



May 12, 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: Approval for Management of Contaminated Soil under Wis. Admin. Code § NR 718.12

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.

Summary of Proposed Soil Management Activities

MLK LLC proposes to dispose of approximately 3,000 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, the Bader Headquarters consists of the redevelopment of seven contiguous parcels (the parcels are in the process of being combined by a Certified Survey Map for the redevelopment), including the rehabilitation and addition to the existing structure at 3318 N. MLK Jr. Drive, the construction of a new asphalt parking lot, and the addition of green space areas.

Soil proposed for off-site disposal at the Former Lakefield Sand and Gravel Property (Lakefield) is contaminated with polycyclic aromatic hydrocarbons (PAHs) and RCRA metals. Soil placed at Lakefield will be incorporated into that site's remedial action plan, which includes capping the material with low permeability soil.

Information submitted to support the Wis. Admin. Code § NR 718.12 soil management request is included in the *NR 718.12 Contaminated Soil Management Request*, dated March 24, 2017, prepared by Sigma and sent to the attention of Mr. Trevor Nobile and Mr. Binyoti Amungwafor.

Location Standards: Wis. Admin. Code § NR 718.12 (1)(c)

Information provided in the soil management request indicates that the disposal site complies with the locational criteria of Wis. Admin. Code § NR 718.12 (1)(c) so that soil will not be placed or replaced in the following areas:

1. Within a floodplain.
4. Within 300 feet of any off-site water supply well.
5. Within 3 feet of the high groundwater level.
6. At a depth greater than the depth of the original excavation from which the contaminated soil was removed.
7. Where the contaminated soil poses a threat to public health, safety or welfare or the environment.

Grant of exemption to Wis. Admin. Code § NR 718.12(1)(c) 2 and 3

In consideration of the nature of the contaminants and the planned capping of the material, the DNR grants an exemption to the locational criteria of Wis. Admin. Code § NR 718.12 (1)(c)2 and Wis. Admin. Code § NR 718.12 (1)(c)3.

Soil Characterization

Soil proposed for excavation from the Bader Headquarters is contaminated with PAHs and RCRA metals. Samples have been collected for analysis of all contaminants previously detected or expected to be present based on past land use and from areas most likely to contain residual soil contamination at a frequency of one sample per 100 yd<sup>3</sup> for the first 600 yd<sup>3</sup> and one sample for each additional 300 yd<sup>3</sup> to be removed per Wis. Admin. Code § NR 718.12 (1)(e). The sampling criteria of Wis. Admin. Code § NR 718.12(1)(e) have been met.

Generator Site Information

Property Owner/Responsible Party:

- MLK LLC, c/o Bader Philanthropies, Inc., Mr. Frank Cumberbatch  
233 N. Water Street, 4<sup>th</sup> Floor, Milwaukee, WI 53202  
(414) 755-4377, [frank@bader.org](mailto:frank@bader.org)
- Generator Property Address: 3300, 3306, 3314, and 3318 N. Martin Luther King Jr. Drive & 3317, 3323, and 3333 N. 4<sup>th</sup> Street, Milwaukee, WI
- Location by quarter section: NW ¼ of SE ¼ of Section 8, Township 7 North, Range 22 East
- WTM: 689660, 291725
- Consultant: The Sigma Group, Inc., Mr. Adam Roder, 1300 W. Canal St., Milwaukee, WI 53233  
(414) 643-4134, [aroder@thesigmagroup.com](mailto:aroder@thesigmagroup.com)
- Volume of contaminated soil to be managed: 3,000 cubic yards.
- Proposed schedule for implementation of the soil management plan: The soil is to be moved as soon as possible.

### Disposal Site Information

- Property Owner/Responsible Party: Former Lakefield Sand & Gravel Property SWP Properties, LLC, Mr. David Scherzer, 1300 W. Canal Street, Milwaukee, WI 53233 (414) 643-4101, [dscherzer@thesigmagroup.com](mailto:dscherzer@thesigmagroup.com)
- Disposal Property Address: 7003 W. Good Hope Road, Milwaukee, WI
- location by quarter-quarter section: SE ¼ of the NW ¼ of Section 22 Range 21 E
- Latitude: 43.1432044; Longitude: -87.9968684
- Consultant: The Sigma Group, Inc., Ms. Kristin Kurzka, 1300 W. Canal Street, Milwaukee, WI 53233 (414) 643-4127, [kkurzka@thesigmagroup.com](mailto:kkurzka@thesigmagroup.com)

### Wis. Admin. Code § NR 718.12 Approval

Based on review of the above-referenced documents and the requirements of Wis. Admin. Code § NR 718.12, the DNR approves an exemption under Wis. Admin. Code § NR 718.12 to follow the soil management plan for disposal of up to 3,000 cubic yards of contaminated soil that will be excavated from the Bader Headquarters site to the Lakefield site location. Approval is conditioned upon compliance with the following:

- Soil excavation from the generating site and placement at the receiving site shall be completed within 1 year of the effective date of this letter unless a written extension of this condition is obtained from the DNR.
- MLK LLC (MLK LLC c/o Bader Philanthropies, Inc.) shall manage excavated material in conformance with the approved materials management plan and shall notify the DNR within 24 hours of discovering material that is not consistent with the contaminant characteristics that have been reported to the DNR for the generating site. The material must be segregated and tested to determine the proper disposal.
- MLK LLC (MLK LLC c/o Bader Philanthropies, Inc.) and/or Lakefield are responsible for obtaining any local, federal, or other applicable state permits to carry out the project. If the project will involve the disturbance of more than one acre of land at either the generating site or the disposal site, you may need a storm water permit; please contact the DNR's storm water manager to determine what, if any, permit is needed.
- MLK LLC (MLK LLC c/o Bader Philanthropies, Inc.) shall not dispose of more than 3,000 cubic yards of excavated soil from the Bader Headquarters site at Lakefield unless written approval is granted by DNR.
- MLK LLC (MLK LLC c/o Bader Philanthropies, Inc.) shall submit to the DNR, documentation of excavation and disposal activities within 30 days of completing the disposal activities. The report shall include a description of the total volume of material transported to the disposal site and the location of disposal.

The DNR reserves the right to require the submittal of additional information or to modify or revoke this soil management approval if MLK LLC (MLK LLC c/o Bader Philanthropies, Inc.) 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