

East Bay Charter Township

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East Bay Charter Township Compactor Transfer Station

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FACSIMILE TRANSMISSION SHEET

TO: Glen Lile, Supervisor
East Bay Charter Township

FAX NO.: (231) 922-2094

FROM: Peter R. Wendling

DATE: March 3, 2008

SUBJECT: Solid waste transfer facility on state owned land

MESSAGE:

Number of Pages : 14

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MEMORANDUM

TO: Glen Lile, Supervisor
East Bay Charter Township

FROM: Peter R. Wendling

DATE: March 3, 2008

SUBJECT: Solid waste transfer facility on state owned land

I have had an opportunity over the course of the past couple of weeks to speak with various state officials regarding East Bay Township's surface use permit to operate and maintain a limited use solid waste transfer facility. You informed me that East Bay Township desires to include as part of this solid waste transfer facility a compactor. Further, the township would like to share this facility and operations with neighboring Acme Township. Unfortunately, an attempt to include Acme Township and to include a compactor facility was not approved by the state.

The property at issue is owned by the state and managed by the Department of Natural Resources. The property is located in section 34 of East Bay Township and is a portion of a larger parcel owned by the state. The township has had a permit to utilize this parcel of property as a solid waste transfer facility since 1985. It is located directly off of Rasha Road. Ultimately, these permits and renewals are reviewed in Lansing by the DNR's Land Use Specialist, David Spalding. In a lengthy conversation I had with Mr. Spalding, he indicated that the state is generally trying to get away from issuing these permits to local municipalities. These permits were quite popular beginning in the early 1980's to assist in getting townships out of the landfill business and generally off of state land with respect to the landfill business. At this point the state wants, within a few years, to become completely out of the garbage business, including transfer stations. As such, the ability to obtain permits in the future, including the current site, may be limited although Mr. Spalding did not indicate that this site would be specifically cut off from the existing permit. However, an expansion of the permit, beyond the current scope, would not be approved.

Mr. Spalding also discussed the possibility of the township purchasing this site. From my understanding this site is part of a larger parcel owned by the state. The state would certainly be willing to look at the township purchasing the portion of the property

where the transfer and compactor area is located. I am attaching to this memo a land transaction application which must be filled out in order to facilitate this purchase. A guideline for such land exchanges and sales is also attached for your review. Mr. Spalding stated he would be happy to discuss this with the township if they desire to purchase this property. Mr. Spalding can be reached directly at (517) 335-3337.

Even if the township owns the property, they would still be required to follow the MDEQ's regulations under Part 115 being Public Act 451. The MDEQ office in charge of regulating Grand Traverse County is the Cadillac division. I spoke with Scott Conradson at the Cadillac division. Mr. Conradson can be reached at (231) 775-3960 ext. 6204. Mr. Conradson stated that one of two licenses would be required. The first would be a Type B transfer station. Under a Type B transfer station, the site could not process more than 200 loose yards of waste per day. This is regardless of whether the waste is compacted or not. Such licenses are easy to obtain and do not involve much monitoring by the state. However, if you have a facility that processes more than 200 loose yard per day, a Type A license would be required. This requires a construction permit for the site and would also involve four (4) inspections per year by the Cadillac MDEQ office. In addition, a \$4,000 bond or letter of credit is needed in case of any spillages. Mr. Conradson informed me that to his knowledge the state has never had to utilize this bond or letter of credit. Further, the amount of the bond set by statute is so low, it is difficult to fathom what this would cover if there was any release of hazardous material on the property. A Type A license is also required regardless of how many loose yards are processed, if there is a sorting operation onsite. To my knowledge, this has not been proposed by East Bay Township. However, this is something which the township should be aware of. A review of the statutes and regulations confirmed the helpful information I received from Mr. Conradson.

Mr. Conradson also informed me that Wexford County is putting together a new solid waste plan. This solid waste plan purportedly involves both Kalkaska and Grand Traverse Counties. Wexford is looking for clients. Therefore, the township should keep this in mind and perhaps contact Wexford County to see if any deals would be forthcoming under this new solid waste management plan. I am also enclosing Operational Memo 115-4 from Michigan Department of Environmental Quality. Although the memo is from the fall of 2001, the statutory requirements remain the same, as expressed in the memo and confirmed in my discussions with Mr. Conradson.

In short, the ability to work with Acme Township to expand the scope of the existing solid waste transfer facility on Rasha Road is unlikely under the current or any future permit. The best bet for the township is to look at the possible purchase of the site, assuming that the price is reasonable and within the township's budget to do so. Perhaps Acme Township would be interested in entering into an agreement with East Bay Township to do this. Once purchased, the township can then expand the facility as desired after receiving the appropriate permits. Depending on the volume of waste utilized at this site, this can include compacting facilities. Mr. Conradson also informed

me that he would be happy to meet with township officials to discuss the requirements of setting up such a facility or expanded facility, regardless of whether the township determines to purchase this site or even considers another site for a solid waste transfer facility.

I would be happy to answer any further questions or follow-up with any other information the township would like me to provide.

Enclosures

PRW/tac

cc: Jim Young (via email)(w/o enclosures)



Michigan Department of Natural Resources
Land and Facilities

LAND TRANSACTION APPLICATION

By authority of Part 21 of Act 451, P.A. 1994, as amended

This application provides the opportunity to propose an Exchange or Purchase of State-owned land or rights in land. Fair market value of the privately-owned land offered in exchange must be approximately equal to or greater than the fair market value of the State-owned land desired. The public use potential or natural resource value of the offered lands must be greater than that of the desired lands. Each application will be evaluated on its own merits.

Please provide full legal description or identify the DNR Parcel ID Number of the lands you desire to exchange or purchase. Attach map(s). Include additional pages, if necessary. Complete all requested information and sign and date on page 2. If this application is recommended for approval you will be notified of the next steps.

Payment of \$300 (for State land totaling up to 320 acres) or \$500 (for 320 acres or more) must accompany this application to cover the cost of reviewing this application. Please enclose a check or money order made payable to "State of Michigan." Applications will NOT be reviewed without payment.

Name of Applicant(s)	Organization
Mailing Address	Telephone ()
City, State, ZIP	E-mail Address

Please check one of the following: EXCHANGE PURCHASE

DESIRED STATE-OWNED LAND

DNR Parcel ID Number	County	Township Name	Section(s)	Town	Range
Description					Acres: _____

LAND OFFERED IN EXCHANGE (IF ANY)

County	Township Name	Section(s)	Town	Range
Description				Acres: _____
Minerals to be conveyed to the State? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other (Explain in Section B.)				

**** DO NOT WRITE BELOW - FOR CASHIER'S USE ONLY ****

Complete reverse side also

LAND TRANSACTION APPLICATION (CONT'D)

Please answer the following questions. Attach additional pages, if necessary.

A. STATE-OWNED LANDS DESIRED BY APPLICANT

Does the desired state-owned land adjoin your present ownership? Yes No
Explain your need for the desired State land:

B. LANDS OFFERED FOR EXCHANGE TO THE STATE (IF ANY):

1. How is the land presently being used?

2. List public benefits of offered land, if acquired by the State.

3. If improved, describe briefly.

4. Does Applicant own the mineral rights associated with the land(s) offered to the State?

Yes No Don't know Other, please explain.

5. Will Applicant provide title without reservation or exceptions to the State? Yes No - If No, explain.

6. Have you discussed this proposal with the local DNR land manager? Yes No
Describe their comments:

If you have questions regarding the completion of this Application, please contact Michigan Department of Natural Resources, Land and Facilities, Real Estate Services Section, telephone 517-241-3455.

I have I have not received the "Land Exchanges and Sales Guide."

I certify that all information provided is true and correct to the best of my knowledge.

Signature of Applicant Date

Mail completed application and check or money order made payable to the "State of Michigan" to:

CASHIER'S OFFICE
MICHIGAN DEPARTMENT OF NATURAL RESOURCES
PO BOX 30451
LANSING MI 48909-7951



Michigan Department of Natural Resources
Office of Land and Facilities

LAND EXCHANGES AND SALES GUIDE

A GUIDE TO PROPERTY TRANSACTIONS WITH THE MICHIGAN DEPARTMENT OF NATURAL RESOURCES

This information is provided by authority of Part 21 of Act 451, P.A. 1994, as amended.

The Michigan Department of Natural Resources (DNR) manages 4.6 million acres of State-owned land. Most of these properties are dedicated as State forests, parks, recreation areas, water access sites, and wildlife areas for use and enjoyment by the public, and are not available for exclusive private use or for sale.

Some properties, however, may be available for sale or exchange by the State. These properties, due to their location, size, or changes in land use in the area, may no longer be viable properties for the State to own. The DNR will consider selling or exchanging such lands if the transaction enhances the management of natural resources or provides other public benefit. The objective of the State in making these exchanges or sales is to increase operating efficiency, increase opportunities for natural resource management, consolidate current land holdings and provide access to them.

Under what conditions would the DNR consider selling or exchanging land within a dedicated area?

The DNR may determine that certain dedicated and/or isolated properties do not enhance the management of the State's lands and may be considered available for purchase or exchange. Also, changes in land use, such as the construction of a public highway, may make some parcels less desirable for the State to continue to own.

The DNR is authorized to conduct real estate exchanges provided that, from a resource perspective, the private lands offered to the State for exchange are equal to or better than the State lands desired by the applicant. By statute, the lands offered must have approximately equal or greater value, based on appraisal, than the fair market value of the State lands released.

The DNR is also interested in acquiring privately-owned lands that will enhance the management of its dedicated properties. As an example, some properties owned by the State may have irregular boundary lines, or may have privately-owned, smaller parcels within or adjacent to the dedicated area. Transactions that bring together parcels of property to form contiguous boundary lines help enhance the management and use of the State's lands.

How does this process differ from acquiring land under the Department's Land Consolidation Strategy?

Properties identified for release under the Land Consolidation Strategy have already undergone Department review and have been approved for release. Property identified for release are first offered to Governmental agencies, then Alternate Conservation Owners, before being offered to the general public for exchange or purchase. Information on these properties can be found on the Department's website www.michigan.gov/dnr under "Land Consolidation Strategy."

LAND EXCHANGES AND SALES
A GUIDE TO PROPERTY TRANSACTIONS WITH THE MICHIGAN DNR

The following process outlined here is for Department lands other than those identified for release under the Consolidation Strategy.

What is the process to acquire State land?

Private individuals may acquire State-owned property through purchase or exchange. Purchases are usually done by an advertised sealed-bid auction. In certain instances, the DNR may sell land directly to an adjacent property owner. The following procedures also apply to requests for private access easements over State land, including crossings of rail-to-trail corridors.

The process involves several steps:

1. An applicant submits an application for purchase or exchange. All information requested on the application must be provided before a review will begin. An application fee, which helps cover some of the costs involved to review the proposal, must accompany the application. The fee is for processing the application only, and does not imply the purchase or exchange will be approved. A map, preferably from a plat book or subdivision map, which highlights the "desired" (and, for an exchange, the "offered") parcels must also be included. A survey description and drawing are useful, if the application involves a parcel with a detailed description.
2. Applications are screened to determine if they are in compliance with the Department land exchange policy. If so, a field review is conducted. DNR staff reviews the request and visits the site. This review includes determining natural resource features and public recreation values; evaluating access and land management; and reviewing the location of the property and its relation to other protected lands. Results of the field review are forwarded to DNR Office of Land and Facilities, and then submitted to the Department's Land Exchange Review Committee (LERC) for consideration.
3. The LERC meets bi-monthly to review application proposals.
4. The applicant is notified, by letter, of the LERC recommendations. If the transaction received preliminary approval, the applicant is instructed on how to proceed with the transaction.
5. The property being conveyed to and/or from the State must then be appraised. Appraisals must be completed according to Department guidelines. The Department reserves the right to reject any appraisal. The DNR will conduct appraisals on property to be sold by the DNR.
6. The DNR reviews the appraisal and, if approved, an exchange or sale agreement outlining the terms of the transaction is then sent to the applicant.
7. Public notice is conducted by posting details of the transaction on the DNR "Business Calendar," at www.michigan.gov/dnr, under "Publications," seven (7) days before Director approval/disapproval, which takes place during a Natural Resources Commission (NRC) meeting. Land exchanges and sales are also listed on the NRC agenda, which is available to the public. There is opportunity for public comment at all NRC meetings. As required by law, notices of pending land sales are also published in newspapers in the county where properties are located.

LAND EXCHANGES AND SALES
A GUIDE TO PROPERTY TRANSACTIONS WITH THE MICHIGAN DNR

8. Following the Director's decision, the applicant is sent instructions outlining the steps to complete the transaction.

What are the costs involved?

All applicants must pay an application fee (\$300 for parcels up to 320 acres, \$500 for parcels over 320 acres.

For exchanges, the applicant must pay for the following:

- appraisal of offered and desired land;
- survey, if required;
- commitment of title insurance on the offered land;
- all taxes on the offered land in the year of closing;
- transfer tax and recording fee on the deed from the State to the applicant;
- any difference in the value, if the value of the State-owned land exceeds the value of the offered private land, plus ten percent (10%) of the difference.

The applicant must satisfy all encumbrances and provide clear title to the offered land prior to closing.

For direct purchases, the applicant must pay for the following:

- appraisal;
- survey, if required;
- an additional ten percent (10%) of the appraised value of the State land to cover Department administrative expenses.

For purchase by auction, the applicant pays only the bid price.

Does the State retain any rights to the land?

Yes, in some cases the State of Michigan may retain:

- rights for ingress and egress to rivers, lakes, and streams across any lands it conveys;
- rights to any historical artifacts ("aboriginal antiquities") found on the property (such as Native American pottery);
- mineral rights, if the mineral rights are under lease, if the land has unusual or sensitive environmental features, or if it is determined to be in the best interest of the State. For exchanges, minerals may be exchanged for equal value mineral rights on the property to be transferred to the State.
- other rights as determined by the Department.

When is the payment due to purchase the property?

Payment is due within 45 days from the date of the invoice.

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What kind of title is conveyed?

Title to the property is conveyed with a quit claim deed. It is the responsibility of the applicant to obtain title insurance. The State does not issue warranty deeds.

How long does the process take?

Typically, it may take from 6 to 12 months from the time the application is received through completion of the review process. In some cases it may take longer, depending on the property, how it was acquired by the State, and other factors requiring detailed evaluation. For lands acquired with special funding sources, approval from the funding agency (such as the Michigan Natural Resources Trust Fund or the U.S. Fish and Wildlife Service) is required before property is released. This step lengthens the approval time.

What does the State do with the money received from land sales?

The proceeds from the sale of land go into the DNR's Land Exchange Facilitation Fund and are used to acquire additional lands as replacement for the properties sold. Proceeds from the sale of land originally acquired with funds from the Michigan Natural Resources Trust Fund goes back to that fund.

Under what conditions are application fees refunded?

Application fees are refunded to applicants where the sale was completed by auction and the applicant was not the highest bidder, or may be refunded if the parcel requested was found not to be owned by the Department.

Where can I get an application or additional information?

Land exchange or sale applications may be obtained from:

**REAL ESTATE SERVICES
OFFICE OF LAND AND FACILITIES
MICHIGAN DEPARTMENT OF NATURAL RESOURCES
PO BOX 30448
LANSING MI 48909-7948**

Telephone requests can be made to 517-241-3455, or online at www.michigan.gov/dnr and select "Sales and Leases."

PLEASE RETAIN THIS DOCUMENT FOR FUTURE REFERENCE.

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE COMMUNICATION

OPERATIONAL MEMO 115-4

October 31, 2001

TO: All Waste Management Division Supervisors

FROM: Jim Sygo, Chief, Waste Management Division

SUBJECT: Permitting of Transfer Stations

This Operational Memo replaces Operational Memo 115-4 dated February 7, 2000. Section 11506(5) of Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, defines transfer facility as:

[A] tract of land, a building and any appurtenances, or a container, or any combination of land, buildings, or containers that is used or intended for use in the **rehandling** or storage of solid waste incidental to the transportation of the solid waste, but is not located at the site of generation or the site of disposal of the solid waste. (Emphasis added.)

Hence, a facility that receives waste containers and moves them from one transportation vehicle or mode to another (such as from rail to truck) but where no actual handling of the waste itself occurs is not considered a transfer facility. Containers at such a facility must remain in transit and may not be placed into storage. A short delay in making a transfer between one type of transportation vehicle and another will not be considered storage provided that delay is brief and is the result of and consistent with the type of vehicles and containers employed and involves essentially continuous movement of the container.

Section 11529 of Part 115 states, in part, the following:

- (1) A disposal area that is a solid waste transfer facility is not subject to the construction permit and operating license requirements of this act if **either** of the following circumstances exists:
 - (a) The solid waste transfer facility is not designed to accept wastes from vehicles with mechanical compaction devices.

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- (b) The solid waste transfer facility accepts less than 200 uncompacted cubic yards per day.
- (2) A solid waste transfer facility that is exempt from the construction permit and operating license requirements of this part under subsection (1) shall comply with the operating requirements of this part and the rules promulgated under this part.

This section exempts certain transfer facilities from the requirement to obtain a permit or license. These facilities are still required to operate in compliance with the rules.

Section 11509(1) reads in part:

Except as otherwise provided in section 11529, a person otherwise allowed under this part to own or operate a solid waste disposal area shall not establish a disposal area without a construction permit from the department, contrary to an approved solid waste management plan, or contrary to a permit, license, or final order issued pursuant to this part.

This section requires all transfer facilities to be consistent and comply with the applicable county solid waste management plan or final orders of the Department of Environmental Quality regardless of whether they are subject to permitting/licensing or not.

R 299.4501(3), (a) and (b) state the following:

- (3) Based on design and type of refuse received, solid waste transfer facilities are classified as follows:
 - (a) A Type A facility is a facility designed and operated to receive solid waste primarily from mechanically unloaded vehicles.
 - (b) A Type B facility is a facility designed and operated to receive domestic and commercial solid waste from vehicles unloaded by hand.

These classifications define site construction requirements applicable to each and do not establish a categorization for permit/license requirements (i.e., nothing in this rule says that Type A facilities need a permit and Type B facilities do not). The rule language does not conform to the exemption language in

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Part 115. That is, a facility designed to accept waste from vehicles with mechanical compaction is not the same as a facility designed and operated to receive waste primarily from mechanically unloaded vehicles.

In order to properly carry out the provisions of Section 11529 of Part 115, the following procedures shall be followed:

I. NEW FACILITIES

- A. Determine if the proposed facility is subject to the permit/license requirements of Part 115 under Section 11529(1). A facility that is not designed to receive wastes from vehicles with mechanical compaction devices is not subject to the permit/license requirements regardless of the amount of waste they receive. However, such facilities may still be Type A transfer stations and subject to the design and operational requirements of R 299.4501.
- B. A facility is "designed" to accept waste from vehicles with mechanical compaction, if the developer proposed acceptance of waste from such vehicles as part of the construction permit, the design is consistent with facilities that typically accept waste from vehicles with mechanical compaction or, if already existing, the facility is known to accept waste from vehicles with mechanical compaction.

Next determine if the transfer facility meets the definition of a Type A or Type B facility as defined in Part 5 of the Part 115 administrative rules.

Even if no permit is required, a Type A facility is required to have walls and be enclosed. It will generally have a tipping floor where waste is dumped and then pushed or loaded into some component of a transporting vehicle. A Type A transfer facility that is **both** designed to accept waste from vehicles with mechanical compaction devices **and** accepts more than 200 cubic yards or more of "equivalent" uncompacted waste per day, must be permitted and licensed. The daily volume of "equivalent" uncompacted waste is determined as follows:

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daily volume of equivalent uncompacted waste = total volume of uncompacted waste received per day, (yd³/day) + 2 [total volume of compacted waste received per day (yd³/day)].

A Type B facility generally consists of a ramp or concrete pad type operation, not necessarily closed, but where waste is taken generally uncompacted from one vehicle and loaded directly onto another vehicle or container by hand for transporting purposes. It is unlikely that any Type B facilities will require permits or licenses.

The permit requirements are summarized in the following table:

Table 1.

	Designed to accept waste from vehicles with mechanical compaction	Not designed to accept waste from vehicles with mechanical compaction
<200yd ³ /dyE U*	Exempt	Exempt
>200yd ³ /dyE U*	Permit Required	Exempt

* EU = Equivalent Uncompacted

II. EXISTING FACILITIES

Upon receipt of a renewal license application for a transfer facility, a letter should be sent to the owner/operator informing them that in accordance with Part 115, an operating license for their facility is no longer required if the facility is not designed to accept waste from vehicles with mechanical compaction devices or accepts less than 200 yd³/day of equivalent uncompacted waste. State in the letter that if the owner certifies either of these conditions and requests license termination and return of their bond, the request will be processed.