



**HIGH ACRES LANDFILL &  
RECYCLING CENTER**  
A WASTE MANAGEMENT  
COMPANY

425 Perinton Parkway  
Fairport, New York 14450  
585/223-6132  
585/223-6898 (Fax)

August 13, 2021

Chairperson Robin Ezell  
Town of Perinton Zoning Board of Appeals  
1350 Turk Hill Road  
Fairport, NY 14450

RECEIVED

AUG 13 2021

TOWN OF PERINTON

Re: High Acres Landfill & Recycling Center  
Special Use Permit Renewal Comment Response

Dear Chairperson Ezell:

We have received the comments sent to Waste Management of New York, LLC (WM) on July 28, 2021 regarding the Zoning Board of Appeal's consideration of the special use permit renewal for the High Acres Landfill & Recycling Center (HALRC). Our responses to these comments are in bold below:

**HALRC Special Use Permit Renewal Comments**

**Comment No. 1** Please explain why (or why not) WM is responsible for the sound of train cars in the evening hours. What steps are taken to confine the movement of cars during business hours, and to prevent the sounds of cars clanging together? (Jeff explained this to me at the landfill and I think this explanation to the public would be helpful.)

**Response No. 1** Since 2010, the New York State Department of Transportation has been promoting the movement of solid waste via rail in place of highway transport. Moving any sort of cargo by rail rather than tractor-trailer removes numerous vehicles from the roadways and reduces the carbon footprint of any cargo-moving operation. In 2015, at the encouragement of the Town of Macedon, in an effort to eliminate truck traffic in the town, High Acres tied into the existing CSX mainline and began receiving materials via rail as opposed to long haul truck. This improvement has removed thousands of truck trips per year from the roadways in the Towns of Perinton and Macedon.

According to CSX, multiple trains utilize this rail line with approximately 80 separate trains traversing these tracks in a 24 hour period. High Acres

receives only one delivery per day from CSX, which means the other train traffic is not related to the Landfill. Approximately 2,000 tons per day of waste materials move through the rail corridor, by passing High Acres for destinations in western NY and Ohio. Rail cars are unloaded Monday through Friday between the hours of 7:00 AM and 4:30 PM, and on Saturdays following major holidays between the hours of 7:00 AM and 2:00 PM. All WM's rail cars have pneumatic knuckles which eliminates the rail car connection noise (banging/clanging) traditionally associated with rail movements. As a result, any sound from train operations would be limited to those hours and as stated, numerous measures have been instituted to limit any operational noise.

There is a rail siding operated by CSX located west of Lyndon Road along CSX's mainline. This rail siding is utilized for staging trains while other trains pass on the mainline. It is possible that cars are moved onto and off of this siding during all hours of the day at which time they idle as part of CSX transportation logistics. High Acres has no control over or responsibility for operations related to this siding. CSX is also required by federal law that preempts state and local law and regulation to signal using a horn at all grade crossings (Wayneport Road and Main Street in Fairport, for example). CSX does not sound its horn for purposes of rail movement activities associated with High Acres.

Further, it should be noted that High Acres provides noise monitoring results as part of its annual report Attachment 1 that has consistently demonstrated that the Landfill operates within industry standards and within the standards imposed by applicable local law. In addition, at DEC's request, High Acres retained a firm with expertise on analyzing operational noise, Aurora Acoustical Consultants, Inc., to complete a comprehensive noise survey focused on Landfill operations which was documented in a two volume report dated February 27, 2020 (hereinafter "the Noise Study"). The Noise Study further confirms that the Landfill is not having an undue noise impact on the community, and it also concludes based on objective data that there is no undue noise from rail operations at the Landfill. The Noise Study, which was broader in scope than the annual report's reporting requirements discussed herein, further confirms the Landfill is operating within applicable standards and parameters.

Comment No. 2

Please address the specific example of the 21 day rail car that was moved from VA to Perinton as identified by the attorney for FAFE.

Response No. 2

The situation that resulted in the 21 day rail car occurred in the very initial stages of receiving waste by rail at the landfill when CSX was bringing WM on as a customer. Communication between the DEC and WM regarding this incident is included in Attachment 2. In sum, due to CSX logistical difficulties in delivering rail cars to move waste from one of the transfer stations and as the result of a number of highly unusual weather related



and other events, including a bridge collapse impacting the regional rail system where there was a more than 2 week delay before a rail car was delivered to transport a container of MSW. The unprecedented situation that resulted in the delay in moving this waste has not occurred before or since it happened on that one occasion.

Moreover, according to the Waste Characterization Study performed in December 2018, January 2019, and June-July 2019, waste from urban areas arriving by rail at the Landfill is typically received within 5-11 days of generation, which is similar to the timeframes of 8 days and 8-9 days for local and regional transportation, respectively. Based on the information reviewed and visual observations made at the working face of the Landfill, no significant differences were identified related to waste composition from the various incoming MSW waste streams based on the geographic region of origin, mode of transportation, or whether or not the waste was routed through a transfer station.

Since 2018, High Acres has operated without a reoccurrence of any such delay. Additionally, in the event that CSX rail issues result in an undue delay in rail car travel time for transport of waste to the Landfill, WM has committed to redirecting those cars to an alternate facility for processing.

Comment No. 3

Please present the exhibit I saw at the landfill that demonstrates the yearly volume of waste accepted by the landfill that demonstrates that the volume of waste was similar to that being accepted now years before the 2017-2018 incident.

**Response No. 3**

As shown in the following table, the High Acres Landfill was accepting a similar tonnage of waste in 2007, compared to tonnages accepted during the 2017-2018 Incident. No change to permitted capacity occurred during this timeframe.

<b>Year Filled</b>	<b>Total Waste Intake (Tons)</b>
2007	1,104,699
2008	904,307
2009	678,791
2010	571,093
2011	630,885
2012	682,344
2013	524,766
2014	520,533
2015	773,920
2016	1,071,057
2017	1,169,372
2018	1,135,594
2019	1,146,234
2020	1,222,164

**Comment No. 4**

Please explain if the side slopes are truly covered for open and closed cells, including any membranes applied? Has WM seen the expert report from FAFE? Does it agree that covering the slide slopes would be a significant improvement in odor control? If not covered, what would the expense be to do so? Is WM willing to cover the side slopes if not done already?

**Response No. 4**

The following table outlines the landfill cover requirements as defined in Town Code 208-21 D2b and HALRC's NYCRR Part 360 permit, which are being met. In fact, HALRC meets or exceeds the cover requirements for all applicable types of landfill cover.

Landfill Cover Requirements			
Type of Cover	Thickness	Material	Application
Daily Cover	6"	Clean soil or NYSDEC-approved AOC	-Placed at the end of every operational day. -In place 29 days or less.
Intermediate Cover	12"	Clean soil	-Placed on outside slopes, every 20 vertical feet of rise in the waste mass; and -Placed in areas not receiving waste for >30 days. -In place 30+ days or permanently (outside slopes). -Intermediate cover is removed from areas receiving additional waste; it is not removed prior to final cover installation (outside slopes).
Final Cover	48"+	Top – 6" topsoil, 24" barrier protection (common fill), 60 ml HDPE textured geomembrane, 18" low permeability soil (clay)  Sideslopes - 6" topsoil, 24" barrier protection (common fill), 24" low permeability soil (clay)	-Within 5 years of a cell reaching final waste elevations; or -Within 1 year of final waste receipt for the entire landfill.

**Comment No. 5** Does WM find any other allegations in the FAFE expert report credible, worthy of addressing, etc.?

**Response No. 5** Mr. Daigler’s letter was responded to in full as part of WM’s response to the Perinton Conservation Board’s questions. Please refer to the PCB response letter.

**Comment No. 6** Is WM unable to monitor the gas from the side slopes as alleged by FAFE because of safety concerns? If so, why not? What can be done to remedy



that? Are the slopes of the side slopes in conformance with any permit requirements as well as any local, DEC, State or Federal regulations?

**Response No. 6**

The FAFE statements inaccurately imply that all areas with steep slopes were not subject to surface monitoring. This is not accurate and the records reflect that areas containing steep slopes are monitored. As background, such monitoring of steep sloped areas is not required under certain circumstances as required by the the NYSDEC approved work plan for the Landfill and also under federal NSPS rules, but the records reflect that in fact most steeped sloped areas were actually monitored. The only such areas that are not monitored are those which also contain exposed membrane cover (and which lopes typically were also moisture covered) and thus, presents a slip/trip/fall hazard to the technicians. Hence applicable law prevents such monitoring from being undertaken if individuals may be exposed to such falling hazards. The Technician undertaking such monitoring attempts to d do so in such steep sloped areas. However, if it is determined not to be safe, the technician will temporarily avoid such areas and undertake monitoring at the next possible monitoring period. Again, this protocol is specifically required by the approved Work Plan and federal NSPS regulations.

There have been no instances where an area with snow or ice cover was avoided and to imply otherwise is not only misleading but contradicted by the record. In order to avoid having to delay any monitoring, GHD makes every attempt to schedule the 1st quarter and 4th quarter monitoring events at times that avoid snowy and ice conditions at the landfill (i.e., later in the 1st quarter and earlier in the 4th quarter in a calendar year).

There was 1 single quarter out of the last 14 quarters where a few discrete areas of the Landfill were avoided due to high vegetation. It should also be noted that WM has also now instituted a mowing program at the Facility that ensures that the vegetation at the landfill is at an adequate height conducive to surface monitoring activities.

Please also note that areas undergoing cover construction cannot be accessed for monitoring as the technicians have to maintain a certain safe distance between themselves and any large equipment such as dozers, loaders, articulating trucks, etc. Again, if an area is determined not to be safe, the technician will temporarily avoid monitoring in those areas and undertake monitoring activities at the next possible monitoring period as authorized by the work plan in place and under applicable law. .

**Comment No. 7**

Is it true that the cover on Cell 11 will have to come back off at some point? I think Jeff indicated that it will within the next 5 years as dumping on Cell 11 resumes. If so, what additional steps can/will be taken to prevent a repeat of the incident of 2017/2018 while the cover is off?

**Response No. 7** WM has proactively deployed exposed geomembrane cover (EGC) as part of the facilities landfill gas collection and odor control program since as early as 2014. As of December 2020, approximately 8 acres of EGC is remaining plus an additional 8 acres was deployed in the first quarter of 2021. Approximately 50 acres of EGC has been deployed at HALRC since 2014. WM takes every precaution to carefully remove the EGC when required to do so in order to control offsite odors to the maximum extent practicable. However, given the history of Cells 10 and 11, WM will work with the Town and DEC to develop a fill progression plan specific to Cells 10 and 11 prior to any removal of EGC in these areas.

WM maintains an Odor Control Plan with redundant odor controlling measures ranging from water and vapor based systems at the Landfill's perimeter, to an NCM portable odor control cannon, to a mobile misting system referred to as the Odor Boss Directional Vapor Canon. WM continues to implement operational adjustments and enhancements to control undue odors. WM believes based on industry standards that the nature and extent of odor controls it employs is well above and beyond such industry standards.

**Comment No. 8** Explain the difference (if any) between the age of garbage coming from NYC compared to local waste? Is that difference significant in terms of odor?

**Response No. 8** The waste characterizations studies conducted in December 2018 – January 2019 (winter portion) and again in June 2019 – Jul 2019 which were completed in accordance with NYSDEC directives made the following findings :

- Based on the waste characterization information reviewed and visual observations made at the working face, there were no significant differences in the composition of waste from the various incoming MSW waste streams based on the geographic region of waste origin, mode of transportation, or whether or not the waste was routed through a transfer station.
- Due to different collection frequencies, received from different geographic regions, the age of residential MSW waste upon arrival at HALRC is not markedly different based on the geographic region of origin or mode of transportation. This is based on meticulous review of collection frequencies, transportation time frames, and transfer station operating requirements in New York City (NYC) which in sum provide for more frequent pick up of MSW than other regions of the state, including Western New York.
- Based on the data collected and field observations made during both cold weather and warm weather conditions, there was no discernable difference in the odor intensity of MSW waste streams based on the



geographic region of origin, mode of transportation, or use of a transfer station and the following was also noted:

- There are Isolated Incoming waste loads that may periodically present an increased odor intensity, but the relative odor intensity is based more on the individual waste contained within the load rather than the geographic region of origin or mode of transportation utilized.
- There are also certain waste streams at HALRC that generate odors of a higher intensity than typical MSW, the most notable being biosolids/sewage sludge from the local Monroe County Department of Environmental Services (MCDES).
- Some waste streams, such as food waste and the overall composting operations including those located at the Landfill that appear to have variable odor intensity dependent on a seasonal basis.

**Comment No. 9** How can WM credibly answer “No” to the questions on the proposed EIS concerning adverse impact to surrounding properties, including odors, in light of the complaints made by neighbors, some of which have been verified to some degree by WM, DEC, or Towpath? Is this a binary answer – can only be yes or no, or can an explanation be provided?

**Response No. 9** Included in WM’s initial Special Use Permit Renewal Application was a draft of a Full Environmental Assessment Form (EAF) including parts of 1-3, which was submitted for informational purposes only and provides accurate information regarding the issues addressed. In terms of whether an EIS is to be prepared, WM as the applicant acknowledges that the status or category of the application under applicable law, including the New York State Environmental Quality Review Act (SEQRA) is the responsibility of the Town and not the applicant. It is our understanding that prior permit renewals have been treated by the Town as Type II actions under SEQRA per 6 NYCRR Part 617.5, Section 617.5, subpart (c).

Moreover, the answer provided by WM is fully supported by the record here, including among other documents NYSDEC’s March 2019 Response to FAFE’s 2018 Petition as well as WM’s October 20 2020 correspondence to NYSDEC, including extensive attachments to it. In sum, the issues that led to the anomalous and unusual (for HALRC) odor event of late 2017 and early 2018 have been addressed by the extensive enhancements constructed and implemented by WM at the Landfill, as NYSDEC’s March 2019 response to FAFE’s Petition found such odors have been mitigated. Further, extensive documentation provided by WM in its October 20, 2020 letter to NYSDEC demonstrates that as corroborated by DEC representatives, many odor complaints in 2019 and 2020 could not be verified, and a large percentage of those that could be verified were considered faint or fleeting odors that are sometimes experienced with



**MSW landfills and therefore are consistent with the permit conditions at issue. The information provided with WM's response further demonstrates that a large majority of the complaints are attributed to a relatively few households located in a geographic area located adjacent to the Landfill.**

**Comment No. 10**      The term "Mega landfill" was thrown around by many neighbors. Is that an industry term? What is its definition? Where does this landfill fit in terms of size for the 26 landfills in the state? In the nation?

**Response No. 10**      There is no such industry term. "Mega landfill" is a term apparently coined by those opposed to the landfill operation. As described in Section 9.4 of the NYS Beyond Waste Plan, there has been a significant reduction in the number of landfills in NYS, as the old, small, unlined municipal landfills are no longer in operation. The new Part 360 regulations, changes in the industry and state financial assistance for municipal landfill closure have led to the replacement of these many small local landfills with larger regional landfills, which are highly engineered and controlled. Seneca Meadows Landfill is the largest landfill in New York State, accepting 6,000 tons per day in accordance with their permit. HALRC accepts much less than Seneca Meadows, with a permitted daily capacity of 3,500 tons per day, which is similar to other NYS landfills such as Modern Landfill, Allied/BFI, and Chaffee Landfill (3,493 – 2,770 tons per day). Other regional landfills, outside of NY, are permitted to accept 15,000-20,000 tons per day.

#### **Perinton DPW Memo Comments**

**Comment No. 11**      Is it true that the supposed independent third party service "Towpath" is connected to the present or past Macedon Police Chief who also did or continues to serve on an advisory board for Waste Management? This is, in my opinion, not an independent third party. Neither do I believe any company with ties to FAFE would be an independent third party "sniffer". There cannot be an appearance of prejudice. Is there no other company that provides this service?

**Response No. 11**      WM is not aware of the referenced advisory board, and it was confirmed that Mr. Colella does not serve on an advisory board associated with WM.

**In consultation with the Town of Perinton and the DEC, Towpath Investigative Services was selected as the odor investigative consultant based on their experience in investigative services, their knowledge and training with the N-Butanol scale, and the uniqueness of their expertise that is not widely available. DEC established the Hotline procedure with direct input from the local municipalities. All Towpath staff have undergone the ASTM accepted and certified 8-point n-butanol odor intensity scale (ASTM E544-10) training conducted by Odor Science &**

Engineering. This training was also completed by Town staff, W/M staff and DEC staff. There have been numerous occasions where the DEC has simultaneously responded to odor hotline call locations with both Towpath and have confirmed the nature and extent of reported scaled odors or lack thereof (see W/M's October 20, 2020 correspondence and enclosures to DEC).

If you have any questions, please contact me at 585-223-6132.

Sincerely,



Jeffrey Richardson  
Sr. District Manager  
Waste Management of New York, LLC

cc: Luann Meyer, Barton & Loguidice  
Town of Perinton Conservation Board

Attachment 1      Noise Study (excluding appendices)  
Attachment 2      Correspondence Related to 21-day rail car incident