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Mr. Joseph Goffman
Senior Counsel
Office of Air and Radiation (Mail Code 6101A)
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Ms. Lisa Feldt
Deputy Assistant Administrator
Office of Solid Waste and Emergency Response (Mail Code 5101T)
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

February 17, 2012

Re: Confirmation of Status as a Fuel for ReEngineered Feedstock™

Dear Mr. Goffman and Ms. Feldt:

We greatly appreciate your taking the time to meet with us on Wednesday. We appreciated the opportunity to discuss our ReEngineered Feedstock technology and its potential uses and benefits to the economy and the environment. As we discussed, we are following up to request clarification of the regulatory treatment of ReEngineered Feedstock under the Non-Hazardous Secondary Materials (NHSM) and Commercial and Industrial Solid Waste Incinerator (CISWI) rules. This letter is a short summary about ReCommunity and our technology, but we have also attached a white paper, which provides an in-depth look at the ReEngineered Feedstock process, benefits, and our legal analysis of the potential applications of the NHSM rule to our product. We look forward to discussing this issue with you further, at your convenience, and welcome any additional questions you or your staff may have.

I. INTRODUCTION

ReCommunity, Inc., located at 225 S. Main Street (2nd Floor, Rutland, VT, 05701, is the largest independent recycling company in the United States. We are focused on maximizing the recovery of recyclables from mixed waste streams (*i.e.* comingled municipal solid waste, commercial waste, and institutional waste) and reducing landfilling. ReCommunity partners with communities and municipalities to increase revenues by increasing the percentage of material recovered and decreasing discard. Unlike traditional waste haulers and solid waste disposal companies, ReCommunity does not generate any revenue from landfilling or discarded materials.

In order to capture and utilize materials that cannot be recycled, ReCommunity developed ReEngineered Feedstock to convert the largest remaining portion of non-recyclable materials into a useful product. ReEngineered Feedstock is a fuel manufactured from non-recyclable fibers, light plastics, and hard plastics removed from the waste stream and highly processed, along with virgin materials such as sorbents. It has meaningful heating value relative to coal and serves as an effective air pollutant control technology. Although ReEngineered Feedstock ultimately will be used to produce a wide range of commercial and industrial products, including biofuels feedstocks, the critical first use will be as a coal replacement.

The first phase of the ReEngineered Feedstock process, the Multi-Material Processing Platform (MMPP), utilizes sophisticated material separation and characterization technology to recover all marketable recyclables and remove all non-combustible and prohibitive materials. The second phase, the Advanced Manufacturing Process (AMP), then precisely engineers ReEngineered Feedstock from the discrete, selected constituent ingredients – fibers, light plastics, and hard plastics – along with sorbents and additives sourced from virgin material. The product is an advanced fuel that is engineered to match the heating value of the coal with which it will be co-fired and optimized to reduce air emissions.

II. RECOMMUNITY REQUESTS FORMAL CONFIRMATION FROM EPA THAT REENGINEERED FEEDSTOCK IS A NON-WASTE FUEL PRODUCT

ReEngineered Feedstock is a highly processed fuel product that satisfies all of the legitimacy criteria enumerated in 40 C.F.R. 241.3(d)(1). ReCommunity requests that, based on the framework finalized in the Non-Hazardous Secondary Materials rule and proposed in the *Commercial and Industrial Solid Waste Incineration Units: Reconsideration and Proposed Amendments; Non-Hazardous Secondary Materials That are Solid Waste* Reconsideration of the final rule ("Reconsideration"), EPA confirm that ReEngineered Feedstock is a final commercial product, or in the alternative a fuel that is legitimately processed from both virgin and secondary materials, and in either instance is not a solid waste. ReCommunity requests a formal determination because industrial boiler and power plant operators need certainty that co-firing ReEngineered Feedstock with coal will not subject them to regulation as incinerators under Section 129 of the Clean Air Act.

A. ReEngineered Feedstock is the Product of an Advanced Manufacturing Process

ReEngineered Feedstock is the valuable, sophisticated end product of an advanced manufacturing process, rendering it a product and not a secondary material. The MMPP is a highly sophisticated process that harnesses commercially available technology such as eddy current separation, optical sorting stations, and density separation, in addition to ReCommunity proprietary technology to remove discrete, selected constituent ingredients – fibers, light plastics, and hard plastics – from MSW. The AMP then precisely engineers ReEngineered Feedstock, a valuable, consistent and sophisticated fuel that also serves as control technology, from these constituent ingredients and sorbents from virgin materials. Together the MMPP and the AMP unquestionably constitute a manufacturing process. The result of this manufacturing process,

ReEngineered Feedstock, is a valuable, sophisticated fuel and control technology that is undeniably a product, not a secondary material.

B. ReEngineered Feedstock Satisfies the Legitimacy Criteria

ReEngineered Feedstock is a valuable commodity with meaningful heating value that contains contaminant levels comparable to or lower than those in the coal with which it will be co-fired. As such, it satisfies the legitimacy criteria codified in 40 CFR § 241.3(d).

1. ReEngineered Feedstock is Highly Processed

The regulations define "processing" as "any operations that transform a discarded non-hazardous secondary material into a non-waste fuel" by removing or destroying contaminants, improving fuel characteristics, or improving as-fired energy content.[1] ReEngineered Feedstock easily satisfies all of these criteria. It is substantially free of all contaminants, including non-combustibles, prohibitive materials, and inerts. Each batch is precisely engineered to match the heating value of the coal with which it will be co-fired and optimized to satisfy the emission limits of the customer. The as-fired energy content is improved through the selection of discrete component ingredients (*i.e.* fibers, light plastics, sorbents, and hard plastics) that are then purposefully engineered into a fuel with the desired energy content.

2. ReEngineered Feedstock is Managed as a Valuable Commodity

ReEngineered Feedstock is engineered to be co-fired with coal, making coal the "analogous fuel." ReEngineered Feedstock is manufactured to be homogeneous and consistent within a single batch and across multiple batches. This means that combustion units will not need to stockpile ReEngineered feedstock but will use it promptly after delivery, ensuring that it is never stored for longer than a "reasonable time frame."[2] ReEngineered Feedstock can be transported and stored in pelletized or granulated form using sealed Super Sac or Gaylord Containers to minimize the risk of release. It is engineered to remove prohibitive materials, hazardous substances, or residues meaning ReEngineered Feedstock is free of odor and volatile organic compounds (VOCs), and is stable.

3. ReEngineered Feedstock is a Fuel With Meaningful Heating Value

Combustion units that generate power will purchase ReEngineered Feedstock as a fuel to co-fire with coal, satisfying the second fuel legitimacy criterion that it have "meaningful" heating value. ReEngineered Feedstock can produce heating values ranging from 6,500 to 10,000 Btu/lb and each batch is customized to match the specific energy needs of the purchaser.

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[1] 40 CFR § 241.2.

[2] 40 CFR § 241.3(d)(1)(i)(A)

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4. ReEngineered Feedstock Contains Contaminant Levels Comparable to or Lower Than Those In Coal.

As explained by EPA in the Reconsideration, the comparable contaminant languages is intended to provide flexibility when comparing contaminant levels with "traditional fuels." Because ReEngineered Feedstock is engineered to be co-fired with coal, a comparison must be made to contaminant levels found in coal. As demonstrated in greater detail in Section 5(C)(2)(c) of the attached White Paper, ReEngineered Feedstock contains lower levels of arsenic, sulfur, fluorine, chlorine and a variety of other contaminants when compared with Eastern Bituminous Coal. ReEngineered Feedstock therefore satisfies the third and final legitimacy criterion.

Given ReEngineered Feedstock's status as a final commercial product, that would meet the legitimacy criteria if it were determined to be a secondary material, ReCommunity requests formal confirmation from EPA that when combusted in an industrial boiler or power plant ReEngineered Feedstock would not trigger Section 129 of the Clean Air Act.

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Thank you for your consideration of this request. Should you have any questions or comments, please do not hesitate to contact Bob Wyman at Robert.Wyman@lw.com or (213) 891-8346 or Claudia O'Brien at Claudia.O'Brien@lw.com or (202) 637-2181.

Sincerely,

Claudia O'Brien
Robert Wyman

of LATHAM & WATKINS LLP
counsel to ReCommunity, Inc.