

Waste Management's Ottawa Landfill
Minutes of Settlement
September 27, 2007

Preamble

Whereas the Director, Ministry of the Environment issued Certificate of Approval (Air) No. 0741-6S9NPE to Waste Management of Canada Corporation on November 28, 2006, pursuant to Section 9 of the Environmental Protection Act;

And whereas the Environmental Review Tribunal, in a decision dated February 23, 2007, granted the Appellants leave to appeal the decision of the Director, Ministry of the Environment, to issue the Certificate of Approval (Air) pursuant to section 41 of the Environmental Bill of Rights, 1993;

And whereas the Appellants have filed appeals of the decision of the Director, Ministry of the Environment, to issue the Certificate of Approval (Air);

And whereas the Appeals are Environmental Review Tribunal Case Numbers 06-201/202/203/204/205/206/207/210;

And whereas the parties to the Appeals have undertaken mediation in order to resolve the issues arising in connection with the Appeals;

And whereas the mediation has led to agreement between the Parties on the issues arising in connection with the Appeals;

Therefore in consideration of the promises and mutual covenants as set out in this Agreement, the Parties agree as follows:

Definitions

“Appellants” means Vincent Lavoie, Harold Moore, Carla Miner, Louis LaForest, Erin LaForest, Martin Guibert, Scott Plante and Gilles Chasles;

“Biosoil Pile facility” means the soil bioremediation facility proposed by Waste Management as described in section 1.3.2 of the revised ESDM report, dated July 2006 and revised July 2007;

“CLC” means a Community Liaison Committee;

“Director” means the Director appointed under section 9 (Air) of the Environmental Protection Act;

“EPA” means Environmental Protection Act, R.S.O. 1990, c. E.19, as amended;

“Landfill” means the Ottawa Landfill Facility located at 2301 Carp Rd., Ottawa, Ontario;

“MOE” means the Ministry of the Environment;

“Order” means Provincial Officer Order 5830-6Z2PPW issued by Greg Davis on May 11, 2007, as confirmed by Director’s Order 5830-6Z2PPW-1 issued by Steve Burns, Ottawa District Manager on May 25, 2007.

“Parties” means the Appellants, Waste Management and the Director, and “Party” means any one of them;

“POI” means point of impingement as defined and used in Ontario Regulation 419/05 under the Environmental Protection Act;

“POI Exceedance” means a test result from a sample taken at or near a POI for the Landfill indicating that the concentration of a parameter exceeds the applicable standard established by Ontario Regulation 419/05 under the Environmental Protection Act; and

“Waste Management” means Waste Management of Canada Corporation.

Terms

(a) Odour Control

1. Operational Activities: Waste Management will be required through a condition in an approval to carry out the following operational activities on an ongoing basis to address potential odour discharges from the Landfill:
 - (a) implement the measures to the extent possible as recommended in section 5 of the “Odour Source Summary, Ottawa Landfill” report dated June 29, 2007, authored by RWDI;
 - (b) conduct a landfill gas emission survey of the Landfill on a quarterly basis in accordance with the U.S. EPA method for operational standards for emissions from landfill sites and implementing any necessary actions, if any, to address the findings of each survey. The frequency of the surveys may be reduced to twice per year as authorized by the Ottawa District Manager;
 - (c) operate and maintain the landfill gas collection system in accordance with the procedures set out in the operations manual developed for the system;
 - (d) consider through the CLC developing and implementing a community odour monitoring program.
2. Odour Survey: The MOE Ottawa District Office commits to having provincial officers carry out a second odour survey between September 15 and October 15, 2007 to determine the success of the measures Waste Management has implemented in abating odour discharges. MOE commits to presenting and discussing the results with the Parties prior to November 21, 2007. At the same meeting, if an odour problem is still determined to exist, MOE commits to receiving input as to what further abatement measures should be

considered. The options set out in the contingency report developed and submitted by Waste Management in compliance with item 10 of the Order will provide the basis for such a discussion although any options can be presented and discussed. For greater certainty, MOE is not precluded from considering options other than those in the contingency report.

3. **Complaints Process:** The Parties agree to meet (possibly through the CLC if timing permits) to discuss the complaints procedure and to modify the complaints procedure if necessary. The commencement of such discussions shall begin prior to October 1, 2007.
4. **Dedicated Regional Landfill Inspector:** MOE will assign a dedicated regional landfill inspector to the Landfill and Waste Management will be required through a condition in an approval to reimburse MOE for 1/3 the cost of hiring that dedicated regional landfill inspector.
5. **MOE Priority Response Procedure:** The MOE Ottawa District Office commits to utilizing the existing priority response procedure whereby complaints related to the Landfill will be given priority status, requiring a response by a provincial officer on the same day, including weekends and evenings, whenever possible. MOE will evaluate, on a semi-annual basis, whether it is necessary to continue to give priority status to complaints related to the Landfill.

(b) Air Monitoring

6. **Ambient Air Monitoring Program:** Waste Management will be required through a condition in an approval to carry out the ambient air monitoring program as proposed by Waste Management's consultants, RWDI, in a document dated September 20, 2007, including:
 - (a) monitoring for target VOCs will be carried out monthly for the first six months (June 07 to Nov 07). If no POI exceedances occur during this first six months, then testing can revert to 5 times per year as per the RWDI original proposal;
 - (b) monitoring for target VOCs will again be carried out monthly for the first six months after the landfill gas engines and the Biosoil Pile facility have each commenced operation. The six-month monthly monitoring frequency shall be carried out for each facility but if the six month periods overlap, a monthly testing event may be used to satisfy both requirements. If no POI exceedances occur during this six month period, then testing can revert to 5 times per year as per the RWDI proposal;
 - (c) Waste Management will provide 24 hour prior notice to the MOE Ottawa District Office and the Appellants of its intention to carry out ambient air monitoring;
 - (d) Waste Management will conduct at least 6 months of ambient air monitoring prior to operating the landfill gas engines or Biosoil Pile facility, and shall provide the MOE Ottawa District Office and the Appellants with results of ambient air monitoring on a monthly basis where such ambient air monitoring occurs monthly;
 - (e) Waste Management will post the results from the first year of testing on their website within 30 days of the results being provided to the MOE. Waste Management will provide the Appellants with the results from the first year of testing at the same time as those results are provided to MOE. The Appellants hereby agree to keep all such information confidential until it is posted on the Waste Management website; and

- (f) The CLC will be provided with the opportunity to periodically review the ambient air monitoring program.
7. Actions in response to POI exceedances: Waste Management will be required through a condition in an approval to take responsive action if test results from the ambient air monitoring program indicate that any of the parameters in O. Reg. 419/05 under the EPA are exceeded. The responsive action, which shall be in addition to providing notice to an MOE Provincial Officer in the Ottawa District Office as required under 28(1)(b) of O. Reg. 419/05, shall be as follows:
- (a) Waste Management shall post the ambient air monitoring results on the website within 30 days of the results being provided to the MOE. Waste Management will provide the Appellants with the results from the first year of testing at the same time as those results are provided to MOE. The Appellants hereby agree to keep all such information confidential until it is posted on the Waste Management website; and
 - (b) Waste Management shall immediately retain qualified consultants to carry out an assessment of the source of the unexpected exceedances, determine whether increased monitoring should be carried out and submit a report to the MOE Ottawa District Office with recommended corrective actions as soon as practicably possible. The requirements of clause (b) may be carried out either separately or in conjunction with the requirements of section 29 of O. Reg. 419/05.
8. Point Source Testing: Waste Management will be required through a condition in an approval to undertake point source testing of the landfill gas engines and the Biosoil Pile facility. Waste Management shall submit a proposed point source testing protocol to the MOE section 9, EPA (Air) Director, at least 15 days prior to commencing operation of the landfill gas engines and the Biosoil Pile facility. Waste Management has no objection to the MOE consulting the Appellants on the point source testing protocol at such time and in such manner, as the MOE considers appropriate. Once the point source testing protocol is accepted by the Director, Waste Management shall carry out the testing in accordance with the protocol no later than 3 months from the date of acceptance. Waste Management shall make all reasonable efforts to coordinate an ambient air testing event on the same day as the point source testing is carried out. The results of the point source testing shall be provided to MOE and the Appellants within 3 months of the completion of such point source testing.
9. Continuous Monitoring: Waste Management will develop and implement a continuous monitoring program in accordance with clauses (a) and (d) below, potentially using surrogates, to indicate whether discharges from the landfill gas engines and the Biosoil Pile facility are within regulatory limits prescribed by O. Reg. 419/05. The regulatory limit for benzene for the purpose of this condition is as designated in article 11:
- (a) Waste Management shall submit the proposed continuous monitoring program to MOE (section 9, EPA (Air) Director) for acceptance by no later than 2 months after the point source testing is carried out as required by article 8. Waste Management has no objection to the MOE consulting the Appellants on the proposed continuous monitoring program at such time and in such manner as the MOE considers appropriate;

- (b) Once the continuous monitoring program is accepted by the Director, Waste Management shall provide the approved continuous monitoring program to the Appellants and shall implement the program no later than 2 months from the date of acceptance;
- (c) Waste Management shall provide a log of all data generated by the program to the MOE dedicated regional landfill inspector for review upon request of the MOE inspector. Waste Management has no objection to the MOE providing the Appellants with the continuous monitoring data at such time and in such manner as the MOE considers appropriate;
- (d) In the event that the continuous monitoring program indicates that an exceedance might have occurred, Waste Management will retain qualified consultants to carry out an assessment of the cause of the potential exceedance and carry out ambient air testing if necessary. If it is confirmed that an exceedance of the regulatory limits prescribed by O. Reg. 419/05 has probably occurred, Waste Management shall notify the Director.

(c) Benzene

- 10. Responsive Actions: Waste Management will be required through a condition in an approval to take responsive action if test results from the ambient air monitoring program indicate that benzene concentrations downwind of the Landfill exceed 15 ug/m³. The responsive action shall be as follows:
 - a) immediately retain qualified consultants to carry out an assessment of the source of the unexpected concentrations, determine whether increased monitoring should be carried out and submit a report to Waste Management and an MOE Provincial Officer in the Ottawa District Office with recommended actions, if any, as soon as practicably possible; and
 - b) if test results from ambient air monitoring program indicates that benzene concentrations contributed by the Landfill exceed 25 ug/m³, Waste Management shall develop and implement an action plan based on the report referred to above.
- 11. Benzene Prohibition: Waste Management will be prohibited through a condition in an approval from discharging benzene from the Landfill in excess of 50 ug/m³ at any time.
- 12. In the event that the Ministry of the Environment establishes a POI standard for benzene in O. Reg. 419/05, the Director will review conditions 10 and 11.

(d) Closure Plan

- 13. Updated Closure Plan: Waste Management shall submit a revised and updated closure plan to the MOE section 27 EPA (waste) Director for the Landfill by no later than December 17th, 2007. MOE commits to posting the closure plan on the EBR Registry to solicit public input. The closure plan shall identify a projected date by which the Landfill will cease receiving waste based on projected intake rates.

(e) Elements of Reg. 232/98

14. MOE commits to undertake a review of the Waste Management Certificate of Approval issued under section 27 of the EPA and the Design and Operations Plan approved under that Certificate of Approval for the Landfill. The review to be conducted by MOE shall compare the requirements in that Certificate of Approval to the standards in O. Reg. 232/98 (Landfilling Sites) under the EPA and MOE standard conditions. The review shall be initiated by November 30, 2007. MOE agrees to meet with any Appellants that wish to participate in the review process. Waste Management agrees to participate in the review process in good faith. The purpose of the review is to identify standards in O. Reg. 232/98 that could be made applicable to the Landfill if they can reasonably be implemented on a going forward basis. The final decision as to whether to impose the standards rests with the MOE Waste Director as authorized by law and would be implemented through an amendment to an approval.

(f) Community Liaison Committee (CLC)

15. Community Liaison Committee: A condition will be added to the Certificate of Approval for the Landfill requiring Waste Management to facilitate the development and functioning of a Community Liaison Committee. The initial meeting of the initial members shall be convened on or before November 1, 2007. The initial members of the CLC will consist of representatives from Waste Management, MOE (non-voting), municipal councilors and one community member. Terms of reference will be developed by Waste Management and will be submitted to the CLC for acceptance. The Terms of reference will establish the number of permanent members and the initial members of the CLC will select the first community members to fill the position on the CLC for the permanent members. Waste Management will consider providing funding for technical peer review on a case by case basis.

(g) Other Issues

16. Waste Management public statement: Waste Management will issue a public statement by October 15, 2007.
17. Groundwater: MOE will ensure that Waste Management addresses all concerns raised by the MOE review of the 2006 annual report prepared in respect of the Landfill. MOE commits to providing the Appellants an update report by December 31, 2007 on the status of Waste Management's response to that MOE review.


(h) Interpretation

18. Nothing in this agreement precludes the Ministry of the Environment from exercising any authority in accordance with its statutes.
19. Each and every one of the Appellants hereby withdraws their respective Appeals to the Environmental Review Tribunal, consents to an Order of the Environmental Review Tribunal dismissing those Appeals, and agrees to make such submissions as are necessary


to the Environmental Review Tribunal in support of an Order by the Environmental Review Tribunal dismissing the Appeals.


Dated this 27th day of September, 2007.


Parties to this agreement:


Vincent Lavoie, Appellant
On behalf of the Richardson Corridor
Community Association, The Stittsville
Village Association, NoDump.ca,
and Ottawa Landfill Watch



Harold Moore, Appellant

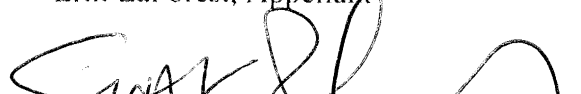

Carla Miner, Appellant


Martin Guibert, Appellant



Louis LaForest, Appellant



Erin LaForest, Appellant


Gimes Chasles, Appellant


Scott Plante, Appellant


Olivia Nixon, Participant


Don Wright
Waste Management of Canada Corp.


Paul McCulloch, on behalf of the
Director, s. 9, EPA, Victor Low