



February 25, 2015

Dave Eisenreich
Holtz Krause Steering Committee
5208 DJ Lane
Schofield WI 54476

Subject: Liability Clarification Letter Concerning Environmental Liability for Holtz Krause
Landfill, East Kent Street and Curling Way, Wausau, Wisconsin
DNR BRRTS ID# 02-37-000007 & 07-37-563188
FID #737055880

Dear Mr. Eisenreich:

Purpose

The purpose of this letter is to provide you with clarifications regarding the environmental liability for properties located at East Kent Street and Curling Way, Wisconsin (“the Property”). The Property consists of approximately 92 acres of land located at the intersection of East Kent Street and Curling Way in the City of Wausau, Marathon County, Wisconsin. According to Marathon County Land Records the Property consists of the following parcels (see attached Certified Survey Map, Document #1684241):

- Marathon County, PIN# 291-2808-063-0996, 602 E Kent St, Wausau, WI 54403
- Wausau Curling Club, Inc. PIN# 291-2807-014-0900, 1920 Curling Way, Wausau, WI 54403
- Wausau Cemetery Association, Outlot 1 of PIN# 291-2807-011-0910, 1701 Grand Ave, Wausau, WI 54403

The Department of Natural Resources (“the Department”) has agreed to provide you with a letter clarifying the environmental liability associated with contaminants detected at the Property and respond to your specific concerns.

Request

On January 14, 2015, Russell Wilson of Ruder-Ware, L.L.S.C. requested on your behalf that the Department address the environmental liability that the current owners of the Property may have related to any existing contamination at the Property. The Department received the fee for providing assistance, as required by s. NR 749.04(1), Wis. Adm. Code.

Summary of Environmental Conditions

The Holtz-Krause landfill was used as a municipal, residential, and industrial landfill, which accepted wastes from 1957 until it ceased operation in 1980. Given the environmental conditions at the site, a remedial action was selected for the site consisting of a low-permeability landfill cap, an active gas extraction system, long-term groundwater monitoring, groundwater extraction and treatment, and institutional controls. The landfill cap and gas system were constructed in 1994, and long-term monitoring commenced. In 2011, the Department modified the groundwater remedy to replace groundwater extraction with natural attenuation.

In 2012, the responsible parties entered the site into the Voluntary Party Liability Exemption Program (VPLE), and the Department issued an assurance letter on July 25, 2012, confirming eligibility for the exemption, with a determination that site investigation activities were complete. The assurance letter also approved the proposed remedial action plan for the site, which included redevelopment of the property into a soccer field complex, including repairs and modifications to the gas extraction system. Construction of the soccer field complex was completed by fall of 2013.

There is currently a legal agreement, dated July 25, 2012, between the Holtz Krause Steering Committee, Marathon County, and the City of Wausau, which includes responsibilities for operation and maintenance of the soccer field complex. Under this agreement, the City of Wausau will provide operation and maintenance activities of the landfill, including maintenance of the landfill cap, gas monitoring, maintenance of the gas extraction system, and maintenance of the blower and flare for the gas extraction system. Under the agreement, Marathon County will operate and maintain the soccer complex.

The conditions of closure and continuing obligations required at the time of closure were based on the Property being used for recreational purposes. Given this intended use, the continuing obligations for the Property include the following:

- Groundwater contamination is present above ch. NR 140, Wis. Adm. Code, enforcement standards.
- One or more monitoring wells were not located and must be properly filled and sealed if found.
- The engineered cover must be inspected and maintained over the landfill waste and the Department must approve any changes to this barrier.
- Operation and maintenance of an active gas extraction system, monitoring of that system, and annual reporting to the Department is required through a building on an abandoned landfill (BAL) exemption dated March 6, 2013 (attached), given the Property's intended use as a soccer complex.
- If site use changes in the future, such that that the active gas extraction system is no longer necessary, the site owner at that time must construct and maintain at a minimum a passive venting system that adequately addresses the contaminants of concern to the satisfaction of the Department.

Liability Clarification

This letter will clarify the Department's position on environmental liability associated with the Property.

In February 2014, A Certificate of Completion was issued to the Holtz Krause Landfill Steering Committee after the Department determined the necessary response actions had been completed. The issuance of the Certificate exempted the voluntary party from the provisions of ss. 289.05(1), (2), (3) and (4), 289.42(1), 289.67, 291.25(1) to (5), 291.29, 291.37, 292.11(3), (4), and (7)(b) and (c) and 292.31(8), Wis. Stats., with respect to the existence of hazardous substances on or originating from the Property, the release of which occurred prior to the date the Department approved the environmental investigation required under s. 292.15(2)(ae)1., Wis. Stats. However, the person who owns or controls the Property would no longer qualify for this liability exemption if that person fails to maintain or monitor the Property as required by the conditions in the Certificate, the December 26, 2013 case closure letter, the Building on an Abandoned Landfill Exemption dated March 6, 2013, s. 292.12, Wis. Stats., and administrative rules promulgated by the Department. Any discharges of a hazardous substance to or from the Property that occur after the date that the environmental investigation was approved will be the responsibility of the current Property owners and any other person who possesses or controls that discharge and any person who caused the discharge.

At the time the Certificate of Completion was issued, the VPLE applied to six properties owned at the time by Marathon County and the Wausau Curling Club Inc. Legal descriptions, maps and deeds were included as attachments to the Certificate of Completion. On December 29, 2014, a new Certified Survey Map was recorded for these parcels that modified the parcel boundaries and ownership.

You have requested a clarification from the Department that the VPLE Certificate of Completion applies with equal force and effect to the new parcel configuration and to current owners of the Property; Marathon County, the Wausau Curling Club, Inc., and the Wausau Cemetery Association. The Department has reviewed your request and the new CSM and can confirm that the three new parcels listed on the first page of this letter are within the boundaries of the properties that received the February 2014 Certificate of Completion. Therefore the Department has determined that the VPLE Certificate of Completion applies to these three newly defined parcels. Also, as provided by s. 292.15(3), Wis. Stats., the exemption conveyed by these Certificates "applies to any successor or assignee of the voluntary party" who meets the criteria described in s. 292.15(3), Wis. Stats. Marathon County and the Wausau Curling Club were included in the liability exemption granted in the Certificate of Completion, as Property owners at that time. The Wausau Cemetery Association, as a new Property owner, is considered a successor and as a result, now qualifies for the liability exemption. In order to maintain the liability exemption, the current owners must comply with the continuing obligations on the Property, as described in the closure letter dated December 26, 2013 and the Building on an Abandoned Landfill Exemption, March 6, 2013.

The Bureau for Remediation and Redevelopment Tracking System (BRRTS) identification number for this activity is shown at the top of this letter. The Department tracks information on

all determinations such as this in a Department database that is available on the Internet at <http://dnr.wi.gov/org/aw/rr/>. See "BRRTS on the web" under "Contaminated Land Databases".

The Department hopes that this letter helps clarify what known areas of residual contamination on the Property may require further environmental response action under Wisconsin law, and who is responsible for conducting these actions. If you have any questions please contact me at (715) 839-3710, or by email at david.rozenboom@wisconsin.gov.

Sincerely,



Dave Rozeboom
Team Supervisor, West Central Region
Remediation and Redevelopment Program

Attachments:

- Certified Survey Map, Document #1684241
- Case Closure Letter, December 26, 2013
- Building on an Abandoned Landfill Exemption, March 6, 2013

cc: Erin Endsley – NOR/Superior
Michael Prager – RR/5 DNR Madison
Brad Karger / Marathon County (via electronic transmission)
Cal Tillisch, Esq./ Wausau Curling Club, Inc. (via electronic transmission)
Russell Wilson of Ruder-Ware, L.L.S.C. (via electronic transmission)