



September 23, 2016

Ms. Ann Hartnell  
Executive Director  
Marinette County Association for Business & Industry  
1926 Hall Avenue  
Marinette, WI 54143

Subject: Conditional (Expedited) Grant of Exemption for the Development of a Property Where Solid Waste has been Disposed, MCABI – TYCO Redevelopment Site, 1310-1330 Main Street (Parcel Number 251-4268), Marinette, WI  
BRRTS Number: 02-38-564236

Dear Ms. Hartnell:

The Wisconsin Department of Natural Resources (department) has received your request dated September 2, 2016 and received on September 8, 2016 for a grant of exemption from regulation under s. NR 506.085, Wis. Adm. Code. Based on the information provided to the department, the proposed development at the property is not expected to cause future exceedances of applicable soil and groundwater standards. Therefore, the department is issuing this general grant of exemption from the prohibitions contained in s. NR 506.085, Wis. Adm. Code. You must comply with the conditions of this grant of exemption in order to maintain the exemption. 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.

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. The department would like to particularly draw your attention to the public safety risk posed by the explosive potential for methane gas, which may be present on a property due to the presence of decomposing solid waste.

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. If you have any questions concerning this letter, please contact Robert Klauk at (920) 662-5164 or by email to Robert.Klauk@wisconsin.gov.

Sincerely,

Roxanne N. Chronert, Team Supervisor  
Northeast Region, Remedial and Redevelopment Program

cc: Robert Klauk – NER (electronic)  
Lynelle Caine – Stantec Consulting Services Inc. (electronic)

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. The Marinette County Association for Business and Industry owns the property located at 1310-1330 Main Street (Parcel Number 251-4268), City of Marinette, Marinette County, Wisconsin.
2. Solid waste has been disposed of at this property and remains at this property.
3. The Marinette County Association of Business and Industry has submitted a request, dated September 2, 2016, for an exemption from the prohibition in NR 506.085, Wis. Adm. Code. The request includes a statement signed by a professional engineer and/or professional geologist or hydrologist relating to the proposed development and the environmental conditions at the property.
4. Based upon the evaluation provided to the department, the proposed development at the property is not expected to cause future exceedances of applicable soil and groundwater standards.
5. Additional documents considered in review of the exemption request include the following:
  - “Phase II Environmental Site Assessment, MCABI-Tyco Redevelopment Site, Marinette, Wisconsin,” August 13, 2015; Stantec Consulting Services Inc.
  - “Materials Management Plan, MCABI-Tyco Redevelopment Site, 1310-1330 Main Street, Marinette, Wisconsin,” September 7, 2016; Stantec Consulting Services Inc.
6. Additional facts relevant to the review of the grant of exemption modification request include the following:
  - The primary contaminants of concern are polycyclic aromatic hydrocarbons, arsenic and lead exceeding direct contact and groundwater pathway residual contaminant levels (RCL).
7. If the conditions set forth below are complied with, the development of the property will not result in environmental pollution as defined in ss. 289.01(8) and 299.01(4), Wis. Stats.

CONCLUSIONS OF LAW

1. The department has the authority under s. NR 500.08(4), Wis. Adm. Code to issue an exemption from the prohibition in s. NR 506.085, Wis. Adm. Code, if the proposed development will not cause environmental pollution as defined in ss. 289.01(8) and 299.01(4), Wis. Stats.

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 chapters NR 500 to 538, Wis. Adm. Code, 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 chapters NR 500 to 538, Wis. Adm. Code, and to assure that environmental pollution will not occur.
4. In accordance with the foregoing, the department has the authority under s. NR 500.08(4), Wis. Adm. Code, to issue the following conditional grant of exemption.

#### CONDITIONAL GRANT OF EXEMPTION

The department hereby issues an exemption to the Marinette County Association for Business and Industry from the prohibition in s. NR 506.085, Wis. Adm. Code for development on a property which contains solid waste as proposed in the submittal dated September 2, 2016, 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 ch. NR 103, Wis. Adm. Code.
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 s. NR 500.03(55), Wis. Adm. Code.
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 s. NR 500.03(62), Wis. Adm. Code.
4. No action related to the development of the property may be taken which will cause a detrimental effect on groundwater, as defined in s. NR 500.03(62), Wis. Adm. Code, or will cause or exacerbate an attainment or exceedance of any preventive action limit or enforcement standard at a point of standards application in ch. NR 140, Wis. Adm. Code.
5. No action related to the development of the property may be taken which will cause a migration and concentration of explosive gases in any structures in excess of 25% of the lower explosive limit for such gases at any time. No actions may be taken which will cause a migration and concentration of explosive gases in the soils outside of the limits of solid waste disposal within 200 feet of the property boundary or beyond the property boundary in excess of the lower explosive limit for such gases at any time. No actions may be taken which will cause a migration and concentration of explosive gases in the air outside of the limits of solid waste disposal within 200 feet of the landfill boundary or beyond the landfill property boundary in excess of the lower explosive limit for such gases at any time.
6. 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 s. NR 445.03, Wis. Adm. Code.
7. No action related to the development of the property may be taken which will cause an exceedance of a soil clean up standard established in accordance with ch. NR 720, Wis. Adm. Code.

8. This exemption shall transfer with changes in property ownership. In accordance with s.289.46(2), Stats., any person having or acquiring rights of ownership in land where a solid or hazardous waste disposal facility was previously operated may not undertake any activities on the land which interfere with the closed facility causing 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 exemption is based on the information available to the department as of the date of this document. If additional information, project changes or other circumstances indicate a possible need to modify this exemption, the department may ask you to provide further information relating to this activity. Likewise, the department accepts proposals to modify exemptions, as provided for in state statutes and administrative codes.

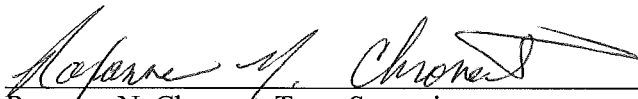
#### NOTICE OF APPEAL RIGHTS

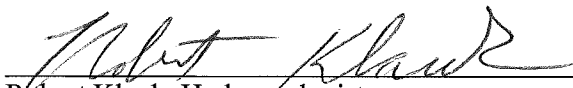
If you believe you have a right to challenge this decision made by the department, you should know that Wisconsin statutes and administrative codes establish time periods and requirements for reviewing department decisions.

To seek judicial review of the department's decision, sections 227.52 and 227.53, Stats., establish criteria for filing a petition for judicial review. 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. The petition shall name the department as the respondent.

Dated: 9/23/2016

DEPARTMENT OF NATURAL RESOURCES  
For the Secretary

  
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Roxanne N. Chronet, Team Supervisor  
Northeast Region, Remediation & Redevelopment Program

  
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Robert Klauk, Hydrogeologist  
Northeast Region, Remediation & Redevelopment Program