

THE HARRISBURG AUTHORITY

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September 25, 2012

Commissioner Jeffrey Haste
Chairman, Dauphin County Board of Commissioners
Dauphin County Office of Commissioners
P.O. Box 1295
Harrisburg, PA 17108

**Re: Questions Raised at August 1, 2012 Dauphin County Commissioner's Meeting
Regarding The Harrisburg Authority's Resource Recovery Facility and Ash
Landfill**

Dear Commissioner Haste:

Marc Kurowski, Chairman of The Harrisburg Authority (THA), asked me to respond to your August 2, 2012 letter which listed questions raised by Mr. Eric Epstein at the Dauphin County Commissioners' Meeting on August 1, 2012 concerning environmental conditions at the Harrisburg Resource Recovery Facility (HRRF) and associated ash landfill. I independently obtained and reviewed a copy of Mr. Epstein's 18-page presentation to the Commissioners. I provide the below information for your use in responding to Mr. Epstein.

Preliminarily, please note that the information Mr. Epstein presented is related to the operation of the HRRF and Ash Landfill Cells A and B1 during a time (1972-1991) when the City of Harrisburg was either or both owner and operator of the RRF and Landfill. The time-frames he noted pre-date the current management of THA – both Board and professional staff. As such, we have no institutional (personal) knowledge with which to provide our response about activities at that time and the information presented below is from sources such as documents and conversations with DEP. However, we can offer the following information in response to your questions.

We repeat the questions from your letter below, for your ease of reference:

- 1.) Have these legacy environmental issues identified over 30 years at Pit-A and Pit-B been fully and completely remediated?

Cells A and B1 were certified closed by the Pennsylvania Department of Environmental Protection (DEP) in 1992 and required post-closure activity, mandated by regulation for all facilities of this type, is ongoing. Post-closure activities include quarterly sampling and analysis of the monitoring wells located in close proximity to these two closed cells as part of the groundwater monitoring plan for the HRRF site and reporting of the results via quarterly Form 19 submissions to DEP. Cells A and B1 are physically inspected by DEP at least once annually during the monthly inspections conducted by DEP on both the Harrisburg Resource Recovery Facility (HRRF) and the Ash Landfill (LF). No significant issues have been noted by DEP since 2009 (this is based on personal THA staff knowledge). In 2011 a Groundwater Assessment Plan was commissioned by THA and approved by DEP and subsequently a Groundwater Assessment Report was prepared by ARM Group. It was determined that no remediation was necessary.

- 2.) The facility is a *de facto* hazardous waste site. Who or what is ultimately liable and responsible for maintaining, monitoring and remediating any future cleanup? Does the chain of custody end with City residents or County taxpayers?

It appears that the concern here is related to future liability in the event the HRRF site, including the landfill cells, is sold and the permits are transferred to the new owner. First, as noted above in response to Question 1, testing indicates there is no need for remediation related to the HRRF and landfill. Second, 25 PA Code 271.221(b)(i) requires the applicant provide a statement that the applicant assumes certain liabilities from the "date of original issuance of the permit." The new permit holder assumes all liabilities from the date when the original permit was first issued. With respect to the statements required under 25 PA Code 271.221 regarding liabilities and responsibilities the permittee must assume, the permittee assumes liabilities related to past operations. DEP does not allocate liabilities between parties. However, DEP's approval of permit reissuance to a new entity does not limit the liability, duty or obligation of past permittees under the law as specified in 25 PA Code 271.221(c).¹

- 3.) The reuse value as well as the taxable value of this property is linked to the cleanup standard. Will this 20 acre property be cleaned up to a Brownfield or Greenfield standard?

¹ We see no need to respond to Mr. Epstein's unilateral assertion that the facility is a "hazardous waste site". Our silence is not and should not be perceived as agreement.

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At this point THA does not have a plan for the future use of the site after final closure nor does it anticipate the potential buyer would have a plan. In addition, assuming no need for remediation (see above discussion), concerns regarding cleanup standards do not apply.

- 4.) Is there an external, segregated funding mechanism in place to ensure the cleanup of Harrisburg Materials, Energy, Recycling and Resource Recovery Facility is implemented? How much is in the fund and who controls it? Are there investment or withdrawal limitations?

THA's financial assurance for closure of the HRRF is a line-of-credit in the amount of \$203,565 and for closure of the LF a bond in the amount of \$2,355,713. These funds are controlled by DEP and withdrawals can only be made with the approval of DEP. In the event the HRRF site is sold, as part of the permit reissuance application, the applicant must demonstrate that it complies with the financial assurances provisions contained in Subchapter D of 25 PA Code 271. This includes fulfilling the bond and trust requirements for reissuance of the permit as specified in 25 PA Code 271.362. A new owner would have to submit a bond on its own behalf.

Sincerely yours,



Jack Lausch
Facility Director

JDL/aml

cc: (Via Email)
THA Board
Shannon Williams