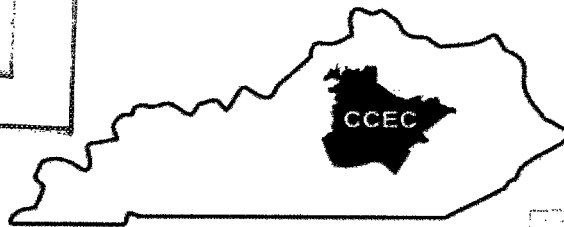


SCANNED
FEB 13 2018
QC



Concerned Citizens of Estill County

Jeff Cummins, Director
Division of Enforcement
Kentucky Energy and Environment Cabinet
300 Sower Blvd.
Frankfort, KY 40601

RECEIVED
FEB 12 2018
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF ENFORCEMENT

**RE: CCEC comments on proposed Corrective Action Plan
AO DWM – 160048, Agency Interest No. 998, Permit # 033-00004**

February 7, 2018

Dear Mr. Cummins:

Please accept these comments of the Concerned Citizens of Estill County, Inc. (“CCEC”) on the Corrective Action Plan (“CAP”) submitted by Advanced Disposal Services Blue Ridge Landfill, Inc. (“BRL”) pursuant to Agreed Order # DWM – 160048 (Agency Interest No. 998, Permit # 033-00004).

CCEC is a non-profit Kentucky membership corporation that was formed in the summer of 2016 in response to the illegal dumping of radioactive waste in Advanced Disposal Corporation’s Blue Ridge Landfill (“BRL”) in Irvine, Kentucky. Since its formation in 2016, CCEC has worked to obtain and disseminate all information publicly available regarding the illegal disposal and the regulatory and legal responses to that disposal by the state of Kentucky. CCEC has held numerous community meetings to keep its members informed regarding the illegal dumping of radioactive waste, the studies undertaken to determine the degree of risk posed by the waste, the enforcement actions being taken against the landfill and other entities, and the plans to require BRL to remediate the illegal dumping.

CCEC has worked closely with the Energy and Environment Cabinet (“EEC”) and the Cabinet for Health and Family Services (“CHFS”) throughout the Cabinets’ investigations and responses to the illegal dumping of radioactive waste in Estill County. CCEC appreciates the steps taken by both Cabinets to hear and respond to the community’s concerns. We hope that the level of cooperation between the community and the regulatory agencies will continue as we work together to determine what remediation measures will most effectively protect the residents of Estill County now and for generations to come.

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Since EEC released the provisionally accepted CAP for public comment, CCEC has had two meetings in Irvine to educate community members regarding the proposed remediation plan and to gauge the community's reaction to the proposal.¹ The first meeting was held in the evening on January 29, 2018. Over 60 community members attended to hear presentations from CCEC on the landfill's design, the risk assessments' findings, and the proposed corrective action. The community's response at the meeting was overwhelming -- nearly everyone who spoke advocated for removal of the radioactive waste as being in the best interest of the community. Likewise, at a second meeting of CCEC on the following day, the vote to advocate for removal was nearly unanimous.

Paragraph 19(b) of the Agreed Order states firmly that in evaluating the landfill's proposed CAP, the Cabinet will consider "community acceptance of the remedy."

The community of Estill County, Kentucky does not accept BRL's proposal to leave the illegally dumped radioactive waste in the landfill.

At no point has Estill County agreed to accept the risks of having radioactive waste of an unknown activity level dumped in the Blue Ridge Landfill. In fact, the opposite is true. From the very beginning, the citizens of Estill County have been clear: They do not want and will not accept radioactive waste in the landfill. The 1995 Host Community Agreement between the Estill County Fiscal Court and the landfill specifically prohibits the landfill from accepting "nuclear waste (including 'below regulatory concern' waste)." (See ATT. 2, Host Community Agreement, at para III.2., p. 6.) The county included that specific provision in the Host Agreement because of concern that waste from Maxey Flats would be brought to Estill County. In 1997, the county amended its Solid Waste Ordinance to explicitly prohibit the disposal of radioactive waste in the county. (See ATT. 3, Solid Waste Ordinance, Am. 2, Jul. 14, 1997, Sec. 7.1.)

At all times, the county and its citizens have worked to stop radioactive waste from being dumped in the county's landfill. The county and its residents are now being asked to accept the long-term financial and environmental risks of leaving illegally dumped radioactive material in the landfill. Those risks of leaving this material in place will fall, not on the landfill or EEC, but on future generations of Estill Countians. It is those future generations that CCEC wants to protect.

For the reasons set forth herein, CCEC believes that the removal is the only option that will sufficiently protect residents of the county for generations to come, that will ensure that the county is not left with a financial burden once the landfill is closed, and that will ensure that the stigma of being an illegal dumping ground for radioactive waste will be removed from Estill County once and for all.

¹ CCEC asked representatives from EEC to hold a public forum in Estill County to present the CAP and explain EEC's basis for provisionally approving closure in place as the most protective remediation alternative. EEC declined to hold such a forum.

I. The Risks Posed by the Radioactive Waste Are Unknown

The CAP asserts that the “general characteristics of the BES waste placed in the landfill by generators listed in Table 2.3 is known.” (CAP, at 11.) To the extent “general characteristics” refers to a mere description of the type of waste received from each of the four generators; that may be true. The waste is described as exploration and production soil and debris (from Cambrian Wells and Fairmont Brine Processing²); filters, debris, and filter sludge (from Green Hunter); and pea gravel, filter cake, bag filters, and pander well soil (from Nuverra).

However, we do not know the radiological activity of the illegally dumped waste and neither of the RAC reports nor the CAP admits the level of uncertainty regarding this critical fact.

What we have instead for 83 of the 92 loads of radioactive waste are estimates of radiological activity based on “batch” samples of the waste, wherein values from a single sample are imputed to characterize a number of loads of waste from that given generator.

The extrapolation based on insufficient data is particularly problematic when considering the values assumed for the 865 tons of waste that came from Fairmont Brine Processing (“FBP”) in 47 loads. That waste accounts for 75% of all of the radioactive waste at issue. For the 36 FBP loads that make up 66% of the total waste received, values from a single composite sample from four out of 36 containers are used to determine the activity level of the waste. That is, the activity levels of two-thirds of the waste illegally received at the landfill is based on a single composite sample from just four loads. Likewise, the activity levels for the remaining 11 containers, or 100 tons, of FBP waste are based on a single report from Cory Hoskins.³

And, that is not the only problem with the lack of actual data. The risk assessment and CAP are based on very limited data on radionuclides other than Ra-226 and Ra-228. For the bulk of the shipments, there was no data of any kind on the activity levels of other radionuclides. The risk assessment instead derived ratios based on measurements of a single filter sock found at the landfill in 2016. (RAC 2016, 31.) It is hard to understand how the radionuclide ratios in one filter sock can be used to derive the ratios for most of the waste deposited at the landfill, especially when 75% of the waste was a chemical precipitate from processing oil and gas production waste.

What is most striking is the failure of the either of the risk assessments or the CAP to disclose the degree to which the critical information regarding the activity level of the

² The Fairmont Brine waste was not actually soil and debris, but a precipitate left from a process that extracts and concentrates the radionuclides and recycles the salts and water.

³ Given the possible illegality of Mr. Hoskins activity here, it is difficult to credit any data provided by him or his company. In addition, significant questions have been raised concerning his testing methods and, in particular, his failure to allow a proper ingrowth period for testing.

waste received is estimated. Instead, as noted above, the CAP wrongly states that the general characteristics of the BES Waste are known.

II. Even Accepting the Assessment's Characterization of the Waste, the Risk is Too Great

Even if the report's extrapolations of the activity levels of the waste are accepted as representative, the waste should not remain in this landfill based on current Kentucky law. The RAC 2017 Final Report estimates that the total weighted average radium concentration in the BES waste is over 900 pCi/g. (*See* RAC 2017, T. 1.) That estimate of the level of activity of the waste puts the radioactivity of this waste far above what the Kentucky's regulators have determined is safe for disposal in this landfill.

In response to this illegal dumping, Kentucky's General Assembly passed KRS 211.893. That statute directed CHFS and EEC "to revise existing regulations in order to ensure the proper management of oil- and gas-related wastes containing NORM." KRS 211.893(2). EEC reconvened the Oil and Gas Workgroup ("Workgroup") to fulfill the legislative mandate. The Workgroup met eight times in 2016 and issued a report to the Legislative Research Commission on November 3, 2016. ("Workgroup Report")⁴ The Workgroup is comprised of a diverse group of individuals representing the oil and gas industry, the landfill industry, environmental groups, regulators, and the general public.

The Workgroup found that the default upper limit of 1,999 pCi/g for disposal of in-state radioactive waste in contained landfills was not sufficiently protective. (Workgroup Report, at 28.) Instead, the Workgroup recommended that an upper authorized limit be developed above which disposal could only occur in a licensed low-level radioactive waste facility. With regard to the promulgation of an upper limit, the Workgroup noted, "[t]he disposal limit for radium-226, based on RESRAD 7.0 with an exposure assumption of 25 mrem, is 238 pCi/g." (*Id.* at 30.)

On December 7, 2017, EEC and CHFS adopted regulatory amendments based on the Workgroup's recommendations. The upper limit in the new regulation is clear: "The disposal of TENORM waste with an activity concentration greater than 200 pCi/g of combined Ra-226 and Ra-228 in a landfill in Kentucky shall be prohibited." 902 KAR 100:180 §6(6).

It is therefore safe to say that, in the best professional judgment of Kentucky's regulators, waste with a combined Ra-226 and Ra-228 activity concentration above 200 pCi/g cannot be disposed of safely in the Blue Ridge Landfill. Why then would this waste, which is assumed to be at least 4.5 times more radioactive than the new regulatory standard, be allowed to remain?

⁴ The Workgroup Report is available at <http://eec.ky.gov/Documents/TENORM%20Report%20to%20LRC.PDF>.

III. Two Components of the CAP Underscore Why the Radioactive Waste Should Be Removed

In addition, two things in the landfill's remediation plan underscore why it makes no sense to saddle Estill County with the uncertain risk of retaining this radioactive waste at the landfill. The first is the monitoring plan, which, if accepted, would allow the landfill to stop monitoring water leaving the site for radionuclides as early as 2034. The second is the lack of any discussion or plan for financial assurances from the landfill if the radioactive material begins to leave the landfill site. The brief period of monitoring for radionuclides is unacceptable given the timeline of risks posed by this material. Moreover, there is nothing in either the monitoring plan or the CAP that outlines what would be done if a problem arises. Specifically, there is no reopener provision requiring development of a new corrective action plan should the radionuclides mobilize and there are no financial assurances required to pay for future remediation.

The Radionuclide Monitoring Plan provides for a very limited amount of monitoring of the groundwater wells for radionuclide activity. The plan requires quarterly monitoring of five wells for only one year (2018). After that, semiannual monitoring of the downgradient wells will occur through 2023. From 2023 to as soon as 2034, the downgradient wells will be monitored only once every five years. Thereafter, according to the plan, "[o]nce the facility enters the post-closure period and barring any positive detections of the radionuclides," radionuclide monitoring will cease.

First, there is nothing in the monitoring plan that would indicate what would happen if radionuclides were detected. One would like to assume that if the monitoring detects that the radioactive waste in the landfill has mobilized, the landfill would be required to implement a new corrective action plan to remove the waste. But, such assumptions cannot be made. There is nothing in the plan that requires the development of a new corrective action plan or provides any guidance as to what must be done if monitoring reveals a problem.

Second, the timeline for monitoring is insufficient given the periods of time for which the risks from mobilization of radionuclides are greatest. Sixteen years of monitoring is clearly not enough.

Moreover, the CAP contains no type of financial assurances should the radioactive material mobilize in the future. The costs of long-term care and future remediation could be astronomical if the radionuclides begin to be released from the facility. As the CAP notes, the landfill's operations are expected to continue until 2034. (CAP, at 2.) After that, the landfill will enter the 30-year post-closure period, after which it will be released from all responsibility. There is nothing in the CAP that provides the type of financial assurance that would be needed to perform corrective action if the radionuclides are released either during the post-closure period or after.

The short monitoring period and lack of financial assurances simply underscore that the only measure that can be sufficient to protect the long-term health of the community

and the environment is to remove this radioactive waste and dispose of it in a facility with appropriate controls that is licensed to accept such waste.

IV. Removal Can Be Performed Safely

Removal of the illegally dumped radioactive waste can be accomplished safely and effectively using standard safeguards. First, it should go without saying that the removal operations must be conducted with proper radiation health and safety protocols by a company that is qualified in the handling of radioactive material and radioactive waste and that that company will be responsible for the safety of its workers. All removal operations must be conducted under a radiation protection plan that protects the health of the workers. Removal must be done using radiation work procedures for handling radioactive waste.

Further, removal operations can occur safely during normal landfill activity so long as daily waste disposal is conducted a sufficient distance away from BES waste removal area. That distance would provide protection for BRL's landfill workers and members of the public. The additional protection of requiring landfill workers to wear dosimetry badges during the BES removal operations should be instituted.

Removal can proceed in two steps similar to those outlined in the CAP.⁵ First, all MSW placed on top of the BES waste should be moved to a staging area. As each load of such waste is uncovered, it must be assessed by an appropriate real-time procedure that will allow the workers to determine the presence of BES waste. Second, after the removal of the covering MSW, the BES waste should be removed in appropriate depth intervals. As the BES material is uncovered, real-time analysis should be conducted on each interval to determine the presence of BES waste. If the real-time analysis shows activity levels above 5 pCi/g, the interval should be stored or loaded into a container for future disposition at an appropriate location outside of Kentucky.

The determination of the appropriate location will necessarily depend on the activity level of the waste. Any removal plan must include specifications for where the waste can be taken dependent on its activity level.

Decontamination must be required for each truck used to transport radioactive BES waste. A decontamination system should be constructed on site and procedures should be developed to ensure decontamination is complete.

When it is thought that all BES waste has been removed, the company handling the removal operation must demonstrate that all BES waste has been removed.

It is important to note that the 2017 RAC report contains assertions regarding the daily mixing of BES waste with MSW waste that do not appear to be supported. Those

⁵ Stormwater protections and other basic protections mentioned in the CAP should be included here. The measures outlined here are to be considered in addition to the measures set forth in the CAP.

unsupported assumptions lead the report to conclude that the volume of waste to be removed is nearly 31.5 times greater than the BES waste that was illegally dumped into the landfill. The majority of the costs associated with excavation and removal is based on the volume of material to be moved. (See CAP, Att. E.) The overestimation of the volume of material to be removed has likely resulted in an inflated cost estimate for the removal option.⁶

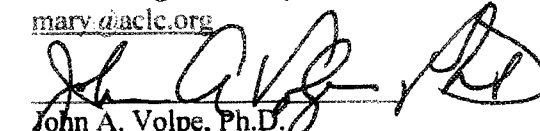
CONCLUSION

We appreciate this opportunity to comment on BRL's proposal. CCEC hopes to be able to continue working with EEC to ensure that the remediation required of the landfill is sufficiently protective for the citizens of Estill County and the environment for generations to come.

Sincerely,



Mary Varson Cromer
Appalachian Citizens' Law Center, Inc.
317 Main Street
Whitesburg, Kentucky 41858
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John A. Volpe, Ph.D.
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Frankfort, KY 40601
john_volpe@bellsouth.net

Encls. ATT 1. Resume of Dr. Volpe
 ATT 2, 1995 Host Community Agreement
 ATT 3, 1997 Solid Waste Ord. Amendment

⁶ The CAP states "ADS, through routine disposal practices, mixed the BES Waste with municipal solid waste (MSW) and covered it in place with soil and additional MSW." (CAP, at ES-1). Based on the assumption that the waste was mixed with MSW waste and assuming a 15% fluff factor, the 2017 RAC Report calculates that the volume of waste that must be removed has increased from 1,446.6 yd³ to 45,575 yd³. However, the statement regarding mixing seems at odds with the Waste Handling Procedures described in the RAC 2016 report. The 2016 RAC report explains how each driver dumped each load of BES waste at the working area of the landfill. The report states merely that "Blue Ridge used heavy-equipment such as bulldozers and compactors to push, compact, and bury the waste in the landfill." (RAC 2016, at 5.)

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EDUCATION

- 1967-1971 Ph.D., Biochemistry, University of Louisville
- 1962-1967 B.S., Chemistry and Biology, Eastern Kentucky University

CONTINUING EDUCATION

- 2011 RESRAD Training Argonne National Laboratory
- 2008 Visual Sampling Plan
- 2006 Environmental Assessment Methods Using Spatial Analysis & Decision Assistance
- 2002 Adaptive Sampling and Analysis Program Workshop
Madison, WI
- 2002 34th National Conference of Radiation Control
Madison, WI
- 2001 33rd National Conference of Radiation Control
Anchorage, AK
- 2000 MARSSIM for Managers
- 2000 32nd National Conference of Radiation Control
Tampa, FL
- 1999 31st National Conference of Radiation Control
Louisville, KY
- 1998 *Organizational Visioning: Managing the Transition*
Frankfort, KY
- 1998 30th National Conference on Radiation Control
Mesa, AZ
- 1997 Building High Involvement Teams
Carter Caves, KY

- 1997 29th National Conference on Radiation Control
Tacoma, WA
- 1996 28th National Conference on Radiation Control
Albuquerque, NM
- 1995 NRC Sealed Source and Device Course
Gaithersburg, Maryland
- 1994 NRC Workshop on Site Characterization for Decommissioning
Rockville, Maryland
- 1994 All States Radon Meeting
Denver, Colorado
- 1994 NRC Agreement State Managers Workshop
Washington, D.C.
- 1994 NRC Workshop on Final Radiological Surveys at Site
Decommissioning Management Plan Sites
Rockville, Maryland
- 1994 26th National Conference on Radiation Control
Williamsburg, VA
- 1994 NRC Workshop on Site Characterization for Decommissioning
Potomac, Maryland
- 1994 NRC Meeting on Compatibility Issues
Rockville, Maryland
- 1993 All States Radon Meeting
Orlando, Florida
- 1993 25th Annual National Conference on Radiation
San Francisco, California
- 1993 Part 2-NRC Training on New 10 CFR Part 20
Atlanta, Georgia
- 1993 NRC Workshop on Environmental Issues
Houston, Texas
- 1992 Conference of Radiation Control Program Directors, Inc. Workshop
on Dose Calculations for Radioactive Contaminants and Effluents
Columbus, Ohio

- 1992 Part 1-NRC Training on New 10 CFR Part 20
Atlanta, Georgia
- 1992 NRC Workshop on Regulations
Bethesda, Maryland
- 1992 Residual Radioactivity Computer Code Training (RESRAD)
Orlando, Florida
- 1992 24th Annual Conference on Radiation Control
Orlando, Florida
- 1991 23rd Annual Conference on Radiation Control
Wichita, Kansas
- 1989 1st Regional Risk Assessment Workshop
Sponsored by the Public Health Foundation
Chicago, Illinois
- 1983 NRC Course on Radiochemistry for State Regulatory Personnel
Idaho Falls, Idaho
- 1992 Panasonic Thermoluminescent Dosimetry Course
Secaucus, New Jersey
- 1982 Radiological Emergency Response Course
FEMA Course Number 4
Las Vegas, Nevada
- 1979 Chemical Analyses of Workplace Pollutants
OSHA
University of Cincinnati
Cincinnati, Ohio

COMMITTEES AND SUPERFUND ACTIVITIES

- Serve on the following Conference of Radiation Control Program Directions, Inc. Committees: (1) Federal Facilities (E-20) Committee addressing oversight of U.S. Department of Energy facilities, (2) Chairman of the E-33 Committee serving as CRPCD liaison to the National Environmental Laboratory Accreditation Committee, (3) E-5 Committee evaluating low-level radioactive and mixed low-level radioactive waste disposal.
- Serve as representative of states on Federal Multi-Agency Radiation Laboratory Procedures (MARLAP) Committee, which is preparing

guidance for analysis of samples from radiologically impacted facilities.

- Governor Patton's appointee to the Southern States Energy Board Radioactive Materials and Transuranic Waste Transportation Committees.
- Governor Patton's Appointee as the Commonwealth Liaison to the U.S. Nuclear Regulatory Commission.
- Governor Patton's Appointee as the Commonwealth's 10 CFR Part 71 and 73 designee.
- Represented Kentucky Cabinet for Human Resources in activities involving EPA, Potentially Responsible Parties and other state agencies relating to clean-up of the Maxey Flats Nuclear Disposal Site under Superfund.
- Activities involved evaluation and review of the Remedial Investigation, Risk Assessment, Feasibility Study, and setting of Applicable Relevant and Appropriate Requirements.
- Co-authored Kentucky's plan for remediation of the Maxey Flats Nuclear Disposal Site under Superfund which was the basis for the U.S. Environmental Protection Agency's Record of Decision.
- Authored portion of Statement of Work for Consent Decree for the Maxey Flats Nuclear Disposal Site.
- Served on Maxey Flats Nuclear Disposal Site Technical Committee
- Advised Commonwealth's legal counsel on technical matters relating to Superfund clean up at the Maxey Flats Nuclear Disposal Site.
- Communicated with public in community relations projects associated with Superfund activities the Maxey Flats Nuclear Disposal Site and the Paducah Gaseous Diffusion Plant.
- Setup monitoring system, which detected radiological contamination in private drinking wells at the U.S. Department of Energy Paducah Gaseous Diffusion Plant, which enriches uranium. This action led to the Site being placed on the Superfund list for clean up.
- Conducted risk assessment for uranium burial grounds at the Paducah Gaseous Diffusion Plant, review and evaluate information related to the clean up of radiological impacted areas at the Paducah Gaseous Diffusion Plant.

ADMINISTRATIVE, TECHNICAL AND LABORATORY

- Developed and wrote Site Wide Survey Plan for the Paducah Gaseous Diffusion Plant Areas of Concern outside the limited area. Conducted data analysis using inflection point analysis for the Areas of Concern at the Paducah Gaseous Diffusion Plant.
- Established a small business to provide radiation consulting. The business has been operating successfully for five and a half years. The business has provided radiation consulting services to a major university, a steel manufacture, an environmental organization, and a Fortune 500 company.
- Developed radiological training program and assisted in teaching first responder for shipments of depleted uranium hexafluoride.
- Developed radiological training program for first responder in Kentucky for WIPP shipments.
- Wrote Emergency Response Plan for Cabinet for Health and Family Services.
- Trained in use of TRANSCOM tracking software.
- Conducted evaluation of Blue Grass Army Depot at Avon, Kentucky for free release.
- Conducted evaluation of Building 125 at the U.S. Department of Army's Fort Knox facility for Decommissioning and Decontamination.
- Oversight of the recovery of an unshielded 200 millicurie cesium-137 source, its subsequent control, and identification of the owner of the source.
- Oversight of all administrative activities for the Kentucky Radiation Control Program including radiation producing machines and operator certification, radioactive materials, radon program, and radiation/environmental monitoring laboratory. Kentucky is an "Agreement State" and as such the U.S. Nuclear Regulatory Commission has relinquished its authority for most radioactive materials.
- Review and oversight of budget for Kentucky's Radiation Control Program.
- Develop administrative regulations for Kentucky's Radiation Control Program, which ensure compatibility with U.S. Nuclear Regulatory Commission's requirements.

- Oversight of statutory and regulatory enforcement actions for Kentucky's Radiation Control Program.
- Developed, conducted and directed environmental monitoring activities.
- Developed, conducted and directed quality control programs for laboratory.
- Automated data processing on Canberra Nuclear Data 6700 system and Apple Macintosh systems including performing system analysis and programming which resulted in increase in productivity through staff decreased. Familiar with stand-alone and network compatible systems.
- Evaluated and established research programs which led to elucidation of plumes of contamination at the Maxey Flats Nuclear Disposal Site.
- Initiated radon activities in Kentucky
- Performed radiochemical, gas chromatography, liquid chromatography, atomic absorption and wet chemical analysis.
- Prepared reports for Fleming County Grand Jury relating status of Maxey Flats Nuclear Disposal Site and its potential impacts on health and safety.
- Prepared reports for Cabinet for Human Resources detailing status of Maxey Flats Nuclear Disposal Site.
- Evaluation of radiological impacts on public health as a result of radionuclides migrating from the Paduach Gaseous Diffusion Plant.

EMPLOYMENT

- | | |
|-----------|--|
| 2015 | John A. Volpe, Ph.D.
Soldier Creek Engineering & Technical Services, LLC
459 Soldier Creek Road
Kirksey, Kentucky 42054 |
| 2014-2015 | John A. Volpe, Ph.D.
Radiation Consultant
Diversified Management Consultants
2516 Hazelwood Road
Barlow, KY 42024 |

- 2010-2013 John A. Volpe, Ph.D.
Executive Management Consultant
Performance Results Corporation
6 Canyon Road
Suite 200
Morgantown, WV 26508
- 2002-2012 John A. Volpe, Ph.D., LLC
Manager
Radiation Consultant for Government and Industry
1229 Man O War Drive
Frankfort, KY 40601
- 1997-2002 Radiation Health and Toxic Agents Branch
Manager
Kentucky Department for Public Health
275 East Main Street
Frankfort, Kentucky 40621
- 1995-1997 Radiation and Toxic Agents Control Section
Supervisor
Kentucky Department for Public Health
275 East Main Street
Frankfort, Kentucky 40621
- 1991-1995 Radiation Program Radiation Control Branch
Manager
Kentucky Department for Health Services
275 East Main Street
Frankfort, Kentucky 40621
- 1981-1991 Radiation Control Branch,
Chief Chemist
Kentucky Department for Health Services
275 East Main Street
Frankfort, Kentucky 40621
- 1978-1981 Instrumentation Chemistry Branch,
Principle Chemist
Kentucky Department for Health Services
275 East Main Street
Frankfort, Kentucky 40621

- Fall, 1980 Assistant Professor
Eastern Kentucky University
Richmond, Kentucky
- 1975-1976 Visiting Professor and Research Associate
Johns Hopkins University and Universidade Federal Rio de Janeiro
- 1972-1975 Research Associate and Temporary Assistant Professor
Colorado State University
Fort Collins, Colorado
- 1971-1972 Research Associate
Arizona State University
Tempe, Arizona

HOST AGREEMENT

This agreement, made and entered into this 2 day of Nov, 1995 by and between ESTILL COUNTY, KENTUCKY, a political subdivision of the Commonwealth of Kentucky, by and through the Estill County Fiscal Court, hereinafter referred to as "County", and WASTE MANAGEMENT OF KENTUCKY, INC., and WASTE MANAGEMENT OF KENTUCKY, LLC, a Kentucky corporation, of 2700 Winchester Road, Irvine, KY 40336, hereinafter referred to as "Waste Management".

WHEREAS, the Estill County Fiscal Court, as designated governing body of Estill County, Kentucky, and the solid waste management area of Estill County, Kentucky, is responsible for developing and implementing a solid waste management plan for Estill County, Kentucky, pursuant to provisions of KRS 224.43-340; and,

WHEREAS, Waste Management owns and operates a solid waste disposal facility identified as the "Blue Ridge Recycling and Disposal Facility", located at 2700 Winchester Road, Irvine, Estill County, Kentucky; which facility holds a permit issued by the Kentucky Natural Resources and Environmental Protection Cabinet authorizing the disposal of solid waste; and,

WHEREAS, the County and Waste Management enter into this agreement for the mutually beneficial purpose of complying with the provisions of 1991 Kentucky Acts (Ex. Sess.) Chapter 12 as effective on February 26, 1990 (known as Senate Bill 2), and to otherwise establish an agreement of the parties with respect to the rights and obligations of Waste Management and the County concerning the operation, permitting, licensure, closure and post-closure activities of the facility; and,

WHEREAS, the County recognizes that the generation of solid waste is a natural result of our society and that it is imperative that solid waste generated in Estill County be responsibly managed and disposed, that all reasonable efforts be made to reduce the amount of solid waste requiring disposal by the encouragement and establishment of material recovery facilities, recycling programs and reduction of excess packaging of consumer products; and,

WHEREAS, the County recognizes that a certain amount of tonnage of waste disposal, beyond that currently generated in Estill County, is necessary to allow Waste Management to offset capital and operating costs and to make a reasonable return on investment in the facility, and in order to keep disposal fees at a reasonable level, and conversely, Waste Management recognizes the economic benefit to it of entering into a host contractual agreement concerning the management of the facility and the structuring and standardizing of interaction of the facility with local government and the host community on issues of concern to the public health and welfare; and,

WHEREAS, the County and Waste Management further recognize that a public interest exists in assuring that the land disposal of solid waste is properly managed in order to minimize and control the environmental and public health consequences of land disposal of solid waste and the attendant potential for contamination of soil and ground water; and,

WHEREAS, Waste Management recognizes that the County has a legitimate right to demand that certain actions and commitments be made as may be necessary to minimize the risk of long-term contamination of the land and water resources of Estill County, Kentucky, and to assure the provision of funded assurance of correction of any environmental problems that occur in the active life of the facility and during the closure and post-closure care periods;

NOW, THEREFORE, in consideration of the above premises and the mutual benefit derived from the terms and provision of this agreement as set forth below, the parties agree as follows:

I. DEFINITIONS

The terms in the agreement shall be governed by the definitions of KRS 224.01-010 and 401 KAR 30.010; unless expressly defined herein, in which case the definition contained herein shall control the construction of this agreement as between the parties and any guarantors.

1. "Solid Waste Management Plan" or "Plan" means the solid waste management plan prepared by the Fiscal Court pursuant to the provisions of KRS 224.43-345.
2. "Solid Waste Management Area" or "Area" means Estill County, Kentucky, including the City of Irvine, Kentucky, and the City of Ravenna, Kentucky.
3. "Facility" means the geographic area currently permitted and constructed under Permit No. 033-00004 as of the effective date of this agreement.
4. "Cabinet" means the Kentucky Natural Resources and Environmental Protection Cabinet.
5. "Fiscal Court" shall mean the Estill County Fiscal Court.
6. "Solid waste" includes residential, commercial and industrial solid wastes, but does not include wastes identified by KRS 224 as "special" wastes.
7. "Service area" shall mean those areas from which the facility is permitted to accept waste in accordance with its state permit(s) and will consist of those counties listed on the facility's state operating permit; (provided, however, the disposal needs of the county shall have priority over those of other counties) and all other areas as stated in this agreement.

8. "Special wastes" include those wastes defined as special wastes in KRS 224.

9. "Untreated commercial or institutional medical waste" means pathological waste generated by hospitals, medical clinics, physician or medical provider offices, pathology laboratories, commercial home health care providers, and nursing homes, that have not been subject to prior treatment through heat, disinfection or other appropriate method(s) to eliminate infective viruses and bacteria, and to render sharps incapable of inducing occupational injury to workers handling the wastes (except, however, such wastes may be accepted for disposal for so long as applicable state regulations, laws, etc., allow, (as is now the case)).

II. CONSTRUCTION AND OPERATION OF AGREEMENT

1. This agreement shall become effective on the date as stated on page one (1). This agreement shall continue for ten (10) years thereafter or until such time as Waste Management shall no longer accept solid waste or special waste for disposal, (the "life" of the landfill), whichever term is longer, unless terminated by agreement of the parties or pursuant to the terms hereof. Termination or other failure of performance hereunder shall not alter Waste Management's closure and post-closure obligations under this agreement and applicable state law, nor alter Waste Management's obligation under Section III of the agreement, unless such termination results from a breach of the agreement by the County. Enforcement of other terms and conditions of this agreement are contingent upon Waste Management receiving permits from the Cabinet that enable Waste Management to construct and operate the facility in the currently permitted and expansion areas.

2. This agreement may only be amended upon the expressed written mutual agreement of the County and Waste Management following public notice.
3. In the event that any provision of this agreement is found to be unconstitutional or violative of law, it shall not affect the remaining provisions of this agreement.
4. The headings in this agreement are for informational purposes only and shall not be utilized in construing the meaning of this agreement.
5. Waiver of non-compliance at any time, by any party, of the terms or conditions of this agreement shall not be deemed a waiver of future non-compliance with such terms or conditions.
6. The performance of Waste Management under the terms of this agreement shall be guaranteed by Waste Management, Inc., or their respective successors or assigns. Attachment "A" shows the current corporate structure of WMX Technologies, Inc.
7. The terms of this agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns. The parties agree that specific performance of the mandatory terms and conditions of this agreement shall be available in the Estill Circuit Court or other appropriate judicial forum.
8. This agreement shall not be transferable except with the prior written consent of the County and Waste Management. No transfer of ownership shall occur without prior notice to County.

III. GENERAL PROVISIONS GOVERNING FACILITY OPERATION

1. The facility shall be designed, constructed, improved and operated in accordance with applicable requirements of KRS Chapter 224 and the regulations promulgated pursuant thereto, as currently existing and as the law and regulations of the Commonwealth of Kentucky and the United States may be subsequently amended during the term of this agreement.

2. Waste Management shall not knowingly accept or contract for transport or disposal at the facility any listed or characteristic hazardous waste, nuclear wastes (including "below regulatory concern" waste), untreated commercial or institutional pathological medical waste of any kind (except, however, such wastes may be accepted for disposal for so long as applicable state regulations, laws, etc., allow (as is now the case)); any ash generated from the Bluegrass Army Depot's proposed nerve gas incinerator at the facility and radiological waste; as those terms are defined in the more stringent and protective of the applicable regulations promulgated by the Cabinet or federal government, and as may be amended during the term of this agreement. Waste Management shall maintain documents sufficient to identify the source and "cell" location within the facility after disposal of each waste stream, and shall perform random inspections pursuant to 401 KAR 48:092(2) to assure that the presence of improper wastes is minimized. Waste Management will only accept out of state waste with the approval of the Advisory Board and/or the Solid Waste Coordinator. The types of waste to be accepted from out of state will be limited to commercial, industrial and special waste as defined in KRS 224. The Advisory Board and/or the Solid Waste Coordinator shall not without good cause withhold such approvals.

3. Waste Management desires to expand facility operations to include approximately 314 horizontal acres, which area is owned or controlled by Waste Management. The parties

hereto acknowledge that of said 314 acres, only 50 acres, more or less will be approved and used for waste disposal purposes and that the balance of said expansion may be used to support the operations of Waste Management but will not be used for disposal of solid or special waste. These areas are shown on Attachment "B", attached hereto, and shall be collectively referred to as "Expansion Areas." Waste Management has or will apply for all required city, county, and state approvals, including environmental permits from the Cabinet, as may be required to expand the facility with the Expansion Areas.

4. The County agrees to take all necessary steps to amend, and thereafter to maintain, the Solid Waste Management Plan so that the Plan and this agreement shall be consistent with one another during the term of this agreement. This agreement constitutes approval by the County of the permitting of the facility. No consent is given by the County with respect to permitting beyond the facility, nor any wastes not specifically authorized in the following sections.

5. Waste Management will accept solid waste for disposal at the facility during the hours set forth in its operating permit, but in any event, will not begin disposal operations before 6:00 am and will end such operations by 6:00 pm of each day. The facility shall be open for the purpose of disposal of solid waste to members of the public, commercial businesses, private businesses and/or individuals to enter the facility for the purpose of disposal of solid waste during its regular operating hours, and for all other purposes consistent with this agreement. Facility support activities are not restricted by the public operating hours, (i.e. office, construction, maintenance etc.).

IV. CAPACITY

1. Waste Management guarantees that it will provide and reserve to the County and the solid waste management area a minimum of ten (10) years of solid waste disposal capacity, or until the facility is permanently closed, whichever period is greater, commencing on execution of this agreement by all parties. This guarantee shall assure that an amount of permitted airspace within the currently permitted area, and after approval, within the expansion be generated within the solid waste management area during the ten (10) year period following execution of this agreement. This reservation of capacity is intended to enable the County to comply with the provisions of KRS 224.43-345 (1) (1) and (m).
2. In the event that Waste Management fails to provide capacity for the waste generated within the County for the ten (10) year period or until the facility is permanently closed, as provided herein, Waste Management shall provide for transportation to and disposal of such waste at a properly licensed solid waste disposal facility, with the difference in cost for such transportation and disposal over what would have been charged to Estill County or the Estill County Solid Waste Management Area under this agreement for disposal at the facility, to be borne by Waste Management for the remainder of the ten (10) year agreement. In so agreeing Waste Management knowingly accepts the risk of loss if the facility expansions are not approved due to or by reason of the negligence of Waste Management or the non-compliance by Waste Management with any federal, state or local statute, regulation or ordinance. Such alternate disposal shall constitute the sole remedy in the event of a failure to reserve capacity.
3. It is the intent of the parties to the agreement that the remaining airspace within the currently permitted area of the facility, less the reserved capacity and airspace to be consumed by

daily cover, may be used for disposal of solid and other lawful waste during the term of this agreement. The disposal of such waste shall be subject to the following terms and conditions:

(a) All remaining capacity at the facility in excess of the capacity reserved for the County may be utilized by Waste Management for disposal of waste generated only within the service area.

(b) Waste Management agrees that the maximum average tonnage of waste that is authorized for disposal at the facility, including the currently permitted facility and any expansion area, is nine hundred (900) tons of solid waste per day, based on a three hundred twelve (312) day year, per calendar year. At such time the Bypass highway that connects Highway 52 and Highway 89 around the City of Irvine is complete, the Estill County Fiscal Court will agree to review Waste Management's request for their tonnage cap to be increased at that time. This amount includes all solid waste but does not include waste destined for composting, recyclable materials, white goods and free disposal waste accepted at the facility pursuant to this agreement, and establishes the maximum total tonnage as a limit on the disposal of all types of non-hazardous waste at the facility, including residential, industrial and commercial solid waste and special waste. This limitation does not apply to municipal waste water sludges that are approved by the Cabinet for utilization as daily cover, provided that the sludges do not contain leachable metals in excess of the maximum contaminant levels (MCLs) established under the Safe Drinking Water Act, and provided further that procedures for reductions of pathogens have been applied.

(c) Waste Management shall use all reasonable business efforts to market available capacity to the service area, as now established and shall provide notice to the county of any decision to accept waste from areas outside the service area at the time that such waste

acceptance commences. The notice identifying the source(s) shall be provided prior to acceptance of the waste stream.

(d) Waste Management agrees to provide a list, updated, quarterly, itemizing the sources of accepted wastes and provide, upon written request, copies of the sampling results for all industrial solid wastes and special wastes accepted for disposal at the facility during the preceding quarter.

V. FEES AND RATES

1. During the term of this agreement, Waste Management shall pay a fee to the County in the amount of six and one quarter percent (6.25%) of gross receipts for waste generated outside the County which is accepted for disposal at the facility as provided for in Ordinance 7. In addition thereto, Waste Management shall pay to the County a fee in the amount of five percent (5.00%) of gross receipts for solid waste accepted for final disposal which is generated within the County as provided for in Ordinance 7. In the event the Commonwealth of Kentucky or Estill County, through appropriate legislation or state authorization, should decrease or increase the amount of fees which may be collected by the county, the foregoing rates may be adjusted by the County downward or upward pursuant to the adoption of such legislation, and Waste Management will pay such adjusted fees to the County. For purposes of this agreement, the term "gross receipts" shall mean the total amount of receipts or monies received by Waste Management for final disposal of solid waste and special waste at the facility, less any federal, state, county, or local taxes imposed on disposal. Any item or nature of business that Waste Management of Kentucky should participate in that does not result in final disposal in the landfill shall be

considered as exempt from any fees payable to the County. This will include, but not be limited to, recycling, composting, transfer, etc. Transfer of any solid waste or special waste will only be exempt from fees if the landfill should close for any reason.

Payment of the fee shall be made on a monthly basis, on or before the thirtieth (30 th) day following the last day of the calendar month for which payment of the fee is due. A report setting forth the amount of waste accepted for disposal at the facility in the preceding calendar month, by type and source, and an explanation of the computation of the fee (including the method of allocation of gross receipts attributable to shipments containing waste generated both inside and outside the county) shall be submitted to the County with the payment.

2. Disposal of solid waste (excluding special waste) generated within the County, from all sources, including commercial haulers and individuals, shall be accepted for disposal at the rate of \$4.90 per cubic yard for uncompacted solid waste and \$5.25 per cubic yard for compacted solid waste. Said disposal rate shall be in effect for six (6) years from the date of this agreement. Thereafter, the base rate for disposal of solid waste as set forth herein shall increase at any time by fifty percent (50%) of any gate rate increase. A fee of \$7.35 will be charged for each individual "level pickup truck" load of solid waste delivered by residents of the County. Said fee shall likewise increase at any time by fifty percent (50%) of any gate rate increase. Waste Management of Kentucky reserves the right to verify the origin of waste designated as Estill County Waste.

3. Waste Management may establish and charge such rates for acceptance and disposal of solid waste at the facility, other than that generated in Estill County as it shall determine from time to time, subject to the agreement, conditions and covenants contained in this agreement.

VI. MISCELLANEOUS PROVISIONS

1. Inspection of Records. Waste Management will allow a qualified person, designated by the County, the Solid Waste Coordinator of the County (the "Solid Waste Coordinator") or the County landfill inspector to inspect the facility and those records of the facility which relate the obligations of Waste Management under this agreement, county ordinance and state law and those which are subject to inspection by state inspectors pursuant to applicable law or regulation; provided, however that no records of Waste Management relating to employees, payroll, benefits, financial matters (other than those relating to this agreement) will be available for inspection.

2. The Citizen Advisory Board. Waste Management agrees to cooperate with and participate in a citizens advisory board ("Citizens Advisory Board") established by the Judge/Executive of the county ("Judge/Executive") and by the Fiscal Court in order to protect the environment and implement waste management practices which comply with all local, state and federal statutes, regulations or ordinances. The Citizen Advisory Board will consist of, but not be limited to, one member from the Estill County Board of Health and the County Solid Waste Coordinator.

3. Operation of Gate. All solid waste delivered to the facility must be weighed in accordance with state law. Waste Management will monitor the entrance and exit area of the facility with video cameras 24 hours a day and will retain video tapes for a minimum period of thirty (30) days. Such video tapes will be made available to the Solid Waste Coordinator for review upon request. Waste Management will physically monitor the entrance north and south of said gate and all of the area where the property of the Estill County High School fronts upon

Kentucky Highway #89 to assure that no debris, water or any substance remains on the highway or adjoining properties that might cause hazardous conditions or create an unsightly or offensive appearance.

4. Regulation of Vehicles.

(a) Waste Management will cooperate with county and state law enforcement officials and with solid waste haulers to enforce speed limits on county roads. Waste Management will schedule as few deliveries as possible into the facility between the hours of 8:00 am and 9:00 am and between 3:00 pm and 4:00 pm. Waste Management will advise all haulers hauling solid waste to cover their loads and ensure that vehicles are completely empty when leaving the facility in order to avoid windblown litter. Waste Management will institute a policy for this purpose.

(b) Waste Management will pay 50% of the cost of installation of traffic lights at the High School/Facility entrance if such installations are required by Kentucky Department of Transportation (KDOT). It is understood that KDOT shall be responsible for the remaining 50% payment. Any relocation of the entrance and exit of the facility will be coordinated with the Judge/Executive, the Department of Transportation and the Superintendent of the Estill County Schools, or his/her designee. Access to the facility will be limited to one entrance and one exit as required by current state law.

5. Transfer of Title. In the event Waste Management desires to transfer title to the facility to any person or entity (other than to one of its affiliated corporations), it will provide the County with sixty (60) days prior written notice of such transfer. Waste Management will obtain any approval of the Commonwealth of Kentucky required by applicable law. Estill County reserves the right to object to any state agency or permitting agency concerning any transfer of

ownership. Such objection will not relieve any transferee of its obligations under this agreement, including the posting of all applicable financial assurance. Waste Management will continue to be responsible for any corrective action required by any contamination that might occur, or be found to have occurred, during its ownership. Waste Management will require any party to whom it may transfer title to agree to fully comply with the provisions of this agreement.

6. Expansion of Facility. In the event that Waste Management desires to expand the existing facility beyond the area currently permitted, it agrees to proceed as required by then applicable federal law, state law, local ordinances, and local solid waste plans. The parties hereto recognize the necessity for a new host agreement to be negotiated between them as the present host agreement will not, under any circumstances, pertain to any landfill expansion beyond the area of the facility.

7. Composting. Waste Management will make available a convenient area at the facility for composting. Residents of the county may dispose of all clean, compostable materials at a negotiated reduced rate. Any composting operation at the facility will be operated in compliance with all applicable laws and regulations. Waste Management will use its best efforts to begin operation of said composting facility within one year of the date of this agreement; however, the County recognizes such operations can not begin until the state permits are granted.

8. Samples. Waste Management will provide the Solid Waste Coordinator or designee, upon request, the right to hire a third party, qualified firm, to collect and analyze, split samples of surface and ground water samples (including those taken from monitoring wells, leachate collection systems and surface water collection systems at the facility) drawn by Waste

Management pursuant to its permit and state regulations. Waste Management will provide the County, annually, a sampling schedule showing the dates on which sampling will occur.

9. Ground Water. Waste Management will cooperate with the County Health Department and/or Board of Health in responding, in accordance with applicable state laws and regulations, to actual or alleged contamination of ground water caused by the operation of the facility. Waste Management will test, on a bi-annual (every two years) basis, all active private wells and springs within 2,000 feet of the boundary of the facility (such wells and springs are listed in the administrative portion of the application for the operating permit of the facility). Waste Management will test said private water supplies on a bi-annual (every two years) basis for all parameters listed on Attachment "C". Waste Management agrees to replace, without cost to the owner, the water supply of any property owner whose supply of water for domestic or other beneficial uses is damaged in quality where that damage is determined by the state Division of Waste Management (or by any other competent state or federal government agency), or if appealed, by a court of competent jurisdiction to be caused by the facility or any contamination therefrom. In such event, Waste Management will, at the option of the affected property owner, either replace the well, if possible (including all verifiable costs incident to replacing said well, including the drilling of said new well or wells as necessary), or pay the reasonable expenses of connecting any residence to an existing water main or the cost of connecting the point of beneficial use to an existing water main. Such testing will continue for five (5) events or ten (10) years.

10. White Goods. Waste Management will accept all major appliances ("White Goods") (including their refrigerating or cooling systems and coolant chemical components, if any), generated within the County, at the facility at no cost to the County or its residents. At reasonable

intervals, Waste Management will transport the White Goods to a processor approved by Waste Management and the County, for processing and disposal. Waste Management will weigh the White Goods prior to transportation to a processor and will report the weights to the Solid Waste Coordinator. Waste Management of Kentucky reserves the right to verify the origin of any waste designated as Estill County waste. Waste Management reserves the rights to any and all scrap value.

11. Drop-off Recycling.

Details to be determined by the Solid Waste Coordinator and Waste Management of KY.

12. Open Dump Cleanups. Waste Management will accept at the facility and without charge, up to 800 tons per year of solid waste from the cleanup of open dumps in the county. Open dumps shall be considered solid waste and/or "trash" dumps, and/or "garbage" dumps which may be found on private or public property in the county, except, however, any dump that is located upon the property of an on-going commercial enterprise or business facility shall not be considered an open dump for purposes of this section. Waste Management will have the right to survey any such dump site and conduct tests it deems necessary (at its own cost) in order to ensure that only solid waste is removed from any such site and disposed at the facility. Irrespective of whether or not Waste Management elects to conduct such tests, Waste Management shall be permitted to reject any waste materials, which, in its reasonable judgement it believes will violate applicable law, the terms of the facility's permit, or the terms of this agreement. All "open dump" cleanups under this section will be coordinated through the County Solid Waste Coordinator.

13. Civic Cleanups. Waste Management will provide free disposal, without limitation as to amount, of solid waste to county residents (excluding commercial and industrial generators

of solid waste) during the annual County Spring Clean-Up Day. Waste Management will also provide free disposal without limitation as to amount of solid waste to the county (excluding commercial and industrial generators of solid waste) during the annual Kentucky River Clean Sweep so long as this event is not extended beyond its current scope or focus (which is the Kentucky River and banks).

14. Property Value Guarantee. Waste Management will offer to each owner of property contiguous to the facility boundary a property value guarantee which will remain in effect for 5 years from the date of this agreement. In the event such a property owner makes a good faith effort to sell his property with a licensed Realtor, at a price which is reasonable under prevailing market conditions in the County and does not receive within six months an offer to purchase at a price which is reasonable under prevailing market conditions in the County, Waste Management will agree to pay the difference between: 1) the amount specified in the appraisal (less the standard real estate commission in Estill County) and 2) the offered if any, price. Alternatively Waste Management may elect to buy the property at the appraised price. See example attached hereto as Attachment "D". In the event Waste Management substantially changes the operation of the facility in a manner which is inconsistent with this agreement, or on a manner which substantially or adversely affects any owner or his property, the term of the property value guarantee will be extended for an additional five-year period after such alteration. The rights of each property owner hereunder shall inure to the benefit of his heirs. The property owner is encouraged to exclude any funds paid by Waste Management from being subject to payment of real estate commissions, as all real estate commission shall be paid by the property owner.

The appraised price will be determined by the County Property Valuation Administrator (PVA) using the assumption that the facility does not exist. If Waste Management disagrees with the result of such determination, three appraisals of each property will be required; each appraisal will be based on the assumption that the facility does not exist, one by an appraiser selected from a list provided by the Citizens Advisory Board, one provided by the owner of the property, and one provided by Waste Management. Waste Management will pay all appraisal expenses. Nothing herein shall prohibit any property owner or Waste Management from entering into any contract, agreement, or other financial arrangement as regards the sale or purchase of real property as between them. This section will be in effect upon the written notice of said property owner to Waste Management along with a signed agreement from a licensed Realtor.

15. Post-Closure Plan. Waste Management will, in coordination with the Citizens Advisory Board, develop a post-closure land use plan for the facility. Any plan developed through this procedure will be presented to the Fiscal Court for approval. Such plan will conform with and be implemented pursuant to applicable state law, local ordinance and local solid waste plans.

VII. POST-CLOSURE RESPONSIBILITY**INDEMNIFICATION AND INSURANCE:**

1. Waste Management shall be responsible for the closure of the facility and all required post-closure care in accordance with the requirements of 40 CFR, KRS 224 and the regulations adopted pursuant thereto.

2. Waste Management shall provide and maintain an accurate file at the facility, which shall contain a copy of all documents, permit applications, modifications, renewals, enforcement actions, sampling reports, quarterly reports, and all other documents required to be maintained and transmitted to the Cabinet under KRS 224 and the regulations thereunder.

3. It is the intent of the parties to this Host Agreement to establish financial assurance in favor of Estill County for the purpose of assuring the performance by Waste Management of post-closure care with respect to the facility in accordance with the requirements of 40 CFR, KRS 224 and the regulations promulgated pursuant thereto, and as provided herein; and further to establish financial assurance for any post-closure corrective action and assessments that may be required under 40 CFR and KRS 224.

The post-closure responsibilities subject to this financial assurance shall include, but not be limited to, groundwater monitoring, maintenance of the leachate collection system, maintenance of the cap, maintenance and operation of the landfill gas monitoring and venting system and the performance of corrective action if required by the Cabinet or the federal government. The financial assurance shall be established in a manner that will make funds

available in a timely fashion for the performance of post-closure care responsibilities in the event that those responsibilities are not performed by Waste Management.

The post-closure period shall be extended to equal a time period in excess of thirty years if so directed by the Cabinet or the federal government.

Upon execution of this agreement, Waste Management shall continue and maintain during the post-closure period of at least thirty (30) years following the certification and approval of closure of the facility by the Cabinet, the existing comprehensive general liability and environmental impairment liability insurance policy with the limits of ten million dollars (\$10,000,000.00), naming the additional insured, Estill County, (in a form similar to and substantially and materially the same as that policy attached hereto as Attachment "E"). Waste Management shall provide to Estill County certificates of such insurance and a copy of said insurance policy.

The County shall be notified by said insurance company of cancellation of said policy, the use or reduction of said policy, or of any event, of whatever kind or nature, which may tend to impair its ability or the ability of Waste Management to fulfill its obligations under said policy. Waste Management shall direct said insurance company to comply fully with these provisions.

Waste Management shall comply with all requirements of applicable State and Federal Law, as well as common law, should any contamination emanate from the facility. Waste Management shall take immediate and appropriate actions to implement such corrective actions upon discovery of such contamination. In the event that corrective action shall be required at the facility, Waste Management shall at the time of discovery of such contamination, provide an appropriate financial instrument, such as a surety bond or letter of credit, in an amount deemed

adequate by the Cabinet, to ensure Waste Management's timely performance of its environmental clean-up obligations.

The duty of Waste Management to provide financial assurance shall be released by the County upon approval of certification of completion of the post-closure care period by the Cabinet and the expiration of the post-closure period, as it may be extended for the performance of any required corrective action.

The financial assurance established by Waste Management in favor of the Cabinet may be used by Waste Management to satisfy financial assurance obligations for post-closure corrective action imposed by the Cabinet or the federal government upon Waste Management.

This financial assurance shall be in addition to all other which is or may be required by the Commonwealth of Kentucky or the United States of America, including that which may be required pursuant to 40 CFR, Subtitle D., and including, but not limited to: (a) surety bond presently in place under current law in the sum of \$2,190,338.00, for closure care; (b) surety bond presently in place under current law in the sum of \$2,248,950.00 for post-closure care. The County recognizes the duty of Waste Management to comply with federal law and particularly CFR 40, Subtitle D., as it relates to post-closure financial assurance and the Commonwealth of Kentucky; however, the liability and environmental impairment insurance policy, as now established by Waste Management shall remain in place unless this agreement is modified in that regard.

4. Estill County does not assume any liability for entering into this agreement with Waste Management, except as may be associated with the generation of solid waste from County facilities. Waste Management shall indemnify, save and hold harmless Estill County, its citizens,

officials, agents, employees, contractors or representatives from any and all claims or causes of action arising from or on account of acts or omissions of Waste Management, its officers, employees, agents, contractors, subcontractors and any persons acting on its behalf or under its control, in carrying out activities pursuant to this agreement. Estill County shall not be held out as a party to any contract entered into by or on behalf of Waste Management in carrying out activities pursuant to this agreement. Neither Waste Management nor any such contractor shall be considered an agent of Estill County.

5. Waste Management waives and shall indemnify and hold harmless Estill County from any and all claims, damages, suits or causes of action, including reasonable attorneys' fees or reimbursement from Estill County or for the set-off of any payments made or to be made to Estill County resulting from the design, construction, operation or closure of the facility, including any action arising under CERCLA or under any comparable state law or theory seeking contribution by any party or person, including state or federal government, for release of hazardous substances from the facility, or arising from or on account of any contract, agreement or arrangement between Waste Management and any person for performance of work on or relating to the facility, including claims due to construction delays or for any other reason.

VIII. OTHER PROVISIONS

1. Arbitration. Any controversy or claim arising out of, or relating to, this Host Agreement, or the breach thereof, may, upon written agreement of both the County and one or more of the parties collectively known herein as Waste Management (including the guarantors), be settled by arbitration, in accordance with the rules, then obtaining, of the American Arbitration

Association, and judgement upon the award rendered may be entered in any court having jurisdiction thereof.

2. **Notice.** All notices required hereunder shall be directed to the respective parties at the addresses set forth above and shall be effective when delivered by certified mail.

3. **Remedies.** Each party reserves unto itself any and all available remedies, including those at law and in equity, for the redress of any breach of any part of this agreement, or, alternatively, to compel specific performance of any and all obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first written above.

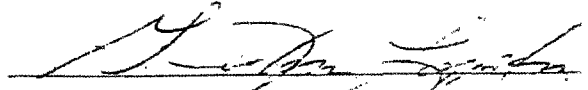
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ESTILL COUNTY, KENTUCKY,
BY AND THROUGH THE ESTILL
COUNTY FISCAL COURT

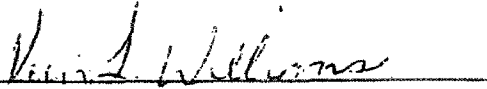
WASTE MANAGEMENT OF
KENTUCKY, INC.



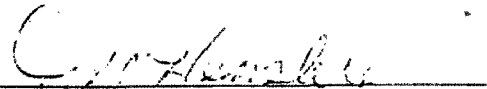
Dwight Arvin
Estill County/Judge Executive



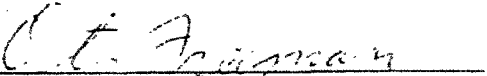
By Its: G. John Logsdon
Division President



Kevin Williams
Magistrate



Jeff Hensley
Magistrate



Ottis Freeman
Magistrate

The obligations of Waste Management of Kentucky are hereby unconditionally guaranteed by
Waste Management, Inc.



Waste Management, Inc.
By Its: Ron Baker
Group President

Waste Management, Inc.

Wholly owned subsidiary

Solid waste services:
 Recycling
 Materials recovery
 Residential collection
 Commercial collection
 Industrial collection
 Processing and transfer
 Disposal
 Special event services
 Construction site services
 Medical waste services

Four business groups:
 Waste Management East
 Waste Management Midwest
 Waste Management South
 Waste Management West

WMX TECHNOLOGY AND SERVICES

Corporate support services to the WMX Family of Companies

Chemical Waste Management, Inc.

78-percent owned subsidiary

Hazardous waste services:
 Waste reduction/recycling
 Collection/transportation
 Treatment
 Thermal destruction
 Disposal
 Industrial remediation services
 In-plant services

CHEM-NUCLEAR SYSTEMS

Wholly owned subsidiary

Low-level radioactive waste services:
 Volume reduction
 Site assessment
 Licensing
 Radiological control
 Waste processing
 Decommissioning
 Transportation & disposal

Wheelabrator Technologies Inc.

55-percent owned subsidiary

Multi-faceted environmental services

WHEELABRATOR ENVIRONMENTAL SYSTEMS

- Trash-to-energy systems:
 Trash-to-energy
 Cogeneration
 Build/own/operate

CLEAN WATER OPERATIONS

- WHEELABRATOR EDS
 Water and wastewater treatment facilities and services
- BID GRO
 Biosolids management
 Drying/Pelleting
- RPS
 Composting services

CLEAN AIR COMPANIES

- WHEELABRATOR AIR POLLUTION CONTROL
 Clean air technology
 Precipitators
 Nox control
 Wet and dry scrubbers
 Fabric filters
 Retrofits/retrobuilds
 Aftermarket services
- ALTECH SYSTEMS CORPORATION
 Continuous emissions monitoring
- PULLMAN POWER PRODUCTS
 Chimney design, construction and maintenance
 Mechanical construction
- WHEELABRATOR CANADA
 Design and market cartridge collectors

VOC COMPANIES

- AIR
 VOC emissions control
 H₂S control
 Metal fabricator services
- HUNTINGTON ENERGY SYSTEMS
 VOC emissions control
 Air quality control, engineering, maintenance and installation
- ARACEC
 Carbon adsorption systems for pollution control
- WESTATES CARBON
 Carbon adsorption systems for pollution control

- WHEELABRATOR ENGINEERED SYSTEMS INC.
 Screen Products
 Waterwell screens
 Oil & gas screens
 Monitoring/remediation
 Industrial filtration screens

Water Process Systems:
 Potable water
 Wastewater
 Process water
 Solids dewatering
 Slurry pumping

Surface Preparation Equipments:
 Stationary systems
 Portable systems
 Parts and Service

Rust International Inc.

55-percent owned by CWM
 40-percent owned by WTI

Environmental engineering and consulting, construction and infrastructure

RUST ENGINEERING

Design and construction:
 Planning
 Engineering
 Construction
 Maintenance
 Training

RUST ENVIRONMENT & INFRASTRUCTURE

Environmental engineering
 Environmental consulting
 Engineering
 Infrastructure
 Photogrammetry
 Field Investigation

RUST REMEDIAL SERVICES

Remedial services:
 Industrial and governmental site remediation services

RUST CONSTRUCTION

Construction
 Repair
 Construction
 Industrial dismantling
 Commercial dismantling

RUST INDUSTRIAL SERVICES

Industrial and scaffolding services:
 Scaffolding services
 Industrial cleaning services
 Plant services
 Utility services

RUST LIMITED

International environmental engineering and construction

NOTE: A number of changes to the WMX Corporate structure are in process.

ATTACHMENT "C"

VOLATILE ORGANICS:

1,1,1,2-TETRACHLOROETHANE
 1,1,1-TRICHLOROETHANE
 1,1,2,2-TETRACHLOROETHANE
 1,1,2-TRICHLOROETHANE
 1,1-DICHLOROETHANE
 1,1-DICHLOROETHENE
 1,2,3-TRICHLOROPROPANE
 1,2-DIBROMO-3-CHLOROPROPANE
 1,2-DIBROMOETHANE
 1,2-DICHLOROBENZENE

1,2-DICHLOROETHANE
 1,2-DICHLOROPROPANE
 1,4-DICHLOROBENZENE
 2-BUTANONE
 2-CHLOROETHYLVINYL ETHER
 2-HEXANONE
 4-METHYL-2-PENTANONE
 ACETONE
 ACROLEIN
 ACRYLONITRILE
 BENZENE
 BROMOCHLOROMETHANE
 BROMODICHLOROMETHANE
 BROMOFORM
 BROMOMETHANE
 CARBON DISULFIDE
 CARBON TETRACHLORIDE
 CHLOROBENZENE
 CHLOROETHANE
 CHLOROFORM
 CHLOROMETHANE
 CIS-1,2-DICHLOROETHENE
 CIS-1,3-DICHLOROPROPENE
 DIBROMOCHLOROMETHANE
 DIBROMOMETHANE
 DICHLORODIFLUOROMETHANE
 ETHANOL
 ETHYL METHACRYLATE
 ETHYLBENZENE
 IODOMETHANE
 METHYLENE CHLORIDE
 STYRENE
 TETRACHLOROETHENE
 TOLUENE
 TRANS-1,2-DICHLOROETHENE
 TRANS-1,3-DICHLOROPROPENE
 TRANS-1,4-DICHLORO-2-BUTENE
 TRICHLOROETHENE
 TRICHLOROFLUOROMETHANE
 VINYL ACETATE
 VINYL CHLORIDE
 XYLENE (TOTAL)

NA = Not Analyzed

ATTACHMENT 'D'

EXAMPLE

Assume: Appraisal Value of \$50,000.00
 Offering Price of \$40,000.00

Standard Real Estate commission in Estill County is 7%.

Waste Management may either:

1) Pay the property owner: \$50,000.00
 ~~-\$2,800.00~~ (7% of 40,000.00)
 \$47,200.00
 ~~-\$40,000.00~~ (Offering Price)
 \$7,200.00 Paid to Property Owner

2) Pay the property owner \$50,000.00 and acquire the property.

CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)
9/15/94

ODUCER

Rollins Hudig Hall
of Illinois, Inc.
23 North Wacker Drive
Chicago, Illinois 60606
Attn: Dora Connell
(312) 701-4974

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

- COMPANY LETTER A National Union Fire Ins. Co. of Pittsburgh, PA
- COMPANY LETTER B
- COMPANY LETTER C
- COMPANY LETTER D
- COMPANY LETTER E

INSURED

Blue Ridge Recycling & Disposal
Facility
2700 Winchester Rd.
Irvine, KY 40336

VERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS, AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
GENERAL LIABILITY				
<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY				GENERAL AGGREGATE \$
<input checked="" type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR				PRODUCTS-COMP/OP AGG. \$
<input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT.				PERSONAL & ADV. INJURY \$
				EACH OCCURRENCE \$
				FIRE DAMAGE (Any one fire) \$
				MED. EXPENSE (Any one person) \$
MOBILE LIABILITY				
<input type="checkbox"/> ANY AUTO				COMBINED SINGLE LIMIT \$
<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per person) \$
<input type="checkbox"/> SCHEDULED AUTOS				BODILY INJURY (Per accident) \$
<input type="checkbox"/> HIRED AUTOS				PROPERTY DAMAGE \$
<input type="checkbox"/> NON-OWNED AUTOS				
<input type="checkbox"/> GARAGE LIABILITY				
EXCESS LIABILITY				
<input type="checkbox"/> UMBRELLA FORM				EACH OCCURRENCE \$
<input type="checkbox"/> OTHER THAN UMBRELLA FORM				AGGREGATE \$
WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY				STATUTORY LIMITS
				EACH ACCIDENT \$
				DISEASE-POLICY LIMIT \$
				DISEASE-EACH EMPLOYEE \$

OTHER	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
Pollution Legal Liability	PRM 9210461	04/25/94	04/25/95	\$10,000,000 Any one claim \$10,000,000 Annual aggregate

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS
Additional Insured: Estill County, Kentucky

COPY

CERTIFICATE HOLDER
Estill County
108 Main St.
Irvine, KY 40336
Attn: Judge/Exec. Dwight Arvin

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 60 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE
John R. Petrusich

AMENDMENT NO. 2
 ESTILL COUNTY SOLID WASTE ORDINANCE
 ORDINANCE NO. 6
 (AMENDMENT NO. 2 TO THE ESTILL COUNTY SOLID WASTE ORDINANCE

An Act Relating To And Amending the Estill
 County Solid Waste Ordinance, Ordinance No. 6, an
 Ordinance related To The Storage, Collection,
 Transportation and Disposal of Solid Waste and The Siting of
 Solid Waste Management Facilities

Be and enacted by the Estill County Fiscal Court, Estill
 County, Kentucky:

SECTION 1. APPLICABILITY

A. Section 1.(B)(b) is hereby deleted and repealed in its
 entirety.

B. Section 1.(B)(d) is hereby deleted and repealed in its
 entirety.

C. Section 1.(C) is hereby amended as follows:

The Estill County Fiscal Court is designated as the Solid
 Waste Planning Area "Governing Body" for purposes of KRS Chapters
 224 and 109.

SECTION 2. DEFINITIONS

A. Section 2. is hereby amended to read as follows:

As used in this ordinance unless contents clearly indicates
 otherwise

B. Definition of the term "EXISTENCE" is hereby amended as
 follows:

"EXISTENCE" means a solid waste management site or facility
 with a valid permit from the cabinet which was in operation, or

for which continuous construction has commenced at time of enactment of the ordinance. A facility has commenced continuous construction if:

(1) The owner or operator had obtained the federal, state and local approvals or permits necessary to begin physical construction; and

(2) Either:

(a) a continuous on-site physical construction program had begun; or

(b) the owner or operator had entered into contractual obligations, which could not be cancelled or modified without substantial loss, for physical construction of the facility to be completed within a reasonable time certain.

C. Definition of the term "OWNER/OPERATOR" is amended as follows:

"OWNER/OPERATOR" means the owner of any solid waste management facility, as well as any person who has ultimate decision-making authority over the facility or any key personnel as defined in KRS 224.005 sub 44.

D. Definition of the term "RESOURCE RECOVERY" is amended as follows:

"RESOURCE RECOVERY" means any reclamation or material or energy from waste, except however it does not mean the incineration of any waste or tires for energy.

E. Definition of the term "SANITARY LANDFILL" is amended as follows:

"SANITARY LANDFILL" means a facility for the disposal of

3

solid waste or the said waste is of a municipal, an erred, residual contained construction/demolition, debris, medical or hazardous nature, consistent with and pursuant to criteria published under Section 4004 of the Resource Conservation and Recovery Act of 1976, as amended (P.L. - 580).

F. Definition of the term "SOLID WASTE" is amended as follows:

"SOLID WASTE" means any waste as defined and described by KRS 224.005 sub 31.

G. Definition of the term "SOLID WASTE MANAGEMENT" is amended as follows:

"SOLID WASTE MANAGEMENT" means the administration of solid waste activities: collection, source separation, storage, transportation, transfer, processing, treatment and disposal, which shall be in accordance with a cabinet approve county or multi-county solid waste management plan and the requirements of this ordinance.

H. Definition of the term "SOLID WASTE MANAGEMENT BOARD" is follows:

"SOLID WASTE MANAGEMENT BOARD" means the governing body of the Estill County Solid Waste District created pursuant to KRS Chapter 109.

SECTION 3. STORAGE OF SOLID WASTE

A. Section 3.(C) is hereby amended as follows:

Plastic garbage bags shall be of no less than 2 mil thickness.

B. Section 3.(D) is hereby amended as follows:

5

(4) Storage of land clearing debris on the property where the land clearing occurred.

(5) Storage of household and agricultural waste on the property owned by the generator of the waste, provided no open dumping laws are violated.

SECTION 4. COLLECTION OF SOLID WASTE

A. Section 4.(A) is hereby amended as follows:

Any person or business engaging in the business of collection or transportation of solid waste shall first obtain a license issued from the Estill County Fiscal Court. Applications for license may be obtained at the Office of the County Judge Executive. The fee for collection, transportation or discharge of solid waste shall be \$25 for each licensed vehicle, covering any vehicle with up to two (2) tons capacity and \$50 for each licensed vehicle, covering any vehicle with capacity over two (2) tons. The required fee must accompany each application.

B. Section 4.(B) is hereby amended as follows:

Licenses will be valid from the date of issuance until December 31 of the year in which the license is granted subject to continued conformance with the regulations governing the collection and transportation of solid waste in the county.

C. Section 4.(C) All applications for licenses to engage in the business of waste collection, transport or discharge must be made on the official form which may be obtained at the Office of the County Judge/Executive. Failure to complete any portion of the application form, or the giving of false information in the

application shall be grounds for denial of the requested license.

D. Section 4.(E) is hereby amended as follows:

At the time of license expiration, exactly one year from the date of issuance, said person or business must submit to the Fiscal Court a performance report relative to the past year's operations. All reports must be made on the official reporting form that may be obtained at the Office of the Estill County Judge Executive. Operational review criteria and the standards by which the denial of any license may be based thereon shall be established by and be consistent with KRS Chapter 224. If operational deficiencies are found via the annual report or by reports of complaints from citizens or public officials, said person or business will be notified and asked to respond in writing or by appearance before Fiscal Court. The Estill Judge/Executive shall to develop the official reporting form called for by this provision and to submit the same to the Fiscal Court for its approval; said form to be known as the annual "Performance Report for Solid Waste Hauls". Said report shall provide background information consistent with KRS Chapter 224.

E. Section 4.(G) is hereby amended as follows:

The Estill county Fiscal Court or the Solid Waste Management Board has discretion based on performance of persons or business engaged in collection to suspend or revoke a license.

F. Section 4.(H) is hereby amended as follows:

Collection shall not continue after license expiration until a license has been reissued or an extension has been granted by

Fiscal Court or the Solid Waste Management Board.

G. Section 4.(I) is hereby amended as follows:

Any person engaged in the collection and transport of solid waste must carry liability insurance and furnish proof thereof at the time of application for license. The form and amount of said insurance shall be such as is required by KRS 281.655 which is incorporated by reference herein and made a part hereof. The limits of said insurance shall be no less than "100,000./300,000."

H. Section 4.(J) is hereby amended as follows:

No license shall be required for a vehicle which is transporting waste through Estill County which is neither collected nor discharged or disposed of in Estill County. But all vehicles which either collect or discharge or dispose of waste in Estill County must have a license.

SECTION 6. DISPOSAL OF SOLID WASTE

A. Section 6.(A) is hereby amended as follows:

It shall be unlawful to dispose of solid waste anywhere other than an approved and permitted landfill or disposal landfill or disposal are meeting all requirements of this ordinance and KRS Chapter 224, the rules and regulations therein and all the requirements of this ordinance.

B. Section 6.(B) is hereby amended as follows:

Any person who violates the provisions of this ordinance with regard to the disposal of solid waste shall be liable for a civil penalty not to exceed the sum of \$5,000.00 for said violation and an additional civil penalty not to exceed \$5,000.00 for each day during which such violation continues, and in addition, may be

concurrently and joined from any such violations.

C. Section 6.(C) Any person who knowingly violates the provisions of this ordinance with regard to the disposal of solid waste shall be guilty of a Class D Felony, and upon conviction thereof, shall be punished by a fine not to exceed \$25,000.00 (twenty-five thousand dollars), or by imprisonment for a term not less than 1 (one) year, not more than 5 (five) years, or by both fine and imprisonment, for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

SECTION 7.1 PROHIBITION

A. Section 7.1(C) is hereby amended as follows:

No person shall dispose of radio active waste, (including waste identified as below regulatory concern by the Nuclear Regulatory Commission), untreated, infectious waste or industrial waste in Estill County other than small quantities as allowed pursuant to Title 401 KAR, Chapters 30-48.

SECTION 7.2 SITE APPROVAL PROCESS

A. Section 7.2(A) is hereby amended as follows:

The owner/operator of a new facility or proposed facility, or the owner/operator of an existing facility seeking expansion, shall file a petition for site approval with the Estill County Fiscal Court at the Office of Estill County Judge/Executive.

B. Section 7.2(B)(5) is hereby amended as follows:

A complete history of the owner/operator's prior experience and the ownership and/or operation of any and all solid waste

sites or facilities, where every situated such disclosure shall conform to all of the requirements as set forth in KRS 224.861 and the provisions of said statute are hereby incorporated by reference herein and made a part hereof.

C. Section 7.2(B)(7)(e) is hereby amended as follows:

A statement as to whether the owner/operator has been designated as a potential responsible party under the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended; and, if so, the location of the site or sites involved, an estimate of the owner/operator's share, if any, of the cost of clean-up the site and a description of site and superfund listing, except however dominicus claims below liability in the sum of \$50,000 need not be reported under this section.

D. Section 7.2(B)(12)(b) is hereby amended as follows:

Persons owning property, of record, in Estill County along transportation corridors providing direct access to the site which are within a one mile radius of the site.

E. Section 7.2(B)(17) is hereby amended as follows:

A true copy of the permit application required by the Cabinet shall be filed with the Fiscal Court at the same time it is filed with the Cabinet. The owner/operator shall include all information required by Title 401 KAR, Chapters 30-40.

SECTION 7.3 FISCAL COURT DETERMINATION AS
TO FACILITY SITE APPROVAL

A. Section 7.3(B)(8) is hereby amended as follows:

The application is consistent with the goals and objective of the Estill County Solid Waste Management Plan after it is adopted;

and

A. Section 7.3(B)(9) is hereby amended as follows:

The required financial responsibility for post-closure has been established by the filing with the Estill County Judge Executive a bond or establishing an escrow account in an amount of \$3,000,000.00 or greater. Said bond or escrow account shall be used to address post-closure corrective action needed, if any, not otherwise provided by any other financial assurance foreclosure. Said bond or unexpended balance of any escrow account shall be released in thirty years from the date of official closure.

SECTION 7.4 FACILITY IMPACT REPORT

A. Section 7.4(B)(1)(g) is hereby amended as follows:

A statement as to the impact on the community, including community perception, direct and indirect impact on the local economy and economic growth, and an analysis of the impact on land values in the vicinity of the facility site, along with a survey of ground water users within one-half mile of the facility, including qualitative information on the wells.

B. Section 7.4(B)(2)(g) is hereby amended as follows:

To the extent, the date and the information including in a solid waste facility or site application as required by the provisions of Title 401 KAR, Chapters 38-40, Section 2, and archeological report with a description of the historic, archaeological and natural sites and landmarks, outstanding resource waters, public forest areas, dedicated or designated open space, public recreational areas, wildlife refuges, gamelands and

11

fishing waters. The owner/operator may submit a true and verified copy of the particular permit application submitted or to be submit to the Cabinet with respect to the facility.


C. Section 7.4(B)(3) is hereby amended as follows:

(g) A complete and accurate description of the actions and/or responses to be taken by the applicant relative to all of the risks as contained in the facility impact report including but not limited to the applicant's response to the potential consequences of failures or the containment and/or letchate collection systems and/or fires.

APPROVED THIS THE 14TH DAY OF JULY, 1997. APPROVED THIS THE 14TH DAY OF JULY, 1997.


DWIGHT ARVIN


KEVIN T. WILLIAMS


OTIS FREEMAN


JEFF HENSLEY

ATTEST: 
SHERRY L. FOX
COUNTY CLERK

AMENDMENT NO. 2
ESTILL COUNTY SOLID WASTE ORDINANCE
ORDINANCE NO. 6
(AMENDMENT NO. 2 TO THE ESTILL COUNTY SOLID WASTE ORDINANCE)

An Act Relating To And Amending the Estill
County Solid Waste Ordinance, Ordinance No. 6, an
Ordinance related To The Storage, Collection,
Transportation and Disposal of Solid Waste and The Siting of
Solid Waste Management Facilities

Be and enacted by the Estill County Fiscal Court, Estill
County, Kentucky:

SECTION 1. APPLICABILITY

A. Section 1.(B)(b) is hereby deleted and repealed in its
entirety.

B. Section 1.(B)(d) is hereby deleted and repealed in its
entirety.

C. Section 1.(C) is hereby amended as follows:

The Estill County Fiscal Court is designated as the Solid
Waste Planning Area "Governing Body" for purposes of KRS Chapters
224 and 109.

SECTION 2. DEFINITIONS

A. Section 2. is hereby amended to read as follows:

As used in this ordinance unless contents clearly indicates
otherwise

B. Definition of the term "EXISTENCE" is hereby amended as
follows:

"EXISTENCE" means a solid waste management site or facility
with a valid permit from the cabinet which was in operation, or

for which continuous construction has commenced at time of enactment of the ordinance. A facility has commenced continuous construction if:

(1) The owner or operator had obtained the federal, state and local approvals or permits necessary to begin physical construction; and

(2) Either:

(a) a continuous on-site physical construction program had begun; or

(b) the owner or operator had entered into contractual obligations, which could not be cancelled or modified without substantial loss, for physical construction of the facility to be completed within a reasonable time certain.

C. Definition of the term "OWNER/OPERATOR" is amended as follows:

"OWNER/OPERATOR" means the owner of any solid waste management facility, as well as any person who has ultimate decision-making authority over the facility or any key personnel as defined in KRS 224.005 sub 44.

D. Definition of the term "RESOURCE RECOVERY" is amended as follows:

"RESOURCE RECOVERY" means any reclamation or material or energy from waste, except however it does not mean the incineration of any waste or tires for energy.

E. Definition of the term "SANITARY LANDFILL" is amended as follows:

SANITARY LANDFILL" means a facility for the disposal of

3

solid waste or the said waste is of a municipal, an erred, residual contained construction/demolition, debris, medical or hazardous nature, consistent with and pursuant to criteria published under Section 4004 of the Resource Conservation and Recovery Act of 1976, as amended (P.L. - 580).

F. Definition of the term "SOLID WASTE" is amended as follows:

"SOLID WASTE" means any waste as defined and described by KRS 224.005 sub 31.

G. Definition of the term "SOLID WASTE MANAGEMENT" is amended as follows:

"SOLID WASTE MANAGEMENT" means the administration of solid waste activities: collection, source separation, storage, transportation, transfer, processing, treatment and disposal, which shall be in accordance with a cabinet approve county or multi-county solid waste management plan and the requirements of this ordinance.

H. Definition of the term "SOLID WASTE MANAGEMENT BOARD" is follows:

"SOLID WASTE MANAGEMENT BOARD" means the governing body of the Estill County Solid Waste District created pursuant to KRS Chapter 109.

SECTION 3. STORAGE OF SOLID WASTE

A. Section 3.(C) is hereby amended as follows:

Plastic garbage bags shall be of no less than 2 mil thickness.

B. Section 3.(D) is hereby amended as follows:

(4) Storage of land clearing debris on the property where the land clearing occurred.

(5) Storage of household and agricultural waste on the property owned by the generator of the waste, provided no open dumping laws are violated.

SECTION 4. COLLECTION OF SOLID WASTE

A. Section 4.(A) is hereby amended as follows:

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B. Section 4.(B) is hereby amended as follows:

Licenses will be valid from the date of issuance until December 31 of the year in which the license is granted subject to continued conformance with the regulations governing the collection and transportation of solid waste in the county.

C. Section 4.(C) All applications for licenses to engage in the business of waste collection, transport or discharge must be made on the official form which may be obtained at the Office of the County Judge/Executive. Failure to complete any portion of the application form, or the giving of false information in the

application shall be grounds for denial of the requested license.

D. Section 4.(E) is hereby amended as follows:

At the time of license expiration, exactly one year from the date of issuance, said person or business must submit to the Fiscal Court a performance report relative to the past year's operations. All reports must be made on the official reporting form that may be obtained at the Office of the Estill County Judge Executive. Operational review criteria and the standards by which the denial of any license may be based thereon shall be established by and be consistent with KRS Chapter 224. If operational deficiencies are found via the annual report or by reports of complaints from citizens or public officials, said person or business will be notified and asked to respond in writing or by appearance before Fiscal Court. The Estill Judge/Executive shall to develop the official reporting form called for by this provision and to submit the same to the Fiscal Court for its approval; said form to be known as the annual "Performance Report for Solid Waste Hauls". Said report shall provide background information consistent with KRS Chapter 224.

E. Section 4.(G) is hereby amended as follows:

The Estill county Fiscal Court or the Solid Waste Management Board has discretion based on performance of persons or business engaged in collection to suspend or revoke a license.

F. Section 4.(H) is hereby amended as follows:

Collection shall not continue after license expiration until a license has been reissued or an extension has been granted by

Fiscal Court or the Solid Waste Management Board.

G. Section 4.(I) is hereby amended as follows:

Any person engaged in the collection and transport of solid waste must carry liability insurance and furnish proof thereof at the time of application for license. The form and amount of said insurance shall be such as is required by KRS 281.655 which is incorporated by reference herein and made a part hereof. The limits of said insurance shall be no less than "100,000./300,000."

H. Section 4.(J) is hereby amended as follows:

No license shall be required for a vehicle which is transporting waste through Estill County which is neither collected nor discharged or disposed of in Estill County. But all vehicles which either collect or discharge or dispose of waste in Estill County must have a license.

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A. Section 6.(A) is hereby amended as follows:

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B. Section 6.(B) is hereby amended as follows:

Any person who violates the provisions of this ordinance with regard to the disposal of solid waste shall be liable for a civil penalty not to exceed the sum of \$5,000.00 for said violation and an additional civil penalty not to exceed \$5,000.00 for each day during which such violation continues, and in addition, may be

concurrently and joined from any such violations.

C. Section 6.(C) Any person who knowingly violates the provisions of this ordinance with regard to the disposal of solid waste shall be guilty of a Class D Felony, and upon conviction thereof, shall be punished by a fine not to exceed \$25,000.00 (twenty-five thousand dollars), or by imprisonment for a term not less than 1 (one) year, not more than 5 (five) years, or by both fine and imprisonment, for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

SECTION 7.1 PROHIBITION

A. Section 7.1(G) is hereby amended as follows:

No person shall dispose of radio active waste, (including waste identified as below regulatory concern by the Nuclear Regulatory Commission), untreated, infectious waste or industrial waste in Estill County other than small quantities as allowed pursuant to Title 401 KAR, Chapters 30-48.

SECTION 7.2 SITE APPROVAL PROCESS

A. Section 7.2(A) is hereby amended as follows:

The owner/operator of a new facility or proposed facility, or the owner/operator of an existing facility seeking expansion, shall file a petition for site approval with the Estill County Fiscal Court at the Office of Estill County Judge/Executive.

B. Section 7.2(B)(5) is hereby amended as follows:

A complete history of the owner/operator's prior experience and the ownership and/or operation of any and all solid waste

sites or facilities, where every situated such disclosure shall conform to all of the requirements as set forth in KRS 224.861 and the provisions of said statute are hereby incorporated by reference herein and made a part hereof.

C. Section 7.2(B)(7)(e) is hereby amended as follows:

A statement as to whether the owner/operator has been designated as a potential responsible party under the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended; and, if so, the location of the site or sites involved, an estimate of the owner/operator's share, if any, of the cost of clean-up the site and a description of site and superfund listing, except however dominicus claims below liability in the sum of \$50,000 need not be reported under this section.

D. Section 7.2(B)(12)(b) is hereby amended as follows:

Persons owning property, of record, in Estill County along transportation corridors providing direct access to the site which are within a one mile radius of the site.

E. Section 7.2(B)(17) is hereby amended as follows:

A true copy of the permit application required by the Cabinet shall be filed with the Fiscal Court at the same time it is filed with the Cabinet. The owner/operator shall include all information required by Title 401 KAR, Chapters 30-40.

SECTION 7.3 FISCAL COURT DETERMINATION AS
TO FACILITY SITE APPROVAL

A. Section 7.3(B)(8) is hereby amended as follows:

The application is consistent with the goals and objective of the Estill County Solid Waste Management Plan after it is adopted;

and

A. Section 7.3(B)(9) is hereby amended as follows:

The required financial responsibility for post-closure has been established by the filing with the Estill County Judge Executive a bond or establishing an escrow account in an amount of \$3,000,000.00 or greater. Said bond or escrow account shall be used to address post-closure corrective action needed, if any, not otherwise provided by any other financial assurance foreclosure. Said bond or unexpended balance of any escrow account shall be released in thirty years from the date of official closure.

SECTION 7.4 FACILITY IMPACT REPORT

A. Section 7.4(B)(1)(g) is hereby amended as follows:

A statement as to the impact on the community, including community perception, direct and indirect impact on the local economy and economic growth, and an analysis of the impact on land values in the vicinity of the facility site, along with a survey of ground water users within one-half mile of the facility, including qualitative information on the wells.

B. Section 7.4(B)(2)(g) is hereby amended as follows:

To the extent, the date and the information including in a solid waste facility or site application as required by the provisions of Title 401 KAR, Chapters 38-40, Section 2, and archeological report with a description of the historic, archaeological and natural sites and landmarks, outstanding resource waters, public forest areas, dedicated or designated open space, public recreational areas, wildlife refuges, gamelands and

fishing waters. The owner/operator may submit a true and verified copy of the particular permit application submitted or to be submit to the Cabinet with respect to the facility.

C. Section 7.4(B)(3) is hereby amended as follows:

(g) A complete and accurate description of the actions and/or responses to be taken by the applicant relative to all of the risks as contained in the facility impact report including but not limited to the applicant's response to the potential consequences of failures or the containment and/or letchate collection systems and/or fires.

APPROVED THIS THE 14TH DAY OF JULY, 1997. APPROVED THIS THE 14TH DAY OF JULY, 1997.

Dwight Erwin
DWIGHT ERWIN

Kevin T. Williams
KEVIN T. WILLIAMS

Otis Freeman
OTIS FREEMAN

Jeff Hensley
JEFF HENSLEY

ATTEST: *Sherry L. Fox*
SHERRY L. FOX
COUNTY CLERK