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August 16, 2006

Northcentral Regional Office

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CERTIFIED MAIL NO. 7005 1160 0005 4193 7447

Mr. E. B. Able, Jr., President
Resource Recovery, LLC
3925 Columbia Avenue
P.O. Box 476
Mountville, PA 17554-0476

Re: Completeness Review
Resource Recovery Landfill, I.D. No. 101685
Resource Recovery, LLC
APS No. 583150, Auth No 632293
Rush Township, Centre County

Dear Mr. Able:

The Department of Environmental Protection (DEP) has reviewed your response to our July 18, 2006, Completeness Review letter regarding the application for the subject facility. We have determined that additional information is required to deem the application administratively complete under the requirements of 25 Pa. Code Section 271.202.

In response to Comment 1 of the July 18, 2006, letter regarding the ownership of coal rights in the proposed permit area. A letter from Kozloff Stoudt, Attorney's at Law; a copy of the deed originally conveying the property from the Clearfield Bituminous Coal Company to Johnson and Morgan; and a copy of the deed conveying the property from Johnson and Morgan to C.L.O.G., Inc. (CLOG) were submitted. In addition, a copy of the sales agreement between CLOG and E.B. Able, Jr., an addendum to that agreement extending the time frame and an agreement and assignment document assigning the original sale agreement from E.B. Abel, Jr. to Resource Recovery, LLC, were submitted. We have reviewed this information and have the following comment:

The letter from Kozloff Stoudt drew the conclusion that because the 1988 deed from Messrs. Johnson and Morgan to CLOG contains no contradictory language from the language of the 1978 deed originally conveying the property from the Clearfield Bituminous Coal Company to Johnson and Morgan, CLOG received the same right to underlying coal. This conclusion appears to be questionable. The 1988 deed conveying the property from Johnson and Morgan to CLOG omits the language specifically included in the earlier deed. In fact, there is no certification in the CLOG deed indicating that any structure then and thereafter constructed is entitled to the support of the underlying coal. To the contrary, CLOG signed a statement printed in the deed that it was aware that it may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interests in the coal. An opposite conclusion could just as easily be drawn that the right of support was not conveyed to CLOG. No title report was included with your submission. The issue of whether the right of support was severed by Johnson and Morgan remains an open issue. In addition, no evidence was included addressing the actual mineral rights to the coal underlying the property. The right of support, as evidenced in the 1978 deed, does not necessarily create an ownership interest in the coal.

The Municipal Waste Management Regulations, 25 Pa. Code §273.202(5), prohibit a landfill from being permitted over recoverable coal unless the permittee owns the mineral rights to that coal. As indicated above, the Department is not convinced that the coal rights for the permit area have been deeded to CLOG and therefore would be subsequently deeded to Resource Recovery, LLC. upon exercising its rights pursuant to the Agreement of Sale, which is included as Attachment 2 of your response. Please submit a more detailed analysis concerning your ownership interest in the mineral rights to the underlying coal.

Note that your response must be received by DEP within 90 days of receipt of this letter or the application will be denied.

In regard to DEP's Money Back Guarantee Program, the clock tracking the elapsed time in the review of your application has stopped while you prepare a response to this letter. The clock will restart when you provide the requested information.

If you have any questions or require further assistance, please call me at 570-327-3752.

Sincerely,

David W. Garg, P.E.
Facilities Manager
Waste Management

cc: Rush Township
Centre County Commissioners
Central Office- Municipal and Residual Waste Division
Bill Tafuto, ARM Group Inc.
Gary Byron
Dan Spadoni
File