



MEMORANDUM

TO: Patrick Urich
DATE: December 8, 2009

FROM: Patrick G. Sloan, P.E.
Emily L. Ambroso, P.E.
NUMBER: 9P001.00

SUBJECT: Response to Public Comments on the Proposed Expansion Contract

This memorandum provides a response to the public comments received in writing at the November 18, 2009 City of Peoria / County of Peoria Landfill Committee meeting, as requested by the Committee. As requested by the Peoria County Health and Environmental Issues Committee on November 30, we have added some language to clarify the previous answers.

To assist in correlating the questions and responses, copies of the comments are attached and we've indicated the response number on each. Some of the comments offered were self explanatory for the Committee and no further staff explanation or response was provided.

1. Prohibition against Electric Arc Furnace Dust (EAF) or other waste streams treated at the PDC Facility

Although the contract as approved by the Landfill Committee does not include a provision for prohibition of delisted EAF or other waste streams treated at the PDC facility, the City, County and the Landfill Committee retain several mechanisms to prevent these waste streams from being accepted at the landfill. These mechanisms include:

- The City Council can request an amendment to the contract;
- The County Board can request an amendment to the contract;
- The County can impose a restriction as part of the siting process;
- The Special Waste Acceptance Plan that will be part of the Landfill 3 operating plan can incorporate general or specific restrictions on acceptable waste streams; and
- The Committee can rule at any time against a specific special waste stream.

Each of these steps involves at least one public meeting at which public comment is received. Also, as technology changes and new waste streams enter the marketplace, the last two mechanisms are flexible and allow the Landfill Committee to adapt and continue to provide guidance on the types of waste received at the City-County facility.

Section 8.2 of the Specifications, contained in Exhibit A to the Landfill Agreement states, "No hazardous waste will be accepted. All special and certified non-special waste streams must be approved by the Committee prior to acceptance at the Facility." Sections 7 and 8

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of the Landfill Agreement state that all IEPA permits and operation plans, including waste acceptance plans, require approval by the Committee.

De-listed EAF is only one of many potential special waste streams that could be accepted by the City-County Landfill. The City-County Landfill Committee has adopted a process that requires the Contractor to submit data for every individual waste stream for review and approval prior to acceptance.

2. Use of Perpetual Care Funds for Landfill No. 1

Normal post closure care for Landfill No. 1 is to be provided by Waste Management until 2028 and thereafter by PDC. The Committee is and will continue to be responsible for corrective actions. The Landfill Committee budget (which is approved annually by the City Council and County Board) indicates that revenue from host fees and existing funds will be used to address these issues. In the event that there are not sufficient funds in the Committee account, the contract allows for the Committee to withdraw funds to pay for corrective actions for Landfill No 1. This is not to say that this will necessarily be the first option for the Committee (as additional funds may be sought elsewhere from the City, County or other available sources). It is simply included as an alternative to help the Committee to protect the health and welfare of its citizens.

Also, expenditures over \$50,000, including those from the perpetual care fund, must be approved by the City Council and the County Board, thereby allowing for future public comment on a case-by-case basis. The perpetual care fund will not be initiated until approximately 2018, when an operating permit for the expansion is approved. Prior to the fund being initiated, the Committee will be expending significant funds for mitigating landfill gas managing leachate and instituting corrective actions, if required.

3. Special Waste Fees

The Committee, City or County has never set tipping fees for special waste, since it was felt that the free market would provide the best value for the special waste generators in Peoria County. The generators of special waste include industries, businesses and institutions which provide the economic engine which allows the region to compete in the regional to world markets. Maximum tipping fees are set for municipal solid waste (MSW) to help protect residents since the Peoria hauling contract requires the City's MSW to be disposed of at the landfill.

The Committee, City and County will obtain the same revenue from special waste as they do from municipal solid waste through the host fees. The only exception occurs when the generator of a pollution control waste chooses to manage it as a special waste, rather than certifying it as a non-special waste. This is caused by state law, rather than the contract. Currently, most special waste is being certified as non-special waste, being managed as a municipal waste and pays all surcharges.

4. Loss of Fees with the PDC Transfer Station Option

The Committee recognizes that there is less revenue generated by the transfer station option. This alternative is included in the contract only as a backup plan in the event that siting approval (by the County) cannot be obtained. Otherwise, if the County does not approve the landfill siting application and Landfill No. 2 reaches capacity, waste would have to be disposed of out of the County which would result in higher prices for hauling and loss of revenue to the City or County, particularly for recycling efforts.

Specifically, if the transfer station option is used, the County will lose its surcharge of \$1.27 per ton. On the other hand, the Committee will receive a host fee of \$3.00 per ton plus \$2 M over the first 10 years. The Expansion also has a \$3.00 per ton host fee plus additional payments of \$2.05 M. Since the current facility generates \$2.77 per ton, including the County's surcharge, it is likely to assume that some of the \$3 per ton collected by the Committee may be directed to County recycling efforts. How the City and County spend the host fee revenues is not dictated by the Landfill Agreement. The City-County Landfill is governed by an intergovernmental agreement between the City and County, the City and County may decide to distribute the revenue from the landfill in any manner that they choose and agree on. In addition, the Committee retains the expansion property which may generate additional revenue in the future.

5. Relationship of the Transfer Station Option to the Expansion Facility

The Committee regards the solid waste facility property (approximately 1,300 acres total) as a long term resource. The value of the expansion parcel is demonstrated by the fact that two excellent proposals were received in response to the RFQ. If PDC fails to site and proceed with an expansion on the property, the resource has been preserved for future use and increases in value. In the mean time, the solid waste disposal needs of the County will be assured with the transfer station option. If PDC fails to utilize the facility for an expansion, the Committee will be free to pursue any option they desire for the property.

A concern was expressed that PDC could opt out of the landfill expansion and proceed to the transfer facility option. The agreement requires PDC to pursue the landfill expansion siting in good faith. They can initiate the transfer station option, under the agreement, only if they are denied site approval by the County.

The Committee feels that potential loss of access to the expansion facility property is sufficient inducement for PDC to pursue the landfill expansion. The Committee may initiate enforcement, as specified in Section 30 of the agreement, if PDC does not proceed with the expansion siting application in good faith.

6. Donated Property

Portions of the property appear to be suitable for stockpiling. The Committee reserves the right, as the property owner, to direct PDC where on the 57 acre parcel they may stockpile

soils, if required. PDC will be required to comply with all laws and regulations for any stockpiling operation, including completing an archaeological review of the site.

7. Household Hazardous Waste (HHW) Volume

The Committee recognizes that 150,000 pounds per year of HHW is potentially less than the total amount generated (and possibly disposed of) by County residents. However, the 150,000 pounds is not a limit on the facility, just a minimum that must be handled at no cost to the generators. The cost for disposing more HHW than that will be borne by the generators either directly or through City/County policies.

PDC has agreed to work with the City/County on a regional facility which would handle all of the County's needs. Planning for this facility can start at any time and does not need to wait until the landfill expansion is underway.

8. Five Year Cells/Units Agreements

Landfill No. 1 used short term agreements, which resulted in a great deal of responsibility (financial and legal) being borne by the Committee. Bidders are less likely to provide competitive responses to a short term life of site agreement because it is very inefficient to build a small cell, thereby making the costs skyrocket. The City/County would undoubtedly see fewer revenues from such a project.

Perhaps more importantly, smaller stand-alone units would make landfill gas recovery much less efficient and reduce the amount of energy that could be produced. Also, more greenhouse gases would be emitted.

Based on the positive environmental benefits, control of long term liability and the inherent efficiencies of scale, the Committee has selected a large unit as the best option for any landfill expansion.

9. Term as it relates to the Transfer Facility Option and Post Closure Care

The following tables compare the responsibilities for post closure care with the landfill expansion (LF 3) versus those with the transfer facility option.

Table 1
Post Closure Care w/ LF3

Years	LF 1 (Routine)	LF 1 (Gas/ Leachate/ Cap)	LF 1 (Remedial Actions)	LF 2	LF 3
Now - 2018*	WMI	Committee	Committee	WMI	PDC
2018 - 2028**	WMI	PDC	Committee	WMI	PDC
2028 - Future	PDC	PDC	Committee	WMI	PDC

* 2018 ó Estimated closure of LF2

** 2028 ó LF1 eligible for release from post-closure care

Table 2
Post Closure Care w/ Transfer Station

Years	LF 1 (Routine)	LF 1 (Gas/ Leachate/ Cap)	LF 1 (Remedial Actions)	LF 2	Transfer Station
Now - 2018*	WMI	Committee	Committee	WMI	N/A
2018 - 2028**	WMI	Committee	Committee	WMI	N/A
2028 - Future	PDC	Committee	Committee	WMI	N/A

* 2018 ó Estimated closure of LF2

** 2028 ó LF1 eligible for release from post-closure care

If PDC does not successfully site the landfill expansion, the Committee will retain post closure care responsibilities for Landfill No. 1. However, the Committee is also free to seek additional proposals for the expansion parcel and could specify in future RFPs that Landfill No. 1 post closure care be provided by an expansion contractor.

10. Design and Site Investigation Comments

The Committee will be reviewing a comprehensive work plan for the investigation which must meet all applicable regulations. Both the investigation work plan and design will be thoroughly reviewed by staff and consultant, as directed by the Committee. The Committee may accept the review and recommendation of staff or seek further information, prior to making any decisions. Detailed work plans or design work will likely not be reproduced, but are subject to requests by Committee members or under the

Freedom of Information Act. Public comment is available at each public meeting and is an integral part of the County siting approval process.

11. Application Site Approval by Committee

As the site owner, the Committee must review and approve proceeding with the siting application. Like all other Committee decisions, it is expected that public comment will be allowed and considered. While it is unlikely that PDC would proceed with a siting application that did not address all the site owner comments, it should be recognized that the County local siting process is totally independent of the Committee's actions.

12. Siting Approval by the County

The siting process, including time lines is dictated by state law. The law requires that a public hearing be held between 90 and 120 days of the site application. As discussed above, it will be in the best interest for PDC to incorporate any changes that the Committee recommends prior to siting. If they do not, the County may impose conditions on the site approval to incorporate the changes. PDC will not be able to submit a construction permit application for the expansion facility to IEPA until it is approved by the Committee. The Committee is unlikely to approve a permit application without PDC incorporating their recommendations.

If IEPA identifies issues on PDC permit application, PDC is required to correct the deficiencies in the permit application, thereby securing approval. Failure to make any changes required by IEPA will trigger an enforcement event under the agreement.

13. Permits and Operation Plan

Public participation in the review and approval of these items is provided through the Committee, which is a public body authorized by the City ó County intergovernmental agreement. As joint owners of the facility, Freedom of Information Act (FOIA) requests may be made to either government.

14. Section 9 Meaning

PDC is responsible for the scheduling of planning, siting, permitting and construction activities to ensure that the expansion will be ready to receive waste when Landfill No. 2 has reached capacity. If PDC does not achieve the expansion in time, they will be responsible to handle guaranteed waste streams in whatever manner they choose at the tipping rates established in the contract. Host fees are only required if there is a facility under this agreement, whether it is an expansion facility or the transfer station facility.

15. Section 10 Remedial and Post Closure Care of Landfill No. 1

The Committee is responsible for groundwater remediation, if required, regardless of any agreements in effect now or proposed. Some post closure activities, which could be considered remediation will be picked up by PDC in approximately 2018 under the basic agreement. Post closure care of Landfill No. 1 in the event of a PDC siting failure is discussed above.

16. Section 11 Municipal Waste Guarantee

The only guaranteed waste streams are City or County initiated collection contracts. All other waste streams are free to operate in the free market and find the most advantageous rates, regardless of the final disposal destination. While the current Landfill No. 2 contract contains both a minimum host fee payment and a minimum life, neither is proposed for the expansion, because they were not thought to be necessary. When the Landfill No. 2 agreement was negotiated there was a concern about dwindling landfill space. Over the past ten years that concern has been alleviated by private competition. The concern about obtaining a minimum level of revenue has been alleviated, due to the proposed host fee structure and the fact that many of the Landfill No. 1 post closure care concerns will have been taken care of by Landfill No. 2 revenue. Since the Committee will be past many of the "cash flow" concerns with funding Landfill No. 1 issues, Landfill No. 3, once sited and permitted, will become a long term value to the public, which will likely increase in value if preserved for later use.

17. Section 14.3 Special Wastes

As explained above, the Committee holds the final say over any special waste stream.

18. Section 19 Perpetual Care

It is unlikely that there will be new post closure care items arising 30 years after closure of a unit. Leachate and gas generation is greatest at the time of closure and the management requirements decreases as time progresses. PDC is not able to access the perpetual care fund unless it is approved by the Committee.

The perpetual care fund is to be used for the facility, regardless of who the contractor is. We are not aware of any minimum asset levels identified in the literature for perpetual care. Landfills permitted, constructed and operated fully under the Illinois 811 regulations and RCRA Subtitle D rules are significantly less likely to have problems that will result in corrective actions or the significant levels of care exhibited by older landfills.

19. Section 20.1 Citizen's Convenience Center

Citizen's participation in Committee decisions was discussed in Item 13.

The Convenience Center will be owned by the Contractor. At the end of the contract, the Contractor will be responsible to remove the facility, or if the Committee agrees, they may allow it to remain.

20. Section 20.5 Household Hazardous Waste

Yes, PDC may accept more than 150,000 pounds of HHW per year at a disposal rate they establish. As stated in the agreement, other governments in the region may negotiate an expanded capacity, including rates.

The Committee may always provide input to the Contractor as to the types of HHW accepted. The public can also affect this process through the Committee or the County Board at siting.

21. Section 21.1 Transfer Facility

The transfer facility will be required to be operational by the time Landfill No. 2 reaches capacity. The facility will be located at the PDC property on Illinois Rt. 8.

22. Section 21.5 Special Waste in Transfer Facility

The Committee has no authority to determine what types of wastes are accepted at a facility owned by others. The Committee has no obligation to accept ownership of the Transfer Facility after the 25 year term.

23. Section 21.8 Committee Annual Payment from Transfer Facility

Revenues from the Transfer Facility are addressed in Item 4. All expenditures by the Committee are made in accordance with the annual budget which is reviewed and approved by the Committee, City and County. The public may review and comment on the budget in the same manner as all other decisions made by the Committee, City and County.

24. Escrow Agreement Section 2.b Purpose of Funds

Expenditures from the perpetual care fund were discussed above. There is no guarantee of future financial performance of the escrow fund. Drawdowns of the fund can only be made with the agreement of all the parties, PDC, Committee, City and County.

25. Section 3.2 Disbursement Disputes

No disbursements will be made if the parties do not agree.

26. Section 4.1 Assignments, Fees and Successors

The Escrow Agent and fees, which are determined and agreed to by the Committee, City and County have not yet been determined. Perpetual care activities may be provided by any firm or individual agreed to by the Committee, City, County and PDC. The procurement of such activities will be required to adhere to the governmental procurement rules or policies in effect at that time.