State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
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Fitchburg WI 53711-5397

Scott Walker, Governor
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September 30, 2014

Mr. Terry Russell
Hendricks Commercial Properties, LLC
655 Third Street, Suite 101
Beloit, WI 53511

Subject: Building on a Historic Fill Site Exemption Approval
Colt Industries Facility, 701 White Avenue, Beloit
BRRTS# 07-54-562590 / 03-54-000307

Dear Mr. Russell:

We have received your request for a grant of exemption from regulation under s. NR 506.085, Wis. Adm. Code. Your application includes an evaluation that the historic fill material contains soil contaminants which are being addressed in accordance with chs. NR 700-726, Wis. Adm. Code. The application also includes a certification from a Professional Geologist that site development will not cause a significant increase in risk due to the migration or concentration of explosive or toxic gases or cause any other significant risk to public health, safety or welfare and the environment.

The Wisconsin Department of Natural Resources ("Department") is issuing this conditional grant of exemption from the prohibitions contained in s. NR 506.085, Wis. Adm. Code, provided you comply with the conditions of this grant of exemption. This grant of exemption is limited to the proposed development as described in your September 3, 2014 application for the area of the new 100 stall asphalt paved parking lot, and the stormwater management area. The new paved areas consist of an approximate 34,400 square foot parking lot to the east-northeast of an existing ABC Roofing Supply Building.

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 ch. NR 726, Wis. Adm. Code. If you have any questions concerning this letter, please contact Shawn Wenzel at (608) 758-4934.

Sincerely,

Linda Hanefeld, Supervisor
Bureau for Remediation and Redevelopment
South Central Region

cc: Gregory Walsh, Assured Environmental Associates, Inc., 14120 Glendale Ave, Brookfield, WI 53005

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. The Hendricks Commercial Properties, LLC, owns the property at 701 White Avenue, Beloit, Wisconsin.
2. Based on information provided by the applicant solid waste material consisting primarily of foundry sand fill and concrete demolition debris present on the site.
3. Assured Environmental Associates, Inc. (AEA), on behalf of Hendricks Commercial Properties, LLC, has submitted a request received by the Department on September 5, 2014 for an exemption from the prohibition in s. NR 506.085, Wis. Adm. Code.
4. Historic contamination at the site is being managed in accordance with chs. NR 700-726, Wis. Adm. Code.
5. Methane is not expected to be present at the site.
6. A Wisconsin Pollutant Discharge Elimination System (WPDES) General Permit No. WI-S067831-04, Construction Site Storm Water Runoff was issued by the Department on September 5, 2014.
7. Based upon the evaluation provided to the Department, the proposed development at the property is not expected to cause future exceedences of applicable soil and groundwater standards.
8. If the conditions set forth below are complied with, the development of the property will not result in environmental pollution as defined in ss. 289.01(8) and 299.01(4), Wis. Stats.

CONCLUSIONS OF LAW

1. The Department has the authority under s. NR 500.08(4), Wis. Adm. Code, to issue an exemption from the prohibition in s. NR 506.085, Wis. Adm. Code, if the proposed development will not cause environmental pollution as defined in ss. 289.01(8) and 299.01(4), Wis. Stats.
2. 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 chapters NR 500 to 538, Wis. Adm. Code, or to assure that environmental pollution will not occur.
3. The conditions set forth below are necessary to ensure compliance with the applicable provisions of chapters NR 500 to 538, Wis. Adm. Code, and to assure that environmental pollution will not occur.

4. In accordance with the foregoing, the Department has the authority under s. NR 500.08(4), Wis. Adm. Code, to issue the following conditional grant of exemption.
5. 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 chapters NR 700-726, Wis. Adm. Code, or to assure that environmental pollution will not occur.
6. The conditions set forth below are necessary to ensure compliance with the applicable provisions of chapters NR 700-726, Wis. Adm. Code, and to assure that environmental pollution will not occur.

CONDITIONAL GRANT OF EXEMPTION

The Department hereby issues an exemption to Hendricks Commercial Properties, LLC, from the prohibition in s. NR 506.085, Wis. Adm. Code, for development on a property which contains solid waste as proposed in the submittal received September 5, 2014 and 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 ch. NR 103, Wis. Adm. Code.
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 s. NR 500.03(55), Wis. Adm. Code.
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 s. NR 500.03(62), Wis. Adm. Code.
4. A WPDES permit shall be obtained from the WDNR Watershed Bureau, if needed, before any groundwater is discharged from the excavation. Confirmation shall be provided to the R&R program.
5. No action related to the development of the property may be taken which will cause a detrimental effect on groundwater, as defined in s. NR 500.03(62), Wis. Adm. Code, or will cause or exacerbate an attainment or exceedance of any preventive action limit or enforcement standard in ch. NR 140, Wis. Adm. Code.
6. No action related to the development of the property may be taken which will cause a migration and concentration of explosive gases in excess of 25% of the lower explosive limit for such gases at any time. No actions may be taken which will cause a migration and concentration of explosive gases in the soils outside of the limits of historic fill/solid waste disposal within 200 feet of the property boundary or beyond the property boundary in excess of the lower explosive limit for such gases at any time. No actions may be taken which will cause a migration and concentration of explosive gases in the air outside of the limits of historic fill/solid waste disposal within 200 feet of the solid waste/historic fill boundary or beyond the property boundary in excess of the lower explosive limit for such gases at any time.
7. 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 s. NR 445.03, Wis. Adm. Code.
8. No action related to the development of the property may be taken which will cause an exceedence of a soil clean up standard in ch. NR 720, Wis. Adm. Code.

9. On-site replacement of contaminated soils shall be in accordance with s. NR 718.11, Wis. Adm. Code.

10. Only non-hazardous contaminated soil may be replaced on site.

11. Any excavated fill material not used as on-site replacement fill from the area of the proposed parking lot and storm water basin will be disposed of at a licensed Subtitle D landfill. Confirmation of disposal shall be submitted to the Department.

12. Monitoring wells MW-14, 15, and 16 should be sampled, and water table elevation measurements collected, before work is started on the proposed parking lot installation. The wells may need to be purged or redeveloped prior to sampling. Any free product should be measured, documented, and removed, and then a groundwater sample collected. The laboratory testing parameters should include volatile organic compounds (VOCs), polynuclear aromatic hydrocarbons (PAHs), dissolved manganese, sulfate, nitrate nitrogen, and dissolved iron. If the parking lot work is to be completed during fall 2014, after the wells have been sampled, wells MW-14 and MW-15 should be properly abandoned in accordance with s. NR 141.25,Wis. Adm. Code. Well abandonment forms need to be submitted. These can be submitted with "as-built"construction documentation. After the installation of the parking lot, the wells should be reinstalled prior to the next round of regularly scheduled sampling. You should discuss the location of the reinstalled wells with the project manager, Janet DiMaggio. This sampling is in addition to the regularly scheduled sampling events.

13. Confirm the status (presence or absence) of monitoring well MW-17. If this well is present, it should sampled then abandoned along with the other wells discussed above.

14. In addition to the wells above, water table elevation measurements should be collected from monitoring well MW-13 located to the north and MWT-2 located to the south. These measurements should be collected in conjunction with the groundwater sampling event.

15. The DNR reserves the right to require the installation of additional monitoring wells in the area of the proposed parking lot.

16. The DNR reserves the right to require remediation in the area of the proposed parking lot if future remediation is necessary.

17. Construction documentation of the parking lot and stormwater management area shall be submitted to the Department within 60 days of the date of completion.

18. This grant of exemption should not be construed as a site closure under ch. NR 726, Wis. Adm. Code.

19. This exemption shall transfer with changes in property ownership. In accordance with s.289.46(2), Stats., 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 of Natural Resources 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 sections 227.52 and 227.53, Stats., 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: 30 September 2014

DEPARTMENT OF NATURAL RESOURCES
For the Secretary

Linda Hanefeld, Supervisor
Bureau for Remediation and Redevelopment
South Central Region

Janet DiMaggio for
Shawn Wenzel
Hydrogeologist
Bureau for Remediation and Redevelopment
South Central Region