

Petition For Contested Case Hearing

On October 28, 2013 the DEQ approved a permit to construct a solid waste disposal area for Liberty Environmentalist Landfill; Waste Data System Number 449656; Permit Number 4136. It is the contention of this Petitioner that the operation of the Liberty Landfill does not fulfill the requirements of the NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, as amended. The DEQ must act to prevent adverse effects on the public health and the environment resulting from improper solid waste collection, transportation, processing, or disposal, so as to protect the quality of the air, the land, and ground and surface waters.

1. The Liberty Landfill is inappropriately sited near sensitive wetlands on the upper Grand River floodplain and is bordered on two sides by the Grand River.
2. The wetlands bordering the Liberty Landfill are habitat to the Eastern Massasauga rattlesnake. It is a Special Concern species protected by the State of Michigan. As a candidate for federal listing the Eastern Massasauga rattlesnake is subject to Title 40 § 257.3-2 which states: (a) Facilities or practices shall not cause or contribute to the taking of any endangered or threatened species of plants, fish, or wildlife.(b) The facility or practice shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species as identified in 50 CFR part 17.
3. The Liberty Landfill has already caused groundwater boron contamination in levels that exceed the generic industrial drinking water criteria (see Part 201 rules, Section 20120b(1)(c)). A remedial action plan (RAP) was authorized by the DEQ to deal with this problem in 2009. Tests in 2012 show the landfill continues to exceed boron concentrations.
4. The Liberty Landfill has also exceeded the total dissolved solids (TDS) concentrations for manganese (2012) and potassium (2008) at their monitoring wells.
5. The Liberty Landfill illegally installed and operated underdrains below their landfill for 20 years which discharged leachate outside the monitoring well area into the Grand River floodplain. This action violated Part 115, Rule 299.4904(1), Rule 299.4904(4), Rule 299.4902, Rule 299.4318(3), Rule 299.4318(4) and the 2009 DEQ Remedial Action Plan for On-Site Groundwater.

6. The Liberty Landfill accepts hydrated coal ash. Coal bottom ash, the toxic remains of coal burning in power plants, is full of chemicals that cause cancer, developmental disorders and reproductive problems. Bottom ash is agglomerated ash particles formed in pulverized coal furnaces that are too large to be carried in the flue gases and impinge on the furnace walls or fall through open grates into an ash hopper at the bottom of the furnace. Physically, bottom ash is typically white/grey to black in color, is quite angular, and has a porous surface structure. Potentially toxic trace elements in coal include arsenic, beryllium, cadmium, barium, chromium, copper, lead, mercury, molybdenum, nickel, radium, selenium, thorium, uranium, vanadium, boron and zinc. Roughly 10% of the mass of coals burned in the United States consists of unburnable mineral material that becomes ash, so the concentration of most trace elements in coal ash is approximately 10 times the concentration in the original coal. Virtually all thorium, uranium, and the majority of their decay products are entirely retained in the solid combustion wastes that make up bottom ash. The contaminants arsenic, selenium, and boron are highly mobile in soils and sediments, particularly when buried and saturated, and they readily leach out of ash and move into groundwater or nearby surface waters. When it enters our hydrological cycle, the contaminants from coal bottom ash poison our waters and kill fish and wildlife. The Liberty Landfill accepts 100 tons per day of coal bottom ash.
7. The Liberty Landfill used an unauthorized material (hydrated bed ash) as a daily and interim cover and failed to properly cover areas of regulated solid waste in violation of Part 115, Administrative Rules 299.4316(1) & (2) and 299.4429(1) & (6). The DEQ has since granted Liberty Landfill the right to use bed ash for an alternative daily cover.
8. The Liberty Landfill accepted waste from unauthorized sources in 2011-2012, including 642 yards from Branch County and 6,378 yards from Ingham County.
9. The Liberty Landfill had 73 odor complaints from 15 different people between March 2011 and August 2012 resulting in multiple Part 155, Rule 299.4315(5) and Part 55, Rule 336 901 violations. The Liberty Landfill was mixing sewage sludge with coal bed ash creating strong putrid odors. The Liberty Landfill responded to these complaints by denying them, lying about them, and then purchasing from a company called Chemstation a masking agent and odor neutralizer. This industrial "perfume" created extreme nuisance odors which burned the eyes and throats of neighbors. After repeated and staff verified complaints, the DEQ determined that the landfill was incapable of controlling nuisance odors. The DEQ took action to insert a special condition in the Liberty Landfill operating license that prohibited the disposal of municipal wastewater

treatment plant sludge at the landfill. This Petitioner contacted Lawrence Bean at the DEQ by e-mail on 5-9-14 to see if this restriction could be removed in the future. Mr. Bean responded by e-mail on 5-9-14 saying: *“There have been meetings about this issue with Leoni Township, Jackson County, and Liberty Landfill. There are technical issues that would have to be addressed before the landfill could ever accept sewage sludge.”* The Petitioner notes that it is his experience that “technical difficulties” usually get resolved.

10. The Liberty Landfill responded to legitimate DEQ actions protecting the health of our citizens and our water by contacting Representative Mike Shirkey, and having Mr. Shirkey contact Dan Wyant, Director of the DEQ, requesting that Mr. Wyant put pressure on the pressure on local DEQ agent, Lawrence Bean to accommodate the Liberty Landfill’s needs. Three Dunigan’s sit on Representative Shirkey’s Campaign Committee (Kristy, Candy & Joe) and the Dunigans have made significant financial contributions to Mr. Shirkey.
11. There is currently an overcapacity of landfill space in the State of Michigan and that some existing landfills are closing, going bankrupt, or operating on an on-call basis. The Petitioner claims there is no necessity for the Liberty Landfill to be given a new operating Permit (No 4136) by the DEQ.
12. The Liberty Landfill was not in compliance with the amended 1998 Jackson County Solid Waste Plan, Goals and Objectives, when this contested Permit No 4136 was issued.

Goal 2 of the amended 1998 Solid Waste Plan states: ***Protect the County's natural resources from pollution and contamination that could result from improper or mismanaged waste disposal.***

A. Objective 2.a states: ***To insure that proper disposal methods are being used in accordance with current regulations.***

1. The Liberty Landfill illegally installed and operated underdrains below their landfill for 20 years which discharged leachate outside the monitoring well area into the Grand River floodplain. This action violated Part 115, Rule 299.4904(1), Rule 299.4904(4), Rule 299.4902, Rule 299.4318(3), Rule 299.4318(4) and the 2009 DEQ Remedial Action Plan for On-Site Groundwater.

2. The Liberty Landfill caused groundwater boron contamination in levels that exceed the generic industrial drinking water criteria (see Part 201 Rules, Section 20120b(1)(c)). Tests in 2012 show the landfill continues to exceed boron concentrations.
3. The Liberty Landfill exceeded the total dissolved solids (TDS) concentrations for manganese (2012) and potassium (2008) at their monitoring wells.
4. The Liberty Landfill used an unauthorized material (hydrated bed ash) as a daily and interim cover and failed to properly cover areas of regulated solid waste in violation of Part 115, Administrative Rules 299.4316(1) & (2) and 299.4429(1) & (6).
5. The Liberty Landfill accepted waste from unauthorized sources in 2011-2012, including 642 yards from Branch County and 6,378 yards from Ingham County violating the Jackson County Waste Management Plan.
6. The Liberty Landfill had 73 odor complaints from 15 different people between March 2011 and August 2012 resulting in multiple Part 155, Rule 299.4315(5) and Part 55, Rule 336 901 violations.

B. Objective 2.b states: *To insure that ground and surface waters are not being contaminated from solid waste management practices.*

The Liberty Landfill has already contaminated our ground waters.

1. The Liberty Landfill caused groundwater boron contamination in levels that exceed the generic industrial drinking water criteria (see Part 201 rules, Section 20120b(1)(c)). Tests in 2012 show the landfill continues to exceed boron concentrations.
2. The Liberty Landfill exceeded the total dissolved solids (TDS) concentrations for manganese (2012) and potassium (2008) at their monitoring wells.

The Liberty Landfill also poses a future threat to the headwaters of the Grand River. The threat that our children and grandchildren face from this “poison egg” of bottom ash could be a major disaster which would impact Vandercook and Browns Lake, two highly developed residential lakes in Summit Township.

3. The Liberty Landfill accepts hydrated coal bed ash. Coal bottom ash is full of chemicals that cause cancer, developmental disorders and reproductive problems. Potentially toxic trace elements in coal include arsenic, beryllium, cadmium, barium, chromium, copper, lead, mercury, molybdenum, nickel, radium, selenium, thorium, uranium, vanadium, boron and zinc. The concentration of most trace elements in coal ash is approximately 10 times the concentration in the original coal. Virtually all thorium and uranium, are entirely retained in the solid combustion wastes that make up bottom ash. The contaminants arsenic, selenium, and boron are highly mobile in soils and sediments, particularly when buried and saturated, and they readily leach out of ash and move into groundwater or nearby surface waters. When it enters our hydrological cycle, the contaminants from coal bed ash poison our waters and kill fish and wildlife. The Liberty Landfill accepts 100 tons per day of coal bottom ash.

This Petitioner contends that the DEQ must consider future impacts to the County from current solid waste management practices and act to protect the County's natural resources from pollution and contamination. Given current practices at the Liberty Landfill over one million tons of toxic coal bottom ash will be imported to the headwaters of the Grand River under Permit No. 4136.

C. Objective 2.c states: *To minimize the use of landfills as a waste disposal option,...,as a means of protecting the County's land resources.*

The Liberty Landfill is sited directly adjacent to the Grand River floodplain.

1. The Liberty Landfill is inappropriately sited near sensitive wetlands on the upper Grand River floodplain and is bordered on two sides by the Grand River. The siting of a landfill on this site bordering the headwaters of the Grand River does not meet the criteria established by the 1998 Solid Waste Plan.
2. There is currently an overcapacity of landfill space in the State of Michigan and that some existing landfills are closing, going bankrupt, or operating on an on-

call basis. Given this pertinent information, it is clear that there is no need for the Liberty Landfill to continue operations in Jackson County.

- D. Objective 2.d states: *To insure compliance of operating facilities with air quality regulations minimizing the impact on neighboring users of airborne particulate matter and odors associated with waste disposal practices.***

The Liberty Landfill has already demonstrated its inability to comply with air quality regulations forcing the DEQ to prohibit the landfill from accepting sewage sludge.

1. The Liberty Landfill had 73 odor complaints from 15 different people between March 2011 and August 2012 resulting in multiple Part 155, Rule 299.4315(5) and Part 55, Rule 336 901 violations. The Liberty Landfill was mixing sewage sludge with coal bed ash creating strong putrid odors. The Liberty Landfill responded to these complaints by denying them, lying about them, and then purchasing from a company called Chemstation a masking agent and odor neutralizer. This industrial “perfume” created extreme nuisance odors which burned the eyes and throats of neighbors. After repeated staff verified complaints, the DEQ determined that the landfill was incapable of controlling nuisance odors. The DEQ took action to insert a special condition in the Liberty Landfill operating license that prohibited the disposal of municipal wastewater treatment plant sludge at the landfill.
2. The Petitioner contacted Lawrence Bean at the DEQ by e-mail on 5-9-14 to see if this restriction could be removed in the future. Mr. Bean responded by e-mail on 5-9-14 saying: *“There have been meetings about this issue with Leoni Township, Jackson County, and Liberty Landfill. There are technical issues that would have to be addressed before the landfill could ever accept sewage sludge.”* Given their past behavior, the Petitioner believes it is reasonable to assume that Liberty Landfill will continue to apply political pressure to the DEQ to have this restriction removed from their permit, thus creating a future scenario that once again endangers neighbors with airborne particulate matter and odors associated with waste disposal practices.
13. The Petitioner notes that no one from the DEQ attended the June 18, 2013 meeting of the Jackson County Board of Commissioners, nor did the DEQ forward information from its files to the Administrator or Commissioners documenting the numerous recent violations of the NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994

PA 451 by the owners of the Liberty Landfill. Due to this negligence, the County Commissioners were uninformed of the issues the DEQ had raised with regard to the Liberty Landfill, and the Commissioners voted unanimously, and without comment, to approve a resolution stating that the Liberty Landfill was in compliance with the Goals and Objectives of the 1998 amended Solid Waste Plan. The DEQ's negligence fostered an unacceptable political falsehood that endangers public health and the environment. The DEQ also failed to hold a public hearing on this permit. Neighboring citizens concerned with air quality, landowners on Browns and Vandercook Lakes, and the petitioner who did not receive notice of this permit application, were denied an opportunity to comment on this permit.

CONCLUSION

For the reasons herein stated in points 1-13, along with the attached documentation from the DEQ files, this Petitioner requests that the DEQ withdraw Permit Number 4136 to construct a solid waste disposal area for Liberty Environmentalist Landfill; Waste Data System Number 449656.

Respectfully submitted,

Peter Bormuth

142 West Pearl St.

Jackson, MI 49201

(517) 787-8097

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earthprayer@hotmail.com