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August 25, 2023

**Mr. Leonard C. Slosky, Executive Director
Rocky Mountain Low-Level Radioactive Waste Board
999 18th Street, Suite 2400 S
Denver, Colorado. 80202**

Dear Mr. Slosky:

Clean Harbors Environmental Services, Inc. (the “Company”) owns and operates a Colorado-licensed Low-Level Radioactive Materials Disposal Landfill in Deer Trail, Colorado. The facility was licensed by the Colorado Department of Public Health and the Environment “CDPHE” in 2005 for receiving and disposing of NORM and TENORM radioactive wastes. The facility is also regulated by the Rocky Mountain Low Level Radioactive Waste Compact “RMLLRW” and is designated as the Compact’s Regional Facility for receipt of “In-Compact” and “Out-of-Compact” shipments of regulated radioactive waste subject to the terms and conditions of its Colorado license and applicable Compact rules and regulations.

Background

In April 2022, the Company bid on a USEPA Uranium Mine Tailings Superfund Removal Action known as the Cove Project located in Apache County, Arizona on Navajo Indian Nation Tribal Lands. This project is funded by the Federal Government under the auspices of the TRONOX Federal Court Settlement (see attached documents for details concerning the project). The project bid encompassed transportation and disposal of mine tailings classified as TENORM from the Cove Project Site to the Deer Trail Facility for compliant disposal.

The bidding process was competitive. The company was bidding against two other competitors, Energy Solutions’ Class “C” Radioactive Waste Landfill in Utah and Waste Control Specialists “WCS Class ‘C’” Radioactive Waste Landfill in Crawford, Texas. Balancing the competition and the absence of significant TENORM Project disposal volumes at the Deer Trail facility in the last decade, the Company tailored its bid to incorporate applicable regulatory fees, including the Compact’s Out-of-Compact, \$5 per ton importation fee.

“People and Technology Creating a Better Environment”



On August 11, 2023, the Company was awarded Transportation and Disposal Services for the entire Cove Project. We accepted the initial purchase order for 20,000 tons of Cove Waste, which will be transported to our Deer Trail Facility for proper disposal. Waste Shipments began on August 21, 2023 and will continue until winter weather restricts remediation activities at the Cove Site. The Deer Trail Facility filed all necessary regulatory agency waste pre-acceptance notifications with Colorado and the Compact. Additional project tonnage will be incorporated into the contract through change orders. The USEPA expects project volumes to reach 45,000 to 60,000 tons of Cove Waste for the remainder of 2023. Substantial operable remediation unit waste will be added to the purchase order through 2024 and 2025.

Prior to the contract award, but after submission of the Company's bid, the Compact Board met to discuss diminishing NORM and TENORM waste shipments into the Deer Trail Facility. The Deer Trail Facility received only about 6000 tons of Out-of-Compact regulated waste in 2022. This generated approximately \$30,000 of regulatory fees, far less than the Compact's anticipated budgetary estimates. Consequently, the Compact Board voted to increase the Out-of-Compact Importation Fee to \$10 per ton, effective April 2023.

Petition for an Out-of-Compact \$5/Ton Importation Fee

While the Company understands the Compact's fiscal concerns regarding the diminished waste shipments in 2022, we hereby petition the Compact to reinstate a \$5 per ton, Out-of-Compact Importation Fee for the Cove Project. This formal petition is necessary because the Company, as the lowest bidder, cannot modify its price for the duration of the entire Cove Project. A pivotal reason the Company was able to be the lowest bidder in 2022 was its incorporation of the law at the time of the bid: a \$5 per ton Out-of-Compact Importation Fee.

Our Company recognizes the importance of maintaining and enhancing the operational and fiscal stability of the Compact's designated regional disposal facility. The Company also recognizes and appreciates the Compact's congressionally mandated oversight role to ensure proper management of regulated radioactive waste disposal activities. While the 2022 waste shipments were smaller than expected, the Compact should be optimistic about the fiscal future of the Cove Project. Recently, the Federal Government has enhanced its emphasis on Environmental Justice initiatives, specifically targeting 500 legacy uranium mine tailings sites on Navajo Tribal Lands in Arizona and New Mexico for expedited investigation and remediation. Utilizing the Federal Superfund Law, these Environmental Justice Initiatives will invariably require compliant waste disposal services, creating a promising fiscal future for the Compact.



Enclosed are links to several USEPA and USDOJ Press Releases highlighting the Federal Government's increased emphasis on removing and restoring radioactively impacted land throughout the Navajo Nation.

Conclusion

The Company aggressively bid the Cove Project with the expectation that we might receive the project award. In this highly competitive marketplace, every bid dollar counts. When we entered our bid in 2022, we had no reason to anticipate the Compact Board would implement a 100% increase in Out-of-Compact Import Fees. While this increase is understandable considering the 2022 waste shipments, the changed positive circumstances prompted by the Federal Government's new emphasis on uranium mine tailing remediation efforts, especially on Navajo Indian Nation Land, substantially changes the waste receipt trajectory at the Compact's Regional Facility in an unprecedented manner.

Accordingly, we respectfully request that the Compact Board re-instate the \$5/ton Out-of-Compact waste import fee for the duration of the Cove Project. Doing so would send a clear message to the Federal Government and the Navajo Nation that the Compact is committed to the expedited cleanup of radiologically impacted Tribal lands in a cost-effective and environmentally protective manner.

We thank the Compact Board and Staff for considering our request and look forward to future discussion on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Bratti". The signature is fluid and cursive, with a prominent initial "P".

Paul Bratti
Senior Vice President
Clean Harbors Project Services Group

Reference Links:

<https://www.epa.gov/newsreleases/epa-opens-flagstaff-office-focus-navajo-abandoned-uranium-mines>

<https://www.epa.gov/navajo-nation-uranium-cleanup/federal-plans-related-documents>

<https://www.justice.gov/opa/pr/justice-department-epa-and-navajo-nation-announce-settlement-cleanup-94-abandoned-uranium#:~:text=The federal government has invested,at 9 of those mines.>