

May 17, 2000

VIA FAX – 5 pages

To: Michelle Glenn, EPA Region IV
Scott Davis, EPA Region IV
Sherri Walker, EPA

From: John Runkle, Counsel for Blue Ridge Environmental Defense League

Re: EPA PROJECT XL DRAFT Agreement for Buncombe County Leachate Recirculation/Gas Recovery Project – Asheville, North Carolina

My clients, the Blue Ridge Environmental Defense League (“BREDL”) asked me to review the Draft PROJECT XL Agreement for Buncombe County Leachate Recirculation/Gas Recovery Project in Asheville, North Carolina. I have done so in the context of the April 1997 notice in the FEDERAL REGISTER which clarifies EPA’s definition of three key elements of Project XL: superior environmental performance, regulatory flexibility and stakeholder involvement.

1. In order to show the quantitative baseline of what is occurring at the site now, Buncombe County needs to supply all of its current groundwater monitoring data and leachate analysis with a careful description of the groundwater contamination. It is apparent that there may be deficiencies in the leachate control system if the monitoring wells are showing elevated pollutants. The proposed recirculation plan would increase the amount of pollutants in the landfill and this could only exacerbate the potential groundwater contamination problems.

2. Rather than provide a quantitative baseline by which the EPA, the State of North Carolina and members of the public can judge the anticipated performance of the project, the proposed agreement contains a list of awards received by the County. This does little to shed any light on whether Buncombe County is capable of achieving the desired operational benefits of its project. Better decisions could be made after the County provided a complete compliance history at the present landfill, the past landfill, wastewater treatment plant and other County facilities.

3. The stakeholder involvement process to date has been deficient because there has not been any effort to bring in the necessary stakeholders. Members of the community surrounding the landfill have been called in late to the table, after many of the project PROJECT XL -- Buncombe County comments by John D. Runkle

design and development negotiations have been completed. Under the April 1997 scheme, the surrounding community, and the groups that represent them such as BREDL, should be direct participants and be allowed to bring their views to the negotiations. This is further compounded by the County or EPA not providing a clear method for written or oral comments to be received by EPA or any of the other participants. The review material that I have looked through provides an address for any of the key EPA reviewers.

4. BREDL also has a direct interest in this agreement in that it violates a settlement agreement with the County and the State of North Carolina in an administrative appeal of the issuance of the permit in 1995. After a mediated settlement centering on the treatment of the leachate generated at the landfill, the County Board of Commissioners passed the attached resolution and BREDL withdrew its appeal. This was later modified by letter (attached) by which the County changed its position to use tankard trucks to haul the leachate to a treatment facility. BREDL and representatives of a local community group agreed to this change.

At this time, we ask EPA to reconsider this project under PROJECT XL. It is uncertain whether the project will "produce superior environmental results beyond those that would have been achieved under the current" regulations. In fact, the recirculation of leachate may cause increased groundwater pollution.

Attachments

cc. Janet & Lou Zeller, BREDL
Gary Roberts
Bob Hunter, Buncombe County