



MARYLAND DEPARTMENT OF THE ENVIRONMENT

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Robert M. Summers, Ph.D.
Deputy Secretary

December 10, 2008

Mr. Robert W. Day
7128 Grinnell Drive
Derwood MD 20855

Dear Mr. Day:

Thank you for your letter regarding Montgomery County's proposal to relocate a school bus maintenance depot and bus parking lot to the closed Gude Landfill located adjacent to Gude Lane in Derwood, Maryland. The Maryland Department of the Environment (MDE) appreciates your interest in this matter.

In answer to the questions you asked in your recent e-mail, the following is offered, in the same order in which they were presented in your letter:

1. Closure Order: On December 2, 1977, due to the exhaustion of disposal capacity at the Central Landfill and lack of an adequate public system of refuse disposal in Montgomery County, the Department of Health and Mental Hygiene (DHMH) issued an Emergency Health Order, ordering the County to provide additional disposal capacity at the Central Landfill through July 1, 1981, and obtain all necessary approvals and place into operation one or more landfill sites prior to the date when the Central Landfill would reach its redesigned capacity. In 1979, DHMH issued a permit for the construction and operation of the new Oaks Sanitary Landfill in Laytonsville. On June 3, 1981, DHMH modified the Emergency Health Order to defer the required date for transferring the landfill operations from the Gude-Central Landfill to the Oaks Landfill until June 1, 1982.

The Gude-Central Landfill ceased operations on May 30, 1982, and was subsequently covered with at least two feet of soil as required by the State regulations in effect at that time (COMAR 10.17.11). These regulations did not specify post-closure maintenance or monitoring requirements as are defined in the current solid waste management regulations under COMAR 26.04.07, which were promulgated in 1988. A copy of the Emergency Health Order and amendment are enclosed per your request. Please note that the Emergency Health Order was issued due to lack of capacity to dispose of the County's solid waste in a permitted landfill, not due to violations at the landfill at that time.

With respect to your concerns about monitoring of the site, please note that while not under any specific requirement to do so, Montgomery County does perform monitoring of the groundwater and surface water at the site. In addition, testing of the atmosphere in the soil is done along the property boundary for migration of landfill gas. MDE has requested that results of this monitoring data be sent to MDE for evaluation. In the interim, you may wish to contact Mr. Peter Karasik, PE, Chief of the Division of Solid Waste Services for the Montgomery County Department of Public Works and Transportation, at (301) 840-2361 for more information.

2. Bus Depot: Post-closure reuse of former landfill properties is not considered to be reopening of the landfill unless it were to include a use that specifically involved the disposal of solid waste. State regulations require that written authorization be received from MDE prior to commencing construction on closed permitted sanitary landfills. Any construction on Gude Landfill would require written approval from MDE's Solid Waste Program. In order to evaluate the impacts of a bus maintenance depot and parking area on top of the Gude Landfill, the County has been advised to investigate how the proposed facility may be affected by settlement issues resulting from decomposition of the buried waste, effects of the construction on migration of landfill gas especially into enclosed structures or along trenches and utility lines, potential for the facility to increase runoff into the fill area and increase gas or leachate generation, and develop contingency plans for addressing potential nuisance and pollution conditions such as odors, leachate outbreaks, and exposed waste. The County will need to demonstrate to the satisfaction of MDE, that the proposed construction and use of the closed landfill will not have an adverse effect on the landfill or surrounding areas.

There are no specific Federal solid waste regulations that would address the redevelopment of a closed landfill of this age, as it closed prior to the promulgation and effective time period of the Federal regulations governing active municipal waste landfills at 40 CFR 258. Depending on the nature of the activity on the property, certain aspects of the open Dump Inventory regulations at 40 CFR 257 might be applicable after the development occurred; for example, the County would have to insure that methane levels in any structures other than landfill gas control equipment remained below the regulatory levels. However, these regulations would only be effective once there was a structure there, and do not provide a process for evaluating changes to proposed structures near landfills.

3. Discharge Permit: At your request, I am also enclosing the Industrial Storm Water General Permit under which the Gude Landfill is covered until such time as the landfill assumes another function. The regulatory mechanism of the general permit is to require a storm water pollution prevention plan. There is no requirement under this permit for any monitoring, and MDE has no monitoring results to forward to you. This permit is still valid, as the general permit is administratively extended by MDE until such time as a new permit is issued and for 60 additional days.

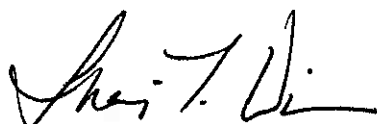
Mr. Robert W. Day
Page Three

4. MDE Guidance: The Department received a request for guidance via e-mail from the Montgomery County Department of Environmental Protection (MCDEP) on October 17, 2007. The request involved the environmental and regulatory considerations that would need to be investigated if a school bus maintenance depot and parking area were to be constructed on the Gude Landfill. A preliminary response was provided an e-mail dated October 18, 2007 from Edward Dexter, MDE's Administrator of the Solid Waste Program, to Peter Karasik with Montgomery County, explaining the issues that would need to be addressed in considering construction on top of a closed permitted landfill. In addition, instead of a later written response that was suggested in the email, MDE met with representatives of and Office of Planning and Development on October 30, 2008 to discuss these issues in greater detail. Copies of the e-mail requesting guidance from the County and MDE's response are enclosed as you requested.

In response to the other concerns expressed in your letter, please note that there is an active gas collection system in place on the landfill which collects a large percentage of the landfill gas produced by the decomposition of the waste and sends it to two flares for destruction. Although landfill gas may contain a small percentage of some volatile organic compounds, these are chemicals that are subject to a substantial degree of destruction by the flares, and any gas that may be naturally venting through the soil cover of the landfill would be diluted as it disperses into the atmosphere and not cause a health problem to the surrounding neighborhood. The Department has visited the site to check the landfill for signs of erosion and leachate seeps, and will be continuing to investigate the concerns that you expressed. Please be assured that MDE will carefully review all monitoring data and evaluate the technical aspects of any proposed construction on the Gude Landfill to ensure that the environmental and public health impacts are adequately addressed.

Thank you again for your letter. If you would like further information, please contact me or Mr. Horacio Tablada, Director of Waste Management Administration at 410-537-3304 or by e-mail at htablada@mde.state.md.us.

Sincerely,



Shari T. Wilson
Secretary

Enclosures

cc: Peter R. Karasik, Chief, Montgomery County Division of Solid Waste Services
Horacio Tablada, Director, Waste Management Administration