

BRIDGE CONSTRUCTION ELEMENTS

I. Process

1. Mutual information exchange on data, operation, policy and other drivers
 - a. If there are open questions, that they be readily asked and answered
2. Improve internal communication and organizational capacity within ANR and Omya
3. Build collective credibility for both means and ends
 - a. Stabilize stakeholder perceptions and build internal morale
4. Both the vehicle and its conditions must be able to withstand legal scrutiny --
Reduces risk to ANR and Omya
 - a. This path remains unclear
 - b. What is the legal basis within Solid Waste Rules?
5. Aggressive schedule w/ milestones

II. Legal / Regulatory

1. No Harm to Omya in its defense of the federal lawsuit by RCO
 - a. Administrative Order and effect of "violation" on legal proceedings
2. Interim Certification
 - a. Cannot be withdrawn or denied – need surrogate
 - i) Modified Interim Certification w/ conditions?
 - b. Denial ends "authority" to continue to deposit tailings on-site
 - c. Denial likely will prevent Act 250 from proceeding with or approving dewatering facility permit
 - d. Serious federal lawsuit implications
3. Legal means to continue onsite tailings management until workable alternative achieved
 - a. Avoid future challenges to continued operations – cannot afford to have "solution" that leaves ANR or Omya vulnerable

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II. Legal / Regulatory (cont'd.)

4. Taxes

- a. Relief from state franchise tax of \$6/ton and from other tax that may be imposed by regional solid waste planning entity

III. Operational

1. Tailings Re-Use / Recycling

- a. Determination to allow for sale of tailings as product
 - i) Determination would also facilitate securing Act 250 permit for dewatering facility
 - ii) Currently pending. Any movement?
- b. Ability to remove old tailings from TMA for reuse
 - i) Flexibility to do so in the event that tailings can be utilized as a resource – Blanket Agreement

2. Operational Impacts

- a. Ability to operate on-site until viable solution is established
 - i) Only with an in place dewatering solution due to costs of transporting, tipping, and disposal of waste at other locations. Recall Act 250.

IV. Technical Solution

1. What are the governing regulations around technical requirements?

- a. Need to withstand scrutiny

2. Cap and Liner

- a. Recognition of tailings physical properties as potential component of cap and/or liner.

- i) Low-permeability, uniform composition

- b. Clarification of liner and other requirements

- i) Traditional liner and leachate collection system may be overkill given nature of material and use of dewatering facility

- c. Variances from various dimensional and other requirements

*word is "Should be
type of conversation
is the definition
"prevent" kind
criteria
we use to
protect public
with*

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IV. Technical Solution (cont'd.)

3. Siting

- a. Recognition of potential siting of lined facility – easy to say, harder to accomplish
 - i) Problematic if Interim Certification denied on basis of threat or harm to human health and/or environment

*"Interim Certification?"
as name?*

V. Existing Data

1. Leveraging the Section 5 study

- a. Section 5 process believed to be credible by all parties
- b. ~~Efficient use of newly-hired DEC experts~~
 - i) ~~Value of existing data~~
 - ii) ~~Mutually agreeable outside consultants~~

*lots of credibility around
Section 5 process.
very collaborative
process to get to
methods & reporting*

Jim Hamilton

5/9

Get back
w/ answer

on Oct 15 someone wants to know
of tailings, how would it be dealt with.

Can tailings be a mix of "solid waste"
& not solid waste

Series of next steps.

Jim will write "findings of fact."

Cutler, Matt

8/15

OMYA

~~HS - Trans + Energy~~

~~System~~

Nov 2004 - Law School 2 suits

1 - Citizen Suit against OMYA

~~RCRA~~ RCRA, SWDA

Order

- Violation of Com's discretionary enforcement
- Dump Interim Cert
- Violation of permit

If we have "bridge" in place, can OMYA withdrawal application for interim cert.

"1987 Session Law
Temp. Operating Authorizations" in Session Law.
(Barre Granite still under)

Letter Authorization - Use Enforcement Discretion