

**IN THE PROVINCIAL COURT OF ALBERTA
CRIMINAL DIVISION**

Between

HER MAJESTY THE QUEEN

and

TOWN OF WHITECOURT and WOODLANDS COUNTY

**JOINT DEFENCE SUBMISSIONS RE POST-INCIDENT OPERATIONAL
IMPROVEMENTS AND COSTS INCURRED BY THE WHITECOURT REGIONAL
LANDFILL AUTHORITY ("AUTHORITY")**

1. These submissions are on behalf of the Town of Whitecourt ("Town") and Woodlands County ("County") and address matters subsequent or supplemental to the Agreed Statement of Facts filed in this proceeding. The following does not constitute agreed facts with the Crown, but has been provided to the Crown in advance.
2. These submissions should be read in conjunction with the Agreed Statement of Facts in this proceeding for full context.

Post Incident Operational Improvements

3. Based on their review of the factors giving rise to the incident, the Town and County jointly created a new management position for the Authority, entitled "Manager of Solid Waste Operations" ("MSWO"). The MSWO reports directly to the Board of the Authority. The Board, in turn, provides direction to the MSWO relating to approval of all projects, policies and procedures.
4. The Authority imposed the following minimum qualifications for the MSWO Position:
 - a. The MSWO must have significant experience in waste management and the operation of landfills, so that the MWSO can advise the Board and the Authority on best management practices;
 - b. The MSWO must maintain a good working relationship with Alberta Environment, must ensure compliance with provincial regulations governing landfill operations, and require that the Authority meet or exceed known best practices; and

- c. The MSWO must be responsible for the day to day operation of the landfill.
5. The MSWO position was filled by a highly qualified candidate with an extensive resume demonstrating substantial experience with municipal public works project management, and in particular, waste and recycling management.
6. The Authority has adopted numerous procedural updates and improvements, intended to help ensure that the factors that gave rise to the incident are not repeated. The Authority has instituted a plan of annual review of the Landfill Design, Operation and Closure Plan to ensure that it is effectively tracking estimated landfill capacity. This ensures that capacity issues will not arise without ample notice to allow the Authority to implement a timely and effective response
7. The Authority has implemented new procedures intended to provide daily, weekly and monthly inspection reports relating to the landfill, scale house and management.
8. The Authority retained a new engineering consultant with extensive experience in departmental compliance and the regulatory requirements. This consultant is tasked with assisting the Authority with the development of long term plans to ensure approval timelines are complied with.
9. The Authority has implemented an offsite water sampling and monitoring program on adjacent lands. This program works in conjunction with existing onsite surface, underground and water vapour monitoring.
10. The Authority has implemented a rigorous daily waste compaction and intermediate cover for its active cells.



Costs Incurred by the Authority

11. On an overall basis, the environmental upgrade project for the landfill had an initial projected cost of approximately \$1.1M (not including a further \$360,000 in engineering fees), and on final completion - including additions required by the Department, as outlined below - is valued in excess of \$4M. Some significant further expenditures, in particular in relation to the planned integration of phytoremediation processes remain outstanding.
12. Alberta Environment required the Authority to implement a number of additional features beyond those proposed in its amendment application:
 - a. A Class III concrete cell, at an overall cost of approximately \$280,000;
 - b. Despite the project already having one geotextile and one clay liner, Alberta Environment required a second geotextile liner to be installed throughout the project, which increased the total cost by \$300,000. The

project now has three liners, two geotextile and one clay, exceeds industry standards; and

- c. Alberta Environment required the installation of an eight foot perimeter fence to deter wildlife, and a secondary perimeter bear fence with electrical components in order to comply with the provincial bear awareness program, at a cost of approximately \$98,000.
13. The Authority's initial design for the revisions to the landfill included implementation of a phytoremediation process. Phytoremediation would have been a beneficial process as it would eliminate the need to remove and haul leachate offsite. This was particularly beneficial as the volume of leachate required to be hauled and disposed of had grown significantly between 2016 and 2018. However, the Authority elected to remove the phytoremediation proposal from the design submitted, notwithstanding its common use in the industry, as Alberta Environment was unfamiliar with the process. The substantial additional information required, including testing and design, would have slowed down the approval process considerably.
14. As a consequence the Authority incurred an additional unbudgeted expense for continued hauling of leachate offsite of approximately \$100,000.00 between 2016 and 2018, and extra engineering costs in the sum of \$80,000.00
15. The Authority was further required to remove the new storm pond and to put back the two ponds that had been removed. Then, upon the granting of the amended approval, the Town was required to remove the two ponds and reinstall the new storm water pond for a second time. The Authority's estimated costs for this work were approximately \$60,000.00. This is in addition to the annual allocation of between \$340,000 and \$380,000 for facility emplacement, compliance maintenance, and closure and post-closure reserves.
16. In addition to the costs which have already been incurred, the Authority anticipates incurring further costs in 2019 for further leachate hauling and, if approved, implementing phytoremediation processes.

DATED THIS 8 day of July, 2019

<p>Brownlee LLP Per: </p> <hr/> <p>Derek J. King Solicitor and Agent for Woodlands County</p>	<p>McLennan Ross LLP Per: </p> <hr/> <p>Stuart W. Chambers Solicitor and Agent for the Town of Whitecourt</p>
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