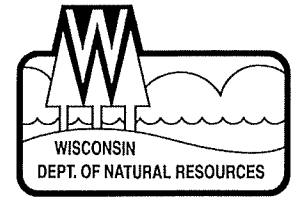


State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
2501 Golf Course Rd.
Ashland WI 54806-3505

Tony Evers, Governor
Adam N. Payne, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



September 27, 2023

MR CORY HART
HCI LIMITED PARTNERSHIP
2910 RIVER OAKES DR
MONROE LA 71201

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

SUBJECT: NOTICE OF NONCOMPLIANCE

Continuing Obligations Associated with Amoco Oil Terminal - FedEx Facility
2929 Halvor Lane, Superior, Wisconsin
WDNR BRRTS #02-16-592853 / FID #816131250
Douglas County Parcel #06-806-00739-05

Dear Mr. Hart:

This letter is to notify you that the Wisconsin Department of Natural Resources (DNR) believes that the above-named facility is out of compliance with Wisconsin Statutes (Wis. Stat.) chapter 292 and Wisconsin Administrative (Wis. Admin.) Code chs. NR 700 through NR 799. On August 29, 2023, the DNR performed a continuing obligations audit at the facility. This letter details the requirements of continuing obligations attached to the property, the noncompliance issues identified during the audit, and what is required to resolve those issues.

BACKGROUND

The property, located at 2929 Halvor Lane and which HCI Limited Partnership (HCI) now owns, is part of the former Amoco Oil Terminal facility (Site) identified by the DNR as the Bureau of Remediation and Redevelopment Tracking System (BRRTS) case #02-16-000331. The Site consisted of 14 large above ground storage tanks and associated piping used for petroleum storage and distribution, operating for approximately 75 years. A hazardous substance discharge at this Site was reported to the DNR in 1985 by Amoco Oil Company. Atlantic Richfield Company, a BP affiliated company (BP), is the responsible party for investigating and restoring the environment at the Site under Wis. Stat. section 292.11, known as the hazardous substances spill law. The facility identification number (FID) assigned by the DNR is #816131250.

BP has been performing investigative and interim remedial action activities at the Site since 1989. The investigative activities found widespread soil and groundwater contamination, primarily by volatile organic compounds at the Site. The Site infrastructure was demolished in the 1990s and the property was subdivided in the early 2000s.

HCI purchased several acres of the Site property and developed a freight terminal leased by FedEx in 2005. In 2020, HCI purchased additional adjacent property for an expansion of the existing FedEx facility. As part of that development, HCI proposed to manage contaminated surface soils on the Site either by construction of a cover/barrier of asphalt or placement in a berm that would be capped with a cover/barrier.

CONTINUING OBLIGATIONS

HCI requested to manage the contaminated soil on their property under Wis. Admin. Code § NR 718.12. A Revised Materials Management Plan (MMP) was submitted to the DNR on August 24, 2021, with details of the proposed actions. The DNR considered the proposed MMP activities to be an interim remedial action. A conditional approval of the MMP was issued by the DNR on August 31, 2021; a copy of the letter can be accessed at this link: [Amoco Oil Terminal - FedEx Facility](#), then opening the PDF document linked at 2021-08-31 Materials Management Plan Approval. The following continuing obligations (COs) were included as conditions of the approval:

Residual Soil Contamination (Wis. Admin. Code chs. NR 718, NR 500 to 599, and § NR 726.15(2)(b) and Wis. Stat. ch. 289)

Known soil contamination will remain under the areas of soil cover as indicated on the attached Figure 3, *Engineered Barriers, Dry Stormwater Pond and Soil Berm Location*. If soil in the locations shown on the map is excavated in the future, the property owner or right of way holder at the time of excavation must sample and analyze the excavated soil. If sampling confirms that contamination is present, the property owner or right of way holder at the time of excavation will need to determine if the material is considered solid waste and ensure that any storage, treatment or disposal complies with applicable standards and rules. Contaminated soil may be managed under Wis. Admin. Code ch. NR 718 with prior DNR approval.

In addition, all current and future property owners, occupants and right of way holders need to be aware that excavation of the contaminated soil may pose an inhalation and direct contact hazard; special precautions may be needed to prevent a threat to human health.

Residual Soil Contamination Management

If contaminated soil that was managed as proposed in the MMP dated May 27, 2021 (and subsequent revised MMPs dated August 10, 2021, and August 24, 2021) 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 material 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 and solid waste may pose a hazard, and special precautions may be necessary to prevent a health threat to humans.

If material that will be managed under this approval includes solid waste other than soil, it may be required to obtain approval from the DNR prior to excavating the waste or constructing any structure over the materials per Wis. Admin. Code § NR 506.085.

The locations where contaminated soil is proposed to be managed at the Amoco Oil Terminal - FedEx Facility is depicted on the attached Figure 2, *Excess Soil Generation Locations*, dated August 24, 2021, by the BBJ Group and Figure 3, *Engineered Barriers, Dry Stormwater Pond and Soil Berm Location*.

Depending on site-specific conditions, construction over contaminated soil or groundwater may also result in vapor migration of contaminants into enclosed structures or migration along underground utility lines. The potential for vapor intrusion and means of mitigation may need to be evaluated when planning any future redevelopment, and measures may need to be taken to ensure the continued protection of public health, safety, welfare and the environment at the site.

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, and searching for "3300-254."

Maintenance of a Cover

Engineered covers are proposed to be installed and maintained over contaminated soil that will be managed at the Amoco Oil Terminal – FedEx Facility as proposed in the MMP approval request dated May 27, 2021 (and subsequent revised MMPs dated August 10, 2021, and August 24, 2021). The inspection and maintenance of the barrier/cover will include the pond liner. A maintenance plan is attached, which describes the inspection and maintenance activities that will apply to the proposed covers.

An updated maintenance plan must be provided to the DNR once the engineered covers have been constructed. The updated maintenance plan must address actual site conditions per Wis. Admin. Code § NR 724.15 (3) (h) and will include the inspection and maintenance of the pond liner.

A map is attached, Figure 3, *Engineered Barriers, Dry Stormwater Pond and Soil Berm Location*, which shows where contaminated soil is proposed to be managed and the extent of the proposed covers. Once constructed, inspections of the engineered covers will be required per Wis. Admin. Code § NR 724.13), and submittal of inspection reports may also be required per Wis. Admin. Code § 727.05 (1) (b) 3. Notification to the DNR is required before changing to a non-industrial use if the cover is approved for industrial land use, per Wis. Admin. Code § NR 727.07 (3) to ensure that the cover will be protective for that use.

The maintenance plan prohibits certain activities in areas where maintenance of a cover or barrier is intended to prevent contact with any remaining soil contamination. The following activities are prohibited on any portion of the property where engineered cover is required, unless prior notification is provided to DNR to determine whether further action may be necessary to protect human health, safety, or welfare of the environment (§ NR 727.07):

- removal of the existing barrier or cover
- replacement with another barrier or cover
- excavating or grading of the land surface
- filling on covered or paved areas
- plowing for agricultural cultivation
- construction or placement of a building or other structure
- changing the use or occupancy of the property to a residential exposure setting, which may include certain uses, such as single or multiple family residences, a school, day care, senior center, hospital or similar residential exposure settings.

CURRENT CONDITIONS

On August 29, 2023, Mr. John T. Hunt of the DNR performed a continuing obligations review and site inspection. Prior to the on-site inspection you were contacted regarding the continuing obligations review. The on-site FedEx contact, Mr. Brad Renninger, accompanied Mr. Hunt during the inspection. A DNR *Remediation and Redevelopment Continuing Obligation Review* form completed after the inspection is attached to this letter.

The following observations were made during the August 29, 2023, inspection:

- The on-site inspection noted that the construction, in general, appear as described in the *Revised Construction Completion Report* (considered to be a Remedial Action Documentation Report (RADR)) dated September 13, 2022, submitted to DNR by BBJ.

- The asphalt and concrete paved areas and the stormwater pond appeared to be constructed properly as per the *Revised Construction Completion Report*.
- The cover/barrier overlying the contaminated soil berm was lacking vegetation and the topsoil was very thin and of poor quality. Numerous exposures of the liner material were observed. Photos of the berm are included in the attached Continuing Obligation Review form.

NOTICE OF NON-COMPLIANCE

The approval for the MMP was granted by meeting the requirements of Wis. Admin. Code ch. NR 718. The authority to set site-specific continuing obligations with the soil cover/barrier are derived from Wis. Admin. Code ch. NR 722. Notification for removal of a soil cover/barrier is required by Wis. Admin. Code NR 727.07(1).

The soil cover/barrier currently covering the contaminated soil berm is inadequate and was not constructed within the specifications of the approved MMP, therefor the Site is not in compliance with Wis. Admin. Code chs. NR 718 and NR 722.

ACTIONS NEEDED

To achieve compliance with Wis. Admin. Code NR 700 – 799, the soil cover/barrier covering the contaminated soil berm is required to meet the specifications approved in the August 31, 2021, MMP. Eight (8) inches of topsoil is required. Once topsoil has been placed, vegetation on the cover must be established.

Within the next 30 days, by October 27, 2023, please submit a plan prepared under the direction of a Professional Engineer to address the actions needed. It should be noted the above required work must be performed under the direction of a Professional Engineer registered in the State of Wisconsin.

If you have any questions or comments regarding this issue, please feel free contact DNR Project Manager John T. Hunt at (715) 392-3126 or at Johnt.Hunt@Wisconsin.gov. You can also contact me at (715) 208-4004 or at Christopher.Saari@Wisconsin.gov.

Sincerely,



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

Attachments:

- *Remediation and Redevelopment Continuing Obligation Review* (DNR Form 4400-232), August 29, 2023

cc: John Hunt – DNR Peshtigo

State of Wisconsin
 Department of Natural Resources
 PO Box 7921, Madison WI 53707-7921

Remediation & Redevelopment Continuing Obligation Review

Form 4400-232 (R 07/22) Page 1 of 8

BRRTS ID No. 02-16-5928

Reviewer: JOHN T HUNT

Region: NOR Review Date: 09/26/2023

Site Name: Amoco Oil Terminal - FedEx Facility

See RR5242 for instructions <http://intranet.dnr.state.wi.us/int/aw/rr/guidance/RR5242.pdf>. Steps with an * denote DNR follow up; ** denote RP/property owner follow up. If auditing a VPLE site, use the applicable LUST or ERP BRRTS number. Use the NOTES area in each section to add information not otherwise addressed.

File Review:

1. Review BRRTS, and the file if needed, to identify the File Review information:

Site Address	City	ZIP Code
2929 Havlor Lane	Superior	54880
County Parcel Identification Number (PIN)	FID Number	
06-806-00739-06	816131250	

Original Responsible Person

ATLANTIC RICHFIELD CO (A BP AFFILIATED CO)

Has the property been transferred since the continuing obligation was recorded/applied? No Yes

If Yes: Current Property Owner

HCI LIMITED PARTNERSHIP (CORY HART)

Phone Number

(318) 323-0209

Email

CHART@HCILP.COM

Select all continuing obligations applied (at case closure or RAP approval or letter to LGU):

Add to BRRTS	AC in BRRTS	AC	Action Code (AC) Meaning
<input type="checkbox"/>	<input type="checkbox"/>	51	Deed notice
<input type="checkbox"/>	<input type="checkbox"/>	52	Deed restriction for soil
<input type="checkbox"/>	<input type="checkbox"/>	730	Groundwater use restriction
<input type="checkbox"/>	<input type="checkbox"/>	95	Deed instrument conditions met (for audits, use if deed restriction was updated by filing a deed notice)
<input type="checkbox"/>	<input type="checkbox"/>	101	GIS Registry PDF modified - date DNR letter sent
<input type="checkbox"/>	<input type="checkbox"/>	104	Site removed from GIS Registry - date DNR letter sent
<input type="checkbox"/>	<input type="checkbox"/>	696	Continuing obligation required of LGU to maintain liability exemption
<input type="checkbox"/>	<input type="checkbox"/>	605	Green Space Grant awarded (deed restriction)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	56	Continuing Obligation applied (use with codes 220-238)
<input type="checkbox"/>	<input type="checkbox"/>	46	Impacted Right-of-Way
<input type="checkbox"/>	<input type="checkbox"/>	220	Soil at industrial use level
<input type="checkbox"/>	<input checked="" type="checkbox"/>	222	Cover/engineered containment system (pavement, soil cover, etc.)
<input type="checkbox"/>	<input type="checkbox"/>	224	Structural impediment (buildings or other structures)
<input type="checkbox"/>	<input type="checkbox"/>	226	Vapor mitigation/response
<input type="checkbox"/>	<input type="checkbox"/>	228	Site-specific (identify in comment field)
<input type="checkbox"/>	<input type="checkbox"/>	230	LGU was directed to take a protective action
<input type="checkbox"/>	<input checked="" type="checkbox"/>	232	Residual soil contamination > RCLs/SS RCLs (use with AC 220, 222, 224)
<input type="checkbox"/>	<input type="checkbox"/>	234	Monitoring well needs to be abandoned
<input type="checkbox"/>	<input type="checkbox"/>	236	Site closed with groundwater contamination > ES
<input type="checkbox"/>	<input type="checkbox"/>	238	Maintenance and inspection documentation required to be submitted
<input type="checkbox"/>	<input type="checkbox"/>	185	Closure Compliance Review completed
<input type="checkbox"/>	<input type="checkbox"/>	186	Closure Compliance Review - RP follow up needed
<input type="checkbox"/>	<input type="checkbox"/>	187	Closure Compliance Review follow up completed
<input type="checkbox"/>	<input type="checkbox"/>	99	Use this code with comments, for actions not listed under AC 186 (i.e. submittal of inspection reports)

How was site selected for audit? (AC = BRRTS Action Code)

- Vapor Mitigation AC 226
- VPLE with AC 56
- Enforcement Follow-up
- Other: _____
- Green Space Grant AC 605
- AC 220, 222, 224, 228, or 230
- Deed Restriction AC 52 or 696 (LGU)
- Age of Remedy
- Complaint Received
- Regional Priority

Date of:

- Final Closure _____
- Certificate of Completion _____
- Green Space Grant _____
- Remedial Action Plan Approval 08/31/2021
- General Liability Clarification Letter _____
- Local Gov't Unit (LGU) Letter _____

Describe any site-specific requirements (AC 228) that the site owner and/or responsible party needed to address:
COs applied to FedEx property per August 31, 2021 approval to manage contaminated soil on-site letter.

Is the site on BRRTS as having residual contamination and continuing obligations?

- Yes
- No – Add to BRRTS using applicable action codes (56, etc.)*

Were neighboring properties affected?

- Yes
- No

If yes, are these properties listed in BRRTS with AC 66? Yes No

Was a maintenance plan required at closure? NA No Yes – It is: in the file PDF missing

If no maintenance plan was required, offer the property owner the template model with inspection log, and note in the follow up section of the audit that one was provided on the audit date

Was/were the appropriate restriction(s) recorded with the Register of Deeds? Yes No NA

Has a restriction been amended, or been nullified by DNR? No

- Yes: Was BRRTS updated? (95) Yes No*
- Was the CO PDF updated? Yes No*

Notes:

The HCI Limited Partnership property, leased to FedEx, is part of the original Amoco Oil Terminal Site 02-16-000331, with BP North America as the RP. An August 31, 2021 Approval to Manage Contaminated Soil On-Site letter applied the continuing obligations to the HCI property.

Site Visit:

2. Contact the site owner for access. Provide a copy of the maintenance plan, if applicable. If the audit is being conducted for a CO which would now require a maintenance plan, provide a template version if no maintenance plan was required at closure, for the property owner's use (voluntary).
3. Walk the site (ideally with the owner or responsible party) to review the site conditions against the conditions documented at closure/other to verify or change answers to questions in #1. Discuss use of the maintenance plan or template.
4. With the site owner/RP (if possible), answer the following for DNR RR records:

Did the site owner know about the continuing obligation(s)? Yes No

Have site conditions changed since closure that would affect either a deed restriction or other restrictions or requirements associated with the site?

- No
- Yes – Explain:

Examples: 1) a building has been razed and investigation and remediation occurred.
2) excavation or residential development has occurred in a restricted area.

Has a pavement (asphalt or concrete) cover, soil cover or other sort of cover, such as a building, been removed or is it in disrepair? No/NA

Yes – Should it be replaced or repaired? Yes** No

If a performance standard was the final remedy, has it been altered?

No

Yes – Explain:

Was the DNR notified? Yes No

Have local zoning changes occurred since closure?

No/NA

Yes – Does it appear to impact the effectiveness of the restriction?

No

Yes – Describe:

Is soil sampling needed to determine if the final remedy has been modified such that a direct contact threat exists?

No

Yes – Describe:

For example, an asphalt cover has been removed or is in disrepair, or a new contaminated site is present upgradient, etc.

Has additional monitoring or remediation been done since the site was closed?

No

Yes – Describe:

Does a new threat to public health or the environment exist (e.g. new sources or exposure routes)?

No

Yes – Does sampling need to be performed?

No

Yes** – Describe what should be done to address the problem, and by whom:

Is the vapor mitigation system or sub-slab depressurization system (SSDS) operating as designed? (pressure gradient being maintained)

Yes

NA

No** – Describe any follow up needed:

Have any of the exposure assumptions used for closure changed at this site?

NA

No

Yes – Describe any follow up needed:

Has the land use at this site changed such that a vapor intrusion pathway may now exist?

No

Yes – Describe any follow up needed:

Has the land use changed such that there are either health or safety issues?

- No
- Yes – Describe any follow up needed:

Notes:

COMPLIANCE AND FOLLOW-UP SUMMARY:

5. Identify compliance and any follow up needed.

Is the site in compliance with the continuing obligations/closure approval document?

- Yes
- No – Describe what's not in compliance and the reasons for noncompliance:

Topsoil cover over bermed area is not in compliance with the materials management plan (MMP) approved by DNR in an Aug. 31, 2021 letter. Topsoil was specified in the MMP to be 8 inches in depth and vegetated. The inspection found thin poor quality topsoil with numerous exposures of cap liner material and little to no vegetation on the cap.

(May depend on extent of non-compliance, non-maintenance of remedy or changed ownership or conditions. If case is out of compliance, it should be prioritized by the region, for new casework or enforcement, as needed.)

Has the maintenance agreement required at closure been followed?

- Yes
- NA
- No – Describe:

Was the property owner reminded to complete and document the (yearly) inspections?

- Yes
- NA
- No – Why not?

Was a maintenance plan or template provided to the property owner at the site visit?

- Yes
- NA
- No – If no, why not?
Owner has copy.

6. Are additional actions by the RP property owner warranted at the site? *The intent is to return the site to compliance with continuing obligation. If a significant land use change has occurred, and/or further remedial action is needed, determine if the site meets the NR 726 reopening criteria.***

- No
- Yes – Summarize the actions needed to return the site to compliance and identify who is responsible:
Add higher quality topsoil to the berm and establish vegetation as required in the MMP approval. The approved MMP specified 8 inches of topsoil covering the berm cap liner.

Notes:

Add AC 186 for RP/property owner follow-up required. Use AC 99 if a reminder was provided to the property owner to complete and document inspections.

7. * Does the site require follow up by DNR?

No

Yes: contact or enforcement to return site to compliance with continuing obligation

updating BRRTS for the CO PDF (adding or modifying a packet)

reopen site (add ACs 186, 12 and 13)

other: _____

8. * Attach photographs of the site, documenting site conditions. Label the photos with the site name/BRRTS Activity number/date/view. If a follow-up letter is sent, include a copy with the audit. (audit/photos/follow-up letter)

9. * Save a copy of the audit using the following naming convention:

YYYYMMDD_185_CO_Audit.pdf. For follow-up documentation use YYYYMMDD_186_Follow_Up_Needed.pdf.

10. Update applicable BRRTS action codes on the Table on page 1. Use the regional tracking sheet, and have your Regional EPA update the ACs and upload the audit PDF into BRRTS.

11. Notify Central Office when the audit has been completed and loaded into BRRTS.

{Click to add an image file (*.bmp, *.jpg, *.gif, *.png, *.tif) For best results, insert a photo with horizontal orientation. Crop vertical photos to a horizontal orientation, if needed.}

Date added: 08/29/2023



Title: South end of berm, viewing northwest, note little to no vegetation and numerous exposures of cap liner material.

{Click to add an image file (*.bmp, *.jpg, *.gif, *.png, *.tif) For best results, insert a photo with horizontal orientation. Crop vertical photos to a horizontal orientation, if needed.} Date added: 08/29/2023



Title: Exposures of cap/liner material at southwest end of berm, viewing north.

{Click to add an image file (*.bmp, *.jpg, *.gif, *.png, *.tif) For best results, insert a photo with horizontal orientation. Crop vertical photos to a horizontal orientation, if needed.} Date added: 09/01/2023



Title: Berm viewing south, storm water detention pond on right. Note scarce vegetation.

{Click to add an image file (*.bmp, *.jpg, *.gif, *.png, *.tif) For best results, insert a photo with horizontal orientation. Crop vertical photos to a horizontal orientation, if needed.} Date added: 09/01/2023



Title: South half of storm water pond viewing southwest. Note outflow structure in center at end of pond.

{Click to add an image file (*.bmp, *.jpg, *.gif, *.png, *.tif) For best results, insert a photo with horizontal orientation. Crop vertical photos to a horizontal orientation, if needed.} Date added: 09/01/2023



Title: North end of storm water pond viewing west. Note asphalt parking lot in background which also serves as cap/cover.

{Click to add an image file (*.bmp, *.jpg, *.gif, *.png, *.tif) For best results, insert a photo with horizontal orientation. Crop vertical photos to a horizontal orientation, if needed.} Date added: 09/01/2023



Title: