



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL**

89 KINGS HIGHWAY
DOVER, DELAWARE 19901

Office of the
Secretary

Phone: (302) 739-4403
Fax: (302) 739-6242

Secretary's Order No. **2005-A-0024**

Re: Application of Clean Earth of New Castle, Inc. to Renew its Resource Recovery Permit (SW-95/07) and to Modify the Permit to Allow the Use of Non-Hazardous Residual Materials ("NHRM") in the Soil Treatment Process

Date of Issuance: **April 29, 2005**

Effective Date: **April 29, 2005**

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control under 29 Del. C. §§8001 et seq., the following findings, reasons and conclusions are entered as an Order of the Secretary:

Based on the record developed, as reviewed in the Hearing Officer's Report ("Report"), dated April 12, 2005, and appended hereto and incorporated herein, I find and conclude that the record supports approval of the permit, as recommended in the Report.

The Report relied upon the review of the public hearing record and the technical expertise of DNREC's personnel in its Solid and Hazardous Waste Management ("SHWM") Section, which prepared the Technical Response Document attached to the Report.

The Report recommends approval of the application of Clean Earth of New Castle, Inc. for the renewal of its permit and a modification to the permit that will allow the introduction of Non-Hazardous Residual Materials ("NHRM" which may include,

storm water, storm water retention pond solids, paper pulp sludge, bio-solids, coal ash, lime filter cake, water treatment solids, and dredge spoils), as approved by the Department on a case-by-case basis, to replace 10 to 15 million gallons of drinking water used annually by CENC in its treatment process. This savings is equivalent to the drinking water used by 50 to 75 thousand households, is consistent with the State's water conservation measures and will save thousands of dollars in water treatment costs.

The use of NHRM also provides a beneficial use of these materials that otherwise may be treated as waste or otherwise not productively used. The use of NRHM will allow CENC's treated soils to have a higher organic and nutrient content when used in place of potable water, and this change will satisfy the requirements of the users of the treated soils. In addition, this change will reduce the use of potable water, which has an important conservation benefit.

In response to public concerns, the Department shall include in the permit certain conditions to allow the Department to exercise ongoing monitoring and regulatory oversight over any changes to the NHRM in order to provide future control over any odor or other environmental problems that may arise from changes or the operations. The introduction of any new material will thereby be closely monitored and will require case-by-case Department approval and public notification that will allow an opportunity for public comment before any changes are made to the products used outside of the universe of already approved NHRM. This was an important concern raised by the public comments and shall be addressed.

In conclusion, the record supports approval of the application for the permit, as modified and subject to the Department's conditions, and the following findings, conclusions and directives are entered:

1. The Department has jurisdiction under its statutory authority to make a determination in this proceeding;

2. The Department provided adequate public notice of the proceeding and the public hearing in a manner required by the law and its regulations;

3. The Department held a public hearing in a manner required by the law and its regulations;

4. The Department considered all timely and relevant public comments in making its determination;

5. The record supports the issuance of the renewal permit, as modified by the proposed changes in the application and this Order, to allow NHRM to be added for its beneficial organic material content to the treated soils;

6. The record supports the use of NHRM as a suitable replacement for CENC's current use of potable water in the soil treatment process, and NHRM also adds organic and nutrient content to the treated soils that enhances the ability of CENC to meet the requirements of the users of the treated soils;

7. No new air quality management or Coastal Zone permit is required for the permit modification and the Department has no authority to regulate noise or traffic other than to reflect CENC's voluntary efforts to satisfy the public concerns in the permit;

8. The Department's authorized delegated official shall issue a permit consistent with this Order and shall include such reasonable conditions necessary and appropriate to protect the public and the environment from any environmental harm that is within the Department's jurisdiction to regulate or that the applicant voluntarily agreed to accept.

s/ John A. Hughes

John A. Hughes
Secretary

HEARING OFFICER'S REPORT

TO: The Honorable John A. Hughes
Secretary, Department of Natural Resources and Environmental Control

FROM: Robert P. Haynes, Esquire
Hearing Officer, Office of the Secretary
Department of Natural Resources and Environmental Control

RE: Application of Clean Earth of New Castle, Inc. to Renew its Resource Recovery Permit (SW-95/07) and to Modify the Permit to Allow the Use of Non-Hazardous Residual Material in the Soil Treatment Process

DATE: April 12, 2005

I. BACKGROUND

This Hearing Officer, delegated authority by the Secretary of the Department of Natural Resources and Environmental Control (“DNREC” or “Department”) pursuant to 29 Del. C. §§6606 and 8003, prepares this report on behalf of Hearing Officer Robert R. Thompson, who retired in June 2004. Mr. Thompson presided over a duly noticed public hearing held at the Department’s Lukens Drive offices in New Castle, Delaware on December 9, 2003 commencing at 6:00 p.m.

The hearing was held to receive public comments on the application of Clean Earth of New Castle, Inc. (“CENC”), located at 94 Pyles Lane, New Castle. CENC’s application seeks DNREC’s approval to renew and modify a resource recovery permit. The application was submitted in March 2001, and last revised in July 2003. The Department determined the application was complete on September 29, 2003, and published public notice of the application on October 1, 2003. The Department received a meritorious request for a public hearing on October 15, 2003, and the Department had published on November 16, 2003 a public notice of the December 9, 2003 public hearing.

CENC was established in 1991 and its business is to sell its service to customers with contaminated soils and charge for the removal of petroleum from contaminated soil. The cleaned

soil is then provided free to be reused in such applications as landfills, building foundations, roadbeds and other uses. CENC is a subsidiary of Clean Earth, Inc., which is headquartered in Hatboro, Pennsylvania, and is a privately held corporation that also owns three other subsidiaries in New Jersey, Pennsylvania and Maryland that are in the same business as CENC.

CENC uses a state-of-the-art Soil Remediation Unit (“SRU”). The SRU heats petroleum contaminated soil to a temperature sufficient to volatize the petroleum contaminants into petroleum hydrocarbons. The petroleum hydrocarbons then are recovered by an air management unit. The cleaned soil is treated by adding water so that it is suitable for reuse. CENC currently has a permit to process up to 360,000 tons of soil annually, and the permit renewal does not propose any increase in this capacity. Since beginning its operation, CENC has cleaned over 2 million tons of soil that otherwise would have been sent to a landfill if not treated.

The application proposes a modification to the process, which would introduce non-hazardous residual material (“NHRM”), consisting of solid, semi-solid and liquids, to the soil treatment process in order to increase the treated soil’s organic material content to a level required by certain users, such as the Delaware Department of Transportation, strip mine reclamation projects, and others. The proposed change also will reduce CENC’s costs incurred in the purchase of potable water from the City of Wilmington. Drinking quality water is not required as the water is used for cooling and adding moisture back into the treated soil. Thus, potable water will be replaced by the use of liquids from the solids and semi-solids NHRM or similar non-potable sources such as from stormwater retention ponds. The proposal is to process solid and semi-solid recyclable materials into recycled aggregates with a higher organic content than provided by potable water.

The new process, as initially proposed, would require a new pug mill and conveying equipment, and storage and handling facilities for the solid, semi-solid and liquid NHRM. The

proposed primary inert feed ingredients for making recycled aggregate includes, but is not limited to, remediated soils, bio-solids (e.g. chicken manure), lime filter cakes, coal ash, paper pulp, water treatment solids, and dredge spoils. CENC also initially proposed waste to energy residues as a category of NHRM, but CENC subsequently removed this source. The solid NHRMs process identifies nine types of materials to be added, but the Plan notes that the list is not exclusive. These materials would be delivered in bulk containers by dump trucks, roll-offs, and similar large containers, and by non-bulk containers such as drums, boxes and similar smaller containers. The incoming NHRMs will be sampled and inspected in accordance with the Plan's waste analysis procedures. Acceptable waste would be placed in storage, while any material that CENC would reject it is shipped offsite for proper disposal.

The semi-solid NHRM process identifies six waste types as the primary feed ingredients, including, but not limited to, bio-solids treated to meet Class A or B standards, lime filter cake sludge, paper pulp sludge, water treatment plant sludge, dredge spoils, and semi-solids from storm water retention ponds. These ingredients will be stored in a proposed 108 cubic yard capacity concrete containment unit with a metal or tarpaulin cover over the waste when not in use. The cover is to control odor and dust and to keep precipitation off of the waste. A 30 millimeter thick high density polyethylene liner will be placed under the tank and a leachate collection system installed around the storage unit to recover any runoff.

The water bound waste process will use any liquids from the semi-solid sources, but again these are not the exclusive sources. The liquids will be stored in three storage tanks, each with a 12,000 gallon capacity. A concrete containment wall will be built around the tanks sufficient to hold 110% of one tank, and the unloading area will be designed to contain any spill from a truck.

II. SUMMARY OF THE PUBLIC HEARING RECORD

The public hearing record contains a one hundred and thirty one page verbatim transcript of the public hearing, and documents admitted into the public hearing record. Several members of the public attended the public hearing and provided comments. The Hearing Officer kept the public hearing record open for the submission of post-hearing comments. The Department received post-hearing comments and they have been included in the public hearing record. A complete list of the exhibits is set forth in the Division of Air and Waste Management's Response Document dated November 16, 2004 prepared by the Solid and Hazardous Waste Management Branch ("SHWMB").

Mike Lane, General Manager of CENC, and Mike Logan, CENC's independent consultant employed by Compliance Plus Services, Inc. made presentations and Mr. Logan answered the public's questions.

Mr. Hattikudur and Mr. Short from SHWMB represented the Department, and they presented the hearing exhibits into the record and answered questions. The public comments were from a driver with a truck company that hauls for CENC, who said that CENC was a good company. Another comment was from Charlie Gonzalez, a resident of Pyles Lane, who complained about the noise, dust, and smell from CENC's site. The Reverend Elder Louis McDuffy, who requested the public hearing on behalf of the Hamilton Park Civic Association, also raised concerns with dust from the trucks and odors. Alan Muller of Green Delaware commented at length. His comments included questions on the possible future changes in the NHRM used to add organic material to the soil, the storage of NHRM and odor from the waste, the need for an air quality management permit, and the need for a Coastal Zone Act permit. James Bryant made comments on waste from a Delaware City site. Mary Anne McGonegal

commented on the noise, waste sampling and inspection, odor and truck traffic. George Dalphon, the owner of the property leased to CENC, asked questions.

III. DISCUSSION AND REASONS

SHWMB with the Department's Division of Air and Waste Management prepared a ("Response Document"), which is attached hereto as Appendix A and incorporated herein. This document provides technical advice from the Department's experts and comprehensively addresses the comments received during this public hearing process.¹

As the above review of the record indicates, the public's primary concerns may be summarized as falling into the following categories: 1) noise, 2) odor, 3) traffic, 4) air pollution, 5) the NHRM waste used in the process, and 5) the applicability of the Coastal Zone Act.

The issue of noise was raised based upon the use of the mixing drum on weekends and the back up alarms on vehicles. The noise from the drum currently is not regulated by any DNREC regulation, but the Department noted that it may be regulated by federal and local authorities. The vehicles' back up alarms are required under federal safety laws, but CENC indicated that it was in the process of addressing this concern by converting its vehicles to less noisy alarms. There also is noise from truck traffic during the day, but there is no truck traffic on Sunday. Most operations occur during the daytime, although the facility operates 24-hours a day, seven days a week. The issue of regulating noise is not relevant until the Department determines that it can and should regulate noise. Any attempt to regulate noise for this permit would be inappropriate without a full development of the regulatory ramifications. Thus, any Department regulation of noise should first be subject to a regulation, but the Department will nevertheless reflect CENC's agreement to lower the noise from back-up alarms in the permit as it was

¹ The Response Document is not in the public hearing record, but in response to the public hearing record to assist the Hearing Officer in reviewing the record and providing technical advice. It is included as part of this report to benefit the public.

voluntarily offered to gain public acceptance and in this context it is appropriate to reflect in the permit.

The issue of odor was based upon the introduction of NHRM waste by trucks and its storage. The Department regulates odor through its Air Quality Management (“AQM”) Section within the Division of Air and Waste Management, which sent a representative to the public hearing. AQM determined in November 2004 that the proposed project would not require an air permit. CENC already has implemented monitoring for odor in response to prior public concerns. The proposed plan does include covering the waste storage with a roof or tarp, and this protection may provide acceptable odor control. CENC will be held responsible for any odors leaving the premises, and the public should contact the Department when such odors are noticed in order that the Department may investigate. CENC can be subject to a Department enforcement action, and at this time that will provide the best remedy for any future problems as possible future odors now is speculative. The Department will continue to exercise authority over the introduction of NHRMs on a case by case basis and may impose such additional conditions it determines are warranted. Thus, if the Secretary approves a permit, then it is recommended that it include the necessary safeguards to protect the public from any offensive odors.

The issue of traffic is based upon the increased waste stream. I find that the facility is entitled to bring material into its facility in accordance with its capacity, which will not be changed under the proposal. The Delaware Department of Transportation and local government are the primary governmental entities that regulate traffic. Absent any specific environmental harm from the traffic, DNREC has no authority to regulate traffic. It should be noted that CENC voluntarily agreed to route its trucks in a manner that will minimize its vehicles from passing through residential areas.

The issue of air pollution first other than odor is the subject of CENC's current air permit, which remains in effect. The Department's Air Quality Management Section determined that the proposed project does not require an additional permit. One air quality issue raised was the possible releases from the mixture of liquids with the hot soils, but CENC's agreement to remove the pugmill from the process resolved this concern. The other air pollution issue was dust control, and CENC indicated that it will take steps to control dust through the use of a sweeper, the construction of a ten foot high fence, paving the roadways, and spraying water to reduce dust formation. The other source of emissions was the mixer/cooler, but this equipment is located in a building with a closed loop air pollution control system to prevent any releases into the atmosphere above those levels allowed in the existing permit. These measures are appropriate and reasonable, and the public still has recourse to any future problems by contacting the Department if any air pollution occurs. The Department will investigate public complaints and conduct an enforcement action if warranted. As with the odor issue, this issue can be resolved in the future as needed through the Department's ongoing monitoring and regulatory oversight of the facility based upon the permit conditions determined to be necessary to address any future problems that presently are unknown and speculative.

The issue of classification of the waste and a related issue of quality control are addressed by the waste generator initially, but CENC samples and tests as part of its procedure to verify the generators' classification. The description of the types of NHRMs that may be used was very open ended, and this is a concern to the public and the Department. The Response Document indicates that SHWMB agreed to inform the local group, Hamilton Park Civic Association, when a new category of NHRM is approved on a case-by-case basis. While it is appropriate for the Department to undertake this role, the applicant ultimately should be responsible for the public notice, and the Department should impose this obligation as part of its permit.

The issue of the Coastal Zone Act's applicability was resolved by the Department's review of this issue and the determination that no Coastal Zone Act permit was needed for the proposed project. This is an appropriate determination based upon the proposed project.

The remaining comments were adequately addressed in the Response Document and do not require further discussion.

CENC's proposal will be beneficial to the environment because it will allow greater uses of the treated soil as a result of its higher organic content. In addition, the addition of NHRMs will reduce the need to dispose of these materials as solid waste. Instead, they will be reused and provide useful organic material to the treated soils and allow the treated soil to meet the specifications of end users. The modification of the permit is recommended subject to such permit conditions necessary to control and closely monitor the waste materials added to allow continuing Department oversight and remedial regulation if problems appear from the operations.

IV. RECOMMENDED FINDINGS AND CONCLUSIONS

Based on the record developed, I find and conclude that the record supports approval of the issuance of a renewed permit, as modified for the introduction of NHRM into the process, subject to the permit conditions determined by the Department to be necessary and appropriate to protect the environment. Permit conditions should include requiring CENC to notify the public, via formal legal notice and informal notice to the representatives of the community who participated in the public hearing, of the proposed change to the waste stream. The public should be informed in advance in order that they may voice their objection to the Department, but no additional permit or public hearing would be required.

In conclusion, I recommend the Secretary adopt following findings and conclusions:

1. The Department has jurisdiction under its statutory authority to make a determination in this proceeding;

2. The Department provided adequate public notice of the proceeding and the public hearing in a manner required by the law and its regulations;

3. The Department held a public hearing in a manner required by the law and its regulations;

4. The Department considered all timely and relevant public comments in making its determination;

5. The record supports the issuance of the renewal permit as modified by the proposed changes to allow NHRM to be added for its beneficial organic material content to the treated soils;

6. The record supports the use of NHRMs as a suitable replacement for CENC's current use of potable water in the soil treatment process, and NHRMs also add organic content that enhances the ability of CENC to meet the requirements of the users of the treated soils;

7. No new air quality management or Coastal Zone permit is required for the modification and the Department has no authority to regulate noise or traffic other than to reflect CENC's voluntary efforts to satisfy the public concerns in the permit;

6) The Department's permit shall include such reasonable conditions it determines to be necessary and appropriate to protect the public and the environment from any environmental harm that is within the Department's jurisdiction to regulate or that the applicant voluntarily agreed to accept.

s/ Robert P. Haynes

Robert P. Haynes, Esquire
Hearing Officer

Appendix A
Division Response Document

M E M O R A N D U M

To: Robert R. Thompson
Through: John Blevins
 Nancy Marker
 Jim Short
From: Umesh Hattikudur
Subject: Technical Response Document for Public Hearing held on December 9, 2003 regarding application by Clean Earth of New Castle to renew and modify SWA-95/07
Reference: Clean Earth, File 05.C
Date: November 16, 2004

Responses from the Solid and Hazardous Waste Management Branch (SHWMB) to the comments resulting from the Hearing are included below. These include responses to comments made by the public at the hearing as well as those entered into the record by letters sent directly to the Hearing Officer within the Open Period that ended on December 19, 2003. During the hearing SHWMB informed Clean Earth of New Castle (CENC) that the permit modifications could not be issued (see B.1.5 below) until the Department received an air permit application to operate the modified facilities or a determination was made that an air quality permit is unnecessary. Air Quality Management has made the determination that a permit is not required for the modifications and has issued a “Non-Hazardous Recyclable Materials (NHRM) Processing Systems Registration: APC-2005/0039-R on November 15, 2004”.

If you have any questions, please call Umesh Hattikudur at 739-3689.

A. Exhibits Entered Into the Record:

Table 1. Exhibits Presented at Hearing

Exhibit Number	Description	Response Required
A.1.1	Application to Renew Resource Recovery Permit SWA-95/07 dated March 2001 Revised June 2003 by Clean Earth of New Castle(CENC). Application prepared for CENC by Mike Logan, who heads Compliance Plus Services and is an independent corporate consultant to CENC).	Yes See B.1.5
A.1.2	Letter dated September 29, 2003 from James Short to Mike Goebner of Clean Earth of New Castle (CENC) deeming the application complete	No
A.1.3	Application Notice posted in Delaware State News and News Journal on October 1, 2003	No
A,1.4	October 15, 2003 hearing request from Elder Louis McDuffy	No
A.1.5	Hearing Notice posted in Delaware State News and News Journal on November 16, 2003	No
A.1.6	December 1, 2003 letter from Bradley Klotz of Air Quality Management to Mike Logan of Compliance Plus Services requesting CENC to submit information on potential air emissions from the proposed revised operations	No
A.1.7	December 9, 2003 letter from Dennis Brown of the Department’s Planning and	No

	Compliance Assistance Office to Mike Logan of Compliance Plus Services explaining why the proposed modifications do not require a Coastal Zone Act determination.	
--	---	--

Table 2. Written Comments Entered Post-Hearing

Exhibit Number	Description	Response Required
A.2.1	Email from John Kearney to Lisa Vest dated December 19, 2003 requesting the letter be accepted as comments in the Clean Earth Proceeding	Yes See B.2.1
A.2.2	Letter from Neenah Estrella-Luna to Mr. Thompson dated December 12, 2003 with concerns regarding the Clean Earth of New Castle, Inc.'s application	Yes See B.2.2 to B.2.4
A.2.3	Letter from Michael Logan to Rod Thompson dated December 19, 2003 submitting supplementary comments/responses related to the Public Hearing..	No

B. Issues Raised by the Public:

Table 1. Responses to Comments during the Hearing

Number; Transcript Page	Comment Summary	Responses
B.1.1 page 49	Noise from drum on weekend; Noise from truck brakes.	SHWMB and AQM have no regulations that specifically regulate noise levels. CENC is required to abide OSHA regulations and County ordinances for noise. See Exhibit A.2.3, Logan Comment 4. Trucks arriving or departing CENC are not permitted to drive down the residential portion of Pyles Lane. CENC also notes that they have limited responsibility for all the truck traffic there; other establishments also have deliveries and shipments in the area. Per Logan, transcript page 96: Most operations are conducted during daytime, though there are operations on a 24-hour seven-day basis. Truck deliveries are only done during the day and not on Sunday.
B.1.2 page 49	Dust all the time	Fugitive dust is regulated per the Air Permit. Also see Exhibit A.2.3, Logan Comment 3. The new fence of solid wooden slats should also assist in controlling fugitive dust. Per Logan, transcript page 22: CENC has upgraded fugitive dust controls- added more paved roads, purchased a sweeper to pick up dust from the road, etc.. CENC has a water truck that's

		always at the facility. Complaints regarding dust should be phoned in immediately to Enforcement at 800-662-8802 so an officer can observe and respond to the occurrence.
B.1.3 page 49	Odor concerns at property boundary.	Per Logan response, transcript page 92: CENC had only one odor complaint, and enforcement officer determined odors were not coming from the plant. With Elder McDuffy's help in bringing up odor issues, CENC has instituted a procedure for employees to walk the plant perimeter to check for odors- these so far have always been identified as coming onto the property from outside. Complaints regarding odor should be phoned in immediately to Enforcement at 800-662-8802 so an officer can observe and respond to the occurrence.
B.1.4 page 52	Backup alarms are loud and noisy	See Exhibit A.2.3, Logan Comment 4. Back-up alarms are a required safety feature for loaders and other heavy earth moving equipment per OSHA. However, CENC has found (and will replace current alarms with) new backup alarms that will sound at only 5 dB over ambient noise to substantially reduce any noise concerns.
B.1.5 page 54	Air permit required for modifications	Air Quality Management has made the determination that a permit is not required for the modifications and has issued a "Non-Hazardous Recyclable Materials (NHRM) Processing Systems Registration: APC-2005/0039-R on November 15, 2004".
B.1.6 page 59	Objection to using MSW incinerator ash as NHRM	See Exhibit A.2.3, Logan Comment 1. CENC has formally withdrawn waste to energy plant residues (MSW incinerator ash) as an NHRM from the application.
B.1.7 page 59	Objection to using Conectiv coal ash as NHRM	See Exhibit A.2.3, Logan Comment 1. CENC has formally withdrawn coal ash generated by Conectiv's Edgemoor plant as an NHRM from the application.. It should be recognized that issues related to Conectiv's ash also apply to all coal ash, but only Conectiv Edgemoor ash has been withdrawn from the proposal.
B.1.8 Pages 62, 66, and pages 77-81	If new categories of NHRM are added, it is appropriate the community should be notified when DNREC reviews, maybe through Elder McDuffy.	SHWMB agrees to notify the community through the Hamilton Park Civic Association when new categories of NHRM are added and if and when CENC begins taking any NHRM into the facility.
B.1.9	Concern that when liquid NHRM is added to hot earth there will be	In response, CENC has requested removal of the pugmill from their proposed operating scenarios, thus

Page 75	volatile components evaporated that will cause odor	eliminating a source of volatile odorous vapors. They propose to use the alternate scenario, feeding NHRM at the mixer-cooler inlet. Mr. Short responded (p.76) that the permit will say they have to control odors. SHWMB recognizes the possibility of odors at the liquid addition point and will monitor. Mr. Logan responded (p.82) that they would preview the NHRMs to make sure the odors would not overwhelm the control systems. The mixer/cooler where the liquid is added (p 86) is enclosed in a closed loop air pollution control system (so odors are not emitted). Any off gases go into the bag house to remove particulates and then to the thermal oxidizer unit. The hot soils that come off the conveyer as product have a potential for odor and will be checked. Complaints regarding odor should be phoned in immediately to Enforcement at 800-662-8802 so an officer can observe and respond to the occurrence.
B.1.10 Page 90	The only really effective way to deal with odors is to not allow a process that has a potential to produce odors	Mr. Short said that (p 97) the potential for odors are a real issue and these factors will definitely be taken into consideration in the approval process.
B.1.11 Page 70	A coastal zone permit is needed. The addition of a variety of materials appears to take it into the realm of manufacturing.	Mr. Brown (A.1.7) took the modifications and their ramifications into question when issuing his opinion that no coastal zone act determination is required
B.1.12 Page 69	It looks like this expansion is to allow DSWA to put this stuff (NHRMs) in their landfills.	DSWA is permitted to accept non-hazardous materials at their landfills. NHRMs are non-hazardous and are acceptable at the DSWA landfills.
B.1.13 Page 117	Mr. Bryant said that Konica said they sent some material to Clean Earth contaminated with phthalate esters and perchloroethylene. The chlorides coming off can easily go to dioxins if you don't have the proper conditions.	Per Logan (A.2.3), CENC has not received any soils from this clean-up location, particularly none with phthalate esters or perchloroethylene. SIRB (Site Investigation and Restoration Branch) has confirmed this. The confusion may be due to some material being accepted from Kaneca by a sister company (CENJ) for disposal at their permitted site in NJ.
B.1.14 Page 125	Compliance with Environmental Justice, Clean Water Act, RCRA, Title VI of Civil Rights has not been demonstrated by DNREC. Also groundwater contamination.	DNREC has met its regulatory and statutory obligations regarding the permit application. No further action is legally required at this time.
B.1.15 Page 127	Using remediation standards as criteria for cleanup is not comforting. These standards may in the future be found to be not low enough we're still dispersing	SHWMB feels that remediation standards are the best known current levels that will not adversely affect the public health or environment.

	heavy metals and radio-activity into the community	
--	--	--

Table 2. Responses to Written Comments Entered Post-Hearing

Number; Exhibit Number	Comment Summary	Responses
B.2.1 Ref A.2.1	DNREC must perform an Environmental Justice analysis.	See response to B.1.14 above
B.2.2 Ref A.2.2	What will be done with batches that do not meet standards of Table 5.1-5.3?	Batches not meeting standards will processed again through the thermal treatment unit until standards are met. If standards cannot be met by processing, CENC will have to apply to the Department for special permission to dispose of the batches properly according to the requirements (safe landfill or other treatment facility). This will be written into the permit.
B.2.3 Ref A.2.2	Noise issues: additional truck traffic, 24 hour operation	See response to B 1.1 above
B.2.4 Ref A.2.2	Additional 48 trucks/day. Air quality impacts?	Air quality impacts of additional trucks will be considered during evaluation of the application for an Air permit.