



January 14, 2011

Lawdock, Inc., Registered Agent for
Bishop's Creek Community Development Corporation
411 E. Wisconsin Avenue, Ste 2550
Milwaukee WI 53202

Casetrack # 2010-SEEE-076

FILE 341195690
341 055770

NOTICE OF VIOLATION

See Also FILE 341195690

The Department of Natural Resources has reason to believe that Bishop's Creek Community Development Corporation (Bishop's Creek) is in violation of the following environmental requirements at the 5.17 acre site located on the southwest corner of West Hampton and North 32nd Street in the City of Milwaukee, Wisconsin (site).

Remedial Action Plan

Section 292.99, Wis. Stats., requires that Bishop's Creek follow the remedial action rules in addition to the approved remedial action plan for the site.

Specifically, excavated contaminated soil was removed from the Bishop's Creek site and disposed of off-site on property which was not approved by the Department.

William Beaudry, BB Services stated that BB Services took 26 loads of soil from the Bishop's Creek site to a property located at 11529 County Line Road, Milwaukee, Wisconsin (Patrick property).

Through investigation, the Department determined that BB Services took at least 57 loads of soil from the Bishop's Creek site to a sand and gravel pit located at 6401 S. Racine Avenue, New Berlin, Wisconsin (On Point property).

Neither the Patrick property nor the On Point property is a DNR approved facility. Removal of the soil from the Bishop's Creek site and disposal of that soil at an unapproved facility is contrary to the Remedial Action Plan approved by the Department on March 10, 2010 which states: "Excavated soil from VOC, PAH, and/or metals impacted areas of the site that cannot be reused on-site during construction activities will be managed and disposed of off-site at a WDNR approved facility".

Standards for Selecting Remedial Action

Section NR 722.09(2), Wis. Adm. Code, states "Responsible parties shall select a remedial action ...that achieves restoration of the environment....minimizes the harmful effects from the contamination on the air, lands and waters of the state and complies with all applicable state and federal public health and environmental laws and environmental standards." Included in this section are laws regarding groundwater, surface water and wetlands, air and solid waste.

The removal of contaminated soil from the Bishop's Creek site and disposal at both the Patrick and On Point sites was not protective of the environment and did not comply with all applicable state environmental laws as specified in this document.

Solid Waste Exemption Criteria

Section NR 718.14, Wis. Adm. Code, lists requirements that must be met for a responsible party to be exempt from the rules found in chs. NR 500 to 538.

- Section NR 718.14(4), Wis. Adm. Code, contains locational criteria
- Section NR 718.14(5), Wis. Adm. Code, requires that the responsible party obtain written approval from the Department prior to the disposal of contaminated soil on a property other than the property from which it was excavated.

The Patrick property does not meet the locational criteria for the exemption and was not a disposal site approved in writing by the Department. The On Point location was not a disposal site approved in writing by the Department.

Therefore the following solid waste rules apply.

Responsibility for Waste Transport and Disposal

Section NR 502.06(5), Wis. Adm. Code, states "A person generating solid waste shall be responsible for the collection and transportation of the waste to a solid waste disposal facility licensed by the department unless the person contracts with a collection and transportation service licensed by the department for that purpose." A similar provision is found in s. NR 718.07(1), Wis. Adm. Code.

Bishop's Creek contracted with BB Services to haul soil from the Bishop's Creek site to the Patrick and On Point properties. BB Services did not have a solid waste collection and transportation license at the time of hauling.

In order to discuss this matter, the following enforcement conference has been scheduled:

Conference Date:	February 1, 2011
Conference Time:	10:00 a.m.. <i>Rm 141</i>
Location:	DNR Southeast Region Headquarters 2300 N. Dr. Martin Luther King Jr. Drive Milwaukee, WI 53212


Please bring any documents which you believe would be helpful in the discussion of the cited violations. We strongly urge you to bring your consultant and your site manager to the meeting.

Attached is the NOV issued to you on September 28, 2010 for alleged water program violations and an agenda for the enforcement conference.

The Department is authorized to seek up to \$5,000 for each day of violation under both s. 292.99, Wis. Stats. and s. 289.96, Wis. Stats.

If you have any questions, contact me at (414) 263-8671 or John Hnat at (414) 263-8644.

Sincerely,



Debby Roszak
Environmental Enforcement

- c: DNR Bishop's Creek distribution list
- Bishop Sedgwick Daniels Bishop's Creek
- Daren Daniels Bishop's Creek
- Gordon Corrus Genesis Construction Management
- Kevin Bugel Giles Engineering