



# **MEMORANDUM**

To: Mid-Connecticut Project towns' chief executives

From: Tom Kirk

Date: April 16, 2004

Re: Mid Connecticut Project Cost Control Initiative

At our Annual Meeting in February, and in my letter of July 23, 2003, I updated you on some of the many initiatives we at CRRA are taking to rebuild the Authority's credibility and efficiency in the wake of the Enron bankruptcy. These efforts are proceeding and continue to show promise. Irrespective of any disaster such as the Enron matter, CRRA has a continuing responsibility to provide value and service to our members, customers and stakeholders. I want to bring you up to date on one of our initiatives to insure our Mid-Connecticut Project provides the best value for your tipping fee dollar. This initiative (which actually began two years before Enron), we are convinced, promises to save the project millions of dollars while improving performance.

As you know, the Mid-Connecticut Project contracts with the Metropolitan District Commission (MDC) to operate the CRRA waste processing facility, our Essex and Ellington transfer stations and our North Meadows landfill. Under our agreement, MDC is required to charge CRRA a fee not to exceed its actual costs incurred in the operation of these facilities. CRRA has thoroughly reviewed MDC's operation and billing practices, and reached two conclusions:

- First, MDC has for years been charging CRRA amounts far in excess of MDC's actual costs of providing services to CRRA. This overcharging was accomplished principally through billing CRRA for "indirect costs" or overhead. Three years ago, a three-person arbitration panel found this billing of indirect costs to be "unfair" to CRRA. Despite the arbitrators' directive to change this unfair system, MDC continues charge us for these indirect costs, albeit with a unilaterally imposed "cap" on the fee.
- Second, CRRA has concluded that even if MDC were charging only its actual costs to CRRA, MDC's price for providing these services to CRRA would still far exceed what private contractors would charge to provide the same, or in many cases a greater, level of service than MDC provides.

It was for these reasons that in 1999 CRRA sought to replace MDC as contractor for certain Mid-Connecticut Project programs. The contract between CRRA and MDC provides that CRRA can remove MDC from one or more programs if CRRA is not satisfied with MDC's performance taking into account such factors as cost, quality of work and responsiveness. In 2000 we entered into binding arbitration to resolve MDC's allegation that CRRA was acting without contractual authority to replace MDC. The arbitrators, in their ruling, upheld our right to hire contractors or workers to replace MDC on programs where CRRA had determined that MDC's performance was not satisfactory. In doing so, the arbitrators specifically confirmed that CRRA could, over time, replace MDC on every Mid-Connecticut Project program.

Despite the arbitrators' ruling, CRRA did not move immediately to replace MDC on any programs. Instead, CRRA's former management negotiated with MDC's former management for over a year to try to resolve the issues CRRA had with MDC's performance and cost. When these negotiations failed to produce results, CRRA hired replacement workers in July 2001 to replace MDC in the operation of and transportation of waste from the Torrington transfer station.

CRRA hoped that, as a result of these actions at Torrington, MDC would become more responsive to CRRA's requirements to lower its costs and improve its performance and thus remove any need for CRRA to hire additional replacement workers. Unfortunately, that was not the case.

In November 2001 CRRA hired additional workers to replace MDC at the CRRA Watertown transfer station and to transport waste from that transfer station. In the two years since CRRA took these actions, the Mid-Connecticut Project, and the municipalities it serves, have saved well in excess of \$1 million over what MDC would have charged to run these programs. The Project will continue to reap these savings each year through 2012.

Since taking over as CRRA's President a little more than a year ago, I have continued to review MDC's performance and the opportunities for further cost savings. I have had numerous good-faith, earnest discussions with MDC's senior management on this topic. We also recently concluded a seven-month mediation process with MDC to try to find cooperative solutions that will result in substantial savings to the towns serviced by the Project. During the discussions, CRRA has been willing to consider any reasonable solution, including:

- Returning to MDC the four programs (Torrington and Watertown operations and transportation) already removed;
- Extending the relationship with MDC beyond 2012, assuming the Project continues past that date;
- CRRA's hiring of all MDC's Mid-Connecticut Project workers and assuming their union contracts;
- Providing early retirement benefits to workers displaced by replacement workers; and
- Changing the structure of the contract with MDC from a cost-based contract to one that rewards MDC for efficient performance and protects CRRA from inefficiencies.

Although initially these creative solutions were considered and explored, MDC ultimately informed us that it would not consider any proposal that resulted in its losing control over any jobs. Instead, MDC submitted that the best way to achieve substantial savings for the Project is

for MDC to take on even greater responsibility and to displace much of the management of the Project performed by CRRA. This MDC proposal, after discussion, was found to be unworkable and inappropriate for a number of reasons. Particularly, such an arrangement would create a conflict of interest between MDC's obligations to its eight member communities and its obligation to the other 62 towns the Project serves, a conflict that would make this proposal untenable. Further, the savings projected by this proposal, though not insignificant, would not approach the millions of dollars in potential savings CRRA has identified as available to the CRRA member towns from other solutions.

CRRA is disappointed that we were not able to find an acceptable compromise with MDC. However, we recognize our responsibility to our members and we remain committed to doing whatever is necessary to realize the millions of dollars in annual savings CRRA believes are available in the operations of the Project. CRRA will retain MDC as its operator wherever MDC can provide services reasonably comparable in cost and performance to other public or private sector options. Where MDC cannot provide this value, CRRA has a fiduciary responsibility to find a contractor that can. We take that responsibility seriously. It is clear that MDC and CRRA have fully explored and exhausted the reasonable options for forging an acceptable, more value-driven compromise. Accordingly, CRRA will promptly pursue other avenues on behalf of the Project and the member communities it serves while remaining willing to consider any reasonable MDC proposal that serves the interests of Project members.

We are concerned that MDC will use all means at its disposal – including its powerful political and legislative connections – to thwart our efforts to implement options to keep your costs as low as possible. In fact, on March 22, MDC voted to pay Doyle & D'Amore, a prominent lobbying firm, \$50,000 to take its message to the legislature and other public officials. MDC now has three lobbying firms on retainer (including Gaffney, Bennett & Associates and Capitol Strategies), which we believe is an inappropriate use of public funds. Further, on that same date, MDC retained the law firm of Sandler & Mara to advise MDC uses for the energy produced at our Mid-Connecticut plant. Those actions told us that MDC is angling to take over the Mid-Connecticut Project, which, based on their costs of running other CRRA facilities, will certainly drive up the cost of refuse disposal.

We urge you to discuss this matter with your legislators and ask them to support CRRA's work to maintain stable, market-competitive tip fees.

I trust this update provides you with sufficient information regarding our most important cost control initiative. All of us at CRRA are committed to tireless pursuit of value for our members' tipping fee dollar. We understand the trust you have placed in us to assure solid waste is managed in an environmentally sound and efficient manner at minimal cost. Further, we are committed to operating in an open and transparent manner. As always, if you have any questions or concerns do not hesitate to call me at (860) 757-7777.