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February 9, 2011

Stephen Schwartz
Vice-President
Malcolm Pirnie
8201 Peters Road
Suite 3400
Plantation, FL 33324

RE: REQUEST FOR ADVISORY OPINION-RQO 10-29

Dear Mr. Schwartz:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on February 8, 2011 and rendered its opinion based on the facts stated in your letter.

You requested that the Ethics Commission remove the current restrictions placed on the firm's work as Bond Engineer for the Department of Solid Waste. The Ethics Commission currently restricts the firm from doing work related to the North Miami Landfill and the county's recycling plant because of the firm's outside relationships with entities that were involved in those projects.

PRIOR OPINIONS

I. Veolia Environmental Systems -RQO 08-14

The Bond Engineer for the Department of Solid Waste is responsible for conducting an annual evaluation of the County's Solid Waste system including the Resources Recovery facility (the recycling plant) and preparing an annual report on the condition of the system and the need for capital improvements.

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Montenay Power Corporation and Montenay International Corporation entered into an agreement with Miami Dade County to operate the Resources Recovery facility in 1985. Since that time, the County has continuously contracted with Montenay to operate the recycling facility. The parent company of Montenay was Veolia Environmental Services.

In 2008, Malcolm Pirnie contracted with Veolia Water Services, a subsidiary of Veolia Environmental, to provide services to the Tampa Water Department. The Ethics Commission opined that the company could serve under both agreements as long as any work was done by different employees and firewalls were created to prevent disclosure of confidential information. The Ethics Commission also required Malcolm Pirnie to provide semiannual reports regarding its compliance with the Ethics Commission restrictions.

In 2009, Veolia sold its interest in the North American waste industry (including the various divisions of Montenay) to Covanta Holding Corporation. In 2010, the Board of County Commissioners agreed to assign the Montenay agreement to the Covanta Holding Corporation. The assignment included several conditions such as capital improvement contributions, revision of certain fees and the acceptance of all previous agreements regarding disputes between Montenay and the County. Covanta and the County are currently negotiating a fourth amended agreement for operation of the recycling facility.

Since Veolia Environmental is no longer affiliated with the operators of the recycling facility, the firm does not have a conflict of interest. Accordingly, Malcolm Pirnie is released from any restrictions created by its work for the Veolia Water Corporation because the firm is no longer affiliated with the operator of the recycling facility.

II. North Miami Landfill-RQO 09-39

The Munisport Landfill is a former municipal landfill located in the City of North Miami. In the 1990's the City of North Miami and the Environmental Protection Agency entered into a consent decree for clean-up of the landfill. In 2003, the City of North Miami transferred the property to private developers. The development agreement required the developer to assume responsibility for the clean-up. Subsequently, in 2004, Miami-Dade County established an escrow fund to pay the City's expenses for cleanup of the Munisport Landfill. The Department of Solid Waste Management (SWM) is responsible for administering this fund.

The City of North Miami has tried two approaches to remediating the landfill. Originally, the City proposed an in-situ treatment process where the groundwater would be cleaned through a biological treatment. After the initial pilot study, the Department of Environmental Resource Management (DERM) refused to issue a permit.

Thereafter, the developer contracted with the Arcadis Corporation. The Arcadis Corporation proposed a funnel and gate extraction system where the contaminated groundwater would be removed and treated and the clean water would be reinjected into the aquifer. The cost of the proposed system exceeded the funding for the remediation program and was not approved. Arcadis acquired Malcolm Pirnie in 2009. At that time, the Ethics Commission opined (RQO 09-23) that Malcolm Pirnie could not "conduct inspections, approve payments or perform any services related to the Munisport Landfill."

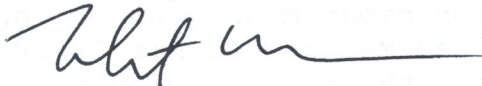
The receiver for the original developer has contracted with CH2MHill to design a third remediation approach. CH2MHill is proposing a groundwater extraction approach where the water will be pumped from its original

location and disposed of beyond the boulder zone (approximately 3300 feet below ground). CH2MHill and the City of North Miami are currently seeking approval from the necessary permitting authorities including the South Florida Water Management District, DERM and the Florida Department of Environmental Protection (FDEP). CH2MHill is not affiliated with Malcolm Pirnie.

The restriction regarding Malcolm Pirnie's work on the North Miami Landfill should remain in place as long as the permitting agencies have not given final approval to the CH2MHill remediation plan. Section 2-11.1(j) restricts persons covered by the Conflict of Interest and Code of Ethics ordinance from doing work that conflicts with their independence of judgment in performing their County responsibilities. In the instant case, Malcolm Pirnie's independence of judgment may be compromised as long as the firm is affiliated with a firm that has designed an alternative model to remediate the landfill. Therefore, the Ethics Commission's current restrictions on Malcolm Pirnie performing services related to the Munisport Landfill will remain in place.

If you have any questions regarding this opinion, please call the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,

A handwritten signature in black ink, appearing to read 'Robert Meyers', with a long horizontal flourish extending to the right.

ROBERT MEYERS
Executive Director

cc: Lee Casey, Department of Solid Waste
Management