

County of Centre



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TO: David Garg, P.E., Facilities Manager
PA DEP – Bureau of Waste Management

FROM: Robert B. Jacobs, AICP, Director
Christopher M. Price, AICP, Assistant Director

DATE: June 30, 2006

SUBJECT: Centre County Comments - LMIP for Resource Recovery, LLC's
Landfill Permit Application

The Centre County Planning and Community Development Office (CCPCDO) appreciated the opportunity to participate in the LMIP meeting this past Wednesday. As a follow up, we would like to provide you with our initial set of comments and concerns regarding RR LLC's Landfill Permit Application. Although this is not our inclusive list of review comments, they are intended to provide clarification to some of the deficiencies we found in the permit application. These comments may also assist you in the administrative completeness review of the permit application.

Comprehensive Planning

PA DEP Permit GIF, Page 3, Land Use Information, Item 4, states that the project is consistent with County and local comprehensive plans:

The Resource Recovery, LLC Landfill proposal is not consistent with County and local planning:

The proposed landfill is inconsistent with the 2003 Centre County Comprehensive Plan, and the 1991 Snow Shoe Township Comprehensive Plan. Centre County and Snow Show Township identified the area near the proposed landfill as a forested/ open space/ conservation area in keeping with the current land uses, the lack of public infrastructure, and the potential for impacts to adjacent municipalities.

Subsequently, Rush Township adopted a comprehensive plan in February 2006 that was reviewed by this office and identified as inconsistent with the County Comprehensive Plan. The consultant that completed the plan, Rettew Associates, is also under contract with RR LLC for transportation and engineering services.

Zoning

PA DEP Permit GIF, Page 3, Land Use Information, Items 5, 7, & 8, states that there is no municipal zoning ordinance, no zoning approvals will be required, and that there are no legal proceedings subject to zoning.

The RR LLC Landfill proposal is not in conformance with Snow Shoe Township's Zoning Ordinance. In February 2006, RR LLC appealed a "Preliminary Opinion" response to RR LLC regarding the construction of an access road and/ or private street to the proposed landfill through the portion of the property in Snow Shoe Township.

In conjunction with this zoning appeal, RR LLC has filed a civil action suit against the Centre County Commissioners regarding the County Subdivision and Land Development Ordinance's Developments of Regional Significance regulations.

Snow Shoe Township adopted a zoning ordinance in 1998 that identified this tract of land within the Forest/ Open Space District. Landfills and other industrial activities are not permitted uses by right in this district. The proposed site is one large tract of land (5,758 acres) and is located in both Rush and Snow Shoe Townships.

Rush Township has no zoning and by virtue of the Municipal Host Agreement between Rush Township and RR LLC, the Township abdicated all local land use rights and controls (all Rush Township land north of I-80) to RR LLC now and in the future. A clause within the host agreement entitled *Obligations of the Township* states:

"Township agrees that in consideration of this Agreement and payment received under the agreement, Township will not interfere with or oppose the permitting, re-permitting, or permit modifications (to the extent that such permit modifications are not inconsistent with this Agreement) of the Landfill, or pass any ordinances or regulations regulating or interfering with the operation of the Landfill"

RR LLC is also requesting that the landfill permit be approved for a 25 year period rather than the normal 10 year period. Based on this request and the terms of the host agreement, the next generation of Rush Township residents will not have the ability to formally comment on the proposed landfill.

The request for a 25 year permit is also inconsistent with the Centre County Solid Waste Authority's Plan which was recently approved the normal 10 year period. Future ramifications to the County's Solid Waste program will result in the loss of revenue and program services to the County residents excluded from free tipping fee areas identified in the RR LLC municipal host agreements.

The host agreement also notes that RR LLC will comply with all applicable federal, state, and local laws and regulations. However, as previously mentioned, the legal challenges by RR LLC to the local and County ordinances are in direct conflict with this statement and makes it difficult to evaluate the potential impacts of this development.

Transportation Planning

PA DEP Permit Application, Phase I, Volume I, April 2006 Point Of Access Study for the I-80/ Gorton Road Interchange,

As previously noted, Rush Township and RR LLC submitted a Point of Access Study (POA) as required by the Federal Highway Administration (FHWA) and PennDOT in order to access the site via an interchange from Interstate 80. Currently, the proposed landfill is not accessible through Rush Township. The only access is through Snow Shoe Township along collector roads as identified in the Federal Functional Classification System. Other municipalities directly impacted by the current access include Snow Shoe Borough, and Cooper Township in Clearfield County.

At the direction of PennDOT and the Federal Highway Administration, Centre County and the Centre County Metropolitan Planning Organization (CCMPO) conducted a review of the proposed development regarding land use and transportation. ***An extensive review by the County Board of Commissioners, County Planning Commission, and CCMPO concluded that the project was inconsistent with local and County Comprehensive Plans and the Long Range Transportation Plan (LRTP)*** due to inconsistency and incompatibility with the land uses and transportation network in adjacent municipalities.

The specific reasons for the finding are:

The proposed interchange was not included on the current LRTP, Mobility Action Plan (MAP) 2015.

The proposed interchange was included on a recent list of ranked projects for the proposed LRTP. Based on the CCMPO's adopted project review criteria, the interchange ranked 119th out of 143 projects. This interchange is not identified in the proposed LRTP because it is beyond the 30 year horizon of the plan in regards to need and fiscal constraint (regardless of public or private funding to construct the interchange).

The CCMPO 2007-2010 Transportation Improvement Plan (TIP), which implements projects on the LRTP, does not identify the proposed I-80 interchange due its low ranking on the project list.

******* *It's important to note that due to fiscal constraints, there is not even enough funding for the construction of the I-80/ I-99 High Speed Access Interchange and Local Access Interchange on the 2007-2010 TIP (which were ranked near the top of the list).*

The permit application and POA do not specify an origin of waste and the applicant is not included in any identified solid waste management plans within the Commonwealth. As such, it is difficult to evaluate the potential impacts of this development to both the local road network and the Interstate system.

The initial Point of Access study prepared by the applicant notes substantial negative impacts to the local road network if used as an access alternative and suggests deteriorations to levels of service to the interstate system if used as an access alternative.

Rush Township amended their host agreement with RR LLC in October 2005 to allow access to the site via the local roads (Gorton Road, SR 53 and SR 144) in Snow Shoe Township. The permit application and revised POA do not address or consider the impacts of this host agreement modification.

The extensive lists of deficiencies identified by PennDOT regarding the Point of Access Study have not yet been addressed by the applicant. More specifically, RR LLC has not even responded to the initial list of comments drafted by PennDOT in May 2005 from a previous POA submittal.

The permit application for the landfill does not address the impacts to the existing Snow Shoe Rail Trail which traverses the property. Recently, over \$500,000 of Federal Highways funding (Transportation Enhancement funds) were expended to rehabilitate the Peale Tunnel located along the trail. The proposed landfill development will negate the use of this existing trail and Peale Tunnel.

Environmental Concerns

According to the US Fish and Wildlife Service, the proposed landfill will impact approximately 11 acres of wetlands. Since 1988, no landfill has been permitted that impacted wetlands greater than approximately 6 (six) acres. Recent landfills and/ or expansions have effected no more than 3 (three) acres.

The RR LLC permit application states that local road access will be utilized for construction of the proposed landfill and I-80 Interchange and that there will be no impacts to nearby streams. However, the only access to the site, Gorton Road is traversed by the Black Moshannon Creek which is identified as High Quality Cold Water Fishery (HQCWF).

The permit application and POA do not identify that waste hauling trucks will utilize Gorton Road for access to the landfill regardless of an I-80 Interchange because it is the only alternate route if I-80 is closed during emergencies. The potential pollution and degradation of Black Moshannon has not been addressed.

County Solid Waste Planning Concerns

The RR LLC Landfill permit Application is inconsistent with the recently adopted Centre County Solid Waste Authority's (CCSWA) Solid Waste Management Plan. The permit application does not identify the CCSWA plan or the impacts it would cause to their operations and projected revenues to keep disposal costs affordable to Centre County residents.

RR LLC is in violation of Centre County Ordinance # 3 of 2003 that implements the CCSWA Plan.

Based on information provided by the PA DEP at a 2005 Solid Waste Management Conference, there is ample solid waste disposal capacity in the Commonwealth for the next 13 years. This capacity does not include the proposed capacity by new and/ or expanded landfills.

It is recommended that the PA DEP review the Host municipality Agreement with Rush Township and the Cooperation Agreement with Snow Shoe Township for conflicts with the adopted CCSWA Solid Waste Management Plan.

RR LLC Permit Application Review Concerns

Due to the potential severe impacts of the proposed landfill project, particularly to adjacent municipalities, the CCPCDO recommends that the available resources of the PA DEP are employed in the consideration of this application. One such resource is the \$10,000 grant for an independent technical consultant review.

A technical review of the project has been prepared by the applicant and, pursuant to the host municipality agreement; Rush Township may not interfere in the siting of this landfill. However, because the intent of the grant program is to protect the public interest, we request that this grant money be made available to Centre County as a host municipality/ county or to the CCSWA as our official designee in areas related to solid waste management. This will ensure that an independent technical review may be prepared for public review and comment.

Recommendation

The CCPCDO recommends that the PA DEP suspend any further review of this proposal until the following items are adequately addressed:

The numerous inconsistencies with local and County plans due to the incompatibility of the land uses in the adjacent municipalities.

The pending legal challenges to local and County development ordinances by RR LLC are withdrawn or resolved.

The current inability to provide adequate access to the site for the intensity of the use (a proposed landfill projecting as much as 5,000 tons per day).

The inability to adequately address development impacts due to a lack of information presented by the applicant.

The Planning and Community Development Office also recommends that the PA DEP not issue an "application completeness letter" due to the identified deficiencies.

If the above referenced concerns are adequately addressed, the CCPCDO recommends that any further review include a series of public meetings and public hearings that provide timely and accurate information. This will offer the opportunity for public comment by all effected individuals, businesses, groups, public agencies, municipalities, and counties. Should you require additional information or clarification of the above comments, please let us know.
Thank you.

pc: Centre County Board of Commissioners
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Louis T. Glantz, Esquire, County Solicitor
Centre County Solid Waste Authority
Ted Onufrak, Executive Director, Centre County Solid Waste Authority
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