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Department of
the Environment

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October 20, 2020

Mr. Steve Fleischman
National Waste Managers, Inc.
2900 Linden Lane, Suite 300
Silver Spring, Maryland 20910

Dear Mr. Fleischman:

This letter is to update you on the status of the Maryland Department of the Environment's (MDE) review of National Waste Managers' (NWM) permit application for the proposed Chesapeake Terrace Rubble Landfill.

Under §9-210(a)(3)(i) of the Environment Article, Annotated Code of Maryland, MDE may not issue a permit for a refuse disposal system unless the County has provided a written statement that the refuse disposal system meets all applicable county zoning and land use requirements. On November 8, 2018, MDE received a letter from the Anne Arundel County Office of Law transmitting a copy of a two-year extension of the zoning special exception until October 19, 2020. The letter also noted that despite a 2014 change in county law removing rubble landfills as special exception use in residential areas, "the proposed [Chesapeake Terrace Rubble Landfill] is grandfathered and, therefore, permissible under applicable County zoning laws." MDE considered this to be a statement that the project meets applicable county zoning and land use requirements, as required under § 9-210(a)(3), and therefore proceeded with reviewing the permit application.

On July 22, 2020, MDE received the revised Phase III Engineering Plans and Specifications Report (Report) as part of NWM's permit application. MDE distributed the Report to interested agencies as listed under COMAR 26.04.07.06C on July 29, 2020. In response to our distribution, MDE received a comment letter on the Phase III permit application dated August 31, 2020 from Anne Arundel County Executive Stuart Pittman which stated, "[t]he proposed project has, in point of fact, not satisfied all applicable county zoning and land use requirements because the applicant has not acquired access to the site as required by a special exception...", granted in 1992.

Additionally, Anne Arundel County Attorney Gregory Swain, in a letter to the Maryland Office of the Attorney General (OAG) dated October 2, 2020, stated that the site does not meet all applicable County zoning requirements because NWM has not secured fee simple ownership of the access road to satisfy the 1992 special exception. In addition, the letter advised MDE that MDE's reliance on a November 2018 letter from the Anne Arundel County Office of Law that the project meets zoning requirements was in error as the Anne Arundel County Office of Law, "has no authority to grant any type of zoning approval (that authority rests with the County Planning and Zoning Officer)..."

Subsequently, MDE received from NWM a copy of an October 14, 2020 email from the Office of Planning and Zoning, which indicated that due to tolling of the special exception extension under County COVID-19 executive orders, the special exception now expires on January 14, 2021. However, based on the enclosed letters of August 31, 2020 and October 2, 2020 stating that the project does not meet all county zoning and land use requirements, MDE has ceased processing your application. Unless MDE receives an explicit statement from the Anne Arundel County Planning and Zoning Officer indicating that the project does, in fact, meet all applicable county zoning and land use requirements we will not proceed with further action on the permit application.

If you have any questions regarding this matter, please contact me at (410) 537-3315 or andrew.grenzer@maryland.gov.

Sincerely,



Andrew Grenzer, Chief
Solid Waste Operations Division

Enclosures

cc: The Honorable Steuart Pittman, Anne Arundel County Executive
Gregory Swain, Anne Arundel County Attorney
Steve Kaii-Zeigler, Planning and Zoning Officer
Kaley Laleker, Director, Land and Materials Administration (LMA)
Brian Coblenz, Chief, Compliance Division, LMA
Edward Dexter, P.G., Administrator, Solid Waste Program, LMA
Samuel Ogbogu, Project Manager, Solid Waste Operations Division, LMA
Paul G. Stratman, Geologist Consultant, Advanced Geoservices