

Memo

Direct telephone: (508) 926-3409
Direct facsimile: (508) 929-3012
Email: rcox@bowditch.com

To: Town of Charlton Board of Selectmen
Town of Charlton Board of Health
Robin L. Craver, Town Administrator

From: Robert D. Cox, Jr., Esquire

Date: May 21, 2008

Re: Southbridge Landfill

A. Proposed Conditions to Southbridge Board of Health's Final Decision

Southbridge Recycling and Disposal Park, Inc.'s ("SRD") has asked the Southbridge Board of Health ("SBOH") to modify an existing 1999 Site Assignment to (1) reallocate waste volumes between the landfill and the processing facility, and (2) allow the landfill to accept any combination of residues from the processing facility and municipal solid waste/C&D debris, without regard to geographic origin. SRD's request is governed by regulations found at 310 CMR 16.00 *et seq.*, which allow the SBOH to impose conditions as may be necessary to ensure that the facility, or in this case a modification, will not present a threat to the public health, safety or the environment.

By Order issued by the Hearing Officer, Nancy Kaplan, dated May 9, 2008, and as subsequently modified on May 12, 2008, written closing briefs, proposed decisions or findings must be submitted by the close of business on Friday, May 23, 2008, at which time the hearing record will be closed. On behalf of the Charlton Board of Health ("CBOH") and Charlton Board of Selectmen ("CBOS"), we will prepare a closing brief, with proposed conditions which we will ask the SBOH to impose in its Final Decision, to address the following:

- Odor – In the event of any off-site odor complaints, SRD should be required to investigate the source of the odor and take immediate corrective action to abate, and as appropriate, use spray equipment for odor control.
- Noise – In the event of off-site noise impacts, SRD should be required to investigate the source and take immediate corrective action to eliminate. Corrective actions should include, by way of example where noise is associated with construction activities, installation of portable noise barriers to shield impacted areas from the use of noise intensive equipment (i.e., jack hammer, pavement breakers, pile drivers and rock drills).

- Vectors – In the event of off-site impacts by vectors associated with landfill operations, SRD should be required to investigate the source and take corrective action which may include vector eradication at the off-site location.
- Bird Control – In the event of off-site impact or complaints regarding excessive bird populations, particularly gulls, SRD should be required to investigate its current operations and take corrective action which may include depredation activities and pyrotechnic devices as well as patrolling areas as needed to remove bird populations.
- Litter – SRD should be required to routinely patrol the designated truck route and surrounding roads and coordinate with CBOH and enforcement officials to eliminate unlawful disposal of waste, and patrol for litter associated with the operations of the landfill.
- Surface Water Quality – SRD should be required to provide CBOH with routine testing data of runoff. In the event of any alteration to jurisdictional wetlands in Charlton, SRD should be required to notify the Charlton Conservation Commission and take appropriate corrective actions.
- Leachate Collection – In the event of any breakdown of the leachate collection system that may result in any potential impact to surface water, wetlands, or groundwater, SRD should be required to notify the CBOH, investigate and take appropriate responsive actions.
- Groundwater Quality – Periodic sampling of private water supply wells should continue and all testing data should be provided to the residents and CBOH. In the event of any exceedance of public drinking water supply standards, CBOH should be informed and appropriate steps should be taken to assure that private water supplies meet the public drinking water standards or standards set by the CBOH.
- Truck Traffic – SRD should be required to provide all trucking companies with which it routinely does business a copy of its written policy and information to be provided to drivers and haulers to the landfill regarding spill, leakage or litter control and abatement practices, and the designated truck route, and its policy to assure compliance and steps to preclude those drivers or haulers who violate that policy or ignore the designated truck route. SRD should be required to include in its written policy the following penalties for the failure of any company to comply during any calendar year: (1) first offense, written warning; (2) second offense, prohibit truck driver from hauling to/from the facility for 30 days; (3) third offense, prohibit trucking company from hauling to/from the facility. SRD should be further required to provide a copy of its written policy to CBOH for its review and comment and SRD should be directed to incorporate CBOH's reasonable

recommendations and modify that policy to mitigate impacts from spills, leaks, and litter and failure to comply with the designated truck route.

- Monitoring Contact – SRD should be required to designate a contact person who Charlton residents or CBOH may contact regarding nuisance conditions or truck traffic issues with the understanding that SRD will take corrective actions. CBOH should be informed of such contacts and actions taken.
- Visual Impact – SRD should be required to install visual berm with vegetation along Ayers Road to shield views of the landfill from that location.

The CBOS and CBOH held a public forum on Tuesday, May 20, 2008 at 6:45 p.m. to review these proposed conditions. No members of the public attended. In the event that the CBOS receives comments to the foregoing, comments should be forwarded to me so that consideration may be given to those comments in preparing our submittal to the SBOH.

B. Regional Landfill Oversight Committee

Separate from the proposed conditions to the SBOH's Final Decision, the CBOH and CBOS will be recommending to the Towns of Southbridge and Sturbridge the formation of a regional landfill oversight committee ("RLOC"). The RLOC would consist of representatives from the BOH, BOS, Conservation Commission, and citizen members from each town, along with representatives from SRD, who will be directed to meet regularly to consider issues that may arise in connection with the operation of the landfill and its impact upon the communities, and ensure that appropriate responses are taken, and to consider long term post-closure use of the landfill.

C. Charlton Board of Health Truck Traffic Regulation

Because of the expected impact to Charlton by truck traffic upon the installation of the access road, the CBOH intends to move forward with a regulation (with fees) governing the transportation of solid waste, modeled on the regulation adopted by the Town of Ware, and designating the truck route which SRD has proposed (Mass Pike, Sturbridge exit, Route 20, 169 to access road); the CBOH will seek SRD's support for that regulation.

D. Long Term Planning for Potential Impacts from the Landfill

Presently, 18-20 private residential drinking water supply wells in Charlton near the landfill are sampled periodically. While none of these properties have been impacted by contaminants associated with the landfill, the testimony presented at the SRD hearing suggests potential future groundwater impacts. Those impacts would be mitigated, if not eliminated, by an alternative water source. The CBOS will seek to engage Southbridge representatives in discussions regarding potential municipal water supply to the area of the landfill.