

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Materials Management, Region 3

21 South Putt Corners Road, New Paltz, NY 12561-1620

P: (845) 256-3000 | F: (845) 255-3414

www.dec.ny.gov

November 16, 2015

Nicholas Marrone
Project Manager/Geologist
Miller Environmental Group, Inc.
169 Stone Castle Road
Rock Tavern, NY 12575

Sent by email to: nmarrone@millerenv.com

Re: Case-specific Beneficial Use Determination
Kokot Property, SBL 6-1-85.2 (Green Rd) T-Chester, Orange County

Dear Mr. Marrone:

Thank you for your letter November 4, 2015 in which you present chemical data generated by analysis of samples of the construction and demolition debris (C&D) currently stockpiled on the above-referenced property. Your also letter suggests that the C&D debris should be approved for beneficial use as subgrade fill material below roads and parking lots to be constructed by a future property owner.

The data you have provided, which includes results for 12 samples, greatly improves our understanding of the C&D chemistry and shows that this material is typical of C&D which is currently being generated by DEC-registered C&D processing facilities in this this area (New York City and the lower Hudson Valley). C&D of this type is not suitable for use as surface fill on farms or residential properties but generally is suitable for use as subgrade fill material below paved surfaces on commercial properties. To allow such a use, a case-specific beneficial use determination (BUD) issued by the Department would be required.

For the Department to issue a case-specific BUD, as prescribed in 6 NYCRR 360-1.15(d), there are a number of requirements which must be met. In cases such as this, where C&D is proposed for use a fill material, the most important and relevant of these requirements are (i) a demonstration that what is being proposed represents a bona fide reuse of the material as opposed to disposal; and (ii) a demonstration that the use proposed will not adversely affect human health or the environment.

The data you have provided shows that the C&D would not pose a significant risk to the environment if used as subgrade fill material below paved surfaces such as roads and parking lots. This is based on the rationale that (i) the chemistry of the C&D is similar to the chemistry of the materials normally used to make asphalt pavement and (ii) the presence of an asphalt pavement above the C&D would prevent direct human and environmental exposure to contaminants within the C&D. What is lacking in this submittal is documentation regarding the project and a demonstration that there is a both a need for subsurface fill material and a



Department of
Environmental
Conservation

reasonable prospect that the project will come to fruition. Normally to make that determination we would need to see a site development plan which has been approved by the municipality and which calls for subgrade fill material of the type and quantity you are proposing to use.

When we discussed this matter on the phone today, you indicated that the site plan approval might be a problem because the municipality is requiring a sign off from DEC on the fill material before approving the site development plan. The intent of this letter is to make it clear that the Department supports the beneficial use of C&D of this type for subgrade fill applications in cases where the C&D debris is being used as a substitute for mined soils which would otherwise have to be procured.

It is in the best interest of all involved parties and the environment to have the C&D used in a manner which is beneficial and which reduces human and environmental exposure to certain contaminants which it contains. In the interim, while you are working on obtaining the approvals needed for onsite beneficial use and/or developing plans for an alternative management option, we expect that the stockpiled C&D will be properly covered and that adequate erosion and sediment control measures will be maintained.

If there are any questions regarding what additional documentation is required to be included in a complete and approvable BUD petition, or if I can be of further assistance, please contact me at 845-256-3126 or by email at steve.parisio@dec.ny.gov.

Sincerely,



Steven Parisio
Regional Solid Waste Geologist

ecc: Donald Serotta, T-Chester Planning Board (by email @ DonaldSerotta@yahoo.com)
Alex Kokot (by email @ kokot4@warwick.net)
J. Lansing
L. Reiff