



NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Dexter R. Matthews, Director.

Division of Waste Management

Michael F. Easley, Governor
William G. Ross Jr., Secretary

October 6, 2005

Board of Commissioners of Camden County
Care of Melvin J. Jeralds, Chairman
P.O. Box 190
117 North NC 343
Camden, NC 27921

Re: Franchise for proposed Black Bear Disposal, LLC landfill

Pursuant to N.C. General Statute §130A-294(b1)(3) and §153A-136, Camden County issued a franchise, dated November 4, 2002, for a municipal solid waste landfill to Black Bear Disposal, LLC. The franchise incorporates a Franchise Agreement between the County and Black Bear Disposal, LLC.

In April, 2004, Black Bear Disposal, LLC submitted a permit application for the proposed landfill to the Solid Waste Section of the Division of Waste Management.

In February, 2005 Black Bear Disposal, LLC submitted a revised permit application, which included a resolution of "Local Government Approval" by the Camden County Board of Commissioners dated February 10, 2005. The Solid Waste Section notes that the Board on February 10, 2005 resolved that the then proposed facility plan is consistent with the franchise that was published.

In March, 2005, Black Bear Disposal, LLC submitted a Revised Facility Plan for inclusion in the permit application.

The purpose of this letter is threefold: I. to request confirmation from the Board of Commissioners that the latest Revised Facility Plan is consistent with the franchise regarding certain terms of the franchise which are mandated by N.C. General Statutes §130A-294(b1)(3) and §153A-136; II. to request confirmation that a condition in the 2002 minutes relating to the franchise has been met; and III. to inquire whether the County is agreeable to Waste Industries, U.S.A., Inc.'s being a co-permittee.

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I. Consistency with Franchise Terms

N.C.G.S. §130A-294(b1)(3) requires that a franchise identify all of the land on which a landfill and its appurtenances are to be located, and that the franchise include the following:

- a. A statement of the population to be served, including a description of the geographic area
- b. A description of the volume and characteristics of the waste stream.
- c. A projection on the useful life of the landfill.

Identity of Land

The franchise is subject to the Company's acquisition and ownership of the "Landfill Property" described in Exhibit A to the Franchise Agreement. Exhibit A, incorporated in the Agreement, includes a "primary parcel" of 1003 acres, plus 17 contiguous parcels, provided that "the area of the landfill to be covered by the waste disposal cells and associated slopes (the 'Landfill Footprint'), and the Landfill entrance, remain a minimum of three thousand (3000) feet from the centerline of U.S. Highway 17." There is no acreage stated for the 17 contiguous parcels; on the drawing in Exhibit A the area of the contiguous parcels appears to comprise approximately three times the acreage of the primary parcel.

In the Revised Facility Plan received March 2005, the proposed property boundary for landfill is described as follows:

As of November 1, 2004, Black Bear Disposal LLC. owns 1037 acres of land located in the northeast corner of Camden County, North Carolina which will be developed in a variety of end uses. The landfill, buffers and support facilities will occupy 704 of those acres. The Subtitle D landfill will be comprised of a 490-acre disposal footprint that will be developed in five phases and will be located a minimum of 3000 feet from the centerline of U.S. Highway 17 in accordance with the franchise agreement.

The 1037 acres owned generally corresponds with the "primary parcel".

The Section requests that the Board confirm that the information submitted in the March, 2005 Revised Facility Plan is consistent with the franchise issued by the County.

Population to be Served

Section III, ¶ (3) of the Franchise Agreement describes the "Service Area" as "the area located east of Interstate Highway 75. The current estimated population within the Service Area is 82,000,000."

In the Revised Facility Plan, the statement of the population to be served, including a description of the geographic area is described as follows:

The Subtitle D landfill will provide waste disposal capacity for a service area that extends from U.S. Interstate 75(I-75) to the east coast. The population of the service area is over 108,900,000 based on the 2001 Census Bureau data. The population number only includes the population in those counties located east of I-75 where the interstate passes through states. The proposed service area is shown in Attachment 7-1.

The Section requests that the Board confirm that the information submitted in the March, 2005 Revised Facility Plan is consistent with the franchise issued by the County.

Volume of Waste

The franchise describes the volume of the waste to be disposed in the landfill as an average of 10,000 tons per day over a period of useful life which exceeds thirty years.

In the Revised Facility Plan received March 2005, the volume of the waste stream is described as follows:

The estimated gross capacity (waste, daily cover and final cover of the landfill) will be approximately 102,400,000 cubic yards--- For an in-place density of 1800 lb/cy, typical for landfill operations, the landfill will have a capacity for approximately 82,500,000 tons of waste.

In the Revised Facility Plan, the volume of the waste is computed from the disposal rate of 10,000 tons per day for 308 days of operation per year, or 3,080,000 tons per year over a useful life of 27 years. The Revised Facility Plan also states that the proposed landfill will accept only wastes permitted by the State of North Carolina Department of Environment and Natural Resources and in accordance with the franchise agreement with Camden County.

The Section requests that the Board confirm that the information submitted in the March, 2005 Revised Facility Plan is consistent with the franchise issued by the County.

Projected Useful Life

Section III. (2) of the Franchise Agreement states that based upon an average waste disposal rate of 10,000 tons per day, "the Landfill's estimated life will exceed the franchise term of 30 years." Section 3 of the franchise provides: "Black Bear Disposal LLC is hereby granted an exclusive franchise for a Sanitary Solid Waste Landfill during the term of the Black Bear Franchise Agreement, but not to exceed thirty (30) years from the date of adoption of this Ordinance." N.C.G.S. §153A-136 limits a franchise for a sanitary landfill to a term of 30 years.

The Revised Facility Plan (March 2005) (Section 7 of the Permit Application) projects that the useful life of the landfill to be located on the primary parcel will be approximately 27 years with an average waste disposal rate of 10,000 tons per day.

The Section requests that the Board confirm that the information submitted in the March, 2005 Revised Facility Plan is consistent with the franchise issued by the County.

II. Condition in the 2002 minutes

The minutes of the November 4, 2002 meeting of the Camden County Board of Commissioners reflect that the Board approved the franchise Ordinance No. 2002-10-02 "for a second reading with the condition that the Chairman and Clerk may not sign or otherwise execute the Ordinance or the Franchise Agreement until the County Manager has made written findings that the franchise applicant has, on or before December 4, 2002, submitted a completed zoning permit application in a form, manner and content that can be approved by the county." The Solid Waste Section asks that the Board confirm that these conditions were satisfied.

III. Permittee Issues

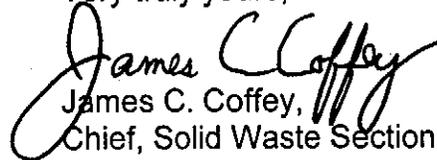
If the Solid Waste Section determines that Waste Industries U.S.A., Inc. is a necessary co-permittee with Black Bear Disposal, LLC, does the Board of Commissioners view the addition of Waste Industries U.S.A., Inc. to be encompassed within the terms of the franchise? Waste Industries U.S.A., Inc.

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has authorized us to tell you that it is agreeable to being a co-permittee in this circumstance.

If the answer to the foregoing question is "no", would the Board view an assignment of all or a portion of the franchise to Waste Industries U.S.A. to be an acceptable, non-objectionable assignment within the meaning of Paragraph VII of the Franchise Agreement?

Very truly yours,


James C. Coffey,
Chief, Solid Waste Section

C. Ven Poole, Vice President
Waste Industries USA, Inc.