



MARYLAND DEPARTMENT OF THE ENVIRONMENT

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Parris N. Glendening
Governor

September 11, 2000

Jane T. Nishida
Secretary

CERTIFIED LETTER

Return Receipt Requested

Mr. James Cunningham
Cunningham Excavating Company, Inc.
Post Office Box 3698
Crofton MD 21114

Dear Mr. Cunningham:

This is written in reference to your Refuse Disposal Permit Application No. 1993-WRF-0020 for the proposed Cunningham Rubble Landfill Horizontal Expansion at the west end of Capital Raceway Road, Crofton, Anne Arundel County. As you know, the Maryland Department of the Environment (the "Department") conducted a public hearing regarding the proposed landfill expansion on February 23, 2000. The Department has now completed its review in this matter, and has made a final determination for the disposition of the application.

Section 9-212.1 of the Environment Article, Annotated Code of Maryland, provides that "[t]he Department may deny an application for a permit for a sanitary landfill system to any nongovernmental person if:

- (1) The owner of the land, the operator, or the applicant has violated:
 - (i) Any law of this State or any other state concerning sanitary landfills; or
 - (ii) Any regulation or permit condition of this State or any other state concerning sanitary landfills...."

Based upon the review of the permit application, supporting documents, the testimony and evidence presented as part of the public hearing, and the recommendation of the Hearing Officer, the Department finds that there have been numerous, significant past violations of Maryland laws, regulations and permit requirements pertaining to sanitary landfill systems by the applicant. Violations included both required permit authorizations, and operational practices and procedures at the old rubble landfill. The many violations of Maryland laws and regulations, and permit requirements regarding the operation of a rubble landfill and refuse disposal include:

- a. 96 separate violations at the old landfill between 1981 and 1987, requiring issuance by the Department of 5 Administrative Complaint and Orders (and penalty assessment) since 1981
- b. 32 documented violations as part of 11 discrete Site Complaints issued by the Department between 1989 and 1994

- e. operating without a permit; disposal of unpermitted wastes; exceeding the permitted landfill elevation; direct disposal of wastes into waters of the State; changing the course of a stream bed without State authorization; excavating for the landfill from areas outside the permitted zones; failure to comply with landfill reclamation requirements; failure to provide periodic daily cover; excavating into groundwater of the State in violation of the refuse disposal permit; failure to prevent erosion of disturbed earth; failure to provide adequate monitoring of ground and surface water quality as required by permit; failure to maintain groundwater monitoring wells; failure to maintain facility records and to provide required reports, etc.
- c. inadequate or poor supervision of landfill operations that have not produced results from a sanitary standpoint that might be reasonably expected, thus being a menace to the public health and comfort, and creating a nuisance
- d. accepting steel and plastic drums for disposal not in accordance with permit requirements (thus risking the disposal of unpermitted hazardous materials)
- e. allowing the open dumping of household refuse and trash, and other regulated wastes, including the demolition debris as recently as 1999, in three separate open dump areas on the applicant's property
- f. the open dumping of regulated solid waste (wallboard) at another (unpermitted) disposal site
- g. placing or allowing the placement of wastes on the banks of the Patuxent River, thus causing the wastes to be placed in a position likely to pollute waters of the State
- h. other similar violations

Therefore, due to the number of such documented violations and the high level of public concern expressed about these violations, there is every indication that this pattern of noncompliance with Maryland laws and regulations, and permit requirements pertaining to sanitary landfill systems would likely continue in the future if a new refuse disposal permit is granted. The Department has made a Final Determination to DENY the Refuse Disposal Permit Application No. 1993-WRF-0020 for the proposed Cunningham Rubble Landfill Horizontal Expansion.

The Department's Final Determination notice and the SUMMARY OF FINDINGS & RECOMMENDATIONS, Public Hearing, February 23, 2000, proposed Cunningham Rubble Landfill Horizontal Expansion in Anne Arundel County, are enclosed for your information.

The Department's Final Determination will become effective on September 29, 2000 unless the Department receives a request for a Contested Case Hearing, filed pursuant to Section 1-605 of the Environment Article, Annotated Code of Maryland. Requests for a Contested Case Hearing must be made in writing and submitted to the Department by close of business on September 28, 2000.

Joan B. Gordon
Administrative Law Judge

A person may request a Contested Case Hearing to appeal a Final Determination of the Department by making factual allegations to demonstrate that the person is aggrieved by the Final Determination, AND that the Final Determination is legally inconsistent with applicable law or based upon an incorrect determination of a relevant and material fact. The request for adjudication must contain sufficient particularity to assure that the issues raised are within the scope of Section 1-605(a) of the Environment Article, Annotated Code of Maryland, AND that the person is aggrieved by the Final Determination.

Sincerely



Richard W. Collins, Director
Waste Management Administration

RWC:BJS:rs

Enclosures

cc: The Honorable Sara-Taylor Rogers
The Honorable Janet Owens
Charles R. Schaller, Esquire