

## Citizens Committee Recommendations

Draft

March 20, 2024

### 1. Environmental/Engineering

#### A. Comply with all requirements set out in 9VAC20-81-120.

This addresses the following citizen concerns.

- Limitations in areas active fault
  - Defines the limitations of construction of sites near karst topography and sink holes
  - Defines limitations related to erosion control
  - Requires groundwater monitoring
  - Defines the offsets required for water sources, rivers, streams and wet lands
- The county should not waive rights to comment or oppose any permits based on technical deficiencies. Some host agreements contain a provision wherein the host community waives the right to oppose the landfill permitting on technical grounds. KRC believe it is improper for a community to agree in a contract to support carte blanche the siting and permitting of a landfill, since the community has a responsibility to protect the public welfare. The right to review and comment on, and challenge if appropriate, any permitting action, is advisable. (KY 101)
  - Site should comply with 9VAC20-81-120 (J)
    - For CDD landfills located in strip mine pits, all coal seams and coal outcrops shall be isolated from solid waste materials by a minimum of five feet of natural or compacted soils with a hydraulic conductivity equal to or less than  $1 \times 10^{-7}$  cm/sec.

This is a protection to assure that any possible adverse residue from the mining activity does not comprise the liner.

Regulatory Agencies state that the County should have pre-Host agreement soils and groundwater analysis to establish the baseline on this particular site to avoid conflict and significant expenses later.

#### B. Establish a system for Odor Monitoring and Complaint Management (Host Community Agreement between the Town of Seneca Falls and Seneca Meadows, Inc. (SMI)) or Perinton, NY.

- Example: SMI shall provide four (4) permanent ambient air monitoring stations, each with an associated weather station, continuous H<sub>2</sub>S monitoring analyzer, and data collection, around the perimeter of the Landfill, to continuously monitor the concentrations of H<sub>2</sub>S at the property boundary.

**C. Landfill oversight.** State law provides for hiring of a local representative that is trained in landfill oversight, and the host agreement can and should specify the authority to monitor facility operations and to conduct sampling at the expense of the facility. (KY 101)

- Should be experience qualified and have no ties/alliance with County Officials or the Company
- Regulatory Agencies suggest that we clearly define the job responsibilities and authority for the Landfill Liaison in the Host Agreement.

**D. Any controls on transportation route** deemed necessary by the community, as well as limitations on hours of operation. The Cabinet has made clear that it will not enforce hours of operation limits, and if this is a concern it should be spelled out in the agreement. (KY 101)

- Develop a defined area in which the Company would be responsible for any litter clean up along the routes into the site.
- Define the amount of time that trucks or rail cars can sit before being off loaded.
  - Penalties for any leakage that may impact waterways, Perinton, NY has significant experience and with their new Host Agreement, consider all rail cars from NYC as aged waste.

**E. Operations after Permit is Issued**

- Comply with all current or State, Local, and Federal laws related to site development, operation and closure.
- Incorporate Odor Management as defined in the Host Agreement, Perinton, NY.
- Incorporate other Operational parameters as defined in the Host Agreement, Perinton, NY.
- Establish Reporting Procedure with the County and County Tech team, Perinton, NY.
- Establish a clear landfill Boundary such that all landfill operations occur within this boundary.

**2. Emergency response concerns (Host Community Agreement between the Town of Seneca Falls and Seneca Meadows, Inc. (SMI)).**

- Fire Protection provided direct to local Fire Departments.
  - Citizen concern about Fire Protection
  - A portion of the revenue received from the Agreement will be designated to go directly to a fund for the county Fire Departments, will

use these funds to purchase equipment necessary to be prepared for fire suppression and control at the Facility as well as provide better fire protection for the County.

- How the funds from the Host Agreement will be distributed has not been fully developed yet.

### 3. Financial

A. A one-time payment upon execution of Host Agreement. (Host Community Agreement between the Town of Seneca Falls and Seneca Meadows, Inc. (SMI)).

B. A one-time payment upon receipt of all necessary permits to construct the landfill.

C. Waste Host fee. The current tax of 5%/6.25% represents the maximum that can be imposed under that statutory authority but does not affect the ability of a community to negotiate a higher fee based on waste volume or other factors. (KY 101)

- Recommend that this is based on a percentage of the tipping fee per ton received
- Some Virginia Landfills have a sliding base fee based on tonnage and then increases as the COLI. This has proven inadequate as Tipping Fees have increased much faster than COLI, therefore some have imposed a base fee that is increased at a rate comparable to Tipping Fee increases that the specific landfill charges.
- Recommend annual minimum payment at the beginning of the year that can be recouped against payments for that year. Once the minimum payment is recouped then monthly payments based on the fee

#### D. Methane (Gas) Royalty

- Royalty based on any gas sold, electricity sold, or tax credits from the landfill
- Some in Virginia are at a 10% Royalty

#### E. Post Closure Fund

- Provision should be made for development of a funded post-closure liability fund that will provide assurance of performance of remediation that might be required during the post-closure period. While state law requires that financial assurance be provided for the post-closure monitoring, there is no fund providing financial assurance for performance of corrective action in the event of releases from the facility in the post-closure period. To assure that there will be a fund to assure that the corrective action obligations do not fall to the county, as co-disposer of the waste, or to the state general fund, the Council recommends establishment of a funded post-closure corrective action assurance program. (KY 101)

*Maplewood*  
*VA State Code*  
*Host Agreement 101*

- Establishment of a facility post-closure fund or maintenance of a liability and casualty insurance policy to pay for third-party damages associated with landfill contamination, and environmental liability insurance for environmental contamination, must be maintained through the life of the facility and through the closure and post-closure periods. (KY 101)
- This fund should be linked to actual costs during the life of the project.

#### F. Capacity for Host County Waste

- Host agreements should include a reservation of capacity, which is a reservation of sufficient airspace under permit to handle the anticipated annual waste generated by the county for the period of the plan and permit. In the event that the airspace is otherwise used, the agreement should provide that the facility will transport the county waste to another landfill at no additional cost to the county.

#### 4. Property Value Protection

- A pledge to provide compensation for any adjacent landowners for the diminution in value associated with proximity to the landfill in the event that they cannot sell the property for full value because of proximity to the landfill. (KY 101).
  - Example In Town of Perinton and Waste Management of New York, LLC Host Community Agreement

#### 5. Water supply replacement

- If there are groundwater users in the area of the proposed facility, water quality and quantity surveys should be required for groundwater wells within a fixed radius of the facility, and background samples should be drawn, with wells within a 1/2 mile radius should be sampled on a periodic basis to allow for prompt detection of contaminants migration. Water supply replacement without cost to the homeowner or user should be included as an obligation of the company in the event that it causes a decline in water quality or quantity to that homeowner or user. (KY 101)

#### 6. Legal

- The agreement should contain a clause under which the landfill indemnifies the community from any claims made against the community for its' disposal of waste at the landfill or any other claims relating to the design, construction, use, operation or closure of the facility.(KY 101)
- Agreements should provide for a mechanism for **dispute resolution**, by arbitration, mediation, or other means. (KY 101)
- **Prior notice** and approval by the host community should be required for any transfers of ownership or control of the facility. Host agreements can provide for prior notice to and approval by the county of any transfer of the facility to another entity or change in

ownership or "key personnel". The transfer should be effective only where the transferee receives approval from the County, but also agrees to abide by all of the terms and conditions of the host agreement, posts replacement insurance and any other financial instruments required by the host agreement, and also demonstrates the financial, managerial and technical capability to manage the facility in accordance with law and the host agreement. (KY 101)

- Limitations on service area are important to allow for identification of problem waste generators and assure that the facility does not serve more than the negotiated and defined region. (KY 101)
  - Geographical limitations are common in VA, normally on a distance from the landfill basis. Although Greenridge is attempting to limit individual states.
- Define waste type (Household Waste)
  - Controls on acceptance of problem wastes, with a prohibition on the acceptance of benzene-contaminated soils at levels in excess of hazardous thresholds, and a prohibition on acceptance for disposal of other problem wastes, such as NORM (Naturally occurring radioactive material) and TENORM (Technologically enhanced radioactive material), radioactive wastes and untreated infectious waste. Current state law does not regulate the disposal of infectious wastes from commercial and non commercial home health care (including sharps, dialysis equipment, etc.), or from physician's offices, medical or pathological laboratories and clinics, and dentist offices. (KY 101)
  - Controls on waste that may have heavy metals or other properties that would compromise the liner
  - Look to Perinton, NY Odor Control program for additional waste characterization and limitation.
  - Some Host Agreements prohibit Coal fly/bottom ash as cover material. Need to understand the science behind this to make a recommendation.
- Define an agreed liability period after the expected lifespan of the liner system. Often state law absolves developers and operators of liability prior to the liner's end of life, which is typically when contamination begins. (KY 101)

## 7. Disposal of Landfill Leachate and PFAS Removal

- The county should take no responsibility for the processing or receiving Leachate unless it can be accomplished at no cost to the County.

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