were placed in the escrow account and the City has worked with the DNR on those occasions to review those requests. In each instance, since there had not been a case closure, both the City and the DNR have opposed the release of the funds as it represented the only resource for surrounding property owners whose wells might have been affected by the contaminants on the Barrett landfill site. The last time this issue was discussed we dealt with a person by the name of Bizhan Sheikholeslami and this dates back to 2013. At that time, Barrett also wanted to develop the site and it was pointed out, under NR1520, that he remains responsible for the required long-term care, as well as remedial actions, specifically, Section NR520.05(1).

In any event, the consensus between the DNR and the City at that time was that the Stipulation required a Case Closure before the funds would be released. As a result, you can imagine the City's surprise when we received your August 21, 2017 letter from Mr. Antonopolous demanding the release of the funds. I would note that we were not copied on that letter, nor did anyone from the DNR reach out to us to discuss this matter before this decision was made.

At this point, the City would like answers to the following questions:

1. Your letter indicates that the DNR believes that the Barrett landfill site has been closed for purposes of the Stipulation and Court Order. What has changed with respect to the DNR's view of this site that supports the decision that you made?

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2. Your letter references that ongoing testing of the monitoring wells. However, when we last discussed this matter with DNR in 2013, they were approaching the City looking for money to do this testing, as we were advised, there was no money in the DNR budget to continue to do so. Please provide copies of documents in the DNR files regarding the testing that has been done of the monitoring wells over the last four years, including, but not limited to, work orders to perform the testing and the test results themselves. Also, please provide documentation showing that the leechate has been pumped from the Barrett site over the last four years.
3. In the past, the DNR has taken the position that because of the absence of case closure and in general, the condition of the site, there could be no land disturbing activities on the site and thus, any development of the property. Does your letter of August 21, 2017 represent a change of the DNR's position on that issue as well?
4. When we last spoke with the DNR regarding these issues, we were advised the DNR was looking for more test data, as the ground water monitoring had occurred in 2004 and 2010 and there was a desire for a third set of data to determine the potential impact on surrounding homes and their wells before any decision was made to issue a closure letter. Was that testing performed and if not, what support is there for the DNR's change in position that it is no longer needed before a closure letter would be issued?

We look forward to your prompt response to these questions.

Sincerely,



Mark G. Blum

MGB/jb

Cc: Mayor David Ament
Mr. Greg Kessler
Alderman Ken Harenda