



STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



STEVEN E. CHESTER
DIRECTOR

JENNIFER M. GRANHOLM
GOVERNOR

September 15, 2004

Mr. David Taylor, Chairman
Lapeer County Board of Commissioners
255 Clay Street
Lapeer, Michigan 48446

Dear Mr. Taylor:

In accordance with Rule 702(5) of the administrative rules promulgated pursuant to Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, the Department of Environmental Quality (DEQ) prepared the Lapeer County Solid Waste Management Plan Amendment (Plan Amendment).

This Plan Amendment adds Richfield Landfill, Genesee County, as an authorized facility for disposal of solid waste for Lapeer County and adds Lapeer County Transfer Station as a Type A transfer facility to the approved solid waste disposal areas in the Lapeer County Solid Waste Management Plan.

The Plan Amendment, as written by the DEQ, complies with Part 115 and the Part 115 administrative rules. Further, by the letter from Mr. John Biscoe, Lapeer County Controller/Administrator, dated July 21, 2004, the Lapeer County Board of Commissioners has been identified as the entity responsible for enforcing or taking legal action to guarantee compliance with the Plan Amendment, as required by Part 115. Therefore, the Plan Amendment is hereby approved and issued to Lapeer County.

If you have any questions, please contact Ms. Rhonda Oyer Zimmerman, Chief, Solid Waste Management Unit, Storage Tank and Solid Waste Section, Waste and Hazardous Materials Division, at 517-373-4750, or you may contact me.

Sincerely,

Steven E. Chester
Director
517-373-7917

Mr. David Taylor
Page 2
September 15, 2004

cc: Senator Judson Gilbert II
Representative John E. Stahl
Mr. John Biscoe, Lapeer County
Mr. Timothy Faulkender, Lapeer County Transfer Station
Mr. Fred Hambleton, Richfield Landfill
Mr. Joe Stock, Lapeer County
Mr. Jim Sygo, Deputy Director, DEQ
Ms. Carol Linteau, Legislative Liaison, DEQ
Mr. George W. Bruchmann, DEQ
Ms. Liane Shekter Smith, DEQ
Mr. Lonnie C. Lee, DEQ
Mr. Lee Carter, DEQ
Ms. Rhonda Oyer Zimmerman, DEQ
Ms. Christina Miller/Lapeer County File, DEQ



STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



JENNIFER M. GRANHOLM
GOVERNOR

STEVEN E. CHESTER
DIRECTOR

July 1, 2004

Mr. Dave Taylor, Chair
Lapeer County Board of Commissioners
255 Clay Street
Lapeer, Michigan 48446

Dear Mr. Taylor:

This letter is in response to the resolutions that were adopted and signed by the Lapeer County Board of Commissioners (BOC) on May 28, 2004, and the June 22, 2004, conversation between Mr. John Biscoe, Lapeer County Controller/Administrator and Ms. Christina Miller, Department of Environmental Quality (DEQ), requesting the DEQ to amend the Lapeer County Solid Waste Management Plan.

The following are the items for the Lapeer County Solid Waste Management Plan Amendment (Amendment):

Page 15, Export Authorization; add Genessee County, Richfield Landfill as an authorized facility for disposal of solid waste for Lapeer County.

Page 17, Solid Waste Disposal Areas; add County Transfer Station as a Type A Transfer Facility.

The Plan lists the Lapeer County Board of Commissioners (BOC) as the body that has local responsibility for Plan monitoring and enforcement and for directing educational and informational programs. The DEQ is requesting that the BOC accept these responsibilities pertaining to the above amendments.

If you have any questions, please contact Ms. Miller, Storage Tank and Solid Waste, Waste and Hazardous Materials Division, at 517-373-4741, or you may contact me.

Sincerely,

Lonnie Lee, Chief
Storage Tank and Solid Waste Section
517-373-4735

Enclosures

cc: Mr. John Biscoe, Lapeer County Controller/Administrator
Mr. Joe Stock, Chair, Solid Waste Management Committee
Mr. Tim Faulkender, County Transfer Station
Ms. Rhonda Oyer Zimmerman, DEQ
Ms. Christina Miller, DEQ/Lapeer County File

SELECTED SYSTEM

EXPORT AUTHORIZATION

If a Licensed solid waste disposal area is currently operating within another County, disposal of solid waste generated by the EXPORTING COUNTY is authorized up to the AUTHORIZED QUANTITY according to the CONDITIONS AUTHORIZED in Table 2-A if authorized for import in the approved Solid Waste Management Plan of the receiving County.

**Table 2-A
CURRENT EXPORT VOLUME AUTHORIZATION OF SOLID WASTE**

EXPORTING COUNTY	IMPORTING COUNTY	FACILITY NAME ⁹	AUTHORIZED QUANTITY/DAILY	AUTHORIZED QUANTITY/ANNUAL	AUTHORIZED CONDITIONS ¹⁰
<u>Lapeer</u>	<u>Huron</u>	<u>Cove</u>	_____	_____	P
_____	<u>Sanilac</u>	<u>Tri-City</u>	_____	_____	P
_____	<u>Macomb</u>	<u>Pine Tree Acres</u>	_____	_____	P
_____	<u>Lenawee</u>	<u>Adrian</u>	_____	_____	P
_____	<u>Washtenaw</u>	<u>Arbor Hills</u>	_____	_____	P
_____	<u>Shiawasee</u>	<u>Venice Park</u>	_____	_____	P
_____	<u>Genesee</u>	<u>Brent Run</u>	_____	_____	P
_____	<u>Genesee</u>	<u>Citizens</u>	_____	_____	P
_____	<u>Genesee</u>	<u>Richfield</u>	_____	_____	P
_____	<u>Oakland</u>	<u>Oakland Heights</u>	_____	_____	P
_____	<u>Oakland</u>	<u>Eagle Valley</u>	_____	_____	P

⁹ Facilities are only listed if the exporting county is restricted to using specific facilities within the importing county.

¹⁰ Authorization indicated by P = Primary Disposal; C = Contingency Disposal; * = Other conditions exist and detailed explanation is included in the Attachment Section.

SELECTED SYSTEM

SOLID WASTE DISPOSAL AREAS

The following identifies the names of existing disposal areas which will be utilized to provide the required capacity and management needs for the solid waste generated within the County for the next five years and, if possible, the next ten years. Pages 18 through 29 contain descriptions of the solid waste disposal facilities which are located within the County and the disposal facilities located outside of the County which will be utilized by the County for the planning period. Additional facilities within the County with applicable permits and licenses may be utilized as they are sited by this Plan, or amended into this Plan, and become available for disposal. If this Plan update is amended to identify additional facilities in other counties outside the County, those facilities may only be used if such import is authorized in the Receiving County's Plan. Facilities outside of Michigan may also be used if legally available for such use.

Type II Landfill:

Pine Tree Acres
Arbor Hills
Cove Landfill
Tri-City Landfill
Adrian Landfill
Citizens Disposal
Brent Run
Oakland Heights
Eagle Valley

Type A Transfer Facility:

Almont Transfer and processing facility
County Transfer Station, Inc.

Type B Transfer Facility:

Deerfield Disposal facility

Type III Landfill:

Processing Plant:

Incinerator:

NA

Waste Piles:

NA

Waste-to-Energy Incinerator:

NA

Other:

NA

Additional facilities are listed on an attached page. Letters from or agreements with the listed disposal areas owners/operators stating their facility capacity and willingness to accept the County's solid waste are in the Attachments Section.



JOHN ENGLER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



RUSSELL J. HARDING
DIRECTOR

January 8, 2002

Mr. Timothy C. Faulkender
County Transfer Station, Inc.
P.O. Box 369
Armada, Michigan 48005

Dear Mr. Faulkender:

Thank you for forwarding a copy of the letter that you sent to the Lapeer County Solid Waste Commission regarding the removal of the County Transfer Station (Transfer Station) from the Lapeer County Solid Waste Management Plan (Plan).

Although Lapeer County (County) initially accepted responsibility for preparing the Lapeer County Solid Waste Management Plan (Plan), the Department of Environmental Quality (DEQ) assumed responsibility for preparation of the Plan on November 2, 2000.

During the DEQ's preparation of the Plan, changes were made only to those items needing modification or clarification in order to bring the Plan into compliance with Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. The DEQ made copies of the draft Plan available to the public, industry, and representatives of local government bodies in the County for review. A 30-day period in which written, e-mailed, faxed, and/or telephoned comments on the Plan could be presented to the DEQ was instituted from April 9, 2001 through May 8, 2001. This included a public meeting held on Wednesday, April 25, 2001, at the Lapeer County Complex. The public comment period and the public meeting were announced in the DEQ Calendar and the Lapeer County Press. In addition, letters were sent to the County and municipal governments notifying them of the comment period and the public meeting. Because the Transfer Station was not included in the locally approved draft of the Plan as prepared by the County and there was no mention of this facility during the comment period, the Transfer Station was inadvertently excluded from the Plan.


A construction permit was issued on March 12, 1989, and remains in effect for this Transfer Station. By letter dated July 25, 1996, from Mr. Stephen R. Blayer, DEQ, Waste Management Division (WMD), Shiawassee District Office, the Transfer Station had to be moved to accommodate the Superfund cleanup operations at the Metamora Landfill. This letter also states the WMD Shiawassee District Office reviewed and approved a proposal to move and upgrade the Transfer Station within the property identified on a map submitted July 17, 1996. Further, this relocated and upgraded Transfer Station may be constructed under the existing construction permit and approved plans so long as there is no increase in the capacity of the Transfer Station.

Although the Transfer Station was inadvertently omitted from the Plan, the courts ruled in the case of Michigan Waste Systems – Ottawa County versus Department of Natural Resources, that an existing disposal area cannot be excluded from a County Solid Waste Management Plan. Rule 102 (p) of the administrative rules promulgated pursuant to Part 115 states in part, that an "existing disposal area" means any of the following: (i) A disposal area that has been issued a construction permit under the act or (ii) A disposal area that has engineering plans approved by the Director before January 11, 1979. The court has further determined that a disposal area is "existing" once construction pursuant to the required state approval has commenced. When the disposal area has commenced construction, it has a vested interest in its construction permit under the Administrative Procedures Act, 1969 PA 306, as amended, which cannot be arbitrarily taken away. It is clear that the Transfer Station qualifies as an existing disposal area and therefore, cannot be excluded from the Plan.

As previously mentioned, this Transfer Station has been issued a construction permit; however, this Transfer Station must receive an operating license from the DEQ before it can operate.

If you have any further questions, please contact me at the number below or at oyerr@michigan.gov.

Sincerely,



Rhonda Oyer Zimmerman, Chief
Solid Waste Management Unit
Waste Management Division
517-373-4750

cc: Mr. Dave Taylor, Chairperson, Lapeer County Board of Commissioners
Mr. Jim Sygo, DEQ
Ms. Joan Peck, DEQ
Mr. Seth Phillips, DEQ – Shiawassee
Ms. Lynn Dumroese, DEQ
✓ Lapeer County Plan
Lapeer County File

Tim Faulklender, Pres.
County Transfer Station, Inc.
P.O. Box 369
Armada, MI 48005

November 4, 2002

Ms. Rhonda Zimmerman
Department of Environmental Quality
Constitution Hall
525 West Allegan Street
P.O. Box 30241
Lansing, Michigan 48909-7741

Re: County Transfer

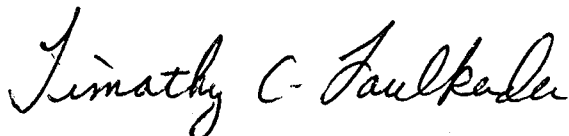
Dear Ms. Zimmerman:

In accordance with Judge Holowka's ruling on October 17, 2002, I am writing you on behalf of County Transfer Station, Inc. I am requesting that the Michigan Department of Environmental Quality proceed with any and all steps necessary to formally amend the County's current Solid Waste Management Plan so as to include County Transfer Station thereon.

I understand that my written request in this regard is sufficient to commence the process necessary by the MDEQ to formally amend the Plan to include County Transfer Station. I further understand that the MDEQ will notify me of their progress in this regard. Please advise me or my attorney, Andrew Kozyra, if the MDEQ is in need of any additional documentation or information necessary to facilitate this request.

I thank you in advance for your assistance in this matter and look forward to hearing from you in this regard.

Very truly yours,



Timothy Faulklender, Pres.
County Transfer Station, Inc.

RECEIVED

NOV 14 2002

Waste and Hazardous
Materials Division



JOHN ENGLER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



RUSSELL J. HARDING
DIRECTOR

December 16, 2002

Mr. David Taylor, Chairman
Lapeer County Board of Commissioners
255 Clay Street
Lapeer, Michigan 48446

Dear Mr. Taylor:

The Department of Environmental Quality (DEQ) received the enclosed letter dated November 4, 2002, from Mr. Timothy Faulkender, President of County Transfer Station, Inc., requesting the DEQ to formally amend the Lapeer County Solid Waste Management Plan (Plan) to include County Transfer Station (Transfer Station).

The DEQ assumed responsibility for preparation of the Plan under authority of Administrative Rule 702(5) of Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. During the DEQ's preparation of the Plan, changes were made only to those items needing modification or clarification in order to bring the Plan into compliance with Part 115. The Transfer Station was not included in the locally approved draft of the Plan as prepared by Lapeer County (County). Additionally, there was no mention of the Transfer Station during the 30-day comment period, in which written, e-mailed, faxed, and/or telephoned comments on the Plan could be presented to the DEQ. Because the Transfer Station was not included in the locally approved draft of the Plan prepared by the County and there was no mention of this facility during the comment period, the Transfer Station was inadvertently excluded from the Plan.

A construction permit was issued on March 12, 1989, and remains in effect for this Transfer Station. By letter dated July 25, 1996, from Mr. Stephen R. Blayer, DEQ, of the former Waste Management Division (WMD), Shiawassee District Office, the Transfer Station had to be moved to accommodate the Superfund cleanup operations at the Metamora Landfill. This letter also states the WMD Shiawassee District Office reviewed and approved a proposal to move and upgrade the Transfer Station within the property identified on a map submitted July 17, 1996. Further, this relocated and upgraded Transfer Station may be constructed under the existing construction permit and approved plans so long as there is no increase in the capacity of the Transfer Station.

Judge Holowka's ruling on October 17, 2002, in the Lapeer County Transfer Station versus John R. Sand & Gravel, Circuit Court Case No. 99-026484CH-H, took into consideration the case of Michigan Waste Systems Ottawa County versus Department of Natural Resources (Michigan Waste Systems). In the Michigan Waste Systems case, the courts ruled that an existing disposal area cannot be excluded from a County Solid Waste Management Plan. Rule 102(p) of the administrative rules promulgated pursuant to Part 115 states, in part, that an "existing disposal area" means any of the following: (i) A disposal area that has been issued a construction permit under the act or (ii) A disposal

area that has engineering plans approved by the Director before January 11, 1979. The court has further determined that a disposal area is "existing" once construction pursuant to the required state approval has commenced. When the disposal area has commenced construction, it has a vested interest in its construction permit under the Administrative Procedures Act, 1969 PA 306, as amended, which cannot be arbitrarily taken away. The Transfer Station qualifies as an existing disposal area and therefore, cannot be excluded from the Plan. The enclosed letter dated January 8, 2002, to Mr. Faulkender, from the DEQ, attempted to add the Transfer Station to the Plan. However, Judge Holowka's ruling also indicates the DEQ cannot add a facility to the Plan by simply writing a letter. Therefore, County Transfer Station is not part of the Plan and the Plan must be formally amended in order to properly add the Transfer Station to the Plan.

Mr. Faulkender's November 4, 2002, letter requests the DEQ formally amend the Plan to include the Transfer Station. The Lapeer County Board of Commissioners (BOC) has taken responsibility for monitoring and enforcing the Plan; therefore, the DEQ has decided the County should have an opportunity to amend the Plan before the DEQ initiates the Plan amendment process. Additionally, the County may want to address other solid waste management issues as part of this Plan amendment. If the County chooses to amend the Plan, please send a written verification to the DEQ by January 31, 2003, of the County's intent to amend the Plan and a proposed schedule for doing so. The DEQ shall formally take action to amend the Plan if the County does not respond by January 31, 2003.

If you have any further questions, please contact me at the number below or at oyerr@michigan.gov.

Sincerely,



Rhonda Oyer Zimmerman, Chief
Solid Waste Management Unit
Waste and Hazardous Materials Division
517-373-4750

Enclosures

cc: Mr. Andrew J. Kozyra, Attorney at Law
Mr. Jeffrey K. Haynes, Attorney at Law
Mr. Timothy Faulkender, County Transfer Station, Inc.
Mr. George Bruchmann, DEQ
Mr. Lonnie C. Lee, DEQ
Mr. Steve Blayer, DEQ
Ms. Lynn Dumroese, DEQ
Lapeer County Plan
Lapeer County File



JOHN ENGLER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



RUSSELL J. HARDING
DIRECTOR

January 8, 2002

Mr. Timothy C. Faulkender
County Transfer Station, Inc.
P.O. Box 369
Armada, Michigan 48005

Dear Mr. Faulkender:

Thank you for forwarding a copy of the letter that you sent to the Lapeer County Solid Waste Commission regarding the removal of the County Transfer Station (Transfer Station) from the Lapeer County Solid Waste Management Plan (Plan).

Although Lapeer County (County) initially accepted responsibility for preparing the Lapeer County Solid Waste Management Plan (Plan), the Department of Environmental Quality (DEQ) assumed responsibility for preparation of the Plan on November 2, 2000.

During the DEQ's preparation of the Plan, changes were made only to those items needing modification or clarification in order to bring the Plan into compliance with Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. The DEQ made copies of the draft Plan available to the public, industry, and representatives of local government bodies in the County for review. A 30-day period in which written, e-mailed, faxed, and/or telephoned comments on the Plan could be presented to the DEQ was instituted from April 9, 2001 through May 8, 2001. This included a public meeting held on Wednesday, April 25, 2001, at the Lapeer County Complex. The public comment period and the public meeting were announced in the DEQ Calendar and the Lapeer County Press. In addition, letters were sent to the County and municipal governments notifying them of the comment period and the public meeting. Because the Transfer Station was not included in the locally approved draft of the Plan as prepared by the County and there was no mention of this facility during the comment period, the Transfer Station was inadvertently excluded from the Plan.

A construction permit was issued on March 12, 1989, and remains in effect for this Transfer Station. By letter dated July 25, 1996, from Mr. Stephen R. Blayer, DEQ, Waste Management Division (WMD), Shiawassee District Office, the Transfer Station had to be moved to accommodate the Superfund cleanup operations at the Metamora Landfill. This letter also states the WMD Shiawassee District Office reviewed and approved a proposal to move and upgrade the Transfer Station within the property identified on a map submitted July 17, 1996. Further, this relocated and upgraded Transfer Station may be constructed under the existing construction permit and approved plans so long as there is no increase in the capacity of the Transfer Station.

Although the Transfer Station was inadvertently omitted from the Plan, the courts ruled in the case of Michigan Waste Systems – Ottawa County versus Department of Natural Resources, that an existing disposal area cannot be excluded from a County Solid Waste Management Plan. Rule 102 (p) of the administrative rules promulgated pursuant to Part 115 states in part, that an “existing disposal area” means any of the following: (i) A disposal area that has been issued a construction permit under the act or (ii) A disposal area that has engineering plans approved by the Director before January 11, 1979. The court has further determined that a disposal area is “existing” once construction pursuant to the required state approval has commenced. When the disposal area has commenced construction, it has a vested interest in its construction permit under the Administrative Procedures Act, 1969 PA 306, as amended, which cannot be arbitrarily taken away. It is clear that the Transfer Station qualifies as an existing disposal area and therefore, cannot be excluded from the Plan.

As previously mentioned, this Transfer Station has been issued a construction permit; however, this Transfer Station must receive an operating license from the DEQ before it can operate.

If you have any further questions, please contact me at the number below or at oyerr@michigan.gov.

Sincerely,



Rhonda Oyer Zimmerman, Chief
Solid Waste Management Unit
Waste Management Division
517-373-4750

cc: Mr. Dave Taylor, Chairperson, Lapeer County Board of Commissioners
Mr. Jim Sygo, DEQ
Ms. Joan Peck, DEQ
Mr. Seth Phillips, DEQ – Shiawassee
Ms. Lynn Dumroese, DEQ
✓ Lapeer County Plan
Lapeer County File