

## Coakley group got millions for work it never did

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PORTSMOUTH -- The Coakley Landfill Group -- which includes the taxpayers of Portsmouth, North Hampton and Newington -- will have to pay the federal government “in excess of \$5 million” if the group doesn’t install a pump and treat system at the Superfund site.

A consent decree filed in U.S. District Court in 1991 involving the responsible parties who contaminated the landfill in North Hampton and Greenland references a “lump sum payment” of \$5.25 million made by the federal responsible parties to the group.

The decree, which was reached by the U.S. government and the groups who used the landfill, states that the payment is a “full and complete settlement” of costs for the federal government.

It adds that when the Environmental Protection Agency certifies the remedial action on the site is complete and there hasn’t been a water treatment system installed at the site, the CLG will have to pay back to the federal government \$2.75 million, plus interest.

Portsmouth City Attorney Robert Sullivan, who has served on the CLG’s executive committee since its inception, acknowledged Friday that would mean a payment of more than \$5 million owed by the CLG, with the city having to come up with a little more than half of it.

State Rep. Renny Cushing, D-Hampton, called it “shocking” that the CLG received more than \$5 million from the federal government and then never installed a treatment system.

“They put \$5 million into the kitty so that the Coakley Landfill Group, the responsible parties, could go forward and install a pump and treat system to make sure the toxins didn’t spread and the public was protected,” Cushing said Friday. “Why that never happened is one of the great mysteries. It’s a concern to all of us who live around here because it wasn’t done right.”

Cushing never recalled hearing anything about the EPA’s decision to allow the CLG to drop the treatment system.

“I don’t remember any public hearing on the Seacoast where (they said), ‘Don’t worry be happy, We’re going to not do what we promised all along to do,’” Cushing said.

He called the decision “very curious” and wonders “who was in the room that made that decision.”

State Rep. Mindi Messmer, D-Rye, said she first heard about the money the CLG would have to pay back during a meeting in Concord.

“It seems like every time we hear from them there’s some other new thread ... the more we find out, the more we don’t know,” she said Friday. “I think the city of Portsmouth taxpayers need to understand ... they will be assessed this fee in order to pay this back when the DOD (Department of Defense) decides it wants it back.”

Sullivan stressed that would happen “only if the pump and treat system is not operated prior to the certification that the remedy is complete.”

In fact, the Record of Decision entered into by the responsible parties and the EPA in June 1990 called for the implementation of a groundwater treatment system as part of a bigger solution that they estimated would cost \$20.2 million in “present worth,” \$7.4 million of which would go for operation and maintenance.

“This alternative involves consolidation of the solid waste followed by capping the landfill and extracting and treating onsite groundwater,” according to the Record of Decision for the landfill site itself. “The treated groundwater would either be recharged into the aquifer and/or discharged to onsite surface water.”

But nearly 28 years later, there has never been a groundwater treatment system installed at the site and there are no plans to ever install one there.

In September 1999, the EPA issued what it calls a “Declaration For The Explanation of Significant Differences.”

Such an order is issued when the EPA “determines that the remedial action being undertaken at a site differs significantly from the Record of Decision.”

The EPA - and the N.H. Department of Environmental Services - agreed that the water treatment system wasn’t necessary at Coakley.

The EPA stated in the document that after the CLG conducted several water sampling events, the agency determined the treatment system “should be eliminated since the affect of the waste relocation and cap is sufficient to allow the cleanup of the aquifer.”

The estimate for the cost of capping and consolidating the waste in the landfill was \$11.2 million.

Sullivan said he couldn’t recall if the CLG lobbied the EPA to allow them not to build the pump and treat system.

“I don’t remember what actual actions took place,” Sullivan said.

He acknowledged the difference in the cost of the two approaches represented “a significant difference.”

“You can do the math,” he said.

The CLG is made up of municipalities and private groups that used the landfill, including companies that transported trash at the Superfund cleanup site in Greenland and North Hampton.

The landfill accepted waste from 1972 to 1982 and then incinerator waste until 1985.

Tests on monitoring wells at the landfill have found PFASs and 1,4-dioxane, both suspected carcinogens, at levels above the EPA’s health advisory levels.

Many people living near the landfill are worried chemicals leaching from Coakley will contaminate their water wells, but so far PFASs found in private wells have tested below the EPA’s health advisory level.

DES officials, however, have confirmed high levels of PFASs found in nearby Berry’s Brook pose a risk to the environment and should be cleaned up.

Sullivan said Friday that the pump and treat system was not designed to deal with PFASs.

The landfill accepted waste from 1972 to 1982 and then incinerator waste until 1985.

Sullivan has repeatedly said the group has spent about \$27 million on remediation at the site and acknowledged there has been no formal reporting of how the money was spent during the past 27 years, other than votes by the CLG’s committee.

Asked how the CLG ended up spending \$27 million when it ended up using a remedial approach that was \$9 million cheaper, Sullivan said, “There was a long complicated history which involved a failure of a construction contract and a major federal lawsuit in the 1990s.”

The CLG hired the IT Corporation as the general contractor on the landfill remediation project and a dispute between the parties landed them in court, Sullivan said.

The lawsuit was eventually settled, according to Sullivan, who said the lawsuit and settlement played a “large factor” in the increased costs incurred by the CLG.

Cushing claims there is a “complete lack of transparency” and a “complete lack of accountability” from CLG officials.

“The fact that the CLG could spend millions of dollars of Portsmouth taxpayer (money) and never have an audit, that’s outrageous, it’s really outrageous,” he added.

Sullivan had previously estimated that Portsmouth taxpayers had contributed about \$13 million to the CLG, but has since backed away from that estimate.

On Friday, City Manager John Bohenko said the city borrowed \$4 million from the State Revolving Loan Fund for Coakley, and will have to pay back a total of \$5.8 million for principal and interest.

But the city also received \$954,346 in state aid revenue to address the costs.

Since FY 2000, the city has also paid a total of \$1.2 million in annual assessments, which are payments CLG members are required to pay, Bohenko said.

That includes \$185,000 in fiscal year 2017 and \$265,000 in fiscal year 2018, he said.

“Unfortunately much of that cost has come in the last two years,” Bohenko said.

Asked about the way the CLG’s finances have been handled, Bohenko said, “certainly it could have been done differently.”

But, Bohenko added, “You’re talking about a project that probably goes back ... over 30 years ... Since Bob (Sullivan) has been the person, I pretty much let him handle it.”

The EPA, N.H. DES and the CLG are planning to hold a public meeting on April 5 at the Bethany Church in Greenland. The tentative start time is 6 p.m.



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