

The Georgia Environmental Protection Division (“EPD”) has received many comments in response to the Draft Site Limitations for the Brantley County Development Partners (“BCDP”) US 82 Solid Waste Handling Facility – South, Brantley County Proposed Municipal Solid Waste (“MSW”) Landfill. In total, EPD received 9,517 individual written, electronic or voicemail correspondence and petition signatures in response. Of these responses approximately 9,514 were in opposition and 3 were in support of siting the facility.

Review of a Solid Waste Handling Permit application for such a facility consists of two separate stages. First, the site suitability review (“siting review”) focuses on characteristics of the proposed site included in the required hydrogeological site assessment report (“SAR”), and in this stage of review EPD sets limitations under which the site may be used for solid waste handling. In the siting review, EPD determines the proposed site’s ability to meet the standards of The Georgia Comprehensive Solid Waste Management Act, O.C.G.A. 12-8-20 (“Act”); Ga. Comp. R. and Regs. R 391-3-4-.05 “Criteria for Siting”; and Circular 14, “Criteria for Performing Site Acceptability Studies for Solid Waste Landfills in Georgia.”

After the siting review is completed, the design review focuses on whether the site-specific Design and Operational Plan demonstrates the ability to meet the design standards and operating standards of Ga. Comp. R. and Regs. R 391-3-4 (“Rules”). Only the siting review for this proposed Solid Waste Handling Permit has been completed to date; no design and operations plans have been received and the design review has not begun.

Although EPD requested comments specifically on the Draft Site Limitations for the proposed facility, substantive comments were also received on the application completeness determination. EPD have categorized and consolidated the comments and provided responses below:

Comments on Permit Application Completeness

1. Comment: The siting is inconsistent with Brantley County’s Solid Waste Management Plan

Per Rule 391-3-4-.02(9), each applicant has to provide verification that the facility is consistent with the local or regional waste management plans. The verification consists of a letter from the host jurisdiction verifying consistency with the approved local solid waste plans. The applicant provided EPD with a letter from the Brantley County Board of Commissioners dated February 6, 2015 that confirmed consistency with Brantley County’s Solid Waste Management Plan. As such, the application currently meets the requirements.

2. Comment: The siting is inconsistent with Brantley County zoning/land use ordinances

Per Rule 391-3-4.05 (1)(a), the site must conform to all zoning/land use ordinances and written verification must be submitted to the Division by the applicant demonstrating that the proposed site complies with local and land use ordinances at the time of submission of a permit application

and reaffirmed by the governmental authority prior to permit issuance. The verification includes a letter from the governmental authority stating that the proposed site complies with the local zoning or land use ordinances. The applicant provided EPD with a letter from the Brantley County Board of Commissioners dated February 6, 2015 that the proposed Solid Waste Handling Facility was consistent with Brantley County's local land use plan. As such, the application currently meets the requirement and EPD will continue with due process for permit application review. No permit decision has been made and the zoning/land use ordinance conformance must be reaffirmed by Brantley County prior to any permit decision being made for the site.

- 3. Comment: The applicants submitted an application with misstatements about the existence of Brantley County's land use ordinance at the time of submittal, which suggests that they sought to actively conceal a material fact, invalidating their sworn statement in accordance with Rule 391-3-4-.02(7)(a) that they have not intentionally misrepresented or concealed a material fact in an application to the Director.**

As stated above, the application was supported by a consistency letter from the Brantley County Board of Commissioners that met EPD requirements for demonstrating completeness to the application. As such, EPD is continuing with due process for permit application review. No permit decision has been made and the zoning/land use ordinance conformance must be reaffirmed by Brantley County prior to any permit decision being made for the site.

- 4. Comment: Proposed landfill operations were never reviewed and approved by Brantley County, and reference to a Solid Waste Handling Facility in the 2015 consistency letters referred to a proposed waste to energy facility, not a landfill.**

As stated above, the application met requirements for demonstrating completeness, and EPD is continuing with due process for permit application review. No permit decision has been made and the zoning/land use ordinance conformance must be reaffirmed by Brantley County prior to any permit decision being made for the site.

- 5. Comment: The landfill does not comply with 319-3-4-.05, because it may take Coal Ash.**

Municipal Solid Waste landfills in Georgia meet requirements for Coal Combustion Residual (CCR) disposal and are permitted to dispose of CCR if a site specific CCR Management Plan per Rule 391-3-4.07(5) is submitted and approved by EPD. In such circumstances the design and operations plans are required to be updated to include additional groundwater monitoring of constituents related to CCR disposal.

- 6. Comment: The proposed site is in a Groundwater High Pollution Susceptibility Area per Georgia Hydrologic Atlas 20 and therefore unsuitable:**

There are no restrictions in the Rules for siting landfills in Groundwater High Pollution Susceptibility Areas – Rules do state that any MSW landfills within two miles of a Most Significant Groundwater Recharge Areas (SGRA) per Georgia Hydrologic Atlas 18 must include

a liner and leachate collection system. The proposed landfill is not located in a SGRA but must have a liner and a leachate collection system as that is a current requirement for all MSW landfills.

- 7. Comment: A “well-documented” Clean Water Act enforcement action from US Corps of Engineers occurred on the proposed landfill property 12 years ago, where a “canal” was excavated penetrating the hard pan, making the underlying aquifer more vulnerable to contamination. EPD should investigate this regulatory action.**

EPD contacted US Corps of Engineer (USACE) office in Savannah. Their representative could find no record of any Clean Water Act enforcement action at the proposed landfill site.

The site limitations require the subgrade beneath waste areas to be raised 3 – 5 feet, a synthetic liner and leachate collection system installed and an underdrain system installed to maintain a minimum 5-foot separation from the water table. These measures are designed to mitigate contamination potential to the underlying aquifer.

- 8. Comment: The applicant has failed to comply with Rule 391-3-4-.05(1) (b) and the Act OCGA 12-8-26(a) and OCGA 12-8-26(b) related to requirements to public notice and meeting requirements for a siting decision of an MSW landfill.**

Based on EPD’s review of documentation of noticing and a public meeting held on December 22, 2016, the applicant has satisfied the application completeness requirements of the Rules and the Act.

- 9. Comment: The applicant does not appear to have provided the required identification required by the State of Georgia and the County to issue any type of permit, a business license in the State of Georgia, provided documentation that the owners are citizens of the United States of America or applied for a building permit.**

Representatives of the applicant signed the application for the Solid Waste Handling Permit witnessed by a Notary Public as required. The applicant also has a business license registered with the Georgia Corporations Division. EPD does not regulate citizenship requirements or local permitting requirements.

Comments on the Draft Site Limitations and the Hydrogeological Site Assessment Report (SAR)

- 10. Comment: Not all private drinking water wells were identified in the SAR**

The information submitted to EPD with this comment included additional private drinking water wells not included in the SAR. However, the majority of these wells were outside of the radius

from the site required by Circular 14. EPD could find no additional water wells in the supplied information that affect the site limitations per the requirements of Circular 14 and the Rules.

11. Comment: The assumption in the SAR that private wells are likely producing water from the deep confined aquifer based on an e-mail from local driller is not representative.

The Rules and Circular 14 require locations of private wells and public wells within ½ and 2 miles of proposed landfill, respectively, be shown on a map(s), which were provided. There is no requirement to determine depths or construction, even if available, of private or public water supply wells. The applicant provided additional information based on an interview with a local well driller.

12. Comment: The SAR contains numerous mathematical errors, specifically in the hydrogeological calculations of transmissivity (T) and hydraulic conductivity (K) in Table 7, and EPD should re-assess all of the engineering and hydrogeological calculations for accuracy, and errors corrected, before issuing the site limitations notice.

EPD reviewed the calculations of transmissivity (T) and hydraulic conductivity (K) in Table 7 of the SAR and did not determine any significant mathematical errors. The assumptions used for hydrogeological parameters are in EPD's experience appropriately conservative for use in a groundwater pollution potential assessment required by Circular 14.

13. Comment: The separation requirement of waste from the water table of 5-feet in the Site Limitations is not large enough. A double-liner and 10-foot separation from groundwater is required at another Georgia MSW landfill and should also be required at this proposed facility.

The Rules requires a single-liner and leachate collection system and 5-feet of separation from the bottom of the liner system and the top of the water-table for MSW landfills. In rare circumstances, EPD has requested a double-liner system to address specific site conditions, and greater separation from the water table when, in EPD's judgement, the seasonal high water-table has not been well defined. In these circumstances, the request for a double-liner has been waived after a design change was made to include an underdrain system below the waste units. Underdrains suppress the elevation of the underlying water-table and ensure separation from the liner system. The site limitations for this proposed facility require an underdrain system to be constructed below the waste units. In addition, the groundwater elevation would be regularly monitored to verify compliance with the site limitation separation requirement from the top of the water-table.

14. Comment: Wetland areas can never be made "favorable" for waste disposal areas even if a US Corps of Engineers Permit(s) is granted for the wetlands.

In accordance with the Rules, solid waste disposal is allowed in wetland areas if an applicant obtains the appropriate state and federal permits.

15. Comment: If wetlands on the proposed site that are currently “unfavorable” areas for waste disposal become permitted and “favorable” in the future, the proposed buffers will be reduced or eliminated, and nearby wells will become more susceptible to pollution.

Per Rule 391-3-4-.07(1)(b) a minimum 500-foot buffer will be maintained between the waste limits and all private wells/residences regardless of whether USACE grant a permit to disturb any wetlands.

16. Comment: The buffer requirements to nearby properties in the Draft Site Limitations are inadequate and the 500-foot buffers from waste disposal areas in the Draft Site Limitations should be increased.

The maximum required buffer by the Rules and Circular 14 is 500-feet. Local jurisdictions may have additional buffer requirements. No permit decision has been made and the zoning/land use ordinance conformance must be reaffirmed by Brantley County prior to any permit decision being made for the site.

17. Comment: The 50-foot buffers around wetlands should be increased to a minimum of 100 feet.

There is no specific buffer requirement in the rules around wetlands. The Solid Waste Management Program uses a 50-foot buffer around wetlands, which is the buffer required around trout streams.

18. Comment: The Biological and Habitat Assessment for threatened and endangered species included with the SAR is more than 5-years old and should be updated by the applicant.

The Habitat and Biological Assessment was updated in July 2019 at EPD’s request.

19. Comment: Section 1.8 of the SAR dated October 2019 incorrectly states that Brantley County does not currently have zoning laws.

The original SAR submitted in 2017 was reviewed and commented on by EPD. The October 2019 SAR was a revised SAR submitted in response to EPD comments. It is possible that this section had not been updated in the revised SAR as it was not subject to a comment by EPD. EPD will request from the applicant an addendum updating this section of the SAR for completeness of record. This does not affect any of the site limitations at this time.

20. Comment: More details regarding the liner and leachate collection system should be provided.

Details of the design of the liner and leachate collection system are presented and evaluated during development of the site-specific Design and Operational Plan, prior to any permit being granted.

21. Comment: The development of the landfill will change hydrology of the area and negatively impact surrounding area.

Storm water management and surface water controls are a requirement of the site-specific Design and Operational Plan review and will be addressed prior to any permit being granted.

22. Comment: High rainfall amounts experienced in Brantley County will negatively affect landfill clay cap because it will greatly increase hydraulic conductivity.

Landfill design considerations will be addressed during development of the design and operations plan and will be reviewed by EPD.

23. Comment: The SAR contains errors regarding the severity of flood hazards in Brantley County.

The SAR shows the location of the site on a Federal Emergency Management Authority (FEMA) flood insurance map required by Circular 14. The SAR states, and the FEMA flood insurance map shows, that the proposed landfill would not be located within a 100-year floodplain. In addition, the SAR includes a map showing that the proposed landfill site is outside of the potential flooding from a Category 5 hurricane based on a National Oceanic and Atmospheric Administration (NOAA) Sea, Lake, and Overland Surges from Hurricanes (SLOSH) model of storm surge height.

24. Comment: The draft site limitations do not address stormwater control and sampling requirements under normal and Hurricane conditions.

The design of the stormwater management system and surface water sampling and monitoring will be addressed during the site-specific Design and Operational Plan review prior to any permit being granted. In addition, separate requirements for MSW landfills exist under the National Pollutant Discharge Elimination System (NPDES) requirements of the Clean Water Act that require regular sampling and reporting of stormwater discharges. Those permitting requirements are handled by the Watershed Protection Branch of EPD.

25. Comment: The draft site limitations should include language that all erosion control measures and/or diversion ditches shall conform to the Erosion and Sediment Control Act and also be protective of the Turtle River, and its perennial and intermittent tributaries.

EPD has added language to site limitation #8 to include the Turtle River along with the already referenced Satilla River and Little Satilla and their tributaries.

26. Comment: The SAR does not address the destructive effects of potential Category 5 hurricane winds on the landfill because of its height above the ground surface.

The design specifications of the landfill will be addressed during the site-specific Design and Operational Plan review and will be addressed prior to any permit being granted.

27. Comment: The draft site limitations do not address the monitoring, maintenance and replacement of the leachate collection system.

The design and operations and maintenance of the leachate collection system will be addressed during the site-specific Design and Operational Plan review and prior to any permit being granted.

28. Comment: The draft site limitations do not address evaluating the chemistry and characteristics of soil adjacent to the liner, cover soil and soil fill to be used to raise the base grade, and address concerns related to stability and degradation of the liner and other landfill components.

The design specifications, including meeting stability requirements and operations and maintenance of landfill components, will be addressed during the site-specific Design and Operational Plan review prior to any permit being granted.