



October 3, 2018

Mr. Brian Fischer
Salem United Methodist Church
541 State Highway 59
Waukesha, WI 53186

Building on a Historic Fill Site (Expedited) Exemption Approval
New Perspectives Senior Living
STH 164/59 and East Broadway
Waukesha, Wisconsin
BRRTS# 07-68-582060 FID 268677970

Dear Mr. Fischer:

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 indicates that analytical data for the presence of methane was not collected or examined, however the waste material present is not expected to be a source of methane gas. The application does include a certification from a Professional Engineer that site development will not cause a significant increase in risk due to the migration or concentration of explosive or toxic gasses or cause any other significant risk to public health, safety or welfare and the environment. The Department is issuing this 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 described in your application, a three-story slab on grade senior living facility with partial underground parking. 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 Thomas A. Wentland at 920-893-8528

Sincerely,

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

cc: City of Waukesha Building Insp.
Intertec/PSI Environmental Associates, Inc.

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. Salem United Methodist Church owns the property at STH 164/59 and East Broadway, Waukesha, Wisconsin.
2. Based on information provided by the applicant, solid waste material consisting primarily of bricks, wood, and concrete are present on the site.
3. Intertec/PSI has submitted a request received August 20, 2018 for an exemption from the prohibition in Wis. Admin. Code § NR 506.085. The request includes a statement signed by Mr. Larry Raether, a professional engineer, relating to the proposed development and the environmental conditions at the property.
4. Methane is not expected to be present at the site.
5. If the conditions set forth below are complied with, the development of the property will not result in environmental pollution as defined in Wis. Stat. §§ 289.01(8) and 299.01(4).

CONCLUSIONS OF LAW

1. 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).
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 Wis. Admin. Code chs. NR 500 to 538, 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 Wis. Admin. Code chs. NR 500 to 538, and to assure that environmental pollution will not occur.
4. 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.

CONDITIONAL GRANT OF EXEMPTION

The Department hereby issues an exemption to the Salem United Methodist Church, from the prohibition in ch. NR 506.085, Wis. Adm. Code for development on a property which contains solid waste as proposed in the submittal received August 20, 2018 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 540.03(2).
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. Any solid waste excavated during development shall be disposed of at a licensed solid waste facility.
9. This grant of exemption should not be construed as a site closure under Wis. Admin. Code ch. NR 726.
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 §§ 227.52 and 227.53, Wis. 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: Oct. 3, 2018

DEPARTMENT OF NATURAL RESOURCES
For the Secretary

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

Thomas A. Wentland / man
Thomas A. Wentland
Waste Management Engineer
Remediation and Redevelopment Program
Southeast Region



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Department of Natural Resources
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