



April 14, 2023

Mr. Bob Monnat
Mandel Group
330 East Kilbourn Avenue, Suite 600 South
Milwaukee, WI 53202
Email only to: rbmonnat@mandelgroup.com

Ms. Jean Ponfil
Ponfil Trust
224 Aspen Drive
Grafton, WI 53024

Ms. Maxine Charmoli
Charmoli Holdings, LLC
320 Douglas Lane
Cedarburg, WI 53012

Subject: Approval to Manage Contaminated Soil under Wis. Admin. Code § NR 718.12 at a Different Site or Facility

Generating Property: 700 Series Properties (Parcel 705), 6633-6639 W National Avenue, West Allis, WI, BRRTS #(s): 02-41-544080, FID #: 341117040

Receiving Property: R&R Excavating Site, 1219 CTH I, Cedarburg, WI, BRRTS #(s): 15-46-579884, FID #: 246105750

Dear Mr. Monnat, Ms. Ponfil, and Ms. Charmoli:

On February 21, 2023, Rick Frieseke of Friess Environmental Consulting, Inc. (Friess), submitted a *Soil Exemption Approval Request for the SoNa Property* on your behalf requesting to manage 8,400 cubic yards of contaminated soil on the R&R Excavating Site in accordance with Wis. Admin. Code § NR 718.12. Supplemental information regarding this request was also provided on March 20 and April 11, 2023. The Wisconsin Department of Natural Resources (DNR) received all applicable technical assistance and database fees for providing review and response, in accordance with Wis. Admin. Code § NR 749.04 (1).

A stockpile of waste soil was created near the southwest corner of the 700 Series Properties (Parcel 705) site property from material generated onsite by the excavation of a stormwater pond, consolidation of stockpiles created from material excavated in 2012, and excavation for a building constructed on the north side of the property. Soil in the stockpile is contaminated with Polycyclic Aromatic Hydrocarbons (PAHs) and metals. An approval through Wis. Admin. Code NR 718.12 has been requested to transfer contaminated soil in the stockpile offsite to the R&R Excavating Site. The soil material will be used for the reclamation of the former quarry.

Approval is based on information provided by Friess confirming that transferred contaminated material will be placed at an elevation greater than three feet above the high groundwater level. The DNR recognizes that past groundwater monitoring at the R&R Excavating Site indicated that the groundwater level was steadily rising. We strongly recommend that the monitoring well that was used for monitoring groundwater levels at the R&R Excavating Site be replaced so that water levels can continue to be monitored. This will help ensure that only clean fill will be placed below the groundwater elevation, as required by the reclamation plan, and that contaminated material will not be placed closer than three feet to the high groundwater level in compliance with Wis. Admin. Code § NR 718.12 (1) (c).

Wis. Admin. Code § NR 718.12 Approval

This letter grants an approval to manage contaminated soil under Wis. Admin. Code § NR 718.12. Approval is based on the following:

Compliance with Locational Criteria

Managing contaminated soil in areas of the R&R Excavating Site identified on Figure 1, Site Diagram, of the *Soil Exemption Approval Request for the SoNa Property* will meet the locational criteria listed under Wis. Admin. Code § NR 718.12 (1) (c), except for the following:

- At a depth greater than the depth of the original excavation from which the contaminated soil was removed.

Grant of exemption to Wis. Admin. Code § NR 718.12 (1) (c) 6

In consideration that soil placement at the R&R Excavating Site will reportedly be above the high groundwater level, will not pose a groundwater risk, and will ultimately be capped, the DNR grants an exemption to the locational criteria of Wis. Admin. Code § 718.12 (1) (c) 6 and will allow placement of contaminated soil at a depth greater than the depth excavated.

Characterization of Soil to be Excavated

Soil samples were collected for analysis of contaminants previously detected or expected to be present at the 700 Series Properties (Parcel 705) site including volatile organic compounds (VOCs), PAHs, and metals from areas most likely to contain residual contamination. Based on an estimated volume of 8,400 cubic yards of soil, and a sampling frequency of one sample per 270 cubic yards, the sampling protocol described in Wis. Admin. Code § NR 718.12 (1) (e) was met.

Submittal of a Soil Management Plan

A complete soil management plan, as defined by Wis. Admin. Code §§ NR 718.12 (2) (b) and (c), was provided to the DNR.

Assessment of Risk Posed by Soil Management

The proposed management of contaminated soil at the R&R Excavating Site is expected to meet the criteria of Wis. Admin. Code §§ NR 726.13 (1) (b) 1. to 5.

Notice Provided Prior to Commencing Soil Management Activities

Per Wis. Admin. Code § NR 718.12 (2), the DNR was provided with written notice at least seven days prior to commencing the proposed contaminated soil management.

Requirement of Continuing Obligations

The current owner of the R&R Excavating Site acknowledged that the continuing obligations described below will be required as a condition of managing the contaminated soil on their property as proposed.

The current property owner of the R&R Excavating Site, and any subsequent property owners, must comply with the following continuing obligations at this site, established under Wis. Admin. Code § NR 718.12 (2) (d), to ensure that conditions will remain protective. DNR staff will conduct periodic, pre-arranged inspections to ensure that the conditions included in this letter are met. If these requirements are not followed, the DNR may take enforcement action under Wis. Stat. ch. 292.11 to ensure compliance with the specified requirements, limitations or other conditions related to the property.

Documents submitted to the DNR to request the Wis. Admin. Code § NR 718.12 approval meet the requirements of Wis. Admin. Code § NR 718.12 (2) (e) and are available in PDF on the DNR's Bureau for Remediation and Redevelopment Tracking System (BRRTS) on the Web (BOTW) and RR Sites Map (RRSM), to provide public notice of remaining contamination and continuing obligations. Both BOTW and RRSM are available at dnr.wi.gov and search "WRRD."

More information on responsibilities related to continuing obligations can be found in the DNR publication "Continuing Obligations for Environmental Protection" (RR-819), which can be found at dnr.wi.gov, search "RR-819."

Please send written notifications in accordance with the following requirements to the DNR Southeast Region Environmental Program Associate (EPA).

Send documents to the DNR using the RR Program Submittal Portal at dnr.wi.gov, search "RR submittal portal" (<https://dnr.wi.gov/topic/Brownfields/Submittal.html>). Questions on using this portal can be directed to the contact below or to the environmental program associate (EPA) for the regional DNR office. Visit dnr.wi.gov, search "RR contacts" and select the EPA tab (<https://dnr.wi.gov/topic/Brownfields/Contact.html>). More information on submitting electronic documents can be found in the DNR publication "Guidance for Electronic Submittal for the Remediation and Redevelopment Program" (RR-690), which can be found at dnr.wi.gov, search "RR-690."

Residual Soil Contamination

If contaminated soil that was managed as proposed in the *Soil Exemption Approval Request for the SoNa Property* is excavated in the future, the property owner at the time of excavation will have the following responsibilities per Wis. Admin. Code § NR 727.05 (1) (d):

- determine if contamination is present;
- determine whether the soil is considered solid or hazardous waste; and
- ensure that any storage, treatment or disposal is in compliance with applicable statutes and rules.

Excavated contaminated soil may be managed in accordance with Wis. Admin. Code § NR 718 with DNR pre-approval. In addition, all current and future property owners and occupants of the property need to be aware that excavation of the contaminated soil may pose a hazard, and special precautions may be necessary to prevent a health threat to humans.

The location(s) where contaminated soil is proposed to be managed at the R&R Excavating Site is depicted on the attached Figure 1, Site Diagram.

The DNR's approval prior to well construction or reconstruction is required where contaminated soil was managed, in accordance with Wis. Admin. Code § NR 812.09 (4) (w). This requirement applies to private drinking water wells and high capacity wells. To obtain approval, complete and submit DNR Form 3300-254 to the DNR Drinking and Groundwater Program's regional water supply specialist. This form is available at dnr.wi.gov, search "3300-254."

Other Information

- 1) Any hazardous substance discharge discovered during soil management activities must be reported to the DNR following the requirements of Wis. Admin. Code ch. NR 706.
- 2) Contaminated soil management activities approved by this letter are scheduled to be completed in 2023. Notify the DNR if this schedule will change.
- 3) Unless otherwise directed by the DNR, documentation of contaminated soil management activities shall be provided within 60 days of the completion of this project (Wis. Admin. Code § NR 724.15 (1)). The documentation must comply with the requirements of Wis. Admin. Code § NR 724.05 (2) and § NR 724.15 (3). Documentation must include:
 - a. A cover letter that contains the information required by Wis. Admin. Code § NR 724.05(2) (e) 1.
 - b. Owner contact and property location information for 700 Series Properties (Parcel 705) and the R&R Excavating Site.
 - c. Maps, drawings and cross sections that depict how contaminated soil was managed.
 - d. A synopsis of the work conducted and an explanation as to how it complied with the soil management plan and the conditions in this approval.
 - e. A description of any changes made to the planned management activity and an explanation as to why they were necessary for the project.
 - f. Any field observations or results of monitoring conducted during the management activity.
 - g. A description of how new site conditions are protective of human health, safety, welfare and the environment at the R&R Excavating Site.
 - h. A revised cover maintenance plan, if needed.

The DNR will request that incomplete documentation be amended as allowed by Wis. Admin. Code § NR 724.07 (2).

- 4) This approval is granted under Wis. Admin. Code § NR 718.12 and applies only to the specific activities described within the submitted *Soil Exemption Approval Request for the SoNa Property*. Any contaminated material that is excavated or otherwise disturbed at 700 Series Properties (Parcel 705) and the R&R Excavating Site, not covered under this or another approval, must be managed in compliance with the requirements of Wis. Admin. Code chs. NR 500 through NR 599. The management of contaminated material on a property that does not comply with these rules may be considered a hazardous substance discharge or environmental pollution and would be required to be addressed by the process outlined in Wis. Admin. Code chs. NR 700 to NR 799.
- 5) The Mandel Group is responsible for obtaining any local, federal or other applicable state permits to carry out the project.

All remediation sites are included in DNR's Bureau of Remediation and Redevelopment Tracking System (BRRTS) database. All documents and project milestones related to the cleanup of each of the involved sites are listed in the database entry identified by BRRTS activity #(s) 0 2-41-544080. Actions relating only to the management of contaminated soil at R&R Excavating Site are tracked in the BRRTS system under activity # 15-46-579884.

We appreciate your efforts to protect the environment at this site. If you have any questions regarding this approval decision, please contact Paul Grittner, by calling (414) 405-0764 or by email at paul.grittner@wisconsin.gov.

Sincerely,



Pamela A. Mylotta
Southeast Region Team Supervisor
Remediation & Redevelopment Program

Attachments: Figure 1, Site Diagram

cc: Rick Frieseke, Friess Environmental Consulting, Inc. - rfrieseke@fecinc.us



Site Diagram
R&R Excavating Site
Cedarburg, Wisconsin

Figure
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