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WISCONSIN
DEPT. OF NATURAL RESOURCES

January 30, 2020

Mr. Jay Shambeau, City Administrator
City of West Bend
1115 S. Main Street
West Bend, WI 53095

Subject: Review of Soil Management Plan
TIF District #12, Former Gehl Co
143 Water Street, West Bend, WI
BRRTS #: 02-67-554753

Dear Mr. Shambeau:

On December 23, 2019, the Wisconsin Department of Natural Resources (DNR) notified you that an application for an exemption to solid waste laws, under Wis. Admin. Code §§ NR 718.12 and NR 718.15, is required to reuse contaminated soils generated during this development project at an unlicensed facility. Your environmental consultant, Tetra Tech, Inc. subsequently submitted the Soil Management Plan and Health & Safety Plan (The SMP) for construction activities at the site.

The DNR received the SMP on December 30, 2019, with a fee for a written response. The DNR appreciates the quick submittal of the SMP and your willingness to ensure the safety of workers on this site. Unfortunately, there was not sufficient information within the SMP (such as information regarding where soil will be generated and reused) to allow us to make a determination at this time. It is recommended that an updated exemption request be submitted for review after you and your consultant review DNR's recommended format for making such a request (available at https://dnr.wi.gov/files/PDF/forms/4400/4400-315.pdf) and the specific requirements for soil management plans outlined in Wis. Admin. Code §§ NR 718.12(2)(b). The DNR also provides the following comments to facilitate the submittal of a complete exemption application.

- Additional information regarding the use of a Wis. Admin. Code § NR 718.12 exemption is provided in guidance document RR060 which can be found online at: https://dnr.wi.gov/files/PDF/pubs/rr/RR060.pdf.

- Soils contaminated with volatile organic compounds must not be placed under or near future building foundations and must adhere to the location criteria in Wis. Admin. Code § NR 718.12(1)(c).

- Soils contaminated with chlorinated volatile organic compounds are not typically approved by the DNR for re-use due to the risks this contamination poses to human health and the environment. It is unclear from the SMP exactly what soil will be reused on site or where. The DNR cannot yet determine whether or not reuse of excavated soil would be permitted at this site. If not reused on site, you may consider disposing of these soils at a licensed facility.

- Providing a cut and fill map, with arrows indicating soil movement, as part of the exemption request will be helpful to describe how material is proposed to be managed. The map should help identify locations

where contaminated soil will be excavated and where it will be placed, volumes of soil to be moved at each excavated and deposited location, the locations of the proposed utility trenches, and the locations of residual soil contamination relative to the proposed excavations.

- Any soils generated for utility trench construction to be re-used on or off site must also have an approved Wis. Admin. Code § NR 718.12 exemption even if the soils are replaced in the trench.

- A table of analytical results that identifies which specific samples represent contaminated soil that will be excavated or otherwise disturbed and reused on site is useful to demonstrate sufficient characterization. Unless otherwise approved by the DNR, there must be enough sampling data to meet the code requirement under Wis. Admin. Code § NR 718.12(1)(e)(1) which requires one sample for each 100 cubic yards of soil moved for the first 600 cubic yards then one sample for each 300 cubic yards thereafter. It is possible that additional soil samples will need to be collected to meet this requirement.

- Provide a waste determination for the soils to be moved. An exemption cannot be granted for soils designated as hazardous. It is the DNR's understanding that site redevelopment will begin with removal of the former building slab. This waste material will also need to be characterized for disposal.

- A professional engineer must oversee the preparation of a Wis. Admin. Code § NR 718.12 exemption and provide the certification required under Wis. Admin. Code § NR 712.09.

Other DNR Comments

- An exemption to build on a historic fill site will be required to excavate or construct on this site since the soil boring logs from the site investigation indicated waste materials were present in the subsurface. The exemption application, Form 4400-226 may be found at: https://dnr.wi.gov/files/PDF/forms/4400/4400-226.pdf.

- The DNR encourages the City of West Bend to take this opportunity for hot-spot contaminated soil remediation. Any soil appropriately disposed of at a licensed facility does not require an exemption under Wis. Admin. Code § NR 718.12.

The DNR recognizes your efforts to address the contamination at this site and looks forward to working with you to develop a suitable material management strategy. If you have any questions about this letter, please contact me, the DNR Project Manager, at 920-893-8523 or johnm.feeney@wisconsin.gov.

Sincerely,

John Feeney, PG
Remediation and Redevelopment Program
Wisconsin Department of Natural Resources

cc: Mr. Dan Morgan, Tetra Tech, Inc. (electronic)
Mr. Mark Piotrowicz, City of West Bend (electronic)
Ms. Jackie Kohn – Born, Kunkel Engineering Group (electronic)