



May 14, 2018

Broadway Tierra Partners, LLC
c/o Mr. Tim Gasperetti
Irgens Development
833 E. Michigan Street, Suite 400
Milwaukee, WI 53202

Mr. Bob Paulson
Wisconsin Gas LLC
231 W. Michigan Street
Milwaukee, WI 53203

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

Generating Property: BMO Downtown Campus Parking Structure
778 N. Water St., Milwaukee, WI
Owner: Broadway Tierra Partners, LLC
DNR BRRTS #02-41-579828 FID #341288970

Receiving Property: Milwaukee Solvay Coke & Gas – MGP (Alt SF)
311 E. Greenfield Ave., Milwaukee, WI
Owner: Wisconsin Gas LLC
DNR BRRTS #15-41-580686 #02-41-466662 FID #241219880

Dear Messrs. Wentz and Paulson:

On April 12, 2018, Cory Katzban of The Sigma Group (Sigma) submitted a *NR 718.12 Contaminated Soil Management Request (718 Request)*, for approval under Wis. Admin. Code § NR 718.12, to manage contaminated soil at Milwaukee Solvay Coke & Gas – MGP (Alt SF) (Solvay) site. 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 Material Management Activities

Broadway Tierra Partners, LLC proposes to relocate approximately 1,500 cubic yards (yd³) of excavated contaminated material from the BMO Downtown Campus Parking Structure (BMO Tower) site to the Solvay site. Broadway Tierra Partners, LLC proposes to manage this material in accordance with Wis. Admin. Code § NR 718.12 which exempts the site or facility that accepts the contaminated soil from the solid waste requirements in Wis. Stats. ch. 289 and Wis. Admin. Code chs. NR 500 to NR 538. The BMO Tower site is being redeveloped with a 25-story office building. A select volume of soil, generated during construction-related excavations, is contaminated with low level polycyclic aromatic hydrocarbons (PAHs) and metals at concentrations below residual contamination levels (RCLs). Approximately 1,500 yd³ of this material is proposed for unrestricted placement and beneficial reuse at the Solvay site as capping material for construction of a property-wide soil cap.

Wis. Admin. Code § NR 718.12 Exemption Request

This letter grants an exemption under Wis. Admin. Code § NR 718.12 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 in Section 10 of the *718 Request* will meet the locational criteria listed under Wis. Admin. Code § NR 718.12 (1) (c), with the exception of the following:

- Within 300 feet of any navigable river, stream, lake, pond or flowage

Grant of exemption to s. NR 718.12(1)(c)3.

In consideration of the low level of contamination, the DNR grants an exemption to the location criteria of Wis. Admin. Code § 718.12 (1)(c)3. and will allow placement of contaminated material within 300 feet of a navigable river.

- 2) Material proposed for excavation from the BMO Tower site is contaminated with PAHs and metals at concentrations below RCLs. 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 1,500 yd³ of material, and a sampling frequency of 1 sample per 100 yd³, 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 DNR was provided with at least 7 days' notice prior to commencing material management activities.

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 ch. NR 706.
- 2) This exemption is granted under Wis. Admin. Code § NR 718.12 and applies only to the specific activities described within the submitted *718 Request*. Any contaminated material that is excavated or otherwise disturbed at the BMO Tower site, not covered under this or another exemption, must be managed in compliance with the requirements of Wis. Admin. Code chs. 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 chs. NR 700 to NR 750.
- 3) Broadway Tierra Partners, LLC is responsible for obtaining any local, federal, or other applicable state permits to carry out the project.

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 (414) 263-8533 or by email at nancy.ryan@wisconsin.gov.

Sincerely,



Nancy D. Ryan, Hydrogeologist
Remediation & Redevelopment Program

cc: Cory Katzban, Sigma