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Sent: Tuesday, August 21, 2018 4:15 PM
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Cc: Alex Moon [DNR]; Amie Davidson (amie.davidson@dnr.iowa.gov); Mike Smith; Bill Blum
Subject: ISOSWO TAC Follow-Up: Environmental Covenant and Financial Assurance Discussion
Attachments: Solid Waste Landfills Form DRAFT 5 June 11 2018-ISOSWO TAC Feedback.doc

Importance: High

Good Afternoon All,

Please review the following two action items coming out of last week's Solid Waste Roundtable Discussion @ the IDNR and provide feedback as appropriate:

1. Conduct an final review of the DRAFT Environmental Covenant and provide feedback to the IDNR by Fri, Sept 21. Attached is the version sent to the IDNR with the comments/suggested changes received from the TAC Committee to-date.
2. **IMPORTANT:** Please review the following correspondence from Alex Moon (Land Quality Bureau Chief, IDNR) re: a proposed concept by the Department, based on the comments/conversation at last week's meeting, for financial assurance funding at landfills in Iowa. Please provide feedback to either me or the Department directly on the proposed concept.

We met yesterday to debrief from last week's conversation about financial assurance. I was really pleased with the level of discussion and feedback.

To recap:

- This issue came to light because a few landfill agencies have been approached about closing their landfills.
- As we've been brought into the conversations at the local level, we're seeing a trend where the decision of whether or not to close is made even harder because of the minimal amount of cash on hand for closure and postclosure, specifically closure. We mentioned a few past cases where this occurred as well.
- The issue is most prevalent where a landfill is using the local government financial test/gov't guarantee and interpreting "remaining permitted capacity" as both current constructed capacity as well as future permitted capacity that has yet to be constructed (perfectly fine to do).
- In these cases, very little money is being deposited each year for closure and postclosure care. To make the decision to close prematurely would require the landfill agency to call upon the cities and counties to pay their share which could, in some cases, be several hundred thousand dollars per local gov't. entity.
- As we talked about in the TAC meeting, are cities and counties aware that this may be the case when they agree to a gov't guarantee? Are they aware that very little money is going to closure and postclosure care each year?

One of the suggestions during the TAC meeting was to take the data that we compiled and use criteria to decide how many other landfills are in similar situations. We did that in our debrief meeting this morning and have identified another 7-10 landfills that we feel could run into a similar situation. We're still checking on a few other factors like annual audit reports so I don't want to single out the 7-10 landfills at this point. As I mentioned in the meeting, we want to find an approach to raising this issue without being offensive or having a landfill agency director feeling like they're being put on the defense with their board. There were also comments during the TAC meeting about the amount of money that some landfill agencies are building up for postclosure that will sit in an account for a long time. We talked about that as well this morning and think we might have an idea that could result in closure accounts being fully funded sooner and also avoid setting aside large sums of money for postclosure care.

The concept would look like this:

- Still require a cash account for closure care
- Define remaining permitted capacity as the currently constructed capacity. This would ensure money is on hand for closure whenever that occurs.
- The requirement to fund a postclosure account would be eliminated.
- A financial assurance mechanism would still need to be in place for the remainder of the operating life as well as the 30-year postclosure period but how postclosure costs were funded each year would be at the discretion of the landfill agency and it's members.
- To lessen the burden to those that have significant shortfalls to catching up in their closure accounts, they could apply their postclosure funds to closure accounts.
- With closure care fully funded, any remaining amount in postclosure accounts could be left in place, taken out and used for unrestricted uses, or given back to member communities.

I would appreciate if you could distribute this email broadly to get feedback on the concept above. It will need a rule change and maybe even a law change so we'd only tackle this if there was industry support. I'll also offer up coming to an ISOSWO board meeting or another TAC meeting to discuss the idea in more detail if that is what folks would prefer. And, if there isn't any interest then that is okay too. We can just stick with talking to the 7-10 landfills and do our part to make them aware of the potential concern we see of them staying on the same path they're on.

Thanks.



Alex Moon | Land Quality Bureau Chief

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Thank you in advance for your review time and feedback!

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