

## NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

### Regional Director, Region 8

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October 5, 2018

Mr. Jeffrey G. Richardson  
Sr. District Manager  
Waste Management of New York, LLC  
425 Perinton Parkway  
Fairport NY 14450

Dear Mr. Richardson:

This is in response to the two letters received from Waste Management ("WM") dated September 26<sup>th</sup> and 28<sup>th</sup>, and is also in furtherance of the discussion we had on October 2, 2018 relative to the need to move forward with meaningful efforts to minimize to the extent possible any remaining negative off - site impacts caused by odors from the High Acres facility.

As you know, the directive to delay on an interim basis the deposition of solid waste delivered by rail contained in my letter dated September 24, 2018 was an attempt to separate that waste stream for a limited period each day to assess any impact such a delay would have on the detection of odors in the neighborhoods surrounding the facility. As you are aware, there has been a focus on whether rail waste has a significant incremental impact on off - site odors, and we recognized in our letter the commitment made by WM to the Town of Perinton to undertake a study designed to evaluate many aspects of the rail waste issue. The additional directive to process all rail cars the day they are received, was likewise an effort to minimize the time, particularly during what may remain of warm weather this year, that rail containers with waste are stored on site.

The two WM letters expressed concerns regarding both directives, in terms of impacts on operations and an ability to fully comply, given your assertions that CSX has significant control over delivery schedules. It remains somewhat curious as to the reasons why WM has, according to your counsel, such limited control over the delivery of a commodity that you pay to ship. However, we recognize that shipping logistics will be evaluated as part of your study. It was not my intention to create an unachievable requirement, but rather to inform the analysis by adjusting one significant variable associated with the operation. And despite the protestations, we remain of the belief that adjusting the deposition of rail waste, even if for a more limited duration, has the potential to provide useful information.



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After further consideration and discussion, and for the reasons described below, we are willing to adjust the directives contained in my September 24<sup>th</sup> letter. Most significantly among those reasons is the set of commitments made by WM to this agency to move forward on further odor control measures, and to expedite the study of incoming waste.

As a result, the following measures will be taken by the dates indicated:

- WM will, within 90 days of the date of this letter, submit for the Department's review a Comprehensive Odor Control Study, along with a design for implementation. This is intended to result in the implementation of a permanent, year-round set of physical and /or other measures to decrease the frequency, severity, and geographic extent of offsite odors;
- WM will build and have ready for use at least 18 months of constructed, surplus cell capacity. This includes the acreage recently approved for use as part of Cell 12B. This requirement is designed to provide operational flexibility in terms of location of working faces, elevations of areas used, etc. in order to adjust operations based on weather conditions;
- WM will, on or before November 1, 2018, submit a revised, comprehensive, and updated Gas Collection and Control System ("GCCS") Plan to the Department. The plan will, among other measures described therein, provide detail and memorialize the commitment to place horizontal gas collection in accordance with the recently modified Part 363 regulations, as well as demonstrate plans to meet or exceed the requirements of the applicable NSPS standard(s);
- WM will expedite completion of the study of materials delivered by both truck and rail referenced in its September 14, 2018 letter to the Town of Perinton. We appreciate the goal of studying the entire system through all four seasons, and are also interested in any information that can only be collected in warm weather, such as temperature in containers, impact of temperature on level of odor, etc. However, we see no reason why the analysis of logistics, such as the origin, location, collection and transport time for the waste streams whether transported by rail or truck, and addressing issues with CSX such as scheduling /delivery issues, should take 10 -12 months. That being the case, we expect delivery of the study, with the exception of those aspects which must be evaluated in summer months (which can serve as a supplement to the study) on or before February 15, 2019;
- WM will continue to delay the deposition of rail waste on a daily basis through the month of October. Taken together with what we have already observed, this should provide enough days of various wind direction to assist the analysis as intended by my original letter. In addition, a return to normal operation in November will help inform the analysis with respect to the impact of cooler temperatures on waste/odor conditions, and avoid a lengthy delay in our attempt

to reach any conclusions about volumes or origin of waste impacting odors as well as any further necessary measures to be taken;

- With respect to the remaining days in October, in order to be consistent going forward with the way we previously compiled notifications received from the FAFE app. and the hotline and provided them to you, WM may begin rail waste deposition at 9:30 a.m. rather than 10:15. This slight adjustment will still provide the desired gap between truck and rail waste being deposited. And while we expect that every possible effort will be made to empty cars on the day of delivery as directed, given the limited weekend hours of operation and WM's assertion that its ability to comply depends in large part on the need to work on the CSX scheduling issues over the coming weeks, we will not impose the 24-hour requirement, but rather expect that any car delivered will be emptied within 48 hours of delivery.

Of course, we reserve all rights to adjust a position or demand as additional information is collected.

Thank you for your attention to and anticipated cooperation in this matter.

Very truly yours,



Paul J. D'Amato  
Regional Director

**Attachments**

cc: G. MacLean  
S. Foti  
L. Schwartz, Esq.