



# KENTUCKY HEARTWOOD

Protecting the Beauty and Wellbeing of Kentucky's Native Forests

Mr. Mike Apple  
Division of Solid Waste Management  
5th Floor, L&C Tower  
401 Church Street  
Nashville, TN 37243-1535

RE: Roberta Landfill Phase II Solid Waste Permit

April 4, 2010

Dear Mr. Apple

The following comments regarding the proposed Robert Phase II landfill are hereby submitted on behalf of Kentucky Heartwood and our membership. We are, in no uncertain terms, opposed to the granting of this permit for the reasons below.

## **I. Unfairness of Interstate Impacts**

The proposed landfill will offer some level of tax and employment benefits in the state of Tennessee, yet the environmental impacts will mostly be put upon the people of the Commonwealth of Kentucky. If Tennessee wants to risk contaminating its environment and adding toxins to its drinking water in exchange for the temporary and relatively minor benefits of a landfill expansion then it should be done in such a way that it is Tennesseans, not Kentuckians that will have to suffer the consequences.

## **II. Environmental Justice**

If and when this landfill contaminates waters within the affected watershed, it will be the people of McCreary County, KY that are most directly impacted in terms of the extra expenses of water treatment, as the McCreary County Water District acquires its drinking water for the County from the Big South Fork not far downstream from the junction with Bear Creek. McCreary County is one of the more economically challenged counties in Kentucky and suffers high rates of cancer in a state with already high rates of cancer. Contaminants from the landfill will cause the taxpayers of McCreary County to either have to pay even more to make their water drinkable or suffer further health impacts or both. Will those who profit from this landfill pay for the extra costs of water purification or the costs of diagnosis and treatment for environmental illnesses cause or exacerbated by chemicals leaching from the Roberta Phase II landfill? This is doubtful.

## **III. How Long-term is Long-term?**

This landfill will eventually leak into the watershed. Maybe it will happen in a matter of years or decades. Perhaps it won't happen for a century or more. But it will happen. Unless the Tennessee Division of Solid Waste Management is willing to assert that no humans will be alive in this region in the coming centuries, then there must be guarantees that our descendants will not suffer the consequences of a leaking landfill. Unless the reviewers of this permit are willing to spoon-feed their grandchildren leachate from the landfill, they should not approve a permit that would force this upon others.

#### **IV. Pre-existing Landfill Contamination**

We understand that there may already be contamination of groundwater from the existing landfill. If this is the case, then no new landfill should be permitted. If the source of detected contaminants is unknown, then this landfill should not be approved until the source of these contaminants is identified and remediated.

#### **V. Relationship Between Old Mines and the Proposed Landfill**

The relationship between the old mines and the proposed landfill should be fully explored. The acid environments created by old coal mine sites can increase the mobility of numerous toxins.

#### **VI. Negating Previous Remediation**

As we understand it, previous work to remediate this watershed have been remarkably successful. The surface waters of the Big South Fork and Cumberland River watersheds are in awful shape, and any successes in remediation should be celebrated. This proposed landfill risks setting back these efforts. Remember, once the landfill is in place, it will be difficult or impossible to stop contamination, even if detected. Those who profit from this landfill should be prepared to reimburse the taxpayers and state and federal agencies that funded and carried out the work to rehabilitate this watershed.

#### **VII. Mitigation Lands**

The fact that the proposal includes mitigation lands that are not within the affected watershed, and will thus not be of benefit to those people and other biota suffering the impacts of contamination and lost wetland and watershed filtration capacity speaks volumes. It is clear that the backers of this proposal have no concern for the ecological and economic impacts to the Outstanding National Resource Waters of the Big South Fork or for the people downstream who depend upon it. Mitigation should include acquisitions and rehabilitation entirely within the affected watershed. Further, should the state of Tennessee approve mitigation lands in another watershed, it will be clear that the state of Tennessee cannot be considered a fair regulator in terms of interstate environmental impacts. If this dump is going to primarily affect Kentucky, then mitigation should primarily benefit Kentucky.

Further, we have serious concerns about the adequacy of the proposed Walls Mitigation site as explained in the letter from the U.S. Fish & Wildlife Service, dated November 20, 2009. It appears as if those behind the proposal of the Walls site are trying to pull one over on the public.

#### **VIII. Ecological Significance**

The ecological significance of the Big South Fork is irrefutable. Numerous state and federally listed species occur in these waters. With the success of remediation in Bear Creek, it is entirely possible that some of these species now occur in this tributary. This landfill must not be allowed to degraded *at all* such habitat. Then National Park Service has submitted excellent comments in this regard, and we fully support them and incorporate them in to this comment letter by reference.

#### **IX. Clean Water Act**

Our organization does not typically deal with surface water issues, though suspect there are significant Clean Water Act issues here to address, particularly the 303d status of the stream, the filling of wetlands, and whether or not this tributary is affected by a TMDL. All CWA issues must be thoroughly addressed.

## **X. Monitoring**

As we understand it, the landfill design includes no monitoring of surface water contamination. If this is the case, then we are tremendously disappointed. As discussed above, the surface waters of this watershed are of tremendous ecological, social, and economic importance. Surface waters must be monitored. That said, if any contaminants are found from this landfill (should it be approved), then those that profit should have to:

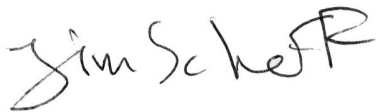
1. Pay for site remediation
2. Correct the landfill's design
3. Reimburse the people of McCreary County, KY for extra costs to water treatment
4. Reimburse state and federal agencies and private entities for previous remediation carried out and subsequently negated by the foolhardy approval of this landfill

## **XI. Coal Ash**

No fly ash from coal burning power plants should be allowed in this landfill, period. As you should be aware, EPA is in the process of considering new designations for this toxic material.

## **XII. Class I Landfill?**

The permit states that the application is for a Class I Landfill, yet lists material to be included that is not permitted for Class I Landfill. While we don't know the ins and outs of solid waste permitting in the state of Tennessee, it seems clear that this is a major problem to address.



Jim Scheff, Director  
Kentucky Heartwood  
140 E. Haiti Rd.  
Berea, KY 40403