

Response to Comments

LG&E Trimble County Generating Station Special Waste Landfill Application

AI 4054; Activity APE20140001

The Division of Waste Management (DWM) received an application for a new Special Waste Landfill on January 3, 2014. The first public notice was issued on January 30, 2014 with a thirty (30) day comment period. The second public notice was issued on August 11, 2016 with a thirty (30) day comment period and included information for a public hearing on August 30, 2016. The following is a brief description of the comments received and DWM's response.

1st comment period

Comment 1: A commenter stated that, according to KRS 433.871-885 (the Kentucky Cave Protection Act), a sinkhole is a cave, and the sinkholes should be examined to see if they contain the same living organisms as were found in the cave.

Response: KRS 433.877 states that, "It shall be unlawful to remove, kill, harm, or otherwise disturb any naturally occurring organism found within any cave".

For naturally-occurring organisms to be covered under this statute, they must be found within a "cave". (Some organisms may be protected under one or more other statutes.)

Both sinkholes and caves are karst features, but a sinkhole is not a cave. A sinkhole is a closed depression on the surface of the earth that may or may not be connected to a cave.

KRS 433.871(1) defines "cave" as *"any naturally occurring void, cavity, recess, or system of interconnecting passages beneath the surface of the earth containing a black zone including natural subterranean water and drainage systems, but not including any mine, tunnel, aqueduct, or other man-made excavation, which is large enough to permit a person to enter. The term "cave" includes or is synonymous with cavern."*

In order for a sinkhole to be part of a cave under KRS 433.871(1), the sinkhole must be part of the subterranean drainage network connected to a cave, i.e., to a passage that is both large enough for a human to enter and that has a "black zone".

To date, the only known onsite karst feature that meets this definition of "cave" is Wentworth (or Lime) Cave. The cave and the sinkholes connected to it will be unaffected by construction or waste placement.

Biological surveys of the proposed landfill and surrounding areas have been conducted and reviewed by multiple state and federal agencies, both in the context of the review of the landfill application and other state and federal permit applications. The applicant will be required to meet all relevant statutes and regulations regarding the protection of wildlife.

drainage net, twelve inch leachate collection system, and a two feet protective cover. The synthetic liner system is far more robust than what is required in 401 KAR 45:110 and will protect human health and the environment by acting as a hydraulic barrier to prevent the migration of leachate into the groundwater. The applicant also performed a slope stability analysis that shows the landfill design is stable under seismic conditions.

The permit was not changed as a result of this comment.

Comment 7: A commenter expressed concern that the landfill design did not adequately meet the requirements of 45:110 to not pose a reasonable probability of adverse effects on human health or the environment due to the landfill being sited over karst terrain which would lead to contamination of groundwater and surface water. Further, siting the landfill on karst terrain was stated to be a violation of 401 KAR 45:130(3).

Response: Karst terrain is present at the site, mostly overlying the Saluda Dolomite and the Laurel Dolomite. The Saluda Dolomite is exposed on the side slopes of the valley, and the Laurel Dolomite is present in the upland interfluves.

Rock units below the Saluda Dolomite were determined to have very low porosity and permeability, with little or no groundwater flow except in the weathered, fractured upper bedrock. This is also the case for the Brassfield Limestone and Osgood Shale which overlie the Saluda.

Geologic investigation of the site (including dye tracing) has revealed that groundwater enters sinkholes and flows along fractures and karst conduits in the Saluda Dolomite and flows toward the center of the valley where it discharges through springs in the lower part of that formation. Available evidence indicates that groundwater in the Saluda has no known potential to flow into adjacent valleys to the north or south.

Monitoring the weathered, fractured upper bedrock and overlying unconsolidated material hydraulically downgradient of the disposal site should allow detection of any contaminant releases that have occurred below the base of the Laurel Dolomite. Moreover, corrective action of any such releases should be easily accomplished.

Groundwater flow above the base of the Laurel Dolomite (which is the uppermost bedrock unit in the upland areas) is not well understood as that in the underlying rocks. Because conduit and fracture flow have been documented in the Laurel, DWM has determined that dye tracing and/or monitoring of springs on adjacent properties is necessary before geological characterization of the areas overlying the Laurel Dolomite and the superjacent glacial drift can be considered complete.

As a result, the permit does not allow the mitigation of karst features, the placement of a liner system, or the subsequent placement of waste above the base of the Laurel Dolomite. In addition, no liner system or waste may be placed over the Laurel Dolomite unless the permittee submits to the DWM a groundwater monitoring plan for the Laurel Dolomite that the DWM finds acceptable. The groundwater monitoring plan would be a major permit modification and would be subject to public notice and comment.

With regard to the siting of the landfill closer than 250 feet from karst features, the applicant has requested a variance pursuant to 401 KAR 30:020 Section 2. To mitigate potential hazards regarding structural stability, LG&E has proposed filling any karst features found during excavation. Springs will be dug out, filled with gravel, and linked to the underdrain system. Karst voids will be filled with cement

The commenter recommended the use of alternate tests, including the Synthetic Groundwater Leaching Procedure (SGLP), Leaching Environmental Assessment Framework (LEAF), and Kosson protocol tests.

Response: With regard to the necessity of some waste streams being determined “nonhazardous”, 40 CFR 261.4(b) (4) lists certain CCRs and associated wastes as exempt from hazardous waste classification. Among these are fly ash, bottom ash, flue gas desulfurization sludge, coal pile runoff, boiler cleaning solutions, boiler blowdown, process water treatment and demineralizer regeneration wastes, cooling tower blowdown, air heater and precipitator washes, effluents from floor and yard drains and sumps, and wastewater treatment sludge. As a consequence, no hazardous waste determination is required for these waste streams.

The analytical tests used were compatible with the applicable Kentucky Administrative Regulations; 401 KAR 30:010 incorporates EPA SW-846 test methods by reference. As a result, DWM has historically required SW-846 Test Methods.

None of the alternate tests mentioned by the commenter have been added to the SW-846 Compendium through the Federal Register process. The LEAF tests are mentioned by USEPA on the SW-846 website, but they are “SW-846 Validated Test Methods”, and not formally adopted.

In addition to the proposed waste streams that are also listed in 40 CFR 261.4(b) (4), the application proposes the disposal of mill rejects in the landfill. (The terms “mill rejects” and “pyrites” are often used interchangeably, although pyrites are a subset of mill rejects.)

Lastly, mill rejects do not meet the definition of coal combustion residuals under 40 CFR 257.53 nor do they meet the definition of special waste under KRS 224.50-760. As a result, it is the responsibility of the generator to make a waste determination on the mill rejects and then to dispose of them at an appropriately permitted facility.

The permit was changed to contain the revised permit condition:

Wastestreams: The permittee may dispose of coal combustion by-products generated by the Trimble County Generating Station. These by-products include bottom ash, fly ash, and flue gas desulphurization (FGD) gypsum; mill rejects (pyrites) are not authorized for disposal. Any new waste stream or source shall be approved by the Cabinet prior to accepting the waste. [401 KAR 45:040 Section 1(3)(o), 401 KAR 45:110 Section 3(7), KRS 224.50-760(1)(a)]

Comment 10: A commenter stated that, pursuant to 401 KAR 45:110(2), the high volume of ash to be placed in the landfill was a concern due to an unreasonable probability of adverse effects.

Response: The landfill design takes into the account the waste volume to be disposed of. Within the design are several analyses and models that are utilized to determine if the design is stable and adequate. The applicant has provided these and the Division concurs that the landfill design will protect human health and the environment.

The permit was not changed as a result of this comment.

Comment 11: A commenter said that the engineering design of the landfill was not adequate with respect to the hydrogeologic characteristics of the site including the quality, quantity, current use and direction of

extended beyond the five (5) years if the facility pursuant to 401 KAR 45:160 is conducting groundwater assessment or corrective action.

The permit was not changed as a result of this comment.

Comment 15: A commenter stated that due to the numerous unreasonable risks to human health and the environment, the landfill application should be denied and alternative disposal locations that would not present such risks should be examined.

Response: The landfill is designed and constructed to minimize the possibility of releases of contaminants into the groundwater and surface water. The facility will be required to comply with the environmental performance standards of 401 KAR 30:031. Further, groundwater and surface water will be monitored in accordance with all applicable regulations in order to determine whether a release of contaminants has occurred. In the unlikely event of a contaminant release, the permittee will be required to perform corrective measures as needed to ensure the protection of human health and the environment. The Chapter 45 regulations for special waste facilities do not require the permittee to explore alternate disposal locations.

The permit was not changed in response to this comment.

2nd comment period

Comment 16: A commenter stated that the proposed landfill enables LG&E/KU to continue to spew pollutants (i.e. CO₂) into the atmosphere at the cost of the health of Kentucky residents and the environment.

Response: Pursuant to 401 KAR 30:031, Section 9(2), no facility shall violate applicable air pollution requirements. The Division for Air Quality regulates this matter pursuant to KRS Chapter 224, Subchapter 20 and the administrative regulations promulgated pursuant thereto.

The permit was not changed in response to this comment.

Comment 17: A commenter stated that the permit should not be granted until other methods of producing power at the Trimble County Generating Station have been fully investigated.

Response: The Division (Division) of Waste Management does not have regulatory authority over this matter. The Division reviews applications that are submitted and makes a determination based on the authority pursuant to KRS Chapter 224 and the administrative regulations promulgated pursuant thereto.

The permit was not changed in response to this comment.

Comment 18: A commenter stated that the application should be denied due to close proximity to a residential neighborhood and the possibility of water contamination, noise, inconvenience, and sulfur odors.

Response: The application meets the siting requirement established in 401 KAR 45:130, Section 1(4) which requires waste to not be placed within one hundred (100) feet of the property line. Further, the facility shall comply with the Environmental Performance Standards per 401 KAR 30:031 and shall monitor groundwater in accordance with 401 KAR 45:160.

monitoring plan for the Laurel Dolomite that the DWM finds acceptable. The groundwater monitoring plan would be a major permit modification and would be subject to public notice and comment.

The permit was not changed in response to this comment.

Comment 23: Several commenters stated the “piece-mealing” of the landfill project would allow the permittee to skirt the regulatory process, leading to unacceptable harm to the environment.

Response: Pursuant to 401 KAR 45:110, the owner or operator of a special waste landfill must operate the facility in accordance with the requirements of KRS Chapter 224, requirements of Chapter 45, and the conditions of the special waste landfill permit. The special waste landfill permit incorporates all approved applications and plans as stated on the permit in the following manner: “No deviation from the plans and specifications submitted with your application or any condition specified herein is allowed, unless authorized in writing from the Division”. Also the special waste landfill permit states that “Violation of the terms and conditions specified herein may render this permit null and void”.

The permit was not changed in response to this comment.

Comment 24: Several commenters stated the application should be denied because, while the permittee does not intend to construct above the Laurel Dolomite with this application, the overland transportation of coal waste via conveyor without complete containment will result in contamination all along the route, including the Laurel Dolomite ground and groundwater.

Response: A permittee shall not violate the Environmental Performance Standards of 401 KAR 30:031, which prohibit the discharge of pollutants into the waters of the Commonwealth or contamination of an underground drinking water source.

The permit was not changed in response to this comment.

Comment 25: Several commenters stated the “piece-mealing” of the landfill project will result in increased cost to Kentucky electric rate-payers.

Response: The Division of Waste Management does not have regulatory authority over this matter. The Public Service Commission is the primary regulatory agency concerning electricity rates.

The permit was not changed in response to this comment.

Comment 26: A commenter stated that more layers of buffer between the waste and ground are needed.

Response: The applicant has proposed a synthetic liner system. This system is a highly impermeable layer that will act as a hydraulic barrier to prevent the migration of leachate into the environment.

The permit was not changed in response to this comment.

Comment 27: A commenter stated that remaining adjoining property owners to the site should be bought out by the applicant, at a price commensurate to that paid to previous landowners.

Response: The Division of Waste Management does not have regulatory authority over this matter. A contract or offer to purchase property is between the seller and potential buyer.

The permit was not changed in response to this comment.

monitoring plan for the Laurel Dolomite that the DWM finds acceptable. The groundwater monitoring plan would be a major permit modification and would be subject to public notice and comment.

The applicable statutes and administrative regulations, the approved plans, and the environmental performance standards of 401 KAR 30:031, have been deemed protective of human health and the environment.

The permit was not changed in response to this comment.

Comment 33: A commenter questioned how a variance can be introduced as a modification on an application for which a permit has never been issued.

Response: The process for requesting a variance is in 401 KAR 30:020. The requirement that a permit must already be issued is not a requirement of 401 KAR 30:020.

The permit was not changed in response to this comment.

Comment 34: A commenter stated that the cap system proposed was insufficient to prevent rain infiltration and root penetration.

Response: The cap system will consist of minimum twelve inches of compacted cohesive soil overlaid by twelve inches of vegetative soil. The cap system will consist of a 25% slope that will encourage runoff and not infiltration. Surface water collection channels, sedimentation basin, and other erosion control measures will be utilized to manage surface water runoff and minimize erosion. Limiting erosion rills will also limit infiltration through the cap system. The application closure plan is consistent with 401 KAR 45:110 Section 5.

The permit was not changed as a result of this comment.

Comment 35: A commenter expressed concern that the permit application lacked an adequate characterization of the Laurel Dolomite aquifer system pursuant to the requirements of 401 KAR 45:110, Section 1; 401 KAR 45:160, Section 7(2) and 401 KAR 45:160. The commenter concluded that the permit could not therefore be issued. The commenter further expressed concern that the proposed permit condition allowing excavation and blasting at the site would alter the groundwater characteristics and therefore this permit condition should not be allowed prior to an adequate groundwater characterization. The presence of springs at the site indicated a karst aquifer which would be particularly vulnerable to collapse, plugging, and contamination from subgrade preparation activities.

Response: Groundwater flow above the base of the Laurel Dolomite (which is the uppermost bedrock unit in the upland areas) is not as well-understood as that in the underlying rocks. Because conduit and fracture flow have been documented in the Laurel, DWM has determined that dye tracing and/or monitoring of springs on adjacent properties is necessary before geological characterization of areas overlying the Laurel Dolomite and superjacent glacial drift can be considered complete.

As a result, the permit does not allow the mitigation of karst features, the placement of a liner system, or the subsequent placement of waste above the base of the Laurel Dolomite. In addition, no liner system or waste may be placed over the Laurel Dolomite unless the permittee submits to the DWM a groundwater monitoring plan for the Laurel Dolomite that the DWM finds acceptable. The groundwater monitoring plan would be a major permit modification and would be subject to public notice and comment.

The permit was not changed in response to this comment.

Comment 39: Multiple commenters stated that the Cabinet does not have the authority to issue a conditional permit allowing the siting of the landfill prior to receiving a water quality certification pursuant to 401 KAR Chapter 10. The commenter stated that the water quality certification must be completed prior to permit issuance in order to demonstrate compliance with the requirements of 401 KAR 45:130 and 401 KAR 30:031.

Response: The water quality certification was issued on October 24, 2016. A copy of the cover letter has been incorporated into the administrative record by the Solid Waste Branch for the Special Waste Landfill.

The permit was changed removing the provision below:

“Construction: The landfill construction activities shall not commence in the permit boundary area designated in application APE20140001 until 1) receipt of the Water Quality Certification (certification) from the Division of Water, and 2) the certification is submitted to and accepted by the Solid Waste Branch in the Division of Waste Management. [401 KAR 45:140 Section 2]”

Comment 40: A commenter stated that the groundwater monitoring plan fails to provide a monitoring system capable of accurately analyzing the groundwater quality and flow. The commenter further explained that the proposed groundwater monitoring plan was better suited to granular groundwater systems and not the karstic system present at the site. The commenter provided technical comments stating that tracer investigations and the use of springs would augment groundwater monitoring in karst environments.

Response: Karst terrain is present at the site, mostly overlying the Saluda Dolomite and the Laurel Dolomite. The Saluda Dolomite is exposed on the side slopes of the valley, and the Laurel Dolomite is present in the upland interflaves.

Rock units below the Saluda Dolomite were determined to have very low porosity and permeability, with little or no groundwater flow except in the weathered, fractured upper bedrock. This is also the case for the Brassfield Limestone and Osgood Shale which overlie the Saluda.

Geologic investigation of the site (including dye tracing) has revealed that groundwater enters sinkholes and flows along fractures and karst conduits in the Saluda Dolomite and flows toward the center of the valley where it discharges through springs in the lower part of that formation. Available evidence indicates that groundwater in the Saluda has no known potential to flow into adjacent valleys to the north or south.

Monitoring the weathered, fractured upper bedrock and overlying unconsolidated material hydraulically downgradient of the disposal site should allow detection of any contaminant releases that have occurred below the base of the Laurel Dolomite. Moreover, corrective action of any such releases should be easily accomplished.

Groundwater flow above the base of the Laurel Dolomite (which is the uppermost bedrock unit in the upland areas) is not as well-understood as that in the underlying rocks. Because conduit and fracture flow have been documented in the Laurel, DWM has determined that dye tracing and/or monitoring of springs on adjacent properties is necessary before geological characterization of areas overlying the Laurel

cause. Deviation from the permit is also a deviation from the approved applications and plans, thus the permittee shall apply for a permit modification or be in violation.

The permit was not changed as a result of this comment.

Comment 43: A commenter stated that the permit should specify an action leakage rate such that leachate collection above a numerical standard (e.g. gals/acre/day) warns of a potential breach in one or more of the containment systems, requiring an investigation and possibly corrective measures.

Response: The function of the synthetic liner is to prevent leachate leaks into the environment. The applicant will also be monitoring the liner underdrain system for leaks. Chapter 45 regulations do not require an action leakage rate determination. Once a leak has been detected, either through the groundwater or underdrain monitoring system; the permittee must take corrective action measures.

The permit was not changed as a result of this comment.

Comment 44: A commenter stated that the permit should require a minimum 5 days advance notice to KDWM representatives prior to installation of key containment system components so that on-site observation and inspection can be carried out.

Response: The applicant has agreed (as stated in the Construction Quality Control Plan) to inform the Division two days in advance of the final inspection to occur at each stage liner and cap construction such that a representative can attend. A final inspection is only required pursuant to 401 KAR 45:140 to determine that the facility was built according to the permit, therefore the applicant is going beyond the regulations to accommodate the Division.

The permit was not changed as a result of this comment.

Comment 45: A commenter stated that the proposed polyethylene (LLDPE) geomembrane liner has been insufficiently scientifically proven to prevent degradation over long time periods (> 25 years) to prevent pollutants from leaching into soil and groundwater. The commenter cited a study that showed LLDPE geomembrane exposed to UV-fluorescent radiation at 70°C for 25,000 hours showed signs of degradation. Commenter further stated a liner failure would violate 401 KAR 30:031(5).

Response: The Division agrees that a geomembrane liner exposed to UV radiation over a period of time will deteriorate. However, the geomembrane will be used as a bottom liner cover by waste and not exposed to UV radiation. Therefore, the geomembrane liner will not deteriorate and allow pollutants to leach into the soil and groundwater.

The permit was not changed as a result of this comment.

Comment 46: Several commenters stated that the proposed permit does not meet the requirements of RCRA Subtitle D to prohibit the siting of landfills in unstable areas (i.e. karst including sinkholes and caves) unless an engineering demonstration is made that the unit is safe as designed. The application fails to include the breadth of groundwater monitoring required under Subtitle D.

Response: The Federal government recently promulgated regulations for the siting and operation of coal combustion facilities under 40 CFR 257 Subpart D. This regulation provides opportunities for any person who believes the facility is not being operated in compliance with 40 CFR 257 to file a citizen suit under

minimize the footprint of the applicants preferred onsite alternative, beneficial reuse alternatives, and establishing a single site for multiple coal fired power plants to dispose of ash with fewer environmental impacts and less risk of groundwater contamination.

Response: The Division (Division) of Waste Management does not have regulatory authority over this matter. The Division reviews applications that are submitted and makes a determination based on the authority pursuant to KRS Chapter 224 and the administrative regulations promulgated pursuant thereto.

The permit was not changed in response to this comment.

Comment 51: A commenter asked if there were plans to receive ash at the McBride Barge Company facility from anywhere else to bring to the proposed landfill. The commenter further expressed concern that ash would be released into the Ohio River and cause cancer.

Response: The application proposes to only receive waste generated from the Trimble County Generating Station. Any new wastestream or source shall be approved by the Cabinet prior to the facility accepting the waste.

The permit was not changed in response to this comment.

Comment 52: A commenter expressed concern that construction of the landfill would affect a church and various homes that are located not far from the facility. The commenter suggested the properties of those people should be bought by the permittee or that they should be otherwise reimbursed for their loss of property values.

Response: The application meets the siting requirement established in 401 KAR 45:130, Section 1(4) which requires waste to not be placed within one hundred (100) feet of the property line. Further, the facility shall comply with the Environmental Performance Standards per 401 KAR 30:031. The Division of Waste Management does not have regulatory authority over the matter of property values.

The permit was not changed in response to this comment.

Comment 53: A commenter asked why the process was taking so long because it had affected her plans to finish construction on her house.

Response: It is typical for it to take a year or several years to complete the permitting application process for a new Solid Waste or Special Waste Landfill site or facility or horizontal expansion of an existing facility. The application consists of several volumes and the process requires multiple public notices, meetings and/or hearings.

The permit was not changed in response to this comment.

Comment 54: A commenter stated that when coal ash ponds were originally constructed the clay liners were thought to be sufficient and now those liners have been found to be leaking at ponds around the United States. The commenter expressed concern that the new liners that may be good enough either and that they need to be researched more.

Response: Clay soil has electrostatic surface charges that attract and hold ions. Cation-exchange capacity (CEC) is the number of exchangeable cations per dry weight that a soil is capable of holding and available for exchange with the soil water solution, in this case leachate. Low permeability clay liners were

Comment 58: A commenter said that the draft permit failed to comply with the new subtitle D federal regulations effective October, 2015 for various reasons. The commenter stated that the draft permit does not provide for public reporting of monitoring and corrective action documents, as required by the federal rule.

Response: Any person who believes the facility is not being operated in compliance with 40 CFR 257 may file a citizen suit. The DWM is charged with enforcing state regulations for the permitting and operation of the proposed facility. Those regulations require the permittee to submit groundwater monitoring assessment reports and groundwater monitoring corrective actions plans if groundwater contamination is suspected. The assessment and corrective action process does include public notice and opportunity for public comment.

Any person may request copies of the groundwater data through the Kentucky Open Records Act by sending an email to DEP.KORA@ky.gov.

The permit was not changed in response to this comment.

Comment 59: A commenter reported that EPA region 4 recommended on August 7, 2014 that because the landfill may result in adverse impacts on aquatic resources, the project as proposed should be denied.

Response: The draft permit contains the provision that the landfill construction activities shall not commence until receipt of concurrence from the Kentucky Department for Fish and Wildlife Resources and the U.S. Army Corps of Engineers. Additional information may be found in Attachments 17 and 18 of the permit application.

The permit was not changed in response to this comment.

Comment 60: A commenter asked how the community would be notified if there was a request to enlarge the disposal area or to change the permit to allow receipt of ash from additional area.

Response: 401 KAR 45:050, Section 1 outlines the necessity for public notice procedures for a new special waste landfill or a horizontal expansion (new waste disposal area) of a special waste landfill. This section does not include the provision for a notice if a modification is proposed by the applicant to allow receipt of waste from a different source. However, per 401 KAR 45:050, Section 1(2), a notice is required if the Cabinet determines that a significant degree of public interest exists with respect to an application or modification.

If a notice is issued, 401 KAR 45:050, Section 4(1) states a notice shall be published in a daily or weekly major local newspaper of general circulation where the proposed site or facility is located. Further, 401 KAR 45:050, Section 4(8)(b) requires the landowners of all adjacent and abutting properties shall be delivered a notice.

The permit was not changed in response to this comment.

Comment 61: A commenter stated that she was told that there would be monitoring wells installed on the properties of the people who lived on Ogden Ridge, but wanted to know why the draft permit and application do not require the installation of monitoring wells on these sites.

application meets the siting requirement established in 401 KAR 45:130, Section 1(4) which requires waste to not be placed within one hundred (100) feet of the property line. Further, the facility shall comply with the Environmental Performance Standards per 401 KAR 30:031.

The permit was not changed in response to this comment.

Comment 65: A commenter expressed concern that the noise from explosives used in blasting would have negative health effects on people who live near the landfill, particularly those with post-traumatic stress disorder.

Response: The Division (Division) of Waste Management does not have regulatory authority over this matter. The Division reviews applications that are submitted and makes a determination based on the authority pursuant to KRS Chapter 224 and the administrative regulations promulgated pursuant thereto. Pursuant to 401 KAR 45:030, the applicant must comply with all state laws, including those that govern this matter.

The permit was not changed in response to this comment.

Comment 66: A commenter expressed worry that the blasting at the landfill would affect the foundation of his house.

Response: The Division of Waste Management (Division) does not have regulatory authority over this matter. The Division reviews applications that are submitted and makes a determination based on the authority pursuant to KRS Chapter 224 and the administrative regulations promulgated pursuant thereto. Pursuant to 401 KAR 45:030, the applicant must comply with all state laws, including those that govern this matter. As stated in Attachment 27, if blasting is required, a blasting plan will be submitted to the Division for review and approval prior to commencing construction.

The permit was not changed in response to this comment.

Comment 67: A commenter expressed concern about the expansion of the landfill beyond the approved 97 acres and stated that when the permittee asked for a vertical modification at Cane Run in 2003 there was no public hearing and the modification was approved.

Response: 401 KAR 45:050 specifies the permit actions which require public information procedures. The cabinet may also require public information procedures upon determination that significant public interest exists.

The permit was not changed in response to this comment.

Comment 68: A commenter asked whether ash would be transported from the river to the landfill via a conveyor belt or over the roads.

Response: Ash will be transported from the power generation plant to the landfill via an enclosed conveyor belt system. No transportation activities will occur off of LG&E/KU property other than crossing over KY 1838.

The permit was not changed in response to this comment.

Discharges resulting from the operation of a generating unit and associated waste disposal facilities is regulated federally pursuant to 40 CFR Part 423 and by the Kentucky Division of Water pursuant to 401 KAR Chapters 5 and 10.

The permit was not changed in response to this comment.

-- The End --