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Miller Compressing Company

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**REVISED CAP OPERATIONS,
MAINTENANCE, AND MONITORING PLAN
BURNHAM CANAL SUPERFUND ALTERNATIVE SITE
MILWAUKEE, MILWAUKEE COUNTY, WISCONSIN
WDNR BRRTS #: 02-41-552940
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ACRONYMS AND ABBREVIATIONS

COCs	contaminants of concern
COMMP	Cap Operations, Maintenance, and Monitoring Plan
CQAPP	Quality Assurance Project Plan
CSO	combined sewer outfalls
ESD	Explanation of Significant Differences
GPS	global positioning system
H:V	horizontal distance to vertical distance ratio
IC	institutional control
ICIAP	Institutional Control Implementation and Assurance Plan
IGLD 85	International Great Lakes Datum of 1985
LTCP	Long-Term Care Plan
Miller	Miller Compressing Company
NGVD 29	National Geodetic Vertical Datum of 1929
NOAA	National Oceanic and Atmospheric Administration
OBG	O'Brien & Gere Engineers, Inc., Part of Ramboll
OHWM	ordinary high water mark
PAHs	polycyclic aromatic hydrocarbons
PFDS	Precipitation Frequency Data Server
RA	remedial action
ROD	Record of Decision
RTK	real-time kinematic
Site	Burnham Canal Site
U.S. EPA	United States Environmental Protection Agency
USACE	United States Army Corps of Engineers
WDNR	Wisconsin Department of Natural Resources
WisDOT	Wisconsin Department of Transportation

1. INTRODUCTION

This document contains the updated Cap Operations, Maintenance, and Monitoring Plan (COMMP) prepared on behalf of Miller Compressing Company (Miller) for the Burnham Canal (described in more detail below) and replaces the previously approved COMMP included as Appendix F of the Final Design Report (NRT, 2017b, 2017c). Following approval of the previous COMMP (NRT, 2017b), Miller elected to voluntarily place additional aggregate fill materials on top of the cap required under the Record of Decision/Explanation of Significant Differences (Cap) (ROD/ESD) (USEPA, 2011, 2016). As such, COMMP revisions were required to account for the placement of additional aggregate fill material. The monitoring and maintenance requirements established in this revised COMMP were developed considering the voluntarily placed aggregate materials in addition to the aggregate materials placed to satisfy the requirements of the ROD/ESD (USEPA, 2011, 2016). This COMMP addresses three capped areas; the Subaqueous Engineering Control Area, the Unpaved Engineering Control Area, and the Paved Engineering Control Area. The Paved Engineering Control Area addresses soil areas and the Subaqueous Engineering Control Area addresses sediment as defined by Wis. Stat. § 292.01.17g. The Unpaved Engineering Control Area was defined as addressing soil areas in the previously approved COMMP (NRT, 2017b). However, due to recent high water level elevations in the canal, as discussed further in Section 1.2, this COMMP defines the Unpaved Engineering Control Area as addressing soil and/or sediment, depending on the canal's water level elevation at the time of inspection. The Cap has been constructed and a layer of voluntary betterment aggregate fill material (Betterment) has been placed on top of the Cap at the Burnham Canal Site (Site) in the Menomonee Valley, Milwaukee, Wisconsin (Figure 1). The Betterment is described in further detail in the Water Resources Application for Project Permits – Burnham Canal Betterment, submitted for permit coverage under Chapter 30 of Wisconsin Statutes (OBG, 2018). The Chapter 30 permit application (OBG, 2018) was approved by the Wisconsin Department of Natural Resources (WDNR) on July 6, 2018 (Appendix A) (WDNR, 2018b).

1.1 Site Background

The Burnham Canal was historically a federally authorized navigation channel dredged and maintained to a depth of 21 feet below Lake Michigan Low Water Datum (i.e., 556.5 feet International Great Lakes Datum of 1985 (IGLD 85) or 557.36 feet National Geodetic Vertical Datum of 1929 (NGVD 29)) by the United States Army Corps of Engineers (USACE). The canal was dredged regularly while it was maintained by the USACE in order to maintain a depth conducive for shipping. In the mid-1980s as industrial activities decreased in the Menomonee Valley, dredging became less frequent with no dredging taking place since the fall of 1987. During this period, the west portion of the channel (i.e., from the 11th Street Bridge to the west) was federally delisted (1986) and the 11th Street Bridge was built, effectively blocking ship traffic from moving upstream. East of the 11th Street Bridge, the canal was further deauthorized on June 10, 2014 to allow for potential construction of an urban wetland in the Burnham Canal (USACE, 2016). The canal is approximately 1,500 feet from west to east to the 11th Street Bridge and ranges from approximately 95 feet to 125 feet in width. Water depths in the canal range from a few feet on the western boundary and up to 10 to 15 feet at some locations.

1.2 Purpose and Scope

This COMMP is applicable for the period spanning completion of the Cap and Betterment construction to WDNR approval of Site closure under Wis. Admin. Code ch. NR 726. The COMMP

sets forth the post-construction requirements to monitor, maintain, and properly respond to changes in the capped areas of the Site that may pose a threat to human health or the environment. These requirements are based on the remedial design (NRT, 2017c), ROD/ESD (USEPA, 2011, 2016), the approved Chapter 30 permit application for the Betterment (OBG, 2018), and the approved Remedial Action Work Plan (OBG, 2020b).

The Site remediation is subject to plans approved by the United States Environmental Protection Agency (U.S. EPA). As such, this COMMP is designed to be implemented in conjunction with the approved Institutional Control Implementation and Assurance Plan (ICIAP) (NRT, 2017d) for maintenance and monitoring of institutional controls (IC) until the COMMP is superseded by other actions, such as Site closure. The COMMP addresses the three capped areas that exist at the Site, as listed below and shown on Figure 2.

- Paved Engineering Control Area (west of the canal, in the historic location of the wire reclamation furnace)
- Unpaved Engineering Control Area (between the Paved Engineering Control Area and the Subaqueous Engineering Control Area, including the western bank of the canal above the OHWM)
- Subaqueous Engineering Control Area (from the 11th Street Bridge to the west terminus of the canal)

The Paved Engineering Control Area is currently paved with asphalt. This area will remain as is, since it meets the requirements of the existing Cap Maintenance and Hard Surfacing Plan approved by the WDNR on September 1, 2009 (Appendix B) (WDNR, 2009), and will be monitored to ensure that the existing asphalt cap integrity is not compromised. Future monitoring will be performed in accordance with this approved plan.

The Unpaved Engineering Control Area consists of a small area between the Paved Engineering Control Area and the Subaqueous Engineering Control Area as shown on Figure 2. As noted in O'Brien & Gere Inc. of North America, part of Ramboll's (OBG's) November 12, 2020 Dredge and Upland Excavation Areas Memo (OBG, 2020a), water level elevations in the canal measured during the Cap and Betterment construction have fluctuated between +1 and +2 City of Milwaukee Datum (CMD), resulting in the entire Unpaved Engineering Control Area being submerged up to the Paved Engineering Control Area. Due to these high water levels, following sediment excavation, the entire Unpaved Engineering Control Area was backfilled with riprap underlain by nonwoven geotextile underlain by the Cap on the reconstructed west bank of the canal. Post-construction monitoring of the portions of the Unpaved Engineering Control Area that are above the canal water level at the time of inspection will be visual and focus on erosion control. Post-construction monitoring of the portions of the Unpaved Engineering Control Area that are submerged beneath the canal water level at the time of inspection will be conducted in the same manner as the monitoring of the Subaqueous Engineering Control Area, as described below.

The largest area associated with this COMMP is the Subaqueous Engineering Control Area. Prior to capping activities, contaminated sediment was dredged from the west end of the canal to remove the highest concentrations of contaminants of concern (COCs) in this area. After dredging to the design elevations, capping activities were initiated within the Subaqueous Engineering Control Area and included the dredge area. The functions of the Subaqueous Engineering Control are to provide an isolation layer between possible receptors (e.g., benthic

community) and the underlying contaminated sediments, as well as to prevent migration of the COCs (metals and polycyclic aromatic hydrocarbons (PAHs)) into the water column.

This document describes post-construction monitoring and maintenance activities that will be performed for the Paved Engineering Control Area, the Unpaved Engineering Control Area, and the Subaqueous Engineering Control Area considering the Betterment (OBG, 2018). Monitoring and maintenance will be performed to ensure that the caps remain intact, physically stable, and protective over time.

The final long-term care plan under Wis. Stat. 292.12(d)(1) for the Subaqueous Engineering Control Area and the Unpaved Engineering Control Area will be issued at the time the WDNR approves closure under Wis. Admin. Code ch. NR 726. At the time of closure, the requirements of the COMMP will be superseded by WDNR's post-closure continuing obligations. The anticipated continuing obligations and associated financial assurance for the Site will be described in a Long-Term Care Plan (LTCP) to be submitted to WDNR following completion of the Cap and Betterment construction, either prior to or as part of the Site closure process.

2. ROD/ESD CAP AND BETTERMENT DESIGN SUMMARY

2.1 Unpaved Engineering Control Area – Summary

Sediment was excavated at the western terminus of the canal. The Cap was placed as backfill along the western bank. Riprap underlain by nonwoven geotextile was placed along the western canal slope for stability purposes.

2.2 Paved Engineering Control Area – Summary

The Paved Engineering Control Area already meets the requirements of the existing Cap Maintenance and Hard Surfacing Plan approved by the WDNR on September 1, 2009 (Appendix B) (WDNR, 2009). As such, the requirements of this approved plan are incorporated into the COMMP.

2.3 Subaqueous Engineering Control Area – Summary

Sediment in the canal was capped using imported aggregate as follows:

- Stabilization Layer: Placed over the canal bottom prior to placing the Cap. Stabilization layer aggregates generally consist of coarse-grained sand (torpedo sand) to provide a base for the Cap.
- Cap: As defined in the ROD/ESD (USEPA, 2011, 2016) and Work Plan (OBG, 2020b), and meeting the definition of a sediment cover per Wisconsin Statutes Chapter 292.01 (17m). The Cap consists of an average thickness of 12 or more inches across the entire canal area, with no areas less than nine-inches thick. Cap material consists of aggregates that entirely pass the 1.5-inch sieve.

A summary of the Cap layer completion, including field quality control verification and documentation was summarized in a memo submitted to the WDNR on February 11, 2021 (Ramboll, 2021). A corresponding WDNR approval letter was received on February 26, 2021 (WDNR, 2021).

Betterment was then placed on top of the Cap as follows:

- Full-Thickness Betterment:
 - The Full-Thickness Betterment in the canal extends from approximately Station (STA) 4+50 on the west to the eastern project limits (approximately STA 16+85).
 - The Full-Thickness Betterment includes a minimum of 4.5 feet of aggregates that entirely pass the 1.5-inch sieve (same aggregate specification as the Cap aggregates).
 - Topping: a minimum of 0.5 feet (six inches) of aggregates meeting the Wisconsin Department of Transportation's (WisDOT's) Select Crushed Material Specification 312 (Select Crushed).
- Low-Profile Betterment:
 - Subaqueous conveyance channel (discussed further below) lining installed from approximately STA 2+25 to 4+50. Approximately two feet of Select Crushed, underlain by nonwoven geotextile.
 - Riprap installed from approximately STA 1+50 (eastern limits of the Paved Engineering Control Area) to STA 2+25. 1.5 to 2 feet of aggregates meeting the WisDOT's Medium

Riprap Specification 606 (Medium Riprap), underlain by nonwoven geotextile. This includes the riprap apron placed at the combined sewer outfall (CSO) (discussed further below) and armor for the western bank of the canal.

There are two CSOs in the canal. The outfall discharges are identified as CSO 193 (formerly CSO-210) and CSO 194 (formerly CSO-211), as shown on Figure 2. At outfall CSO 193, a riprap apron is unnecessary due to the significant water column depth between the CSO invert and top of the Betterment that will dissipate discharge velocity from the CSO. For erosion protection at CSO 194, a riprap apron was constructed at the outfall. As shown in the Final Design Report (NRT, 2017c) plans, the riprap apron at outfall CSO 194 is approximately 19.5 feet wide at the outfall, extends approximately 36 feet from the outlet, and widens to approximately 41 feet at the end of the riprap apron. The following is a summary of the key CSO 194 (formerly CSO-211) aspects of the design that relate to the COMMP:

1. To accommodate both the Betterment placement at the west end of the canal and flow from the CSO 194 (formerly CSO-211), a subaqueous conveyance channel was constructed on top of the Cap in the western portion of the canal, as shown in Appendix C. The channel extends approximately 200 feet downstream of the CSO 194 (formerly CSO-211) riprap apron. The channel cross-section is trapezoidal, with a base width and elevation approximately equal to that of the riprap apron. The channel was lined with two feet of Select Crushed, and underlain by nonwoven geotextile, placed on top of the Cap, throughout its cross-section. The channel sides slope upwards at 4H:1V (Appendix C).
2. Based on the USACE's 2017 survey of the surface of the canal (USACE, 2017), the pre-construction sediment surface elevation was determined to be greater on the west end than the elevation observed during the remedial investigation (NRT, 2008) and used in the remedial design (NRT, 2017c). To allow for flow from CSO 194 (formerly CSO-211), up to seven feet of sediment was relocated and capped (by the Cap) to build the subaqueous conveyance channel. The relocation was conducted pursuant to Wis. Admin. Code ch. NR 718. WDNR approved relocation of sediment associated with subaqueous conveyance channel construction in an August 31, 2018 letter to Miller (Appendix D) (WDNR, 2018a). U.S. EPA confirmed in an April 30, 2018 email to OBG that the sediment relocation associated with subaqueous conveyance channel construction is not considered a design change by U.S. EPA (Appendix D).

3. CAP MONITORING AND MAINTENANCE

Post-construction monitoring and contingency response actions are required for the cap areas that make up the Site, including the Paved Engineering Control Area, Unpaved Engineering Control Area, and Subaqueous Engineering Control Area.

Results of monitoring efforts will be recorded and provided to the WDNR in Post-Construction Monitoring Reports. Monitoring activities and responses are described in the following sections for each of the areas.

3.1 Paved Engineering Control Area Monitoring

The Site includes a Paved Engineering Control Area at the west end of the canal. The condition of the Paved Engineering Control Area will be documented through annual visual inspection of the area. Since regular facility operations in this area will continue following construction, future monitoring will be performed in accordance with the existing facility-wide Cap Maintenance and Hard Surfacing Plan approved by WDNR on September 1, 2009 (Appendix B) (WDNR, 2009). Annual inspection and maintenance logs will be maintained per the example provided in Exhibit A to the Cap Maintenance and Hard Surfacing Plan (WDNR, 2009). A maintenance log template is provided as Appendix E.

Monitoring requirements of the existing Cap Maintenance and Hard Surfacing Plan (WDNR, 2009) include:

- Annual Inspection – Inspect annually, preferably in the spring after all snow and ice has melted and identify deterioration, cracks or other potential problems that can cause exposure to underlying soils and evaluate damage due to settling, exposure to the weather, wear from traffic operations, increasing age and other factors. Any area where soils have become or are likely to become exposed will be documented in an inspection log which will include recommendations for necessary repairs and the documentation of the completion of those repairs. The inspections will be performed by Miller Compressing or their designated representative. The inspection log will be kept at Miller Compressing Company and available for submittal or inspection by the WDNR representative upon their request during normal business hours.
- Maintenance Activities – If problems are noted during the annual inspections or at any other time during the year, repairs will be scheduled as soon as practical. Repairs may include patching and filling or larger resurfacing or construction activities. In the event that necessary maintenance activities expose the underlying soil, Miller Compressing Company must inform maintenance workers of the direct contact exposure hazard and provide them with appropriate personal protection equipment (“PPE”). Miller Compressing Company must notify the WDNR prior to any excavation activities. All soils being removed from the site must be treated, stored, and disposed of by Miller Compressing Company in accordance with applicable local, state, and federal law.

Note that inspection of the Paved Engineering Control Area is not included in the Cap Maintenance and Hard Surfacing Plan (WDNR, 2009). As such, while Paved Engineering Control Area inspection procedures will generally be performed in accordance with the Cap Maintenance and Hard Surfacing Plan (WDNR, 2009), differences from the activities described above will include:

- An initial inspection of the Paved Engineering Control Area will be conducted to provide a baseline for future inspections. The initial inspection will be completed within 90 days of WDNR's approval of this revised COMMP. Subsequent inspections will be conducted annually, typically in or around May.
- Paved Engineering Control inspection logs will be submitted to WDNR, through the Remediation and Redevelopment Program Submittal Portal, upon completion. A request from WDNR will not be required prior to submittal.

3.2 Unpaved Engineering Control Area Monitoring

The Site includes an Unpaved Engineering Control Area at the west end of the canal. Post-construction monitoring of portions of the Unpaved Engineering Control area that are above the canal water level during monitoring will consist of visual inspection and focus on erosion control. No operations occur in this area; therefore, reviews will be performed during the monitoring events for the Subaqueous Engineering Control Area as described in Section 3.3. A modified version of WDNR Form 4400-305 (Appendix E) will be prepared and completed for each inspection event and submitted to the WDNR as an attachment to the Post-Construction Monitoring Reports. The riprap zone above the OHWM on the west bank of the canal will be inspected to identify potential erosion and any loss of riprap into the canal. If needed, the riprap will be repaired in accordance with the Technical Specifications, provided in Appendix H of the Final Design Report (NRT, 2017a).

Post-construction monitoring of portions of the Unpaved Engineering Control area that are below the canal water level during monitoring will be conducted in the same manner as the monitoring of the Subaqueous Engineering Control Area, as described in Section 3.3.

3.3 Subaqueous Engineering Control Area Monitoring

Monitoring events associated with the construction phase of the project are described in the CQAPP (NRT, 2016). The post-closure monitoring events will be described in the LTCP. The post-construction, pre-closure monitoring events will be conducted as described by this COMMP and reported to the WDNR within 180 days following the monitoring event. An approval request for cessation of COMMP activities will be submitted to the WDNR with the Site closure request. At the time of closure, the requirements of the COMMP will be superseded by WDNR's post-closure continuing obligations. The anticipated post-closure continuing obligations for the Site will be described in the LTCP.

Post-construction, pre-closure Subaqueous Engineering Control Area and erosion monitoring events will be performed annually. In addition, monitoring will be conducted following abnormal weather events (e.g., rainfall greater than the 25-yr, 24-hr storm event). The 25-year, 24-hour storm events will be defined by the National Oceanic and Atmospheric Administration (NOAA) Precipitation Frequency Data Server (PFDS) (NOAA, 2021) at the time of the event (currently >4.56 inches of rainfall within 24 hours). Storm-related monitoring events will occur within 60 days of the storm event, weather conditions permitting. Storm-related monitoring events will satisfy the annual monitoring event requirement, but if an annual event has already been performed, additional event(s) must be conducted that year if rainfall greater than the 25-year, 24-hour storm event occurs.

3.3.1 Purpose

Bathymetric surveys were completed for the Cap during construction, as required by the U.S. EPA approved design (NRT, 2017c). These surveys included the Betterment. The purpose of the bathymetric surveys was to document surface elevations of the Cap and Betterment to obtain WDNR approval of construction. The survey methods and results will be incorporated into the Construction Documentation Report to be submitted and reviewed by WDNR under the Negotiated Agreement (WDNR, 2018c).

The purpose of post-construction surveys is to demonstrate that the Cap remains in place. The Cap is buried beneath the Betterment and a post-construction bathymetric survey of the Cap is not feasible. The post-construction monitoring requirements will be met by demonstrating that the Betterment remains in place through the methods described herein.

Post-construction monitoring is designed to verify the Cap remains in place by examining the Betterment. Verification of the presence of the Betterment will confirm that the Cap is in place and, thus, the ROD/ESD (USEPA, 2011, 2016) remedy remains protective of human health and the environment. Following documentation of construction completion, poling surveys, as described below, will be the primary method to demonstrate that the Betterment is intact. Poling surveys are to be conducted at least annually based on the schedule provided in Section 3.3. Supplemental evaluation will include completion of a bathymetric survey and isopach maps three years from the date that a bathymetric survey was completed as part of construction activities (May 11th, 2021), and every five years thereafter.

3.3.2 Poling and Bathymetric Surveys

Post-construction verification monitoring events will consist of a poling survey of the Betterment, the conveyance channel, and the CSO 194 (formerly CSO-211) riprap apron at approximately 25 verification locations, as shown in Figure 3. A real-time kinematic (RTK) global positioning system (GPS) will be used to navigate to proposed locations and log actual poling locations. The poling rod will be used to confirm the presence of riprap or Select Crushed atop the geotextile in the CSO 194 apron and conveyance channel and confirm the presence of Select Crushed throughout the rest of the Subaqueous Engineering Control Area. As described in the Technical Specifications included in the approved Chapter 30 Permit Application for the Betterment (OBG, 2018), the majority of the Betterment to be placed on top of the Cap consists of aggregates that entirely pass the 1.5-inch sieve. However, the top few inches of the Betterment (Topping) consists of Select Crushed (coarser aggregate). If poling indicates that riprap or Select Crushed is not present atop the geotextile in the CSO 194 apron and conveyance channel (bare geotextile), additional evaluation or repair will be conducted, as necessary. Similarly, if poling indicates the absence of the Topping (Select Crushed) in the Subaqueous Engineering Control Area outside of the conveyance channel, additional evaluation or repair will be conducted, as necessary. A flowchart outlining the requirements for poling survey verification of fill material is provided as Figure 4.

The poling rod will also be used to measure canal water depth atop the Betterment. Water depth will be subtracted from canal water elevation to determine the elevation of the top of the Betterment. Canal water elevation will be measured using a gaging station installed during construction. The elevations of the top of the Betterment will be compared to the elevations provided in the bathymetric and poling survey(s) completed previously in the same or similar locations.

Unless otherwise agreed by DNR or at which time an approved LTCP supersedes the COMMP, to further demonstrate the integrity and stability of the Cap, a bathymetric survey event will be completed three years from the date that a bathymetric survey was completed as part of construction activities (May 11th, 2021), and every five years thereafter. These events will include the completion of isopach maps of the top of the Betterment. Bathymetric surveys will be performed using an RTK GPS and a 200 kHz single-beam (or multi-beam) echosounder with 15-foot spacing between survey lines (not applicable for multi-beam) and in accordance with the USACE Engineer Manual for Engineering Design – Hydrographic Surveying (EM 1110-2-1003) (USACE, 2013). Surveys will reference the CMD.

Surveys performed during construction have indicated the soft sediment under the Cap and Betterment is consolidating under the weight of the aggregate placed in the canal, as expected. As such, a post-construction bathymetric survey surface that is lower than the Betterment surface as-built survey surface documented at the time of construction completion is not indicative of a loss of Betterment or Cap material. Bathymetric survey data collected from post-construction monitoring events will be compared to the as-built Cap surface to be established in the Construction Completion Report (generally two feet below the as-built Betterment surface in the west end of the canal and five feet below the as-built Betterment surface for the rest of the canal). If the post-construction bathymetric survey surfaces are above the as-built Cap surface, no further action will be taken. If post-construction bathymetric survey surfaces are below the as-built Cap surface, additional evaluation will be conducted as necessary. Additional evaluation will include post-survey poling in these areas to confirm that the riprap or Select Crushed Betterment atop the Cap remains intact. If necessary, coring (push core and/or vibracore) may be attempted to verify the thickness of the Betterment and/or Cap. If exposed underlying canal sediment is confirmed, a Cap repair will be conducted. If necessary, repair is expected to include the addition of aggregate cover material in compliance with the Technical Specifications provided in Appendix H of the Final Design Report (NRT, 2017a). Aggregate materials will be added to meet the Cap thickness and minimum slope requirements indicated in the Final Design Report (NRT, 2017c). Following the addition of aggregate materials during repair events, a localized bathymetric survey will be conducted to document the surface elevations of the restored areas of the Cap. If WDNR concurrence is obtained, methods other than the addition of aggregate materials may be used to restore the Cap to be protective of human health and the environment. Post-Construction Monitoring Reports will be submitted to the WDNR following each poling or bathymetric survey monitoring event to document results. If additional evaluation or repair is conducted, it will be discussed in these reports.

Inspection logs for the Unpaved Engineering Control Area, as discussed in Section 3.2, will be attached to the Post-Construction Monitoring Reports for the portion of the Unpaved Engineering Control Area that is above the canal water level.

3.4 Post-Construction Plan Modification Process

Given the potential for additional fill material to be added to the canal above the Betterment (i.e. wetland construction) prior to Site closure, as well as the expectation that post-construction maintenance and monitoring activities will demonstrate that the caps remain intact, physically stable, and protective over time, COMMP modifications may be appropriate as the monitoring occurs. Alternative monitoring and documentation activities associated with the Unpaved Engineering Control Area and the Subaqueous Engineering Control Area, and/or frequency of these activities, may be proposed, as warranted, through a COMMP modification submitted to the WDNR. Proposed alternative COMMP activities and/or schedules would continue to confirm the stability and protectiveness of the caps until the COMMP is superseded.

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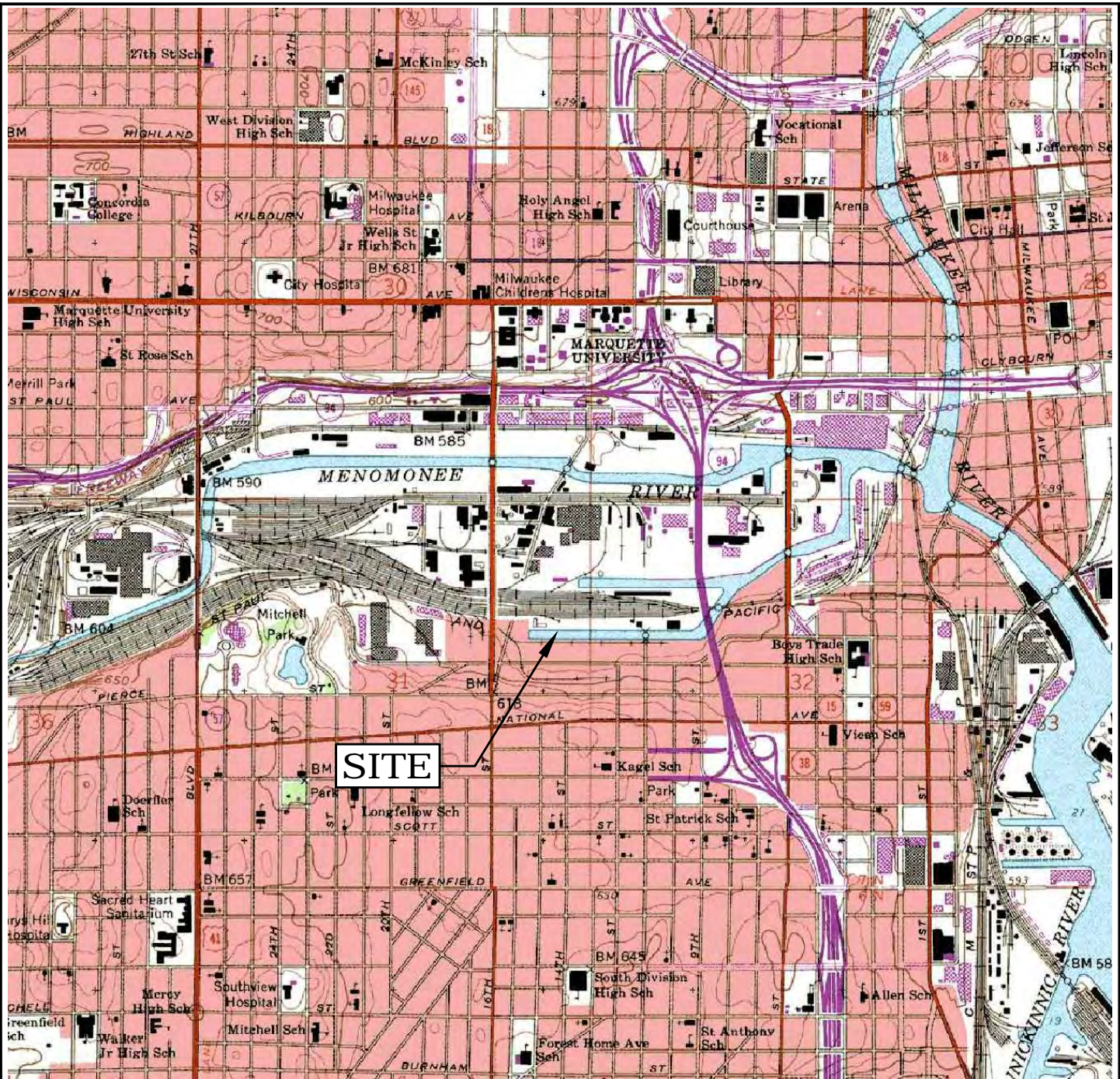
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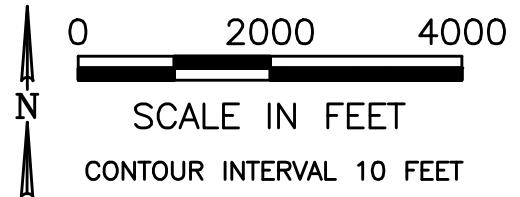
Wisconsin Department of Natural Resources. November 27, 2018c. *Negotiated Agreement, In the Matter of: Miller Compressing Company, 1640 West Bruce Street, Milwaukee, WI 53204.*

Wisconsin Department of Natural Resources. February 26, 2021. *Comments Regarding Cap Completion Memo. Burnham Canal Superfund Alternative Site, Milwaukee, WI.*

FIGURES



SOURCE: EARTHVISIONS U.S. TERRAIN SERIES,
 © EARTHVISIONS, INC. 603-433-8500.
 USGS 7.5 MINUTE QUADRANGLE,
 MILWAUKEE. DATED 1958.
 PHOTOREVISED 1971.



SITE LOCATION MAP

BURNHAM CANAL SUPERFUND ALTERNATIVE SITE
 CAP OPERATIONS, MAINTENANCE, AND MONITORING PLAN
 REVISION 3
 MILLER COMPRESSING COMPANY
 MILWAUKEE, WISCONSIN

PROJECT NO.
21177.1

DRAWING NO.
2117-7-A01

FIGURE NO.
1




DRAWN: DMD DATE: 05/04/15 CHK'D: Y_Z DATE: 02/02/16 APP'D: RJB DATE: 02/02/16

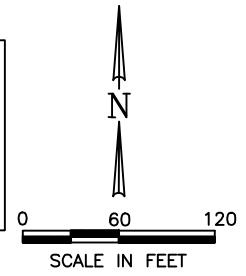
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 IMAGES: Y: Mapping\Projects\21177\CAD\SOURCE\MILWAUKEE.jpg Y: Mapping\Projects\21177\CAD\SOURCE\QUAD.jpg
 REFERENCES:



Jul 12, 2017 2:12pm PLOTTED BY: MillispAM SAVED BY: MillispAM
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 REFPS: Layout1



	COMBINED SEWER OUTFALL
	RIPRAP
	SUBAQUEOUS AGGREGATE ENGINEERING CONTROL



- SOURCE NOTES:**
1. THE DIGITAL DRAWING IMAGE WAS CREATED FROM BING MAPS FOR ARCGIS DESKTOP. (c) 2010 MICROSOFT CORPORATION AND ITS DATA SUPPLIERS.
 2. COORDINATES BASED ON MILWAUKEE COUNTY COORDINATE REFERENCE SYSTEM NAD 83(97).

DRAWN BY:	DMD	DATE:	07/29/16
CHECKED BY:	Y_Z	DATE:	07/29/16
APPROVED BY:	RJB	DATE:	07/29/16
DRAWING NO: 2117-7.1-B02		REFERENCE: See Info Block	

**BURNHAM CANAL
 SITE LAYOUT**

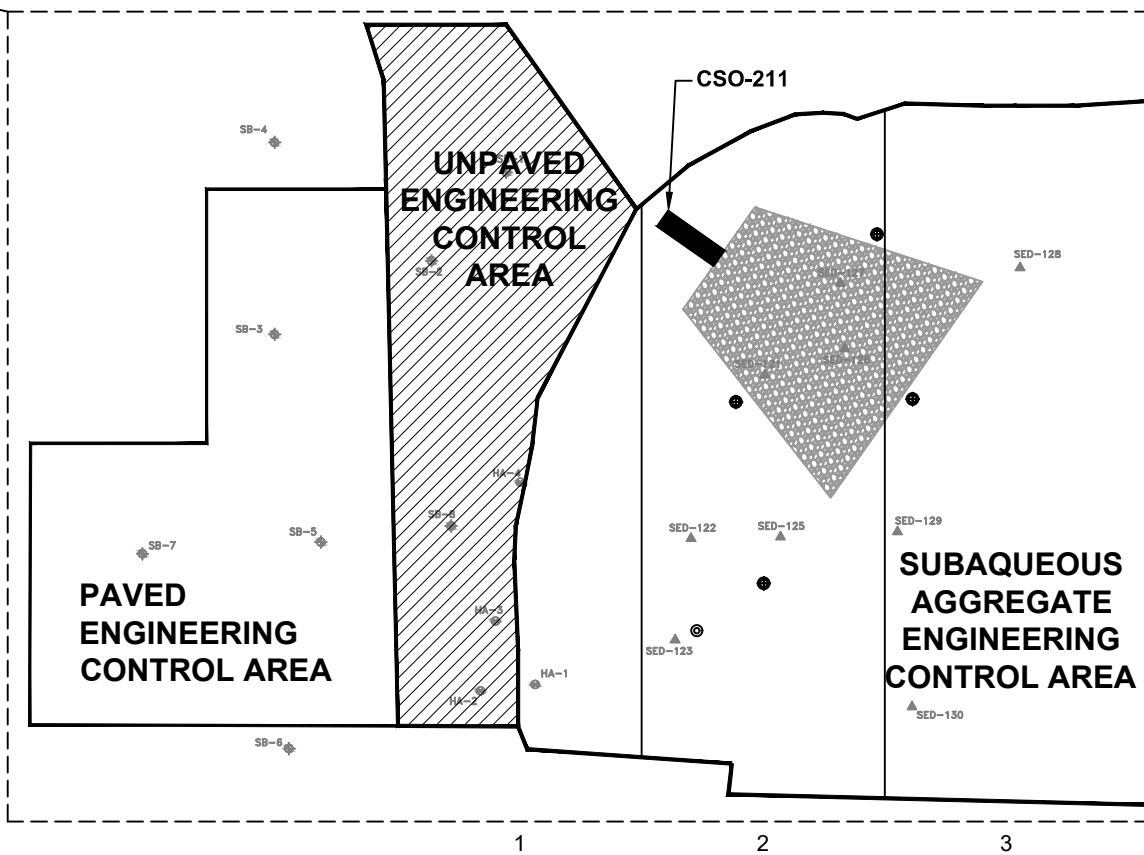
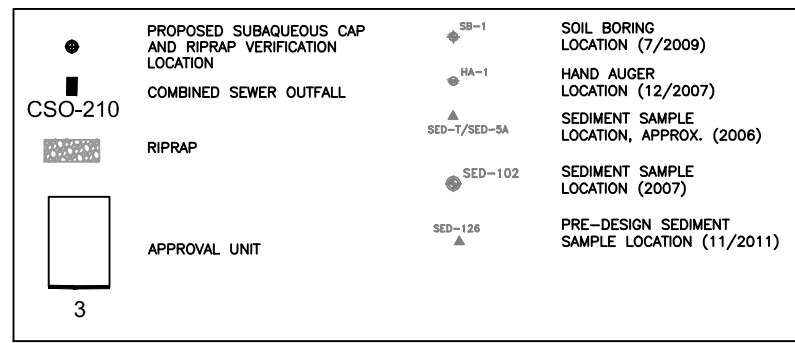
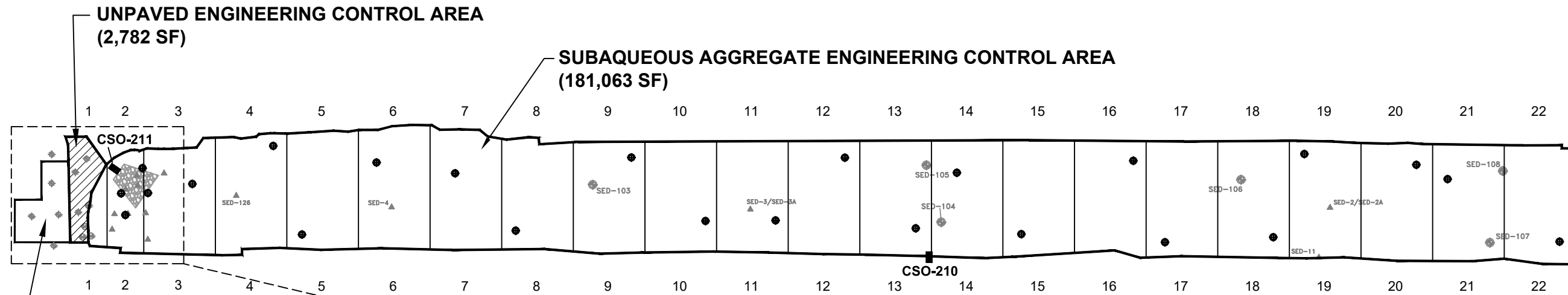
CAP OPERATIONS, MAINTENANCE AND MONITORING PLAN
 REVISION 3

BURNHAM CANAL SUPERFUND ALTERNATIVE SITE
 MILLER COMPRESSING COMPANY
 MILWAUKEE, WISCONSIN

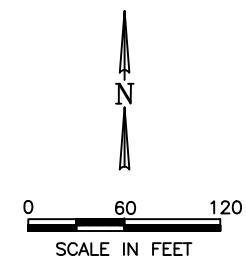


PROJECT NO.	21177.1
FIGURE NO.	2

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 WPCS:



WEST END AREA DETAIL
 SCALE = 1:30



SOURCE NOTES:
 1. COORDINATES BASED ON MILWAUKEE COUNTY COORDINATE REFERENCE SYSTEM NAD 83(97).

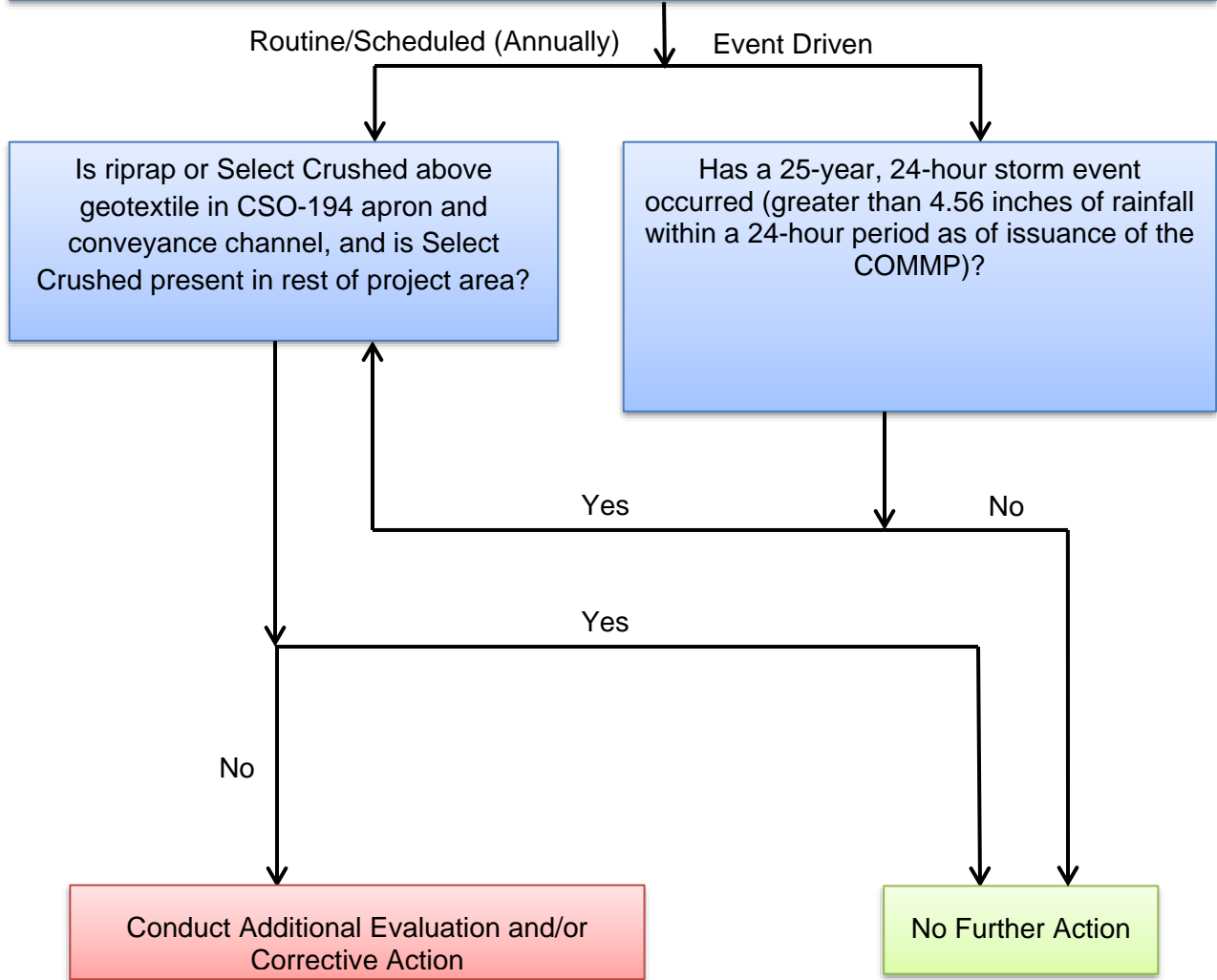
DRAWN BY:	DMD	DATE:	07/29/16
CHECKED BY:	Y_Z	DATE:	07/29/16
APPROVED BY:	RJB	DATE:	07/29/16
DRAWING NO: 2117-7.1-B03		REFERENCE: See Info Block	

BURNHAM CANAL
SAMPLE LOCATION PLAN
 REVISION 3
 CAP OPERATIONS, MAINTENANCE AND MONITORING PLAN
 BURNHAM CANAL SUPERFUND ALTERNATIVE SITE
 MILLER COMPRESSING COMPANY
 MILWAUKEE, WISCONSIN

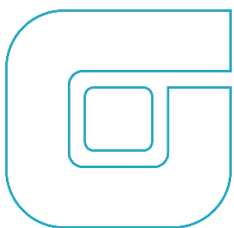


PROJECT NO.	21177.1
FIGURE NO.	3

Poling Survey Verification of Fill Material



Notes:
 Flowchart developed to summarize COMMP Section 3.3.2
 Event driven monitoring events will satisfy the annual monitoring requirement, but annual monitoring will not satisfy the event driven monitoring requirement
 Flowchart may be revised with WDNR approval of COMMP modification, per COMMP Section 3.4



POLING SURVEY VERIFICATION OF FILL MATERIAL FLOWCHART

BURNHAM CANAL SUPERFUND ALTERNATIVE SITE
 MILLER COMPRESSING COMPANY
 MILWAUKEE, WISCONSIN

PROJECT NO.
67830.830

FIGURE NO.
4

APPENDIX A
WDNR CHAPTER 30 PERMIT APPLICATION APPROVAL



July 6, 2018

IP-SE-2018-41-01442, 00631, 00635

Miller Compressing Company
c/o Jon Spigel
1640 West Bruce Street
Milwaukee, WI 53204

Dear Mr. Spigel:

The Department of Natural Resources has completed its review of your applications for permits to remove materials from/and place a structure on the bed of the Burnham Canal, in the City of Milwaukee, Milwaukee County. You will be pleased to know your applications are approved.

I am attaching a copy of your permit, which lists the many important conditions that must be followed to protect water quality and habitat. A copy of the permit must be posted for reference at the project site. Please read your permit conditions carefully so that you are fully aware of what is expected of you.

Please note you are required to submit photographs of the completed project within 7 days after you've finished construction. This helps both of us to document the completion of the project and compliance with the permit conditions.

Your next step will be to notify me of the date on which you plan to start construction and again after your project is complete.

If you have any questions about your permits, please call me at (414) 263-8628 or email elaine.johnson@wisconsin.gov.

Sincerely,

Elaine Johnson
Water Management Specialist

Enclosure: Attachment A: Riparian Owners and Agency Agreement

cc: Mark Walter- O'Brien & Gere Engineers, Inc. (OBG)
Mark Thimke- Foley & Lardner LLP
April Marcangeli- U.S. Army Corps of Engineers
Kurt Sprangers- City of Milwaukee
Michelle Scott, Josh Wied, Judy Fassbender, Marsha Burzynski, Bryan Hartsook,
Susan Eichelkraut- WDNR
Mid- City Foundry, PO Box 04696 Milwaukee, WI 53204- Riparian Owner
Graymont Western Lime, Inc., PO Box 57 West Bend, WI 53095- Riparian Owner
Bruce Street Properties, LLC, 1228 W Bruce St., Milwaukee, WI 53204- Riparian
Owner
Bernard Klein & Geraldine Klein, C/O Klein Properties, PO Box 241777
Milwaukee, WI 53224- Property Owner
AKSS, LLC 1102 W Bruce St., Milwaukee, WI 53204- Riparian Owner

STATE OF WISCONSIN Miscellaneous structures & Dredging PERMITS
DEPARTMENT OF NATURAL RESOURCES
IP-SE-2018-41-00631 (Dredging)
IP-SE-2018-41-00635 (Stabilization Layer and Cap)
IP-SE-2018-41-01442 (Betterment fill)

Miller Compressing Company, also acting as agent for other riparian owners in the project area, is hereby granted under Section 30.12(3m) & Section 30.20(2), Wisconsin Statutes, a permit to remove materials from and to place a structure on the bed of the Burnham Canal, in the City of Milwaukee, Milwaukee County, also described as being in the SE1/4 of the NE1/4 of Section 31, Township 07 North, Range 22 East, subject to the following conditions:

PERMIT

1. **A pre-construction meeting is required and shall include, at a minimum, the contractor, DNR, and the permittee. The preconstruction meeting shall be held at least 30 days prior to the start of in-water work activities. You shall provide an updated means and methods plan from the selected contractor(s) at least 10 days prior to the preconstruction meeting for Department review. This information shall include, but is not limited to, an updated construction sequence, staging plans from the contractor, final disposal location(s), project timelines and types/locations of turbidity controls.**
2. Please contact Brad Eggold, Department Fisheries Supervisor, at (414) 382-7921 to determine the extent of the fish in the project area. If directed, the applicant and contractor should be ready to remove any stranded fish to areas downstream of the project area.
3. You must notify Elaine Johnson at phone (262) 574-2132 or email elaine.johnson@wisconsin.gov before starting construction and again not more than 5 days after the project is complete.
4. You must complete the project as described on or before 7/6/2021. If you will not complete the project by this date, you must submit a written request for an extension prior to expiration of the initial time limit specified in the permit. Your request must identify the requested extension date. The Department shall extend the time limit for an individual permit or contract for no longer than an additional 5 years if you request the extension before the initial time limit expires. You may not begin or continue construction after the original permit expiration date unless the Department extends the permit in writing or grants a new permit.
5. This permit does not authorize any work other than what you specifically describe in your application and plans, and as modified by the conditions of this permit. If you wish to alter the project or permit conditions, you must first obtain written approval of the Department.
6. Before you start your project, you must first obtain any permit or approval that may be required for your project by local zoning ordinances and by the U.S. Army Corps of Engineers. You are responsible for contacting these local and federal authorities to determine if they require permits or approvals for your project. These local and federal authorities are responsible for determining if your project complies with their requirements.

7. Upon reasonable notice, you shall allow access to your project site during reasonable hours to any Department employee who is investigating the project's construction, operation, maintenance or permit compliance.
8. The Department may modify or revoke this permit for good cause, including if the project is not completed according to the terms of the permit or if the Department determines the activity is detrimental to the public interest.
9. You must post a copy of this permit at a conspicuous location on the project site, visible from the waterway, for at least five days prior to construction, and remaining at least five days after construction. You must also have a copy of the permit and approved plan available at the project site at all times until the project is complete.
10. Your acceptance of this permit and efforts to begin work on this project signify that you have read, understood and agreed to follow all conditions of this permit.
11. You must submit a series of photographs to the Department, within one week of completing work on the site. The photographs must be taken from different vantage points and depict all work authorized by this permit.
12. You, your agent, and any involved contractors or consultants may be considered a party to the violation pursuant to Section 30.292, Wis. Stats., for any violations of Chapter 30, Wisconsin Statutes, or this permit.
13. Construction shall be accomplished in such a manner as to minimize erosion and siltation into surface waters. Erosion control measures (such as silt fence and straw bales) must meet or exceed the technical standards of ch. NR 151, Wis. Adm. Code. The technical standards are found at: http://dnr.wi.gov/topic/stormwater/standards/const_standards.html .
14. All equipment used for the project including but not limited to tracked vehicles, barges, boats, hoses, sheet pile and pumps shall be de-contaminated for invasive and exotic viruses and species prior to use and after use.

The following steps must be taken every time you move your equipment to avoid transporting invasive and exotic viruses and species. To the extent practicable, equipment and gear used on infested waters shall not be used on other non-infested waters.

1. **Inspect and remove** aquatic plants, animals, and mud from your equipment.
2. **Drain all water** from your equipment that comes in contact with infested waters, including but not limited to tracked vehicles, barges, boats, hoses, sheet pile and pumps.
3. **Dispose** of aquatic plants, animals in the trash. Never release or transfer aquatic plants, animals or water from one waterbody to another.
4. **Wash your equipment** with hot (>140° F) and/or high pressure water,

- OR -

Allow your equipment to **dry thoroughly for 5 days.**

15. A Carriage and/or Interstitial Water Resulting from Dredging Operations Wisconsin Pollutant Discharge Elimination System (WPDES) discharge permit is required prior to discharge of return or interstitial water to surface waters or groundwater systems. Dewatering and monitoring activities shall comply with the standards, conditions, sampling and monitoring requirements of the WPDES approval. Please contact Susan Eichelkraut at (414) 263-8682 or Susan.Eichelkraut@Wisconsin.gov for further information on this review.
16. You must dredge to the dimensions and elevations shown on your approved plans and application materials. Removal shall not exceed the depths and locations specified in the approved plans and approved application materials.
17. The estimated maximum volume of materials to be dredged under this permit is 2,300 cubic yards. You shall submit final documentation/information indicating how much material was removed from the waterway upon completion of the project.
18. You must submit the information (name and address) of the final disposal location(s) for the dredged material prior to performing the dredging activities.
19. You must place all of the dredged materials at an approved landfill.
20. You must use proper methods for the excavation, loading, hauling and disposal of all materials. Sealed trucks must be used to eliminate any leakage onto public roadways. If any spillage does occur, it must be cleaned-up immediately.
21. You are required to install in-water turbidity controls, such as a silt curtain(s), in the waterway around your project. The project plans indicate a silt curtain will be placed at the downstream end of the project adjacent to the 11th Avenue bridge. Additionally, a steel sheet pile wall will be placed west of the 11th Avenue bridge and a supplemental silt curtain may be placed around the dredge area during dredge operations.
22. Any area where topsoil is exposed during construction must be immediately seeded and mulched or riprapped to prevent soil from being eroded and washed into the waterway.
23. Appropriate erosion control measures must be in-place and effective during every phase of this project.
24. You must use clean, washed aggregate fill material to cap the sediment in the waterway.
25. The steel sheet pile wall shall be cut-off below the water surface at the approximate elevation of the top of the betterment fill material.
26. You must submit documentation from the City of Milwaukee indicating that the project is in compliance with their floodplain ordinance.
27. You must perform a post-construction, bathymetric survey of the completed project area. This survey shall be submitted to the Department Water Management Specialist within 60 days completion of the project.

FINDINGS OF FACT

1. Miller Compressing Company has filed applications, as an agent for various riparian owners, for permits to remove materials and place a structure on the bed of the Burnham Canal, in the City of Milwaukee, Milwaukee County, also described as being in the SE1/4 of the NE1/4 of Section 31, Township 07 North, Range 22 East.
2. Miller Compressing Company has signed an agreement with the various riparian owners along the canal authorizing Miller Compressing Company to act as an agent for the various riparian property owners in the project area (Attachment A).
3. IP-SE-2018-41-00631: Burnham Canal Dredging: The project will address contaminated sediment in the Burnham Canal Superfund Alternative Site and allow for the placement of the voluntary betterment fill material. The work will involve the mechanical removal of 2,300 cubic yards of sediment (below the ordinary high water mark of the canal) along the western end of the canal. Sediment designated to be removed from the West End Dredge Area, as required by the United States Environmental Protection Agency (USEPA) Explanation of Significant Differences/Record of Decision (ESD/ROD) will be dewatered onsite and trucked to final disposal at an approved landfill. Remaining material (1,400 cubic yards) excavated outside the footprint of (or east of) the West End Dredge Area will be reused in the canal as part of the conveyance channel described below as part of work activities authorized under IP-SE-2018-41-01442.

IP-SE-2018-41-00635: Remedial Subaqueous Aggregate Cap: This portion of the project involves the placement of the Remedial Subaqueous Aggregate Cap over the sediment in the canal, as required by the USEPA remedy for the site. A stabilization layer 4 feet deep, and Remedial Subaqueous Aggregate Cap 12 inches deep, will be placed beginning at the west end of the canal and continue east to the 11th Street Bridge (approximately 200,000 square feet of area to be capped).

IP-SE-2018-41-01442: Voluntary Betterment Fill Material: The project entails placing the voluntary betterment fill material in the canal, over the aggregate cap, to serve as a base for an anticipated future urban wetland to be constructed by others. This layer will be 5 feet in depth and cover approximately 200,000 square feet of area. The project also involves placement of rock riprap over geotextile fabric at an existing sewer outfall (CSO 194) located at the west end of the canal. To provide for conveyance of flow from CSO 194, a conveyance channel will be constructed on top of the Remedial Subaqueous Aggregate Cap in the western portion of the Canal adjacent to, and downstream of, the CSO 194 riprap apron. The channel cross-section will be trapezoidal. The channel will be lined with nonwoven geotextile and riprap, or material meeting the WisDOT Select Crushed Material Specification, at approximately the same elevation and thickness as the riprap apron. The channel will start at the end of the riprap apron at approximately STA 2+25 and extend to approximately STA 4+25, as shown on Sheet C035 in the Plans. A sheet pile wall will be installed at the west side of the 11th Avenue bridge. The wall will be cut-off below the water surface, at the approximate elevation of the top of the betterment material, to allow for flow through the canal.

Turbidity controls will be in place prior to commencing with construction activities.

4. A public informational hearing was held on June 8, 2018 at 10am at the United Community Center, 1028 S. 9thSt. Milwaukee, WI 53204, Conference Room 2. Eleven attendance slips were completed by attendees: 7 attendee slips indicated support of the project, 2 slips indicated as interest may appear, and 2 slips were left blank. Two comments were received during the public comment period.
5. The Department has completed an investigation of the project site and has evaluated the project as described in the application and plans.
6. The Burnham Canal is a navigable in fact artificially dredged channel that connects to the Menomonee River and is a navigable water of the state.
7. The proposed project, if constructed in accordance with this permit, will not adversely affect water quality, will not increase water pollution in surface waters and will not cause environmental pollution as defined in s. 283.01(6m), Wis. Stats.
8. The proposed project will not impact wetlands if constructed in accordance with this permit.
9. The Department of Natural Resources has determined that the agency's review of the proposed project constitutes an equivalent analysis action under s. NR 150.20(2), Wis. Adm. Code. The Department has considered the impacts on the human environment, alternatives to the proposed projects and has provided opportunities for public disclosure and comment. The Department has completed all procedural requirements of s. 1.11(2)(c), Wis. Stats., and NR 150, Wis. Adm. Code for this project.
10. The Department of Natural Resources and the applicant have completed all procedural requirements and the project as permitted will comply with all applicable requirements of Sections 30.12(3m), Wisconsin Statutes and Chapters NR 102, 103, 329, 345, 347 of the Wisconsin Administrative Code.
11. The structure or deposit will not materially obstruct navigation because there will be sufficient depth for vessels to navigate within the project area. The project may impede navigation during construction activities due to the placement of the turbidity curtains and steel sheet piling. However, the turbidity curtains will be removed, and the sheet pile cut down to grade, upon completion of the project.
12. The structure or deposit will not be detrimental to the public interest. The project is to address contaminated soil and sediment in the Burnham Canal Superfund Alternative Site. The selected remedial action for the canal is set forth in the Record of Decision signed by the United States Environmental Protection Agency (USEPA) with concurrence from the Wisconsin Department of Natural Resources. The project is in the public's interest. The project also involves voluntary placement of additional capping material that may serve as the base of an anticipated future urban wetland within the canal (to be constructed by others).
13. The activity will not cause environmental pollution as defined in s. 299.01(4).
14. No material injury will result to the riparian rights of any riparian owners of real property that abuts any water body that is affected by the activity.

CONCLUSIONS OF LAW

1. The Department has authority under the above indicated Statutes and Administrative Codes, to issue a permit for the construction and maintenance of this project.

NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that the Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions shall be filed. For judicial review of a decision pursuant to sections 227.52 and 227.53, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

To request a contested case hearing of any individual permit decision pursuant to section 30.209, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources, P.O. Box 7921, Madison, WI, 53707-7921. The petition shall be in writing, shall be dated and signed by the petitioner, and shall include as an attachment a copy of the decision for which administrative review is sought. If you are not the applicant, you must simultaneously provide a copy of the petition to the applicant. If you wish to request a stay of the project, you must provide information, as outlined below, to show that a stay is necessary to prevent significant adverse impacts or irreversible harm to the environment. If you are not the permit applicant, you must provide a copy of the petition to the permit applicant at the same time that you serve the petition on the Department.

The filing of a request for a contested case hearing is not a prerequisite for judicial review and does not extend the 30 day period for filing a petition for judicial review.

A request for contested case hearing must meet the requirements of section 30.209, Wis. Stats., and sections NR 2.03, 2.05, and 310.18, Wis. Admin. Code, and if the petitioner is not the applicant the petition must include the following information:

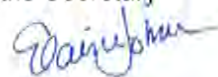
1. A description of the objection that is sufficiently specific to allow the department to determine which provisions of this section may be violated if the proposed permit or contract is allowed to proceed.
2. A description of the facts supporting the petition that is sufficiently specific to determine how the petitioner believes the project, as proposed, may result in a violation of Chapter 30, Wis. Stats.;
3. A commitment by the petitioner to appear at the administrative hearing and present information supporting the petitioner's objection.

If the petition contains a request for a stay of the project, the petition must also include information showing that a stay is necessary to prevent significant adverse impacts or irreversible harm to the environment.

Dated at Waukesha Service Center, Wisconsin on 7/6/2018.

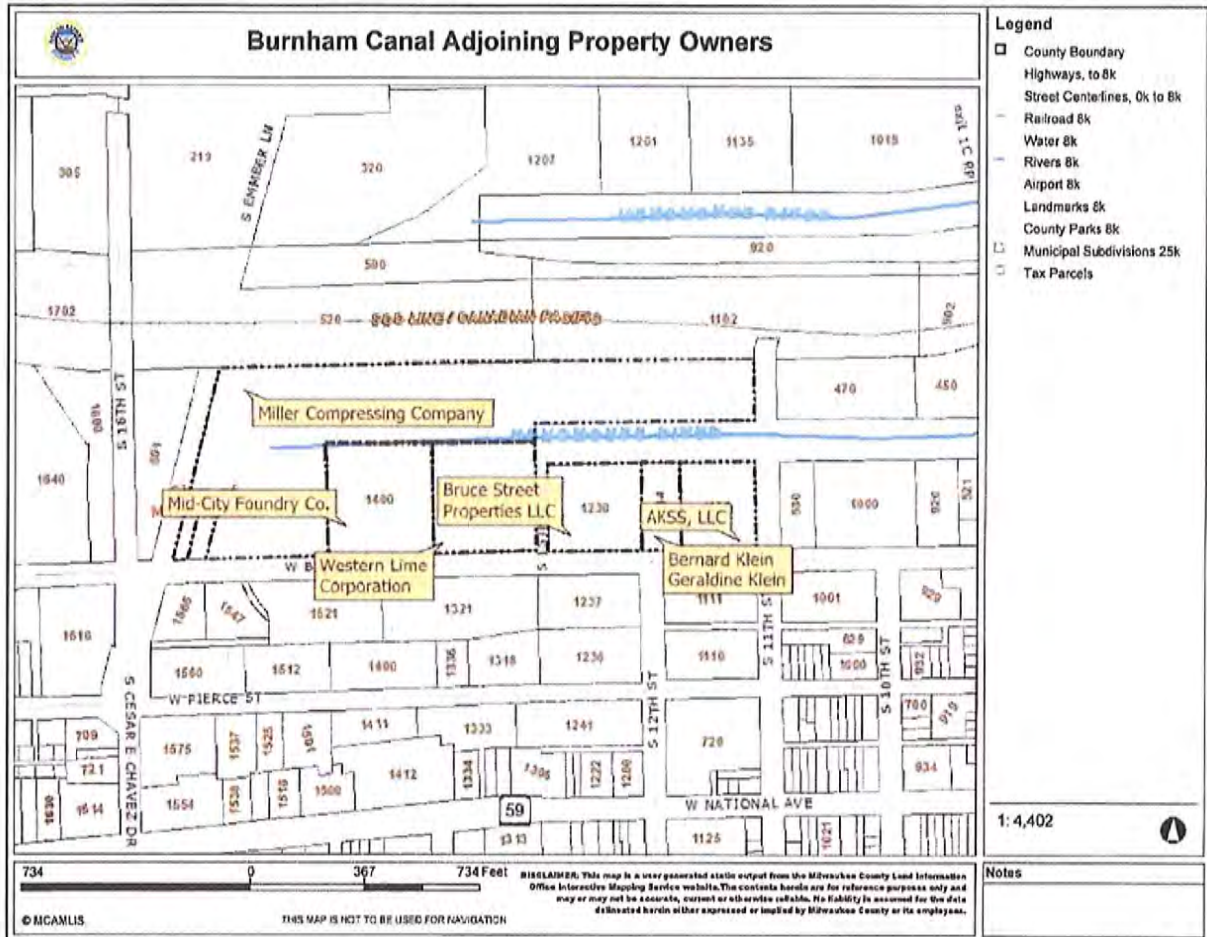
STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES
For the Secretary

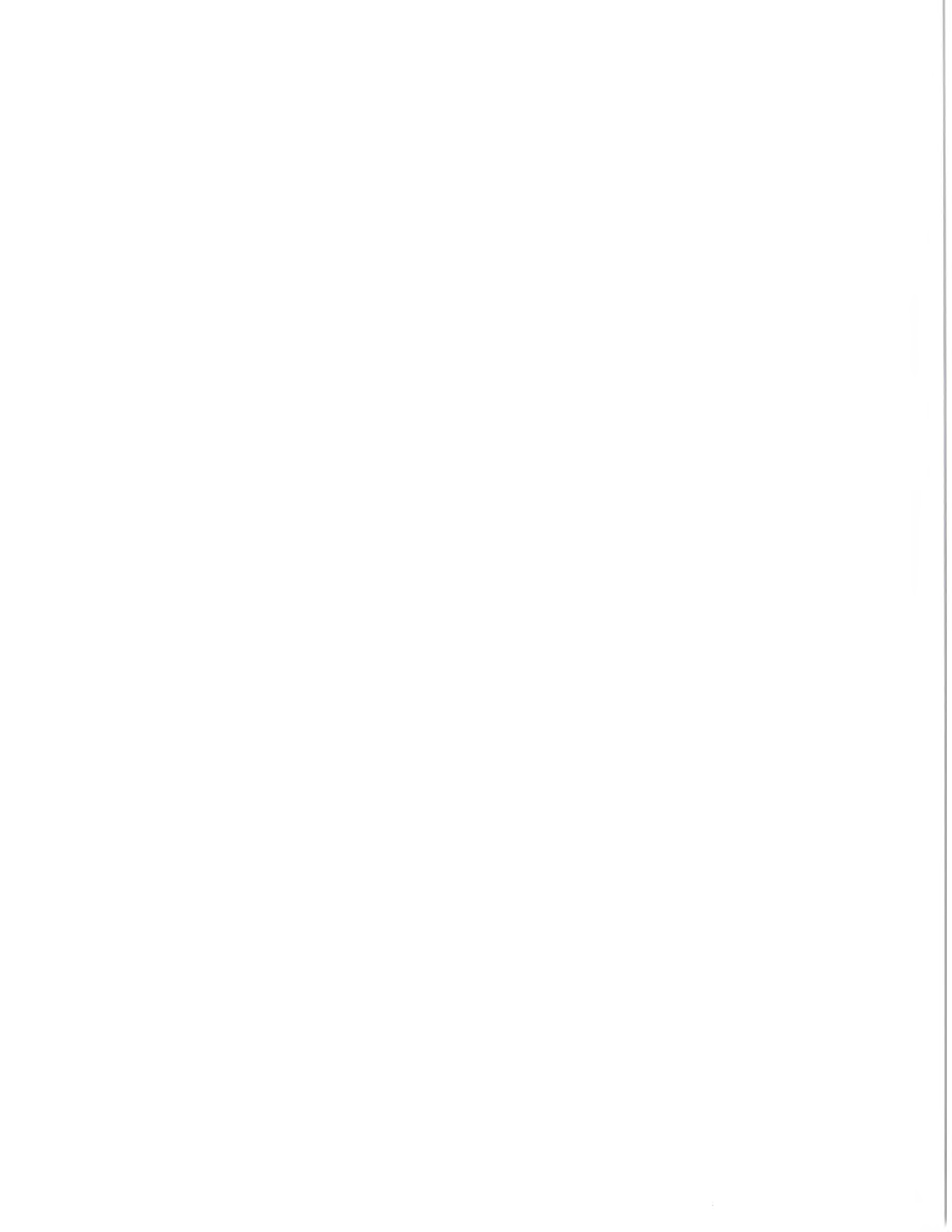
By



Elaine Johnson
Water Management Specialist

Attachment A: Riparian Owners and Agency Agreement





**AUTHORIZATION FOR FILLING APPLICATION
("Agency Agreement")**

Background

1. This Agency Agreement relates to that certain Easement Agreement made and effective as of May 30, 2017, recorded with the Register of Deeds for Milwaukee County on June 5, 2017 ("Easement Agreement") under which Bernard and Geraldine Klein (hereafter, "Property Owner") granted an easement to Miller Compressing Company ("Miller Compressing") to allow Miller to conduct EPA Required Remediation (as defined in the Easement Agreement) associated with the Burnham Canal.

2. The Easement Agreement allows, among other things, Miller Compressing to place fill in those portions of Property Owner's property located within the Burnham Canal.

3. Wis. Stat. § 30.12 only allows the property owner (not the easement holder) to apply for a permit from the State of Wisconsin authorizing filling activity in a navigable waterway (the "Chapter 30 Permit").

4. In order to implement the EPA Required Remediation, this Agency Agreement is intended to serve as a grant of limited authority to Miller Compressing to file the Chapter 30 Permit application on behalf of Property Owner and to designate Miller Compressing as responsible for compliance with the Chapter 30 Permit terms and conditions.

Limited Agency Agreement

5. Property Owner authorizes Miller Compressing to act as the agent of Property Owner for the limited purpose of filing a Chapter 30 Permit application and receiving a Chapter 30 Permit for the placement of fill in the Burnham Canal.

6. Miller Compressing is responsible for complying with the terms and conditions of the Chapter 30 Permit and for filing any and all reports, documents or data required by the Chapter 30 Permit. Property Owner will cooperate with Miller Compressing to fulfill requirements of the Chapter 30 Permit, if any, that reasonably require input from or action by Property Owner. Such cooperation shall be at no cost to Property Owner.

7. In the event Property Owner sells or transfers ownership of all or part of the property in the Burnham Canal after the effective date of this Agency Agreement, Property Owner will notify the new owner of the existence of this Agency Agreement.

8. Property Owner authorizes Miller Compressing to list this Agency Agreement in the Wisconsin Department of Natural Resources ("WDNR") Registry maintained under Wis. Stat. § 292.12.

9. Miller Compressing agrees that its activities in connection with the Chapter 30 Permit are included within the EPA Required Remediation for purposes of the Easement Agreement and that the release, indemnity and limitation in Section 13(ii) of the Easement Agreement apply to any breach or failure to comply by Miller Compressing with the

terms and conditions of the Chapter 30 Permit. This indemnity shall extend to any subsequent owner of the property that agrees to and adopts this Agency Agreement and promptly notifies Miller Compressing in writing that it has done so.

10. Property Owner shall promptly notify Miller Compressing in writing of any claims subject to the indemnity and will cooperate with Miller Compressing in defending or resolving such claims. Miller Compressing may settle or compromise any such claims without prior approval of the Property Owner, provided the terms and conditions of the settlement do not impose a material restriction on the use of Property Owner's property.

11. This Agency Agreement, including the indemnity in Section 9, will terminate upon the date ("Closure Date") that WDNR grants closure of the Burnham Canal remediation site under Wis. Admin. Code ch. NR 726, except that any indemnifiable claim for which Miller Compressing has received written notice from Property Owner and is pending as of the Closure Date shall survive.

12. Notices required under this Agency Agreement shall be sent to the following:

Miller Compressing Company
Attention: John Spigel
1640 West Bruce Street
Milwaukee, WI 53204

Bernard and Geraldine Klein
c/o: Randy Klein
P.O. Box 241777
Milwaukee, WI 53224

With a copy to:

Thompson Coburn LLP
Attention: Halpin J. Burke
One US Bank Plaza
St. Louis, MO 63101

13. Any amendments to this Agency Agreement shall be in writing signed by both parties.

14. The laws of Wisconsin shall apply to this Agency Agreement.

MILLER COMPRESSING COMPANY

BERNARD AND GERALDINE KLEIN

By 
Its U.P.

By 

Dated 1-8-18

Dated 12/15/17

**AUTHORIZATION FOR FILLING APPLICATION
("Agency Agreement")**

Background

1. This Agency Agreement relates to that certain Easement Agreement made and effective as of May 30, 2017, recorded with the Register of Deeds for Milwaukee County on June 5, 2017 ("Easement Agreement") under which AKSS, LLC (hereafter, "Property Owner") granted an easement to Miller Compressing Company ("Miller Compressing") to allow Miller to conduct EPA Required Remediation (as defined in the Easement Agreement) associated with the Burnham Canal.

2. The Easement Agreement allows, among other things, Miller Compressing to place fill in those portions of Property Owner's property located within the Burnham Canal.

3. Wis. Stat. § 30.12 only allows the property owner (not the easement holder) to apply for a permit from the State of Wisconsin authorizing filling activity in a navigable waterway (the "Chapter 30 Permit").

4. In order to implement the EPA Required Remediation, this Agency Agreement is intended to serve as a grant of limited authority to Miller Compressing to file the Chapter 30 Permit application on behalf of Property Owner and to designate Miller Compressing as responsible for compliance with the Chapter 30 Permit terms and conditions.

Limited Agency Agreement

5. Property Owner authorizes Miller Compressing to act as the agent of Property Owner for the limited purpose of filing a Chapter 30 Permit application and receiving a Chapter 30 Permit for the placement of fill in the Burnham Canal.

6. Miller Compressing is responsible for complying with the terms and conditions of the Chapter 30 Permit and for filing any and all reports, documents or data required by the Chapter 30 Permit. Property Owner will cooperate with Miller Compressing to fulfill requirements of the Chapter 30 Permit, if any, that reasonably require input from or action by Property Owner. Such cooperation shall be at no cost to Property Owner.

7. In the event Property Owner sells or transfers ownership of all or part of the property in the Burnham Canal after the effective date of this Agency Agreement, Property Owner will notify the new owner of the existence of this Agency Agreement.

8. Property Owner authorizes Miller Compressing to list this Agency Agreement in the Wisconsin Department of Natural Resources ("WDNR") Registry maintained under Wis. Stat. § 292.12.

9. Miller Compressing agrees that its activities in connection with the Chapter 30 Permit are included within the EPA Required Remediation for purposes of the Easement Agreement and that the release, indemnity and limitation in Section 13(ii) of the Easement Agreement apply to any breach or failure to comply by Miller Compressing with the

terms and conditions of the Chapter 30 Permit. This indemnity shall extend to any subsequent owner of the property that agrees to and adopts this Agency Agreement and promptly notifies Miller Compressing in writing that it has done so.

10. Property Owner shall promptly notify Miller Compressing in writing of any claims subject to the indemnity and will cooperate with Miller Compressing in defending or resolving such claims. Miller Compressing may settle or compromise any such claims without prior approval of the Property Owner, provided the terms and conditions of the settlement do not impose a material restriction on the use of Property Owner's property.

11. This Agency Agreement, including the indemnity in Section 9, will terminate upon the date ("Closure Date") that WDNR grants closure of the Burnham Canal remediation site under Wis. Admin. Code ch. NR 726, except that any indemnifiable claim for which Miller Compressing has received written notice from Property Owner and is pending as of the Closure Date shall survive.

12. Notices required under this Agency Agreement shall be sent to the following:

Miller Compressing Company
Attention: John Spigel
1640 West Bruce Street
Milwaukee, WI 53204

AKSS, LLC
Attention: Steven Wyderka
1102 West Bruce Street
Milwaukee, WI 53204

With a copy to:

With a copy to:

Thompson Coburn LLP
Attention: Halpin J. Burke
One US Bank Plaza
St. Louis, MO 63101

AKSS, LLC
Attention: Andy Wyderka
1102 West Bruce Street
Milwaukee, WI 53204

13. Any amendments to this Agency Agreement shall be in writing signed by both parties.

14. The laws of Wisconsin shall apply to this Agency Agreement.

MILLER COMPRESSING COMPANY

AKSS, LLC

By 
Its J.P.

By 
Its Member

Dated 1-8-18

Dated 1-7-2018

**AUTHORIZATION FOR FILLING APPLICATION
("Agency Agreement")**

Background

1. This Agency Agreement relates to that certain Easement Agreement made and effective as of May 30, 2017, recorded with the Register of Deeds for Milwaukee County on June 5, 2017 ("Easement Agreement") under which Graymont Western Lime Inc. (hereafter, "Property Owner") granted an easement to Miller Compressing Company ("Miller Compressing") to allow Miller to conduct EPA Required Remediation (as defined in the Easement Agreement) associated with the Burnham Canal.

2. The Easement Agreement allows, among other things, Miller Compressing to place an Aggregate Cap (as defined in the Easement Agreement) in those portions of Property Owner's property located within the Burnham Canal. The Aggregate Cap is fill for the purposes of Wis. Stat. § 30.12.

3. Wis. Stat. § 30.12 only allows the property owner (not the easement holder) to apply for a permit from the State of Wisconsin authorizing filling activity in a navigable waterway (the "Chapter 30 Permit").

4. In order to implement the EPA Required Remediation, this Agency Agreement is intended to serve as a grant of limited authority to Miller Compressing to file the Chapter 30 Permit application on behalf of Property Owner and to designate Miller Compressing as responsible for compliance with the Chapter 30 Permit terms and conditions.

Limited Agency Agreement

5. Property Owner authorizes Miller Compressing to act as the agent of Property Owner for the limited purpose of filing a Chapter 30 Permit application and receiving a Chapter 30 Permit for the placement of fill in the Burnham Canal.

6. Miller Compressing is responsible for complying with the terms and conditions of the Chapter 30 Permit and for filing any and all reports, documents or data required by the Chapter 30 Permit. Property Owner will cooperate with Miller Compressing to fulfill requirements of the Chapter 30 Permit, if any, that reasonably require input from or action by Property Owner. Such cooperation shall be at no cost to Property Owner.

7. In the event Property Owner sells or transfers ownership of all or part of the property in the Burnham Canal after the effective date of this Agency Agreement, Property Owner will notify the new owner of the existence of this Agency Agreement.

8. Property Owner authorizes Miller Compressing to list this Agency Agreement in the Wisconsin Department of Natural Resources ("WDNR") Registry maintained under Wis. Stat. § 292.12.

9. Miller Compressing agrees that its activities in connection with the Chapter 30 Permit are included within the EPA Required Remediation for purposes of the Easement

Agreement and that the release, indemnity and limitation in Section 13(ii) of the Easement Agreement apply to any breach or failure to comply by Miller Compressing with the terms and conditions of the Chapter 30 Permit. This indemnity shall extend to any subsequent owner of the property that agrees to and adopts this Agency Agreement and promptly notifies Miller Compressing in writing that it has done so.

10. Property Owner shall promptly notify Miller Compressing in writing of any claims subject to the indemnity and will cooperate with Miller Compressing in defending or resolving such claims.

11. This Agency Agreement, including the indemnity in Section 9, will terminate upon the date ("Closure Date") that WDNR grants closure of the Burnham Canal remediation site under Wis. Admin. Code ch. NR 726, except that any indemnifiable claim for which Miller Compressing has received written notice from Property Owner and is pending as of the Closure Date shall survive.

12. Notices required under this Agency Agreement shall be sent to the following:

Miller Compressing Company
Attention: John Spigel
1640 West Bruce Street
Milwaukee, WI 53204

With a copy to:

Thompson Coburn LLP
Attention: Halpin J. Burke
One US Bank Plaza
St. Louis, MO 63101

Graymont Western Lime Inc.
Attention: John Maitland
200 – 10991 Shellbridge Way
Richmond, BC V6X 3C6
Canada

With a copy to:


Graymont Western Lime Inc.
Attention: Vice President, General
Counsel and Corporate Secretary
200 – 10991 Shellbridge Way
Richmond, BC V6X 3C6
Canada

13. Any amendments to this Agency Agreement shall be in writing signed by both parties.

14. The laws of Wisconsin shall apply to this Agency Agreement.

MILLER COMPRESSING COMPANY

GRAYMONT WESTERN LIME INC.

By 
Its U.P.

Dated 1-8-18

By Celia Johnson
Its Celia Johnson, Vice President
General Counsel & Corporate Secretary

Dated January 2, 2018

By B. Vannas
Its VP HR & Corporate Services

Dated January 2, 2018

Dated 1-9-18

Dated 1/04/2018

AUTHORIZATION FOR FILLING APPLICATION
("Agency Agreement")

Background

1. This Agency Agreement relates to that certain Easement Agreement made and effective as of May 30, 2017, recorded with the Register of Deeds for Milwaukee County on June 5, 2017 ("Easement Agreement") under which Mid-City Foundry Co. (hereafter, "Property Owner") granted an easement to Miller Compressing Company ("Miller Compressing") to allow Miller to conduct EPA Required Remediation (as defined in the Easement Agreement) associated with the Burnham Canal.

2. The Easement Agreement allows, among other things, Miller Compressing to place fill in those portions of Property Owner's property located within the Burnham Canal.

3. Wis. Stat. § 30.12 only allows the property owner (not the easement holder) to apply for a permit from the State of Wisconsin authorizing filling activity in a navigable waterway (the "Chapter 30 Permit").

4. In order to implement the EPA Required Remediation, this Agency Agreement is intended to serve as a grant of limited authority to Miller Compressing to file the Chapter 30 Permit application on behalf of Property Owner and to designate Miller Compressing as responsible for compliance with the Chapter 30 Permit terms and conditions.

Limited Agency Agreement

5. Property Owner authorizes Miller Compressing to act as the agent of Property Owner for the limited purpose of filing a Chapter 30 Permit application and receiving a Chapter 30 Permit for the placement of fill in the Burnham Canal.

6. Miller Compressing is responsible for complying with the terms and conditions of the Chapter 30 Permit and for filing any and all reports, documents or data required by the Chapter 30 Permit. Property Owner will cooperate with Miller Compressing to fulfill requirements of the Chapter 30 Permit, if any, that reasonably require input from or action by Property Owner. Such cooperation shall be at no cost to Property Owner.

7. In the event Property Owner sells or transfers ownership of all or part of the property in the Burnham Canal after the effective date of this Agency Agreement, Property Owner will notify the new owner of the existence of this Agency Agreement.

8. Property Owner authorizes Miller Compressing to list this Agency Agreement in the Wisconsin Department of Natural Resources ("WDNR") Registry maintained under Wis. Stat. § 292.12.

9. Miller Compressing agrees that its activities in connection with the Chapter 30 Permit are included within the EPA Required Remediation for purposes of the Easement Agreement and that the release, indemnity and limitation in Section 13(ii) of the Easement Agreement apply to any breach or failure to comply by Miller Compressing with the

terms and conditions of the Chapter 30 Permit. This indemnity shall extend to any subsequent owner of the property that agrees to and adopts this Agency Agreement and promptly notifies Miller Compressing in writing that it has done so.

10. Property Owner shall promptly notify Miller Compressing in writing of any claims subject to the indemnity and will cooperate with Miller Compressing in defending or resolving such claims. Such cooperation shall be at no cost to Property Owner. Miller Compressing may settle or compromise any such claims without prior approval of the Property Owner, provided the terms and conditions of the settlement do not impose a material restriction on the use of Property Owner's property. Prior to Miller Compressing's settlement or compromise of any claim subject to the indemnity, Miller Compressing shall provide notice of and written documentation of the proposed settlement or compromise to Property Owner for Property Owner's review and comment. Property Owner agrees to conduct such review promptly.

11. This Agency Agreement, including the indemnity in Section 9, will terminate upon the date ("Closure Date") that WDNR grants closure of the Burnham Canal remediation site under Wis. Admin. Code ch. NR 726, except that any indemnifiable claim for which Miller Compressing has received written notice from Property Owner and is pending as of the Closure Date shall survive.

12. Notices required under this Agency Agreement shall be sent to the following:

Miller Compressing Company
Attention: John Spigel
1640 West Bruce Street
Milwaukee, WI 53204

Mid-City Foundry Co.
Attention: Richard J. Wieland
1521 West Bruce Street
Milwaukee, WI 53204

With a copy to:

With a copy to:

Thompson Coburn LLP
Attention: Halpin J. Burke
One US Bank Plaza
St. Louis, MO 63101

Mid-City Foundry Co.
Attention: Darin Costello
1521 West Bruce Street
Milwaukee, WI 53204

13. Any amendments to this Agency Agreement shall be in writing signed by both parties.


14. The laws of Wisconsin shall apply to this Agency Agreement.

MILLER COMPRESSING COMPANY

MID-CITY FOUNDRY CO.

By

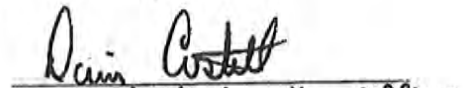
Its



J.P.

By

Its



Chief Operating Officer

**AUTHORIZATION FOR FILLING APPLICATION
("Agency Agreement")**

Background

1. This Agency Agreement relates to that certain Easement Agreement made and effective as of May 30, 2017, recorded with the Register of Deeds for Milwaukee County on June 5, 2017 ("Easement Agreement") under which Bruce Street Properties, L.L.C. (hereafter, "Property Owner") granted an easement to Miller Compressing Company ("Miller Compressing") to allow Miller to conduct EPA Required Remediation (as defined in the Easement Agreement) associated with the Burnham Canal.

2. The Easement Agreement allows, among other things, Miller Compressing to place fill in those portions of Property Owner's property located within the Burnham Canal.

3. Wis. Stat. § 30.12 only allows the property owner (not the easement holder) to apply for a permit from the State of Wisconsin authorizing filling activity in a navigable waterway (the "Chapter 30 Permit").

4. In order to implement the EPA Required Remediation, this Agency Agreement is intended to serve as a grant of limited authority to Miller Compressing to file the Chapter 30 Permit application on behalf of Property Owner and to designate Miller Compressing as responsible for compliance with the Chapter 30 Permit terms and conditions.

Limited Agency Agreement

5. Property Owner authorizes Miller Compressing to act as the agent of Property Owner for the limited purpose of filing a Chapter 30 Permit application and receiving a Chapter 30 Permit for the placement of fill in the Burnham Canal.

6. Miller Compressing is responsible for complying with the terms and conditions of the Chapter 30 Permit and for filing any and all reports, documents or data required by the Chapter 30 Permit. Property Owner will cooperate with Miller Compressing to fulfill requirements of the Chapter 30 Permit, if any, that reasonably require input from or action by Property Owner. Such cooperation shall be at no cost to Property Owner.

7. In the event Property Owner sells or transfers ownership of all or part of the property in the Burnham Canal after the effective date of this Agency Agreement, Property Owner will notify the new owner of the existence of this Agency Agreement.

8. Property Owner authorizes Miller Compressing to list this Agency Agreement in the Wisconsin Department of Natural Resources ("WDNR") Registry maintained under Wis. Stat. § 292.12.

9. Miller Compressing agrees that its activities in connection with the Chapter 30 Permit are included within the EPA Required Remediation for purposes of the Easement Agreement and that the release, indemnity and limitation in Section 13(ii) of the Easement Agreement apply to any breach or failure to comply by Miller Compressing with the



terms and conditions of the Chapter 30 Permit. This indemnity shall extend to any subsequent owner of the property that agrees to and adopts this Agency Agreement and promptly notifies Miller Compressing in writing that it has done so.

10. Property Owner shall promptly notify Miller Compressing in writing of any claims subject to the indemnity and will cooperate with Miller Compressing in defending or resolving such claims. Miller Compressing may settle or compromise any such claims without prior approval of the Property Owner, provided the terms and conditions of the settlement do not impose a material restriction on the use of Property Owner's property.

11. This Agency Agreement, including the indemnity in Section 9, will terminate upon the date ("Closure Date") that WDNR grants closure of the Burnham Canal remediation site under Wis. Admin. Code ch. NR 726, except that any indemnifiable claim for which Miller Compressing has received written notice from Property Owner and is pending as of the Closure Date shall survive.

12. Notices required under this Agency Agreement shall be sent to the following:

Miller Compressing Company
Attention: John Spigel
1640 West Bruce Street
Milwaukee, WI 53204

Bruce Street Properties, L.L.C.
Attention: James Capen
1228 West Bruce Street
Milwaukee, WI 53204

With a copy to:

Thompson Coburn LLP
Attention: Halpin J. Burke
One US Bank Plaza
St. Louis, MO 63101

13. Any amendments to this Agency Agreement shall be in writing signed by both parties.

14. The laws of Wisconsin shall apply to this Agency Agreement.

MILLER COMPRESSING COMPANY

BRUCE STREET PROPERTIES, L.L.C.

By

Its V.P. OPC

By

Its James Capen
President

Dated

1-8-19

Dated

12/20/17

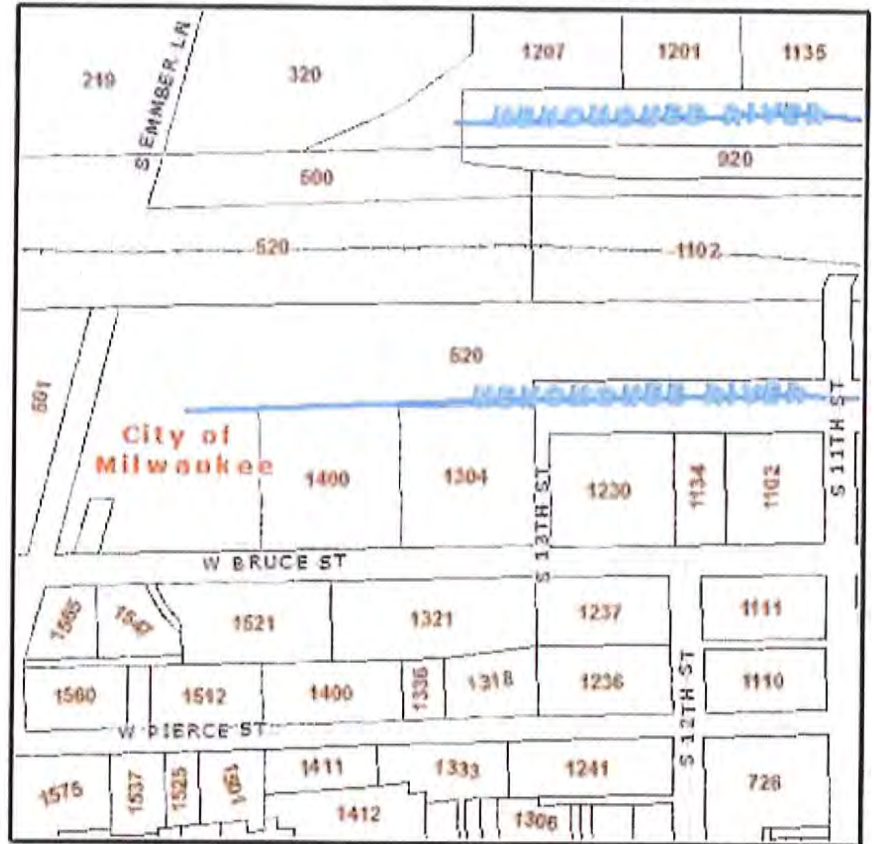
Milwaukee County Land Information Parcel Report

TAXKEY: 4269988110

Report generated 2/14/2013 1:16:23 PM



Parcel location within Milwaukee County



Selected parcel highlighted

Parcel Information

TAXKEY: 4269988110

Record Date: 11/17/2012

Owner(s): MILLER COMPRESSING COMPANY

Address: 520 S MUSKEGO AVE

Municipality: Milwaukee

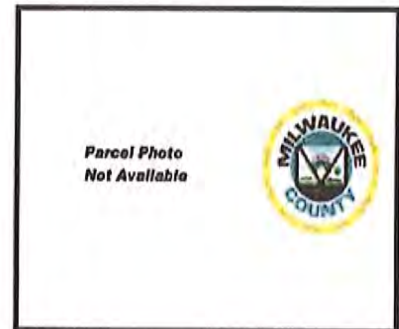
Acres: 12.46

Assessed Value: \$1,055,700

Parcel Description: MANUFACTURING

Zoning Description:

Legal Description: LANDS IN NE 1/4 SEC 31-7-22 COM N LI W BRUCE ST & E LI S MUSKEGO AV-TH E 50'-TH NELY 140'-TH E 60'-TH SWLY 140'-TH E 402.48'-TH N 340' TO C/L BURNHAM'S CANAL-TH E ALG SD C/L TO E LI SD 1/4 SEC-TH N TO S LI RR ROW-TH W ALG SD S LI 997.9' TO E LI S MUSKEGO



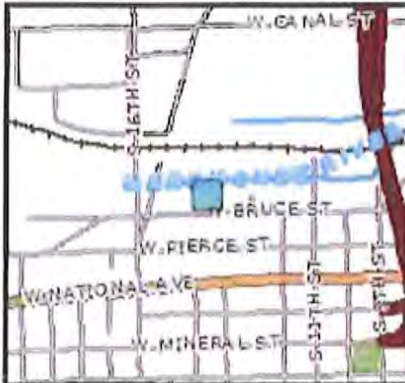
Parcel photo

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

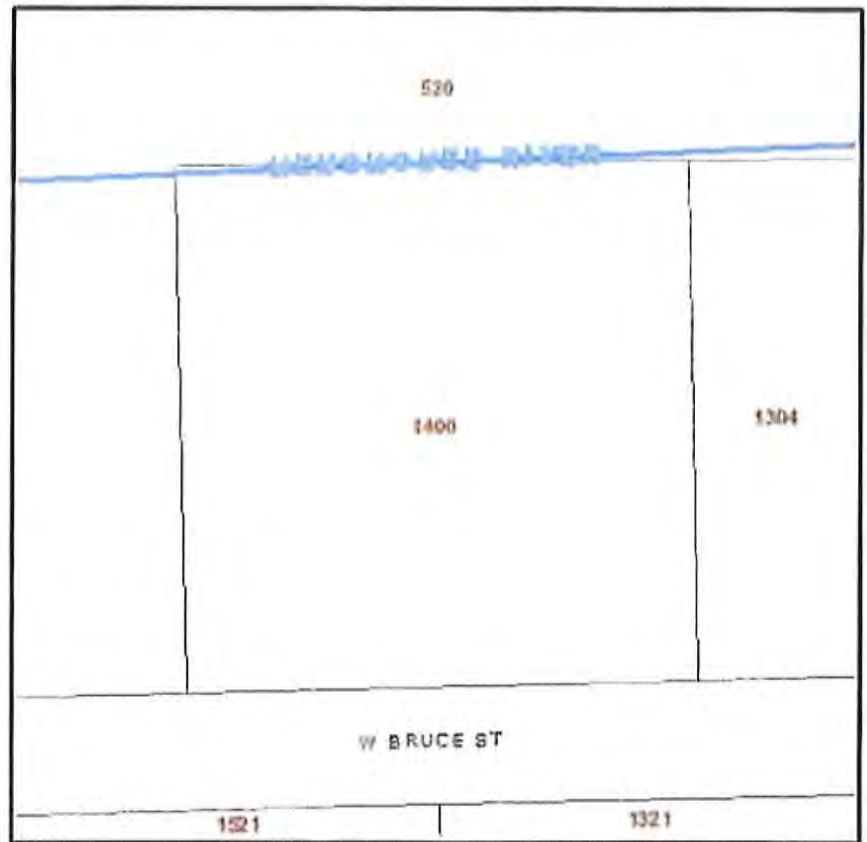
Milwaukee County Land Information Parcel Report

TAXKEY: 4269985000

Report generated 2/14/2013 1:17:06 PM



Parcel location within Milwaukee County



Selected parcel highlighted

Parcel Information

TAXKEY: 4269985000

Record Date: 11/17/2012

Owner(s): MID-CITY FOUNDRY CO

Address: 1400 W BRUCE ST

Municipality: Milwaukee

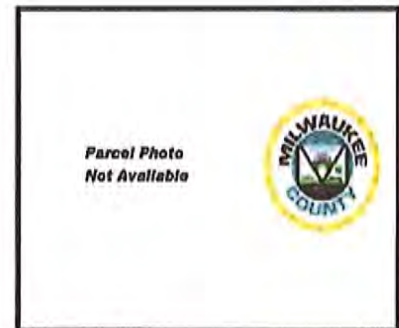
Acres: 2.71

Assessed Value: \$310,300

Parcel Description: MANUFACTURING

Zoning Description:

Legal Description: LANDS IN NE 1/4 SEC 31-7-22 LAND BETW C L BURNHAM'S CANAL & EXTD W-SECTION LINE-W BRUCE ST & S MUSKEGO AVE W 340.60' OF E 659.60' & SUBJ TO RR EASEM'T BID #26

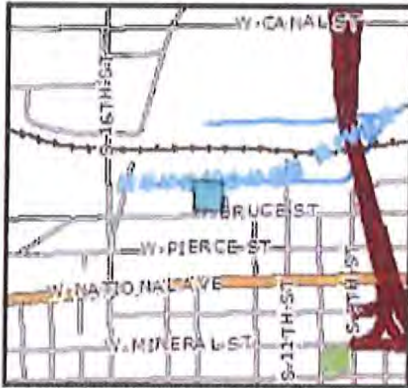


Parcel photo

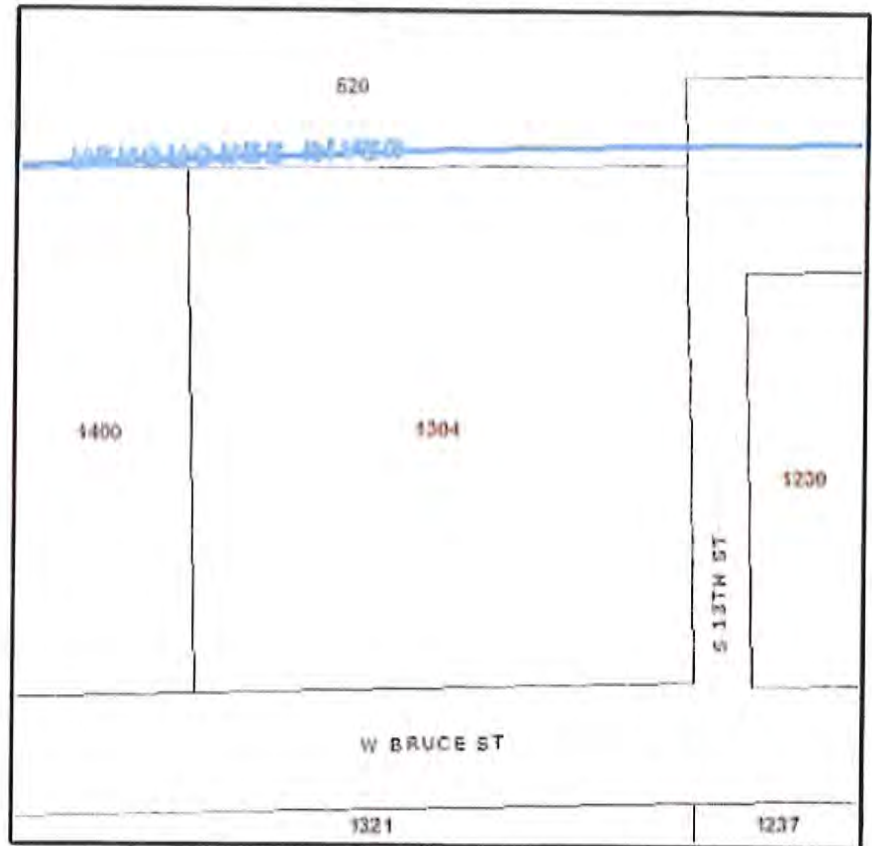
Milwaukee County Land Information Parcel Report

TAXKEY: 4269986000

Report generated 2/14/2013 1:17:46 PM



Parcel location within Milwaukee County



Selected parcel highlighted

Parcel Information

TAXKEY: 4269986000

Record Date: 04/18/2012

Owner(s): WESTERN LIME CORPORATION

Address: 1304 W BRUCE ST

Municipality: Milwaukee

Acres: 2.36

Assessed Value: \$738,000

Parcel Description: COMMERCIAL

Zoning Description:

Legal Description: LANDS IN NE 1/4 SEC 31-7-22 LAND BETW C L BURNHAM'S CANAL & EXTD W-SECTION LINE-W BRUCE ST & S MUSKEGO AVE E 319' SUBJ TO RR EASEM'T BID #26



Parcel photo

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

Milwaukee County Land Information Parcel Report

TAXKEY: 4270427000

Report generated 2/14/2013 1:18:27 PM



Parcel location within Milwaukee County



Selected parcel highlighted

Parcel Information

TAXKEY: 4270427000

Record Date: 04/18/2012

Owner(s): BRUCE STREET PROPERTIES LLC

Address: 1230 W BRUCE ST

Municipality: Milwaukee

Acres: 2.07

Assessed Value: \$604,000

Parcel Description: COMMERCIAL

Zoning Description:

Legal Description: SUBD & PART'N OF NW 1/4 SEC 32-7-22 PART OF LOT 5 BETW BURNHAM'S CANAL-S 11TH ST-W BRUCE ST-S 13TH ST BEING VAC BLKS 162-163 & 164 IN PETER MC MARTIN'S SUBD-ALL EXC E 366.48' & SUBJ TO RR EASEM'T BID #26



Parcel photo

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

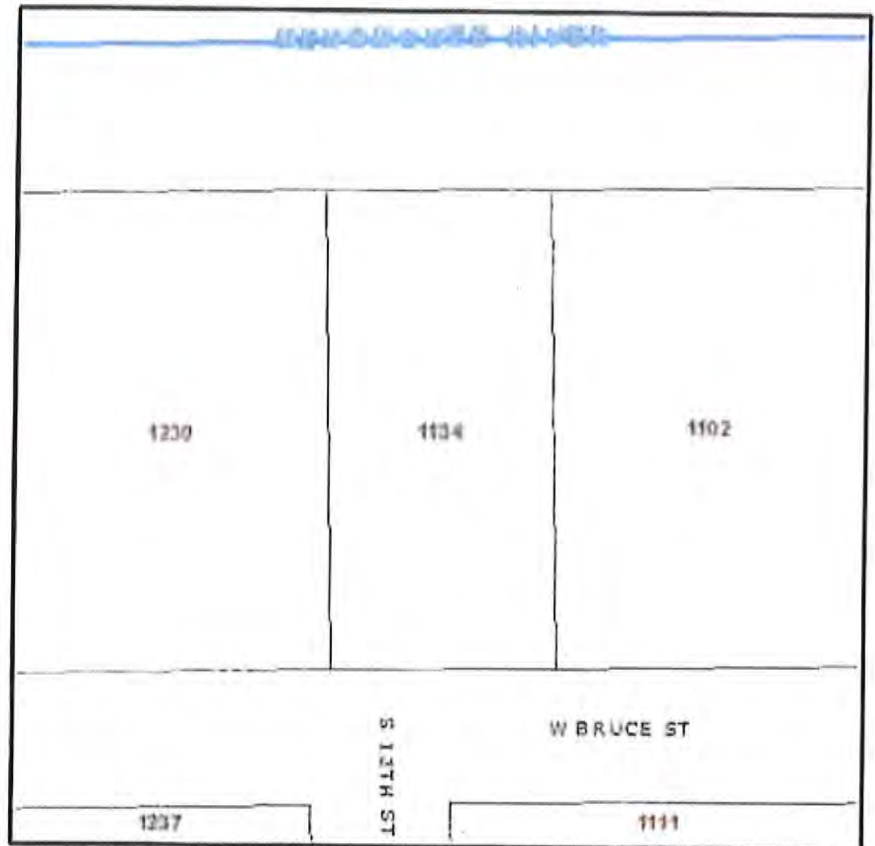
Milwaukee County Land Information Parcel Report

TAXKEY: 4270426000

Report generated 2/14/2013 1:19:03 PM



Parcel location within Milwaukee County



Selected parcel highlighted

Parcel Information

TAXKEY: 4270426000

Record Date: 04/18/2012

Owner(s): BERNARD KLEIN
GERALDINE KLEIN
C/O KLEIN PROPERTIES

Address: 1134 W BRUCE ST

Municipality: Milwaukee

Acres: 0.81

Assessed Value: \$206,200

Parcel Description: COMMERCIAL

Zoning Description:

Legal Description: SUBD & PART'N OF NW 1/4 SEC 32-7-22 PART OF LOT 5 BETW BURNHAM'S CANAL S 11TH ST W BRUCE ST S 13TH ST BEING VAC BLKS 162 163&164 PETER MC MARTIN'S SUBD W 128.98' OF E 366.48' SUBJ TO RR EASEM'T BID #26

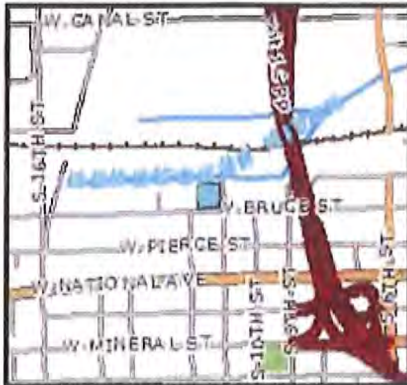


Parcel photo

Milwaukee County Land Information Parcel Report

TAXKEY: 4270425000

Report generated 2/14/2013 1:19:36 PM



Parcel location within Milwaukee County



Selected parcel highlighted

Parcel Information

TAXKEY: 4270425000

Record Date: 04/18/2012

Owner(s): AKSS, LLC

Address: 1102 W BRUCE ST

Municipality: Milwaukee

Acres: 1.50

Assessed Value: \$611,000

Parcel Description: COMMERCIAL

Zoning Description:

Legal Description: SUBD & PART'N OF NW 1/4 SEC 32-7-22 PART OF LOT 5 BETW BURNHAM'S CANAL S 11TH ST W BRUCE ST S 13TH ST BEING VAC BLKS 162 163&164 PETER MC MARTIN'S SUBD E 237.50' SUBJ TO RR EASEM'T BID #26



Parcel photo

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

APPENDIX B
CAP MAINTENANCE AND HARD SURFACING PLAN



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Matthew J. Frank, Secretary
Gloria L. McCutcheon, Regional Director

Southeast Region Headquarters
2300 N. Dr. Martin Luther King, Jr. Drive
Milwaukee, Wisconsin 53212-3128
FAX 414-263-8606
Telephone 414-263-8500
TTY Access via relay - 711

September 1, 2009

In Reply, Refer to: FID# 241213720
BRRTS# 02-41-246029
BRR/ERP

Mr. Joe Kovacich
Vice President-Administration
Miller Compressing
Post Office Box 369
Milwaukee, WI 53201

Re: Remedial Action / Hard Surfacing Plan Approval for Miller Compressing Site –
Bruce Street Facility, 1640 W Bruce Street, Milwaukee, WI

Dear Mr. Kovacich:

As requested by Miller Compressing, the Wisconsin Department of Natural Resources (Department) has reviewed the Hard Surfacing Plan you submitted, dated June 15, 2009. We also received a request from your attorney, Mark Thimke at Foley and Lardner LLP, dated April 9, 2009. The require review fee was received.

You have requested Department approval of a plan to conduct the capping work in a logical, step-wise fashion consistent with Miller Compressing's business plans and activities. Further, the capping work is intended to address soil contamination impacts associated with scrap operations. The Plan contains a set of capping alternatives for areas that Miller Compressing elects to bring into the hard surfacing program at the Bruce Street facility. A copy of the Cap Maintenance / Hard Surfacing Plan (Plan) including a map (Exhibit B) of the areas that are subject to this letter is attached to this letter.

Background

In 1993, an inspector visiting the Miller Compressing property observed that a customer released liquids onto the ground in the area known as the "West Yard." Miller Compressing investigated and remediated the area in which the release occurred. Following that work, a meeting was held with the Department on January 10, 1996, to discuss the entire West Yard. At the meeting, Miller Compressing proposed to address other portions of the West Yard by hard surfacing/capping the yard as operations would allow. Plans for the hard surfacing/capping work were submitted to the Department on July 1, 1997. As opportunities arose, Miller Compressing undertook work consistent with the 1997 plans. On July 13, 2007, the Department issued a "Plan Approval" letter for hard surfacing of the "West Yard". On December 16, 2008, the Department received documentation that hard surfacing of the "West Yard" had been completed.

Department Concurrence

Over the last several years, the Department has worked closely with Wisconsin metal recyclers to develop a cooperative program for addressing soil contamination associated with historic operations at these sites. The Department acknowledges the importance of recycling operations

in the process of recycling and reusing valuable resources that would otherwise be landfilled. At the same time, the industry recognizes the need to take reasonable actions consistent with the nature of metal recycling to protect the environment. The West Yard is a continuing example of this cooperative effort.

Miller Compressing now plans to install hard surfacing on other portions of the site as the opportunity to complete the hard surfacing/capping work arises in those areas. The hard surface cap will be constructed as follows:

1. Currently unpaved operating areas would meet a specification of 5 inches of hard surfacing (concrete or asphalt) in addition to a minimum of 4 to 7 inches of stone base. This specification is similar to that approved by the Department in July 2007 for the "West Yard."
2. Existing hard surfaced areas will be improved, if necessary, so as to have a 9 to 12 inch cap. This cap will be a combination of existing hard surfacing and crushed stone base. Existing hard surfaced areas will be improved, if necessary, so as to have a minimum of 5 inches of hard surfacing, asphalt or concrete.
3. Landscape areas. There are several landscape areas at the Bruce Street facility. Most of these areas are located along the entrance to the Bruce Street/Greenwood Scale and near Mitchell Park. These areas were not used for scrap operations and will continue to be maintained with mulch, plantings and vegetation.

The Department concurs with the approach of hard surfacing/capping the areas shown on Exhibit B of the Plan. Hard surfacing/capping provides a barrier to direct contact with contaminants that may be found in the soil.

GIS Registry

This site will be listed on the Remediation and Redevelopment Program's GIS Registry. The specific reasons are summarized below:

- Residual soil contamination exists that must be properly managed should it be excavated or removed
- Before the land use may be changed from a metal recycling facility, additional environmental work **may be required to** be completed
- Pavement, an engineered cover or a soil barrier must be maintained over contaminated soil and the state must approve any changes to this barrier

This letter and information that was submitted with your Remedial Action / Hard Surfacing Plan will be included on the GIS Registry. To review the sites on the GIS Registry web page, visit the RR Sites Map page at <http://dnr.wi.gov/org/aw/rr/gis/index.htm>. If the property is listed on the GIS Registry because of remaining contamination and you intend to construct or reconstruct a well, you will need prior Department approval in accordance with s. NR 812.09(4)(w), Wis. Adm. Code. To obtain approval, Form 3300-254 needs to be completed and submitted to the DNR Drinking and Groundwater program's regional water supply specialist. This form can be obtained on-line <http://dnr.wi.gov/org/water/dwg/3300254.pdf> or at the web address listed above for the GIS Registry.

Please be aware that pursuant to s. 292.12 Wisconsin Statutes, compliance with the requirements of this letter is a responsibility to which you and any subsequent property owners must adhere.

You must pass on the information about these continuing obligations to the next property owner or owners. If these requirements are not followed or if additional information regarding site conditions indicates that contamination on or from the site poses a threat to public health, safety, welfare, or the environment, the Department may take enforcement action under s. 292.11 Wisconsin Statutes to ensure compliance with the specified requirements, limitations or other conditions related to the property or this case may be reopened pursuant to s. NR 726.09, Wis. Adm. Code. The Department intends to conduct inspections in the future to ensure that the conditions included in this letter including compliance with referenced maintenance plans are met.

Cover or Barrier

Pursuant to s. 292.12(2)(a), Wis. Stats., the pavement or other impervious cap that currently exists in the location shown on the attached map shall be maintained in compliance with the **attached maintenance plan** in order to minimize the infiltration of water and prevent groundwater contamination that would violate the groundwater quality standards in ch. NR 140, Wis. Adm. Code, and to prevent direct contact with residual soil contamination that might otherwise pose a threat to human health. If soil in the specific locations described above is excavated in the future, the property owner at the time of excavation must sample and analyze the excavated soil to determine if residual contamination remains. If sampling confirms that contamination is present the property owner at the time of excavation will need to determine whether the material is considered solid or hazardous waste and ensure that any storage, treatment or disposal is in compliance with applicable statutes and rules. In addition, all current and future owners and occupants of the property need to be aware that excavation of the contaminated soil may pose an inhalation or other direct contact hazard and as a result special precautions may need to be taken during excavation activities to prevent a health threat to humans.

The attached maintenance plan and inspection log are to be kept up-to-date and on-site. Please submit the inspection log to the Department upon request.

Conditions

The Department's concurrence with the hard surfacing/capping program for the West Yard is specifically conditioned on the following:

1. The site will continue to be utilized as part of a metal recycling facility;
2. Capping of areas of the Bruce Street facility will occur when operations allow for the work to proceed. Some operations are not readily amenable to capping due to the existing placement of equipment. As opportunities allow for capping to occur (for example, relocation of operations, change in activities or an ownership change), Miller Compressing will move ahead with the work.
3. The cap will be constructed and documented according to the Plan.
4. It is anticipated that the cap design may vary depending upon the nature of the operations in the area being addressed. The cap should be designed to withstand the anticipated use(s) of the area and minimize premature cap degradation.
5. Miller Compressing may, on a case-by-case basis, submit area-specific cap designs that vary from the approved designs or which incorporate newly available capping materials. These case-by-case designs will require Departmental pre-approval before they may be used by Miller Compressing.
6. Capping activities will be self-implementing. Once completed, Miller Compressing will notify the Department of the area that was capped and the cap design utilized in the area

(including the type and amount of material that has been added and the pre-existing pavement conditions present prior to final capping).

7. For the capped areas, Miller Compressing will comply with the GIS Registry requirements noted above and will notify the next property owner of the requirements set forth in this letter.
8. Closure of the site will not be granted until all environmental media are addressed, but for purposes of direct contact risk, capping will be considered sufficient.
9. Additional investigation of soil and/or groundwater may be required before this site can be closed per NR 726.

Please note that this letter is not intended to address any issues related to investigation, remediation or any other issues related to the contamination that is the subject of the Superfund Alternatives Program which you are working on with the Environmental Protection Agency (EPA) and Margaret Brunette of the Department.

The Department appreciates efforts to restore the environment at this site. If you have any questions or concerns regarding this letter, please contact Andy Boettcher at (414) 263-8541.

Sincerely,



James A Schmidt
SER Remediation & Redevelopment Team Supervisor

CC: Mark Thimke, Foley and Lardner, 777 East Wisconsin Avenue, Milwaukee, WI 53202

Attachment: 1) Cap Maintenance / Hard Surfacing Plan (Plan), dated September 2009

Cap Maintenance / Hard Surfacing Plan

Miller Compressing Company
1640 W. Bruce Street
Milwaukee, Wisconsin 53201

FID # 241213720
BRRT# 02-41-246029

This document is the Cap Maintenance / Hard Surfacing Plan (herein referred to as the "Plan") for Miller Compressing's Bruce Street operation in accordance with the requirements of s NR 724.13(2), Wisconsin Administrative Code. The maintenance activities relate to the Plan established with the Wisconsin Department of Natural Resources (WDNR) to cap former/existing scrap handling/processing operations at this location.

More site-specific information about this property may be found in:

- Case file in the WDNR Southeastern regional office (FID# 241213720)
- BRRTS on the Web (<http://dnr.wi.gov/org/aw/rr/brrts/index.htm>)
- GIS Registry PDF file for further information on the nature and extent of contamination
- The WDNR project manager for Milwaukee County

Description of Contamination

Past scrap handling/processing operations along with past heavy industrial use resulted in elevated levels of RCRA metals, PAHs, petroleum products, PCBs and chlorinated solvents in near surface soils (2-4 feet below ground surface). The purpose of this Plan is to outline the requirements that Miller Compressing Company must follow when it requests that an area be added to the Plan and to describe the inspection and maintenance requirements for the "capped" areas of the site. Miller Compressing must document the compliance with the Plan and must maintain the Hard Surface Cap (herein referred to as the "Cap") agreed to with the WDNR.

Description of Hard Surface Cap

The extent of the Site is outlined on the attached map (Exhibit B) and the extent of the Cap is outlined on the subsequent exhibits designated starting with B (such as B-1, B-2, etc.) as areas are added into the Plan. The Cap will be 9-12 inches thick, consisting of 4-7 inches of suitable sub grade material and a minimum of 5 inches of hard surfacing which maybe asphalt or concrete. A more detailed description of the Cap is described in the WDNR letter dated September 1, 2009.

The proposed Cap over the soil contamination serves as a barrier to prevent direct human contact with residual soil contamination that might otherwise pose a threat to human health. This Cap will also act as a partial infiltration barrier to minimize future soil to groundwater contamination migration that would violate the groundwater standards in ch NR 140, Wisconsin Administrative Code.

Based on the current and future use of the property as a scrap processing facility, the barrier should function as intended unless disturbed.

Annual Inspection

All areas included in the Plan must be inspected annually, preferably in the spring after all snow and ice has melted and should identify deterioration, cracks or other potential problems that can cause exposure to underlying soils and evaluate damage due to settling, exposure to the weather, wear from traffic or operations, increasing age and other factors. Any area where soils have become or are likely to become exposed will be documented in an inspection log which will include recommendations for necessary repairs and the documentation of the completion of those repairs. The inspections will be performed by Miller Compressing or their designated representative. The Hard Surface Cap Inspection and Maintenance Log is attached as Exhibit A. The inspection log will be kept at Miller Compressing Company and available for submittal or inspection by the WDNR representative upon their request during normal business hours.

Maintenance Activities

If problems are noted during the annual inspections or at any other time during the year, repairs will be scheduled as soon as practical. Repairs may include patching and filling or larger resurfacing or construction activities. In the event that necessary maintenance activities expose the underlying soil, Miller Compressing Company must inform maintenance workers of the direct contact exposure hazard and provide them with appropriate personal protection equipment (“PPE”). Miller Compressing Company must notify the WDNR prior to any excavation activities. All soils being removed from the site must be treated, stored and disposed of by Miller Compressing Company in accordance with applicable local, state and federal law.

In the event the Cap overlying the contaminated soils is removed or replaced, the replacement Cap must meet the specifications stated in the WDNR letter dated September 1, 2009. Any replacement Cap will be subject to the same maintenance and inspection guidelines as stated in this Plan unless indicated otherwise by the WDNR or its successor.

The property owner, in order to maintain the integrity of the Cap, will maintain a copy of this Plan on-site and make it available to all interested parties (i.e. employees, contractors, future property owners, etc.) for viewing.

Prohibition of Activities and Notification of WDNR Prior to Actions Affecting the Cap

The following activities are prohibited on any portion of the property that Miller Compressing Company has selected to include in the Hard Surface Plan, unless prior notification to the WDNR has been made: 1) removal of the existing barrier; 2) replacement with another barrier; 3) excavating or grading of the land surface; 4) filling on capped or paved areas; 5) plowing for agricultural cultivation; or 6) construction or placement of a building or other structure which causes disturbance of the Cap.

Amendment or Withdrawal of Cap Maintenance Plan

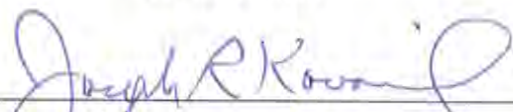
This Maintenance Plan can be amended or withdrawn by the property owner and its successors with the written approval of the WDNR

Contact Information

September 2009

Site Owner and Operator: Miller Compressing Company
1640 W. Bruce Street
Milwaukee, Wisconsin 53204
414-671-5980

Signature:



Name:

JOSEPH R KOVACICH

Title:

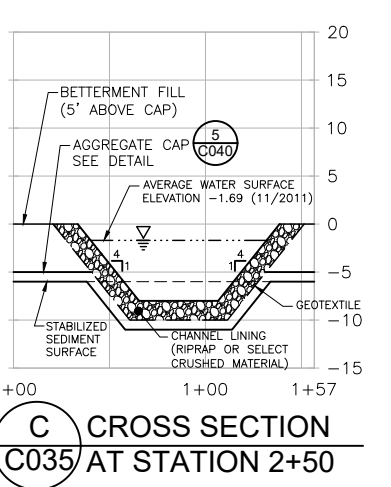
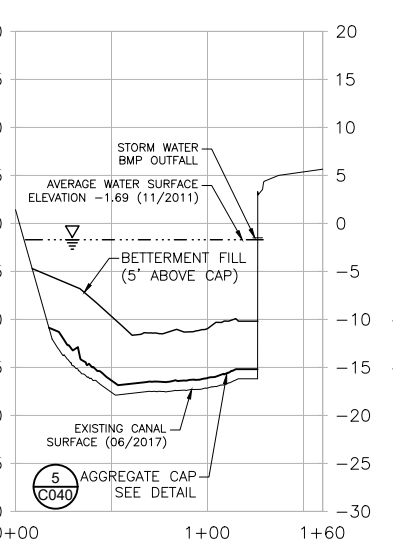
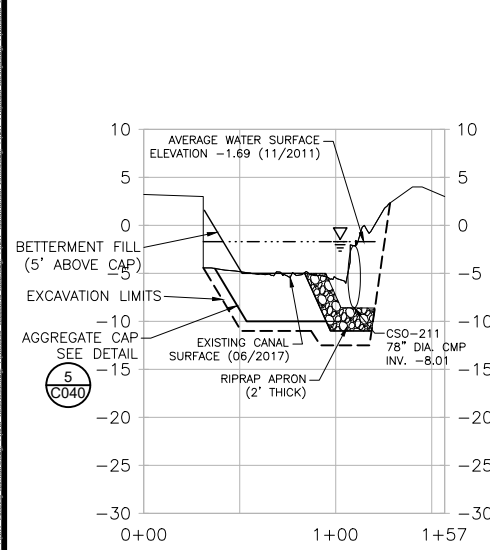
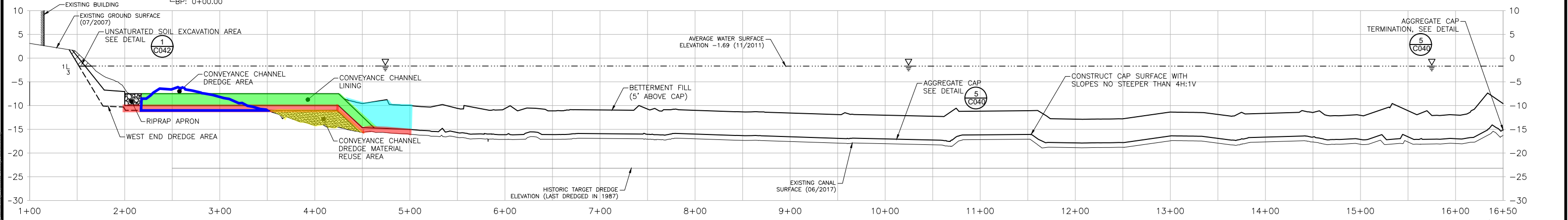
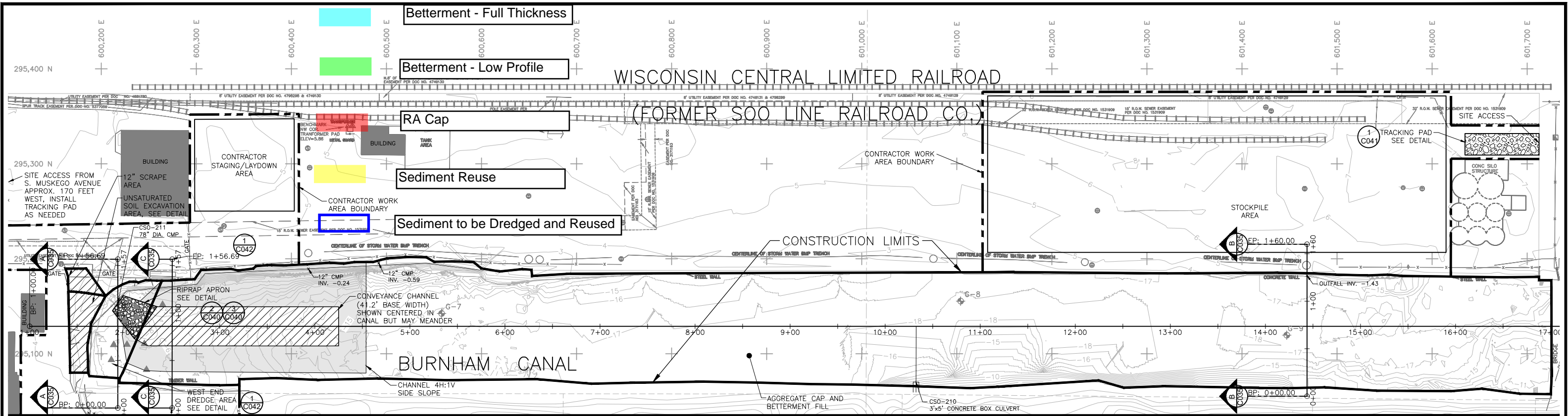
VICE PRESIDENT

9/1/09

WDNR:

Andrew Boettcher
WDNR SE Regional Office
2300 N. MLK Jr Drive
Milwaukee, Wisconsin 53212-3128

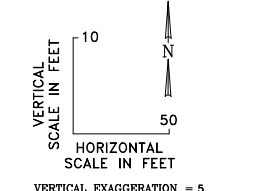
**APPENDIX C
SHEET C035 AND REUSE CROSS-SECTIONS FROM NR
718.15 LOW HAZARD EXEMPTION REQUEST**



— 10 —	PRECONSTRUCTION CONTOUR	● SED-102	SEDIMENT SAMPLE LOCATION (2007)	— G —	GAS
- - - -	RIGHT-OF-WAY (R.O.W.)/ PARCEL LINE	● G-6	GEOTECHNICAL SAMPLE LOCATION (2007)	— G-7 —	PRE-DESIGN GEOTECHNICAL SAMPLE LOCATION (11/2011)
- - - -	SECTION LINE	● G-7	PRE-DESIGN GEOTECHNICAL SAMPLE LOCATION (11/2011)	▲	PRE-DESIGN SEDIMENT SAMPLE LOCATION (11/2011)
- - - -	CONTRACTOR WORK AREA	— x —	FENCE	— S —	SANITARY SEWER
~ ~ ~ ~	TREES & BRUSH	— B —	BUILDING	— STH —	STORM SEWER
●	SOIL BORING LOCATION (7/2009)	— OHW —	OVERHEAD WIRE	○	MANHOLE
◆ SW-01	SURFACE WATER SAMPLE LOCATION (12/2007)	— TEL —	TELEPHONE	●	CATCH BASIN
◆ HA-4	HAND AUGER LOCATION (12/2007)	— ELC —	ELECTRIC	—	RAILROAD TRACKS
▲ SED-T/SED-5A	SEDIMENT SAMPLE LOCATION, APPROX. (2006)	— W —	WATER MAIN		

CONSTRUCTION NOTES:

- THE INFORMATION SHOWN ON THIS DRAWING CONCERNING TYPE AND LOCATION OF UNDERGROUND UTILITIES IS NOT GUARANTEED TO BE ACCURATE OR ALL INCLUSIVE. THE CONTRACTOR IS RESPONSIBLE FOR MAKING HIS OWN DETERMINATIONS AS TO THE TYPE AND LOCATION OF UNDERGROUND UTILITIES AS MAY BE NECESSARY TO AVOID DAMAGE THERETO.
 - LIMITS OF WEST END UNSATURATED SOIL AND DREDGE AREA DEPENDENT ON WATER ELEVATION, TO BE VERIFIED PRIOR TO WORK.
- SOURCE NOTES:**
- EXISTING CONDITIONS NORTH AND WEST OF THE BURNHAM CANAL APPROXIMATE EDGE OF WATER CREATED FROM DIGITAL BASE FILE TM601D50.DWG/TM601D50RED, SURVEYED BY NATIONAL SURVEY & ENGINEERING ON 07/18/2007.
 - EXISTING CONTOURS WITHIN THE BURNHAM CANAL BASED ON BATHYMETRY SURVEY COMPLETED BY THE U.S. ARMY CORPS OF ENGINEERS ON 06/27/2017.
 - COORDINATE SYSTEM IS BASED ON NAD 83 HARN WISCONSIN COUNTY FEET. THE VERTICAL DATUM IS EQUAL TO THE NGVD 1929 ELEVATION MINUS 580.603.
 - CONTOURS SOUTH OF THE CANAL FROM MCAMLIUS (MILWAUKEE COUNTY AUTOMATED MAPPING AND LAND INFORMATION SYSTEM) DATA TYPE: ARCGIS MAP SERVICE, SERVER: [HTTP://MAPS.MILWAUKEECOUNTY.ORG/ARCGIS/SERVICES](http://MAPS.MILWAUKEECOUNTY.ORG/ARCGIS/SERVICES).



CONTACT DIGGERS HOTLINE PRIOR TO ANY UNDERGROUND WORK ON-SITE
CALL 811 OR (800) 242-8511
(262) 432-7910
(877) 500-9592 (EMERGENCY ONLY)

A CROSS SECTION C035 AT STATION 1+93

B CROSS SECTION C035 AT STATION 14+44

C CROSS SECTION C035 AT STATION 2+50

6.			
5.	VOL. BETTERMENT MOD. ISSUED FOR AGENCY REVIEW	DRAFT	
4.	ISSUED FOR AGENCY REVIEW	07/29/16	RJB
3.	ISSUED FOR AGENCY REVIEW	02/02/16	RJB
2.	ESD MODIFICATIONS ISSUED FOR AGENCY REVIEW	01/15/15	RJB
1.	ISSUED TO ADDRESS AGENCY COMMENTS	07/19/13	RJB
0.	ISSUED FOR AGENCY REVIEW	03/29/13	RJB
REVISION:	DATE:	APP'D BY:	

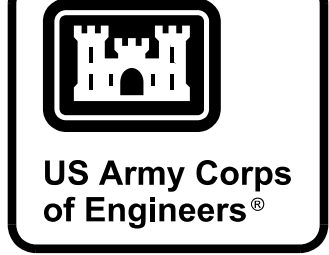


PROJECT NO. 67830/910	PROFILE AND CROSS SECTIONS	BURNHAM CANAL REMEDIATION VOLUNTARY BETTERMENT AGGREGATE FILL MATERIAL PLACEMENT REVISION MILLER COMPRESSING COMPANY CITY OF MILWAUKEE, WISCONSIN	SHEET NO. C035
DRAWN BY: DMD 05/04/15			
CHECKED BY: Y_Z 02/02/16	DRAWING NO: D2117C035-04.DWG		
APPROVED BY: RJB 02/02/16	REFERENCE: SEE INFO BLOCK		

1 2 3 4 5 6 7 8 9 10

GENERAL NOTES:

- ALL ELEVATIONS ARE SHOWN IN THE CITY OF MILWAUKEE DATUM (CMD), TO CONVERT TO LWD, ADD 2.46'
- SUBAQUEOUS CAP TO BE PLACED BY OTHERS BETWEEN THE WESTERN EXTENT OF THE PROJECT, STA 1+75 AND THE 11TH STREET BRIDGE STA 16+50.
- SECTIONS CUT LOOKING EASTERLY TOWARD MILWAUKEE CHANNEL.



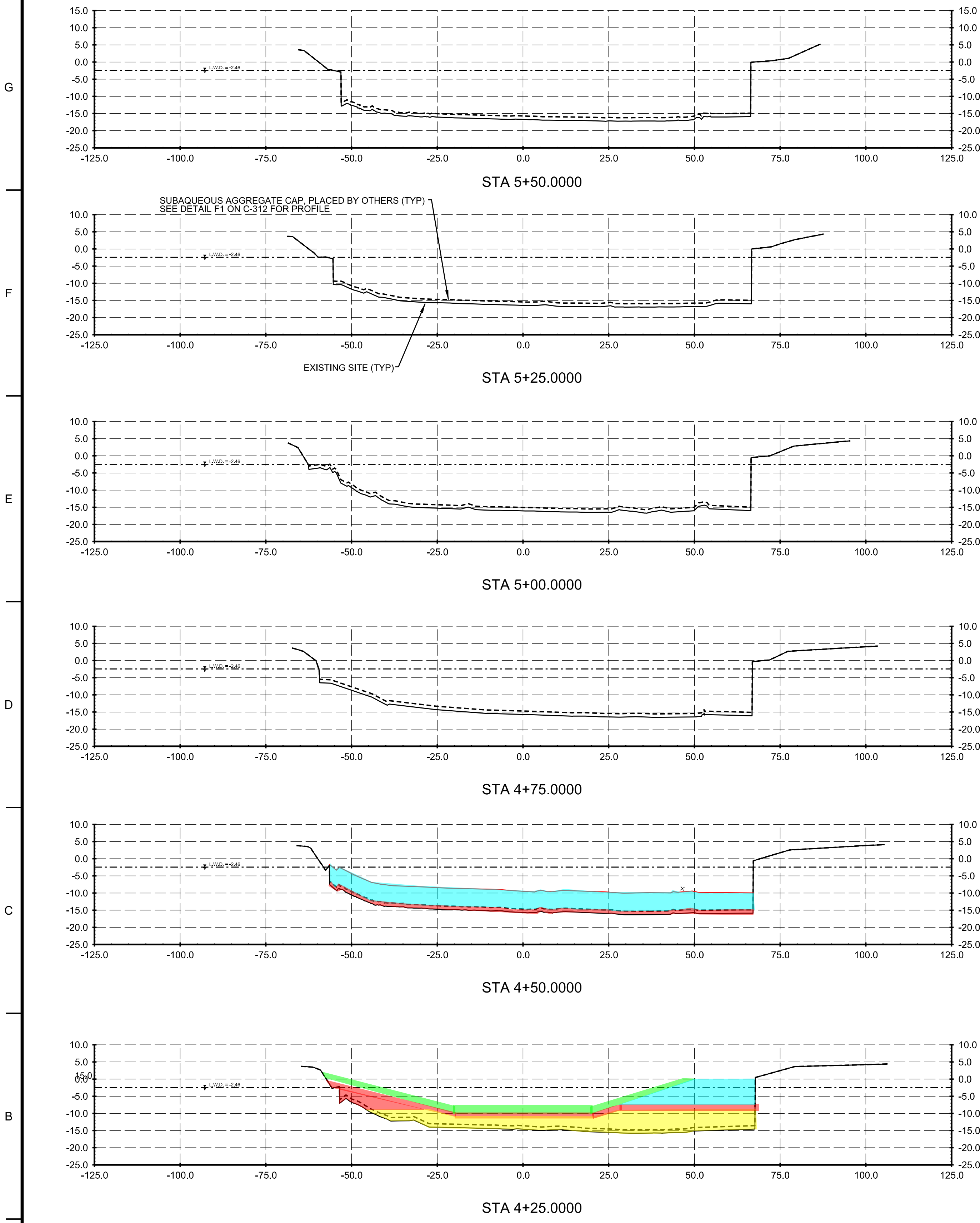
MARK	DESCRIPTION	DATE

DESIGNED BY: B. MELBY CHECKED BY: N. ZAGER SUBMITTED BY: PHILLIP ROSS	ISSUE DATE: 05 OCT 2017	PROJECT NO. (MILWAUKEE): 10111XK-XX-XXXX
	CONTRACT NO. (MILWAUKEE): W911XK-XX-XXXX	%ALLOCATION 1%: %A0P1%
U.S. ARMY CORPS OF ENGINEERS DETROIT DISTRICT STREET ADDRESS CITY, STATE ZIP	U.S. ARMY CORPS OF ENGINEERS MILWAUKEE COUNTY MILWAUKEE CITY, BURHAM CANAL ESTUARY AREA OF CONCERN ECOSYSTEM RESTORATION	
FILE NAME: M:\BCE\FY17\C-301.dgn	SIZE: 11/10/17 10:30:11 AM	

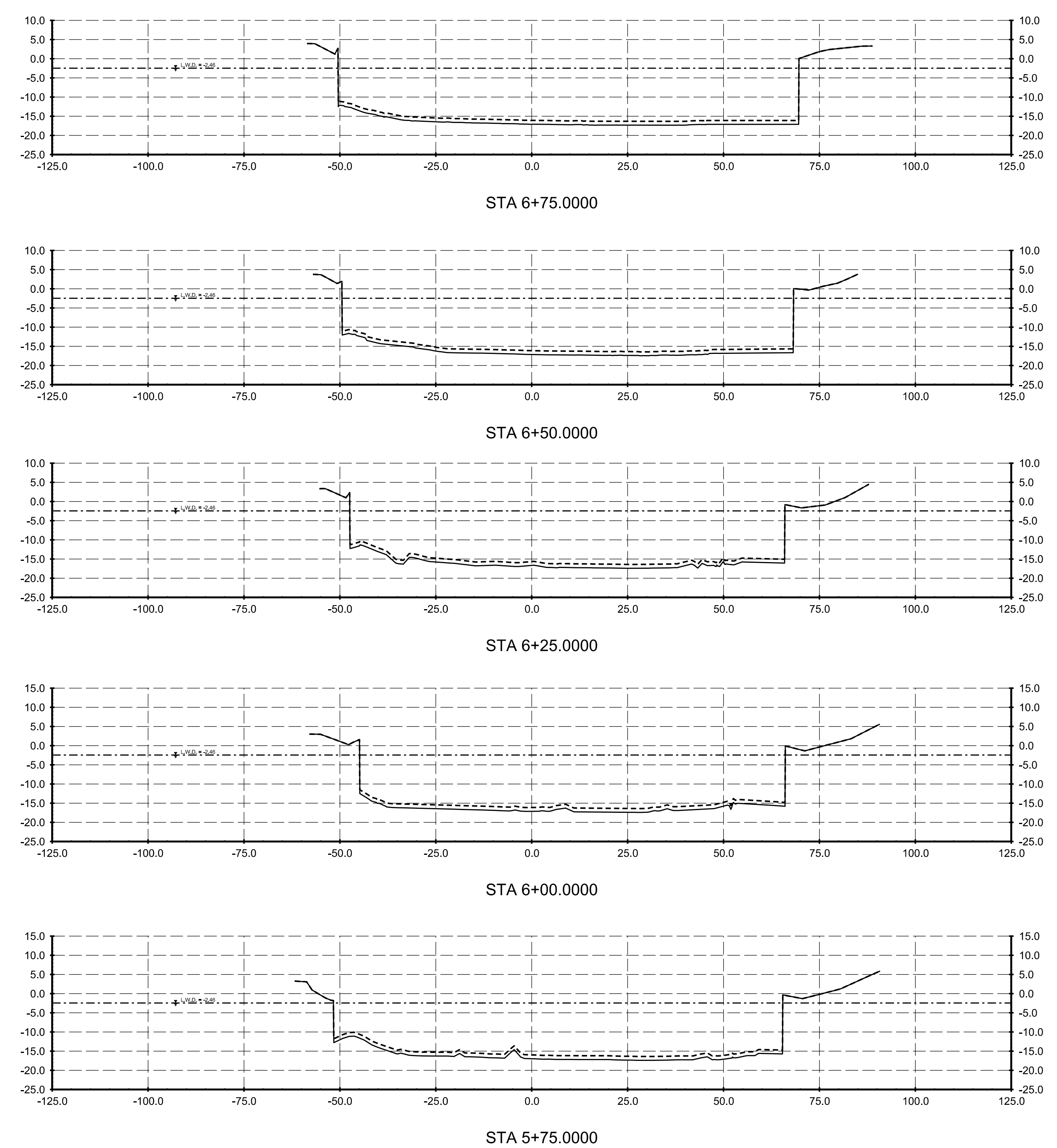
MILWAUKEE COUNTY
MILWAUKEE CITY, BURHAM CANAL
ESTUARY AREA OF CONCERN
ECOSYSTEM RESTORATION

**EXISTING SITE
CROSS SECTION**

SHEET ID
C-301

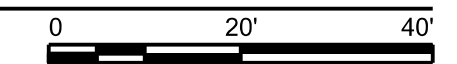


- Betterment - Full Thickness
- Betterment - Low Profile
- RA Cap
- Sediment Reuse



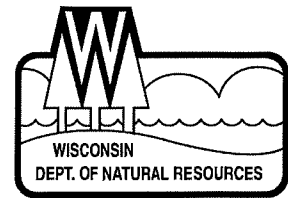
NOTE:
1. TITLE SPECIFIC NOTES

A1 EXISTING SITE CROSS SECTIONS
SCALE: 1"=20'



CERTIFIED FINAL

**APPENDIX D
WDNR AND U.S. EPA SEDIMENT RELOCATION
CORRESPONDENCE**



August 31, 2018

Mr. Jon Spigel
Miller Compressing Company
1640 West Bruce Street
Milwaukee, WI 53204

Subject: Approval to Manage Contaminated Material under Wis. Admin. Code § NR 718.15
Miller Compressing (Burnham Canal) (ALT SF), 1640 West Bruce Street, Milwaukee, WI
DNR BRRTS Activity #: 02-41-552940, 15-41-581667;
FID #: 241213720

Dear Mr. Spigel:

On June 26, 2018, Mark Walter of O'Brien & Gere Engineers, Inc. (OBG) submitted a completed 'Recommended Format for Exemption Request' on your behalf requesting to manage 1,400 cubic yards of contaminated material on the same site from which it will be excavated in accordance with Wis. Admin. Code § NR 718.15. The 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).

Contaminated sediment within the western portion of the Burnham Canal is being addressed through limited dredging and offsite disposal of sediment and the installation of a cap over remaining contamination. In order to complete the remediation and to maintain storm water flow through the canal a channel must be formed at the base of the canal east of the West End Dredge Area. To form the channel, 1400 cubic yards of sediment will be excavated and replaced to an adjacent portion of the canal. Polycyclic aromatic hydrocarbon (PAH) and metal contamination was identified in samples collected from sediments within the canal. The approved cover will be installed over both the excavation and reuse areas within the canal.

Wis. Admin. Code § NR 718.15 Exemption

This letter grants an exemption from the solid waste requirements in Wis. Stats. § 289 and Wis. Admin. Code §§ NR 500 to NR 538 for the proposed material management activities. Approval of the exemption is based on the following:

- 1) Managing contaminated waste material in areas of the site identified on Figure A1, Sample Locations (1/14/16) included with the completed 'Recommended Format for Exemption Request' will meet the locational criteria listed under Wis. Admin. Code § NR 718.12(1)(c), with the exception of the following:
 - Within a floodplain
 - 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

Grant of exemption to s. NR 718.12(1)(c)1, 5, and 6

In consideration that sediment is being excavated from within a canal and will be replaced in an adjacent portion of the canal under similar conditions (with the exception of that the reuse area is located downslope from the excavation area), and the material will pose no greater risk to human health or the

environment after it is replaced within the canal, the DNR grants an exemption to the location criteria of Wis. Admin. Code § 718.12(1)(c)1, 5, and 6 will allow placement of contaminated waste material within the floodplain, below the waterline, and at a greater depth from which it was excavated.

- 2) Soil samples have been collected for analysis of contaminants previously detected or expected to be present at this site including PAHs and metals from areas most likely to contain residual contamination. Based on an estimated volume of 1,400 cubic yards of material, and a sampling frequency of 1 sample per 160 cubic yards, the sampling protocol described in Wis. Admin. Code § NR 718.12(1)(e) has been met.
- 3) A complete soil management plan, as defined by Wis. Admin. Code §§ NR 718.12(2)(b) and (c), has been provided to the DNR.
- 4) The proposed management of contaminated material at the Miller Compressing (Burnham Canal) (ALT SF) is expected to meet the criteria of Wis. Admin. Code §§ NR 726.13(1)(b)1 to 5.
- 5) Per Wis. Admin. Code § NR 718.12(2), the DNR was provided with at least 7 days' notice prior to commencing to proposed material management.
- 6) You have acknowledged that the continuing obligations described below will be required as a condition of managing the contaminated material on your property as proposed.

Continuing Obligations

The current property owner of the Miller Compressing (Burnham Canal) (ALT SF), and any subsequent property owners, must comply with the following continuing obligations, established under Wis. Admin. Code § NR 718.12(2)(d) at this site, to ensure that conditions will remain protective. DNR staff will conduct periodic prearranged inspections to ensure that the conditions included in this letter and the "Institutional Control Implementation Plan" are met. If these requirements are not followed, the DNR may take enforcement action under Wis. Stat. § 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 § 718.15 exemption meet the requirements of Wis. Admin. Code § NR 718.12(2)(e) and are available in Portable Document Format (PDF) on the Bureau for Remediation and Redevelopment Tracking System (BRRTS on the Web) at <http://dnr.wi.gov/topic/Brownfields/wrrd.html>. Additionally, this site will be identified on the Remediation and Redevelopment Sites Map (RRSM), available at <http://dnr.wi.gov/topic/Brownfields/wrrd.html, as having continuing obligations>. All site information is on file at the Regional DNR office located at 2300 N. Dr. Martin Luther King, Jr. Drive, Milwaukee, WI 53212-3128.

The DNR fact sheet "Continuing Obligations for Environmental Protection," RR-819, helps to explain a property owner's responsibility for continuing obligations on their property. The fact sheet may be obtained at <http://dnr.wi.gov/files/PDF/pubs/rr/RR819.pdf>.

Please send written notifications in accordance with the following requirements to:

Department of Natural Resources
Attn: Remediation and Redevelopment Program Environmental Program Associate
2300 N. Dr. Martin Luther King, Jr. Drive
Milwaukee, WI 53212-3128

Site Specific Condition - Residual Sediment Contamination:

If contaminated sediment that was managed as proposed in the completed 'Recommended Format for Exemption Request' is excavated in the future, the property owner at the time of excavation will be responsible for the following:

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

Excavated material may be managed in accordance with Wis. Admin. Code § NR 718, with DNR approval obtained at that time. 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 need to be taken to prevent a health threat to humans. If material managed under this exemption included solid waste other than soil, a historic fill exemption may be required to be obtained from the DNR prior to excavating the waste or constructing any structure over the materials.

The location(s) where contaminated soil is proposed to be managed at the Miller Compressing (Burnham Canal) (ALT SF) site is depicted on the attached Figure A1, Sample Locations (1/14/2016).

DNR approval prior to well construction or reconstruction is required *where contaminated sediment has been 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 Form 3300-254 to the DNR Drinking and Groundwater program's regional water supply specialist. This form can be obtained at <http://dnr.wi.gov/topic/wells/documents/3300254.pdf>.

Maintenance of a cover:

A cover of approximately five feet of aggregate fill overlying a one-foot gravel remedial subaqueous cap is proposed to be installed and maintained over contaminated solid waste that will be managed at the Miller Compressing (Burnham Canal) (ALT SF) site as proposed in the completed 'Recommended Format for Exemption Request'. Once constructed, inspections of the cover will be required, and submittal of inspection reports may also be required. If the cover is approved for industrial land use the DNR is required to be notified before changing to a non-industrial use, to determine if the cover will be protective for that use. Institutional Controls will be implemented to ensure that the sand cover remains in place and is not disturbed. The Institutional Control Implementation and Assurance Plan (ICIAP) must be updated as part of the remedial design for the Site which will describe the inspection and maintenance activities that will apply to the proposed barrier. The attached Figure A1, Sample Locations (1/14/2016), shows where contaminated material is proposed to be managed and covered. An updated ICIAP must be provided to the DNR once the barrier has been constructed if changes were made to address actual site conditions.

Certain activities will be prohibited in areas of this site where maintenance of a cover or barrier is intended to prevent contact with any remaining contamination. When a barrier is required, the DNR must be notified before making a change, in order to determine if further action is needed to maintain the protectiveness of the remedy employed. The following activities are prohibited on any portion of the property where the cover is required, unless prior written approval has been obtained from the DNR:

- removal of the existing barrier or cover;
- replacement with another barrier or cover;
- excavating or grading of the land surface;
- filling on covered or paved areas;

- plowing for agricultural cultivation;
- construction or placement of a building or other structure;
- changing the use or occupancy of the property to a non-industrial exposure setting.

Other Information

- 1) Any hazardous substance discharge discovered during material management activities must be reported to the DNR following the requirements of Wis. Admin. Code § NR 706.
- 2) Material management activities exempted by this letter are scheduled to be completed within one year. Notify the DNR if this schedule will change.
- 3) Unless otherwise directed by the DNR, documentation of material management activities shall be provided within 60 days of the completion of this project. The documentation must describe how the activities complied with the approved management plan and must also comply with the requirements of Wis. Admin. Code § 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 the Miller Compressing (Burnham Canal) (ALT SF) site.
 - c. Maps, drawings, and cross sections that depict how contaminated material was managed.
 - d. A synopsis of the work conducted and an explanation as to how it complied with the material management plan and the conditions in this exemption 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 Miller Compressing (Burnham Canal) (ALT SF) 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 exemption is granted under Wis. Admin. Code § NR 718.15 and applies only to the specific activities described within the submitted 'Recommended Format for Exemption Request'. Any contaminated material that is excavated or otherwise disturbed at the Miller Compressing (Burnham Canal) (ALT SF) site, not covered under this or another exemption, must be managed in compliance with the requirements of Wis. Admin. Code §§ NR 500 through NR 538, the solid waste rules administered by the DNR's Waste and Materials Management Program. The management of contaminated material on a property that does not comply with these rules may be considered a hazardous substance discharge and would be required to be addressed following the process outlined in Wis. Admin. Code §§ NR 700 to NR 750.
- 5) Miller Compressing Company 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) 02-41-552940. Actions relating only to the management of contaminated material are tracked in the BRRTS system under activity # 15-41-552940.

Miller Compressing (Burnham Canal) (ALT SF)
1640 West Bruce Street, Milwaukee, WI
WDNR BRRTS #: 02-41-552940, 15-41-581667
FID #: 241213720

Page 5

We appreciate your efforts to protect the environment at this site. If you have any questions regarding this approval decision, please contact me by calling (608) 266-0941, or by email at paul.grittner@wisconsin.gov. Other questions regarding this site can be directed to the DNR project manager Margaret Brunette at (414) 263-8557, or margaret.brunette@wisconsin.gov.

Sincerely,

A handwritten signature in blue ink that reads "Paul Grittner". The signature is written in a cursive, flowing style.

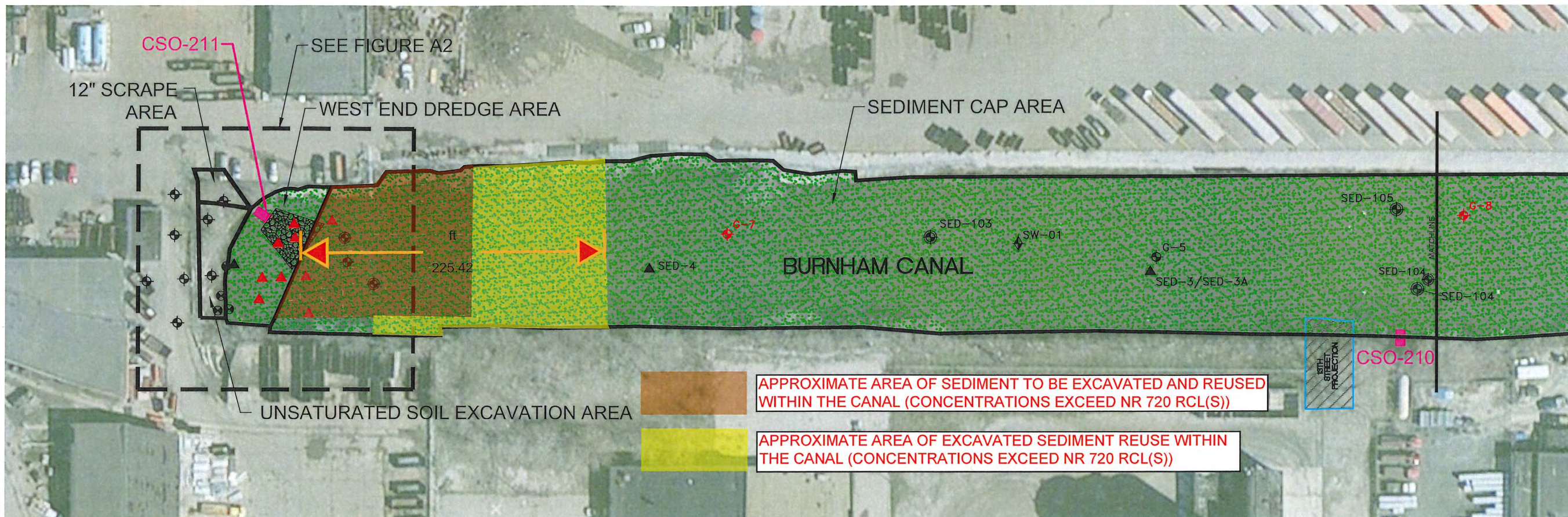
Paul Grittner
Contaminated Material Management Specialist
Remediation & Redevelopment Program

Attachments:

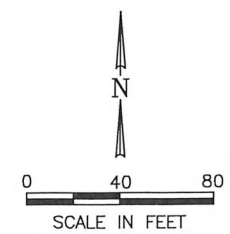
- Figure A1, Sample Locations, Natural Resource Technology

cc: Mark Walter, O'Brien & Gere Engineers, Inc., 234 W. Florida Street, Fifth Floor, Milwaukee, WI 53204 (electronic)
Leah Evison – EPA Region V (electronic)

Jan 14, 2016 6:30pm PLOTTED BY: dduida SAVED BY: dduida
 Y: Mapping\Projects\2117\CAD\3-1 Final Design Report\Appendix A Figa\Figure A1_Sample Locations.dwg Layout
 IMAGES: Y: Mapping\Projects\2117\CAD\3-1 Final Design Report\Appendix A Figa\Figure A1_Sample Locations.dwg
 REFCS:



- CSO-207 COMBINED SEWER OUTFALL
- APPROXIMATE LOCATION OF 9TH AND 13TH STREET IF EXTENDED TO CANAL
- REMEDIATION AREAS
- SEDIMENT CAP
- RIPRAP
- SOIL BORING LOCATION (7/2009)
- SURFACE WATER SAMPLE LOCATION (12/2007)
- HA-4 HAND AUGER LOCATION (12/2007)
- SEDIMENT SAMPLE LOCATION, APPROX. (2006)
- SED-102 SEDIMENT SAMPLE LOCATION (2007)
- G-6 GEOTECHNICAL SAMPLE LOCATION (2007)
- G-7 PRE-DESIGN GEOTECHNICAL SAMPLE LOCATION (11/2011)
- SED-126 PRE-DESIGN SEDIMENT SAMPLE LOCATION (11/2011)



SOURCE NOTE:
 THE DIGITAL DRAWING IMAGE WAS CREATED FROM BING MAPS FOR ARCGIS DESKTOP. (c) 2010 MICROSOFT CORPORATION AND ITS DATA SUPPLIERS.
 COORDINATES BASED ON MILWAUKEE COUNTY COORDINATE REFERENCE SYSTEM NAD 83(97).

DRAWN BY:	DMD	DATE:	01/14/16
CHECKED BY:	RJB	DATE:	01/14/16
APPROVED BY:	RJB	DATE:	01/14/16
DRAWING NO.:	REFERENCE:..		

SAMPLE LOCATIONS
 BURNHAM CANAL SUPERFUND ALTERNATIVE SITE
 FINAL DESIGN
 MILLER COMPRESSING COMPANY
 MILWAUKEE, WISCONSIN



PROJECT NO.
 2117/7.0
 FIGURE NO.
 A1

Mark Walter

To: Evison, Leah
Subject: RE: Burnham Canal - EPA

From: Evison, Leah [mailto:evison.leah@epa.gov]
Sent: Monday, April 30, 2018 11:29 AM
To: Mark Walter <Mark.Walter@obg.com>
Cc: Laurie Parsons <Laurie.Parsons@obg.com>
Subject: Re: Burnham Canal - EPA

Thanks for the summary. As I mentioned on the phone, I do not consider the implementation adjustments you describe to be design changes. Please continue to coordinate with WDNR as you explore management options for the additional material.

Leah

Leah Evison
US EPA Remedial Project Manager/Region 5
outstationed at
520 Lafayette Rd N
St. Paul MN 55155
evison.leah@epa.gov
St. Paul office 651-757-2898

From: Mark Walter <Mark.Walter@obg.com>
Sent: Monday, April 30, 2018 11:00:13 AM
To: Evison, Leah
Cc: Laurie Parsons
Subject: RE: Burnham Canal - EPA

Hi Leah,

Thank you for your 3/27/18 response and for the discussion earlier this morning. A summary of today's discussion is provided below. As always, please feel free to contact us if you have any questions.

- Sediment designated to be removed from the West End Dredge Area, as called out in the EPA-approved ESD/ROD Design, will be removed, stabilized, and disposed at a landfill per the EPA-approved Design.
- Additional dredging will be performed, outside the footprint of (east of) the West End Dredge Area shown in the EPA-approved ESD/ROD Design, to allow placement of betterment material without obstructing canal hydraulics.
- The ESD/ROD cap will still be constructed in accordance with the EPA-approved Design.
- We will work with WDNR on management (and associated permitting) of sediment to be removed outside the footprint of (east of) the West End Dredge Area shown in the EPA-approved ESD/ROD Design. Management

options to be discussed with WDNR include in-place management of this material within the canal project area, east of the West End Dredge Area shown in the EPA-approved ESD/ROD Design.

Thanks again,

Mark

Mark D. Walter, PE

OBG | Environmental Engineer

414-837-3563 | c 608-220-2480

Mark.Walter@obg.com | www.obg.com

**APPENDIX E
WDNR FORM 4400-305 CONTINUING OBLIGATIONS
INSPECTION AND MAINTENANCE LOG**

Directions: In accordance with s. NR 727.05 (1) (b) 3., Wis. Adm. Code, use of this form for documenting the inspections and maintenance of certain continuing obligations is required. Personal information collected will be used for administrative purposes and may be provided to requesters to the extent required by Wisconsin's Open Records law [ss. 19.31-19.39, Wis. Stats.]. When using this form, identify the condition that is being inspected. See the closure approval letter for this site for requirements regarding the submittal of this form to the Department of Natural Resources. A copy of this inspection log is required to be maintained either on the property, or at a location specified in the closure approval letter. Do NOT delete previous inspection results. This form was developed to provide a continuous history of site inspection results. The Department of Natural Resources project manager is identified in the closure letter. The project manager may also be identified from the database, BRRTS on the Web, at <http://dnr.wi.gov/botw/SetUpBasicSearchForm.do>, by searching for the site using the BRRTS ID number, and then looking in the "Who" section.

Activity (Site) Name	BRRTS No.
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Inspections are required to be conducted (see closure approval letter):

annually
 semi-annually
 other – specify _____

When submittal of this form is required, submit the form electronically to the DNR project manager. An electronic version of this filled out form, or a scanned version may be sent to the following email address (see closure approval letter):

Inspection Date	Inspector Name	Item	Describe the condition of the item that is being inspected	Recommendations for repair or maintenance	Previous recommendations implemented?	Photographs taken and attached?
		<input type="checkbox"/> monitoring well <input type="checkbox"/> cover/barrier <input type="checkbox"/> vapor mitigation system <input type="checkbox"/> other:			<input type="radio"/> Y <input type="radio"/> N	<input type="radio"/> Y <input type="radio"/> N
		<input type="checkbox"/> monitoring well <input type="checkbox"/> cover/barrier <input type="checkbox"/> vapor mitigation system <input type="checkbox"/> other:			<input type="radio"/> Y <input type="radio"/> N	<input type="radio"/> Y <input type="radio"/> N
		<input type="checkbox"/> monitoring well <input type="checkbox"/> cover/barrier <input type="checkbox"/> vapor mitigation system <input type="checkbox"/> other:			<input type="radio"/> Y <input type="radio"/> N	<input type="radio"/> Y <input type="radio"/> N
		<input type="checkbox"/> monitoring well <input type="checkbox"/> cover/barrier <input type="checkbox"/> vapor mitigation system <input type="checkbox"/> other:			<input type="radio"/> Y <input type="radio"/> N	<input type="radio"/> Y <input type="radio"/> N
		<input type="checkbox"/> monitoring well <input type="checkbox"/> cover/barrier <input type="checkbox"/> vapor mitigation system <input type="checkbox"/> other:			<input type="radio"/> Y <input type="radio"/> N	<input type="radio"/> Y <input type="radio"/> N
		<input type="checkbox"/> monitoring well <input type="checkbox"/> cover/barrier <input type="checkbox"/> vapor mitigation system <input type="checkbox"/> other:			<input type="radio"/> Y <input type="radio"/> N	<input type="radio"/> Y <input type="radio"/> N

BRRTS No.

Activity (Site) Name

Continuing Obligations Inspection and Maintenance Log

Form 4400-305 (2/14)

Page 2 of 2

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Date added:

Title:

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Date added:

Title: