Scanned By	Date	DOC ID	Permit
Backus	12/03/2010	12342	59-01

North Carolina Department of Environment and Natural Resources
Division of Waste Management

Beverly Eaves Perdue
Governor

Dexter R. Matthews
Director

Dee Freeman
Secretary

December 3, 2010

Mr. Russell Overman
Manager, Martin County
305 East Main Street
P. O. Box 668
Williamston, NC 27892

Re: Financial Assurance for Construction and Demolition Landfill (C&DLF)
Martin County C&DLF, Permit No. 59-01, Document ID No. 12342

Dear Mr. Overman:

In reviewing your application for continued operation of the Martin County C&DLF under Solid Waste Management Rule .0547, it has come to our attention that financial assurance has not been demonstrated for closure and post-closure costs of the landfill. The application, submitted on your behalf by Municipal Engineering Services Company in September 2008, estimated a closure cost of $929,838 and post-closure cost of $508,000 requirement for financial assurance. The rule required owners and operators of existing C&D landfills to provide proof of financial assurance by July 1, 2008.

NCGS §130A-295.2 (g) states that in order to hold a permit, the permit holder must maintain financial responsibility and must provide any information requested by the Department to establish that the permit holder continues to maintain financial responsibility.

I have included a memorandum that was emailed to all county managers and landfill managers in October 2010 addressing the financial assurance process. Local governments are allowed to use a local government financial test as a financial assurance mechanism. Additional guidance can be found at http://portal.ncdenr.org/web/wm/sw/financialassurance.

The Martin County C&D landfill has been operated for more than two years while out of compliance with the requirement for financial assurance. Please provide documentation of your compliance as soon as possible or by the December 31, 2010. Failure to do so will result in nullification of your permit. Your cooperation is appreciated.

Sincerely,

Pat Backus

Patricia M. Backus, P.E.
Environmental Engineer
Solid Waste Section

cc: Maurice Robinson, Martin County C&DLF Manager
Dennis Shackelford, Eastern District Supervisor
Paul Crissman, Solid Waste Section Head
Ed Mussler, Permitting Branch Head
Ben Barnes, Area Environmental Senior Specialist
Donald Herndon, Compliance Officer

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October 12, 2010

MEMORANDUM

To: Solid Waste Directors, Finance Directors and Landfill Owners and Operators

From: North Carolina Division of Waste Management, Solid Waste Section

Re: **Financial Assurance Process for Solid Waste Management Facilities**

The purpose of this memo is to clarify the process of providing financial assurance for solid waste management facilities. According to N.C.G.S. 130A-295.2 (f): "The applicant and permit holder for a solid waste management facility shall establish financial assurance…" The acceptable financial assurance mechanisms are outlined in 15A NCAC 13B .1628.

The process for securing and updating financial assurance should be as follows:

- During the application for a new permit or the amendment (five year review cycle) of an existing permit, the applicant shall submit cost estimates for any closure, post closure or corrective action costs associated with the facility.

- The cost estimates shall be reviewed and approved by a Solid Waste Section Permitting Engineer. Please note that for a landfill, the approved cost estimates relate to the "largest area" that the active permit allows.

- The facility shall secure a financial assurance mechanism and submit the original documentation to the Compliance Officer with the Solid Waste Section. It is highly recommended that the facility submit a draft copy for any **NEW** financial assurance mechanisms (excluding the Local Government Financial Test) to the Compliance Officer for review before the mechanism is finalized.

- On the anniversary date of a financial assurance mechanism, the facility shall send an updated financial assurance mechanism that has been adjusted for inflation (using the current inflation factor located on our website http://portal.ncdenr.org/web/wm/sw/financialassurance) from the previous year. Please note that for each year until new cost estimates are reviewed and approved by a Solid Waste Section engineer during the permit amendment process, the **ONLY** adjustment to

the cost estimates should be for inflation. If the facility has increased costs due to environmental assessment or corrective action activities, the facility shall petition the Section for cost estimate adjustment. If the facility petitions the Section for cost estimates to be adjusted for any reason other than inflation, they may be subject to a permitting fee.

Reminders

- The Solid Waste Section will no longer be sending out "approval letters" on an annual basis to facilities after they have submitted their initial or updated financial assurance mechanism. If there is a problem with the financial assurance mechanism, the Solid Waste Section Compliance Officer will contact the facility at that point.

- For facilities that are using the Local Government Financial Test, the deadline for annual submittals is October 29th. All requests for an extension of this deadline must be received by that date.

- In Accordance with NCGS 130A 295.2 (h), all sanitary landfills must provide financial assurance for potential assessment and corrective action in the minimum amount of $3,000,000. This is required when the permit is next subject to renewal after August 1, 2009.

- It is allowable for a facility to secure financial assurance for an amount higher than the cost estimates such that an adjustment does not need to be made for inflation until the mechanism no longer accounts for the inflation adjusted amount. This must be arranged with the Solid Waste Section Compliance Officer prior to implementation.

- For all facilities that use a Surety Bond or Letter of Credit for a financial assurance mechanism, they must also establish a Standby Trust Fund.

- Our website address has changed, and currently, the Financial Assurance page with all relevant information including template language for mechanisms, inflation factors, Solid Waste Rules and general guidance is located at: http://portal.ncdenr.org/web/wm/sw/financialassurance

  If you have any questions or concerns, please feel free to contact Donald Herndon (donald.herndon@ncdenr.gov or 919-508-8502) or Shawn McKee (shawn.mckee@ncdenr.gov or 919-508-5812).

  Thank you for your continued cooperation with these matters.