

November 2, 2022

VIA ELECTRONIC DELIVERY

Carl Spadaro
Max Environmental Technologies, Inc.
233 Max Lane
Yukon, PA 15698
cspadaro@maxenvironmental.com

Re: Technical Deficiency Letter
Phase I Exclusionary Siting Criteria Application
Hazardous Waste Landfill No. 7
Max Environmental Technologies, Inc. – Yukon Facility
South Huntingdon Township
Westmoreland County
I.D. No. PAD004835146
APS No. 1071176
AUTH No.1410078

Dear Mr. Spadaro:

The Department of Environmental Protection (DEP) has begun the technical review of the above-referenced application to determine whether the proposed facility site for Hazardous Waste Landfill No. 7 complies with the Phase I Exclusionary Siting Criteria of 25 PA Code §§ 269a.21—269a.29.

The purpose of this letter is to bring two significant issues to your attention as we continue our detailed technical review of the application. If these two items cannot be satisfactorily addressed, this proposed facility site will not meet the siting criteria.

1. The proposed facility site does not qualify under 25 Pa. Code § 269a.1, which defines *Facility site* as, “All contiguous land owned or under the control of an owner or operator of a hazardous waste facility and identified in a permit or permit application”. Millbell Road is a township road (T521) bisecting the proposed facility site and occupying a strip of land that is owned by Max Environmental Technologies (Max) but is subject to an easement granted to South Huntingdon Township. The proposed facility site configuration includes a leachate conveyance and an internal access road to the proposed landfill that would cross Millbell Road. In light of the Township’s easement, Max neither controls Millbell Road nor owns Millbell Road in an unencumbered manner such that control can be assumed.
2. 25 Pa. Code § 269a.23 specifies that treatment and disposal facilities may not be sited in wetland areas. *Wetland* is defined in 25 Pa. Code § 269a.1 as “An area inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas. The term includes, but is not limited to, wetland areas listed in the State Water Plan, the United States Forest Service Wetlands Inventory of Pennsylvania, the Pennsylvania Coastal Zone Management Plan, the United States Fish and Wildlife National Wetland Inventory and wetland areas designated by a river basin commission.” As proposed, the facility site boundary includes wetland area north of the existing

leachate storage tank within the proposed facility boundary. This wetland area is identified in the application in Exhibit 9.1.1, Figures 2 and 3 and Exhibit 9-2.9, Figure WDR-3A. Inclusion of this wetland within the facility site boundary violates 25 Pa. Code § 269a.23 and cannot be approved. Furthermore, delineation of potential wetland areas at the site is incomplete and additional delineation studies that were committed to by Max in 2019 email correspondence with DEP and the US Army Corps of Engineers have not been completed. [See Attachment 1]

DEP acknowledges that an amendment to the Phase I application was submitted on October 31, 2022 which replaces Exhibit 9.1.1, Figures 2 and 3. This amendment has not yet been reviewed by DEP and although the revised drawings may address comment No. 2 in part, DEP wants to bring this matter to your attention as early as possible in the review process to provide ample opportunity for your consideration and response.

Your response should be in the form of a complete Phase I application showing the revisions to affected pages, forms or drawings in the application. Each revision or addition should bear the revision date and show what items have been revised or added. DEP suggests you highlight additions to the application and note the deletions by striking them out, so changes are easily identified. All revised forms must have the title sheet marked with the latest revision date. Revisions and additional information are to be submitted to the DEP via the OnBase portal. The requested information should be submitted within 60 days of receipt of this letter.

DEP will continue its evaluation of the application. You will be notified later if deficiencies remain in your application and given an opportunity to correct any deficiencies. If you believe the listed deficiencies are not significant, you may ask DEP to review the information you have already submitted. If you choose this option, you should explain and justify how your current submission satisfies the deficiencies noted above. If you fail to respond to this request within 60 days, your application may be denied.

If you have questions, please contact William Mura of this office at 412.442.4035 or wmura@pa.gov.

Sincerely,



William R. Mura, P.E.
Environmental Engineering Manager
Waste Management Program

Attachment

cc: South Huntingdon Township (southhuntingdontwp@comcast.net)
Westmoreland County (jrigone@co.westmoreland.pa.us)
T. Mitchell, CEC (tmitchell@cecinc.com)
C. Clancy, PA DEP, RCSOB (cclancy@pa.gov)
P. Ward, EPA (ward.prentiss@epa.gov)
Regional File

ATTACHMENT 1

From: Mitchell, Tim <tmitchell@cecinc.com>

Sent: Friday, March 15, 2019 2:45 PM

To: Brogan, William <wbrogan@pa.gov>; Engelhardt, Michael D CIV USARMY CELRP (US) <Michael.D.Engelhardt@usace.army.mil>; Owens, Mallory <mowens@cecinc.com>; Mcdaniel, Diane <dimcdaniel@pa.gov>; Lutz, Dylan <dylan.lutz@cecinc.com>; Tomei, Michael <mtomei@pa.gov>; William Follett <wfollett@maxenvironmental.com>; cspadaro@maxenvironmental.com; Ken Interval <kinterval@maxenvironmental.com>; Chiado, Eric <echiado@cecinc.com>; Swarm, H. Scott <hswarm@pa.gov>

Subject: RE: [External] RE: MAX Yukon Landfill No. 7 - Jurisdictional Determination Site Visit (UNCLASSIFIED)

Hi all.

Thanks to everyone that participated in the site visit on 3/12/2019. Also, thanks to the U.S. Army Corps of Engineers (USACE) and the Pennsylvania Department of Environmental Protection (DEP) for following up so quickly. After discussing the site visit findings internally, and with MAX, there are a couple of items I wanted to clarify, as follows:

1. CEC/MAX will perform a new field review for specific areas of interest identified during the site visit on 3/12/2019, but limited to the areas within the revised delineation boundary (see attached figure and discussion below).
2. CEC/MAX will perform a confirmatory field review on streams and wetlands previously identified in the revised delineation boundary (see attached figure and discussion below).
3. Other than the specific areas identified during the site visit on 3/12/2019 or the previously identified wetlands, additional field investigations will not be performed.
4. CEC/MAX will perform the additional field review during the growing season (i.e., May – September)
5. CEC, MAX, DEP, and USACE will have a follow-up site visit in late June or early July to confirm findings of the additional field review identified above.

Also, after speaking with MAX, we will be revising the delineation boundary to correspond with the areas intended for site development. More specifically, MAX does not wish to pursue development on the western side of the property. Also, the delineation boundary was adjusted on the far eastern edge to reflect MAX's actual property boundary (based on a recent survey). A figure showing the rough delineation of the intended boundary is attached to this email. As such, only the areas shown on the attached would be subject to the Preliminary Jurisdictional Determination.

Please let me know if you are OK with the approach outlined above.

Thanks

Timothy D. Mitchell, P.E. / Project Manager
Civil & Environmental Consultants, Inc.
4000 Triangle Lane, Suite 200 · Export, PA 15632
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Mobile: (724) 678-5293 · <http://www.cecinc.com>
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-----Original Message-----

From: Brogan, William <wbrogan@pa.gov>
Sent: Wednesday, March 13, 2019 10:15 AM
To: Engelhardt, Michael D CIV USARMY CELRP (US)
<Michael.D.Engelhardt@usace.army.mil>; Mitchell, Tim <tmitchell@cecinc.com>; Owens, Mallory <mowens@cecinc.com>; Mcdaniel, Diane <dimcdaniel@pa.gov>; Lutz, Dylan <dylan.lutz@cecinc.com>; Tomei, Michael <mtomei@pa.gov>; William Follett <wlfollett@maxenvironmental.com>; cspadaro@maxenvironmental.com; Ken Interval <kinterval@maxenvironmental.com>; Chiado, Eric <echiado@cecinc.com>; Swarm, H. Scott <hswarm@pa.gov>
Subject: RE: [External] RE: MAX Yukon Landfill No. 7 - Jurisdictional Determination Site Visit (UNCLASSIFIED)

All,

I concur with Mike. Additional investigation at the site is warranted during the growing season. The investigation should confirm previously identified resources and provide sample points and photos within the suspected resource areas identified during our site visit on 3/12/19.

Best Regards,
Will

Dr. William R. Brogan III, Ph.D.
Aquatic Biologist
Conservation, Restorations, and Inspections Division Waterways and Wetlands Program
Pittsburgh, PA 15222 P. 412-442-4027

-----Original Message-----

From: Engelhardt, Michael D CIV USARMY CELRP (US)
<Michael.D.Engelhardt@usace.army.mil>
Sent: Wednesday, March 13, 2019 9:41 AM
To: Mitchell, Tim <tmitchell@cecinc.com>; Owens, Mallory <mowens@cecinc.com>; Brogan, William <wbrogan@pa.gov>; Mcdaniel, Diane <dimcdaniel@pa.gov>; Lutz, Dylan <dylan.lutz@cecinc.com>; Tomei, Michael <mtomei@pa.gov>; William Follett <wlfollett@maxenvironmental.com>; cspadaro@maxenvironmental.com; Ken Interval <kinterval@maxenvironmental.com>; Chiado, Eric <echiado@cecinc.com>; Swarm, H. Scott <hswarm@pa.gov>

Subject: [External] RE: MAX Yukon Landfill No. 7 - Jurisdictional Determination Site Visit (UNCLASSIFIED)

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CLASSIFICATION: UNCLASSIFIED

All,

During our visit to the subject site yesterday, we identified several new potential wetlands, and a new segment of stream within the property boundaries. Given the differences between what we observed yesterday, and what is shown on the delineation report that is dated June 20, 2018, I am recommending that a new delineation of the site be conducted during the growing season to accurately reflect the current conditions of the site. We should plan to schedule a field visit sometime after that delineation in order to verify boundaries, and finalize the JD for the site.

Please feel free to forward this message as necessary, and let me know if you have any questions.

Thanks,

Mike Engelhardt
Regulatory Division
U.S. Army Corps of Engineers - Pittsburgh District
1000 Liberty Avenue
Pittsburgh, PA 15222
(412) 395-7141 (Office)
(412) 667-1638 (Cell)

-----Original Message-----

From: Mitchell, Tim [mailto:tmtchell@cecinc.com]

Sent: Monday, March 11, 2019 4:20 PM

To: Owens, Mallory <mowens@cecinc.com>; Brogan, William <wbrogan@pa.gov>; Mcdaniel, Diane <dimcdaniel@pa.gov>; Engelhardt, Michael D CIV USARMY CELRP (US) <Michael.D.Engelhardt@usace.army.mil>; Lutz, Dylan <dylan.lutz@cecinc.com>; Tomei, Michael <mtomei@pa.gov>; William Follett <wlfollett@maxenvironmental.com>; cspadaro@maxenvironmental.com; Ken Interval <kinterval@maxenvironmental.com>; Chiado, Eric <echiado@cecinc.com>; Swarm, H. Scott <hswarm@pa.gov>

Subject: [Non-DoD Source] RE: MAX Yukon Landfill No. 7 - Jurisdictional Determination Site Visit

Hi All.

Looks like we will have decent weather for our Jurisdictional Determination Site Visit tomorrow. Ahead of the site visit, I wanted to coordinate where everyone should meet. As such, I have attached a .kmz file to show a meeting location. Also, I have cut and pasted a screen shot of the directions to the meeting location below.

Let me know if you have any questions. If not, see everyone at 10:00.

Thanks

Timothy D. Mitchell, P.E. / Project Manager

Civil & Environmental Consultants, Inc.

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Mobile: (724) 678-5293 * Blocked <http://www.cecinc.com>

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-----Original Appointment-----

From: Owens, Mallory <mowens@cecinc.com>

Sent: Tuesday, February 12, 2019 11:33 AM

To: Owens, Mallory; Brogan, William; Mcdaniel, Diane; Engelhardt, Michael D CIV USARMY CELRP (US; Lutz, Dylan; Tomei, Michael; William Follett; cspadaro@maxenvironmental.com; Ken Interval; Mitchell, Tim; Chiado, Eric; Swarm, H. Scott

Subject: MAX Yukon Landfill No. 7 - Jurisdictional Determination Site Visit

When: Tuesday, March 12, 2019 10:00 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: 233 Max Lane, Yukon, PA 15698

CLASSIFICATION: UNCLASSIFIED