



Finance Department

Tim Flora, CPA
Director

MEMORANDUM

TO: Tim Flora, Finance Director

FROM: Eric Hardy, Controller
Jennifer Durrett, Audit and Financial Reporting Manager

DATE: May 5, 2017

RE: Use of Landfill Cap/Closure Capital Reserves

Summary

- \$16.6 million - total cash reserves at June 30, 2016 for future landfill cap/closure costs
- 1997 – BC opened existing Subtitle D landfill for Metropolitan Solid Waste [i.e., not related to Construction and Demolition (C&D) waste]
- 2057 – estimated date that Subtitle D landfill reaches its maximum capacity and cap/closure funds are required, given current fill rate
- County also maintains, and is responsible for, an active C&D landfill and a closed landfill
- Status of each landfill site at June 30, 2016:

Site	% used capacity*	% remaining capacity
Subtitle D landfill	33.1%	66.9%
C&D landfill	83.0%	17.0%
Old landfill	100.0%	0.0%

*measured in tonnage

- Financial Assurance Rule .1628 requires that the County, on an annual basis, use one of seven mechanisms to demonstrate its ability to fund future cap/closure costs. Currently both the “Local Government Financial Test” and “Capital Reserve Fund” mechanisms are used. Since the County satisfies the “Local Government Financial Test”, management may have flexibility to consider alternate uses of its funded capital reserve

Background

The existing operational landfill opened in 1997 in compliance with the Resource Conservation

and Recovery Act (Subtitle D, RCRA - 1976 and amended 1984), which required that landfills be lined and maintained to contain contaminants. The County's existing landfill at 85 Panther Branch Road, Alexander, is filled to 33.1% of capacity as of June 30, 2016. At this fill rate the landfill should be adequate for a remaining 40 years.

Annual calculations are provided by a third party to approximate the future costs of capping, closing, and maintaining the County's current landfill site(s). The County currently funds this liability at the rate sufficient to pay all anticipated cap/closure costs once the landfill reaches capacity. The County is required to report the liability but is not required to fund this liability provided other measures of financial assurance* are met.

Co-located at 85 Panther Branch Road with the Subtitle D landfill is a separate landfill for construction and demolition activities (C&D). This C&D landfill sits at 83.0% of capacity as of June 30, 2016.

For the Subtitle D landfill, the calculated liability at June 30, 2016 was \$33.8 million and \$11.2 million, or 33.1% of the total liability, was funded. The corresponding calculated liability to cap, close and maintain the C&D landfill was \$4.5 million. The funded portion of that liability was \$3.7 million, or 83.0% of the total liability.

Recommendation

- Provide management the opportunity to borrow a capped percentage of funded capital reserve according to the percent of capacity remaining at the Subtitle D landfill, as determined June 30 of each fiscal year:
 - Over 50% remaining – maximum 80% available, less other outstanding loans
 - 25-50% remaining – maximum 60% available, less other outstanding loans
 - 15-25% remaining – maximum 40% available, less other outstanding loans
 - Less than 15% remaining – maximum 20% available, less other outstanding loans
- Applying these formulas to the most recently available data, the resulting available funds totals \$10,448,227, as calculated here:

Site	% remaining capacity	Funded liability	% available for loan	Funds available for loan
Subtitle D landfill	66.9%	\$ 11,196,645.98	80.0%	\$ 8,957,316.78
C&D landfill	17.0%	3,727,276.85	40.0%	1,490,910.74
Old landfill	0.0%	1,647,946.30	0.0%	-
		<u>\$ 16,571,869.13</u>		<u>\$ 10,448,227.52</u>

- Intra-fund loan terms:
 - Funds may be used only for Solid Waste capital expenditures and requires approval from County Manager

- Amortization period may not exceed the useful life of the acquired asset(s)
- Interest will be repaid to the capital reserve due to the loss of earnings that will occur by withdrawal of those funds from reserves
- Interest rate will be an approximate average of the County's borrowing rate and the yield on invested funds at the time of the loan request

*** Financial Assurance Rule:**

The Financial Assurance Program is based on the Financial Assurance Rule .1628 which requires owners/operators of municipal solid waste landfills (MSWLFs), operating after April 9, 1994, to demonstrate that the owner/operator will have the funds necessary to properly close, provide 30 years of post-closure maintenance, and fund any corrective action costs for the permitted landfill. The rules describe seven different "mechanisms" that owners/operators of MSWLFs can use to demonstrate financial assurance.

Municipal Solid Waste Landfill (MSWLF) .1600 Rule Mechanisms:

1. X Local Government Financial Test. The local government financial test consists of three components - a financial component, public notice component, and a record-keeping and reporting component.
2. Corporate Test and Corporate Guarantee Guidance and 40 CFR Reference for Corporate Test and Corporate
3. Trust Fund (also used for Standby Trust Agreement)
4. Surety Bond Guaranteeing Payment or Surety Bond Guaranteeing Performance
5. Letter of Credit
6. Insurance
7. X Capital Reserve Fund

Sources:

NCDENR - DEQ Financial Assurance for Solid Waste Management Facilities
Financial Assurance Rule .1628

