

April 15, 2024

Mr. Joe Graham
Project Manager
Wisconsin Department of Natural Resources
810 West Maple Street
Spooner, WI 54801

RE: BNSF Railway Company Response to Request for Information, General Mills
Slip, Superior, Wisconsin BRRTS #11-16-591466

Dear Joe:

Please accept this response to your letter dated January 23, 2024 requesting information in the possession of BNSF Railway Company (“BNSF”) relating to the General Mills Slip matter and completed to the best of BNSF’s ability based on the information available.

Thank you for granting the extension in supplying this response in March 2024. Due to the size of the files, for ease of access, the responsive documents may be accessed at a third-party file share site. The direct link will accompany the transmittal of this letter. Please contact me if you have any issues accessing the documents.

Please note BNSF is utilizing the same definition of Site as DNR in defining the scope of this response. BNSF is providing information related to the “property owned by Burlington Northern Inc. (Douglas County PID #04-804-00999-00, 04-804-01020-01, 04-804-00983-01, 04-804-00998-00, and 04-804-00997-00) north of Winter Street in Superior. . .” (referred to in this letter as the “Site”).

There is considerable distance between the DNR-defined sediment project location and the inland Site owned by BNSF. With respect to the historical “coke oven” operation, BNSF is not aware of or in possession of documents describing the installation, operation or decommissioning of “coke ovens” at the Site. The current Site owned by BNSF is undeveloped vacant land. Based on preliminary evaluation of the Site documents, there are no outfalls of surface water or stormwater discharges connecting the Site to the sediment project location.

Further, there is no open remedial action site on the Site, nor is BNSF aware of any information suggesting BNSF caused, possesses, or controls the discharge of a hazardous substance at the Site (i.e. there is no Phase II environmental assessment information or sampling results of environmental media on the Site). Therefore, similar to the Oil Barge Dock parcels identified by DNR, there is no information available to suggest that any potential contamination

present on the General Mills Site parcels is emanating from the Site to neighboring parcels or the sediment project location.

With this context regarding preliminary results of the evaluation of responsive documents, BNSF provides the following responses to the questionnaire (DNR questions in bold):

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.

For Douglas County PID # **04-804-00997-00**:

Current owner: BNSF. Railroads in preceding interest to BNSF acquired the land from the “Land and River Improvement Company” in March 1888.

No leases, permits, track agreements or easements were found.

For Douglas County PID # **04-804-00998-00**:

Current owner: BNSF. Railroads in preceding interest to BNSF acquired the land from the “Land and River Improvement Company” in May 1888.

No leases, permits, track agreements or easements were found.

For Douglas County PID # **04-804-00999-00**:

Current owner: BNSF. Railroads in preceding interest to BNSF acquired the land from the “Land and River Improvement Company” in February 1888.

No leases, permits, track agreements or easements were found.

For Douglas County PID # **04-804-01020-01**:

Current owner: BNSF. BNSF acquired the land from Superamerica Stations, Inc. in August 1974.

No leases, permits, track agreements or easements were found.

For Douglas County PID # **04-804-00983-01**:

Current owner: BNSF. BNSF acquired the land from Lake Superior Terminal & Transfer in August 1974.

No leases, permits, track agreements or easements were found.

For all parcels, BNSF recorded separate Right of First Refusal Agreements with Midwest Energies Resources Company in May 2011 and the City of Superior in June 2004, respectively. See subfolder Deeds for copies of responsive documents.

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.

None identified.

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.

None identified.

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.

None identified.

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?

No, not to the knowledge of BNSF.

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.

No, not to the knowledge of BNSF. Environmental investigations were not performed on the Site and no records of environmental assessments are in the possession of BNSF.

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.**

See responses to Questions 1, 4, 5 and 9. There is no open remedial action site on the Site, nor is BNSF aware of any information suggesting BNSF caused, possesses, or controls the discharge of a hazardous substance at the Site (i.e. there is no Phase II environmental assessment information or sampling results of environmental media on the Site). Therefore, there is no information available to suggest that any potential contamination present on the site is “seeping” from or emanating from the Site to neighboring parcels or the sediment project location.

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.**

None identified, to the knowledge of BNSF. See response to Question 6.

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.

With respect to hazardous substances or solid or hazardous waste, to the knowledge of BNSF, no responsive information is available.

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.

No responsive information is available to the knowledge of BNSF.

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.

Not applicable to the knowledge of BNSF.

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.).

Not applicable to the knowledge of BNSF.

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.

No, not to the knowledge of BNSF.

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.

No, not to the knowledge of BNSF.

14. Provide the following information about the Site, if applicable:

Please see subfolder Historical Maps for copies of responsive documents, generally. These Historical Maps depict areas broader than the Site.

a. Property boundaries, including a written legal description,

Please see subfolder Deeds for copies of responsive documents with legal descriptions.

b. Location of underground utilities (telephone, electrical, sewer, water main, etc.),

No underground utilities are depicted in the responsive documents, to the knowledge of BNSF.

c. Surface structures (e.g., buildings, tanks, etc.),

Not applicable to the knowledge of BNSF.

d. Groundwater wells, including drilling logs,

Not applicable to the knowledge of BNSF.

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,

Not applicable to the knowledge of BNSF.

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,

Please see subfolder “Historical Maps” for depiction of physical structures at 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.

Please see subfolder “Historical Maps” for copies of responsive documents. BNSF has not included publicly available 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.

Not applicable to the knowledge of BNSF as the Site was never utilized as a physical plant facility.

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.

No, not applicable or to the knowledge of BNSF.

17. Describe all potential pathways for migration of contamination, including airborne deposition, drainage improvements, utility corridors, sediments, bedrock and permeable

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material or soil along which dust/particulate, vapors, and free product may flow as well as potential pathways contaminated water may flow.

No assessment of all potential migratory pathways has taken place because BNSF is not aware of any contamination at the Site. BNSF is unaware of any subsurface conditions for this vacant land. There is a small creek on property at South end of 04-804-01020-01 and 04-804-00983-01. This creek crosses through 04-804-00998-00.

Thank you for your evaluation of this letter and the responsive documents. Please reach out to me if you have any questions.

Very truly yours,

GODFREY & KAHN, S.C.



Edward (Ned) B. Witte
Attorney

Attachments:

Responsive Documents shared Electronically

cc: Sandra Moore, BNSF
Brooke Gaede, BNSF
Greg Jeffries, BNSF
Bill Nelson, Godfrey & Kahn, S.C.

EBW:wjn

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