

Preliminary Statement

Prepared by Green Ridge Recycling and Disposal LLC

The Commonwealth of Virginia is on the precipice of a waste disposal crisis, both in terms of diminishing capacity because of a dramatic increase in waste volume from out-of-state waste and the complete collapse of the recycling market, as well as an economic one because almost all of the current private Virginia landfills are concentrated in the hands of only two companies, Republic Services, Inc. and Waste Management, Inc. Those two companies currently control almost 88% of the private landfill capacity in Virginia. And as explained below, within 3-4 years, this duopoly will likely control an astounding 99% of the private landfill capacity in Virginia. The magnitude of the problem becomes especially apparent when you consider that private landfills account for about 70% of all waste disposal capacity as well as annual waste disposed of in Virginia, and that most of the landfills owned by localities do not serve the Commonwealth as a whole. They instead only take waste from the locality that owns and operates that landfill. Fairfax, Prince William, and Loudoun Counties are a few such examples. As set forth below, the proposed Green Ridge landfill addresses and alleviates both concerns. It is a landfill owned by an independent company and is intended to serve Virginia, not cater to out-of-state waste.

A number of factors have aligned to create a perfect storm vis-à-vis Virginia's future waste disposal needs. Several of Virginia's largest landfills have recently closed or will close in the near future, including the Lorton landfill, which historically accepted more than a million tons of debris a year. In addition, the Virginia Department of Environmental Quality ("DEQ") and the Virginia Attorney General's office are seeking to shut down the Tri-Cities landfill. Perhaps more significantly, the Shoosmith landfill in Chesterfield County will very likely be closing within 3-4 years because the Chesterfield County Circuit Court recently upheld Chesterfield County's

decision to deny a required County local certification based on health and environmental concerns, concerns among other things based on the undisputed fact that Shoosmith proposes to dispose of waste in a quarry more than 200 feet below the water table. And just this year, Republic Services withdrew its permit for a landfill in Cumberland County. (Thus, the Green Ridge facility is simply replacing a previously anticipated and permitted landfill in Cumberland County, with the added benefit of increasing competition.) In addition, a number of localities are struggling with their inefficient, costly public landfills and are seeking alternatives to those landfills, which are becoming increasingly more difficult for localities to operate and maintain. All this is occurring at the same time waste volumes coming to Virginia landfills are set to explode.

The reasons for the dramatic increase in future waste volumes are several-fold. A plethora of industry experts have concluded that the Northeast's landfill capacity is disappearing, with only 6 ½ years of capacity remaining, so Mid-Atlantic states such as Virginia will soon be inundated with waste from heavily populated states such as New York and New Jersey.¹ As a result, industry experts estimate that the Mid-Atlantic area has less than ten years of remaining disposal capacity.

The future for Virginia appears even grimmer. Virginia, Pennsylvania, and Ohio are the three states that experts agree will absorb the vast amount of waste from the Northeast because of the trucking lanes that allow haulers to save money by transporting waste to a landfill in one of those states and then return to the Northeast with a full load of lumber, steel, or mulch, instead of returning with an empty container. In addition, several of Virginia's largest landfills are directly

¹ For example, in a presentation to investors on June 1, 2019, Waste Management explained that the landfills in the Northeast are filling up so fast that the waste from New York City and Long Island, New York, representing 26,000 tons a day, will soon be transported by rail to the WMX-Amelia and Atlantic Waste Disposal landfills in Virginia. This tonnage represents an entirely new waste stream to Virginia landfills and is simply one harbinger of things to come. Perhaps more alarming, the WMX-Amelia landfill, and Atlantic Waste's landfill collectively represent approximately 25 percent of Virginia's disposal capacity.

connected to the Northeast via rail. All this is occurring at the same time that massive amounts of coal ash are expected to be transferred to Virginia landfills as a result of recent legislative action.

Yet the anticipated increase in waste is not limited to the dramatic influx of waste from the Northeast, Virginia's rapid economic expansion, and the relocation of coal ash. In addition, China and other Asian countries are no longer accepting recyclable materials from the United States. In turn, the United States lacks the capacity to recycle much of the materials that no longer have access to a foreign market. Thus, vast amounts of recyclable materials are beginning to be disposed in landfills. That situation will only grow progressively worse.²

Because of this expected increase in waste volume, DEQ cannot make a determination of waste disposal capacity based on historical numbers. Rather, it must evaluate future capacity based on a realistic projection of anticipated waste when the Green Ridge landfill becomes operational several years from now, a time when Virginia's disposal capacity will have already substantially shrunk.

In calculating the available capacity, DEQ likewise cannot rely upon the annual capacity reports provided to it by landfill operators because those industry-reported capacities are inflated. Landfill operators have incentive to overestimate their remaining disposal capacities because doing so substantially lessens the cost of their financial assurance bonds. Moreover, many localities that

² Incineration is not a viable option to address the influx of future waste. Virginia's incineration plants are already operating at full capacity and cannot handle any additional waste. Moreover, only one municipal solid waste incinerator in the United States has been permitted in the last forty three years, and after incineration, 15-25 percent of the waste incinerated remains as ash which must in turn be disposed in a landfill. Moreover, by their nature, incineration facilities require extended maintenance shut downs and are subject to fire which can shut down a plant for prolonged periods of time, thereby further exacerbating the capacity problem. So for example, the Fairfax Covanta plant experienced a fire which shut down the plant for fifteen months, during which time all the daily waste it had been handling had to be diverted to landfills.

own and operate a landfill do not have the resources to accurately determine and report their remaining disposal capacity. In addition, these capacity reports also do not take into account the beneficial reuse materials which do not have to be reported but take up considerable air space thereby consuming actual disposal capacity.

As long as sufficient capacity appeared to exist, a flawed methodology based on voluntary reporting did not present a material issue. However, with ever-diminishing capacity and the looming exponential increase in future waste, prudence now dictates that DEQ adopt a realistic capacity number, not one intended to lower the cost of financial assurance bonds.³

From an economic perspective, an exploding waste volume - coupled with two companies dominating the waste market - creates an anti-competitive environment that inexorably leads to spiraling waste disposal costs for state and local governments, as well as for Virginia businesses and residents. Indeed, the effects are already being felt. For example, in just the past year, VCU's disposal costs almost tripled from \$18.89 to \$44.30 a ton.

Green Ridge's Cumberland landfill represents a unique opportunity to address the economic issue as well as the need for additional capacity. Green Ridge's parent company and affiliates, known as County Waste, collect waste from more than 320,000 customers across the Commonwealth, many of whom include agencies, universities, large industrial users, and homeowners associations. The Green Ridge landfill will allow County Waste to serve those customers and offer highly competitive waste disposal rates to Virginia governments, businesses,

³ DEQ apparently realizes that its projections of remaining disposal capacity are not a reliable indicator of the actual remaining capacity because in the last few years, DEQ has approved several expansions even though DEQ's current formula would indicate more than 20 years of remaining disposal capacity existed. Moreover, if DEQ were to find that sufficient disposal capacity exists, then DEQ could likewise no longer grant any expansion of a publicly owned landfill.

and residents because County Waste will not have to rely on landfills controlled by just two companies.

In addition, *unlike other private landfills in the Commonwealth, the Green Ridge landfill is intended to serve Virginia and not the Northeast.* That is why Green Ridge has elected to specifically exclude from its service area New Jersey and New York, the two heavily populated Northeastern states that industry experts predict will inundate Virginia landfills with their waste. All the other private landfills in Virginia, other than the Shoosmith landfill - which will likely close by 2023 - have no such out-of-state restrictions. Consequently, DEQ must assume that the existing capacity of Virginia landfills will be increasingly devoted to out-of-state waste. It therefore becomes imperative that Virginia has a landfill such as Green Ridge dedicated to serving the needs of Virginia. After the Green Ridge landfill becomes operational, Virginia will have such a landfill, one intended and permitted to meet the disposal needs of Virginia, and not the Northeast, while also helping to ensure competitive waste disposal rates.

Because of these realities, localities are beginning to recognize the crisis and future accelerated costs they will confront. That is why so many localities, including Hanover, Chesterfield, Botetourt, Appomattox, Ashland, and Cumberland, to name but a few, strongly support the Green Ridge landfill.

In short, it is imperative that DEQ take a proactive position to ensure that Virginia enjoys adequate waste disposal capacity going forward, and also recognize the damaging consequences that will ensue if DEQ mistakenly overestimates Virginia's future disposal capacity. Such a mistake would have lasting effects, because once a crisis develops, it would take years to abate. At a minimum, companies need 5-6 years to select a site, obtain permits, and construct a landfill.

Prudence, therefore, requires that DEQ, at the very least, adopt the projection of waste industry experts that the Mid-Atlantic states have at most 10.6 years of remaining capacity. Indeed, adopting a 10.6-year projection for Virginia is likely optimistic vis a vis Virginia because of the trucking lanes and the fact that two of Virginia's landfills, representing approximately 25 percent of the Commonwealth's existing capacity, are about to be inundated via rail with waste from Long Island and New York City.