



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Pennsylvania Field Office
315 South Allen Street, Suite 322
State College, Pennsylvania 16801-4850

October 23, 2006

Mr. David W. Garg
Permits Chief
(ATTN: Steve Means)
Pennsylvania Department of Environmental Protection
208 West Third Street
Williamsport, PA 17701-6448

Dear Mr. Garg:

The Fish and Wildlife Service has reviewed Permit Number E14-492, as advertised in the *Pennsylvania Bulletin*, dated September 9, 2006. Resource Recovery, LLC (RRLLC), proposes to construct a municipal waste landfill and associated facilities in Rush Township, Centre County, Pennsylvania. The project would result in impacts to 10.6 acres of 12 wetlands. Wetland impacts include fill in 5.67 acres of palustrine forested/palustrine emergent (PFO/PEM) wetlands, 0.69 acre of palustrine scrub-shrub (PSS/PEM) wetland, and 4.22 acres of PEM wetlands. An additional 0.71 acre of PEM wetland may be affected by a proposed highway interchange. The applicant has proposed creating about 10.6 acres of wetlands as compensatory mitigation (a 1:1 replacement ratio).

The following comments are provided pursuant to the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) to ensure the protection of federally listed endangered and threatened species, and the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 *et seq.*) to ensure protection of fish and wildlife resources.

Threatened and Endangered Species

As mentioned in our letter of June 9, 2004 (copy enclosed), the proposed landfill project is located within the range of four federally listed species, the threatened bald eagle (*Haliaeetus leucocephalus*), endangered Indiana bat (*Myotis sodalis*), endangered northeastern bulrush (*Scirpus ancistrochaetus*), and threatened small-whorled pogonia (*Isotria medeoloides*). Surveys for these species, following our recommended survey guidelines, have been conducted on the 533-acre landfill portion of the 6,000-acre property.

To date, we have concluded that the footprint of the proposed 533-acre landfill will not adversely affect federally listed endangered and threatened species. However, if other, related developments are proposed for this area, surveys should be conducted for the above species

within all direct and indirect impact areas, as we have previously recommended to the applicant (see enclosed copies of joint comment letter from the Pennsylvania Department Environmental Protection, dated June 14, 2005, and our letter of November 5, 2005). Accordingly, the applicant should provide maps and project plans comparing the areas already surveyed for these species to the areas that will be affected by all project-related features, including the I-80 interchange, landfill, industrial park, Gorton Road extension, and all associated facilities. Again, these additional surveys may be necessary if all areas affected by such facilities have not been adequately surveyed.

Other Fish and Wildlife Resources

It appears that the RRLLC project will permanently affect nearly 11 acres of wetlands, and will also destroy and fragment valuable wildlife habitat. We offer the following summary of our previously-stated concerns:

Alternatives Analysis. Landfill and industrial park development are not water-dependent activities, and RRLLC has not adequately justified destroying aquatic resources for developing the landfill and its related facilities. RRLLC should explore alternatives that are less environmentally damaging, such as alternative site plan configurations that minimize wetland fills and alternative site locations with lower habitat quality. According to the Department, since 1988, the State has authorized only one landfill having impacts to aquatic resources greater than six acres (the Alliance Sanitary Landfill in Lackawanna County; 6.18 acres). Other new landfills and expansions have affected no more than 2.9 acres for any single project (12 landfills affecting a total of 13.69 acres of wetlands). This can be attributed largely to proper site selection and impact minimization through project configuration.

In early alternatives analyses, RRLLC focused on previously-disturbed lands, in conjunction with highway and rail access, as the main criteria for site consideration. Accordingly, many sites were eliminated or not even considered because of a lack of highway or rail access. Since the resource agency meeting of May 13, 2005, highway access at the Rush Township site via a new interchange has become uncertain due to local highway issues. In fact, in the open letter to the community that appeared in the June 19, 2005, *Centre Daily Times*, RRLLC stated that, should plans for an interchange not be approved, RRLLC " . . . will be compelled to accept access to the development via the existing roadway network." That said, the previous alternatives analysis that rejected sites due to a lack of highway access cannot be considered valid. RRLLC should conduct a new alternatives analysis, focusing on previously disturbed lands.

To date, RRLLC has not fully evaluated alternatives on previously-mined lands. The applicant has stated that several abandoned deep-mines exist on the site. However, it appears that these areas have been largely ignored due to sub-surface honeycombing. The applicant should consider day-lighting historical deep mines to use as a landfill alternative to pit construction at the proposed location (thus using the landfill and liner to also seal off any acid mine drainage that may be occurring at this site).

Single and Complete Project. The resource agencies have consistently recommended that all aquatic resources within the entire 6,000-acre parcel be properly identified and mapped. To date,

aquatic resources have only been identified within the direct footprint of the proposed landfill, without any regard to future development plans for the remainder of the parcel. With plans for a future industrial park, rail spur, landfill expansion, Gorton Road expansion, and a possible highway interchange, all resources existing on this entire 6,000-acre tract should be identified to allow a complete evaluation of site plan configurations that could minimize environmental impacts. For example, we note that RRLLC's June 19 open letter describes the proposed industrial park as being "... integral to the overall development." It appears that the future industrial park, road expansion, rail line spur, or highway interchange would not exist, but for the presence of the proposed landfill. Consistent with the Department's regulations, the various development phases of this project should be presented as a single and complete project.

Compensatory Mitigation

On September 26, 2006, a Service biologist met on the site with the applicant, the applicant's consultants, the U.S. Army Corps of Engineers, the Pennsylvania Fish and Boat Commission, the Pennsylvania Game Commission, a representative the Department's Solid Waste Management Division, and Steve Means of your staff. We evaluated four different potential wetland mitigation sites (A thru D), all of which were found to be unacceptable for the following reasons:

Wetland Mitigation Site A. This site is an existing PEM floodplain wetland (Moshannon Creek) which the applicant proposes to enhance by expanding into forested upland areas. Vegetation at this site includes bulrush, soft rush, sedges, panic grass, woolgrass, tussock sedge, and goldenrod within two depressional areas; and tulip polar, red maple, pines and firs in the surrounding upland areas. The toe of the slope directly adjacent to the proposed mitigation site is a potential rattlesnake-denning area. We usually discourage building wetland mitigation in existing forested areas, where wetland construction would necessitate removal of mature trees and canopy.

Wetland Mitigation Site B. This proposed mitigation site is also an existing floodplain wetland. This PEM wetland lies at the toe of the slope near the first floodplain bench, among forested upland areas (mainly maple, oak and pine). The applicant proposes to excavate the higher elevations and expand this wetland. As for Site A, we generally discourage sacrificing forest cover for wetland construction. Furthermore, we are concerned that the alluvial soil (very sandy in appearance) found on this floodplain would not maintain the hydrology necessary to create a successful wetland site. Finally, it appears that this site would be subject to erosion and deposition due to frequent overbank flooding.

Wetland Mitigation Site C. This would be the site of another wetland expansion/forest conversion. The PEM/SS wetland complex includes a mosaic of wet and dry areas supporting a diverse assemblage of wetland vegetation, including woolgrass, sedges, bulrush, grasses, soft rush, panic grass, sphagnum moss, red maple, pin oak, blueberry and goldenrod. The area is surrounded by a forested upland which includes maple, oak, and pine. Again, as for Wetland Mitigation Sites A and B, we generally discourage sacrificing forest cover for wetland construction.

Wetland Mitigation Site D. This site is nearly devoid of vegetation. Soils are dominated by clay and bedrock, with two small areas that actually hold some water. The applicant proposes to create a wetland, using hydric soils stripped from areas affected by the project. The success of this wetland mitigation will rely heavily upon hydrology, and this site may not retain sufficient water for wetland creation. Furthermore, if there is adequate hydrology, the transferred wetland soils may need to be amended with bio-solids in order to create a more fertile soil base.

We strongly recommend that the applicant investigate compensatory mitigation sites that do not require elimination of high value wildlife habitat and which are likely to achieve long-term success in replacing the wetland functions lost at the proposed development site.

Summary

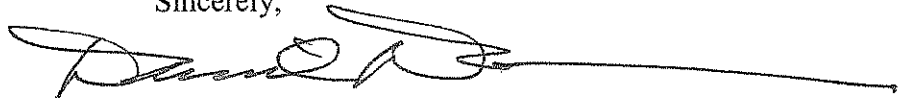
Chapter 105 of the Pennsylvania Code [105.14(7)] states that, in evaluating the potential environmental impacts of a proposed project, the Department will consider the extent to which a project is water dependent and the availability of other alternatives. We believe that there are practicable alternatives to filling aquatic resources for landfill and related developments, such as changing the project configuration, alternative siting on degraded (*i.e.*, brownfield or recently surface-mined) properties, or daylighting deep-mined areas for the landfill pit. If RRLLC is now considering using local roads to access the proposed landfill property, then the alternatives analysis presented at the last meeting no longer applies, and RRLLC must consider other parcels of land that do not have direct highway access. Finally, all project-related actions should be presented as parts of a single and complete project.

The proposed wetland mitigation sites sacrifice forest cover for the construction of PEM wetlands, may be subject to sedimentation and erosion, and rely on questionable hydrology. Therefore, we recommend that the applicant explore alternative areas to site their compensatory wetland mitigation. Furthermore, we usually recommend such mitigation at greater than a 1:1 ratio for PFO and PSS wetlands, since these wetland types are harder to establish and maintain. In general, we recommend the following replacement ratios: 1:1 for PEM wetlands, 1.5:1 for PSS wetlands, and 2:1 for PFO wetlands. The applicant should design and plan their compensatory mitigation needs accordingly.

Until these deficiencies are resolved, we will continue to object to permit issuance.

Thank you for the opportunity to comment on the proposed project. Please Jennifer Kagel of my staff at 814-234-4090 if you have any questions or require further assistance regarding this matter.

Sincerely,



David Densmore
Supervisor

cc:

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Readers file
Project File – Kagel
ES: PAFO:JKagel/jak:10/23/06
Filename: Y:\FROFFICE\Drafts\Drafts 2006\snow shoe landfill DEP.doc

Enclosures include:

- 1) FWS letter dated June 9, 2004
- 2) DEP letter dated June 14, 2005
- 3) FWS letter dated November 5, 2005