



March 30, 2022

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Subject: Approval to Manage Contaminated Soil under Wis. Admin. Code § NR 718.12 at a Different Site or Facility

Generating Property: Innovation Park Lots 2, 3, 4 and Outlot 3  
9480 Watertown Plank Road, Wauwatosa, WI  
BRRTS #02-41-588671, FID #341030690

Receiving Property: R&R Excavating Site, County Road I, Cedarburg, WI 53012  
BRRTS #15-46-579884, FID #246105750

On February 7, 2022, Friess Environmental Consulting, Inc. submitted a *Soil Placement Approval Request for the Innovation Park MKE County Grounds* (Request) on your behalf, to manage 15,000 cubic yards of contaminated soil on the R&R Excavating Site in accordance with Wis. Admin. Code § NR 718.12. Supplemental information regarding this Request was also provided on March 25, 2022. The Wisconsin Department of Natural Resources (DNR) received all applicable technical assistance and database fees for providing a review and response, in accordance with Wis. Admin. Code § NR 749.04 (1).

Two multi-level office buildings, an open-air parking structure and associated infrastructure are proposed to be constructed on Lots 2, 3, 4 and Outlot 3 of the Innovation Park site. Excavations for building footings and foundations, utilities/infrastructure, parking lots and drives, and general grading will generate 15,000 cubic yards of contaminated soil that cannot be managed on site. Contaminated material is impacted by polycyclic aromatic hydrocarbons (PAHs), selenium, and lead. An approval through Wis. Admin. Code § NR 718.12 has been requested to manage the contaminated soil off site at the R&R Excavating Site where it will be used in the quarry reclamation process.

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

This letter grants an approval to manage contaminated soil under Wis. Admin. Code § NR 718.12. The Sigma Group, Inc. (Sigma) stated that solid waste material such as concrete rubble, asphalt rubble, or wood that may be encountered during excavations will be segregated for off-site recycling and/or hauled to a licensed landfill for disposal. Sigma will be on-site to oversee the soil excavation activities. Approval is based on the following:

#### **Compliance with Locational Criteria**

Managing contaminated soil in areas of the site identified on Figure 5 of the Request will meet the locational criteria listed under Wis. Admin. Code § NR 718.12 (1) (c), except for the following:

- At a depth greater than the depth of the original excavation from which the contaminated soil was removed.

#### **Grant of exemption to Wis. Admin. Code § 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 the R&R Excavating Site, and that material is being placed at a greater distance above the water table, DNR grants an exemption to the location criteria of Wis. 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.

#### **Characterization of Soil to be Excavated**

Soil samples were collected for analysis of contaminants previously detected or expected to be present at this site including PAHs, VOCs and metals, from areas most likely to contain residual contamination. Based on an estimated volume of 15,000 cubic yards of soil, and a sampling frequency of one sample per 652 cubic yards, the sampling protocol described in Wis. Admin. Code § NR 718.12 (1) (e) was not met. However, the DNR has determined that the soil was adequately characterized due to relatively low concentration and immobile nature of the contaminants.

#### **Submittal of a Soil Management Plan**

A complete soil management plan, as defined by Wis. Admin. Code §§ NR 718.12 (2) (b) and (c), was provided to the DNR.

#### **Assessment of Risk Posed by Soil Management**

The proposed management of contaminated soil at the R&R Excavating Site is expected to meet the criteria of Wis. Admin. Code §§ NR 726.13 (1) (b) 1 to 5.

#### **Notice Provided Prior to Commencing Soil Management Activities**

Per Wis. Admin. Code § NR 718.12 (2), the DNR was provided with written notice at least seven days prior to commencing the proposed contaminated soil management.

### **Requirement of Continuing Obligations**

The current owners of the R&R Excavating Site acknowledged that the continuing obligations described below will be required as a condition of managing the contaminated soil on their property as proposed.

The current property owners of the R&R Excavating Site, and any subsequent property owners, must comply with the following continuing obligations at this site, established under Wis. Admin. Code § NR 718.12 (2) (d), to ensure that conditions will remain protective. DNR staff will conduct periodic, pre-arranged 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. Stat. § 292.11 to ensure compliance with the specified requirements, limitations or other conditions related to the property.

Documents submitted to the DNR to request the Wis. Admin. Code § NR 718.12 approval meet the requirements of Wis. Admin. Code § NR 718.12 (2) (e) and are available in PDF on the DNR's Bureau for Remediation and Redevelopment Tracking System (BRRTS) on the Web (BOTW) and RR Sites Map (RRSM), to provide public notice of remaining contamination and continuing obligations. Both BOTW and RRSM are available at [dnr.wi.gov](http://dnr.wi.gov) and search "WRRD."

More information on responsibilities related to continuing obligations can be found in the DNR publication "Continuing Obligations for Environmental Protection" (RR-819), which can be found at [dnr.wi.gov](http://dnr.wi.gov), search "RR-819."

Send documents to the DNR using the RR Program Submittal Portal at [dnr.wi.gov](http://dnr.wi.gov), search "RR submittal portal" (<https://dnr.wi.gov/topic/Brownfields/Submittal.html>). Questions on using this portal can be directed to the contact below or to the environmental program associate (EPA) for the regional DNR office. Visit [dnr.wi.gov](http://dnr.wi.gov), search "RR contacts" and select the EPA tab (<https://dnr.wi.gov/topic/Brownfields/Contact.html>). More information on submitting electronic documents can be found in the DNR publication "Guidance for Electronic Submittal for the Remediation and Redevelopment Program" (RR-690), which can be found at [dnr.wi.gov](http://dnr.wi.gov), search "RR-690."

### **Residual Soil Contamination**

If contaminated soil that was managed as proposed in the Request is excavated in the future, the property owner at the time of excavation will have the following responsibilities per Wis. Admin. Code § NR 727.05 (1) (d):

- determine if contamination is present;
- determine whether the soil is considered solid or hazardous waste; and
- ensure that any storage, treatment or disposal is in compliance with applicable statutes and rules.

Excavated contaminated soil may be managed in accordance with Wis. Admin. Code ch. NR 718 with DNR pre-approval. In addition, all current and future property owners and occupants of the property need to be aware that excavation of the contaminated soil may pose a hazard, and special precautions may be necessary to prevent a health threat to humans.

The location(s) where contaminated soil is proposed to be managed at R&R Excavating Site is depicted on the attached Interim Reclamation Grading Plan, Figure 5, July 10, 2012.

The DNR's approval prior to well construction or reconstruction is required where contaminated soil was managed, in accordance with Wis. Admin. Code § NR 812.09 (4) (w). This requirement applies to private drinking water wells and high capacity wells. To obtain approval, complete and submit DNR Form 3300-254 to

the DNR Drinking and Groundwater Program's regional water supply specialist. This form is available at [dnr.wi.gov](http://dnr.wi.gov), search "3300-254."

**Other Information**

- 1) Any hazardous substance discharge discovered during soil management activities must be reported to the DNR following the requirements of Wis. Admin. Code ch. NR 706.
- 2) Contaminated soil management activities approved by this letter are scheduled to be completed within one year. Notify the DNR if this schedule will change.
- 3) Unless otherwise directed by the DNR, documentation of contaminated soil management activities shall be provided within 60 days of the completion of this project (Wis. Admin. Code § NR 724.15 (1)). The documentation must comply with the requirements of Wis. Admin. Code § NR 724.05 (2) and § NR 724.15 (3). Documentation must include:
  - a. A cover letter that contains the information required by Wis. Admin. Code § NR 724.05(2) (e) 1.
  - b. Owner contact and property location information for Innovation Park Lots 2, 3, 4 and Outlot 3, and the R&R Excavating Site.
  - c. Maps, drawings and cross sections that depict how contaminated soil was managed.
  - d. A synopsis of the work conducted and an explanation as to how it complied with the soil management plan and the conditions in this 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 results of monitoring conducted during the management activity.
  - g. A description of how new site conditions are protective of human health, safety, welfare and the environment at the R&R Excavating Site.

The DNR will request that incomplete documentation be amended as allowed by Wis. Admin. Code § NR 724.07 (2).

- 4) This approval is granted under Wis. Admin. Code § NR 718.12 and applies only to the specific activities described within the submitted Request. Any contaminated material that is excavated or otherwise disturbed at Innovation Park and the R&R Excavating Site, not covered under this or another approval, must be managed in compliance with the requirements of Wis. Admin. Code chs. NR 500 through NR 599. The management of contaminated material on a property that does not comply with these rules may be considered a hazardous substance discharge or environmental pollution and would be required to be addressed by the process outlined in Wis. Admin. Code chs. NR 700 to NR 799.
- 5) Innovation Park Development Partners, LLC is responsible for obtaining any local, federal or other applicable state permits to carry out the project.

All remediation sites are included in DNR's Bureau of Remediation and Redevelopment Tracking System (BRRTS) database. All documents and project milestones related to the cleanup of each of the involved sites are listed in the database entry identified by BRRTS activity #02-41-588671. Actions relating only to the management of contaminated soil at the R&R Excavating Site are tracked in the BRRTS system under activity #15-46-579884.

Approval to Manage Contaminated Soil  
At a Different Site or Facility  
BRRTS #02-41-588671 & #15-46-579884  
March 30, 2022

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We appreciate your efforts to protect the environment at this site. If you have any questions regarding this approval decision, please contact DNR project manager David Hanson at (414) 639-4156, or email at [david.hanson@wisconsin.gov](mailto:david.hanson@wisconsin.gov).

Sincerely,



Timothy G. Alessi, P.G.  
Team Supervisor, Southeast Region  
Remediation and Redevelopment Program

Attachments:

- Interim Reclamation Grading Plan, Figure 5, July 10, 2012

cc: Rick Frieseke, Friess Environmental Consulting, Inc. ([rfrieseke@fecinc.us](mailto:rfrieseke@fecinc.us))  
Cory Katzban, The Sigma Group, Inc. ([ckatzban@thesigmagroup.com](mailto:ckatzban@thesigmagroup.com))

CERTAIN UNDERGROUND STRUCTURES HAVE BEEN LOCATED ON THE DRAWING. THESE LOCATIONS SHALL NOT BE TAKEN AS CONCLUSIVE. VERIFICATION TO THE SATISFACTION OF THE CONTRACTOR OF ALL UNDERGROUND STRUCTURES, WHETHER SHOWN ON THE DRAWING OR NOT, SHALL BE ASSUMED AS A CONDITION OF THE CONTRACT.

**DIGGERS HOTLINE**

Toll Free (800) 242-8511  
 Milwaukee Area (414) 259-1181  
 Hearing Impaired TDD (800) 542-2289  
 www.DiggersHotline.com

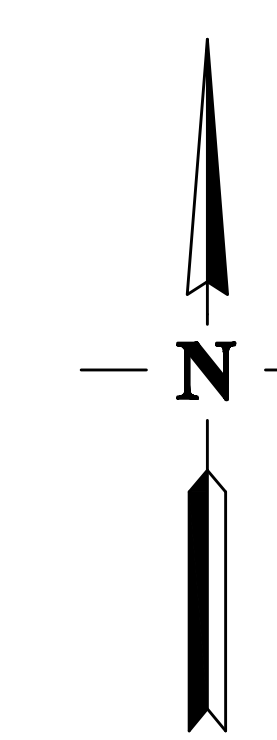
NOTE:  
 TEMPORARY TOPSOIL STOCKPILES SHALL BE PLACED AT THE DISCRETION OF THE CONTRACTOR WITH THE ENGINEER'S APPROVAL, BUT SHALL BE LOCATED NO CLOSER THAN 50 FEET FROM POND, WETLANDS, DITCHES OR OTHER STORMWATER CONVEYANCE SYSTEM, UNLESS APPROVED BY THE ADMINISTERING AUTHORITY. MEASURES SHALL BE TAKEN TO MINIMIZE EROSION AND RUNOFF FROM ANY TOPSOIL STOCKPILES THAT WILL LIKELY REMAIN FOR MORE THAN 5 WORKING DAYS. ANY SOIL STOCKPILE THAT REMAINS FOR MORE THAN 30 DAYS SHALL BE COVERED OR TREATED WITH STABILIZATION PRACTICES SUCH AS TEMPORARY OR PERMANENT SEEDING AND MULCHING.

**Benchmark Note :**

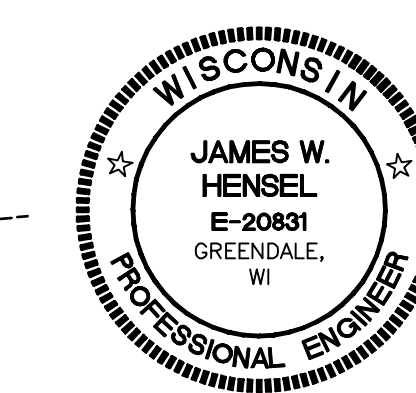
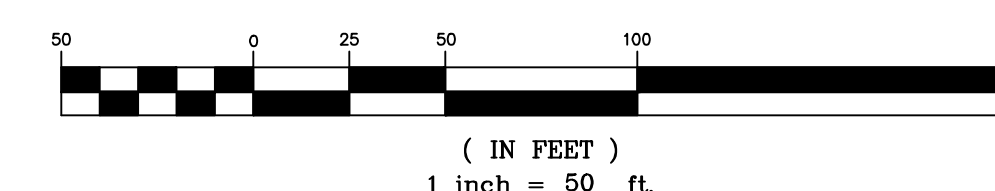
1. Main Benchmark is the Section corner monument at the SE. corner of the NE 1/4 of Section 22, Town 10 North, Range 21 East. Top of monument elevation = 833.26.

**Legend**

- 838 --- DENOTES EXISTING MINOR CONTOUR
- 840 --- DENOTES EXISTING MAJOR CONTOUR
- - - 848 - - - DENOTES PROPOSED MINOR CONTOUR
- - - 850 - - - DENOTES PROPOSED MAJOR CONTOUR
- - - - - DENOTES PROPOSED SILT FENCE
- --- DENOTES PROPOSED SILT FENCE



GRAPHIC SCALE



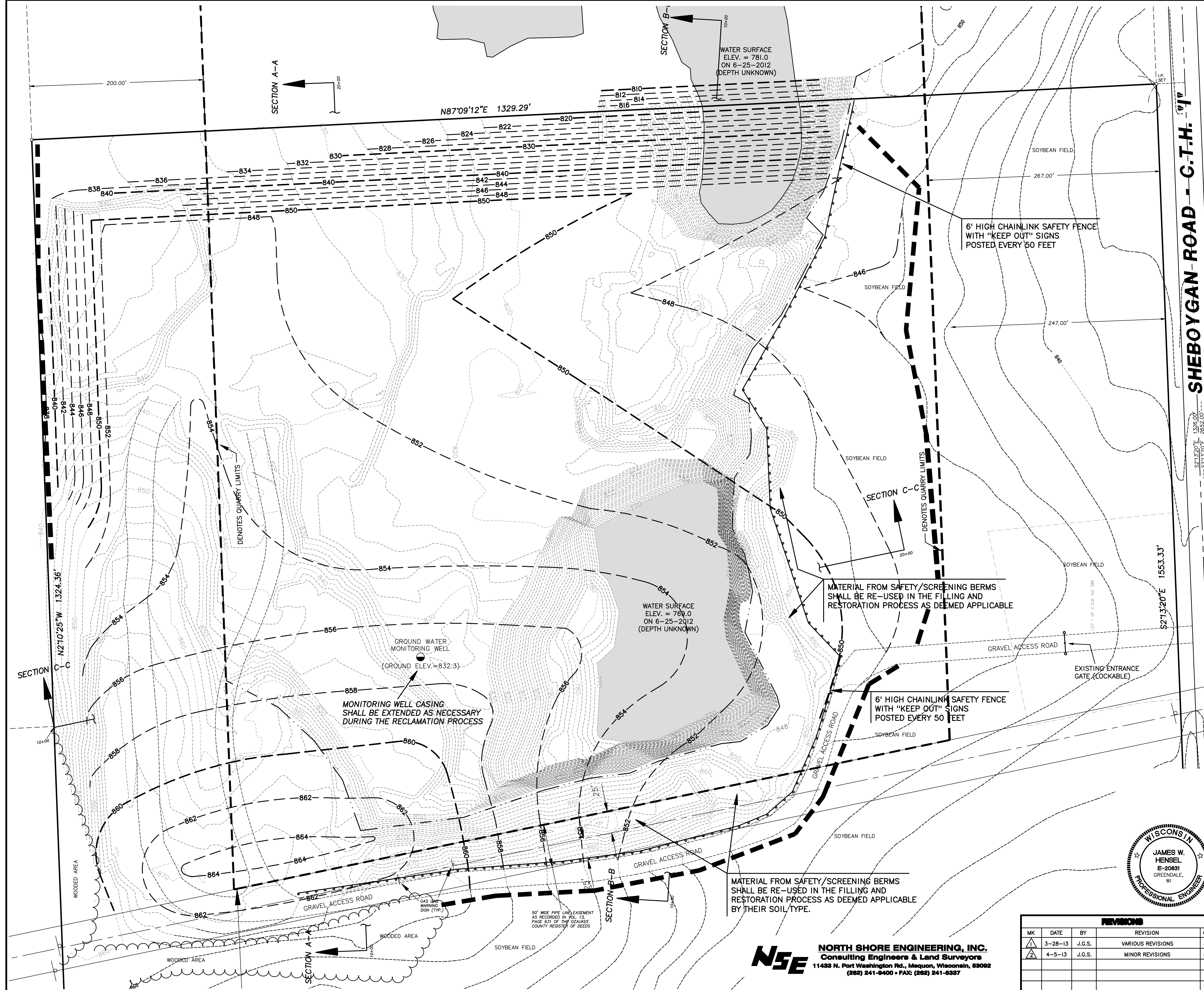
**TOWN OF CEDARBURG**  
 OZAUKEE COUNTY WISCONSIN

**R. & R. QUARRY - C.T.H. "I"**

**Interim Reclamation Grading Plan**

REVISIONS					DESIGNED:	DRAWN:	CHECKED:	SHEET
MK	DATE	BY	REVISION	CHK'D	J.W.H.	J.G.S.	D.E.O.	5
△	3-28-13	J.G.S.	VARIOUS REVISIONS	J.W.H.				
△	4-5-13	J.G.S.	MINOR REVISIONS	J.W.H.				OF 8

**NSE NORTH SHORE ENGINEERING, INC.**  
 Consulting Engineers & Land Surveyors  
 11433 N. Port Washington Rd., Mequon, Wisconsin, 53092  
 (262) 241-9400 • FAX: (262) 241-8337



**SHEBOYGAN ROAD - C.T.H. "VI"**

6' HIGH CHAINLINK SAFETY FENCE WITH "KEEP OUT" SIGNS POSTED EVERY 50 FEET

MATERIAL FROM SAFETY/SCREENING BERMS SHALL BE RE-USED IN THE FILLING AND RESTORATION PROCESS AS DEEMED APPLICABLE

6' HIGH CHAINLINK SAFETY FENCE WITH "KEEP OUT" SIGNS POSTED EVERY 50 FEET

MATERIAL FROM SAFETY/SCREENING BERMS SHALL BE RE-USED IN THE FILLING AND RESTORATION PROCESS AS DEEMED APPLICABLE BY THEIR SOIL TYPE.

MONITORING WELL CASING SHALL BE EXTENDED AS NECESSARY DURING THE RECLAMATION PROCESS

WATER SURFACE ELEV. = 769.0 ON 6-25-2012 (DEPTH UNKNOWN)

WATER SURFACE ELEV. = 781.0 ON 6-25-2012 (DEPTH UNKNOWN)

50' WIDE PIPE LINE EASEMENT AS RECORDED IN VOL. 13, PAGE 831 OF THE OZAUKEE COUNTY REGISTER OF DEEDS

DENOTES QUARRY LIMITS

DENOTES QUARRY LIMITS

SECTION C-C

SECTION A-A

SECTION B-B

SECTION A-A

SECTION B-B

SECTION C-C