



June 14, 2017

Mr. Frank Cumberbatch  
MLK LLC  
c/o Bader Philanthropies, Inc.  
233 N. Water Street, 4<sup>th</sup> Floor  
Milwaukee, WI 53202

Mr. David Scherzer  
SWP Properties, LLC  
1300 W. Canal Street  
Milwaukee, WI 53233

Subject: Amendment to NR 718.12 Contaminated Soil Management Volume

Generator Property:

Bader Philanthropies Headquarters – 3300, 3306, 3314, and 3318 N. MLK Jr. Drive & 3317, 3323, and 3333 N. 4<sup>th</sup> Street, Milwaukee, WI 53212  
BRRTS # 02-41-578975 / FID # 341285010 (3318 N. MLK Jr. Drive)  
BRRTS # 02-41-578976 / FID # 341285120 (3314 N. MLK Jr. Drive)  
BRRTS # 02-41-578977 / FID # 341285230 (3300 N. MLK Jr. Drive)

Disposal Property:

Former Lakefield Sand and Gravel Property - 7003 W. Good Hope Rd., Milwaukee, WI  
BRRTS # 02-41-548828 / FID # 241377070

Dear Mr. Cumberbatch and Mr. Scherzer:

On March 28, 2017, the Wisconsin Department of Natural Resources (DNR) received a *NR 718.12 Contaminated Soil Management Request* submitted by The Sigma Group (Sigma) to allow disposal of excavated contaminated soil at a location other than that from which it was excavated. The DNR received a \$700 technical assistance fee to provide review and response to the request, in accordance with Wis. Admin. Code § NR 749.04(1). As part of the request, a technical assistance meeting was held at the DNR Southeast Region Headquarters in Milwaukee on April 6, 2017 with representatives from Sigma, Foley & Lardner LLP, MLK LLC c/o Bader Philanthropies, Inc. (MLK LLC), and DNR. The DNR approved the *NR 718.12 Contaminated Soil Management Request* in a May 12, 2017 approval letter. On June 12, 2017, the DNR received an *Amendment to NR 718.12 Contaminated Soil Management Volume* (the Request) submittal requesting a larger volume of contaminated soil be permitted under the DNR Wis. Admin. Code § NR 718.12 approval issued May 12, 2017, for the above-referenced Source Property and Disposal Property.

Updated Summary of Proposed Soil Management Activities

The May 12, 2017, DNR approval letter included a condition that no more than 3,000 cubic yards (yd<sup>3</sup>) of excavated soil from the Source Property may be excavated and transported to the Disposal Property unless written approval is granted by the DNR. According to the Request, the approved soil management activities commenced the week of June 6, 2017, and as the excavation work progressed it was evident that the actual soil cut volume would exceed the approved 3,000 cubic yards (yd<sup>3</sup>). Sigma conferred with the excavation contractor

(Rams Contracting Ltd.) and learned that a more detailed excavation volume calculation yielded an additional 1,750 cubic yards (yd<sup>3</sup>) of soil to be exported to the Disposal Facility, for a total soil management volume of 4,750 cubic yards (yd<sup>3</sup>).

MLK LLC proposes to dispose of approximately 4,750 cubic yards (yd<sup>3</sup>) of excavated contaminated soil originating from the proposed Bader Philanthropies Inc. Headquarters location at 3300, 3306, 3314 and 3318 N. Martin Luther King Jr. Drive & 3317, 3323, and 3333 N. 4<sup>th</sup> Street, Milwaukee (Bader Headquarters). MLK LLC proposes to dispose of this material in accordance with Wis. Admin. Code § NR 718.12, which exempts the disposal site from solid waste requirements in Wis. Stats. § 289 and Wis. Admin. Code § NR 500 to 538.

According to the Request, 19 soil sample locations (including 14 for volatile organic compounds, 19 for polycyclic aromatic hydrocarbons (PAHs), 15 for RCRA metals, 4 for lead and mercury, 3 for water-leachable PAHs, and 2 for water-leachable RCRA metals) had been collected from the Source Property. Approximately 20 soil samples would be necessary to satisfy the requirements of Wis. Admin. Code § NR 718.12(1)(e)1. In consideration of the nature of the contaminants, the disposal destination, and the specified laboratory analytical analyses utilized to characterize the material, the DNR grants an exemption to the criteria in Wis. Admin. Code § NR 718.12(1)(e)1.

MLK LLC shall not dispose of more than 4,750 cubic yards (yd<sup>3</sup>) of excavated soil from the Bader Headquarters site at Lakefield unless written approval is granted by DNR.

Please be aware that this approval letter only addresses the revised soil volume from 3,000 cubic yards (yd<sup>3</sup>) to 4,750 cubic yards (yd<sup>3</sup>) and the exemption to the characterization criteria in Wis. Admin. Code § NR 718.12(1)(e)1, based on the information provided in the Request. The requirements detailed in the May 12, 2017, approval letter from DNR are still applicable to site activities.

The DNR reserves the right to require the submittal of additional information or to modify or revoke this soil management approval if MLK LLC or Lakefield fails to comply with the requirements of the soil management plan, as proposed. The DNR also retains its right to modify or revoke this approval if circumstances or conditions change, or if new information is found which would warrant modification or revocation of this approval.

If you have any questions regarding this approval decision, please contact me in writing at the letterhead address, by calling 414-263-8524, or by email at [trevor.nobile@wisconsin.gov](mailto:trevor.nobile@wisconsin.gov).

Sincerely,



Trevor Nobile, P.G., CPG  
Project Manager - Hydrogeologist  
Remediation and Redevelopment Program

cc: Adam Roder, The Sigma Group, 1300 W. Canal St, Milwaukee, WI 53233 (electronic)  
DNR SER File