

New York State Department of Environmental Conservation

Division of Materials Management, Region 8

6274 East Avon-Lima Road, Avon NY 14414-9516

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Joe Martens
Commissioner

May 15, 2013

Mr. Mark Gregor
Port Redevelopment Manager
City of Rochester Department of Environmental Services
30 Church Street
Rochester, NY 14614

Dear Mr. Gregor:

**RE: Beneficial Use Determination (BUD) for Aggregate Substitute
Produced from Iron Slag: BUD # 995-8-28**

NYSDEC staff has reviewed the BUD petition submitted by the City of Rochester for the reuse of iron slag that will be excavated as part of the Port of Rochester Marina Project. The information provided in the petition demonstrates the slag can be used to produce an effective aggregate substitute when used above the seasonal high water table. Furthermore, representative analytical results for the iron slag at this location, as provided in the City's petition, do not show concentrations of concern for this proposed use.

One of the requirements for a BUD petition is the applicant demonstrates there is a known or probable market for the BUD material. In the case of the City's petition this could be demonstrated by producing an aggregate that meets the requirements of a commonly used NYSDOT material, such as Type 2 select fill, or by producing an aggregate required for specific construction projects.

In our correspondence the City indicated due to processing cost the City prefers to process much of the excavated slag into aggregate meeting the NYSDOT specification for "embankment fill". Although the petition lists several potential City of Rochester construction projects that might be able to use "embankment fill" it is unclear when the material would be used. As such these projects do not, at this time, demonstrate a known or probable market for slag processed into "embankment fill".

The market for NYSDOT "§ 304.-2.02 Type 2 Subbase Course" is established, and the City's on-going need for such material is documented in the BUD petition. As a result the Department hereby grants **BUD No. 995-8-28, "City of Rochester Department of Environmental Services"**. This BUD is for NYSDOT "304-2.02 Type 2 Subbase Course," produced from Iron Slag excavated during the Port of Rochester Marina project. Please use this number in any future correspondence regarding this BUD.

BUD No. 995-8-28 is contingent on the following conditions:

- 1) All product produced is used above the seasonal high water table.
- 2) The iron slag is processed to NYSDOT "§ 304.-2.02 Type 2 Subbase Course" specifications.
- 3) All product produced contain a *de minimus* quantity of physical contamination, and require no additional processing prior to use.

- 4) All excavated slag will be regulated as a solid waste until such time that it has been processed into a product meeting the above (1, 2, and 3) requirements.
- 5) The product storage and inventory controls described in the September 19, 2012 letter from Jim McIntosh (City Engineer) to Gary Maslanka (NYSDEC) are followed. Note, other storage sites may be approved by the Department upon request.
- 6) Any iron slag found to be unusable for any reason pursuant to this BUD, and any residual or deleterious materials generated from slag processing, must be disposed in accordance with all applicable regulations in 6 NYCRR Part 360.
- 7) An annual report documenting the volume of iron slag beneficially used under this BUD must be submitted to the Department no later than 60 days after the end of the calendar year for which the information is reported. Copies of the report should be sent to:

Sally Rowland, Ph.D.P.E.
Bureau of Solid Waste, Reduction & Recycling
Division of Materials Management
NYSDEC
625 Broadway, 9th Floor
Albany, NY 12233-7253

And

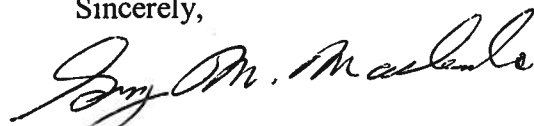
Gary Maslanka
Division of Materials Management
NYSDEC Region 8
6274 East Avon-Lima Road
Avon, NY 14414

Please be aware the Department reserves the right to rescind or modify this BUD at any time if it finds pursuant to 6 NYCRR 360-1.15(d)(4), that any matter serving as the basis for this BUD is incorrect or no longer valid, or the Department finds there has been a violation of the conditions of this BUD; furthermore, this determination does not exempt the City of Rochester from any local, state, or federal requirements.

Finally, should those projects identified in the BUD petition as requiring embankment fill go forward, the City of Rochester may submit a request for a modification to this BUD for such uses.

If you have any questions concerning this letter, please contact me at (585) 226-5414 or gmmaslan@gw.dec.state.ny.us.

Sincerely,



Gary Maslanka
Environmental Engineer

cc: S. Foti, NYSDEC
K. Prather NYSDEC
T. Caffoe NYSDEC
T. Haley, NYSDEC