



201 West Main Street, Suite 14  
Charlottesville, VA 22902-5065  
434-977-4090  
Fax 434-977-1483  
SouthernEnvironment.org

November 3, 2020

Julie Hamilton  
9100 Arboretum Parkway, Suite 235  
Richmond, Virginia 23235  
julie.s.hamilton@usace.army.mil

VIA EMAIL

**Re: Request for Extension of Public Comment Period and Publication of Full Joint Permit Application Materials for Application Number NAO-2011-02448**

Dear Ms. Hamilton,

On October 8, 2020, the Norfolk District of the U.S. Army Corps of Engineers published notice of an application by Waste Management of Virginia, Inc. for a permit to discharge dredged and/or fill material into waters of the U.S. in order to construct 16 new landfill cells at the existing Charles City landfill (Application Number NAO-2011-02448).<sup>1</sup> The Corps' notice provides 30 days for public comment, but, as of November 3, 2020, the full Joint Permit Application (JPA) has not been made available for public review. For this reason, the Southern Environmental Law Center opposes the issuance of a permit at this time, and respectfully requests that the Corps provide the full application materials for public review and extend the public comment period by a minimum of 30 days beyond the currently scheduled deadline of November 7, 2020.<sup>2</sup>

As part of the permit review process, the Corps utilizes comments from the public to help evaluate a proposal's direct, indirect, and cumulative impact on "endangered species, historic properties, water quality, general environmental effects, and . . . other public interest factors."<sup>3</sup> The Corps' public notice for this proposed project, however, only includes impact and vicinity maps, and the JPA posted on the Virginia Marine Resource Commission (VMRC) website is missing key attachments that provide a description of the project (including the proposed capacity of the expansion), as well as information about the project's purpose and need, specific impacts on historic, community, and environmental resources, and alternatives that were considered. This information goes to the very heart of balancing a proposal's benefits against its reasonably foreseeable detriments, which underpins the Corps' assessment of whether a proposal is in the public interest,<sup>4</sup> as well as the determination that the project is the least environmentally damaging alternative (LEDPA).<sup>5</sup> The omission of this critical information in the publicly-

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<sup>1</sup> Norfolk District, U.S. Army Corps of Eng'rs, Public Notice, Application NAO-2011-02448 (Oct. 8, 2020).

<sup>2</sup> SELC emailed the Norfolk District on October 16, 2020 to inquire about obtaining a complete copy of the JPA. We were told the Corps was working on getting the information added to the VMRC website, or we could request the application through a Freedom of Information Act (FOIA) request. SELC contacted VMRC to request access to the full JPA, and we were informed on October 21, 2020 that VMRC had published all of the materials they had received. SELC then submitted a FOIA request to the Norfolk District on October 26, 2020 seeking the full JPA materials. As of November 3, 2020, we have not received the application materials from the Norfolk District, and the full application materials have not been posted on the VMRC website.

<sup>3</sup> Norfolk District, U.S. Army Corps of Eng'rs, Public Notice, Application NAO-2011-02448 (Oct. 8, 2020).

<sup>4</sup> 33 C.F.R. § 320.4(a)(1).

<sup>5</sup> 40 C.F.R. § 230.10(a).

available JPA materials makes it impossible for the public to prepare meaningful comments on the proposed project, and greatly hampers the public's ability to participate in the review of this application.

The Corps should not grant a permit for this proposal until the public has an adequate opportunity to provide comments informed by the review of complete information about the proposed project's scope and potential impacts. The Corps should therefore ensure the full JPA materials are made publicly available and extend the public comment period to allow for public participation in review of this permit application.

Thank you for your consideration.

A handwritten signature in cursive script that reads "Carroll Courtenay". The signature is written in black ink and is centered on the page.

Carroll Courtenay  
Associate Attorney  
Southern Environmental Law Center