



Office of the County Executive
STEUART PITTMAN

July 31, 2020

Mr. Andrew Grenzer, Chief,
Solid Waste Operations, Land & Materials Administration
Maryland Department of the Environment
1800 Washington Blvd
Baltimore, Maryland 21230
andrew.grenzer@maryland.gov

Dear Mr. Grenzer:

On behalf of the citizens of Anne Arundel County, thank you for allowing my office the opportunity to provide public comments on the Revised Phase II Permit Application Hydrogeologic Report ("Phase II Report") for the proposed Chesapeake Terrace Rubble Landfill. This letter summarizes Anne Arundel County's public comments as related to technical and zoning aspects of the Phase II Report.

Our primary comment is that the proposed project has, in point of fact, *not* satisfied all applicable county zoning and land use requirements because the applicant has *not* acquired access to the site as required by the special exception.

On July 27, 2005, the County's Land Use Officer provided a letter to the Maryland Department of the Environment stating:

1. section 9-210(a)(3)(i) of the Environment Article of the Annotated Code of Maryland requires a written statement that all applicable County zoning and land use requirements were met for processing of the permit application to proceed;
2. the County provided such a statement in a letter dated August 4, 1997 in order to purge itself of contempt of court as the Court of Appeals previously stated in an August 1, 1997 order that "for purposes of this order, the zoning requirements have been met;" and
3. the letter from the County went on to state that "...in point of fact as of the date of this response, the proposed rubble landfill has *not* met all applicable County zoning and [land] use requirements, to the extent those requirements are construed to include

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acquisition of an access road in the location and manner specified by the Board of Appeals.”

Specifically, in a December 23, 1993 order, the Board of Appeals imposed the following conditions on the project:

1. Patuxent Road shall not be used as an entrance to the operation;
2. Conway Road is to be used as the entrance to the operation with the following conditions...

...d. The access obtained to the site from Conway Road shall be through a fee-simple right-of-way, not through an easement.

The attached 2005 letter provides a review of the history of this project as it relates to the special exception prior to 2005, and this letter will not repeat that review. Since the attached letter was submitted, the Board of Appeals has granted additional time extensions for the project in 2006, 2011 and most recently, in October of 2018. Each of these orders related to extending the time period for which permits must be obtained to comply with the special exception, but did not alter the original conditions specified in the 1993 order, including the requirement that access be obtained to the site from Conway Road.

As of the writing of this letter, and more than 26 years after the original 1993 order, the applicant has *not* acquired access from Conway Road through a fee-simple right-of-way.

In addition to the access issue, Anne Arundel County provides the following technical comments:

1. Chesapeake Terrace Rubble Landfill is in conformance with Anne Arundel County’s adopted 10-Yr Solid Waste Management Plan 2013-2023.
2. Chesapeake Terrace Rubble Landfill appears in the 10-Yr Solid Waste Management Plan 2013-2023 as a proposed facility (Chapter 5, page 5-35) with a status of “Permit Application Under Review by [Maryland Department of the Environment]”
3. The Revised Phase II (Site Geology) Report appears generally consistent with the requirements of State regulations -- <http://mdrules.elaws.us/comar/26.04.07.15>.
4. Though minor, we note that the report lacks a cover sheet and the requisite signature of a qualified geologist.
5. On page 1-1, please note that the description, “landfill that will provide air space for rubble waste disposal for approximately 12 years” is consistent with the requirements of special exceptions granted by the Anne Arundel County Board of Appeals circa 1993.

With that said, we also find that:

- a. no preliminary landfill volume calculations are provided in the Phase II Report (though not required), and
 - b. no top of waste/final cover grades provided in the Phase II Report (though not required).
6. Also on page 1-1: “Final disposition of the leachate from the storage tank will be detailed in the Phase III Application”; Please note that the Department of Public Works may not be in position to permit connection of leachate storage tanks to the sanitary sewer system based on the fact that this property is currently outside of a qualifying Sewer Service Area.

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7. On page 3-4: "There is no public water service in this area"; please note that water and sewer service was extended to the Two Rivers subdivision, a portion of which (Woodlands at Two Rivers) appears to share a common property boundary with the proposed landfill property.
8. On page 5-6: "The elevation of the landfill liner must be maintained a minimum of three feet above the highest observed/predicted water table elevations"; We note that monitoring wells 5 and 6 indicate saturated zones above the proposed bottom of the landfill. Specifically at these wells, and generally at other locations where the distance between the liner and the unconfined layer is limited, have the applicant and MDE considered alternative elevations for the bottom of the landfill to avoid intersection with groundwater given the weight of over-burden expected?
9. On page 6-2, please document the full name and address of analytical laboratory, including a statement that the lab is certified for water quality analysis by MDE.
10. We note that the liner system proposed in Section 12 of the Phase II Report appears to meet the minimum requirements of COMAR 26.04.07.16 C(3)(a) - (e) for rubble landfills. However, we remain concerned about the potential for intersection with groundwater as outlined above.
11. We note that a review of the 2020 groundwater sampling data for volatile organic compounds (VOCs) and heavy metals showed minimal potential for adverse effects to human health when compared to the U.S. Environmental Protection Agency (USEPA) maximum contaminant levels (MCLs) and groundwater protection standards (GWPS).
 - a. USEPA secondary maximum contaminant levels (SMCLs) were exceeded for iron and manganese in several monitoring wells.
 - b. SMCLs are based on aesthetic concerns, such as taste, color and odor.
12. Please note that Monitoring Well 30 (MW-30) is labeled in the incorrect place in Figure 3. Please correct and double-check all labels within figures for accuracy.

Thank you again for the opportunity to review and provide comments on this Phase II Report. Please do not hesitate to reach out to Anne Arundel County's Environmental Policy Director, Matthew Johnston at exjohn00@aacounty.org or 443-699-6543 if you have any questions.

Sincerely,



Steuart Pittman
County Executive

cc: Chris Phipps, Director of Public Works
Steve Kaii-Ziegler, Planning and Zoning Officer

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