

Oesterling, Mark (EGLE)

From: ERMISCHB@DEQ-SC.DEQ-ERD
Sent: Monday, December 21, 1998 2:40 PM
To: 'MOSIERR@DEQ-SC.DEQ-Shiawassee'; 'SHIREYK@DEQ-SC.DEQ-Shiawassee'
Cc: 'MAROLFL@DEQ-SC.DEQ-ERD'; 'INNESJ@DEQ-SC.DEQ-Shiawassee'
Subject: Linden Road Landfill
Attachments: LINDEN~2.DOC

As you are probably aware, the current six-month deadline date for the Linden Rd. Landfill facility is December 23, 1998.

As I was running the legal agreement, restrictive covenant (RC) and O&M Plan, etc. up the chain for review, Pat McKay wanted me to run a couple things by Dave Bartley regarding the RC. Dave was concerned that the legal agreement was called a Limited Recreational and asked if there was a risk assessment done. We went to ask Lynelle if a risk assessment was required and if we had to change the name of the RAP to a Site Specific. These questions generated more questions which are listed below as follows:

1. Since there are no recreational criteria (and the RAP is a Limited Recreational), these types of RAPs are normally handled via site specific RAP criteria as is explained in 20(a)2. Lynelle says we can handle this RAP as a Limited Recreational IF zoning is appropriate and the nature of the presumptive remedy is protective. For site specific RAPs there is normally a Risk Assessment (RA) done as part of the RAP or it is decided by the Lansing QRT team that due to the presumptive nature of the proposed RAP the RA is not required. Was there a RA done?
2. Was there any public comment during the public comment period? If so, could we get a copy of the Responsiveness Summary?
3. On the "APPROVAL AND TRACKING FORM-DISTRICT QRT MEETING" how were the issues marked "C" resolved?
4. Due to the groundwater conditions at the site, it appears that there should be a groundwater waiver required. Why is there no groundwater waiver included in the RAP package?
5. Do you agree with the estimates in the "Operation and Maintenance Costs" for Linden Road Landfill (specifically the annual estimates for the 6-30 year time frame)? Please re-review the material regarding the estimate of costs for the work.
6. According to Jim Innes' note of 7/28/98 the property is zoned residential/recreational. What documentation do we have to substantiate zoning other than the insufficient information we have seen to date?
7. Have we approved the permanent marker language and specifications on where they should be located, etc.? This language should be in the RAP or in a letter from GM supplementing the RAP.
8. Does the language in the RAP include schedules for site inspection frequency as described in the QRT FORM (mentioned in #2 above)? For instance the QRT form calls for monthly cap inspection until the vegetation is established, etc. - yet I couldn't find this language in the O&M Plan or anywhere else.

I apologize in advance for any of the above questions that you may have already provided answers to.

This RAP needs DEQ management sign off to be finalized. They will not sign off on the RAP without a proper review of its components. It is my understanding that Lynelle believes that this RAP must be taken through the formal review process of the Field Operations QRT.

With the above questions pending and with the fate of the Linden Road Landfill QRT meeting hanging ominously overhead I realized that the December 23rd deadline to review the RAP was not going to work (not to mention it is only two days away!). However as I stated in a GroupWise note to Jim Innes and Lynelle Marolf on July 29th the six-month deadline never should have begun because they never submitted a FAM. They finally submitted one to our office on October 14, 1998, so I would argue that would be the day the six-month time period began. I believe that Lynelle and Dave agree with me. This would allow us more than enough time to get this RAP wrapped up.

We do need to inform GM of this decision to extend or I should say correct the deadline date. Please find attached a letter that I believe would satisfy that need.

P.S. KEEP IN MIND THAT WE SHOULD GET BACK TO THEM PRIOR TO THE DEADLINE OF DECEMBER 23rd (or if we don't, it would "put us behind the eight ball" as Robert Metcalf says).

P.P.S. Lynelle suggests that a letter similar to the attached be sent A.S.A.P.

As always, thanks for putting up with Lansing!

HA!

Brad Ermisch

DEQ-ERD

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STATE OF MICHIGAN



JOHN ENGLER, Governor

DEPARTMENT OF ENVIRONMENTAL QUALITY

"Better Service for a Better Environment"

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RUSSELL J. HARDING, Director

December 21, 1998

Mr. Robert S. Metcalf
General Motors Corporation
North American Operations
902 E. Hamilton Avenue
Flint, Michigan 48550-8504

Dear Mr. Metcalf:

Subject: Linden Road Landfill RAP Approval Process Correction

Pursuant to a letter drafted by Mr. Brad Ermisch and sent to you on October 23, 1998, the current six month deadline by which the Linden Road Landfill RAP (the "RAP") would have to be approved or denied was to be December 23, 1998.

However after further review of the file information it has come to the Department of Environmental Quality's (DEQ) attention that "...submittal of the information necessary or required for the department to make its decision" (as is defined in Section 20114(8) of Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994, PA 451, as amended) was not received by the DEQ until October 14, 1998.

The DEQ had repeatedly asked for a financial assurance mechanism (FAM) from the General Motors Corporation (GM). A letter from Lynelle Marolf for Alan J. Howard sent July 19, 1996 stated that the RAP must include a legally enforceable agreement with the MDEQ that includes the provisions of a FAM acceptable to the department to assure the effectiveness and integrity of the proposed remedial action. In an April 1, 1998 letter from James Innes it states that the MDEQ is requiring GM submit a FAM for parcel#1. On June 1, 1998 you indicated that the exact form of the FAM was yet to be determined. On July 28, 1998 James Innes verbally requested submission of a FAM from GM. On July 29, 1998 Brad Ermisch sent a note to James Innes discussing the possibility of GM's ability to meet the de minimis financial test. On August 13, 1998 Brad Ermisch sent a facsimile to Kurt Mohrmann providing draft language of the de minimis financial test. Later GM decided that they would rather provide a FAM in the form of a Certificate of Deposit (CD). On August 20, 1998 Kurt Mohrmann sent the DEQ a copy of a CD for the Peregrine Facility to see if a CD of this form would be acceptable to the DEQ. On September 11, 1998 Brian Monroe sent GM a copy of the model CD we would use as a template. Finally on October 14, 1998 the DEQ was provided with a FAM that was specific to the Linden Road Landfill site.

Because the DEQ believes this case is a priority it is not foreseen that the approval of this RAP will require the full extent of the six-month review period. However it is the DEQ's position, pursuant to the above-mentioned statutory reference, that the six month review period began on the date the DEQ received information necessary or required for the department to make its decision regarding whether approval of the RAP will be granted or denied. Further, that this information was not received by the DEQ until October 14, 1998. Therefore the six-month deadline by which the DEQ must make its decision to grant or deny the RAP is April 14, 1999.

If you have any questions, please call me. Thank you.

Sincerely,

Rodney Mosier, District Supervisor
Environmental Response Division
Shiawassee District Office
(517) 625-4615

cc: Ms. Lynelle Marolf, DEQ
Ms. Patricia A. McKay, DEQ
Ms. Kathy Shirey, DEQ
Mr. James Innes, DEQ
Mr. Brad Ermisch, DEQ