

ADDENDUM

PLANNING DIVISION REPORT DEPARTMENT OF PLANNING AND COMMUNITY AND ECONOMIC DEVELOPMENT November 24, 2008

RE: ID#12463, Demolition Permit – 902 Dempsey Road and 510 Cottage Grove Road

1. Requested Action: Approval of a demolition permit for multiple buildings and structures on two parcels of land located at 902 Dempsey Road in the M2 General Manufacturing District, and at 510 Cottage Grove Road primarily in the M2 General Manufacturing District, with small portions of the parcel in the M1 Limited Manufacturing, and C3 Highway Commercial Districts.
2. Applicable Regulations: Section 28.12(12) provides the guidelines and regulations for the approval of demolition permits.
3. Report Prepared by: Michael Waidelich, Principal Planner and Heather Stouder, AICP, Planner

PREVIOUS ACTIONS

On November 3, 2008, the Plan Commission referred the decision on whether or not to approve a partial demolition permit for buildings at 902 Dempsey Road and 510 Cottage Grove Road. The decision to refer the demolition permit application was based on two primary concerns.

- The Plan Commission wanted to ensure adequate time for City and State agency staff to review and respond to Agrium's revised proposal to fill and "cap" the large pit in the granulation building instead of leaving it open to the elements. This revised plan was submitted to the Department of Agriculture, Trade, and Consumer Protection (DATCP) in a letter dated October 22, 2008. Concerns had been expressed by staff and neighbors of the site regarding potential groundwater contamination and safety hazards resulting from Agrium's initial proposal for fencing the pit and leaving it exposed to the weather following demolition of the building.
- The Plan Commission requested that the applicant demonstrate reasonable progress in responding to the seven outstanding Official Notices on the property from the Building Inspection Division before considering the application. They indicated that they would be willing to consider the case as soon as December 1, 2008, as long as a memo from Building Inspection staff assured them that adequate progress was being made to secure the site. Commissioners were concerned that even if a demolition permit were approved and issued, the buildings would likely remain on the site for at least several weeks, and the site and buildings would need to be secured before and during the lengthy demolition process. Further, while understanding the positive aspects of the safe removal of these buildings, some Commissioners indicated that they need not approve demolitions due to neglect by property owners to properly maintain buildings.

ANALYSIS AND CONCLUSION

Revised Plan for Capping the Pit in the Granulation Building

Planning Division staff has reviewed a revised plan for treatment of the large pit in the main granulation building that was submitted to DATCP by BT2, Agrium's environmental consultants, as well as the analysis of the plan and response provided by the DATCP in a November 18, 2008 letter to Darren Couture, Asset Recovery Manager. In their original submittal, Agrium proposed to leave the pit in tact, surround it with a fence, and crack the concrete floor of the pit for drainage following the demolition of the building. As a response to concerns related to possible groundwater contamination, and the continued attractive nuisance created by leaving the pit open, the plan most recently submitted by BT2 is as follows: test soils under the concrete floor of the pit for the location and extent of contamination, document the location of any contamination found, fill the pit with imported soil, and "cap" it with twelve inches of clay, engineered to prevent the water infiltration.

As noted in our original report on this application, Planning Division staff still considers removing the entire pit structure, removing any contaminated soils that may be beneath it, and then filling the pit with clean soil to be the best solution. From their letter, it appears that DATCP would agree with this assessment, but that the currently proposed capping solution would be acceptable as a temporary solution, not to exceed two years. DATCP also notes, however, that much greater detail needs to be provided before they can approve the proposed capping plan, and that additional facilities need to be provided to adequately monitor, and if necessary address, pit conditions below the cap. The potential for demolition activities to damage other paved surfaces outside the buildings that are currently functioning as caps over contaminated soils is also noted, and will need to be addressed as required.

Because the proposed capping of the pit is acceptable only as a temporary solution, the condition of approval requiring that the demolition be completed and the site fully remediated in the event that no redevelopment plan for the site is approved within a reasonable time frame has been modified to reflect the recommended two-year maximum duration of the capped pit.

Steps Taken to Address Outstanding Official Notices on the Property

Following the November 3, Plan Commission meeting, staff from Planning, Zoning and Building Inspection met to review the outstanding orders on this property. As a result of this meeting, several steps were taken to help improve communication with Agrium and ensure a more-timely response to property issues on the site. Electronic copies of all outstanding orders on the property were emailed to Mr. Couture, and any future orders will also be emailed to Mr. Couture directly, in addition to mailing them to the Agrium business office address listed with the City Assessor, as required. Further, to help avoid any conflicting or confusing messages, it was agreed that primary communication regarding the building order issues would be between Mr. Couture and a single Code Enforcement representative in the Building Inspection Division.

It was also decided that, since demolition of the building was proposed, only the shorter-term notices to repair and secure the perimeter fence, adequately secure all of the buildings from unauthorized entry, and paint over all visible exterior graffiti would need to be addressed at this time. Preventing entry to the buildings will require replacement and repair of loose and missing

siding on the lower parts of the buildings as well as securing all doors and windows. If the buildings are not removed in the reasonably near future, compliance with other orders to repair the buildings may be required. This decision will be made by the Building Inspection Division.

On November 12, 2008, Mr. Couture and two local contractors met with Building Inspection staff on the Royster-Clark site to review required improvements to secure the fence and buildings. At the time of this writing, Planning Division staff understands from the Inspection Division that a contractor hired by Agrium intends to begin work on the site during the mid-week of November 24, 2008. The applicant has indicated that all repairs to the fence should be complete by December 1, and that that building repairs and graffiti removal will be underway. At this time it is unclear whether the Director of the Building Inspection Division will be able to conclude that satisfactory progress is being made to address the outstanding building orders.

Neither the revised proposal for addressing potential groundwater contamination from exposing the building interiors to rain and snow, or the need to properly secure the site and buildings and remove graffiti, significantly affect the Planning Division's conclusions regarding the proposed partial demolition. The additional information generated in response to DATCP, DNR and City conditions reinforces the need to take the greatest possible care before, during and after the demolition, but the question of whether or not the benefits of a partial demolition are sufficient to offset the potential negatives remains a judgment call.

RECOMMENDATION

The Planning Division recommendation is unchanged from the October 28, 2008 staff report prepared for the November 3, 2008 Plan Commission meeting, but several of the conditions of approval have been revised to reflect newer information. As with all conditions of approval, it is the agencies cited that must determine that the conditions have been met. It is important to note that City as well as State agencies must all find that a condition has been met when several agencies are cited. As part of meeting the conditions of approval, the applicant and appropriate review staff may agree on the details of how the condition is met, and may consider modifications to the specifics of the stated condition that substantially meet the intent of the condition.

If, after considering the comments of reviewing agencies and other materials in the Plan Commission packet, and hearing the testimony at the public hearing, the Plan Commission concludes that the concerns expressed regarding the proposed partial demolition on the Royster-Clark site can be satisfactorily addressed, the Planning Division recommends that the Plan Commission find that the demolition standards can be met and **approve** requested partial demolition of the buildings and other above-grade structures located at 902 Dempsey Road and 510 Cottage Grove Road, subject to input at the public hearing and the following conditions:

1. Comments from reviewing agencies
2. Final demolition site plans that clearly indicate existing and post-demolition conditions shall be submitted for Planning Division staff approval prior to the issuance of a demolition permit. These plans must reflect the intent to remove all elevated non-concrete structures not specified in the permit application that would create a potential safety hazard if they remain on the site. These structures include, but may not be limited to:

- The large propane tank located near the main granulation building
 - The overhead conveyor apparatus located between the granulation building and the storage domes
3. Prior to the issuance of a demolition permit, the applicant shall prepare a detailed plan for review by Wisconsin Department of Natural Resources staff ensuring that the demolition process will meet all applicable air quality regulations and standards related to asbestos, lead paint, and fertilizer residues that may be present in the buildings. At least ten days prior to any demolition activity, the applicant shall submit to the Wisconsin DNR staff a Notification of Demolition and/or Renovation form (Form 4500-113). This form can be found at the following link: <http://dnr.wi.gov/air/compenf/asbestos/asbes8a.htm>
 4. Prior to issuance of a demolition permit, the applicant shall provide access to the site and buildings to Wisconsin Department of Natural Resources Air Management Program staff so that they may assess the presence and location of asbestos, fertilizer dusts, and buildup of pollutants in the smoke stack and ensure that all applicable regulations related to air and solid waste can be met during demolition.
 5. The applicant shall submit a specific work plan to address the concerns identified by the Wisconsin Department of Agriculture, Trade and Consumer Protection and the Wisconsin Department of Natural Resources regarding the potential percolation of water through potentially contaminated soils beneath the existing structures. The work plan shall include, but may not be limited to, one or more of the following approaches:
 - A. The applicant shall complete the soil borings and testing of soil beneath all building floors that will be exposed to the weather by the demolition as required to determine the exact location and extent of any contamination beneath the buildings. This is the preferred option, as it would make the future full remediation of the site more efficient, and would also address Wisconsin Department of Natural Resources requirements to investigate the potential for contamination beneath existing structures before the State would assume liability for the site.
 - i. Prior to beginning the soil borings, the applicant must first submit a soil boring work plan and timeline for approval by Wisconsin Department of Natural Resources and Wisconsin Department of Agriculture, Trade and Consumer Protection staff.
 - ii. Where it is determined that no contamination (or an acceptable level of contamination) exists beneath the building, those floors may be left unprotected from the weather following the demolition of the building.
 - iii. For buildings beneath which unacceptable levels of contamination are found in the soils, the applicant shall, with the approval of the Wisconsin Department of Agriculture, Trade and Consumer Protection and Wisconsin Department of Natural Resources, either:
 - a. Remove all, or necessary portions of, the concrete building floors and all contaminated soil from the building site, fill the area with clean soil, and seed the area. This is the preferred option. Or

- b. The applicant shall identify and effectively seal all cracks and fissures in concrete building floors through which rain water or melting snow could enter the soil beneath the building to ensure that infiltration cannot occur.
- B. If the location and extent of soil contamination under existing buildings remains unknown, the applicant shall identify and effectively seal all cracks and fissures in the concrete building floors of all buildings to be demolished beneath which any extent of soil contamination is either known to exist or reasonably-suspected based on available information.
- C. The applicant may propose an acceptable alternative strategy to eliminate the potential that water may percolate through building floors and carry contaminants present in the soil beneath deeper toward the groundwater.

The work plan shall include a specific schedule to ensure that there will be a minimum time lag during which building floors will be exposed to the weather, but effective steps as described above to prevent water infiltration have not been implemented. If partial demolition is required in order to provide access to building interiors for soil boring equipment, it is recommended that this demolition not include portions of the roof to the extent feasible.

The work plan shall be approved by staff of the City Planning Division and Building Inspection Division, the Wisconsin Department of Agriculture, Trade and Consumer Protection, and the Wisconsin Department of Natural Resources prior to the issuance of a demolition permit.

6. Regardless of the approaches selected to meet Condition No. 5 as applied to the other building floors, soil conditions beneath the large below-grade pit in the main building shall be thoroughly tested to determine the extent of possible contamination. If there is soil contamination beneath or in near proximity to the pit, the proposed solution of cracking the concrete floor of the pit to allow water to drain out shall not be implemented; and in no case shall water be allowed to accumulate in the pit. The pit is an attractive nuisance that will become more accessible when the building is removed regardless of the intended additional fencing, and staff consider the removal of the pit structure entirely, removal of any contaminated soils, and filling the hole to be the best approach.

Alternatively, the applicant shall provide another solution that prevents unauthorized access to the pit, prevents water from accumulating in the pit, and prevents water from percolating through the floor of the pit into any soils that have not be determined to be free of unacceptable contamination. The plan for dealing with the pit shall also be approved by staff of the City Planning Division and Building Inspection Division, the Wisconsin Department of Agriculture, Trade and Consumer Protection, and the Wisconsin Department of Natural Resources prior to issuance of a demolition permit.

The most recently submitted general plan to fill and "cap" the pit with a clay cover may be a technically sound solution, but in order to be approved, more detail must be provided for staff from the above agencies to consider.

7. A Reuse and Recycling Plan shall be reviewed by Planning Division staff and approved by the City of Madison Recycling Coordinator prior to the issuance of a demolition permit.

8. If the plans as required in Condition Nos. 2, 5, 6, and 7 are not submitted within 90 days of Plan Commission approval of the demolition permit, or the demolition permit is not obtained within 120 days, or the requested partial demolition is not completed within 180 days of Plan Commission approval of the permit, this approval shall be null and void.
9. Outstanding notices from the City of Madison Building Inspection Division to repair and secure the existing fence around the property and secure all buildings to prevent unauthorized access shall be completed and approved prior to issuance of a demolition permit, and before December 1, 2008 in any case. The repairs are intended both to secure the site and to present an attractive appearance by replacing or repairing loose or damaged fence components (fence fabric, posts, rails, gates, etc.). This fence shall be maintained in a sound and attractive condition and building security shall be maintained until such time as the site is redeveloped and/or the demolition is completed and the site restored.
10. The applicant shall designate a local property manager for the site who will be responsible for maintaining the site and responding in a timely manner to complaints or citations regarding site conditions from City staff. This requirement is in response to difficulties with representatives of the current property owner ensuring timely response to day-to-day management issues when no one close to the site has authority to take the necessary actions.

The applicant has proposed an alternate arrangement that necessitates Mr. Couture's prior approval of all articles and expenditures. This alternate may be acceptable if it can assure timely response to on-site conditions.

11. A second demolition permit will be required at a future time for the removal of concrete building floors, foundations and other above-grade structures, surface parking lots and other pavement, the rail spurs, and other infrastructure remaining on the site after the present partial demolition. The second permit application will be reviewed for consistency with all the requirements of Section 28.12(12).
12. If an application for rezoning and/or subdivision approval to implement a redevelopment plan for the former Royster-Clark site has not been approved by the City of Madison within 24 months of the issuance of the first partial demolition permit, the applicant (or future property owner) shall obtain the necessary permits and remove all remaining building floors, foundations and other above-grade structures, surface parking lots and other pavement, the rail spurs and other infrastructure remaining on the site, complete the remediation, and restore the site as required to adequately prevent erosion and maintain an attractive appearance until such time as redevelopment occurs. The second demolition permit application will be reviewed for consistency with all the requirements of Section 28.12(12).



State of Wisconsin
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection

Rod Nilsestuen, Secretary

November 18, 2008

Agrium, Inc., Madison Facility
DATCP Case #02402110601

Mr. Daren Couture
Agrium, Inc.
13131 Lake Fraser Drive S.E.
Calgary, Alberta
T2J 7E8 Canada

Dear Mr. Couture:

Thank you for having BT² provide DATCP with the *Concrete Pit Cover Design* plan for the (former) Royster-Clark Inc., facility located at 902 Dempsey Road in Madison, Wisconsin. The plan was written in response to DATCP concerns regarding possible soil contamination below the northern portion of the granulation building, and how that contamination could be driven to the water table if not properly managed during the proposed partial demolition of the building.

Let me start by saying that DATCP would prefer that you completely demolish all of the buildings on this property that have been used to manufacture or store fertilizer, and that the contaminated soil should be addressed as soon as the demolition process is complete and the soil becomes accessible. This includes the removal of all floors and concrete and/or asphalt surfaces that are now acting as barriers preventing surface water from migrating through contaminated soil. This would eliminate the need for future remediation in these areas.

However, the alternative plan you have proposed includes the following:

1. Demolition of all of the building structures on the property and all concrete structures down to site ground surface. This includes the concrete vault or "pit" inside the granulation building.
2. After demolition, collect soil samples below the floor of the concrete pit of the granulation building to determine the nature and extent of (potential) contamination below the floor of the building.
3. Collect soil samples below the concrete floor of the "loading dock" level of the granulation building.
4. Fill the exposed concrete "pit" of the granulation building with general fill.
5. Install an engineered barrier over the concrete pit. The cover of the engineered barrier will be sloped approximately 2% away from the center of the pit to promote surface runoff, and consist of a 12" layer of compacted clay with a 4" soil cover over the entire cap.

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6. Continue semiannual groundwater monitoring at the site to insure the engineered cover is adequate to protect groundwater.

We consider the roof of the granulation building as a "cap" that prevents surface water from migrating through (potentially) contaminated soils below the concrete floor of the building. Since you are proposing to demolish the building, you are required to investigate the extent of soil and groundwater contamination below the floor of the structure. Unfortunately, you cannot do this until the building is demolished. Because of this, you are required to submit a workplan to complete a soil and groundwater investigation below the floor of the concrete pit and loading level of the granulation building as soon as the floor becomes accessible. The workplan must be approved by DATCP prior to building demolition (partial or complete), and must include (at a minimum) the following:

- Investigation Timing. A discussion of the timing of the soil and groundwater sampling effort. Specifically, when will the samples be collected in relationship to when the demolition will take place?
- Residual Contamination. A discussion regarding how to minimize the impacts of the residual contamination inside of the building to the environment during the demolition process. Specifically, if you have to remove the roof and walls of the granulation building to provide access to the floor of the concrete pit and loading level of the granulation building (in order to complete the investigation), how will you manage any water that accumulates inside of the pit during that process? Also, you need to describe how you will manage residual fertilizer dust in the building so it does not impact the environment.
- Sample Location. Where will the samples be collected? Make sure that you include an appropriate number of sampling locations to adequately define the extent of the contamination, if present.
- Sample methods. You are required to collect both soil and groundwater samples.
- Analytical parameters. This should not be limited to nitrogen, but should include any compounds likely to have been stored inside the granulation building.
- Propose Action Levels. What action would you propose if the concentration of nitrogen below the floor of the building is below the cleanup goal of 150 ppm

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total nitrogen? Conversely, at what level of soil contamination would you propose an action other than the placement of a "cap" over the concrete pit?

Many environmental issues (other than soil and groundwater contamination) will undoubtedly come up as you move through the demolition permitting process with the City of Madison. While these issues will likely be addressed by the Wisconsin Department of Natural Resources (DNR), DATCP will work with the City of Madison and DNR if the issues affect the conditions of the final soil and groundwater investigation workplan.

DATCP can authorize the placement of a **temporary** engineered barrier (not more than 2 years) to help insure that contamination below the concrete pit of the granulation building does not migrate to the water table surface if the building is demolished. However, we view BT²'s plan as a conceptual plan that needs clarification. You will have to prepare and submit a plan that describes the details of the proposed cap prior to the demolition of the granulation building. The capping plan must be approved before the building can be demolished.

The capping plan must include the following:

- Professional engineer design and sign off. In accordance with Wis. Admin. Code NR 724.11, you are required to have the final engineered barrier designed under the direction of a qualified professional engineer. Furthermore, the final design must be signed off by a professional engineer in accordance with Wis. Admin. Code NR 712.09.
- Operation and Maintenance plan. In accordance with Wis. Admin. Code NR 724.13, you are required to submit an "operation and maintenance plan" for the engineered barrier. The maintenance plan must also include provisions for all other concrete and asphalt surfaces at the site that are presently exposed or those that will become exposed after the partial demolition is complete.
- Post demolition repair. An unintentional outcome of the demolition effort may be that existing concrete and/or asphalt surfaces at the site could be damaged. Where these existing surfaces are considered as barriers to surface water flow through contaminated soil, any damage to these barriers will have to be repaired and the surfaces will have to be maintained.

Mr. Daren Couture
November 18, 2008
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- Water monitoring/capture system. DATCP requires that the final cover design includes a system where you can monitor the pit to determine if water is accumulating inside of it. If water is accumulating inside of the pit, you are also required to have a method of removing the water.
- Summarize drainage system below the granulation building. In the Phase I Environmental Assessment Report, reference is made to a "tiling system" that is pumped to remove shallow groundwater from below the building. More information is needed about this system. Is this system still operational? Can the system be included in the maintenance plan as a method of preventing groundwater from entering the concrete pit from below?

Finally, the plan submitted by BT² states that... "If the soil below the loading dock level of the building is contaminated, the final location will be documented for future remediation". This statement is followed by BT² proposing to... "Place soil from loading dock level into concrete pits". DATCP will not approve the placement of contaminated soil into the concrete pits as a part of what is referred to as "general fill". Perhaps the last sentence should read... "Place CLEAN soil from loading dock level into concrete pits".

In closing, DATCP agrees that an engineered cap can be approved as a temporary measure to prevent the migration of surface water through potentially contaminated soil below the concrete pits of the granulation building to the groundwater surface. Before we can approve of this plan, however, you will need to provide us with more information as to how the system will work and how it will be maintained. I am hopeful that the above comments will provide you with enough information so that a final plan can be prepared by you and BT² and approved by DATCP.

If you have any questions please call me at (608) 224-4502.

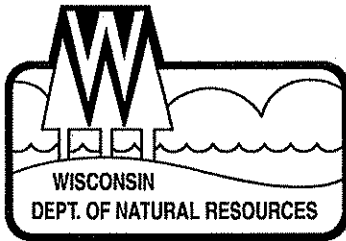
Sincerely,



Richard C. Graham, P.G.

c: Tom Culp, BT²
Heather Stouder, City of Madison

Lori Bowman, DATCP
Wendell Wojner, DNR



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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November 24, 2008

Heather Stouder
City of Madison
Planning Division
215 Martin Luther King Jr. Blvd, Suite LL 100
Madison, WI 53701

Subject: Royster Clark - WI DNR Requirements for demolition

Dear Ms. Stouder:

Thank you for the opportunity to provide comments on the demolition permit for the Royster Clark Facility. The following comments are from the Department of Natural Resources Air Management and Waste & Materials Management Programs regarding access to the site for inspection and applicable regulations.

Access to the site

DNR Air Management Program would like to conduct a site walkthrough at the Royster Clark Facility to verify the asbestos survey and access the condition of the fertilizer dusts and smoke stack buildup.

Applicable Air and Solid Waste Regulations

In the Asbestos Survey performed by Terracon, dated August 28, 2008, the materials indicated that were not considered suspect asbestos containing materials included concrete, glass, wood, masonry, metal or rubber. The WI DNR Asbestos Program suspects all materials that are not wood, metal or glass, therefore additional sampling may be necessary to rule out concrete masonry and rubber materials as asbestos containing materials. Additional inspection will also be necessary in the confined space in the pump house and the eastern entrance shed that Terracon was unable to access or visually assess during the asbestos survey.

In order to recycle or salvage the materials in and on the buildings, all asbestos containing materials must be removed prior to demolition. Asbestos abatement must be performed in accordance with NR 447. In addition to the asbestos containing materials identified by Terracon, there is a significant amount of fertilizer dust laying on, encrusted and impregnated in surfaces in the granulation building, and potentially the storage buildings and the two storage domes at the former Royster Clark facility from the many years of operation. Prior to the demolition, this fertilizer dust/crust should be removed from the structures to prevent causing visible air emissions/fugitive dust and thus air pollution. The clean up of the fertilizer dusts must be conducted to avoid air pollution and subsequently air pollution violations and fines. The fertilizer dusts should be containerized and may be used as fertilizer or a soil/compost amendment in accordance with accepted agricultural or horticultural practices. If the collected fertilizer dust cannot be utilized for its original purpose, the material would be considered as solid waste and must be disposed of in accordance with WI Department of Natural Resources solid waste regulations or acceptable WI DATCP regulations.

There may also be air pollution concerns with the particulate buildup in the 125 foot smoke stack. Further information is necessary to evaluate the demolition of the smoke stack.

In accordance with NR 415.03, "No person may cause, allow or permit particulate matter to be emitted into the ambient air which substantially contributes to exceeding and air standard, or creates air pollution."

"Air pollution" is defined in NR 400 Air Pollution Control Definitions as meaning "the presence in the atmosphere of one or more air contaminants in such quantities and of such duration as is or tends to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property."

Fugitive dust is any solid airborne particles emitted from any source other than a flue or stack, as defined in NR415.02(2).

Please contact me at 608/266-3658, if you have any questions. I look forward to working with you on this most important project.

Sincerely,



Amy Walden
Asbestos Coordinator
Emission Inventory and Small Source Section

ecc: W. Wojner/J. Hamill/ P. Mather/ T. Bennwitz/R. Daggett/T. Roushar - SCR
P. Kirsop - AM/7