



July 20, 2023

S. R. Mills
FS Apartments, LLC
4011 80th St.
Kenosha, WI 53142
Via email only to: smills@bearreg.com

Donald Richards
Beta-Becher Acquisition Company, LCC
4003 80th St.
Kenosha, WI 53142
Via email only to: donald.d.richards@gmail.com

Subject: Conditional Approval for Development on a Property where Solid Waste has been Disposed
Filer & Stowell Co. Redevelopment
147 E. Becher St., Milwaukee, WI
DNR BRRTS Activity #07-41-589480, FID #241186880

Dear Mr. Mills and Mr. Richards:

The Wisconsin Department of Natural Resources (DNR) reviewed and approves the proposed development on the solid waste disposal facility located at 147 E. Becher St., Milwaukee, WI, in accordance with Wisconsin Administrative (Wis. Admin.) Code § NR 506.085, subject to the conditions listed in the attached approval. This approval is limited to the specific activities described in the application submitted to the DNR dated May 3, 2023. If any changes or additional activities are considered beyond those described in the application, a new application must be submitted to the DNR for approval.

The proposed activities include the following:

- Demolishing all onsite buildings, including foundations, and constructing eight, five-story, slab-on-grade residential buildings with indoor parking and non-residential living space on the ground floor, residential units on floors two through five, surface parking, landscaped and hardscaped areas, and two stormwater bio-basins, as shown on attached Figure 1, “*Cap/Barrier Pan (Capped Surface Types)*,” dated June 30, 2023.

This approval does not relieve you of obligations to meet all other applicable federal, state and local permits, or zoning and regulatory requirements. This approval should not be construed as a case closure approval under Wis. Admin. Code ch. NR 726.

Conditional Approval for Development on a Property Where Solid Waste Has Been Disposed
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If you have questions or concerns regarding this letter, please contact Greg Moll, at (262) 202-3921 or john.moll@wisconsin.gov.

Sincerely,



Pamela A. Mylotta
Southeast Region Team Supervisor
Remediation and Redevelopment Program

Attachments: Conditional Approval
Figure 1, Cap/Barrier Pan (Capped Surface Types)

cc: Richard Mazurkiewicz, Ramboll US Consulting, Inc. – rmazurkiewicz@ramboll.com
Jane Pfeiffer, DNR, Remediation and Redevelopment Program – jane.pfeiffer@wisconsin.gov
Jezamil Arroyo-Vega, City of Milwaukee Building Inspection Services – javega@milwaukee.gov

BEFORE THE
STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

CONDITIONAL APPROVAL
FOR
DEVELOPMENT ON A PROPERTY WHERE SOLID WASTE HAS BEEN DISPOSED

FINDINGS OF FACT

The Wisconsin Department of Natural Resources (DNR) finds that:

1. Beta-Becher Acquisition Company, LLC owns the historic fill site located at 147 E. Becher St., Milwaukee, WI, Parcel #4671611000.
2. Solid waste, specifically foundry sand, slag, brick, wood, glass, concrete and metal debris, is present at the site.
3. On May 4, 2023, the DNR received an application from Ramboll US Consulting, Inc. (Ramboll) on behalf of FS Apartments, LLC for approval to develop on the Filer & Stowell Co. Redevelopment site. The DNR received the review fee of \$700, per Wisconsin Administrative (Wis. Admin.) Code ch. NR 749 on May 4, 2023.
4. The information submitted in connection with the proposed activities includes:
 - a. *“Development at Historic Fill Site or Licensed Landfill Application,”* dated May 3, 2023 and received by the DNR on May 4, 2023.
 - b. *“Development at Historic Fill Site or Licensed Landfill Exemption Application, FS Apartments, LLC,”* Ramboll email to the DNR, dated June 30, 2023.
 - c. *“Development at Historic Fill Site or Licensed Landfill Exemption Application, FS Apartments, LLC, BRRTS #07-41-589480,”* Ramboll email to the DNR, received June 30, 2023.
5. Additional documents considered in connection with the review of the proposed activities includes:
 - a. *“Development on a Historic Fill Site Exemption Approval, Beta-Becher Acquisition Company, LLC, Filer & Stowell Co. Redevelopment, 147 East Becher Street, Milwaukee, Wisconsin,”* prepared by the DNR, dated April 8, 2022.
 - b. *“SIR Addendum and Updated RAOR, Beta-Becher Acquisition Co., LLC, Historic Fill Site, 147 E. Becher Street (“site”), Milwaukee, Wisconsin,”* Ramboll email to the DNR, received February 1, 2023.
 - c. *“Recommended Template for Request to Manage Materials under Wis. Admin. Code § NR 718.12 or NR 718.15 (Form 4400-315),”* prepared by Ramboll, dated February 14, 2023.
 - d. *“DRAFT Site Maintenance Plan, Beta-Becher Acquisition Co., LLC, Historic Fill, 147 E. Becher Street, Milwaukee County, Milwaukee, Wisconsin,”* prepared by Ramboll, dated June 2023.
 - e. The DNR’s files pertaining to BRRTS activity #07-41-589480 and #02-41-589088.
6. Additional facts relevant to the review of the proposed activities include:
 - a. Low levels of methane gas were detected at the site that appear to be generated by naturally occurring organic soils underlying fill material at the site.
 - b. A passive sub-slab vapor mitigation system for potential volatile organic compounds will be installed beneath each of the proposed buildings. The passive vapor mitigation system will reduce the potential risk of methane gas accumulation in the buildings.
 - c. The Filer & Stowell Co. Redevelopment site is associated with the open Beta-Becher Acquisition Co., LLC Historic Fill site tracked under BRRTS activity #02-41-589088.
 - d. FS Apartments, LLC will acquire the site from Beta-Becher Acquisition Co., LLC prior to the

start of construction.

7. If the special conditions set forth below are complied with, the proposed development should not interfere with maintenance of the solid waste disposal area or cause a significant threat to public health, safety or welfare or to the environment.

CONCLUSIONS OF LAW

1. The DNR has authority under Wis. Admin. Code § NR 506.085 to approve development at a solid waste facility as defined in Wisconsin Statute (Wis. Stat.) § 289.01(35).
2. The DNR has authority under Wis. Stat. § 289.46(2) to limit its approval under Wis. Admin. Code § NR 506.085 to activities which will not interfere with a closed solid waste disposal facility or cause a significant threat to public health, safety or welfare.
3. The conditions of the approval set forth below are needed to ensure the proposed development does not interfere with the closed solid waste disposal facility or cause a significant threat to public health, safety or welfare as required under Wis. Stat. § 289.46(2).
4. In accordance with the foregoing, the DNR has authority under Wis. Admin. Code § NR 506.085 to issue the following approval.

CONDITIONAL APPROVAL

The DNR conditionally approves the proposed activities on the Filer & Stowell Co. Redevelopment site subject to the following conditions:

1. All aspects of the proposed activities shall be performed in accordance with the application received by the DNR and the conditions of this approval. In the case of any differences between the approval conditions and the application, the approval conditions shall take precedence.
2. This approval is limited to the activities described in the application received by the DNR on May 4, 2023. Any changes or additional activities beyond those described in the application shall not be implemented without prior written DNR approval (Wis. Admin. Code § NR 506.085).
3. No action related to the proposed activities at the property may be taken which will cause any of the impacts or effects described in Wis. Admin. Code §§ NR 504.04(4)(a) to (f).
4. A report shall be submitted to the DNR within 60 days of completion of the proposed activities that documents the project was completed in accordance with the approved plan and conditions of this approval. The report may be submitted in conjunction with a Wis. Admin. Code § NR 724.15 remedial action construction documentation report. The report shall include:
 - a. Narrative describing work completed in accordance with approval and any problems encountered.
 - b. If waste was encountered, documentation of proper disposal of waste.
 - c. Photo documentation of all aspects of construction.
 - d. An explanation of any deviations from the plan and for documentation of minor field modifications discussed with the DNR.
 - e. A set of as-built plans.

5. The proposed activities shall not prevent the completion of remedial response actions required under Wis. Admin. Code chs. NR 700-799 and shall be coordinated with site investigation, remedial action and/or materials management requirements and related DNR approvals.
6. If contamination is encountered during the proposed activities that is not related to the documented contamination, notification of the contamination shall be submitted to the DNR.
7. Any continuing requirements of the development plan or the conditions of the approval shall transfer with changes in property ownership.

This approval is based on the information available to the DNR as of the date of approval. If the proposed project changes or if circumstances change such that there may be a need to modify this approval, the DNR may ask applicants to provide additional information relating to activities to determine if the approval will need to be modified.

NOTICE OF APPEAL RIGHTS

If you believe you have a right to challenge this decision made by the DNR, you should know that Wisconsin statutes and administrative codes establish time periods and requirements for reviewing DNR decisions.

- For judicial review of the DNR's decision pursuant to Wis. Stat. §§ 227.52 and 227.53, you have 30 days after the decision is mailed or otherwise served by the DNR to file the petition with the appropriate circuit court and serve the petition on the DNR. Such a petition for judicial review must name the "Department of Natural Resources" as the respondent.
- To request a contested case hearing pursuant to Wis. Stat. § 227.42, you have 30 days after the decision is mailed or otherwise served by the DNR, to serve a petition for hearing on the secretary of the DNR. All requests for contested case hearings must be made in accordance with Wis. Admin. Code § NR 2.05(5), and served on the DNR secretary in accordance with Wis. Admin. Code § NR 2.03. The filing of a request for a contested case hearing does not extend the 30-day period for filing a petition for judicial review.

Dated: July 20, 2023

DEPARTMENT OF NATURAL RESOURCES
For the Secretary



Pamela A. Mylotta
Southeast Region Team Supervisor
Remediation and Redevelopment Program



J. Gregory Moll, P.G.
Hydrogeologist
Remediation and Redevelopment Program

LEGEND

- - - FILER & STOWELL SITE BOUNDARY (APPROXIMATE)
- PROPERTY BOUNDARY (APPROXIMATE)
- NEW BUILDING CONCRETE FLOOR FOUNDATION
- ASPHALT PAVEMENT
- CONCRETE PAVEMENT
- LANDSCAPED AREAS



E Becher St

Bio-Basin

Railroad

Bio-Basin

S 1st Street

W Lincoln Avenue

Five Buildings Total
 Five Floors Each Building
 595 Total Complex Units
 265 Total Interior Parking
 480 Total Exterior Parking
 Approximately 144,400 square feet complex total under roof.

0 90
 SCALE IN FEET

**CAP/BARRIER PLAN
 (CAPPED SURFACE TYPES)**

Filer & Stowell Property
 147 East Becher Street
 Milwaukee, Wisconsin 53207



FIGURE 1