

December 6, 2017

Mr. Michael Klein
KC Franklin Partners, LLC
4425 West Mitchell Street
Milwaukee, WI 53214

Charmoli Holdings, LLC
Mr. Dick and Maxine Charmoli
320 Douglas Lane
Cedarburg, WI 53013

Paul R. Ponfil Trust
Ms. Jean Ponfil, Mr. Scott Ponfil
224 Aspen Drive
Grafton, WI 53024

Subject: Approval for Management of Contaminated Soil under Wis. Admin. Code § NR 718.12

Source Property: Former Boys and Girls Club, 1632 N Franklin Pl, Milwaukee WI
BRRTS# 02-41-578482 & 03-41-578483, FID# 341282260

Disposal Property: R&R Excavating Site, County Road I, Cedarburg, WI 53012
BRRTS# 15-46-580680, FID# 246105750

Dear Mssrs. Klein, Charmoli, and Ponfil:

On November 15, 2017, Kurt McClung of Key Engineering Group, Ltd., (Key) submitted a "Contaminated Material Management Plan" for approval under Wis. Admin. Code § NR 718.12, to allow the disposal of excavated contaminated soil at a site or facility other than that from which it was excavated. The Department of Natural Resources (DNR) received all applicable technical assistance fees for providing review and response, in accordance with Wis. Admin. Code § NR 749.04(1).

Summary of Proposed Soil Management Activities

KC Franklin Partners, LLC, proposes to relocate approximately 5250 cubic yards (yd³) of excavated soil from the Former Boys and Girls Club at the R&R Excavating site. This material is contaminated with PAHs (Polycyclic Aromatic Hydrocarbons) at concentrations greater than residual contamination levels. KC Franklin Partners, LLC, proposes to dispose of this material in accordance with Wis. Admin. Code § NR 718.12. This exempts the site or facility that accepts the contaminated soil from the solid waste requirements in Wis. Stats. § 289 and Wis. Admin. Code §§ NR 500 to NR 538. Soil is being excavated at the Former Boys and Girls Club during construction of the underground parking level of a newly constructed apartment building. Soil will transported to R&R excavating and be used in the reclamation process.

Wis. Admin. Code § NR 718.12 Approval

Information submitted to support the Wis. Admin. Code § NR 718.12 soil management request was provided in the "Contaminated Material Management Plan" and a letter commenting on DNRs "Review of Contaminated

Material Management Plan” (both completed by Key in November 2017) and additional information as requested by the DNR.

Based on our review of these documents, and the requirements of Wis. Adm. Code § NR 718.12, the DNR concludes:

- 1) Reusing this material in areas of the Site outlined on the Quarry Reclamation Plan included in Key’s letter regarding the “Review of Contaminated Material Management Plan (CMMP)” will meet the locational criteria listed under Wis. Admin. Code § NR 718.12(1)(c), with the exception of the following:
 6. 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)6

In consideration of the immobile nature of the contaminants in the soil, the future capping that will occur at R&R excavating, and that material is being placed a significant distance above the water table, DNR grants an exemption to the location criteria of Admin. Code § NR 718.12(1)(c)6 and will allow placement of contaminated soil at a depth greater than the depth of the original excavation from which the contaminated soil was removed.

- 2) Soil proposed for excavation from the Former Boys and Girls Club is contaminated with PAHs. Soil samples have been collected for analysis of all contaminants previously detected or expected to be present at this site based on past land use and from areas most likely to contain residual contamination. Based on an estimated volume of 5,250 yards of material, and a sampling frequency of approximately 1 sample per 190 cubic yards, the sampling protocol described in Wis. Admin. § NR 718.12(1)(e) has been met.
- 3) The Soil Management Plan has been determined to be complete, as defined by Wis. Admin. § NR 718.12(2)(b) and (c).
- 4) The proposed management of contaminated material at this site is expected to meet the criteria of Wis. Admin. §§ NR 726.13(1)(b)1 to 5. PAH concentrations detected in this material were below residual contaminant levels. Material that will be imported to this site has contaminant concentrations similar to other soil brought to this facility and will not result in an increased risk to health or the environment. A barrier designed to prevent contact with the impacted soil will be constructed at the facility.
- 5) The Department will be provided with at least 7 days notice prior to commencing soil management activities.

The DNR approves of the exemption requested to complete the activities outlined in the “Contaminated Material Management Plan”. Approval of the material management activity is conditional upon the following:

- 6) No more than 5,250 cubic yards of excavated contaminated soil from the Former Girls and Boys Club, as proposed in the “Contaminated Material Management Plan”, will be managed at the R&R Excavating site unless written approval is granted by the DNR.

- 7) Materials exhibiting indicators of previously unknown contamination identified during soil management activities will be segregated for proper disposal. Any hazardous substance discharges discovered during development activities must be reported to the DNR following the requirements of Wis. Admin. § NR 706.
- 8) Storm water or groundwater that accumulates within excavations will be properly characterized, and the appropriate approvals and permits will be obtained, prior to disposal.
- 9) Soil management activities approved by this letter will be completed within 60 days of the effective date of this letter unless a written extension of this condition is obtained from the DNR.
- 10) Documentation of soil management activities shall be provided within 60 days of when all soil from the Former Boys and Girls Club has been transported to the R&R Excavating site describing how the activities complied with the approved management plan. The documentation must include:
 - a. A cover letter that contains the information required by Wis. Admin. § NR 724.05(2)(e)1.
 - b. R&R Excavating owner contact and property location information.
 - c. Maps depicting how soil 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 monitoring conducted during the management activity.
 - g. A description of how new site conditions are protective at the R&R Excavating site.
- 11) The current owners of the R&R Excavating site, and any subsequent property owners, must comply with the following continuing obligations, established under Wis. Admin. § NR 718.12(2)(d) at this site, to ensure that conditions will remain protective. The current owners of the R&R Excavating site acknowledged that these continuing obligations would be required as a condition of managing the contaminated on their property. DNR staff will conduct periodic prearranged inspections to ensure that the conditions included in this letter are met. If these requirements are not followed, the DNR may take enforcement action under Wis. Stats. § 292.11 to ensure compliance with the specified requirements, limitations or other conditions related to the property.

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

Residual Soil Contamination:

If contaminated soil managed under this soil management plan 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.

Contaminated soil may be managed in accordance with Wis. Admin. Code § NR 718, with prior DNR approval. In addition, all current and future property owners and occupants of the property and right-of-way holders need to be aware that excavation of the contaminated soil may pose a hazard and as a result special precautions may need to be taken during excavation activities to prevent a health threat to humans. A historic fill exemption is required prior to construction of any structures over fill materials.

Depending on site-specific conditions, construction over contaminated soils or groundwater may also result in vapor migration of contaminants into enclosed structures or migration along underground utility lines. The potential for vapor intrusion and means of mitigation should be evaluated when planning any future redevelopment, and measures should be taken to ensure the continued protection of public health, safety, welfare and the environment at the site.

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>.

- 12) This site will be identified on the Remediation and Redevelopment Sites Map (RRSM) under the Geographic Information System (GIS) Registry layer, available at <http://dnr.wi.gov/topic/Brownfields/wrrd.html>. DNR approval prior to well construction or reconstruction is required for all sites shown on the GIS Registry, in accordance with s. NR 812.09 (4) (w), Wis. Adm. Code. 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 on-line at <http://dnr.wi.gov/topic/wells/documents/3300254.pdf>.
- 13) Any excess material can be disposed of at a licensed landfill facility without prior DNR approval. A separate approval request, which would need to include the information listed in Wis. Admin. Code § NR 718.12 would need to be provided to the DNR for review and approval before any contaminated soil is taken to a site or a facility that is not a licensed landfill.
- 14) Non-soil contaminated waste material taken off-site must be managed as required by Wis. Admin. code §§ NR 500 through NR 538, the solid waste rules administered by the DNR’s Waste and Materials Management Program. A low hazard exemption can be requested from that Program to manage non-soil waste at an off-site, non-licensed landfill, property. If you have any questions regarding solid waste transport, storage, and beneficial use, please contact Gerald Demers (DNR) at (414) 263-8594 or gerald.demers@wisconsin.gov.
- 15) KC Franklin Partners, LLC, Charmoli Holdings, LLC, and the Ponfil Trust are responsible for obtaining any local, federal, or other applicable state permits to carry out the project.

The DNR reserves the right to require the submittal of additional information or to modify or revoke this soil management approval if KC Franklin Partners, LLC, Charmoli Holdings, LLC, or the Paul R. Ponfil Trust fails to comply with the requirements of the proposed soil management plan or the above conditions. 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.

To provide public notice of residual contamination and any continuing obligations at this property this letter and all information submitted with your material management plan, will be made available in Portable Document

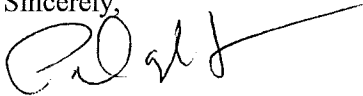
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Format (PDF) on the Bureau for Remediation and Redevelopment Tracking System (BRRTS on the Web) at <http://dnr.wi.gov/topic/Brownfields/wrrd.html>. This site can also be viewed on the Remediation and Redevelopment Sites Map (RRSM), a map view, under the Geographic Information System (GIS) Registry layer, at the same web address. Any hardcopies of documents maintained within the case file will be stored at the Southeast Regional DNR office, at 2300 N. Dr. Martin Luther King, Jr. Drive, Milwaukee WI, 53212-3128.

We appreciate your efforts to restore the environment at this site. Please contact Paul Grittner if you have any questions regarding this approval decision at (608) 266-0941 or paul.grittner@wisconsin.gov. Any other questions regarding the Former Boys and Club site may be directed to DNR Project Manager Shanna Laube-Anderson at (262) 574-2142 or shanna.laubeanderson@wisconsin.gov.

Sincerely,



Pamela A. Mylotta
Southeast Team Supervisor
Remediation & Redevelopment Program

cc: Kurt McClung, Key Engineering Group, Ltd., 735 North Water Street, Suite 510, Milwaukee, WI 53202
(electronic)
SER File