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27 September 2002

Mr John Marsiglio
EPA
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Jm

Dear John

LV Power Industry - Landfill Financial Assurance Requirements Joint Industry Position

I refer to recent EPA correspondence regarding landfill financial assurance (FA) submissions to Loy Yang Power, Yallourn Energy and Hazelwood Power.

GHD on 9 August 2002, met with representatives of the above business, to discuss the FA issue, with the objective of developing an acceptable industry position regarding FA. A preliminary common position was agreed on, and as such GHD on behalf of Loy Yang Power, Yallourn Energy and Hazelwood Power is pleased to present the following for your consideration, as an outline of the proposed Latrobe Valley Power Industries joint position regarding the detail and structure of FA submissions.

FA Position

It is understood that FA is required for all licensed solid waste disposal sites and that EPA publication No. 777, was prepared to assist in the preparation of FA proposals. It is clear that this publication was prepared specifically for the waste management industry, and that industries such as the LV power industries have been caught in the FA web by virtue that they dispose of a small volumes of solid inert waste on site. EPA is asking for FA to ensure the financial burden of landfill remedial action, rehabilitation or aftercare is not born by the community in the unlikely event that a landfill owner / licensee is unable to met their landfill financial obligations. These requirements are targeted at commercial landfill facilities with declining assets and large potential environmental obligations.

With respect to solid inert waste disposal, the LV power industries are not within this category. The industries do not operate commercial landfill operations and each of the existing mines has in excess of 30 years of life and asset values greater than \$2 Billion.

Furthermore each of the above industries is accredited licensees, and as such has demonstrated excellent environmental performance over a substantial period of time. Extensive groundwater monitoring networks have been established and considerable engineering deployed to ensure containment and effective management of all leachate is achieved. The risk any solid inert waste deposited within the premises presents to the environment is negligible.

Remedial Action

The remedial component of the FA assurance submission should either not be required due to the sound environmental performance of the respective industries, or at the most only required when the sites are within 10 years of closure. It is anticipated that an insurance policy or similar financial arrangement for an amount in excess of the remedial component will be provided at this time. This would require annual reporting of the remaining asset value, the likely remaining life of the site, and licence requirements to provide the remedial component in approximately 20 years.

Site Rehabilitation

The rehabilitation component of the FA package is a duplicate requirement of the existing mining licences for each of the industries under S. 80 of the *Mineral Resource Development Act 1990 No. 92*. The mining licence requires that a bond be established for the sole purpose of site rehabilitation. The value of the bond is \$15 M, which should satisfy EPA that adequate provisions for rehabilitation of landfilled solid inert waste are already in place.

Site Aftercare

Furthermore the aftercare components of the financial assurance package are also covered by existing mining licence arrangements. Such that the \$15 M bond (or a portion of the bond) is retained by DNRE until such time as the Environment Minister is satisfied that the site rehabilitation will prevent any potential long term degradation of the environment as well as any damage caused to the land which may not become evident for some time.

Furthermore to ensure that the bond is not required to be drawn on, plans to accumulate funds (from 2023 for Loy Yang) have been established to ensure there are adequate funds available when substantial site restoration costs are experienced.

FA Structure

To satisfy licence requirements, Rehabilitation and Aftercare provisions may be established, to provide access (in accordance with the EPA Act 1970) by EPA to the bond already in place and held by DNRE. EPA may also wish to be involved in the bond reviews, which are undertaken from time to time to ensure that the amount of bond entered into is sufficient. Furthermore to satisfy remedial provisions licence amendments may be developed requiring pollution insurance in 20 years, or when the asset of the site is below 10 times the calculated remedial cover required (or which ever is sooner).

Thankyou for your open minded flexibility on this issue to date, I trust the information provided outlines the industries concerns and joint position. GHD along with the LV power Industry look forward to your comments regarding this matter.

If you have any queries please call me, or any of your contacts within the industries identified above.

Yours sincerely



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