



September 4, 2019

FID 438041450
Marinette County
SW / Approvals

CRYSTAL KOLES
AMERICAN TRANSMISSION COMPANY
PO BOX 6113 – 801 O'KEEFE ROAD
DE PERE WI 54115

Subject: Conditional Case-by-Case Grant of Exemption for the Development of a Property Where Solid Waste has been Disposed

Dear Ms. Koles:

The Wisconsin Department of Natural Resources (Department) reviewed your request dated August 12, 2019 for a grant of exemption from regulation under s. NR 506.085, Wis. Adm. Code. Based on that evaluation, 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. We would like to particularly draw your attention to the public safety risk posed by the explosive potential for methane gas that may be present on a property due to the presence of decomposing solid waste. Please note that any dewatering that may need to be completed for the transmission line foundation constructed is not permitted with this approval. Please contact Alexis Peter (920-662-5145 or Alexis.Peter@wisconsin.gov) to obtain a permit for dewatering (see Conditional Grant of Exemption, item 10, below).

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 Dave Neste at (920) 424-0399 or by email to david.neste@wisconsin.gov.

Sincerely,

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

c: Kyle Sandmire – GEI Consultants (via email)
Bryant Esch – Waupaca Foundry (via email)
Dave Neste – DNR/RR (via email)
Alexis Peter – DNR/RR (via email)
Tess Brester – DNR/WA (via email)
NER File

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. Waupaca Foundry, Inc. owns the property located at 805 Ogden Street, Marinette, Wisconsin. American Transmission Company (ATC) owns easements on the Waupaca Foundry, Inc. property on which the proposed transmission line towers are to be constructed.
2. Solid waste has been disposed of at this property and remains at this property.
3. Waupaca Foundry, Inc. has submitted a request dated August 12, 2019 for an exemption from the prohibition in NR 506.085, Wis. Adm. Code. The request has been submitted under the seal of a professional engineer, professional geologist or hydrologist relating to the proposed development and the environmental conditions at the property.
4. Based upon 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.
5. Additional documents considered in review of the exemption request include the following:
 - a. The department's guidance document numbers RR-683, RR-684, and RR-685, which provide guidelines for development on a historic fill site or licensed landfill.
 - b. The department's May 9, 1995 construction documentation approval for the items approved in the department's August 22, 1994 grant of exemption.
 - c. The department's August 22, 1994 grant of exemption to develop a second foundry plant expansion to the existing Waupaca Foundry Plant No. 4.
 - d. The department's May 4, 1992 construction documentation approval to the department's June 11, 1991 grant of exemption.
 - e. The department's April 16, 1992 construction documentation approval for the items approved in the department's March 15, 1991 grant of exemption.
 - f. The department's June 11, 1991 grant of exemption to develop a new office building on the closed landfill.
 - g. The department's March 15, 1991 grant of exemption to develop the Waupaca Foundry Plant No. 4 office.

- h. The department's files pertaining to the City of Marinette Landfill, FID Number 438041450.
6. Additional facts relevant to the review of the grant of exemption modification request include the following:
- a. The City of Marinette Landfill is also known as the Thyssen Krupp Waupaca Inc., landfill.
 - b. No environmental monitoring has been required or conducted at the facility associated with development of the WF Plant #4.
 - c. Fill and fill soil excavated during installation of foundations at structure locations will be disposed of as a solid waste at a licensed landfill.
 - d. Permanent solid steel casings will be installed at each transmission line structure location by vibratory methods down to the target foundation excavation base depth. Once the permanent casing has been vibrated down to the approximate depth, an auger will be employed to drill out the fill and soil within the permanent steel casing. Transmission line structure 145388 will be installed with a drilled pier foundation approximately 9.5 feet in diameter and 30 feet deep. Transmission line structure 145387 will be installed with a drilled pier foundation approximately 12 feet in diameter and 65 feet deep. Both excavations will be grouted with concrete to install the drilled pier foundations.
 - e. In 2015, two (2) geotechnical borings (145387 and 145388) were completed at the proposed transmission line structure locations. Sandy fill, including organic silt, sand, and gravel were observed to depths of approximately 15 to 17 feet below ground surface (bgs). This fill was also found to contain fragments of wood, glass, and plastic, as well as scattered areas of cinders.
 - f. Samples intervals from each boring were field screened for potential contaminant impacts. In the boring near 145388, photoionization detector (PID) readings at the 2.5 to 4 feet bgs interval bgs interval measured 2.2 PID unit. A slight petroleum odor was observed at the 10 to 17 feet bgs interval, however, no corresponding visual evidence of impact or detectable PID readings were noted in that interval. No PID detections or visual observations indicating contaminants were recorded in the area of 145387.
 - g. Fill samples from each boring were submitted for laboratory analysis of volatile organic compounds (VOCs), polycyclic aromatic hydrocarbons (PAHs), and Resource Conservation and Recover Act metals (RCRA metals). Analytical results indicated that samples from 145387 had no detectable VOCs or metals, and only low-level detections of PAHs. All detections were below NR 720 Residual Contaminant Levels (RCLs). Laboratory analytical results for samples from 145388 indicated detections of ethylbenzene, naphthalene, and toluene below NR 720 RCLs, and detection of benzene in concentrations greater than the NR 720 groundwater pathway RCL. For PAHs, Chrysene was detected in concentrations greater than the NR 720 groundwater pathway RCL. RCRA metals were detected at concentrations greater than the NR 720 groundwater pathway and Background Threshold Value (BTV) for arsenic, chromium, and lead. Concentrations of VOCs, PAHs, and RCRA metals in the fill samples greater than applicable standards are consistent with variable non-soil fill observed at other areas of the property.
 - h. In 2018 and 2019, assessment of subsurface groundwater was completed in the area of the transmission line structures (145387 and 145388). One (1) groundwater monitoring well and one (1) nested piezometer were installed near the location of each proposed structure. Groundwater

elevations were measured at approximately 6.5 feet to 8.00 feet bgs at 145387, and 2.25 feet to 4.00 feet bgs at 145388.

- i. Groundwater monitoring events in 2018 included collection of samples for laboratory analysis for VOCs and selected metals (arsenic, barium, cadmium, chromium, lead, and mercury). Multiple VOC constituents were detected in the monitoring well near 145388, although only benzene in concentrations greater than the NR 140 Preventative Action Limit (PAL). No VOC detections were quantified in the nested wells near 145387. The groundwater samples submitted for metals analysis were unfiltered and observed to be slightly turbid. All metals analyzed for were detected in various concentrations, however, this could be due to sediment-laden conditions of the samples.
- j. A second groundwater monitoring event was conducted on July 2, 2019. Due to the potential for construction dewatering at the City of Menominee and/or City of Marinette Wastewater Treatment Facilities, these facilities requested a suite of analytes including VOCs, various metals, and per- and polyfluoroalkyl substances (PFAS) before accepting any wastewater from this site.
- k. Various VOCs were detected in both samples, including bromomethane and chloromethane above their respective PALs. These compounds are commonly use as disinfection byproducts for treated drinking water, and therefore may not represent groundwater contaminants present at the property.
- l. Only July 10, 2019, filtered groundwater samples were collected for the laboratory analysis of selected metals. With the exception of arsenic, no constituents were detected in concentrations greater than NR 140 groundwater standards. At both monitoring locations, arsenic was detected in concentrations greater than the NR 140 enforcement standard (ES).
- m. Analytical results for collected PFAS samples indicate PFOA concentration range from 110 nanograms per liter (ng/L) near 145388 to 1,100 ng/L near 145387. PFOS was detected at concentrations of 200 ng/L near 145388 and 20 ng/L near 145387. These detected concentrations are above the proposed Department NR 140 ES of combined 20 ng/L. Waupaca Foundry has submitted a Notification of Release to the Department with respect to the PFAS concentrations detected in groundwater.

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 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 August 12, 2019, 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 as defined 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 of Natural Resources should be contacted to discuss any proposed changes to avoid activities that could violate the statute.
9. 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.

10. The Department Wastewater Program requests that prior to treatment and disposal of groundwater that the parameters used to characterize wastewater be submitted Wastewater program. The Wastewater Program does not require discharge permits for wastewater discharged to a licensed waste treatment or properly authorized industrial pre-treatment facility. However, it is requested that the containerized water can be characterized based on contaminants identified during the investigation phase. Based on characterization, pre-treatment may be required prior to discharging to another treatment facility. If pretreatment is deemed necessary, the treatment train will require plan submittal and review.

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 of Natural Resources as the respondent.

Dated: September 4, 2019

DEPARTMENT OF NATURAL RESOURCES
For the Secretary



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



David Neste
Hydrogeologist, Northeast Region
Remediation & Redevelopment Program