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Roy Goldberg
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Our File Number: 01ZY-103259

February 11, 2005

RECEIVED
D.C. OFFICE OF ZONING
2005 FEB 11 PM 2:31

VIA MESSENGER

District of Columbia Board of Zoning
Adjustment
c/o District of Columbia Office of Zoning
441 4th Street, N.W., Suite 210
Washington, D.C. 20001

Re: Case Number 17288 (Hearing Date March 15, 2005)
Appeal of Eastern Trans-Waste of Maryland, Inc.
1315 First Street, S.E., Square 703, Lot 54
Decision of Department of Consumer and Regulatory Affairs

Dear Sir or Madam:

Enclosed please find an original plus 20 copies of the supplemental exhibits of Appellant to be considered in this appeal:

6. Letter from Denzil Noble, DCRA Building and Land Regulation Administration, Office of the Administrator, to Mark Reynolds, Project Manager, Durable Steel Structures, dated July 14, 2004.

7. Letter from Mark Reynolds to Denzil Noble, dated July 28, 2004.

8. Letter from Denzil Noble to Mark Reynolds, dated July 29, 2004.

9. Facsimile and attachment from Robert P. Sochovka, North East Waste Service Capital Project Manager, to Ibrahim Bullo, D.C. Department of Health.

10. Letter from Denzil Noble to Robert P. Sochovka, dated October 12, 2004.

We also intend to bring to the hearing the originals of the large drawings/plans that are to big to submit at this time.

Please contact me at (202) 218-0007 if you have any questions.

BZA
Case No. 17288
Exhibit No. 16

Board of Zoning Adjustment
District of Columbia
CASE NO. 17288
EXHIBIT NO. 16

Sincerely,

Roy Goldberg

SHEPPARD MULLIN RICHTER & HAMPTON LLP
Counsel for Appellant Eastern Trans-Waste of Maryland, Inc.

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Enclosures

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS



Building and Land Regulation Administration
Office of the Administrator

July 14, 2004

Mark Reynolds
Project Manager
Durable Steel Structures
PO Box 403
Monkton MD 21111

Dear Mr. Reynolds:

The DC Department of Health (DOH) has asked that the Department of Consumer and Regulatory Affairs (DCRA) convey to you the following comments and questions regarding the Environmental Impact Screening Form (EISF) for Eastern Trans Waste (ETW) at 1315 1st Street SE. DOH indicates that it will be unable to complete its report on this EISF without the information that is stated below. Please note that on May 21, 2004 in an e-mail communication, your representative Cathy Gestido, was advised by Loraine Bennett of DCRA to contact DOH regarding additional information that had been requested.

Air Quality Division (AQD):
Two inspectors from AQD visited the site on June 4, 2004 and determined that ETW intends to create a larger open space by demolishing existing rooms and walls inside the facility. In addition, ETW is planning to replace an old weight scale with a new one and to cover the dirt floor inside the facility with a concrete floor. Furthermore, AQD feels that the proposed work will expand the capacity to store trash. **As a result, AQD is requesting the applicant to (1) obtain an asbestos survey before demolishing commences; and, because of the potential for odorous emissions (2) submit a plan for the control of odor that could include the installation of control equipment.**

Water Quality Division (WQD):
The WQD has determined that the information contained in the EISF submission was insufficient to complete the review. Since the facility is located within a separate storm sewer system area and in close proximity to the Anacostia River, WQD is requesting that ETW adequately respond to the following concerns:

(1) **The applicant's response to Part III. 2 of the EISF indicates that there will be no excavation, but Part III.46 states that there will be a 1,000-gallon underground storage tank installed. This needs to be clarified.**

2) **If a tank is installed to collect fluid from a liquid spill as indicated in Part III.46, then the answer to Part III.48 should be "yes", and a pollution prevention plan should be provided.**

Please contact Ibrahim Bullo (DOH) at 535-2506, Stanley Tracy (AQD) at 535-2990 or Brian Wallace (WQD) at 535-1726 should you have any questions about this request.

Sincerely,

Denzil Noble
EIS Coordinator

cc: John Drann
Loraine Bennett
Ibrahim Bullo, DOH
EISF File

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Durable Steel Structures

July 28, 2004

Mr. Denzil Noble
Government of the District of Columbia
Department of Consumer and Regulatory Affairs
941 North Capitol Street, NE
Washington, DC 20002
Via Facsimile: (202) 442-4863

RE: Response to July 14, 2004 Letter
EISF Request for Response – ETW of Maryland
1315 1st Street, S.E., Washington, D.C.
DSS Job #P223

Dear Mr. Noble:

Below is our response to your letter dated July 14, 2004. Based upon discussions with the various agencies and departments involved in this process, it is our understanding that the issues raised in your letter are the final issues to be resolved prior to issuance of the permit. Applicant's responses, including its willingness to undertake certain activities, are based on such understanding.

Air Quality Division (AQD):

Request No. 1: DCRA requests tha the applicant "obtain an asbestos survey before demolishing commences."

Applicant's Response: While applicant believes that such a survey is unnecessary, the applicant will obtain an asbestos survey prior to demolition activities and will remove and dispose of any asbestos in accordance with applicable laws and regulations. However, because an asbestos suvey would be a waste of applicant's money if the application is denied, applicant will obtain such survey after the building permit is issued.

Request No. 2: DCRA requests that, based upon AQD's assumption that the project will expand the facility's capacity to store trash, "the applicant submit a plan for control of ordor that could include installation of control equipment."

Applicant's Response: The proposed work will not expand the facility's capacity to store trash and, thus, does not increase the likelihood of odorous emissions. The building space and layout will remain unchanged. The proposed work will not increase the area within the facility used to handle trash. Rather, the proposed work will (i) provide for a more efficient means of current operation, and (ii) return the floor to its pre-existing condition.

The facility does not have a dirt floor. The entire facility's floor is, and has been, concrete. The inspectors observed a small portion of the floor that had been damaged and has been prepared for repair. Prior to being damaged, this area was used for waste handling. Applicant has installed temporary barriers around this area and has suffered hardship due to the inability to use this space.

Water Quality Division (WQD):

Request No. 1: DCRA requests that the applicant address a perceived inconsistency between applicant's response to Part 111.2 of the EISF and is response to Part 111.46 of the EISF.

Applicant's Response: Part 111.2 of the EISF refers to the "Project area to be developed." The sub-parts make clear that Part 111.2 relates only to undeveloped areas. Applicant answered "None" because the project area is already developed.

Thus, applicant's response to Part 111.2 is correct and is not inconsistent with applicant's response to Part 111.46.

Durable Steel Structures

Response to July 14, 2004 Letter
EISF Request for Response – ETW of Maryland
1315 1st Street, S.E., Washington, D.C.
DSS Job #P223
Page 2 of 2

Request No. 2: DCRA requests that if a tank is installed to collect fluid from a liquid spill, the answer to Part 111.48 should be yes and a pollution prevention plan should be provided.

Applicant's Response: A pollution prevention plan is not necessary. Part 111.48 must be viewed in context. First, Part 111.47 questions whether pesticides, herbicides or insecticides will be used. Second, Part 111.48 states "Will any other substances that will adversely change existing surface and ground water quality be handled at the site either during or after construction?" Applicant's answer to Part 111.48 s appropriately "no" for the reason that no substances of any sort will reach existing surface or ground water. When repairs are complete, the concrete floor will be impermeable. The proposed tank will also be impermeable and will not be connected to any sewer or storm water systems. The tank will be emptied as necessary be a licensed disposal service.

Importantly, the tank will be used only to collect water and any moisture in the solid waste being handled at the facility. The water is left by wet trucks accessing the facility during rain and snow events. Applicant's experience is that the solid waste handled at the facility is quite dry and leaves no moisture. Applicant used the phrase "liquid spill" due to space limitations on the EISF and apologizes for any confusion that the use of this phrase may have caused.

Should the tank continue to be a matter that delays issuance of the permit, please let us know immediately.

As the above responses clarify the concerns of the agency, we respectfully request our permit be released immediately. Although the applicant was told there would be a thirty day window for the decision, this EISF process has now consumed 120 days since it began. Your July 14, 2004 letter marks the first written responsive action from your office since the process began.

Sincerely,

Mark Reynolds
Project Manager

DSS Contracting Corporation T/A Durable Steel Structures
PO Box 403, Monkton, Maryland 21111 (410)-239-3000 (410)-374-1624 FAX

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS



Building and Land Regulation Administration
Office of the Administrator

July 29, 2004

Mark Reynolds
Project Manager
Durable Steel Structures
PO Box 403
Monkton MD 21111

Ref: ETW
1315 1st Street SE
Washington DC 20003

Dear Mr. Reynolds:

I am in receipt of your letter dated July 28, 2004, in which you respond to questions posed by the Department of Health (DOH) as part of the agency's review of the Environmental Impact Screening Form that was submitted for this project. Your response is being forwarded to DOH for its consideration; however I would strongly encourage you, as we have done frequently in the past, to communicate directly with DOH staff on these matters. You may call Ibrahim Bullo at 535-2506, Stanley Tracey (Air Quality) at 535-2990 at Brian Wallace (Water Quality) at 535-1726.

Sincerely,

Denzil Noble
EIS Coordinator

cc: John Drann
Loraine Bennett
Ibrahim Bullo, DOH
EISF File

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mmunity Refuse Service, Inc.
/SI-Harrisburg Hauling, Inc.
520 Newville Road
Newburg, PA 17240
Phone: 717-423-5917
Fax: 717-423-5690

WSI-Sandy Run La , Inc.
WSI-Altoona Hauling, Inc.
995 Landfill Road
Hopewell, PA 16650
Phone: 814-928-5001
Fax: 814-928-0123

WSI
a North East Waste Services company

oller Landfill, Inc.
WSI-Somerset Hauling, Inc.
7095 Glades Pike
Somerset, PA 15501
Phone: 814-444-0112
Fax: 814-444-0127

Eastern Trans-Waste
of Maryland, Inc.
1315 First Street S. E.
Washington, DC 20003
Phone: 202-863-2528
Fax: 202-863-0514

Robert P. Sochovka P.G
North East Waste Service
Capital Project Manager

Phone: 717-423-5917 Ext 21
Cell: 717-729-5227
Fax Office: 717-423-5690
Fax Home: 717-586-2349

To: Ibrahim Bullo From: Rob Sochovka ETW

Fax# 202-535-2881 Pages:

Comments:

Mr. Bullo

Per my Phone conversation with you today Monday 8-2-2004, I am Faxing you a copy of Denzil Noble's Letter Dated July 29th 2004. upon contacting water Quality and Air Quality For their review of our Response to DCRA's on July 28th I would then like to set a call up with myself and our building contractor (mark Reynolds) Durable steel. To Discuss any unresolved Issues your department may have.

Thanks you For time.

Rob Sochovka.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS



Building and Land Regulation Administration
Office of the Administrator

July 29, 2004

Mark Reynolds
Project Manager
Durable Steel Structures
PO Box 403
Monkton MD 21111

Ref: ETW
1315 1st Street SE
Washington DC 20003

Dear Mr. Reynolds:

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Sincerely,

Denzil Noble
EIS Coordinator

cc: John Drann
Loraine Bennett
Ibrahim Bullo, DOH
EISF File

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Building and Land Regulation Administration
Office of the Administrator

October 12, 2004

Robert P. Sochovka
Capital Projects Manager
WSI
135 Vaughn Road
Shippensburg PA 17257

Dear Mr. Sochovka:

Reference is made to our meeting on September 23, 2004 regarding the ETW facility at 1315 1st Street SE. During the meeting, I promised to provide you with the following:

- A letter of referral to the Board of Zoning Adjustment (BZA) - Sent under separate cover.

- A statement regarding the reduced scope of work at this location that would not require BZA approval.
  If plans were submitted that did not include an increase in machinery or equipment and did not increase the square footage of the operation, BZA approval would probably not be required. DCRA can only respond to this question in a definitive manner once new plans have been submitted and reviewed.

- The status of reports from reviewing agencies regarding the Environmental Impact Screening Form (EISF) submitted for this project.
  Reports have been received from all reviewing agencies, the District Department of Transportation, the Department of Health, the DC Water and Sewer Authority, the Department of Public Works and the Office of Planning. None of the reports, except that submitted by the Office of Planning, indicates that the project will result in a substantial negative impact on the environment. As discussed during our meeting, the Office of Planning's report will be reconsidered if the zoning issue is resolved.

Sincerely,

Deszil Noble
Acting Zoning Administrator

cc: Theresa Lewis
Andrew Saindon
Loraine Bennett
Roy Goldberg