

**BOARD OF ADA COUNTY COMMISSIONERS
MINUTES OF THE L&R LANDFILL REQUEST
WEDNESDAY, AUGUST 6, 2013
6:00 P.M.**

The Board of Ada County Commissioners (Board) met this date in the Ada County Public Hearing Room of the Ada County Courthouse Complex. Staff present: Dave Logan, Operations; and Justin Cafferty, Prosecuting Attorney's Office. Minutes Recorder: Judy Morris.

- I. IN THE MATTER OF CALL TO ORDER:**
Commissioner David L. Case called the meeting to order at 6:00 p.m.
- II. IN THE MATTER OF ROLL CALL:**
Commissioners David L. Case and Rick Yzaguirre were present.
- III. IN THE MATTER OF CHANGES TO THE AGENDA:**
There were no changes to the agenda.
- IV. IN THE MATTER OF NEW BUSINESS:**
D. Case read the current exhibits into the record. He then opened the public hearing.

Stephen West of Centra Consulting Inc. stated his name and address for the record and presented testimony on behalf of L&R Environmental Landfarms (L&R). He presented a power point and discussed the proposal for L&R's Tier II Construction/Demolition Landfill Facility. A hard copy of the presentation was submitted into the record as Exhibit 13. He provided a project overview, explaining that Tier II was an expansion of a non-municipal solid waste management facility that would only accept certain construction and demolition waste streams. He stated that L&R would only take waste from private contractors and explained the types of waste that would be accepted at their facility. He discussed Solid Waste Management Rules IDAPA 58.01.06 as well as Title 5, Chapter 2, which define solid waste.

R. Yzaguirre inquired as to how L&R would monitor what materials are received at their site.

S. West explained that their facility was not open to the public and deliveries are arranged. He stated that current deliveries are associated with a waste profile form that sets forth the chemical nature of the materials. He advised that the material going into the site has to go through a gate with a scale and is subject to a visual inspection. He said there is an affirmation at the point of generation that confirms that what is being conveyed about the material is accurate.

R. Yzaguirre said that Hidden Hollow is permitted to accept most materials. He said he believed the L&R site would be regulated by a lower level of permitting, which would require a higher level of monitoring.

S. West stated that the risk is actually the opposite as it is fairly easy to discern the character and nature of the waste coming into their landfill versus what goes into Hidden Hollow. He reiterated the landfill is not open to the public and stated that the material coming into it is by contract. He then continued his power point presentation and provided a history of L&R and its current landfill facility. He explained the regulatory oversight and framework already in place over the facility. He advised that they are currently before the Board, as Title 5, Chapter 2, Section 5, states that only County operated disposal sites and disposal sites approved by the Board by franchise agreement, contract or otherwise, may accept solid waste for either transfer or permanent disposal. He said he doesn't believe a franchise agreement is appropriate, but understands a contract of some sort, is appropriate. He discussed the economic advantages of expanding the existing facility. He said there would be a very limited impact to the general population and that environmental and public health risks are minimal. He requested the Board direct Staff to work with L&R to negotiate an appropriate instrument to allow the project to move forward.

R. Yzaguirre noted that the area looked flat and inquired how L&R intended to prepare the property to accept the waste stream. S. West explained that if L&R receives the Board's approval to proceed, they would submit a site plan to DEQ that included an excavation proposal.

Mollie Mangerich stated her name and address for the record. She requested that, should the application move forward, the County ensure that L&R go through the proper application and approval processes through the County Commissioners, Planning and Zoning Commission, Department of Environmental Quality and Central District Health Department. She suggested L&R define the Franchise Agreement within their application and who the agreement would be between.

Steve Kimball stated his name and address for the record and presented testimony in favor of L&R expanding their waste facility. He explained that he and his neighbors were concerned about the facility when it first began operating. He said, however, that he believes L&R's operation over the past eight years has improved the area.

Dave Gibson stated his name and address for the record and stated he agreed with the testimony provided by S. Kimball.

D. Case requested S. West confirm that the business they were attempting to target were those that were currently taking their waste out of the county. S. West affirmed that was the case and they were also hoping to eliminate some of the illegally disposed waste. He also stated he believed that a Franchise Agreement was not the correct instrument to move their enterprise forward.

D. Case agreed that a Franchise Agreement was not appropriate for this project. He advised S. West that the County did have a Franchise Agreement with Allied Waste Systems. S. West stated he believed that agreement would apply to the waste hauled to the County facility. He did not believe the agreement applies to private haulers taking waste to other facilities. He said that they did not intend to haul trash, but to provide an option for disposal of specific waste streams. D. Case argued that he believes that this project would go against the terms of the agreement with Allied Waste Systems.

D. Case requested S. West address the fire protection. S. West said he would let Regan Hardy respond to that question when he presented testimony.

R. Yzaguirre stated he believed this would be a precedent setting matter and inquired how S. West believed the Board can approve this expansion and not future requests from other companies. S. West said he believed this request was market driven and would not set a precedent as there are multiple waste sites across the state. He said others should just be mandated to follow the process and meet all requirements including the regulatory framework that requires inspections, reporting and monitoring.

D. Case advised that the liability of the closure of a landfill rests with the County for perpetuity. He stated the cost of closing approximately 12 to 15 acres of Hidden Hollow is estimated at \$3 million. He questioned the capability of L&R having the funds to close their landfill facility when the time presents itself. S. West explained that privately operated facilities take title and ownership of the waste. He stated that a privately owned facility can indemnify the County from clean up and that the nature of the material being stored in the facility poses minimal environmental risk. He said L&R has a financial structure in place to deal with the closure of the facility.

R. Hardy, an owner of L&R, stated his name and address for the record. He addressed the Franchise Agreement between the County and Allied Waste Services. He said L&R would not be dealing with any collection, but providing a disposal facility. He stated they have had conversations with Dave Fisher regarding expanding the facility to accept the specific waste stream. He explained that D. Fisher stated, at that time, that Allied Waste did not have an issue with the expansion as L&R was not directly competing with anything Allied Waste was doing. He said they are required, by the County, to maintain a \$2 million insurance policy to address any possible pollutants or clean up issues. In response to D. Case's question regarding fire protection, he explained they have heavy equipment and barriers around the entire property. He said L&R maintains Thompson Road which provides an additional fire break. They also have water on site for fire suppression.

D. Case closed the public hearing.

R. Yzaguirre stated that he appreciated L&R's position, but explained that he believes the Board needs to protect the financial integrity of the Ada County landfill. He advised that he's not inclined to approve the request for the expansion of the Tier II permit. He said

that he believes the Franchise Agreement with Allied Waste gives them exclusive rights. He also reiterated his concern of setting a precedent by approving the expansion.

D. Case explained that he agreed with R. Yzaguirre's comments. He said the County is statutorily put in the position to monitor landfill facilities.

ACTION: R. YZAGUIRRE MOVED TO DENY THE REQUEST FROM L&R ENVIRONMENTAL LANDFARMS FOR THE EXPANSION OF THEIR TIER II PERMIT. D. CASE SECONDED. R. YZAGUIRRE, AYE, AND D. CASE, AYE. THE MOTION CARRIED.

V. IN THE MATTER OF ADJOURNMENT:

There being no further business to come before the Board on this date, the meeting was adjourned at 6:50 p.m.

David L. Case, Chairman

ATTEST:

Christopher D. Rich, Ada County Clerk