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March 24, 2021

To: Jane Lemcke - Hydrogeologist Program Coordinator - Division of Environmental Management, Remediation and Redevelopment Policy and Technical Resources Section

RE: RR-606 - Guidance on the Case Closure Process and Continuing Obligations: Wis. Admin. Code chs. NR 725 to 727

Dear Ms. Lemcke:

Please accept these comments on behalf of the League of Wisconsin Municipalities which represents approximately 600 cities and villages in the state, many of which contract and conduct a vast amount of remediation and redevelopment work to spur economic development within their communities. The League appreciates the opportunity to offer the following comments regarding the draft guidance document:

1. General Applicability. The League objects to a guidance document being implemented before the authorizing administrative rule revisions RR-10-17 have been finalized. It is our understanding that the NR 700 series of permanent administrative rule revisions will be on the April 14th Natural Resources Board agenda. That agenda has not been released yet and therefore we have not had the opportunity to review the final administrative modifications. Finalizing a guidance document that undoubtably implements provisions from the NR 700 series rule updates before those rules have even received approval from the department's policy making body seems expedited and ill-advised.
2. Expansion of Conditional Closures: A previous version of DNR guidance implementing the remediation of contaminated sites, detailed a process for 'conditional closure' and this procedure outlined the conditions that must be met for a project site to receive a final closure determination from the department. Conditions were generally limited and when all conditions were met, a final closure letter would be issued. RR-606 seems to replace this process and instead implement a much more expansive continuing obligation requirement coupled with site specific standards the department may implement at any given time without criteria. The result could be sites that are never issued a final closure and instead deemed 'conditionally closed' which leaves a substantial liability and risk for any associated redevelopment of a contaminated site. This policy, outlined in program guidance, seems to be drastically reducing the incentive for communities to remediate and redevelop brownfields and contaminated sites. Why would we move counter to a successful economic redevelopment program with increased liability and risk?

In a recent University of Wisconsin-Whitewater study, it was found that efforts to investigate, remediate, and redevelop Wisconsin brownfields, fueled by \$121.4 million in state grants and leveraged by local and federal incentives, have cumulatively recouped \$1.77 billion, a more than 14-fold return on investment. In addition, the study also found that the redevelopment of these properties

directly or indirectly resulted in the retention of 54,483 permanent jobs. It is important we keep these substantial benefits of the investment and local redevelopment opportunities in mind when modifying regulations and policies that will vastly impact the use and continuation of a wildly successful economic development tool.

The League greatly appreciates the opportunity to provide the above comments on this guidance document. Please feel free to contact me if you have questions or would like to discuss this issue further.

Kind Regards,

Toni Herkert, Government Affairs Director
Wisconsin League of Municipalities