



CABLE HUSTON^{LLP}

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VIA E-MAIL & U.S. MAIL

Mike Brandt
Yamhill County Planning Director
525 NE Fourth Street
McMinnville, Oregon 97128

RE: Docket No. SDR-16-14/FP-03-14
Applicant's Second Set of Supplemental Materials

Dear Mr. Brandt:

We are submitting this letter on behalf of Riverbend Landfill Company ("Riverbend"), Applicant in the above-captioned matter. The purpose of this letter is to provide the Planning Commission with supplemental materials in support of the application. Please include this letter and its attachments in the record.

Updated Farm Impacts Assessment

Riverbend submitted a Farm Impacts Assessment ("Farm Assessment") with the initial application. The purpose of the Farm Assessment is to assist the County with its application of ORS 215.296(1), which requires some non-farm uses to demonstrate they will not cause significant changes to accepted farm practices, or the cost of those farm practices, on surrounding farm properties. It is common practice to present such an initial assessment for review by the local jurisdiction and the public, and then to update the initial assessment with new information elicited from that review process.

Attached as Exhibit A is an updated version of the Farm Assessment that addresses new information provided to the Planning Commission before, during, and after the hearing.

The Farm Assessment is essentially a three step process. In the first step, we have identified the various crops and farm uses that exist in a broad area around Riverbend. Although it is reasonable to consider potential impacts in an area that is within a one-mile radius of the proposed development, the Farm Assessment goes well beyond that limit and attempts to identify all crops and farm uses within an area that is up to three miles from the landfill. The Planning Commission received testimony indicating that the inventory of crops and farm uses was

incomplete in some areas, and inaccurate in others. Where the testimony specifically identified those concerns, Riverbend's consultant added the additional or corrected information to the inventory in the Updated Farm Assessment.

The second step of the analysis in the Farm Assessment identifies the accepted farm practices associated with each of the crops or farm uses identified in the analysis area. Because the updated Farm Assessment now identifies several farm uses that were not in the initial assessment (e.g. an apiary or a pheasantry), the updated Farm Assessment now includes the accepted farm practices associated with those farm uses.

The third and final step of the analysis in the Farm Assessment analyzes the likelihood of the potential for Riverbend's development proposal to force a significant change in the accepted farm practices identified in the second step of the analysis. The Planning Commission received testimony asserting that Riverbend is likely to force significant changes in, or the cost of, some farm practices. That testimony is based in part on allegations and changes that have been experienced as a result of the existing facility's current operations.

The conclusions in the updated Farm Assessment are similar to the conclusions in the initial Farm Assessment – the continued operation of Riverbend will not force significant changes in, or the costs of, accepted farm practices around Riverbend. Some of the alleged impacts are not only unlikely to occur, there is no reason to expect they would occur. For example, one person testified that she has to perform aerial spraying three times per year in her filbert orchard to prevent the spread of coccidiosis from birds to humans. In fact, veterinary literature provided by the State Veterinary lab indicates that humans do not contract bird-borne coccidiosis. Other alleged impacts are unlikely to be significant because they are in conflict with other information in the record or they have been overstated. The updated Farm Assessment addresses these issues in more detail, and Riverbend will continue to address these issues as part of the rebuttal phase of this proceeding.

Visual Buffering

The Planning Commission received testimony urging Riverbend to keep more of the vegetation that currently exists along Highway 18 to serve as a visual buffer. Riverbend's Preliminary Site Development Plan contemplated that much of that vegetation, closest to the highway, would be retained, but other portions of that vegetation would be removed as part of the construction of the perimeter berm. To compensate for that removal, Riverbend proposed to plant a 35-foot wide buffer area between the highway and the berm, and to plant the slopes of the berm.

In response to the testimony at the hearing, Riverbend analyzed other alternatives that would allow more of the existing vegetation along Highway 18 to be retained. As a result, Riverbend is agreeable to modifying the Preliminary Site Development Plan by moving the toe of the perimeter berm an additional 15 feet from the highway right-of-way. This modification would allow almost all of the existing vegetation along the highway to remain, and would result in a screening buffer that is 50 feet wide instead of 35 feet wide. Riverbend would accomplish

this design by slightly increasing the outside slope of the berm from a 3-to-1 slope to a 2.5-to-1 slope. Although slightly steeper than the original design, this new slope would be shallower than the slopes proposed for the area on the south side of the existing facility. The attached figure 4.1 shows the new tree removal plan that would result from this modification. It is possible that some additional dead or dying trees will have to be removed in order to ensure continued integrity of the screen and to allow for replacement plantings; the number and types of such trees will be determined by a landscape architect or certified arborist during development.

Figure 4.1 also shows in more detail the trees that will be removed to accommodate the development of Module 10 on the north side of the existing landfill. The Planning Commission received testimony implying that all of the trees in this area would be removed, which is not accurate. As shown on that figure, a large portion of the Module 10 area currently consists of open areas and an old farm building. Figure 4.1 also corrects an error made in the initial application. It was RLC's stated intent to retain the rows of poplars that currently exist east of and run parallel to the existing vegetation screen along Highway 18 in the area where Module 11 is planned. While some of those trees may be able to remain in an area close to the office, most of the poplar trees exist within the footprint of the proposed perimeter berm and will have to be removed. The overall screening of the area will not be affected, however, because of the increased amount of vegetation that will remain between the planned berm and the highway.

Odor Management

The Staff Report presented to the Planning Commission expressed a desire for Riverbend to provide more detail regarding odor management at the site. As Riverbend explained during the hearing, odor management has been a major focus for several years at the existing site and Riverbend has made a large investment to expand and enhance its gas collection system and operations. This investment has resulted in significant improvements in the effectiveness of the gas management system, and the company continues to expand and enhance the system as well as explore additional innovative management practices through a pilot project with Florida State University.

Much of Riverbend's work to manage odor is now expressly a part of its Title V air quality permit. Exhibit B is a copy of DEQ's approval of Riverbend's Dust Control and Odor Management Compendium. The Compendium describes the specific efforts Riverbend has undertaken this year, and also describes best management practices that may be utilized in the future. The document represents an aggressive focus on odor management and allows an adaptive management approach that gives DEQ and Riverbend the flexibility to address odor issues if and when they arise.

If the County determines there is a need for more information and clarity regarding odor management at the site, Riverbend recommends that the County adopt a specific condition of approval requiring compliance with DEQ's odor management requirements under the Title V air quality permit. DEQ is the appropriate agency to address this kind of technical issue. Riverbend is also agreeable to a condition of approval that requires annual reporting to the County

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regarding odor management, including the gas collection system and other operational practices related to gas management.

The information submitted with this letter is being provided as a supplement to the materials included in the application. Riverbend intends to provide additional rebuttal evidence and a final legal argument in the upcoming phases of this proceeding.

Sincerely,



Tommy A. Brooks

Enclosures: 3 Attachments