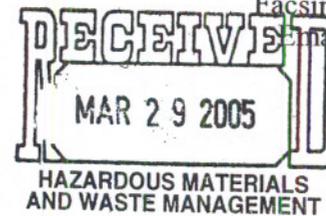


ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE BOARD

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March 28, 2005

Steve Tarlton, Unit Leader
Radiation Management Unit
Hazardous Materials and Waste Management Division
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246

Re: Draft 3/4/05 Application for Rocky Mountain Low-Level Radioactive Waste Compact Approval of a Low-Level Waste Disposal Facility

Dear Mr. Tarlton:

The Draft 3/4/05 Application for Rocky Mountain Low-Level Radioactive Waste Compact Approval of a Low-Level Waste Disposal Facility ("Draft Regional Facility Application") and Volume 1 of the January 2005 Clean Harbors Environmental Services Radioactive Materials License Application, Clean Harbors Deer Trail, LLC. Hazardous Waste Treatment, Storage, Disposal Facility ("Radioactive Materials License Application") has been reviewed by the executive director and legal counsel of the Rocky Mountain Low-Level Radioactive Waste Board ("Board"). Following are our comments and questions regarding the draft application.

Please be aware that the following staff response does not represent the position of the Board. We look forward to receiving the final application that should incorporate responses to these comments/questions, as appropriate. Responses to all other issues should be provided in a letter to the Board. You should also be aware that no further action will be taken by the staff or Board until an application, with the required application fee, is received.

Draft Regional Facility Application

1. It is unclear from the Draft Regional Facility Application if the State is seeking approval for the disposal of *all* wastes from the mining, milling, smelting, or similar processing of ores or mineral-bearing materials primarily for radium ("Radium Processing Wastes") that fall below the described thresholds, or Radium Processing Wastes solely from the Denver Radium Site that fall below the described thresholds (Sections D and H).

MEMBER STATES: COLORADO, NEVADA, NEW MEXICO
EXECUTIVE DIRECTOR: LEONARD C. SLOSKY

Mr. Steve Tarlton
March 28, 2005
Page 2

Article III(b) of the Rocky Mountain Low-Level Radioactive Waste Compact ("Compact") requires that any Regional Facility accept waste generated within the region without discrimination among the party states. Thus, for whatever type of radioactive waste (e.g., Radium Processing Wastes) that the State wants to authorize the Clean Harbors facility to dispose, the Clean Harbors facility will be obligated to dispose that waste, without discrimination, from Colorado, Nevada, and New Mexico.

2. Section E of the Draft Regional Facility Application states that Clean Harbors believes that the capacity of the facility will last a minimum of 30 years at current disposal rates. Is the 30 year minimum life of the facility for radioactive waste or non-radioactive waste, or both?
3. Regarding Section H, please provide the volume of radioactive waste (naturally occurring radioactive material (NORM)/ technologically enhanced natural occurring radioactive material (TNORM)) projected to be disposed at the facility in years 1 (2005) through 30 (2034). Please provide the volume of the Denver Radium Site waste and other NORM/TNORM waste from the State of Colorado projected to be disposed at the facility in years 1 (2005) through 30 (2034). Please provide the total projected disposal capacity at the proposed facility for radioactive waste (NORM/TNORM) in years 1 (2005) through 30 (2034).
4. We look forward to receiving the quantity of radioactive waste that the State intends to authorize for the proposed facility for the first five-year license period (Section H). Please be aware that in order to comply with Article III(b) of the Compact, the annual (or five-year) volume authorization for radioactive waste must be greater than the volume of radioactive waste projected to be disposed from the State of Colorado at the proposed facility.
5. We look forward to receiving the initial charges that the operator intends to impose on radioactive waste managed at the proposed facility (Section G). What methodology will the State employ to establish the initial charges that Clean Harbors will impose on waste managed at the proposed facility?
6. Does Colorado intend to impose a Host State Surcharge pursuant to Article V(b) of the Compact and Board Rule 4.3?
7. We look forward to receiving documentation that the State has complied with Article 3 Section D of the Compact, along with copies of all such comments and any written responses thereto (Section J).
8. Please attach to the application a map showing the location of the property on which the proposed facility will be located (Section B).

9. Please explain the meaning and relevance of the underlined phrase in the following sentence from Section J of the Draft Regional Facility Application:

“Although the prior RCRA permitting process was largely identical to the State’s current requirements to license certain low-level radioactive wastes, some of the waste considered for disposal in this application may be licensed at the source (emphasis added).”

10. Section J of the Draft Regional Facility Application makes reference to the Adams County site and the Central Plains Candidate Area identified by the Colorado Geologic Survey. Please explain the relationship of the Clean Harbors facility to the Adams County site and the Central Plains Candidate Area.

Radioactive Materials License Application

11. The existing Clean Harbors Deer Trail hazardous waste facility is subject to an Adams County special use permit and certificate of designation. What County approvals, if any, will be required before the facility can begin to accept NORM/TNORM radioactive waste? Has Adams County expressed any position regarding Radioactive Materials License Application or the Draft Regional Facility Application to dispose of radioactive waste?

12. It appears from the Radioactive Materials License Application that the radioactive wastes are intended to be co-disposed with non-radioactive wastes in the same disposal cell. Please confirm if this is correct.

13. Page 1-13 of the Radioactive Materials License Application discusses waste treatment for wastes that contain liquids or sludge that would not be acceptable for direct bulk disposal. What type of NORM/TNORM wastes are projected to contain liquids or sludge?

14. Page 1-14 of the Radioactive Materials License Application refers to storage of NORM/TNORM waste in the Container Management Building prior to “. . . treatment, storage, disposal or transfer to another facility.” Is it anticipated that Clean Harbors will be transferring radioactive waste to another facility?

15. Section 1.2.11 of the Radioactive Materials License Application refers to storage in the transport vehicle or in a designated storage area. The length of time for such storage is described as dependent upon a variety of factors. Does the State intend to impose a time limit on such storage?

16. Section 2.4.2.3 of the Radioactive Materials License Application describes ground water monitoring requirements in 6 CCR 1007-3 for hazardous waste disposal facilities. Will the State

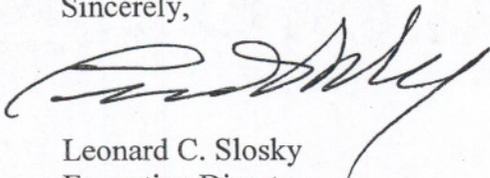
Mr. Steve Tarlton
March 28, 2005
Page 4

impose any additional ground water monitoring requirements relating to the radioactive constituents of NORM/TNORM waste?

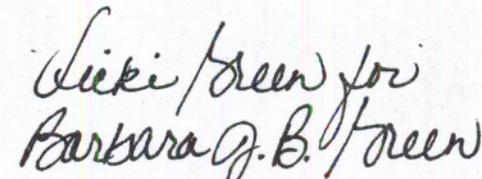
17. The Radioactive Materials License Application describes the waste stream Preacceptance Review and Approval Process (Section 4.1.1) and the Inspection and Evaluation of Waste upon receipt at the facility (Section 4.1.2). What processes will Clean Harbors implement to ensure that the radioactive wastes received at the proposed facility comply with Compact requirements, such as import authorization for waste generated outside the Compact Region? It is recommended that Clean Harbors adopt procedures to ensure that no radioactive wastes other than those approved by the Board receive preacceptance approval by Clean Harbors or are accepted at the proposed facility. We would be happy to work with the State and Clean Harbors in developing such procedures.

18. In addition, the State should provide a draft of the waste acceptance criteria portion of the draft/proposed radioactive materials license for the Board's review.

Sincerely,



Leonard C. Slosky
Executive Director



Barbara J.B. Green
Legal Counsel

cc: Rocky Mountain LLW Board members

Board/CleanHarbors/DraftApplicationComments