



THE CITY OF NEW YORK
INDEPENDENT BUDGET OFFICE

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The Honorable Stanley Michels
City Council of New York
City Hall
New York, New York 10007

Dear Councilmember Michels:

In response to your request, the Independent Budget Office (IBO) has prepared an analysis of the timeline for completion of the proposed Linden, New Jersey enclosed barge unloading facility (EBUF), also known as the Tremley Point Marine Transfer Terminal.

In its current planning, the Department of Sanitation (DOS) projects completion of the Linden facility in the third quarter of CY 2004. As you are aware, there are fiscal implications associated with delaying the operation of any of the proposed waste transfer facilities, especially the Linden facility, which is slated to handle over half of the Department of Sanitation (DOS)-managed waste stream under the proposed long-term waste export plan. Fresh Kills is scheduled to close by January 1, 2002, and any delays in constructing waste transfer facilities will result in prolonged export of waste via truck, a more expensive export alternative with greater environmental, health and social impacts.

According to costs projected by DOS in Chapter 19 of the final environmental impact statement (FEIS), it will cost taxpayers at least an additional \$9.2 million for each year that the interim program remains in effect and the proposed plan is delayed. This cost estimate assumes that the average tonnage charge for export under a fully implemented interim program will be \$70 per ton. However, as these short-term interim contracts begin to expire, the tonnage rates are likely to increase. The city's current fiscal plan has \$248.8 budgeted for the interim export contracts for FY 2004, which implies that the city would be spending an additional \$20.6 million per year on the interim program compared with the long-term plan.

Completion of the Linden facility will occur in four phases:

1. Approval of the Solid Waste Management Plan Modification (the SWMP Mod) and Final Environmental Impact Statement (FEIS);
2. Contract negotiations between DOS and BFI, the principal contractor;

3. Submission and approval of permits for the facility from the New Jersey Department of Environmental Protection (NJDEP) and the U.S. Army Corps of Engineers (the Corps);
4. Construction of the facility.

These phases may occur partially concurrently and are reviewed in detail below. The schedule is based on information provided by DOS and represents their current estimate of the time required to complete the project. IBO's analysis is intended to offer a qualitative assessment of risks to the plan, as opposed to a forecast of the length of time it will take to complete the facility. We have noted where we believe that the process may be vulnerable to delays, or where information we received from other sources (principally NJDEP, the Corps, and the New York State Department of Environmental Conservation) differs from DOS's assumptions.

1. Approval of the SWMP Modification.

The City Council is expected to approve a revised version of the current SWMP Mod and the associated Final Environmental Impact Statement (FEIS) in November or December, enacting legislation to submit these documents to the New York State Department of Environmental Conservation (DEC). DEC then has up to 60 days to review the submission. DEC has provided DOS with comments on the SWMP Mod as originally submitted to the Council in May, and has begun review of the FEIS. This phase should be complete in early CY 2001. Delays could result if DEC is not satisfied with DOS's response to their comments.

2. Contract Negotiations.

According to DOS, preliminary contract negotiations have begun, prior to final approval by DEC of the SWMP Mod. DOS currently projects that the contract will be signed in the fourth quarter of CY 2001.

3. Permitting.

The permitting phase is largely beyond the control of either DOS or BFI and is the least predictable part of the overall process. It is in this phase that there are most likely to be delays. If all goes according to DOS's plan, DOS projects that this phase will take a total of approximately 22 to 24 months.

The first step consists of the contractor's preparation of the Solid Waste Transfer Station application, including the Environmental and Health Impact Statement (EHIS) required by New Jersey law. The contractor must also prepare a permit application to the Corps of Engineers for dredging of the Arthur Kill. The contractor will incorporate the environmental review of the dredging operation into the EHIS.

The time to prepare the EHIS is in part determined by the number of elements that must be addressed. Although a formal public scoping hearing is not required, BFI and NJDEP will meet in a pre-application conference to determine what elements will need to be covered in the EHIS and the permit application. This pre-application meeting cannot take place until after NJDEP has approved the amended Union County Solid Waste Management Plan. The plan will likely be approved by the Union County Freeholders on November 30, after which NJDEP has up to 150 days (the end of April 2001) to review and approve the plan and the pre-application conference can move forward. (The Corps also requires a pre-application conference.)

According to DOS, because of the site's relative isolation, the scope of the EHIS will be relatively limited and have fewer elements to address than has been the case for similar facilities located in more residential and environmentally-sensitive areas: the closest residents and wildlife areas are some distance from the facility; there are no wetlands on the site; and the site has already undergone brownfield remediation. Because the plan involves no trucking, traffic impacts will also not need to be addressed, although concerns have been raised about the rail line's proximity to gas pipelines and the trains' impact on communities in Middlesex County. There also appears to be disagreement on whether the Prall's Island Bird Sanctuary (located about one-half mile away in New York) or other wildlife areas will need to be included in the scope of the EHIS. Issues involving the scope of the EHIS should be resolved during the pre-application conference.

DOS anticipates that BFI will have completed a large share of the work to prepare the permit application by March 2001. How much longer it will take to finalize will depend on the outcome of the pre-application conference and any additional elements that NJDEP may require BFI to address. A complete application could be submitted during the second quarter of CY 2001.

The second step in the process consists of review by NJDEP and the Corps of the permit application and the issuance of a tentative decision. There is no statutory deadline for issuance of the tentative decision. The length of time necessary for review will again depend in part on the scope of the EHIS and the thoroughness of the permit application. If for any reason NJDEP or the Corps were to decide that additional factors must be included in the EHIS, this could result in substantial delay. Officials at NJDEP told IBO that they expect this process to take a year, possibly as long as two. If the Corps determines that a full EIS is required for dredging, this could also contribute to substantial delays.

Once a tentative decision has been issued, the public comment period begins. The statutory public comment period is 30 days, although NJDEP may extend it at its discretion. Whether or not it does so will depend on the extent of public comment; an extension would not be unusual. DOS's current timeframe assumes a 45-day comment period. NJDEP must issue reports of the public comments after the comment period is over. DOS anticipates that this report will be issued quickly after the close of the comment period. In contrast, NJDEP suggested that it could require 6 to 9 months to finish the report, depending on the level of public participation.

DOS anticipates that final permits will be issued by the third quarter of CY 2002—roughly a year and a half after the pre-application conference. More pessimistically, the process could

extend from two up to five years from the time of the pre-application conference, with the longer timeframe required for a more extensive EHIS and a longer review and comment period.

4. Construction.

As the permitting phase nears its conclusion, the lead contractor, BFI, will begin to seek bids from subcontractors and negotiate contracts for the construction of the facility. This process should take approximately 3 to 6 months. The subcontracting process will likely begin prior to issuance of the final permits—DOS assumes that the process will take 3 months and will begin prior to issuance of the final permit, so that the subcontracts will be complete and ready for construction to begin immediately.

Construction is expected to take two years. The Department of Sanitation's current timeframe foresees completion by the third quarter of 2004 (FY 2005).

Finally, I would like to again stress that IBO is not making a prediction about the length of time that it will take to complete the Linden EBUF. Rather, we have attempted to present some risks to DOS's current plan, based on other information we have learned. The fiscal consequence of delay is prolonging the interim export plan, which could cost city taxpayers between \$10 million and \$20 million more per year compared with DOS's current estimate of the cost of the long-term plan of which the Linden facility is a crucial part.

IBO will continue to work on an analysis of the costs of the interim export program and the proposed long-term export plan. As always, please feel free to contact me on this or any other issue.

Sincerely,

Ronnie Lowenstein
Director

c: Martha Hirst
Allison Sacks
Steve Simon