



CON: 12-15
Doc #35506

2/26/2019

Iowa Department of Natural Resources
Contaminated Sites Section
Daniel Cook
Environmental Specialist Senior
502 E. 9th St.
Des Moines, IA 50309

RE: 2605 7th Avenue, Marion, Iowa (the "Site")

Dan,

At your request and in response to your Friday February 22, 2019 email correspondence to attorney Matthew J. Hektoen, the "initial excavation" conducted at the Site was done only for the purpose of determining the extent of contamination at the Site. After it was discussed that the scope of the contamination was in excess of what was previously believed, all excavated soil was returned to its original location and clean fill dirt was placed on the Site."

Jeff Witter
President

A handwritten signature in black ink, appearing to read "Jeff Witter", is written over the printed name and title.

Abode Companies Inc
3405 7th Avenue Suite 102
Marion, IA 52302
Office: 319-363-0709
Fax: 319-247-4733
www.AbodeConstruction.com



Cook, Dan <dan.cook@dnr.iowa.gov>

Re: 2605 7th Avenue, Marion [IWOV-SPMB.FID633365]

1 message

Cook, Dan <dan.cook@dnr.iowa.gov>

Tue, Mar 12, 2019 at 5:41 AM

To: Matt Hektoen <mhektoen@spmbaw.com>

Cc: Hannah Kustes <hkustes@abodeconstruction.com>, "trehame@cityofmarion.org" <trehame@cityofmarion.org>, "jwitter@abodeconstruction.com" <jwitter@abodeconstruction.com>, "Tiedemann, Melissa" <TiedemannMelissa@stanleygroup.com>

Hi Matt

The environmental covenant can be modified after it is issued, the property would need to be remediated to residential standards before the residential restriction could be removed. And I may need to add no commercial use prior to remediation because it also fails site worker standards.

Please call if you have any questions.

Dan



Daniel Cook | Environmental Specialist Senior

Iowa Department of Natural Resources
Contaminated Sites Section
502 E. 9th St., Des Moines, IA 50319
P 515-725-8371 | F 515-725-8202



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On Sun, Mar 10, 2019 at 5:06 PM Matt Hektoen <mhektoen@spmbaw.com> wrote:

Dan,

Generally speaking, the intended use for the property will be commercial, retail or office. However, my client would like to reserve the right to construct a mixed use building with residential located on the 2nd floor and a hotel use. If you have preferred language to address this concerns, please forward. If not, I would be happy to draft. Thanks.



**SIMMONS PERRINE
MOYER BERGMAN PLC**

Matt Hektoen
Member

Simmons Perrine Moyer Bergman PLC
115 3rd Street SE, Suite 1200
Cedar Rapids, Iowa 52401-1266

Telephone: (319) 896-4030
Fax: (319) 366-1917
[Email](#) | [Bio](#)

www.spmblaw.com

Please notify me if you receive this confidential email in error.

From: Cook, Dan [mailto:dan.cook@dnr.iowa.gov]
Sent: Wednesday, February 27, 2019 8:52 AM
To: Matt Hektoen
Cc: Hannah Kustes; trehame@cityofmarion.org; jwitter@abodeconstruction.com; Tiedemann, Melissa
Subject: Re: 2605 7th Avenue, Marion [IWOV-SPMB.FID633365]

Hi Matt

Thank you for submitting the documentation clarifying that no soil was removed from the site, at this point we can move forward with the environmental covenant. Because the site is considered grossly contaminated the covenant will need to prohibit any excavation on the entire footprint of the former Marion Iron Company property until a soil assessment/management plan has been approved by IDNR for any proposed excavation location in the future.

The classification of grossly contaminated was determined by entering the soil sample results into the Iowa Land Recycling Program (LRP) Cumulative Risk Calculator. The risk calculator is intended only for sites enrolled in the LRP but can be used outside the LRP as a screening tool. For this site I entered the soil analytical data and found it failed for residential and commercial land use (documented in the June 2015 Phase II) and it also failed for construction worker. Normally sites that failed all three scenarios are remediated prior to utilizing environmental covenants.

Attached is the template for the IAC-567-133 environmental covenant and Section 7 is where you will enter the land use limitations. I have included suggested language for the residential and soil restrictions. After we work out the language in Section 7 then you will send the full draft covenant package to IDNR legal for final review.

If you have any questions please ask,

Dan



Daniel Cook | Environmental Specialist Senior

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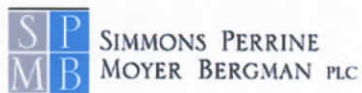
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On Tue, Feb 26, 2019 at 4:31 PM Matt Hektoen <mhektoen@spmblaw.com> wrote:

Dan,

No soil was removed from the site. Attached is the letter you request. Please indicate the next step to processing the close out on this. Thanks.

Matt



Matt Hektoen
Member

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Please notify me if you receive this confidential email in error.

From: Cook, Dan [<mailto:dan.cook@dnr.iowa.gov>]
Sent: Friday, February 22, 2019 11:37 AM
To: Matt Hektoen
Cc: Hannah Kustes; ttreharne@cityofmarion.org; Tiedemann, Melissa
Subject: Re: 2605 7th Avenue, Marion [IWOV-SPMB.FID633365]

The May 27th letter from Greg indicated there was some excavation at the site, I need a letter from Abode Construction, or Stanley Consultants, indicating how much soil was removed and where it went. If no soil was removed I need a letter stating that fact. The information is needed to close out the remedial action plan.

Dan

Daniel Cook | Environmental Specialist Senior



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On Wed, Feb 20, 2019 at 3:36 AM Matt Hektoen <mhektoen@spmbllaw.com> wrote:

Dan,

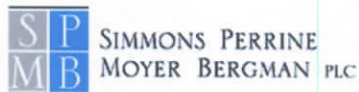
In regards to the attached work plan, I have in my file the attached correspondence from Greg Fuhrmann indicating that 3-5 feet of clean fill dirt was to be installed to raise the grade of the property to the new 7th Ave. right of way which would have the effect of preventing direct exposure to the contaminated soils. Following the completion of the fill, the environmental covenant would need to be recorded. My understanding is that the City of Marion is a required party to the EC b/c of the fact that a portion of the contaminated site made subject to the land recycling program is now right of way. Attached is a memorandum from the City confirming that the fill dirt has been placed on the site.

I have copied Tom Treharne, Community Development Director for the City of Marion, on this correspondence.

Would you please confirm what other documentation the Land Recycling program requires beyond the EC? I am working with the City to finalize our comments on the EC.

Thanks.

Matt



Matt Hektoen
Member

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Please notify me if you receive this confidential email in error.

From: Cook, Dan [mailto:dan.cook@dnr.iowa.gov]
Sent: Friday, February 08, 2019 2:35 PM
To: Matt Hektoen
Subject: Re: 2605 7th Avenue, Marion [IWOV-SPMB.FID633382]

Here it is.

Daniel Cook | Environmental Specialist Senior

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On Fri, Feb 8, 2019 at 2:29 PM Matt Hektoen <mhektoen@spmblaw.com> wrote:

Dan,

Stanley tells me there was no work plan (or no document named as such). Would you please forward to me what you have in your file? Thanks.



**SIMMONS PERRINE
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Matt Hektoen
Member

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Please notify me if you receive this confidential email in error.

From: Cook, Dan [mailto:dan.cook@dnr.iowa.gov]

Sent: Thursday, February 07, 2019 5:16 AM

To: Matt Hektoen

Cc: Scott, David; Amie Davidson; Elizabeth Brandt; Hannah Kustes

Subject: Re: 2605 7th Avenue, Marion [IWOV-SPMB.FID633382]

Hi Matt

I am free all day today and after 10am Friday.

Dan

Daniel Cook | Environmental Specialist Senior

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On Wed, Feb 6, 2019 at 8:30 PM Matt Hektoen <mhektoen@spmblaw.com> wrote:

Dan,

I don't know re: your question below. Please let me know when you have a moment to speak tomorrow or Friday. Thanks.



SIMMONS PERRINE
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Matt Hektoen
Member

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Please notify me if you receive this confidential email in error.

From: Cook, Dan [mailto:dan.cook@dnr.iowa.gov]
Sent: Friday, February 01, 2019 11:52 AM
To: Matt Hektoen
Cc: Scott, David; Amie Davidson; Elizabeth Brandt
Subject: Re: 2605 7th Avenue, Marion [IWOV-SPMB.FID633382]

Hi Matt

I just looked over the file for the site and looks like the remedial action completion report was never submitted for the remedial activities. Do you know if this report was submitted to IDNR?

Dan

Daniel Cook | Environmental Specialist Senior

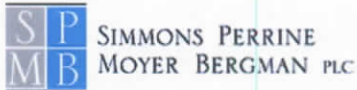
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On Fri, Feb 1, 2019 at 10:19 AM Matt Hektoen <mhektoen@spmblaw.com> wrote:

Great, thanks. please let me know what days and times work next week for a call.



Matt Hektoen
Member

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Please notify me if you receive this confidential email in error.

From: Scott, David [mailto:david.scott@dnr.iowa.gov]
Sent: Friday, February 01, 2019 10:10 AM
To: Matt Hektoen
Cc: Amie Davidson; Dan Cook
Subject: Re: FW: 2605 7th Avenue, Marion [IWOV-SPMB.FID633382]

Matt, Greg retired. I've copied Amie Davidson and Dan Cook on this. They should be able to help you out.

DAVID SCOTT | Attorney
Iowa Department of Natural Resources
P 319-653-2135 | 1023 W. Madison St.,
Washington, IA 52353 (Primary)
P 515-725-8239 | 502 E. 9th St., Des Moines, IA 50319
www.iowadnr.gov

On Fri, Feb 1, 2019 at 9:50 AM Matt Hektoen <mhektoen@spmblaw.com> wrote:

David,

I received a bounceback from Greg's email account. Can you confirm receipt?



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Matt Hektoen
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Please notify me if you receive this confidential email in error.

From: Matt Hektoen
Sent: Friday, February 01, 2019 9:49 AM
To: 'greg.fuhrmann@dnr.iowa.gov'
Cc: 'Hannah Kustes'
Subject: 2605 7th Avenue, Marion [IWOV-SPMB.FID633382]

Greg,

Would you please let me know your availability next week to discuss the attached? I represent the landowner and have been asked to help draft and finalize the covenant.
Thanks.

Matt



SIMMONS PERRINE
MOYER BERGMAN PLC

Matt Hektoen
Member

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