

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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Scott Hassett, Secretary
Ronald W. Kazmierczak, Regional Director

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April 4, 2003

Mr. Terrence W. Carroll
Regional Manager
Minergy
1512 S. Commercial Street
P.O. Box 375
Neenah, WI 54957

Subject: Conditional Grant of Solid Waste Exemption

Dear Mr. Carroll:

I am pleased to inform you that the Department has approved your request for a conditional grant of exemption to exempt river sediments that have been treated using Minergy's oxy-fueled melter technology. Enclosed you will find the official approval document.

Please be advised that this conditional grant of exemption does not relieve you of the obligation to comply with all other applicable federal, state, and local regulations.

If you have any questions or concerns, please feel free to contact me at 920-492-5870.

Sincerely,

Len Polczinski
Waste Program Team Manager

Encl.

BEFORE THE
STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

CONDITIONAL GRANT OF SOLID WASTE EXEMPTION
FOR THE
Minergy Neenah Corporation

FINDINGS OF FACT

The Department finds that:

1. Minergy Neenah Corporation (Minergy) is proposing to beneficially use river sediments as raw materials for construction activities or products. These river sediments will be decontaminated using glass furnace melter technology. In 2001, Minergy, under contract with the Department on Natural Resources (WDNR) and under the supervision of the U.S. EPA's Superfund Innovative Technology Evaluation group, successfully demonstrated that sediment can be melted in an oxy-fueled melter with high destruction of contaminants.
2. Minergy, as of April 3, 2003, has not located nor built a full scale facility for processing sediments.
3. Minergy has submitted a request for an exemption from solid waste regulatory requirements in s. 289, statutes, dated November 15, 2002 and received by the Department on November 18, 2002.
4. On February 28, 2003 Minergy submitted a letter that responded to Department concerns discussed during a February 4, 2003 meeting. The purpose of the meeting was to discuss the November 15, 2002 submittal.
5. Additional documents considered in the review of the exemption request includes the following:
 - a. Minergy Corporation Glass Furnace Technology Evaluation Draft Report, prepared for the U.S. EPA Office of Research & Development National Risk Management Research Laboratory, Cincinnati, Ohio. Prepared by Tetra Tech Em, Inc. Brookfield, WI February 2003.
 - b. Permitting Review For Sediment Melter Facility, February 2003 Report. Prepared for the the WDNR by Minergy.
6. The Department has considered the environmental impacts of the proposal and has complied with the requirements of ch. NR 150 and s. 1.11. Stats., and, consistent with social, economic, and other essential considerations, the Department has adopted all practical means to avoid or minimize environmental harm.
7. If the conditions set forth below are complied with, the beneficial use of sediments processed in an oxy-fueled melter facility will not result in environmental pollution as defined in s. 289.01 (8), Stats.
8. The Department has conducted a continuing review of the potential hazard to public health and the environment of solid waste disposal facilities in general as well as this specific proposal. Based upon this review, the Department finds that regulation under s. 289, Stats. is not warranted in light of the low potential hazard to public health or the environment.

9. The Department has waived the \$500 plan review fee because the proposed processing facility has a primary purpose of converting solid waste into useable materials or products.

CONCLUSIONS OF LAW

1. Based upon the foregoing, the Department has authority under s. 289.43 (8), Stats., to grant the conditional exemption set forth below.
2. The conditions set forth below are needed to ensure that the beneficial use of processed river sediments, as proposed, and in accordance with the conditions of this approval, will not result in environmental pollution as defined in s. 289.01 (8), Stats.

CONDITIONAL GRANT OF EXEMPTION

The Department hereby exempts river sediments that have been treated, using Minergy's oxy-fueled melter technology, from solid waste regulations subject to the following conditions:

1. Minergy is subject to all applicable state, federal, and local requirements for the siting, construction, licensing, operations, and maintenance of a full scale oxy-fueled melter facility.
2. Minergy, following the "shake-down" period and at the time full scale operation of the sediment melter project begins, shall test/characterize the processed sediment for the same parameters as completed in the demonstration project and listed in Minergy's November 15, 2002 letter to the Department. These test results shall be submitted to the Department for review and comment prior to the processed sediments being beneficially used. The Department reserves the right to require annual or more frequent characterization of the processed sediment.
3. Use of Minergy's processed sediments is limited to commercial construction activities such as general fill, use in cement/concrete, road building, asphalt pavement, mine reclamation, or in the production of such products like floor tiles.
4. Minergy shall maintain records of where the processed river sediments have been used. These records shall be maintained and be accessible to Department staff upon request, for 5 years after the use of the material.

The Department retains the jurisdiction to either require the submittal of additional information or to modify this approval at any time if, in the Department's opinion, conditions warrant further modifications. Unless specifically noted, the conditions of this approval do not supersede or replace any previous conditions of approval for this facility.

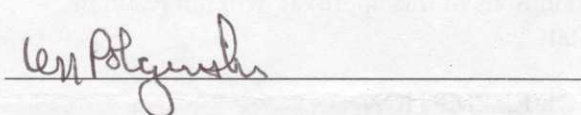
NOTICE OF APPEAL RIGHTS

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 ss. 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: 4/7/03

DEPARTMENT OF NATURAL RESOURCES
For the Secretary



Waste Management Supervisor
DNR-NER

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STATE OF WISCONSIN
CONDITIONAL GRANT OF SOLID WASTE EXEMPTION
FOR THE