



February 11, 2020

Comments before House E&T Cmte

**FAVORABLE**

**HB 179: Maryland Recycling Act -  
Recyclable Materials and Resource  
Recovery Facilities – Alterations**

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Good afternoon. My name is Mike Ewall, and I'm the founder and director of a national organization, Energy Justice Network. Energy Justice works at the local level with grassroots community groups in Maryland and the rest of the country to support efforts to promote zero waste, and to stop polluting and unnecessary energy and waste industry facilities, with a focus on ending waste incineration.

We strongly support this bill.

Presently, there are two main trash incinerators in Maryland: Wheelabrator Baltimore in Baltimore City, and the Montgomery County Resource Recovery Facility in Montgomery County. Each one benefits from different recycling credits, which is why this bill covers two different sections.

Both involve getting recycling credits for dumping toxic incinerator ash on top of landfills.

Historically, landfills were required to use a layer of fresh soil as daily cover material on top of the landfill to prevent trash and odors from blowing into the community overnight. In recent decades, the waste industry has convinced state agencies to allow "alternative daily cover" so they could save money not paying for soil, and get paid by taking wastes for cover material instead.

The problem with this is that these alternative daily cover materials, including incinerator ash, are usually more noxious than the trash they're often covering.

In Baltimore, ash is used as cover material for itself, at the city's Quarantine Road Landfill. MDE has written to the city demanding that ash use as cover material be discontinued after finding that it was blowing off-site. MDE's letter called it "unacceptable," and "not as safe as or better than the use of clean soil as required in the regulations." Landfill workers have found that enough ash blows away that other waste becomes exposed.

In Montgomery County, their incinerator ash is shipped by train exclusively to majority black landfill communities in southcentral Virginia... currently, the Old Dominion Landfill near Richmond. Like Baltimore, it's used as landfill cover where it can blow into the community. Even worse, it's considered "recycling" when they use this toxic ash to build internal roads in the landfill. Heavy trucks driving on this ash can then kick up toxic ash dust as they routinely drive over it.

Ash is quite toxic. In an incinerator, it's a trade-off. All of the toxic metals like mercury, arsenic, lead, cadmium, and chromium end up in the air and the ash. The more they keep out of the air, the more toxic the ash becomes, as this captured fly ash is mixed with the bottom ash sent to be "recycled" at these landfills. With dioxins and furans – the most toxic chemicals known to science – incinerators reduce these air emissions by injecting activated carbon. This lowers dioxin pollution in the air, but increases total dioxin formation, transferring it to the ash. It's rather disturbing to think that this "unacceptable" use of toxic ash would be classified as recycling.



# MARYLAND DEPARTMENT OF THE ENVIRONMENT

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June 30, 2010

CERTIFIED MAIL

Return Receipt Requested

Mr. Mark S. Wick, Chief  
Solid Waste Environmental and Routine Services Division  
Department of Public Works  
Bureau of Solid Waste  
1000 Abel Wolman Municipal Building  
Baltimore MD 21202

Dear Mr. Wick:

This is in reference to your Proposed Corrective Action Plan submitted to the Maryland Department of the Environment's (the "Department") Solid Waste Program on June 24, 2010 regarding the Quarantine Road Municipal Landfill located at 6100 Quarantine Road in Baltimore City. The Department has reviewed your submittal and recognizes some of the challenges that are inherent in maintaining compliance at the Quarantine Road Municipal Landfill (the "Facility"). We understand that considerable efforts have been made to address the problems with the leachate collection system and we particularly acknowledge the work that your Engineer, Mr. Vivaldi Nguyen, has performed. The Department offers the following comments on your submitted Proposed Corrective Action Plan:

**Blowing Litter:** The Baltimore City Department of Public Works, Bureau of Solid Waste (the "City") has received several written reports from the Department's regional inspector as well as been provided verbal direction from the inspector on several occasions to your staff that blowing litter must be prevented from leaving the site. The City's Solid Waste Refuse Disposal Permit (the "permit") 2010-WMF-0325 permit requires that litter must be "controlled and that the entire site shall be policed daily or more often, as needed, to control litter". You state that your focus has been on litter leaving the site and that your plan is to "improve housekeeping". While we agree that is an admirable goal, it is certainly not adequate in our opinion. It has been clear for some time that the City has been unable to satisfactorily demonstrate compliance with this requirement and that therefore, a substantial litter control fence or multiple fences are needed. We do not consider waiting for next year's budget to provide resources for improved housekeeping to be a timely response or to be in compliance with the City's permit. The City is hereby directed to submit a plan and a schedule within 30 days of receipt of this letter for installation of a litter control fence(s) and/or take other steps that are sufficient to control litter.

**Leachate Collection System Maintenance:** We have not received a copy of the report on the leachate management study that you referenced in your letter; please send us a copy of the report. We have seen and are encouraged that the temporary above-ground pumping was successful in dewatering the

leachate in the cell. However, our most recent inspection showed that after a recent rain event, leachate was again visibly standing above the sump area (and as confirmed by your leachate level reading in the sump of approximately 90"). Therefore, although the standing leachate may only be over a portion of the cell floor, we can't yet agree that you can "consistently control the leachate depth above the liner to less than one foot" as required by the permit. We will withhold further comment until the acid cleaning of the pipeline is performed and/or we have an opportunity to review the study report.

Erosion and Sediment Control: The Department acknowledges that the City has acquired the services of KCI to develop an updated consolidated E&SC plan. We appreciate your due diligence in ensuring the plan will conform to new regulations. However, we still do not see any recent stabilization activities or repairs being conducted to eroded slopes. We are concerned that the Compliance Schedule you submitted does not reference any interim repairs; we also must assume that if the E&SC plan won't be completed and submitted until the end of September (if on schedule), it will be well into the fall or winter before the work is actually conducted. If repairs and/or upgrades aren't performed until past the growing season, it may be difficult to maintain the new or repaired features without establishing vegetative growth on disturbed or inactive areas.

Pollutants Entering Waters of the State: Updating your SWPPP and Operations Manual should not prevent you from conducting needed actions or activities to prevent pollution. For example, as discussed above, failing to provide interim controls as needed exacerbates the discharges of sediment laden storm water. It also appears that some gullies are cutting down through cover soils and into the waste; therefore, run-off in contact with the waste may be also be considered "leachate" and should not be allowed to discharge from storm water basins. While there may have been improvements regarding cleaning of roadways, ash and sediment continues to be observed as an issue (particularly on the perimeter road from the active cell to the intermediate sump). We feel that at a minimum, clean gravel or stone should be placed onto the haul road well into the cell toward the active face, and the working face of the landfill should be operated with sufficient run-on and run-off controls to prevent contaminated runoff from leaving the lined area of the cell. We anxiously await your revised SWPPP; however, we expect a more timely and responsive effort to be made to address those problems even on an interim basis.

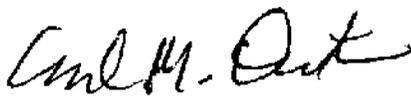
Incinerator Ash: We are concerned about the use of ash as an Alternative Daily Cover Material (ADCM) or as a fluff layer against the liner system. The ADCM approval given to the City on November 15, 2002 specified that the approval may be suspended or revoked should nuisances, pollution, or other risks to the public health, safety or comfort develop as a consequence of the activity. We have documented ash outside of the lined areas of the cells and excessive dust on the perimeter road. We have also documented during a recent site inspection large pieces of metal in the ash placed right on top of the drainage layer above the liner. Many of these metal pieces were of a sufficient size to potentially damage the liner and contribute to future groundwater degradation. Use of this ash as a fluff layer is unacceptable and must stop within thirty (30) days following receipt of this letter. In addition, the Department finds that use of the ash as an ADCM is not as safe as or better than use of clean soil as required in the regulations. Therefore, the Department revokes authorization previously given to the City to use incinerator ash as an ADCM. The City again will have thirty (30) days following receipt of this letter to discontinue the use of the ash.

Operations Manual: Unfortunately, our recent inspection discovered the very serious problem that unacceptable materials may be compromising the liner system. This and other violations lead to the issuance of another Site Complaint (SC-O-11-SW-002); such improper care regarding the drainage and select waste layers does not instill confidence in the management of the operations at the landfill.

We note that your Compliance Action Plan did address "inadequate cover" or "exposed wastes". Our recent inspection shows that these are still unabated violations and have been a perennial problem. Wastes sitting uncovered on the surface of the landfill can easily become airborne and therefore also affect the litter control issue. Landfill personnel have related that wastes become exposed as the ash washes or is blown away; if this is a valid causative factor, then it's another reason why ash should not be used as an ADCM.

The Department does sincerely appreciate your intentions to improve our communications, and the Department is always willing to meet or discuss any of your concerns. At this point, we intend to draft a Consent Order to establish the time frames and accountability for meeting the acceptable performance standards that both the City and Department desire and the public demands. If you have any questions or comments in this matter please do not hesitate to contact Mr. Brian Coblentz, Chief, Compliance Division or I at (410) 537-3318 or via email at [edexter@mde.state.md.us](mailto:edexter@mde.state.md.us).

Sincerely,



Edward M. Dexter, Administrator  
Solid Waste Program

EMD:BC:bh

cc: Mr. Horacio Tablada  
[REDACTED]  
Mr. Brian Coblentz  
Mr. Dean Bullis