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To: [Sager, John E - DNR](#)
Cc: jmehle@swlp.com; jskandal@swlp.com; erin.hughes@foth.com; [Engdahl, Mark B](#)
Subject: BNSF Response to Notification of Continuing Obligations, BRRTS# 02-16-275446, SWL&P MGP Site, 800 Hill Avenue, Superior, WI 54880
Date: Friday, June 3, 2022 4:23:28 PM

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Mr. Sager,

BNSF is in receipt of a Notification of Continuing Obligations and Residual Contamination (Notification) dated May 4, 2022, from Jamie Mehle, Supervising Engineer, SWL&P, related to the above-referenced site, BRRTS# 02-16-275446. BNSF is an adjoining landowner impacted by SWL&P's contamination and is not a responsible party for this site. BNSF requests that Wisconsin DNR not approve any case closure for this site that would release the responsible party, SWL&P, from continuing obligations with respect to BNSF's property, or that would place any continuing obligations on BNSF.

SWL&P's consultant Foth and BNSF are in the process of finalizing an access agreement for Foth to collect geotechnical boring samples on BNSF property. It is BNSF's understanding that the geotechnical samples were needed so Foth could refine their remedial design for the site. Once the remedial design for the site is finalized, BNSF expects that Foth will submit a new request for access to perform additional proposed work (e.g., excavation, soil vapor extraction, etc.) on BNSF property. BNSF would need to review and approve the additional proposed work, and then amend or issue a new access agreement for the work.

BNSF believes it is premature for SWL&P to request case closure, and BNSF requests that any case closure be postponed until BNSF has complete information regarding the proposed remedial design and until BNSF and SWL&P have the opportunity to negotiate an agreement regarding any continuing obligations related to SWL&P contamination on BNSF property. BNSF expects SWL&P, as the responsible party, to propose a legally enforceable agreement to BNSF regarding any such continuing obligations.

Please direct any future correspondence regarding the Notification to myself and to Mr. Mark Engdahl, BNSF Director of Environmental Project Controls & Real Estate. If you have any questions or need additional information, please feel free to contact us.

Thank you.

Brooke L. Gaede
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BNSF Railway Company

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