



February 9, 2024

BNSF Railway Company
Gregory Jeffries, Manager Environmental Remediation
80 44th Avenue NE
Minneapolis MN 55421
{sent electronically Gregory.Jeffries@bnsf.com}

SUBJECT: Request for Information & Introduction to the Great Lakes Legacy Act
Tower Avenue Slip, Superior, Wisconsin
WDNR BRRTS # 11-16-591466
Tax Parcel ID #'s: 04-804-01020-01, 04-804-00983-01, 04-804-00998-00, 04-804-00997-00, 06-806-00734-00, 06-806-00733-00, 06-806-00732-00, 06-806-00738-00, 06-806-00736-00, 07-807-02999-00, 04-806-00980-00 (BRRTS #02-16-000475), 04-804-01035-00 (BRRTS # 02-16-000336), 04-804-01033-00 (BRRTS # 03-16-000145), 04-804-01036-00 (open BRRTS # 02-16-577100), and 04-804-00876-00.

Dear Mr. Jefferies:

The Wisconsin Department of Natural Resources (DNR) has investigated sediment contamination in several slips within the St. Louis River, Duluth-Superior Harbor in Superior, Wisconsin. One of those slips is the Tower Avenue Slip (the Slip) shown in the attached figure. The DNR has identified property owned by Burlington Northern Inc., and generally described by one or more of the Douglas County Tax Parcel ID #'s above, as a potential source of this contamination due to historical practices that occurred there, proximity to the Slip, or to surface or subsurface conveyances emptying into it.

The DNR is investigating whether you and/or any past owners, operators, or occupants of your Site may potentially be responsible for causing or contributing to the discharge of metals, volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), organotin, or coal contamination. The DNR is sending this letter to request any information you can provide regarding the use or storage and potential discharge of hazardous substances by yourself or other past owners, operators, or occupants of your Site. The term hazardous substance is defined in Wis. Stats s. 292.01(5), and includes but is not limited to, substances that are toxic, corrosive, flammable, irritants, strong sensitizers, or explosives.

The DNR also requests that you provide us with information regarding prior owners, operators, and occupants of your property and the purposes for which each used the property. A list of questions is attached to this correspondence that we request you complete to the best of your ability. Please also provide any additional information that may aid in determining the source(s) of contamination in the above-referenced slip. There is no need to provide documents that DNR already has available in its databases. Responses can incorporate documentation DNR has on file using specific references. DNR is requesting similar information from other property owners around the Slip and areas draining to it. A list of entities the DNR is requesting information from is attached.

February 9, 2024
Mr. Gregory Jeffries
Tower Avenue Slip
Superior, WI

Page 2 of 2

Within 28 calendar days of receipt of this notice, please provide me with a letter containing the requested information. The DNR requests this information under the statutory authority of §§ 292.11(7)(a), 292.11(8), 292.31(1)(b), and 292.31(1)(d), Wis. Stats. This letter seeks information from you and is not a regulatory action. If you need additional time to respond, please get in touch with me.

The St. Louis River was designated as an area of concern (AOC) under the 1987 Great Lakes Water Quality Agreement between the United States (U.S.) and Canada due to historical sediment contamination and habitat loss. The Great Lakes AOC program aims to clean up and restore these areas. The U.S. Congress has authorized significant funding for this through the Great Lakes Legacy Act (GLLA) and the Great Lakes Restoration Initiative. The GLLA is a voluntary program that provides federal funding to accelerate contaminated sediment remediation in AOCs. The Remedial Action Plan for the St. Louis River identifies the remediation of contaminated sediment in the Slip as a necessary management action to address beneficial use impairments and support the eventual delisting of the AOC.

Under the GLLA, the DNR has collaborated with the U.S. Environmental Protection Agency (EPA), private parties, and local government on investigating and remediating contaminated sediments in the St. Louis River and other AOCs in Wisconsin. The DNR wishes to pool resources with private parties to provide the nonfederal cost share needed under the GLLA to identify, design, and implement a remedial action for sediment contamination in the Slip. Attached is a summary with links to background information and reports from DNR and EPA efforts in the Slip. In particular, the Historic Records Screening Assessment may be helpful to you when preparing your response to the information requested above.

You should also know that the DNR expects to engage stakeholders and seek public input on remedial action options for the Slip in April 2024.

Your cooperation in this matter is appreciated. Don't hesitate to contact me at (715) 292-4925 or by email to Joseph.Graham@Wisconsin.gov if you have any questions regarding the content of this letter or are interested in learning more about collaborating with the DNR and EPA under the GLLA.

Sincerely,



Joseph Graham
Project Manager

Attachments:

1. Figure – Superior Slips
2. Questionnaire
3. Entities DNR is requesting information from
4. Links to background information and reports

Figure 1 - Superior Slips Site Map



Oil Barge Dock

General Mills

Tower Ave

C Street



1. Identify the current owner and operator of the Site. State the dates during which the current owner and operator owned, operated, leased, or occupied any portion of the Site and provide copies of all documents evidencing such ownership, operation, lease, or occupation, including but not limited to purchase and sale agreements, deeds, leases, etc.
2. Identify any persons who in addition to the owner/operator exercises actual control over the Site or who holds significant authority to control activities at the Site.
3. Identify any legal or equitable interest that you now have, or previously had, in the Site and describe the nature of any such interest, including when, how, and from whom such interest was obtained as well as when, how, and to whom such interest was conveyed. Provide documentation evidencing the acquisition or conveyance of any identified interest.
4. Identify all hazardous substance discharges that have occurred at or from the Site and other actual or potential environmental pollution that has been found at the Site, including any hazardous substance discharge into, or environmental pollution found in, a subsurface disposal system or floor drain inside or under any building at the Site. Provide all documentation including reports and data related to hazardous substance discharges and actual or potential environmental pollution of soil, sediment, water (ground or surface) or air quality at or around the Site.
5. If you are the current owner and/or current operator of the Site, did you acquire or operate the Site or any portion of the Site after the discharge of any hazardous substance on or at the Site? Did you know or have reason to know of any discharge of any hazardous substance on or at the Site before acquiring or operating the Site? Describe all environmental investigations of the Site you undertook before acquiring or operating the Site and provide all documentation of investigations performed.
6. Identify all prior owners of the Site. For each prior owner, further identify:
 - a. The dates of ownership,
 - b. All evidence showing that each identified owner controlled the Site; and
 - c. All evidence of any hazardous substance discharge or environmental pollution (including coal) at or from the Site and/or its solid waste units during the period that each identified owner owned the Site.
7. Identify all prior operators of the Site, including lessors. For each prior operator, further identify:
 - a. The dates of operation,
 - b. The nature of prior operations at the Site,
 - c. All evidence that each identified operator controlled the Site; and
 - d. All evidence of any hazardous substance discharge or environmental pollution (including coal) at or from the Site and/or its solid waste units during the period that each identified operator operated the Site.

8. Describe the nature of your activities, business, or operations at the Site with respect to generating, transporting, storing, treating, or disposing hazardous substances or solid or hazardous waste (including coal) at the Site.
9. If any hazardous substances or solid or hazardous waste (including coal) was ever generated, transported, stored, treated, or disposed of at the Site, identify and provide all documentation which relates to: (a) the type, quantity, chemical composition, characteristics and physical state (e.g., solid, liquid) of hazardous substances or solid or hazardous waste generated, transported, stored, treated or disposed of at the Site and the dates that such activities occurred; (b) the identity of all persons who generated, transported, treated, stored, or disposed of such substances or waste at the Site; and (3) the identity of all subsidiary or parent corporations of identified persons.
10. Describe with specificity all occurrences where a Site owner, operator, or person in control over the Site was determined by a federal, state, or local authority to have violated any environmental law or where any environmental violation or deficiency was discovered at the Site, including any violation or deficiency that resulted in the issuance of a citation or the commencement of any enforcement or legal action. Identify the federal, state, and local authorities involved in each identified occurrence. Provide all documentation related to each identified occurrence.
11. Provide a list of all local, state, and federal environmental permits ever granted for the Site or any part thereof (e.g., Resource Conservation and Recovery Act (RCRA) permits, National Pollutant Discharge Elimination System (NPDES) permits, etc.).
12. Did the Site ever file a Hazardous Waste Activity Notification under the Resource Conservation and Recovery Act (RCRA)? If so, provide documentation of such notification.
13. Did the Site ever have “interim status” under the Resource Conservation or Recovery Act (RCRA)? If so, and the Site does not currently have interim status, describe the circumstances under which the Site lost interim status.
14. Provide the following information about the Site, if applicable:
 - a. Property boundaries, including a written legal description,
 - b. Location of underground utilities (telephone, electrical, sewer, water main, etc.),
 - c. Surface structures (e.g., buildings, tanks, etc.),
 - d. Groundwater wells, including drilling logs,
 - e. Storm water drainage systems, and sanitary sewer systems, past and present, including septic tank(s), subsurface disposal field(s), and other underground structures; and where, when and how such systems are emptied,
 - f. All additions, demolitions or changes of any kind on, under or about the Site, its physical structures or to the property itself (e.g., prior removal or excavation of contaminated soil or sediment); and any planned additions, demolitions or other changes to the site,
 - g. Geology and hydrogeology at and around the Site,
 - h. Maps and drawings of the Site depicting the property boundaries and property features identified above; and
 - i. Photographs of the Site, past and present, including aerial photographs.

15. Describe the conditions of any physical plant facility at the Site during the years each operator operated at the Site, including the status of equipment (operating or dormant), general condition of the facility (e.g., leaking pipes, corroded drain or new piping installed), quality of maintenance (e.g., equipment in disrepair or inspected monthly), adherence to procedures (improper handling of chemicals, incomplete/absent policies, quality of supervision), and management of the plant.
16. Are you or your consultants planning to perform any investigations of the soil, sediment, water (ground or surface), geology, hydrology or air quality on or about the Site? Provide all documentation concerning any investigation you have conducted or plan to conduct at or around the Site.
17. Describe all potential pathways for migration of contamination, including airborne deposition, drainage improvements, utility corridors, sediments, bedrock and permeable material or soil along which dust/particulate, vapors, and free product may flow as well as potential pathways contaminated water may flow.

Attachment 3 - Entities DNR is Requesting Information From

Superior Slips – Tower Avenue Slip

Entity:	Why DNR is Requesting Information
DIJ Properties LLC	Owns the Globe Elevator Dock which is on the west side of the Slip (Tax ID # 04-804-00972-00). Historical coal storage and administratively closed LUST site (BRRTS # 03-16-000561). Site No. 1 in Sigma 2019 ¹ .
Barko Hydraulics (Pettibone Corp., The Heico Companies)	Heavy equipment manufacturer and historical large quantity generator of hazardous wastes. Discoloration or staining of roof evident in air photos. Current owner(s) of property with former coal dock & ship outfitting activities (Tax ID # 04-804-00967-00) and the former Speaks Company site (Tax ID # 04-804-00763-00). Sites No. 2 and 3 in Sigma 2019.
CHS	Current owner of the dock on the east side of the Slip (Tax ID #s 04-804-00744-00 and 04-804-00956-00). The property was the location of numerous entities including a smelting operation, paint factory, a stone cutting operation, plaster manufacturing, a foundry, and a salt storage facility. In the 1940s, grain elevators were constructed on the dock and are still in operation. Evidence of ocean-going vessels scraping paint and painting while berthed at the grain terminal. Site No. 4 in Sigma 2019. Also, owns one of the two parcels at the head of the Slip that was the former location of the Northwest Oil Co., Buffalo Oil company and entities that handled coal (Tax ID # 04-804-00915-00). Site No. 5 in Sigma 2019.
Ewa Oftedahl	Owns one of two parcels at the head of the Slip that was the former location of the Northwest Oil Co., Buffalo Oil company and entities that handled coal (Tax ID # 04-804-00918-00). Site No. 5 in Sigma 2019.
Reed Properties 1, Inc.	Owns property that was formerly used for a coal fired powerhouse, a foundry, and concrete works. (Tax IDs 04-804-00769-00 and 04-804-00904-00). Proximal to inlets of storm sewers with outfalls OT010006 and OT010007. Site No. 6 in Sigma 2019 (Streetcar Powerhouse).
Northern Engineering	Machine shop since 1937 (Tax ID # 04-804-00789-00). Proximal to inlets of storm sewer outfall OT010007. Tier 2 industrial stormwater permit (WI-S067857), FAC_SITE_ID 8395, FID 816071630. Site No. 7 in Sigma 2019.
Brian Shaver (property owner) Pomp's Tire Service (operator)	Owns property of historic foundry and machine shop. Tax ID # 04-804-00787-00. Proximal to inlets of storm sewer outfalls OT010007 and OT010006. Current location of Pomp's Tire Service, 116 Ogden Avenue. Site No. 8 in Sigma 2019.
OSI Environmental (operator) W.P. Heimbach Investments LLP INC (property owner)	Property with bulk storage of waste oil, 1972 to present. Tax ID # 04-804-00793-00. Potential conveyances to Tower Avenue Slip via storm sewer or former Winslow power plant piping. Industrial Tier 2 stormwater permit (WI-S067857), FAC_SITE_ID 15400, FID 816114200. Site No. 9 in Sigma 2019 (Power Plant & Waste Oil Site).

¹ Sigma, 2019. Historic Records Screening Report for City of Superior WI, Prepared for WDNR by The Sigma Group, November.
<https://apps.dnr.wi.gov/botw/GetActivityDetail.do?dsn=584798&siteId=32563900&crumb=1>

Entity:	Why DNR is Requesting Information
Heimbach Leasing	Owns the properties from the former electric power generation station (Winslow Power Plant) and operates a truck repair and leasing business at 211 Hughitt Ave., Superior, WI. Tax ID #s 04-804-00801-00, 04-804-0079-00, 04-804-00863-00, and 04-804-00876-00 (BNSF et. al.). Potential conveyances of contaminants to Tower Avenue Slip via former power plant piping and city sewers. Site No. 9 in Sigma 2019. Documented discharges from a waste oil tank that overturned in a flooded basement to the sewer emptying into Cummings Avenue Slip via outfall OT010150 (BRRTS # 04-16-54485). USCG and DNR responses to address oil in the surface water. The remediation of contaminated sediments in Cummings Ave. Slip was completed in 2021 under a Great Lakes Legacy Act project agreement (BRRTS #02-16-563449).
Superior Water Light & Power (SWL&P)	Owned and operated the former Winslow Power Plant, consisting of two oil fired steam boilers with a total capacity of 25 MW. High-cost generation system was only used for emergency purposes (WPSC 1985). Site No. 9 in Sigma 2019. Retired DNR staff believed that the power plant had intake/outfall structures in both the Tower Avenue and Cummings Avenue Slips. Potential conveyances to these slips via former power plant piping or city sewers. The remediation of contaminated sediments in Cummings Avenue Slip was completed in 2021 under a Great Lakes Legacy Act project agreement (BRRTS #02-16-563449). Also, SWL&P is the current owner of the parcel with Tax ID # 04-804-000903-01 that is between Tower slip and former power plant (Site No. 6 in Sigma 2019). Owner of narrow parcel (Tax ID 04-804-00993-00) that intersects a navigable stream that enters the Slip at outfall OT010009.
Union Pacific	Former Chicago & Northwest Transportation Co. railyard southwest of the head of the Slip, Tax ID #s 04-804-00968-00 and 04-804-00970-00 (railcar repair operations). Overlies or is adjacent to stormwater/surface water conveyances emptying to Tower Avenue Slip though city Outfall OT010009. Site No. 10 in Sigma 2019. Potential sediment impacts from historical railroad operations.
Hytten Properties	1901 N. 4 th St., Superior, WI. Site No. 11. in Sigma 2019. Historical boiler manufacturer location with contemporary scrap recycling activities evident in air photos from 2015 to 2021. Proximal to storm sewer inlets emptying into the Slip at outfall OT010009. Site No. 11 in Sigma 2019 (Northwestern Boiler Works).
Wisconsin Department of Transportation ²	1701 N 4 th St., Superior, WI. Former railway car and machinery repair barn, Tax ID # 04-804-00064-00), and BRRTS # 02-16-584408. Identified as Site No. 12 in Sigma 2019. Possible pathway for sediment contamination via municipal storm sewer system at outfall ID OT010006.
City of Superior ³	Owns and operates a stormwater conveyance system with five active multiple outfalls that discharge into the Slip: OT010005, OT010009, OT010509, OT010006, and OT010007—historical conveyances through abandoned outfall OT01004 and former sanitary and combined sewers. The city also owns a 0.24-acre parcel at the head end (southwest) of Slip (Tax ID # 04-804-00935-00). Administers the Superior Port in Duluth-Superior Harbor.

² The DNR is not requesting that the Wisconsin Department of Transportation (DOT) complete the same questionnaire since they are a state agency. Wisconsin DNR and DOT work closely together and coordinate on environmental matters through an existing memorandum of understanding (MOU). DNR is communicating with DOT about this matter under the MOU.

³ DNR is not requesting that the City of a Superior complete the same questionnaire since they are a unit of local government which owns and operates a municipal sewage collection system, wastewater treatment facility, wastewater pretreatment program, combined storm sewer system, combined storm sewer treatment plants, and a municipal separate storm sewer system (MS4). These systems may be

Entity:	Why DNR is Requesting Information
Magellan Pipeline	Magellan Pipeline operates a pipeline valve station on BNSF property (Tax ID # 04-804-0098-00). Petroleum releases have occurred at this location, BRRTS #02-16-000475, and affected other properties (Tax ID #s 04-804-01033-00 and 04-804-00979-00). Former Pure Oil Site in Sigma 2019. Adjacent to stormwater/surface water conveyances leading to Tower Avenue Slip via outfall OT010009.
Chevron	Successor to prior operators of petroleum tank farm/oil terminal site where petroleum releases have occurred and affected other properties (BRRTS #s 02-16-000336 and 03-16-000145). Former Pure Oil Site in Sigma 2019. Adjacent to stormwater/surface water conveyances leading to Tower Avenue Slip via outfall OT010009. BNSF is the property owner; Tax ID #s 04-804-01035-00 and 04-804-01033-00.
BNSF	BNSF owns multiple properties where petroleum discharges have been caused by others (former Pure Oil Site in Sigma 2019) and is also the owner and operator of a railroad adjacent to stormwater and surface water conveyances leading to Tower Avenue Slip via outfall OT010009. Potential for sediment impacts by releases from others and railroad activities. Tier 2 industrial stormwater permit (WI-S067857), Superior Yard, FAC_SITE_ID 50591, FID 816047430. Tax ID #s 04-804-01020-01, 04-804-00983-01, 04-804-00998-00, 04-804-00997-00, 06-806-00734-00, 06-806-00733-00, 06-806-00732-00, 06-806-00738-00, 06-806-00736-00, 07-807-02999-00, 04-806-00980-00 (BRRTS #02-16-000475), 04-804-01035-00 (BRRTS # 02-16-000336), 04-804-01033-00 (BRRTS # 03-16-000145), 04-804-01036-00 (open BRRTS # 02-16-577100), and 04-804-00876-00 (Site No. 6 in Sigma 2019).
Simko Real Property, LLC (Simko Recycling)	Potential offsite contamination conveyed by surface runoff and stormwater/surface water conveyances. Indications of sediment discharges to offsite storm sewer terminating at outfall OT010006; the pathway in the pipe was unabated until about 2013 when the city installed a grit chamber (CH010461). Potential surface runoff via ditches and contamination pathway to slip via outfall OT010009. Closed LUST site with continuing obligations and off-property impacts (BRRTS # 03-16-000554). Industrial stormwater permit for scrap recycling (WI-S058831), FAC_SITE_ID 2653, FID 816102430. Tax ID #s 04-804-00323-00, 04-804-00537-00, 04-80400551-00, 04-804-00970-01. Reported spill of 1,400 gallons of diesel and response when scrap punctured the fuel tank of a Union Pacific locomotive in March 2023, BRRTS # 04-16-593243. Based on the information on the spill and response, additional action is needed under Wisconsin's spills law, Wis. Stats. ch. 292. DNR assigned BRRTS # 02-16-593244 for additional action related to the diesel spill.

potential historical conveyances of sediment contamination but are regulated by the DNR with specific limitations and requirements for operations, monitoring, and reporting.

Attachment 4 - Links to Background Information and Reports

Background Topic:	Link:
Great Lakes Restoration	https://www.epa.gov/greatlakes/restoring-great-lakes
Areas of Concern	https://www.epa.gov/great-lakes-aocs
Contaminated Sediment	https://www.epa.gov/greatlakes/contaminated-sediment-great-lakes
Great Lakes Legacy Act	https://www.epa.gov/great-lakes-aocs/great-lakes-legacy-act
Remedial Action Plan	https://dnr.wisconsin.gov/topic/GreatLakes/StLouis.html

Tower Avenue Slip Reports

Report:	BRRTS #:	Link:
Historic Records Screening Assessment, Sigma 2019	11-16-584798	https://apps.dnr.wi.gov/botw/GetActivityDetail.do?dsn=584798&siteId=32563900&crumb=1
Superior Waterfront Characterization, EA 2016	11-16-585395	https://apps.dnr.wi.gov/botw/GetActivityDetail.do?dsn=585395&siteId=32857900&crumb=1
North End District Characterization, EA 2021	11-16-585325	https://apps.dnr.wi.gov/botw/GetActivityDetail.do?dsn=585325&siteId=32819900&crumb=1
Tower Avenue Slip Historical Data Review Technical Memorandum, AECOM 2022	11-16-591466	https://apps.dnr.wi.gov/botw/DownloadBlobFile.do?docSeqNo=253682&docName=20220808_99_Tower_Ave_Slip_Historic_Data_Review.pdf&docDsn=591466
Remedial Investigation Report, Tower Avenue Slip, AECOM 2023	11-16-591466	https://apps.dnr.wi.gov/botw/DownloadBlobFile.do?docSeqNo=273345&docName=20230602_37_Tower_Ave_Slip_RI_Summary_1of2.pdf&docDsn=591466 https://apps.dnr.wi.gov/botw/DownloadBlobFile.do?docSeqNo=273346&docName=20230602_37_Tower_Ave_Slip_RI_Summary_2of2.pdf&docDsn=591466
Remedial Actions Options Report, Tower Avenue Slip, AECOM 2023	11-16-591466	https://apps.dnr.wi.gov/botw/DownloadBlobFile.do?docSeqNo=268010&docName=20230907_39_Tower_Avenue_Slip_RAOR.pdf&docDsn=591466

The Bureau of Remediation & Redevelopment Tracking System (BRRTS) on the Web (BOTW) can be accessed at <https://dnr.wisconsin.gov/topic/Brownfields/botw.html>. Reports can also be obtained from BOTW by searching for the BRRTS activity numbers above or Activity or Location Name = Superior Slips.