

From: Beggs, Tauren R - DNR
Sent: Wednesday, January 17, 2024 12:09 PM
To: Andy Skwierawski
Cc: sharon.kozicki@foth.com; pamontne@gapac.com; william.hartman@glatfelter.com; bryan.heath@ncr.com; Beggs, Tauren R - DNR; Ava Grosskopf; Hughes, Audra A - DNR
Subject: Follow Up Response for McDonald Lumber Property, Green Bay, for Fox River Cleanup Case
Attachments: McDonald-Executive_Summary_Map.pdf; Fig 1 - McDonald Property Map.pdf; 20230317_99_Closure_Fact_Sheet.pdf; McDonald Lumber Co Response Ltr - 7.12.23.pdf

Hi Andy,

Below is the additional information for the McDonald Lumber Property, in addition to the information in the response letter provided by DNR on July 12, 2023, in regard to the Fox River cleanup case.

McDonald Lumber – Green Bay (Brown County Parcel ID No: 20-689-C):

For cleanup purposes, the Lower Fox River was divided into five separate areas known as Operable Units (OUs). The area of the river where the McDonald Lumber Property is located is within Operable Unit 4 (OU4), which spans from the De Pere Dam to the mouth of the bay of Green Bay, and Operable Unit 5 (OU5), which includes the bay of Green Bay. The attached Figure 1 shows the remedy in this area of the river, with post-dredging residual PCB concentrations in milligrams per kilogram (mg/kg). The areas dredged are shown in brown. PCB concentrations for other samples collected beyond the dredge areas are also shown on this figure in blue. The attached map, OU4 – OU5, Executive Summary – Completed Remedial Action, provides more remedial information. Contaminated sediments were dredged close to the shoreline of this property and within the marina. There are no engineered caps within the marina, in the river or in the bay adjacent to this property. There are some 6” residual sand covers adjacent to this property, which are shown in brown on the attached map, OU4 – OU5, Executive Summary – Completed Remedial Action. Sand covers differ from engineered caps. While engineered caps may not be disturbed or modified without prior approval from the DNR, sand covers do not have these restrictions. For more information, please refer to the DNR response letter dated July 12, 2023, and the Site Closure Fact Sheet dated March 17, 2023.

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If you have any questions, please let me know.

Regards,
Tauren

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Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Tauren R. Beggs

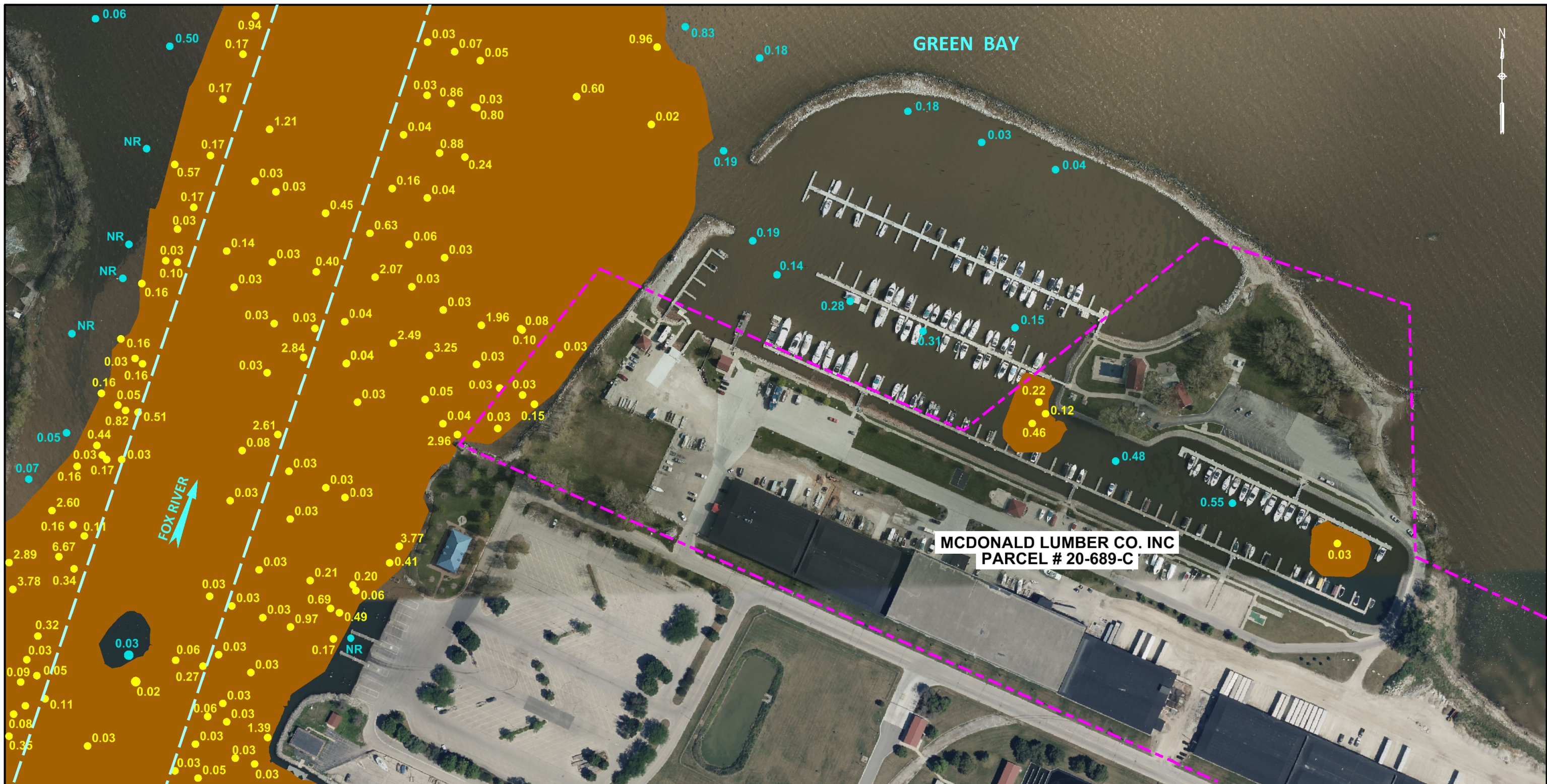
Hydrogeologist & Northeast Region Land Recycling Expert
Remediation and Redevelopment Program
Wisconsin Department of Natural Resources
2984 Shawano Ave

Green Bay, WI 54313

Phone: (920) 510-3472

Tauren.Beggs@wisconsin.gov (preferred contact method during work at home)

dnr.wi.gov

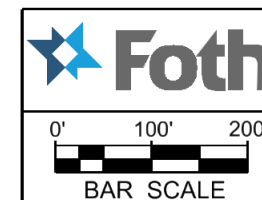


LEGEND

- NAVIGATION CHANNEL LIMITS
- - - PROPERTY BOUNDARY
- DREDGED AREA
- 0.28 CORE LOCATION WITH POST REMEDY TOP 6" SAMPLE INTERVAL PCB CONCENTRATIONS (mg/kg)
- 0.03 CORE LOCATION OUTSIDE OF ACTUAL DREDGE AREAS WITH TOP 6" SAMPLE INTERVAL PCB CONCENTRATION (mg/kg)
- NR REFUSAL - NO RECOVERY

NOTES:

1. THE HORIZONTAL CONTROL IS REFERENCED TO THE NAD83 WISCONSIN STATE PLANE COORDINATE SYSTEM (WISCONSIN CENTRAL ZONE). THE VERTICAL CONTROL IS REFERENCED TO NAVD 88.
2. ORTHO PHOTO OBTAINED FROM THE LATEST BING IMAGERY.
3. ACTUAL CAP AND DREDGE LOCATIONS DERIVED FROM CAD FILES PROVIDED BY TETRA TECH EC, INC.
4. PROPERTY BOUNDARIES AND DESCRIPTION OBTAINED FROM BROWN COUNTY GIS MAPPING INVENTORY.
5. PCB CONCENTRATIONS FROM THE CORE CHEMISTRY DATABASE (APPENDIX C OF THE OU'S 2-5 CERTIFICATION OF RA COMPLETION REPORT) AND REPRESENT THE FINAL VERIFICATION OF THE TOP 0' - 0.5' OF SEDIMENT AT THE TIME OF COLLECTION.

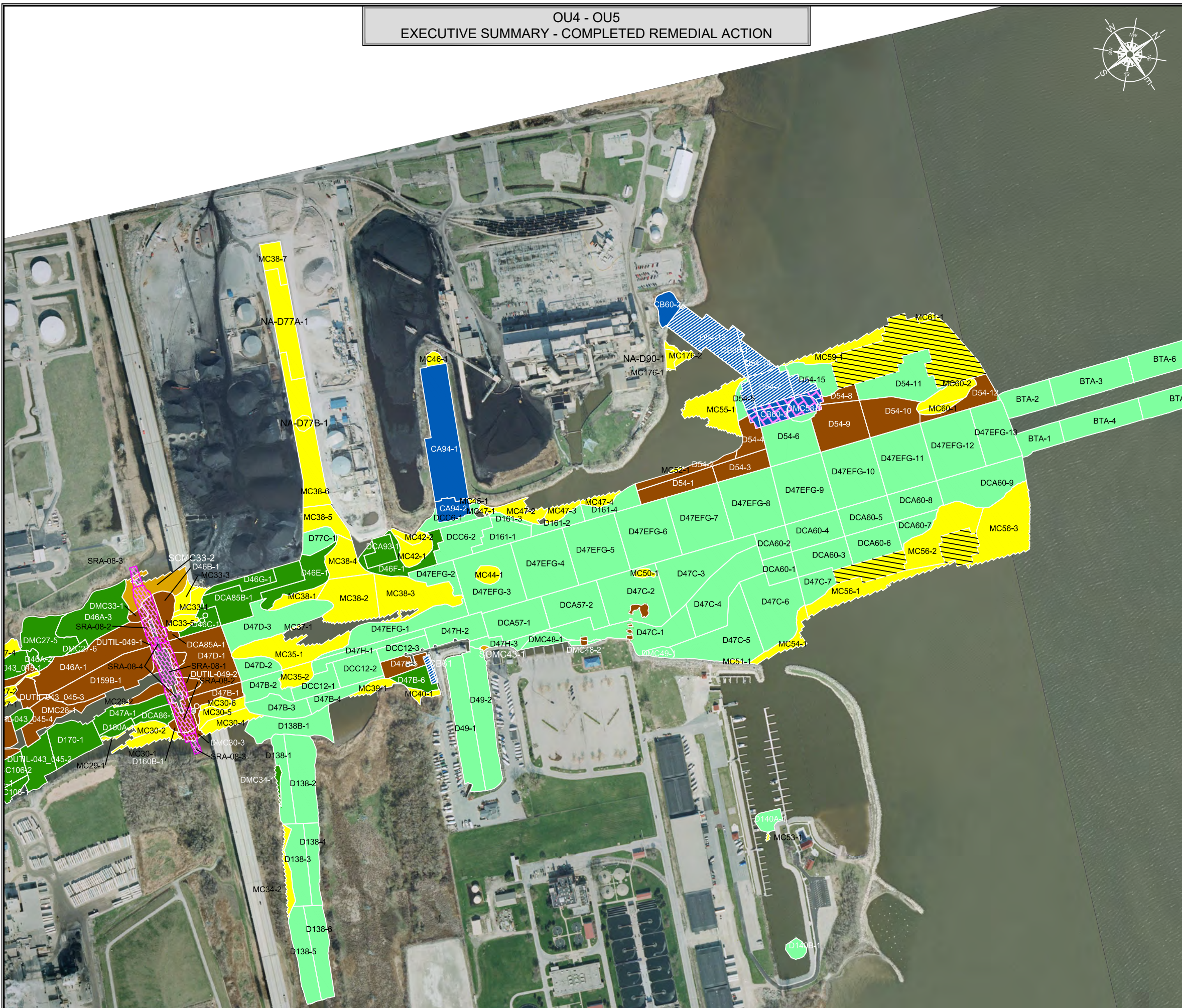


GLATFELTER CORPORATION / GEORGIA-PACIFIC CORP.

FIGURE 1
LOWER FOX RIVER - OU4
PROPERTY OWNERSHIP AND REMEDY LOCATIONS
WITH CORE PCB VALUES MAP

Date: OCT. 2023	Revision Date:
Drawn By: JRB2	Checked By: SVF
Project: 23G007.02	

OU4 - OU5
EXECUTIVE SUMMARY - COMPLETED REMEDIAL ACTION



LEGEND

- No Action Required - Beyond the Arc Balance Area
- No Action Required
- Primary Dredge - No Further Action
- Primary Dredge - 6" Residual Sand Cover
- Primary Dredge - 9" Residual Sand Cover
- Primary Dredge - 12" Residual Sand Cover
- Primary Sand Cover
- Primary/Residual Dredge and Cap
- Primary Cap
- Special Remedial Action Cap (SRA)
- Primary Dredged with No Further Residual Management (Balance Area Associated with "Beyond teh Arc" Dredging)



SCALE (1" = 500')



NOTES

THIS DOCUMENT IS THE PROPERTY OF LOWER FOX RIVER REMEDIATION LLC PREPARED BY TETRA TECH EC, INC. (TTEC), AND IS PROVIDED UPON THE CONDITION THAT IT WILL NOT BE REPRODUCED, COPIED, OR ISSUED TO A THIRD PARTY. IT IS PROVIDED TO BE USED SOLELY FOR THE ORIGINAL INTENDED PURPOSE, AND SOLELY FOR THE EXECUTION OR REVIEW OF THE ENGINEERING AND CONSTRUCTION OF THE SUBJECT PROJECT.

TETRA TECH EC, INC.
 1611 STATE STREET
 GREEN BAY, WI 54304
 TEL: (920) 445 - 0720 FAX: (920) 445 - 0719

CAD FILE: Completed RA Summary OU2 - OU5 R2.dwg
 DRAWN BY: RICKY.GIFFORD
 DATE: March 8, 2021
 LAST REVISED: March 8, 2021
 CHECKED BY: REG



Lower Fox River and Green Bay PCB Cleanup Project Oversight Agencies - Site Closure Fact Sheet

Overview The Lower Fox River and Green Bay PCB Cleanup Project (*Cleanup Project*) was recently completed after a 20 year effort to locate and remove over six million cubic yards of sediment contaminated with Polychlorinated Biphenyls (PCBs). Engineered caps were constructed in limited areas over PCB contaminated sediment (*PCB Caps*) to protect human health and the environment. *PCB Caps* are maintained by *Responsible Parties* for the Cleanup Project (i.e., Georgia Pacific, Glatfelter Corporation, and NCR Corporation). Wisconsin Department of Natural Resources (DNR) and US Environmental Protection Agency (EPA) work together as the “*Oversight Agencies*” responsible for reviewing all cleanup work and post-closure work in the Lower Fox River.

The approved remedies for the Cleanup Project are dredging, capping, sand cover, and natural recovery. *PCB Caps* isolate contaminated sediment and include “special remedial action” (SRA) caps over utility lines. *PCB Caps* must be protected, much like utility lines that require more caution and care. To that end, the *Oversight Agencies* established a technical review process for proposed work in *PCB Cap* areas. Activities that disturb or interfere with *PCB Caps* may be restricted or prohibited, depending on the outcome of the *Oversight Agencies’* technical review of proposed work plans. Other areas of the river including those with sand cover are not restricted from disturbance. The technical review process described below does not prevent anyone from working in the river so long as the proposed work is protective of *PCB Caps* and reviewed in advance by the *Oversight Agencies*. Those who disturb *PCB Caps* are responsible for damage, including PCB releases and *PCB Cap* repairs caused by that disturbance. **Please follow the process outlined below.**

Process for Proposed Projects in Lower Fox River (Little Lake Buttes des Morts to Green Bay)

1. **Contact your DNR Water Management Specialist (WMS).** For proposed projects in public navigable waterways, contact a DNR WMS to determine if a Wisconsin Statute Chapter 30 permit is required.
 - a. **For waterway projects** in Brown or Outagamie Counties, contact one of these WMS experts:
Eric Stadig - eric.stadig@wisconsin.gov or BJ Mahon - bobbiejo.mahon@wisconsin.gov
 - b. **For dredging work:** Submit “pre-application” to appropriate WMS before submitting a permit application. For details go to: <https://dnr.wisconsin.gov/topic/Waterways/dredging>
 - c. **Permit exemptions:** review this DNR web page to see if a “Waterway Exemption” applies to your project: <https://dnr.wisconsin.gov/topic/Waterways/Permits/PermitProcess.html>
2. **Check if proposed work is in a PCB Cap area.** Two types of *PCB Cap* maps are available from DNR.
 - a. **“PCB Cap Figures” on BOTW website (PDF format):** Use instructions below to search DNR’s Bureau for Remediation and Redevelopment Tracking System (BRRTS) on the Web (BOTW).
 - i. Go to DNR website: <https://dnr.wisconsin.gov/topic/Brownfields/botw.html> Select **LAUNCH**
 - ii. Scroll down to “**Search Criteria**” box and enter “**BRRTS No.**” below for your project area in the appropriate Operable Unit (OU) 1, 2, 3, 4 and/or 5, then select **SEARCH**
 - BRRTS No. **02-71-582406** for OU1 (Little Lake Buttes des Morts to Appleton Dam)
 - BRRTS No. **02-45-582407** for OUs 2 – 5 (Appleton Dam to river mouth at Green Bay)

Lower Fox River and Green Bay PCB Cleanup Project Oversight Agencies - Site Closure Fact Sheet

- iii. Scroll down and select PDF document dated 2023-01-01 with title “PCB Cap Figure” to start the download of a zip file to your computer’s “downloads” folder where you can open it. The LEGEND box on each map shows Primary *PCB Caps* in blue and SRA Caps in pink.
- b. **“Remedy Maps and GIS Maps” on Fox River PCB Cleanup Project website**
 - i. Go to <https://dnr.wisconsin.gov/topic/FoxRiver/Docs.html> then scroll down to **Technical Documents** and select “**Remedy Maps and GIS Shape Files.**”
 - ii. **Select “Remedy Maps”** to start the download of zip file titled “LFR_RemediesMaps” to your computer’s download folder where you can open it and review maps of the river.
NOTE: Remedy maps are a large file that may take some time to download. These maps exist only for OUs 2-5 (not OU1) and have multiple layers with a color key for map features. To simplify the map, turn “Off” layers by selecting icon next to map layer in left column and click to turn Off or On. For example, under **Main Map** turn Off “Core Labels” etc. Scroll down further to **Remedy** section and turn Off layers, except leave “On” **SRA Caps** and **Primary Caps**.
 - iii. **Select “GIS Shape Files”** for those who have specialized GIS software to view these files. This selection does not include xyz files that can be obtained from Foth Infrastructure, LLC. Contact Project Manager, Sharon.Kozicki@Foth.com Phone: (920) 496-6737.
3. **Restricted activities in PCB Cap areas.** *PCB Cap* disturbance or interference can be caused by various activities (e.g., barge spuds, boat hull contact, tugboat propeller wash, structures like pilings or riprap, loading material on *PCB Cap*, dredging, and more). Those who disturb a *PCB Cap* are responsible for damage and possible PCB releases, including *PCB Cap* repair to restore its integrity.

If your proposed work must be in a *PCB Cap* area, you must submit a technical work plan for review by DNR before doing the work and include details on *PCB Cap* disturbance, subsequent repair, and mitigation of PCB releases. This proposed work plan is a **Post-Closure Modification Request** and must be submitted with applicable fees to DNR’s Remediation & Redevelopment (RR) Program for approval before starting your proposed work. DNR’s review of your work plan will incorporate review by the *Oversight Agencies* for the *PCB Cleanup Project*.

- a. Submit a *Post-Closure Modification Request* for work in the Lower Fox River or Green Bay to DNR’s Environmental Program Associate, Northeast Region: denise.danelski@wisconsin.gov or deliver to Denise Danelski, Wisconsin DNR, 2984 Shawano Ave., Green Bay, WI 54313
- b. The *Post-Closure Modification Request* process is outlined in the DNR guidance document at this link: [Guidance on Post-Closure Modifications \(wi.gov\)](#).

PCB Caps were designed and constructed to remain in place forever to protect human health and the environment. Those who work and live on the river are an important part of protecting the *PCB Caps*. Thank you in advance for your cooperation. If you have questions about this Fact Sheet or the processes it describes for the Lower Fox River, please contact questions@foxriverpcb.com or call 920-255-7220. For general information, you may also contact DNR customer service at 1-888-936-7463.

Date: 3.17.2023



July 12, 2023

Andrew Swierawski
Halling & Cayo, S.C.
320 East Buffalo Street, Suite 700
Milwaukee, WI 53202
Via E-mail Only to mas@hallingcayo.com

Subject: Response to Case Closure Objections for Fox River NRDA/PCB Releases OU2-5,
Brown County, Wisconsin
DNR BRRTS Activity # 02-45-582407
Brown County Parcel ID No.: 20-689-C

Dear Mr. Swierawski:

The Wisconsin Department of Natural Resources (DNR) has received your letter dated May 4, 2023, submitted on behalf of McDonald Lumber Company, Inc. In your letter, you explain that McDonald Lumber Company owns property on the Fox River and Green Bay, at the mouth of the river, known as South Bay Marina.

The DNR understands that you have two objections to site closure: (1) insufficient information was provided about the residual contamination and PCB caps in the portion of the river adjacent to McDonald Lumber Company's shoreline; and (2) McDonald Lumber Company should not be responsible for any additional requirements that may apply, or costs that may be incurred, to conduct a future project in the river because of residual contamination and PCB caps. Each objection is addressed in turn below.

First, you object on the ground that not enough information was provided in the notices sent to McDonald Lumber Company about the residual contamination and PCB caps in the river. You request an updated map that includes all sampling locations and results near McDonald Lumber Company's shoreline, along with a specific description of what dredging and capping was conducted in that area and the levels of remaining contamination in sediment and beneath any PCB caps. The DNR has reached out to Foth Infrastructure & Environment, LLC (Foth), the responsible parties' environmental consultant, to provide more detailed information regarding sampling locations, sampling results, and the locations of dredged areas and PCB caps in the river near McDonald Lumber Company's shoreline. Sharon Kozicki is the Project Manager at Foth for the Fox River cleanup. She has been made aware of your inquiry and will provide the DNR with requested information, which the DNR will provide to you upon receipt. If you have additional questions on this topic, you may contact the DNR or you may contact Ms. Kozicki directly at sharon.kozicki@foth.com or at (920) 496-6737.

Second, McDonald Lumber Company objects to site closure because it "does not agree that it should...be responsible for handling and disposing of any residual contamination that might be encountered" when conducting a future project in the river. McDonald Lumber Company believes the responsible parties should be responsible for any additional requirements that may apply, and any additional costs that McDonald Lumber Company may incur, to conduct a future project in the river because of residual contamination and PCB caps.

The DNR provides the following information in response to your objection. First, the responsible parties remain responsible for PCB cap monitoring and maintenance, even after site closure. The U.S. EPA and the DNR are the oversight agencies for the Fox River cleanup project and will continue to oversee work by the responsible parties for long-term residual contamination and PCB cap monitoring and maintenance.

Second, the U.S. EPA and the DNR have established a technical review process that a party who proposes to conduct work in the river near a PCB cap must complete in advance of such work. This technical review process helps third parties avoid a situation in which a third party causes a PCB release to the environment. This benefits third parties because a party who causes a PCB release to the environment is a responsible party for that release under the Spill Law, Wis. Stat. § 292.11. Proposed future work in the river is not necessarily prohibited, but it may be restricted or modified to prevent a PCB release and to protect public health and the environment. *See* Wis. Admin. Code § NR 727.07. Accordingly, if a third party proposes to conduct a project in a PCB cap area, a technical work plan known as a Post-Closure Modification Request must be submitted to the DNR for review and approval prior to the work commencing, pursuant to Wis. Stat. § 292.12(6). You may go to the following DNR website site link to identify the Environmental Program Associate in the Remediation & Redevelopment Program to contact with questions regarding this technical review process and to whom to submit a Post-Closure Modification Request: [Remediation & Redevelopment \(RR\) Program staff contacts || Wisconsin DNR](#)

Third, the technical review process described above is not required for future work in an area of the river that contains residual contamination but that does not include a PCB cap (such as an area with a sand cover but no cap). However, third parties proposing a project in an area where there are no PCB caps may still need to apply for a DNR permit under Chapter 30 of the Wisconsin Statutes. State permitting requirements have long been in place and did not change due to the Fox River cleanup project. If McDonald Lumber Company decides that it would like to proceed with a proposed project, please contact a DNR water management specialist (WMS) to determine if a Chapter 30 permit is required. A pre-application meeting may be required before applying for a permit. For waterway projects in Brown County, contact one of these WMS experts: Eric Stadig (eric.stadig@wisconsin.gov) or BJ Mahon (bobbiejo.mahon@wisconsin.gov).

Fourth, state rules allow for closure of a site when applicable closure requirements are met, including that remaining levels of PCBs are not likely to pose a threat to human health or the environment or cause a violation of an applicable environmental law. *See* Wis. Admin. Code § NR 726.13(1)(b). State rules also allow DNR to impose continuing obligations to ensure public health and the environment are protected. *See* Wis. Admin. Code §§ NR 726.13(1)(c), 726.15. Long-term maintenance of PCB caps is a continuing obligation that may be imposed to protect human health and the environment. McDonald Lumber Company's concerns relate to how the cleanup project may affect future work that it may propose to conduct in the river, and not to the cleanup performed or the PCB caps themselves. McDonald Lumber Company may conduct future work in the river if it complies with applicable requirements and obtains any necessary approval for the work.

Finally, to the extent you may be seeking information or legal advice on whether there is any legal remedy that may be pursued against the responsible parties for any additional requirements that may apply, and costs that McDonald Lumber Company may incur, to conduct future work in the river because of residual contamination and PCB caps, the DNR is not able to provide any substantive guidance or legal advice on that topic. Any agreement between McDonald Lumber Company and the responsible parties regarding McDonald Lumber Company's project costs would be a private agreement to which the DNR would not be a party.

July 12, 2023

Page 3 of 3

Andrew Swierawski, Halling & Cayo

Response to Case Closure Objections for Fox River NRDA/PCB Releases OU2-5, BRRTS # 02-45-582407

Brown County Parcel ID No.: 20-689-C

The DNR appreciates the opportunity to answer your questions and respond to the objections raised in your May 2023 letter. The DNR hopes that this response has adequately addressed your concerns. If you have any further questions, additional information can be provided by the DNR and/or U.S. EPA. If you have questions for the DNR, you may direct questions to me at (608) 640-6395 or at Audra.Felix@wisconsin.gov or you may contact Beth Olson at (920) 366-5219 or at Beth.Olson@wisconsin.gov.

Sincerely,



Audra Felix

Bureau of Legal Services

Wisconsin Department of Natural Resources

cc: Sharon Kozicki, Foth (sharon.kozicki@foth.com)
Paul Montney, Georgia-Pacific Consumer Operations LLC (pamontne@gapac.com)
William Hartman, Glatfelter Corporation (william.hartman@glatfelter.com)
Bryan Heath, NCR Corporation (bryan.heath@ncr.com)
Ava Grosskopf, The Boldt Company (Ava.Grosskopf@boldt.com)
Tauren Beggs, DNR (Tauren.Beggs@wisconsin.gov)
Beth Olson, DNR (Beth.Olson@wisconsin.gov)