



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

January 22, 2014

Jason J. Squeglia, President  
Brighter Horizons Environmental, Inc.  
PO Box 219  
Chelmsford, MA 01824

Subject: Certified Waste Derived Product Application submitted October 2, 2013 by  
Brighter Horizons Environmental, Inc.; WMD Document Log #12965

Dear Mr. Squeglia:

The New Hampshire Department of Environmental Services has completed its review of your above-referenced application to have various contaminated soils certified for distribution and use as general fill to reclaim a gravel pit at 17 Twin Bridge Road, Merrimack, NH. Pursuant to Env-Sw 1507.05(b) of the New Hampshire Solid Waste Rules, the application is hereby denied because the proposal does not meet the criteria for certification established in Env-Sw 1504.03, as explained below.

(1) The proposed waste-derived product does not satisfy either of the criteria for need specified in Env-Sw 1504.04(a). Specifically:

(a) The criterion in Env-Sw 1504.04(a)(1) is not satisfied because the proposed use of contaminated soil for general fill will not perform as effectively as the comparable product already existing in the marketplace (clean uncontaminated soil), because the use of contaminated soil as proposed will introduce low-level contamination to an area that is currently uncontaminated. Use of the existing product (uncontaminated soil) does not introduce contamination to an uncontaminated area. Therefore, the proposed waste-derived product is less effective than use of the existing product.

(b) The criterion in Env-Sw 1504.04(a)(2) is not satisfied because the proposed waste-derived product does not satisfy an identifiable and unfulfilled need in society. To the extent that there is a societal need to reclaim gravel pits, that need is not unfulfilled. Gravel pits are routinely reclaimed with materials other than soils classified as solid wastes.

(2) The proposal does not satisfy Env-Sw 1504.06(a)(2) and Env-Sw 1504.06(b) pertaining to the net impact on society of using the waste-derived product as proposed. At present, in New Hampshire, contaminated soil can be either managed at the site of generation or transported to an authorized solid waste facility for treatment or disposal in a controlled environment. The practice of transporting contaminated soil to uncontaminated sites poses a greater risk to the environment, public health and safety than does the current practice, because it would allow



contamination to be introduced where it previously did not exist and where it would not be managed in a controlled environment.

In addition, the soil processing activities identified in the application in Section 5.3 of the Gravel Pit Partial Reclamation Operations Plan could not be approved as part of this application, even if the requested certification could be granted. Section 5.3 of the Gravel Pit Partial Reclamation Operations Plan indicates that some processing of incoming soil may be necessary to produce a material acceptable for reuse based on the proposed specification for the finished waste-derived product. All incoming soil that might need processing in order to meet that specification would be solid waste and regulated as such. Therefore, you would need to obtain a solid waste facility permit pursuant to RSA 149-M:9 and Env-Sw 314 and Env-Sw 500 for the proposed processing operations.

Questions regarding this decision may be directed to Michael E. Guilfooy, P.E., (603) 271-6467, michael.guilfooy@des.nh.gov.

As provided in RSA 149-M:8, any appeal of this decision must be filed with the Waste Management Council. Please see RSA 21-O:14 and Env-WMC 200 for filing requirements.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael J. Wimsatt".

Michael J. Wimsatt, P.G.  
Director  
Waste Management Division

cc: Rich Niles - AMEC  
Town of Merrimack, att: Eileen Cabanel, Town Manager; ecabanel@merrimacknh.gov  
Keith Dubois, P.G., WMD  
Wayne Wheeler, P.E., PADRS