



DEPARTMENT OF ENVIRONMENTAL QUALITY

KATHLEEN BABINEAUX BLANCO

GOVERNOR

MIKE D. McDANIEL, Ph.D.

SECRETARY

July 21, 2006

Sent Via Mail and by Fax to C. Ray Nagin at 504-658-4938

Sent Via Mail and by Fax to Oliver M. Thomas, Jr. at 504-658-1077

The Honorable C. Ray Nagin, Mayor
The Honorable Oliver M. Thomas, Jr., President
City of New Orleans
City Hall
1300 Perdido Street
New Orleans, Louisiana 70112

Re: Chef Menteur C&D Disposal Facility

Dear Mayor Nagin and President Thomas:

By letter dated July 14, 2006, the Louisiana Department of Environmental Quality (LDEQ) asked the Mayor for clarification of the press release entitled "**Mayor Does Not Renew Executive Order Landfill Set to Close August 14th**" issued by the Mayor's Office July 13, 2006. That release announced "expiration of the Executive Order regarding the operation of the Chef Menteur Highway Landfill effective August 14, 2006" and stated that "Mayor Nagin will not renew or extend Executive Order CRN 06-03 for construction and demolition debris disposal at the Chef Menteur Highway Landfill." On July 20, 2006, we received a letter response from the Mayor confirming his intention not to renew his order to suspend relevant provisions of the Comprehensive Zoning Ordinance. The letter contained no clarification of the City's position regarding the utilization of the facility for disposal of hurricane generated construction and demolition debris after the Executive Order expires on August 14, 2006.

Please be advised that the LDEQ will revoke its temporary authorization for the Chef Menteur facility to operate if one of the following does not occur on or before August 14, 2006: (1) the Mayor renews or extends Executive Order CRN 06-03, or (2) the City Council approves a conditional use permit for the facility. After August 14, 2006, the acceptance of waste at the Chef Menteur facility will be in violation of the City's Comprehensive Zoning Ordinance and thus inconsistent with the premises on which the LDEQ opened the landfill. Additionally, FEMA has preliminarily indicated that it will not provide funding for disposal of hurricane generated debris at any facility that would violate any local government land use or zoning provisions.

ENVIRONMENTAL SERVICES

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The LDEQ has consistently worked with local government representatives to approve more than 400 individual sites selected to handle staging, chipping, grinding, burning, and disposal of debris generated (and to be generated) as a result of Hurricanes Katrina and Rita. Chef Menteur is one such facility, authorized to operate by the LDEQ because it was environmentally suitable and the location had local government approval.

If this facility is no longer approved for use, we feel it is our responsibility to inform you of the potential consequences, including significantly impeding disaster clean-up and recovery for the City of New Orleans. Accordingly, the following, based upon best information available, is offered for your consideration. All figures are best estimates from partners in the debris mission.

1. Debris Volume. Currently, there are 15 thousand red tagged (identified by the City and slated for demolition) structures plus another 80 thousand yellow tagged (identified by the City as flooded) structures in Orleans Parish. FEMA's just-published flood elevation maps will, in all likelihood, result in the vast majority of those 80 thousand structures being demolished and rebuilt, for economic reasons, to bring the new structures up to FEMA's base flood elevations. The typical house generates 300-350 cubic yards of debris when demolished. Accordingly, based on these figures we conservatively estimate that nearly 20 million cubic yards of demolition debris in Orleans Parish will be earmarked for disposal before rebuilding can begin.

Closure of the Chef Menteur facility will almost certainly have direct impact on the number of structures that can be demolished on a daily basis in Orleans Parish. We estimate that number to be 50 percent or more because excess curbside debris, without adequate disposal facilities, poses a public safety risk. Reducing the number of disposal facilities will likely cause the estimated time for processing of debris and demolition of structures to increase substantially (i.e., from 6 months to greater than one year). Additional delays should be expected due to the competition for disposal resources from the 80 thousand yellow tagged structures in Orleans Parish and the 15 thousand red tagged structures in St. Bernard Parish.

2. Increased Costs. Transportation outside the metro area will require expenditure of additional costs (gasoline, wear and tear on vehicles and roads, driver transit time) and imposition of an additional burden on both traffic flow and the environment. Diversion of the waste will give rise to increased volume (see that discussion above) at other authorized facilities, which has the potential to increase wait time for dumping. The increased transportation costs to the haulers (gasoline and time) may, in turn, affect the profitability of waste hauling. In other words, if haulers have to travel further to disposal facilities, the number of qualified trucks will almost certainly decrease, which in turn would also lead to delays in the clean-up effort. This scenario is supported and has previously been experienced by contractors engaged in the debris mission.

Also important to the City's recovery is the fact that currently FEMA pays for 100 percent of the FEMA eligible debris mission costs in Orleans Parish until December 31, 2006. To the extent that closure of the Chef Menteur facility extends the time it takes to complete demolition and debris disposal beyond that date, closure increases costs to the City, at a minimum causing the City to incur 10 percent of costs (based on the expected 90/10 FEMA cost share formula for local government).

3. Illegal Dumping. The closing of the Chef Menteur facility and the resulting increase in transportation costs will in all likelihood increase illegal dumping. In other words, private haulers paid by the job with no disposal facility in the immediate area may choose to take the easy route, illegally dumping the debris in secluded areas or on empty lots next to frequently traveled highways. An increase in illegal dumping will put an additional drain on the LDEQ's and the City's resources for increased surveillance and enforcement activities.

4. Safety Concerns. Closure of the Chef Menteur facility will result in the volume of material that would have gone there being diverted to other facilities, most likely in Jefferson Parish. In our experience, a construction and demolition landfill can safely dispose of up to 50 thousand cubic yards a day. Once that threshold is exceeded, landfill operations are subject to safety concerns.

First, the increased potential for heavy truck traffic going to and from the remaining landfills could lead to major traffic congestion on highways, bridges, and entry and exit points at receiving landfills, creating a nuisance and/or a hazard for the general public.

Second, the working face of a landfill is a small area, and the increased number of trucks and waste exceeding the 50 thousand cubic yards per day could endanger the spotters' safety and ability to spot and pull out unauthorized waste. A greater number of trucks in this space would increase the risk of trucks colliding with each other and/or with heavy equipment at the facility, and could result in injuries to workers.

Additionally, delays in curbside pickup of solid waste currently being experienced and the anticipated delays in curbside pickup of construction and demolition material as a result of the Chef Menteur facility closure will potentially increase curbside commingling of uncollected household garbage mixed with construction and demolition material. In other words, this presents an increased risk to public health and safety as the commingled material remains on the curb. The longer this material remains in an uncontrolled environment, especially during a hurricane season, the greater the potential risk to the public. Expeditious disposal of all waste streams must be a priority.

As noted earlier, the absence of an extension of Executive Order CRN 06-03 or a conditional use permit issued by the Council will result in revocation of the LDEQ's approval to dispose of waste at the Chef Menteur facility after August 14, 2006. The decision whether or not the facility continues to accept hurricane generated debris is an

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important one, which must be made by local government. Regardless of that decision, please know that the LDEQ is committed to a continued partnership with the City of New Orleans in the debris disposal mission as well as other efforts to restore and revitalize a city that is of great importance to the state and nation.

If you have any questions or concerns, please do not hesitate to contact me at 225-219-3180.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chuck Carr Brown', written in a cursive style.

Chuck Carr Brown, Ph.D.

Assistant Secretary

cc: Honorable James Carter (by mail and by fax to 504-658-1037)
Honorable Arnie Fielkow (by mail and by fax to 504-658-1068)
Honorable Stacy S. Head (by mail and by fax to 504-658-1025)
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