State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
1027 W. Saint Paul Avenue
Milwaukee WI 53233

Tony Evers, Governor
Preston D. Cole, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711

November 23, 2021

Ms. Susan Winnen
City of Oak Creek
8040 South 6th Street
Oak Creek, WI 53154

Building on a Historic Fill Site Exemption Approval
Lakeshore Commons Development
4200 East Lake Vista Boulevard
Parcel No. 8689993001
Oak Creek, Wisconsin
BRRTS# 07-41-577902 FID# 241869870

Dear Ms. Winnen:

The Wisconsin Department of Natural Resources (Department) has received your request for a grant of exemption from regulation under Wis. Admin. Code § NR 506.085. Your application discusses soil contamination and remediation at the property which was documented in the Final Case Closure with Continuing Obligations letter issued on October 21, 2014. A Post Closure Modification Notice to Proceed and a Materials Management Plan were approved on September 15, 2021 for Bureau of Remediation and Redevelopment Tracking System (BRRTS) Activity # 02-41-531534 allowing the proposed modifications to move forward. This site received Case Closure with Continuing Obligations, a Voluntary Party Liability Exemption Certificate of Completion, and a previous Historic Fill Exemption for the purpose of constructing a concrete walking path.

The Department is issuing this second conditional grant of exemption from the prohibitions contained in Wis. Admin. Code § NR 506.085, provided you comply with the conditions of this grant of exemption. This grant of exemption is limited to the proposed development area shown on the attached Figure 3, Non-Exempt Fill Observations. The proposed development described in your application consists of constructing asphalt or concrete roadways and sidewalks along with green spaces. All of these features are depicted on the attached Figure 05, Cap Maintenance Location - Phase 1 EPEC. If you are considering additional changes beyond those described in the application, a new application must be submitted to the Department for approval.

Please review the information contained in the publication *Development at Historic Fill Sites and Licensed Landfills: Considerations and Potential Problems* PUB-RR-685 to assist you in preventing environmental or safety problems during and after development.

You are reminded that this approval does not relieve you of obligations to meet all other applicable federal, state and local permits, as well as zoning and regulatory requirements including site closure under Wis. Admin. Code ch. NR 726. If you have any questions concerning this letter, please contact Greg Moll at 262-202-3921.

Sincerely,

Michele R. Norman

Michele R. Norman, Supervisor
Remediation and Redevelopment Program
Southeast Region

cc: Donna M. Volk, Ramboll US Consulting, Inc.
Jeanne M. Tarvin, Ramboll US Consulting, Inc.

Attachment: Figure 3, Non-Exempt Fill Observations
Figure 05, Cap Maintenance Location - Phase 1 EPEC

BEFORE THE

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

CONDITIONAL GRANT OF EXEMPTION
FOR
DEVELOPMENT ON A PROPERTY
WHERE SOLID WASTE HAS BEEN DISPOSED

FINDINGS OF FACT

The Department finds that:

1. Ramboll US Consulting, Inc., on behalf of the City of Oak Creek and F Street Development Group, has submitted a request received on September 23, 2021 for an exemption from the prohibition in Wis. Admin. Code § NR 506.085.

2. Historically the site was filled with a soil mixture containing foundry sand, slag and/or coal clinkers.

3. A Post Closure Modification Notice to Proceed and a Materials Management Plan Approval were issued on September 15, 2021 for BRRTS activity # 02-41-531534.

4. An Historic Fill Exemption was issued on October 12, 2016 for BRRTS activity # 07-41-577902.

5. Case Closure with Continuing Obligations was issued on October 21, 2014 for BRRTS activity # 02-41-531534 and a VPLE Certificate of Completion was issued on December 1, 2014 for BRRTS activity # 06-41-554563.

6. If the conditions set forth below are complied with, the development of the site will not result in environmental pollution as defined in Wis. Stat. §§ 289.01(8) and 299.01(4).

CONCLUSIONS OF LAW

1. In accordance with the foregoing, the Department has the authority under Wis. Admin. Code § NR 500.08(4), to issue the following conditional grant of exemption.

2. The Department has the authority under Wis. Admin. Code § NR 500.08(4) to issue an exemption from the prohibition in Wis. Admin. Code § NR 506.085, if the proposed development will not cause environmental pollution as defined in Wis. Stat. §§ 289.01(8) and 299.01(4).

3. The Department has authority to approve a grant of exemption with conditions if the conditions are necessary to ensure compliance with the applicable provisions of Wis. Admin. Code chs. NR 500 to 538, or to assure that environmental pollution will not occur.

4. The conditions set forth below are necessary to ensure compliance with the applicable provisions of Wis. Admin. Code chs. NR 500 to 538, and to assure that environmental pollution will not occur.

CONDITIONAL GRANT OF EXEMPTION

The Department hereby issues an exemption to the City of Oak Creek from the prohibition in Wis. Admin. Code § NR 506.085, for development on a property which contains solid waste as proposed in the submittal received September 23, 2021 subject to the following conditions:

1. No action related to the development of the property may be taken which will cause a significant adverse impact on wetlands as provided in Wis. Admin. Code ch. NR 103.

2. No action related to the development of the property may be taken which will cause a significant adverse impact on critical habitat areas, as defined in Wis. Admin. Code § NR 500.03(55).

3. No action related to the development of the property may be taken which will cause a detrimental effect on any surface water, as defined in Wis. Admin. Code § NR 500.03(62).

4. No action related to the development of the property may be taken which will cause a detrimental effect on groundwater, as defined in Wis. Admin. Code § NR 500.03(62), or will cause or exacerbate an attainment or exceedance of any preventive action limit or enforcement standard in Wis. Admin. Code ch. NR 140.

5. No action related to the development of the property may be taken which will cause an emission of any hazardous air contaminant exceeding the limitations for those substances contained in Wis. Admin. Code § NR 445.03.

6. No action related to the development of the property may be taken which will cause an exceedance of a soil clean up standard in Wis. Admin. Code ch. NR 720.

7. No action related to the development of the property may be taken which will cause a discharge of contaminated storm waters or sediment.

8. This grant of exemption should not be construed as a site closure under Wis. Admin. Code ch. NR 726.

9. The development construction activities shall be coordinated with the Post Closure Modification Notice to Proceed and the approved Materials Management Plan.

10. This exemption shall transfer with changes in property ownership. In accordance with Wis. Stat. § 289.46(2), any person having or acquiring rights of ownership in land where a solid or hazardous waste disposal activity occurred may not undertake any activities on the land which may cause a significant threat to public health, safety or welfare. The Department should be contacted to discuss any proposed changes to avoid activities that could violate the statute.

This grant of exemption is limited to the proposed changes described in your application. If you are considering additional changes beyond those described in the application, a new application must be submitted to the Department for approval. The Department reserves the right to require the submittal of additional information and to modify this grant of exemption at any time, if in the Department's opinion, modifications are necessary. Unless specifically noted, the conditions of this grant of exemption do not supersede or replace any previous conditions of approval for this property.

NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions must be filed.

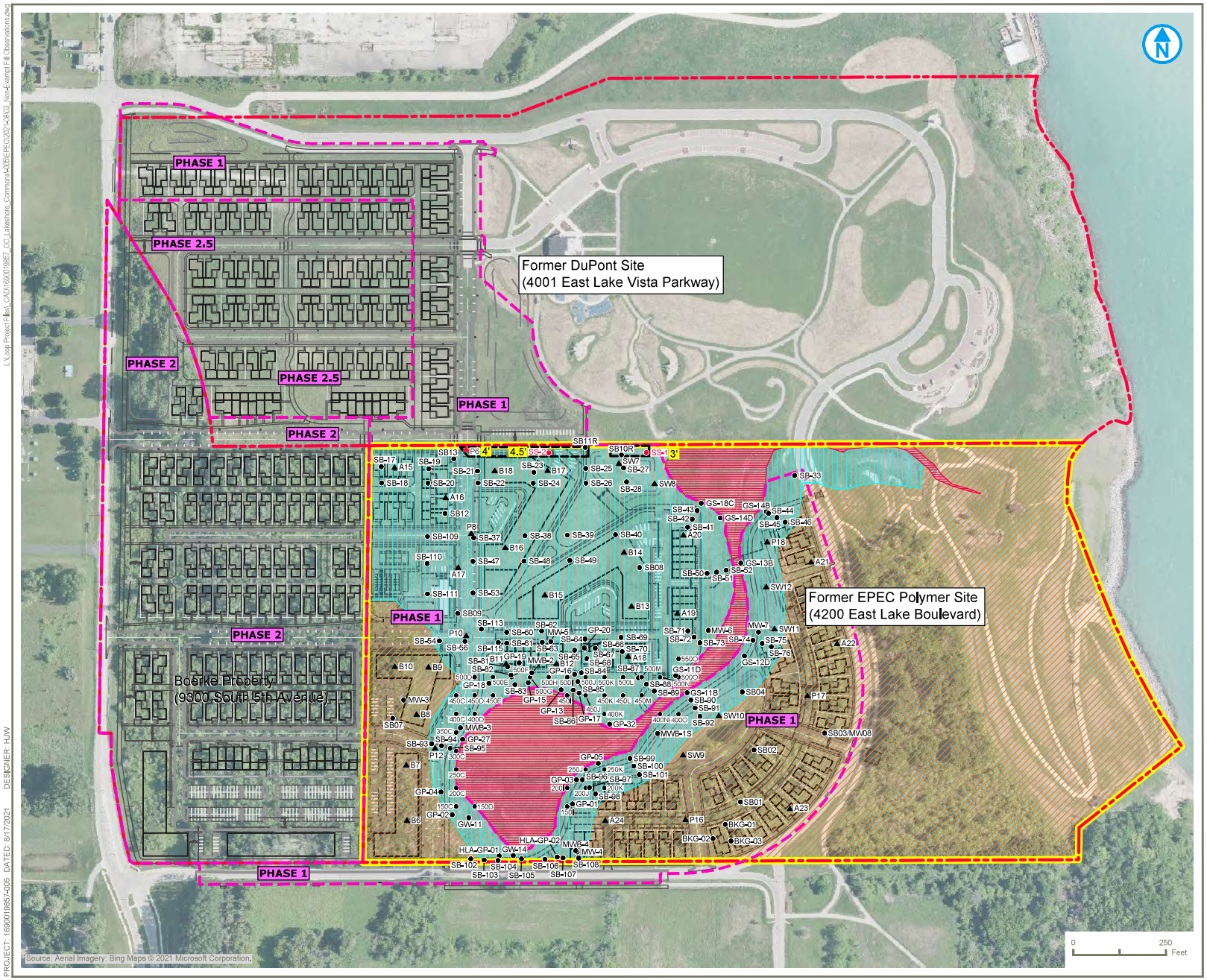
For judicial review of a decision pursuant to Wis. Stat. §§ 227.52 and 227.53, you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

Dated: *November 23, 2021*

DEPARTMENT OF NATURAL RESOURCES
For the Secretary

Michele R. Norman, Supervisor
Remediation & Redevelopment Program
Southeast Region

J. Gregory Moll, Hydrogeologist
Remediation and Redevelopment Program
Southeast Region



LEGEND

- PROPERTY BOUNDARY (APPROXIMATE)
- HISTORICAL SAMPLING LOCATION (SHOWN IN RED WHERE NON-EXEMPT FILL IS PRESENT)
- 2021 GEOTECHNICAL BORING LOCATION (SHOWN IN RED WHERE NON-EXEMPT FILL IS PRESENT)
- FORMER EPEC POLYMERS SITE
- PROPOSED LAKESHORE COMMONS DEVELOPMENT AREA BOUNDARIES
- PHASE 1 — PROPOSED LAKESHORE COMMONS DEVELOPMENT PHASE
- ARSENIC EXCAVATION BOUNDARY AREA (AEBA)
- CLEAN COVER SOIL AREA (CCSA)
- NO COVER SOIL AREA (NCSA)
- APPROXIMATE EXTENT OF COAL CLINKERS IDENTIFIED IN PRIOR REPORTS
- 3' — MAXIMUM DEPTH OF OBSERVED NON-EXEMPT FILL (FOUNDRY SAND OR COAL CLINKERS) (FT BGS)

NOTES:

1. MAXIMUM DEPTH OF NON-EXEMPT FILL BASED ON CURRENT GRADE.
2. FOR SOIL BORINGS INSTALLED PRIOR TO CAP PLACEMENT, THE DEPTH BELOW TOP OF CAP WAS ESTIMATED BASED ON CAP THICKNESS.
3. FT BGS - FEET BELOW GROUND SURFACE

NON-EXEMPT FILL OBSERVATIONS

LAKESHORE COMMONS
FORMER EPEC SITE
4200 EAST LAKE BOULEVARD
OAK CREEK, WISCONSIN

FIGURE 3

RAMBOLL US CONSULTING, INC.
A RAMBOLL COMPANY

RAMBOLL

PROJECT: 1690019857-005 DATED: 8/17/2021 DESIGNER: HJW

PROPOSED LAKESHORE COMMONS PROPERTY BOUNDARY

CLEAN COVER SOIL AREA (CCSA)

2- AND 3-FAMILY VILLAS - CRAWL SPACE FOUNDATION

ASPHALT PAVED AREAS

CONCRETE PAVED AREAS

2- AND 3-FAMILY VILLA GARAGES - SLAB ON GRADE FOUNDATION

MINIMUM 2-FOOT CLEAN SOIL CAP WITH LANDSCAPING (APPROXIMATE FUTURE STRUCTURES AND PAVEMENT SHOWN FOR REFERENCE ONLY, TO BE ADDRESSED IN A FUTURE PCM REQUEST)

BIO-RETENTION BASIN

NOTE
NCSA IS THE NO COVER SOIL AREA, AS DESCRIBED IN THE OCTOBER 2014 BARRIER MAINTENANCE PLAN.

Source: Drawing C102, Overall Site Plan, Kapur & Associates, Lakeshore Commons, Oak Creek, WI, 5/21/2021.

0 150 Feet

CAP MAINTENANCE LOCATION PHASE 1 EPEC

LAKESHORE COMMONS
EPEC SITE CCSA SITE
4001 EAST LAKE VISTA PARKWAY
OAK CREEK, WISCONSIN

FIGURE 05

RAMBOLL US CONSULTING, INC.
A RAMBOLL COMPANY

RAMBOLL

PROJECT: 1690019857 DATED: 8/24/2021 DESIGNER: ELS/HJW