



March 1, 2023

C. Reiss Company, LLC
Christian Zuidmulder, General Manager
111 West Mason Street
Green Bay, WI 54303
Via Email Only: Christian.Zuidmulder@Thecreiss.com

Subject: Conditional Approval for Development on and Excavation of Waste from a Property where Solid Waste has been Disposed (i.e., Historic Fill Exemption)
C. Reiss Coal Dock Property, City of Superior, Douglas County, Wisconsin
Parts of the E ½ of the NE ¼ of Section 16 and the E ½ of the SE ¼ of Section 09, T49N, R14W
Parcel IDs 048040101400 and 048040100300 (Burlington Northern R/W)
DNR BRRTS Activity # 07-16-590498 and 02-16-589248
FID # 816130810

Dear Mr. Zuidmulder:

In July 2022, the Wisconsin Department of Natural Resources (DNR) received the Materials Management Plan (MMP) for the C. Reiss Coal Dock Property (Property), along with the appropriate review fees. In its August 12, 2022, letter to you, the DNR requested additional information related to the review of the MMP and asked why an exemption to develop on historic fill was not requested based on solid waste identified in soil borings across the 53-acre Property. On August 30, 2022, DNR received a Historic Fill Exemption (HFE) request along with review fees for the HFE and the Site Investigation Report (SIR). This letter exclusively concerns the HFE; DNR addressed the submissions for the MMP and SIR separately in letters dated February 17, 2023.

The DNR reviewed and approves the proposed development on and excavation of waste on the solid waste disposal facility located at the Property, 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 August 30, 2022. Supplemental information regarding redevelopment of the Property was also provided on October 17, 2022, December 2, 2022, and January 24, 2024. 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:

- The C. Reiss Company, LLC (C. Reiss) plans to reestablish industrial bulk material handling operations at the Property by installing infrastructure for shipments by truck and rail as well as dock wall rehabilitation and sediment dredging. The redevelopment will consist of constructing an office building, storage and maintenance building, parking lot, truck scale, railroad, rail yard, rail scale, access roads, a disposal berm, drainage swale, temporary diversion berm, stormwater retention pond, and a perimeter security fence. The proposed site features are shown in the attached Figures 4A, 4B and 4C, Site Cover Extent, October 6, 2022.

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.

If you have questions or concerns regarding this letter, please contact the project manager, Joe Graham, at (715) 292-4925 or joseph.graham@wisconsin.gov.

You can also contact me at (715) 208-4004 or Christopher.Saari@Wisconsin.gov.

Sincerely,



Christopher A. Saari
Northern Region Team Supervisor
Remediation and Redevelopment Program

Attachments:

- Conditional approval
- Figures 4A, 4B and 4C, Site Cover Extent, October 6, 2022

cc:

Stu Gross, Stantec - stu.gross@stantec.com
Brian Lennie, Stantec - brian.lennie@stantec.com
Whitney Cull, Stantec - whitney.cull@stantec.com
Joe Graham, DNR – joseph.graham@wisconsin.gov

CONDITIONAL APPROVAL
FOR
DEVELOPMENT ON AND EXCAVATION OF WASTE FROM
A PROPERTY WHERE SOLID WASTE HAS BEEN DISPOSED

FINDINGS OF FACT

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

1. C. Reiss Company, LLC owns the historical fill site located in the City of Superior, Douglas County, Wisconsin in parts of the E ½ of the NE ¼ of Section 16 and the E ½ of the SE ¼ of Section 09, T49N, R14W, and defined by tax Parcel ID 048040101400. At the time of these findings, C. Reiss was in the process of acquiring Parcel ID 048040100300 from the BNSF Railway Company; proposed redevelopment and materials management activities will also be conducted on this parcel.
2. Solid waste, specifically historic fill containing coal pieces, brick and concrete debris, is present on the property.
3. On August 30, 2022, the DNR received an application from Stantec Consulting Services Inc. (Stantec) on behalf of C. Reiss Company, LLC for approval to develop on and excavate waste from the C. Reiss Coal Dock Property site. The DNR received the review fee of \$700, per Wisconsin Administrative (Wis. Admin.) Code ch. NR 749 on August 30, 2022.
4. The information submitted in connection with the proposed activities includes:
 - a. The Development at Historic Fill Site or Licensed Landfill Application form dated August 4, 2022, and received by the DNR on August 30, 2022. Supplemental information regarding redevelopment of the Property was also provided on October 17, 2022, December 2, 2022, and January 24, 2024.
5. Additional documents considered in connection with the review of the proposed development on and excavation of waste include:
 - a. Materials Management Plan and Chapter NR 718 Exemption, July 6, 2022, Stantec
 - b. Site Investigation Report, July 8, 2022, Stantec
 - c. Letter, Additional Information Requested for MMP, August 12, 2022, DNR
 - d. Letter, Response to Request for Additional Information, October 11, 2022, Stantec
 - e. Updated Materials Management Plan and Chapter NR 718 Exemption, October 14, 2022, Stantec
 - f. Email, Additional clarification requested, November 9, 2022, DNR
 - g. Letter with attachments, Response to Request for Additional Information #2, December 2, 2022, Stantec
 - h. Email, Additional Questions, December 23, 2022, DNR
 - i. Letter with attachments, Response to Request for Additional Information #3; January 24, 2023, Stantec
 - j. The DNR's files pertaining to BRRTS Activity #s:
 - i. 02-16-589248 (C. Reiss Coal Dock Property)
 - ii. 03-16-000320 (Murphy Marine Terminal)
 - iii. 02-16-297977 (Amoco Oil Barge Dock- Former Barge Dock)
 - iv. 02-16-297979 (Amoco Oil Barge Dock – OW Separator & Load Rack)
 - v. 02-16-117873 (Amoco Oil Barge Dock – Manifold & AST Area)
 - vi. 02-16-000331 (Amoco Oil Terminal)

6. Additional facts relevant to the review of the proposed activities include:
 - a. The fill material and underlying soils do not appear to present a risk for methane gas.
 - b. Groundwater is contaminated as documented in the files for the above listed BRRTS activities.
 - c. The property has no water supply wells and is proposed to be served by municipal water supply.
 - d. Impacts to wetlands have received the necessary local, state and federal authorizations.
 - e. Effects to surface water will be controlled per Wisconsin Pollution Discharge Elimination System permits.
 - f. The submitted application presented a schedule for the project, which provides that the redevelopment activities are expected to be completed no later than December 31, 2025.
7. If the special conditions set forth below are complied with, the proposed redevelopment activities 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 over a waste disposal area or the excavation of any waste materials 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 redevelopment activities do 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 C. Reiss Coal Dock Property 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 August 30, 2022, and supplementation information received on October 17, 2022, December 2, 2022, and January 24, 2024. Any changes or additional activities beyond those described in the application and supplemental information 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 landfill may be taken which will cause any of the impacts or effects described in Wis. Admin. Code § NR 504.04(4)(a)-(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 and as-built topographic survey map.
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 or wastes described above, notification of the contamination or other waste shall be submitted to the DNR.
 7. Any continuing requirements of the 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.

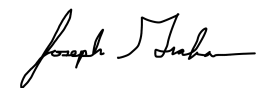
- For judicial review of the DNR's decision pursuant to Wis. Stat. §§ 227.52 and 227.53, you have 30 days after the decision is mailed or otherwise served by the DNR to file the petition with the appropriate circuit court and serve the petition on the DNR. Such a petition for judicial review must name 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: March 1, 2023

DEPARTMENT OF NATURAL RESOURCES
For the Secretary



Christopher A. Saari
Northern Region Team Supervisor
Remediation and Redevelopment Program



Joseph Graham
Project Manager
Remediation & Redevelopment Program

