



October 2, 2024

--sent by email--

Mr. Andy Selle, City Engineer
City of Fort Atkinson
101 N. Main Street
Fort Atkinson, 53538

Subject: Liability Clarification and “No Action Required” Determination Letter
Loeb-Lorman Scrapyard Former – 205 Hake Street Parcel, Fort Atkinson, WI 53538
Parcel #: 226-0614-3432-007
BRRTS Activity Name: 205 Hake St Property
BRRTS #: 07-28-589576

Dear Mr Selle:

The Wisconsin Department of Natural Resources (DNR) received a request for a liability clarification and a “No Action Required” determination request (Request) from Ed Buc from Terracon Consultants, Inc. (Terracon) on behalf of the City of Fort Atkinson on May 4, 2023. The Request was submitted with the appropriate review fee for the site location (Property) identified above. Additional information regarding site data was requested by DNR on May 31, 2023, and a partial response was provided by Terracon on July 12, 2023.

The purpose of this letter is to provide City of Fort Atkinson clarification as to environmental liabilities and current environmental conditions at the Property. Wisconsin Statutes (Wis. Stat.) § 292.55(1)(d)1 authorizes the DNR to issue a letter to a person seeking assistance concerning the liability of a person owning or leasing a property for environmental pollution at a property, the type and extent of environmental pollution at a property, the adequacy of an environmental investigation, or any other matter related to a request for assistance. This type of letter contains a DNR determination as to whether response actions are needed under Wisconsin Administrative Code (Wis. Admin. Code) chs. NR 700 to 799 based on the discharge of one or more hazardous substances, or the presence of environmental pollution at the Property. The DNR based this letter on review of environmental data and provided in the Request and other relevant documents associated with the neighboring “Loeb-Lorman Scrapyard Former” site (BRRTS# 02-28-588371), including :

- Liability clarification letter request, completed Form 4400-237, signed on April 24, 2023 and received by DNR on May 4, 2023, including a cover letter and attachments.
- The Sigma Group’s January, 2021, “AAI Phase I Environmental Assessment – 205 Hake Street, 115 Lorman Street, and 600 Oak Street – Fort Atkinson, Wisconsin” (Phase 1)
- Terracon’s September 10, 2021, “Limited Site Investigation Report – Former Loeb-Lorman Scrapyard – 115 Lorman Street, 600 Oak Street, and 205 Hake Street – Fort Atkinson, Wisconsin” (Phase 2)
- Terracon’s July 11, 2022, “Site Investigation and Remedial Action Options Report – Former Loeb-Lorman Scrapyard – 115 Lorman Street, 600 Oak Street, and 205 Hake Street – Fort Atkinson, Jefferson County, Wisconsin” (SIRAOR)
- DNR’s September 29, 2022, letter reviewing the SIRAOR.
- Terracon’s June 30, 2023, “Revised Site Investigation Report – Former Loeb-Lorman Scrapyard – Lorman Parcel” (Revised SIR), which included responses to DNR comments regarding the SIRAOR.
- Information in DNR files 02-28-588371 (115 Lorman Street) and 205 Hake Street (07-28-589576).

PROPERTY USE

Per the Request:

“According to the Phase I ESA, the 205 Hake Street parcel was formerly undeveloped as early as 1937. The 205 Hake Street parcel was then developed between 1971 and 1981 with an outdoor storage area along with an aboveground storage tank (AST) structure and a central building. In 2006, the building had been removed along with the AST and the outdoor storage area was expanded across the parcel. In 2017, the 205 Hake Street parcel was no longer used for outdoor storage.”

Property was purchased and investigated using funds from a community development block grant (CDBG) and is required to stay vacant as green space until five years after the close of the CDBG (ie. ~2028) unless the grant objectives can be met by the new use, per the federal restriction under 24 CFR 570.489(j).

Exhibit 2 from the Request is a “Site and Vicinity Map” – see page 4 of this letter.

BACKGROUND AND ENVIRONMENTAL SUMMARY

Per the Phase 1:

“...the 205 Hake Street parcel was improved with an approximately 1,440 square-foot building constructed in 1955. Prior to the construction of the building, the parcel was unimproved. A second, roughly 2,000 square-foot building was present on the parcel from sometime between 1979 and 1981 through sometime between 1996 and 2006. Since development, the parcel has been occupied by the Wisconsin Southern Gas Corp., Phillips Petro Co., Petrolane Gas Service, and Loeb-Lorman Metals. The parcel was utilized by Loeb-Lorman Metals and its predecessor, Lorman Iron & Metal Inc. for storage of scrap luggers beginning around the 1970s. Loeb-Lorman Metals ended operations in 2015. The parcel building is currently used for limited storage.”

“Topographic maps indicate that the 205 Hake Street and 115 Lorman Street parcels were comprised of wetlands in 1906. The 1940 aerial photograph depicts part of the 115 Lorman Street parcel as disturbed land, indicating possible filling activities. Soil boring logs from the 115 Lorman Street parcel indicate that fill material including wood chips, metal debris, glass shards, foundry sand, construction debris is present on the parcel at depths of up to 9.5 feet below ground surface (bgs).”

“A search of available environmental records was conducted by Environmental Data Resources Inc. (EDR). The 205 Hake Street parcel was identified in the Historical Auto Stations and Tier 2 databases as a historical propane distributor. The parcel was identified in the Tier 2 database for the storage of liquid propane in 2014. The parcel was identified in the historical auto stations database as a propane distributor in each year between 1985 and 1999.”

“Impacted fill material is likely present on the 115 Lorman Street parcel and may be present on the other parcels, potentially impacting them via soil, groundwater and/or vapor.”

Terracon collected environmental samples at four locations on the Property, as follows:

- Boring P-1. Per the Phase 2, this boring was installed “...to evaluate the potential for the migration of contaminants from the DB Oak Ltd. Property site to the west, the potential presence of contaminants from onsite scrapyard operations and historic fill...”
 - P-1 was installed to 15 feet below grade.
 - “possible fill” was logged from 1 to 5 feet below grade.

- Boring P-5. Per the Phase 2, this boring was installed, "...in the northwest corner of the 205 Hake Street parcel, to evaluate the potential for the migration of contaminants from the former 10,000-gallon tetrachloroethene AST that was located to the west on the DB Oak Ltd. Property site, and the potential presence of contaminants from onsite scrapyard operations and historic fill."
 - P-5 was installed to 15 feet below grade.
 - "Fill" was logged from 0 to 2.5 feet below grade.
- Boring P-10. Per the Phase 2, "This boring was located in the eastern portion of the 205 Hake Street parcel, to evaluate the potential presence of contaminants from the fill pile." A fill pile is noted on a photograph included in the Phase 1.
 - P-10 was installed to 15 feet below grade.
 - "Fill" was logged from 0 to 2 feet below grade.
- Boring MW-1. Per the SIRAOR, this boring was installed for collection of soil data and installation of a monitoring well. The work was performed as follow-up for contaminants detected at the Property and attributed by Terracon to be originating off-site, to the west.
 - The MW-1 boring was installed to 15 feet below grade, near previous boring P-1.
 - "possible fill" was logged from 0 to 2 feet below grade.
 - The depth to groundwater during MW-1 well development was 7.65 feet below grade.

Chemical testing of samples from the Property summarized in the Request include:

1. Volatile organic chemicals (VOCs) from eight soil samples; two from each location listed above.
2. Diesel range organics (DRO) and polycyclic aromatic hydrocarbons (PAHs) from six soil samples; two from each of the P-series borings.
3. Metals from six soil samples; two from each of the P-series borings.
4. Polychlorinated biphenyls (PCBs) from six soil samples; two from each of the P-series borings.
5. VOCs from six groundwater samples; one grab sample from each P-series borings, and two samples from MW-1, and one duplicate sample.

The significant chemical testing results are:

1. Low levels of two VOCs detected in the deeper (5') sample from one boring, P-1. These detections appear to be the result of adsorption of contaminants migrating onto the Property from an off-site source to the west.
2. No detections of concern for DRO, and no PAHs above residual contaminant levels.
3. Elevated levels of arsenic in one boring, P-5, (11.3 and 12.0 ppm) compared to other samples reported in the SIRAOR, and to the statewide background threshold value of 8.3 ppm. Chromium above the statewide background threshold value in one sample collected within fill material, at P-10.
4. Detections of PCB Aroclor 1242, 1254, and 1260, in the fill sample from boring P-5.
5. Chlorinated VOCs in groundwater consistent with an issue originating from off-site source to the west. An off-site liability exemption letter was issued by DNR on April 26, 2022 for the contamination migrating onto the Property from the west. The original April 26, 2022 letter contains an incorrect parcel identification number.

Soil data collected as part of the Phase 1 has documentation and sample collection issues. The six soil samples from P-1, P-5, and P-10 are documented on the chain of custody form as being collected within an 11-minute period, which is not consistent with how long the work should take. DNR noted the issue in its September 28, 2022 letter:

"There are irregularities with the sample times on the chain of custody documentation for the July 2021 samples included on pages 455 to 457 of the Report. Please confirm the sample times are correct and

explain how a batch of many samples was collected at two-minute intervals followed by additional batches hours later. Provide field notes to support the accuracy of the July 2021 chain of custody documentation.”

Terracon responded in the Revised SIR, stating:

“Terracon collects two aliquots of soil from each sample interval, and places each into separate labeled and sealed plastic bags. One sample aliquot is immediately placed in a cooler on ice. The second sample aliquot is field screened with PID. Due to the general fast pace of direct-push soil boring techniques, logging and PID screening of soil sample bags are prioritized, and the information is used later in the day to select samples for laboratory analysis. Bagged samples are then selected, jarred in laboratory containers, labeled, and placed back on ice. This process also reduces waste; if every soil sample were placed into laboratory containers, samples (and their associated containers) not selected for analysis would require subsequent disposal. During the collection of soil samples in July 2021, the field technician inadvertently recorded the times samples were transferred from the collection bags into the laboratory containers, instead of the time the sample was actually collected from the boring. This resulted in the short sampling intervals noted by the WDNR.”

DNR has observed:

- Terracon’s process for collecting VOC soil samples does not conform with Wis. Adm. Code s. NR 716.13(11), which requires, “Soil samples collected for analysis of volatile organic compounds for compliance with chs. NR 700 to 754 shall be preserved immediately after collection to minimize volatilization of contaminants from the sample to the greatest extent possible.” Some samples collected in July 2021 appear to have been in the cooler for up to three hours before preservation.
- The process of double-handling soil samples increases the likelihood the samples may be mixed-up or mislabeled.
- The July 2021 field notes for the sampling have not been made available to the DNR, per Wis. Adm. Code s. 716.13(7)(c), despite the DNR’s request.

Based on Terracon’s described methodology and the lack of field notes, the soil data quality, especially for the VOC samples collected in July 2021 appears less than optimal.

DETERMINATIONS

Wis. Stat. ch. 292 and Wis. Admin. Code chs. NR 700 to 799 require those who are responsible for a hazardous substance discharge or environmental pollution to take actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge to the air, lands or waters of the state. Wis. Stat. § 292.55 authorizes the DNR to issue clarification letters concerning liability for environmental pollution.

The data summarized above indicates that one or more hazardous substance discharges or environmental pollution has been discovered on the Property. However, based on the information provided at this time and the criteria in Wis. Admin. Code § NR 716.05(2)(a) and Wis. Admin. Code §§ NR 708.09(1) and (2), the DNR has determined that no response actions, including further site investigation activities, are required under Wis. Admin. Code chs. NR 700 to 799 to respond to the identified discharges or environmental pollution.

General Fill Sites

The Property being evaluated in this letter meets the statutory definition of a site or facility in Wis. Stats. § 292.01. This means that prior to any redevelopment on the Property, the property owner must submit an application to develop on a historic fill site or licensed landfill (visit dnr.wi.gov, search “Form 4400-226”) and receive DNR approval prior to completing any work (as required by Wis. Admin. Code § NR 506.08). Any

impacted soil or fill material graded or excavated from the subsurface will need to be disposed of in accordance with local, state and federal regulations. Please refer to the following guidance documents regarding development at historic fill sites or licensed landfills for further information. They can be found online at dnr.wi.gov, search “historic fill.”

- *Development at Historic Fill Sites and Licensed Landfills: What You Need to Know* (RR-683)
- *Development at Historic Fill Sites and Licensed Landfills: Guidance for Investigation* (RR-684)
- *Development at Historic Fill Sites and Licensed Landfills: Considerations and Potential Problems* (RR-685)

Soil Management

As described above, low-level contamination is present in the soil at several of the locations sampled, as documented within the Request. The concentrations of PAHs, arsenic, PCBs, and VOCs detected in the soil do not require further action at this time, but this soil may require management as a solid waste if it is excavated in the future. The property owner at the time of excavation must determine whether the material is considered solid or hazardous waste and ensure that any storage, grading, excavation or disposal is in compliance with applicable regulations. Soil that meets the criteria to be considered “exempt soil” may be managed without DNR approval. See *Exempt Soil Management: A Self-Implementing Option for Soil Excavated During a Response Action under Wis. Admin. Code chs. NR 700 through NR 750 Applicability* (RR-103) for more information (visit dnr.wi.gov, search “RR-103”). Contaminated soil may be managed in accordance with Wis. Admin. Code ch. NR 718 with prior DNR approval.

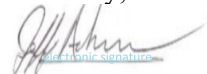
As with any environmental assessment, some areas of the Property were not assessed, the number of samples collected were limited based on professional judgment and financial considerations, and environmental samples were not analyzed for all parameters. This letter relates and refers only to those conditions described above and to information and data you submitted to the DNR in your request for this letter. The DNR makes no determination concerning the presence or absence of hazardous substances or environmental pollution on the Property other than those identified in the documents and reports listed above, which you submitted to the DNR. In the future, if the DNR becomes aware of new information concerning the contaminants referenced above or the presence of any other contaminants on the Property, the DNR will evaluate that data at that time to determine if any response actions are required.

CLOSING

This letter, site and case-related information and DNR contacts can be found online in the Bureau for Remediation and Redevelopment Tracking System (BRRTS) on the Web (BOTW); go to dnr.wi.gov and search “BOTW.” Use the BRRTS ID # found at the top of this letter. The site can also be found on the map view, Remediation and Redevelopment Sites Map (RRSM) by searching “RRSM.”

If you have any questions regarding this letter, please contact me at 608-219-2302, or jeff.ackerman@wisconsin.gov.

Sincerely,



Jeff Ackerman, P.G.
South Central Region Project Manager
Remediation and Redevelopment Program

cc:

Janet DiMaggio, DNR, Program Name
Michael Prager, DNR, Remediation and Redevelopment Program
Ed Buc, Terracon

