



**ENVIRONMENTAL LAW & POLICY CENTER**  
Protecting the Midwest's Environment and Natural Heritage

September 24, 2009

James Zakshesky  
Zoning Administrator  
Presque Isle County Department of Building Inspection  
And Zoning Commission  
P.O. Box 110  
Rogers City, MI 49779

SENT BY HAND DELIVERY, EMAIL, AND FEDEX

Re: Solid Waste Management Plan Consistency Determination, Wolverine Power Supply Cooperative

Dear Mr. Zakshesky,

This letter is submitted on behalf of the Environmental Law and Policy Center, Michigan Energy Alternatives, Inc., Sierra Club Michigan Chapter, the Natural Resources Defense Council, and the Great Lakes Environmental Law Center, with respect to the consistency determination for the solid waste landfill proposed by the Wolverine Power Supply Cooperative (“Wolverine”).

It is important to note at the outset that the staff of the Michigan Public Service Commission (“MPSC”) recently found that Wolverine has failed to demonstrate a need for its proposed 600 MW coal plant.<sup>1</sup> By extension, there is no need for the negative impacts of the associated landfill that is now before the Board of Commissioners (“BOC”). As a result, allowing the landfill to be built would violate the Michigan Environmental Protection Act, which prohibits harm to the environment where, as here, cleaner alternatives are feasible and prudent.<sup>2</sup> Another key factor is the overall goal of the Presque Isle Solid Waste Management Plan (“SWMP”) to “[p]romote cost effective methods of... disposal... of solid waste in a manner which will protect the health, safety, and welfare of the citizens living in the County.”<sup>3</sup> This goal is not mere window-

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<sup>1</sup> Attachment 1, Staff, Generation and Certificate of Need Section, Electric Reliability Division of the Michigan Public Service Commission, “Wolverine Power Supply Cooperative Electric Generation Alternatives Analysis For Proposed Permit to Install (PTI) No. 317-07 For Circulating Fluidized Bed Coal Boilers at Rogers City, Michigan,” Docket No. U-16000, September 8, 2009.

<sup>2</sup> See M.C.L. 324.1701 *et seq.*

<sup>3</sup> See SWMP I-5, Goal 2.



dressing, but a requirement under state law.<sup>4</sup> We provide these comments with this framework in mind.

*Geological characteristics.* The SWMP siting criteria and procedures require the applicant to submit, among other things, a description of the “general geological characteristics.”<sup>5</sup> It is our understanding that the area in question is home to sensitive karst and other geological features that make the area prone to groundwater contamination. We are including several sources that should be taken into account in the consistency determination, and which we believe weigh against a finding of consistency.<sup>6</sup> To the extent that Wolverine has not reviewed and analyzed these materials, and presented geological descriptions of its own based on survey data showing the suitability of the site, its application is incomplete and a consistency determination cannot be made.<sup>7</sup> If Wolverine has provided this analysis but failed to show the lack of geological features of concern, a consistency determination also cannot be made. Negative impacts to hydrogeological features like karst threaten groundwater quality, and thus fail to meet the SWMP goal of providing a method of waste disposal that protects the health, safety, and welfare of the citizens living in the County.

*Final design and planned annual usage, anticipated sources of solid waste, and facility life expectancy.* In addition, the applicant must submit a “written proposal including the final design capacity” of the facility, as well as “the planned annual usage, anticipated sources of solid waste, and the facility life expectancy.”<sup>8</sup> Wolverine must address numerous issues under this heading before a consistency determination can be made.

First, regarding facility design, there is a lack of clarity about what will be done with the leachate and whether this will impact the proposed coal plant itself. It is our understanding that Wolverine intends to reuse the leachate in the powerhouse. If Wolverine intends to combust the leachate in the boiler itself, high levels of toxic air emissions are likely to result and require a revision to the air permit application. Such emissions are not consistent with the goal of protecting air quality and public health. If Wolverine instead intends to recycle the leachate to generate steam, it will need to treat the leachate, which would generate a concentrated waste stream that itself would require disposal. Either way, Wolverine’s plan for the leachate is not consistent with the SWMP.

Second, there are significant inconsistencies in Wolverine’s representations to the BOC and the Michigan Department of Environmental Quality (“MDEQ”) regarding capacity and annual usage that must be resolved before a consistency determination can be made. According to Ken

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<sup>4</sup> See M.C.L. 324.11538(1)(a) (solid waste management plans shall include “goals and objectives for prevention of adverse effects on the public health and on the environment resulting from improper solid waste collection, processing, or disposal including protection of surface and groundwater quality, air quality, and the land.”)

<sup>5</sup> SWMP at III-35(4)(iv)

<sup>6</sup> See Attachment 2, karst map and Attachment 3, Groundwater Mapping Project, County Summaries, Presque Isle County; see also G. Kellers and R. Kesling, *Devonian Strata of Alpena and Presque Isle Counties, Michigan*. Geological Society of America (1970).

<sup>7</sup> SWMP III-34(2) (applicant shall provide the information listed to the BOC) and III-35(4) (listing application requirements)

<sup>8</sup> SWMP III-35(4)(v)

Bradstreet of Wolverine, the proposed coal plant facility would be producing between 400 and 500,000 cubic yards of waste per year.<sup>9</sup> Mr. Bradstreet also represented at that meeting that the waste produced would consist of approximately 50 to 60 percent limestone and the remainder would be ash. Using Mr. Bradstreet's numbers, the facility would produce only 160,000 to 200,000 cubic yards of ash per year. However, in its air quality permit application to MDEQ, Wolverine submitted that the proposed coal plant would produce *910,000 tons of ash per year*.<sup>10</sup> A cubic yard is approximately equal to a ton of ash. Thus, Wolverine's own air permit application asserts that it will produce 4 to 5 times more ash waste than it has represented to the Board. This figure does not appear to include the majority limestone portion of the waste stream. Wolverine must explain these inconsistencies.

Third, regarding planned annual usage, it is our understanding that Wolverine has claimed it will sell a portion of the ash for reuse and thus will not dispose of the full amount of waste generated in the landfill. Wolverine has not, to our knowledge, provided any reliable sources of information regarding the market for ash or identified buyers for the huge quantities of ash that it will generate. One historically significant market for ash reuse is building construction materials. However, the recent downturn in the housing market has likewise negatively impacted the demand for building materials and so ash. The Board therefore should assume that the full amount of ash generated by the proposed coal plant will need to be disposed of in the proposed landfill.

Fourth, it is not clear to us that Wolverine has submitted a sufficient description of the anticipated sources of solid waste. Excluded from Wolverine's description of the source is the fact that, as stated above, the MPSC staff recently found no showing of need for the source itself. We also draw the Board's attention to the highly toxic nature of coal combustion waste, highlighted in the attached report.<sup>11</sup> The report describes how information on the harms from coal combustion waste was known by U.S. EPA back in 2002, but was kept from public release until earlier this year. While state-of-the-art liners and leak monitoring systems can reduce the risks to human health posed by toxics leaking into groundwater, they cannot eliminate them. We again remind the Board of the SWMP's goal to protect public health. The risks to health from this proposed facility are not warranted, especially given the MPSC's finding that no need has been shown.

Fifth, the source of waste is one that will exist for decades to come, and thus must have a landfill facility whose life expectancy matches that of the waste stream. Coal plants typically have a life expectancy of fifty or more years. As such, the proposed facility should be proven to protect against leaks for at least fifty years as well. It is not clear on this record that Wolverine has made such a showing.

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<sup>9</sup> BOC meeting September 8, 2009.

<sup>10</sup> Attachment 4, Wolverine Power Supply Cooperative, Permit to Install Application for a 600 Megawatt (Net) Solid Fuel Steam Electric Power Plant, revised January 10, 2008, Chapter 3, "Summary of Project Emissions," at p. 3-5.

<sup>11</sup> Attachment 5, Environmental Integrity Project and Earthjustice, "Coming Clean: What the EPA Knows About the Dangers of Coal Ash, A Summary of the United States Environmental Protection Agency's 2007 Human and Ecological Risk Assessment of Coal Combustion Wastes," May 2009.

*Use zone.* One siting criterion is that a landfill may only be located on property zoned as “agricultural, industrial, or commercial” at the time the facility developer applies to the county for a determination of consistency under the Plan.<sup>12</sup> The current site is designated “extractive/industrial.” Activities disruptive to the underlying geology are permitted in such zones, and therefore are not in keeping with the siting of a disposal facility for highly toxic coal combustion waste. As this zoning category is not explicitly contained within the SWMP, the Board must make a determination whether it believes that the SWMP contemplates allowing a landfill in areas zoned extractive.

For all of the above reasons, we ask the Board not to make a finding of consistency for Wolverine’s proposed solid waste disposal site. A copy of this letter is being hand delivered to the BOC at its meeting on the morning of September 25<sup>th</sup>; a CD containing the letter and exhibits is being sent by Federal Express to the County Courthouse, attention James Zakshesky, to arrive on September 25<sup>th</sup>; and we will send the letter by email as well, with attachments that are not prohibitively large in size. If you have any questions, please do not hesitate to contact Meleah Geertsma, ELPC staff attorney (312-795-3713, mgeertsma@elpc.org). Thank you for your time and attention.

Sincerely,



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<sup>12</sup> SMWP III-36(xi).