

Summation of Comments Received and Response-to-Comments
Perry County Associates Landfill
Uniontown, Perry County, Alabama

Presented below are the comments and ADEM's responses to the comments received during the Public Notice and Comment periods regarding proposed major modification to permit 53-03, issued for the Perry County Associates Landfill. The comments listed below are grouped together where a single response is adequate for more than one comment. First, the comments of similar nature are stated or paraphrased since there were different letters related to the same topic with different language, and then the Department's common response for these comments is stated.

Comment 1: Commentor expressed concern about the name and location of the landfill.

Response to Comment 1: As noted in the permit application and reflected on the proposed modification and in the public notice, the permittee remains Perry County Associates, LLC, and the facility name is still Perry County Associates Landfill.

Comment 2: Commentor stated that EPA might be rethinking whether or not the coal ash is toxic.

Comment 3: Commentor demanded a complete explanation of the coal ash and why ADEM thinks it is appropriate for an Alabama landfill.

Comment 4: Commentor stated that most of the waste material will be coal ash from the recent spill in Tennessee and will contain hazardous materials.

Comment 5: Commentor stated that the coal ash waste could affect drinking water, soil, and increase the health problems for one of the poorest areas in Alabama.

Comment 6: Commentor stated that according to the Environmental Protection Agency, the hazardous materials in the coal ash could increase our cancer risk to 1 in 50.

Comment 7: Commentor stated that the people in community feel very strongly that allowing coal ash to be deposited in their community poses definite threats to their health.

Comment 8: Commentor stated that just last weekend one of CNN's Dr. Sonjay Gupta's talking points was the subject of possible health effects in Tennessee from the ash spill and numerous other newspapers are carrying enlightening articles and editorials about the coal ash issue.

Comment 9: Commentor stated that the toxic materials, stored in the landfill could, over time, leak and then leach into the groundwater.

Comment 10: Commentor stated that in a recent news article, the Department of Homeland Security has decided to require secrecy concerning the locations of coal ash storage sites due to the risk to communities. Since the effects of this toxic waste on a community 0.5 miles away is not known at this time, it would be prudent to avoid the potential damage to the citizens of Perry County, Alabama.

Comment 11: Commentor stated that some of the coal ash while in transit could become airborne if not secured properly, or if there is an accident.

Response to

Comments 2-11: Since the State of Tennessee is already within the landfill's service area as established by the Perry County Commission, this proposed modification has no significant bearing on the ability of Perry County Associates Landfill to accept the Tennessee Valley Authority (TVA) waste. In fact, the applicant applied for local host government approval of this change on September 30, 2008. The Perry County Commission granted approval of this modification on December 9, 2008, following a public hearing held on November 25, 2008. All of this occurred prior to the release of coal ash waste at the TVA Kingston plant on December 22, 2008.

Comment 12: Commentor stated that it appears to be environmental injustice when a poor community has to see tons of waste stored in their community without any public input.

Comment 13: Commentor stated that Perry County is one of the poorest counties in the state, with 31% living in poverty – median income is \$12,386.

Comment 14: Commentor stated that there are environmental justice and economic development issues that are not been considered and should be prior to granting this modification.

Comment 15: Commentor stated that as an African American, she strongly opposes the expansion of this landfill because it once again brings waste into his community because they are poor and black. The landfill owners, who are rich and from Georgia suburbs, plan to receive thousands of tons of waste every single day into Perry County.

Response to

Comments 12-15 It should be noted that any alleged discriminatory impact would come as a result of the actual siting of the landfill near an area whose residents are protected by Title VI of the Civil Rights Act of 1964. ADEM, however, does not site landfills; that responsibility

lies with the local host government. The United States Eleventh Circuit Court has declined to find a discriminatory impact by a state agency in the permitting of a landfill when the state agency was not responsible for the siting of the landfill.

Furthermore, the proposed permit complies with all ADEM solid waste regulations, regulations which are based on EPA's Resource Conservation and Recovery Act Subtitle D regulations. The Subtitle D regulations were designed to prevent ground and surface water contamination, to prevent air pollution caused by landfill gas emissions, to prevent the attraction of rodents, flies, and other disease vectors, and to minimize odors. If the Subtitle D regulations do not accomplish these goals, then the problem is with the Subtitle D regulations and is a national problem; it is not with ADEM's implementation of its solid waste regulatory program. ADEM's administration of a regulatory program based on EPA's Subtitle D program cannot be discriminatory unless those regulations are not protective of human health and the environment and thus have the potential to have a discriminatory effect themselves when applied to landfills in communities protected by Title VI.

In order to be valid, the comment alleging a disparate impact and an environmental injustice must assume both that the permittee will not comply with the proposed permit conditions and that ADEM will not rigorously enforce the terms and conditions of the permit. There is no reason to believe that the permittee will not comply with the terms and conditions of its permit. Should the permittee fail to comply with its permit, ADEM is committed to vigorously enforcing the terms and conditions of the permit.

Finally, it should be mentioned that the Department has provided Environmental Justice training by EPA to a number of its staff and remains committed to obtaining the necessary resources to staff an Environmental Justice unit within the Department.

Comment 16: Commentor stated that Perry County does not create enough waste to fill this landfill to current capacity, much less to the expanded capacity the owners want. Waste will have to be hauled in from out of state – almost thirty other states will be able to dump on Perry County. The landfill owners will be shipping money to Georgia while risking the health and environment of the people in our community.

Comment 17: Commentors urged the Department to provide an opportunity to participate in a public hearing on the increase in the maximum tonnage allowed at the Uniontown Landfill.

Comment 18: Commentors stated that limiting the maximum tonnage is their only option at this time and requested an opportunity to participate in a

public hearing to express their point of view about the important potential change that could drastically affect their lives and environment in a negative way.

Comment 19: Commentor requested a public hearing and extension to the comment period regarding the proposed modification of a landfill permit modification for Permit

Comment 20: Commentor stated that he hoped ADEM would not give this most recent permit to Perry County Associates until there has been a thorough evaluation of this situation and local and state public input.

Response to

Comments 16-20: The local governing body, the Perry County Commission, approved the original service area and allowable average daily volume of the landfill after a public hearing held on August 8, 2005. As stated previously, the proposed permit modification for the expansion of the service area and the increase in the disposal volume was authorized by the same local governing jurisdiction (Perry County Commission) on December 9, 2008, following a public hearing held on November 25, 2008. The commentors have provided no technical basis within ADEM's purview that would justify superseding the County Commission's approval.

Comment 21: Commentor had no objection to the proposed major modification based on the potential to create jobs and improve the tax base.

Response to

Comment 21: The Department acknowledges the comment but offers no further response as consideration of social and economic impacts are issues outside ADEM's statutory authority. Rather, they are issues that fall under the jurisdiction of the local host government. In this case, the Perry County Commission considered these issues in granting its December 9, 2008 approval.

Comment 22: Commentor noted a typographical error in the proposed permit and a need for update the listing of groundwater monitoring wells to reflect current operating conditions at the facility.

Response to

Comment 22: The proposed permit has been revised to reflect these comments.