

July 8, 2014

Ms. Laurie Grandchamp
Supervising Engineer
Office of Waste Management
Rhode Island Department of Environmental Management
235 Promenade Street
Providence, Rhode Island 02908-5767

Re: Request For Renewal of Beneficial Use Determination Approval
Former Portsmouth Landfill

Dear: Ms. Grandchamp:

This submittal is made on behalf of AP Enterprise, LLC (APE) regarding the Portsmouth Landfill (the Property) and the Beneficial Use Determination Approval (BUDA) which was issued by the Rhode Island Department of Environmental Management (RIDEM) on September 20, 2010, and amended on March 11, 2011.

On September 16, 2013, RIDEM issued a Beneficial Use Determination Renewal which established an expiration date of September 16, 2014. With this submittal APE is requesting that the BUDA be renewed setting the new expiration date as September 16, 2015. APE requests to work under the current terms of the BUDA and its March 11, 2011 amendment.

In considering this request, it is important for RIDEM to consider the following points.

On December 3, 2013, DiPrete Engineering on behalf of APE applied to the RIDEM and the Coastal Resources Management Council (CRMC) for approval to extend the landfill capping program laterally on to adjacent areas that were recently discovered to also be part of the landfill. Your office approved of this request on or about March 18, 2014, however APE did not receive approval from CRMC until May 31, 2014. Part of this delay was the result of CRMC issuing an approval on or about May 1, 2014 that was not consistent with APE's request. DiPrete Engineering contacted CRMC shortly after receiving the initial approval and CRMC agreed to clarify the language in a revised Assent.

During the downtime between the first version of the CRMC Assent and the second version, APE did have the new limit of disturbance surveyed and staked and made arrangements to purchase the appropriate erosion and sedimentation control materials. However that was the extent of APE's ability to advance the project during that time period.

During the time period between the request to extend the capping work laterally and the present very little soil was accepted at the site. In fact only 188 tons of soil have been accepted since February 10, 2014. There are several reasons for this occurrence.

Firstly, excluding the recently discovered landfill areas, there was little room left on the landfill by December 2013 to accept additional shaping and grading soils. There was still a need for final capping soils, but there was limited room on the site to stockpile those soils without potentially creating secondary issues relative to erosion and sedimentation control and dust as well as providing access to the new areas that we were anticipating capping.

Secondly, the winter is generally a slow time of the year for construction and thus limited construction activity was taking place and generating soil.

Thirdly, the economy is still very weak in our area creating a scarcity of projects. We have discussed this observation with our peers working on similar projects and they were experiencing the same effects.

During the time period of APE's work to cap the landfill under the BUDA, it has been necessary to work under the constraints imposed by both the replacement of the Sakonnet River Bridge and the weak economy. Nevertheless, the project team has completed the vast majority of the capping project.

Currently APE is approximately 80% done with capping the landfill (inclusive of the newly identified areas). To be more specific, based on the latest soil estimate APE still needs roughly 5,000 cubic yards of shaping and grading soils and 20,000 cubic yards of capping soil. Assuming APE imports soil in 10 cubic yard trucks, 2,500 truckloads of soil are needed. At 25 trucks/day (a rate far greater than has ever been seen on this project), APE needs about 5 months to haul all the material on-site assuming no holidays or weather delays and a much better economy generating soil. Based upon this simple analysis, it is clear that additional time is necessary to finish the capping project.

APE has a lengthy track record of working to bring the Property into compliance with the RIDEM regulations. APE's work on the Property dates back to 1998. During this project, APE has consistently worked with RIDEM in a cooperative manner and has addressed all of RIDEM's concerns as they were raised and as the project progressed. APE has consistently demonstrated its firm commitment to and made significant progress toward closing the landfill and working with RIDEM. The primary reasons that the project has not been completed are beyond APE's control and therefore we see no reason why the RIDEM should not grant this request.

Please feel free to contact me should you have any questions regarding this matter.

Sincerely

TIM O'CONNOR & COMPANY, LLC



Timothy M. O'Connor, PE, LEED-AP
Principal