Wisconsin DNR and City of Portage meeting on Energizer plant closing, March 20, 2024:

- Welcome from Shelly:
  - Energizer Facility, 2851 Portage Road, Portage, WI closing December of 2024.
    - DNR will follow up with the City of Portage regarding contact information and links/documents provided and discussed in today's meeting.
- Introductions:
  - Steven Sobiek, City of Portage Business Development and Planning Director
  - DNR attendees for future contact needs:
    - Tom Coogan – Remediation and Redevelopment (brownfields development) and single point of contact for the City of Portage.
      - Thomas.Coogan@wisconsin.gov or, 608-219-2148
    - Richard Douglas – Wastewater
      - Richard.Douglas@wisconsin.gov or, 608-513-5604
    - Jordan Main – Wastewater
      - Jordan.Main@wisconsin.gov or, 608-535-0368
    - Janet DiMaggio – Remediation and Redevelopment
      - Janet.DiMaggio@wisconsin.gov or, 608-219-2155
    - Erik Reinhard – Waste and Materials Management
      - Erik.Reinhard@wisconsin.gov or, 414-588-4370
    - Bridget Kelly – Waste and Materials Management
      - BridgetB.Kelly@wisconsin.gov or, 608-440-0448
    - Barb Pavliscak – Air Management
      - Barbara.Pavliscak@wisconsin.gov or, 608-381-4176
    - Shelly Allness – Secretary's Office
      - Michele.Allness@wisconsin.gov or, 608-216-3912
    - DNR Staff Directory
- Background on the plant and future use:
  - Information from Steven regarding the City of Portage and the adjacent properties future use.
    - 4 parcels adjacent to the plant – high priority for the city of Portage to focus development given location.
  - The Enviro Check program was mentioned as a tool to help the city understand where the plant stands environmentally; see this link for more information.
    - Enviro Check –would do a compliance audit if Energizer requested. If Energizer is planning to sell the facility, it might be beneficial to keep permits active like the AM program notes.
      - Do an audit to show potential buyers that they comply.
    - Link to Enviro Check: https://dnr.wisconsin.gov/topic/EnviroCheck
  - Tom provided background on the Wisconsin Plant Recovery Initiative program and triage document.
- Question and Answer with DNR program staff:
  - Reminder that DNR is working within their regulatory authority and not as a consultant.
  - Remediation and Redevelopment:

- Provided background on closure requirements as well as information on past contamination and cases regarding the site:
    - Several cases were opened in the 1980's and 1990's but quickly closed; related to dust collecting compounds and chemicals used for the manufacturing process.
    - Additionally, there were discharges reported in the late 90's with some soil and water related contamination. However, this case was closed.
    - There have been no other cases reported since 1998:
        - There were 4 wells put in and no appearance of discharge, one well may not have been optimally located.
- A buyer usually performs their own due diligence such as phase one and two environmental site assessments to make sure there is no contamination. The City could consider right of way sampling.
- Question from the city of what should be done if there was a past employee with knowledge of a particular discharge issue.
    - The process would be to report it either through the spills reporting system: https://dnr.wisconsin.gov/topic/Spills
    - Or to anonymously report you can call 1-800-TIP-WDNR or visit the violations page: https://dnr.wisconsin.gov/contact/Hotline.html

- Hazardous Waste information:
    - The company is required to provide notification of closure per NR 266, with time requirements on that notification:
        - 30 days prior to closure with additional notification requirements 90 days after closure.
        - Any additional requirements needed will be based on contamination found during closure.

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- Question from the city, is there a way to find out is if there are any investigations on file, prior to Energizer's ownership?
    - There is interest from a Green Energy battery manufacturer opening in both Fennimore and Portage and related discussion for them to purchase both facilities from Energizer.
        - From the WA program:
            - Fennimore facility is a smaller generator and was recently inspected with no outstanding findings.
            - In discussions to purchase both old facilities.
            - The last compliance check at the Portage facility was in 2022 and there were no open items from that inspection either.
        - From RR, there are also no outstanding RR cases at the Fennimore site.

            - The easiest way to check our website is by address not business name as there have been previous owners who have operated at the same location.
            - They also have annual tier 2 reporting requirements through Emergency Management
                - You could contact Wisconsin Emergency Management for this reporting information.
- Air Management:
    - Portage and Fennimore are operating under a registration permit.
        - Portage was approved in 2007, and they could continue to operate off this permit if they are performing the same operations.
            - The facility was last inspected in 2022, was in good standing.
    - Question from the city if there was new contamination reported what the requirements would be:
        - If new contamination were to be reported, the air program would make an allegation and name the present company as the responsible party should that be what is found.
            - So long as Energizer is still a viable entity and the responsible party for the new release, this would mean they are still responsible even if they no longer operate there. Note there's a difference between air pollution vs soil/groundwater contamination.
- Wastewater:
    - Regarding wastewater abandonment, the department has 90 days to review a wastewater abandonment report.
        - The department has spoken with Energizer (Wesley May the contractor for the company – Arcadis out of Milwaukee).
            - The request has not been received yet.
            - They do have multiple chemicals being regulated and cleaned via water treatment.
            - During the abandonment, they could only run what mirrors their normal production waste.
                - Anything that exceeds that would have to be hauled off site.
            - Disconnect and seal of the drain from equipment, some equipment will be removed. Larger tanks, after cleaning, would be left in place to be moved later.
                - After that time, they are considered storage tanks, but if they were going to be used again, they would need to go through another review.
            - They will be required to remain in their current permit limits during this entire time.
                - City will be copied on materials related to this.

        - Closure of pretreatment notification would go along with abandonment plan. Will have to discuss who will do the final inspection and discuss the abandonment plan prior to terminating the notification.
            - If a municipality already had a plant, they often do the termination.
            - Steve will work with the wastewater folks on the city side to discuss final compliance steps and DNR can share all our information before they do that final inspection.
        - The Fennimore facility was inspected in 2023.
- Watershed Management:
    - No existing wetlands permit at this point, believe they are in several jurisdictional waterways and wetlands.
        - If anyone is going to do any work, they are going to want to make sure they have the correct permit coverage.
        - Contact information is in the watershed program's web page.
    - There is no past record of any wetland/waterway compliance concerns.
- Additional questions from the city:
    - Note regarding the incentive tax credit they received when moving the Vermont facility to Portage.
        - Required as part of that to retain their employees for a period for 3-5 years.
        - Repayment to WEDC - Sam Rickers is the contact there.
            - Are there any other concerns that the department has regarding this… does WEDC reach out to DNR?
            - Is there any leverage there or are they totally separate? Tom let Steve know that WEDC's Jason Scott and Vanessa Ineza were cc'd on DNR's letter to Energizer.
- Additional department information:
    - Reminder of Energizer's responsibility to comply with environmental regulations. Our meeting with Steve was a big picture of the requirements (not legal or environmental consultant guidance).
    - Due diligence – if anyone is considering purchasing the site, it would be good for them to conduct their own due diligence (e.g., LGU Exemption)
        - **Local Government Resources**: §292.11(9)(e) Wis. Stats. provides a liability exemption for local governments to acquire property through various methods (e.g., tax delinquency, etc.) https://dnr.wisconsin.gov/topic/Brownfields/LGU.html.
        - The Comprehensive Environmental Response, Compensation, and Liability Act (**CERCLA**) – federal requirements (this should be reviewed, especially for local governments who may acquire a site needing clean-up funding).
            - CERCLA defenses web page for state and local governments: https://www.epa.gov/enforcement/state-and-local-government-activities-and-liability-protections

        - Superfund Liability Protection for Local Government Acquisitions after the Brownfields Utilization, Investment, and Local Development Act of 2018 (epa.gov)
    - **General Liability Clarification** (GLC) letter: https://dnr.wi.gov/files/pdf/pubs/rr/RR619.pdf
        - For a fee, DNR can provide a general liability clarification letter that goes over much of what's listed above (primarily the Local Government Exemption).
    - Wisconsin Cleanup Rules and Laws: https://dnr.wisconsin.gov/topic/Brownfields/Laws.html
    - Plant Closure Resources (Enviro Check): Wisconsin Plant Recovery Initiative (WPRI) | Expedite Closed Industrial Facility Cleanup and Revitalization | Wisconsin DNR
- Follow up from DNR to the City:
    - Contact information for the WEDC regional economic development directors related to the tax credit concerns:
        - They were copied on the letter to Energizer.