



March 6, 2023

--sent by email--

Dr. Paul Wagner c/o Karin J. Wagner
Wagner & Gustafson, LLC
200 South Executive Drive, Suite 101
Brookfield, WI 53005

SUBJECT: Partial Approval of Enviroforensics' "Request for Change Order" for the Wagner Property, 401 North Wisconsin St, Elkhorn, Wisconsin
WDNR BRRTS # 02-65-544400

Dear Ms. Wagner:

This letter responds to Enviroforensics' September 28, 2022, "Request for Change Order" (Request) for the case referenced above. The Request was submitted as part of the on-going Dry Cleaner Environmental Fund Response (DERP) case. Follow-up communications between Enviroforensics, you and the Department resulted in a longer than usual response time.

The Request asks for:

1. Consideration of additional DERP eligibility for \$45,755.29 of soil disposal costs that exceeded the original pre-approved budget.
2. Approval of an additional \$7,000 of consulting work for groundwater remediation planning and design.

The Department has determined:

1. The excavation and disposal of excess soil beyond what was planned appears to meet the definition of an "immediate action" under Wis. Adm. Code s. NR 169.05(13), which is eligible for reimbursement under Wis. Adm. Code s. NR 169.09(1)(a). An additional \$10,000 in DERP eligibility is approved for the additional soil disposal costs, per Wis. Adm. Code s. 169.11(1)(a)3.
2. The requested approval of costs for groundwater remediation and planning cannot be approved, per Wis. Adm. Code s. NR 169.23 (3)(d) 4, which explicitly indicates the need for competitive bids for this service. The groundwater remediation and planning work will need to be bid in compliance with Wis. Adm. Code ch. NR 169 requirements. I will email you Department guidance on DERP bidding requirements.

Feel free to contact me with questions at jeff.ackerman@wisconsin.gov or 608-219-2302.

Sincerely,

Jeff Ackerman
Hydrogeologist

Cc: Wayne Fassbender, Enviroforensics
Sandy Chancellor, DNR – DERP fund manager