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August 6, 2007

This letter provides an update regarding four issues of importance for your town as a member of the CRRA Mid-Connecticut Project:

- New recycling revenue opportunity for the member towns.
- The ruling and subsequent appeal of a lawsuit by member towns against CRRA,
- The \$14.8-million cash distribution to 70 member towns approved in January but suspended by the court, and
- Costs due to the closing of the Hartford landfill.

### **Recycling Revenue**

CRRA recently opened its newly renovated recycling center in Hartford. This facility, operated by CRRA's contractor under a new agreement is capable of processing a wider menu of recyclables, including junk mail and chipboard (like cereal boxes).

Our new operating agreement provides for revenue sharing so member towns that deliver all their recyclables to the facility as specified in the CRRA member agreement will be able to receive a rebate of \$10/ton for the 2008 fiscal year. This rebate is available to all towns participating in the Mid-Connecticut Project delivering all their recyclables to the facility. The rebate is for all recyclables, containers as well as paper and cardboard. This is a dramatic change from just a few years ago when recycling was an expense subsidized by trash tipping fees.

Although this rebate is quite modest compared to the cost of trash disposal, we are delighted to offer this opportunity to our member towns and hope that each town redoubles its efforts to maximize recycling performance. To enjoy this new rebate all you need to do is insure all recyclables under town control continue to be delivered to a CRRA facility. We expect to make a single annual payment to each participating town at the conclusion of the fiscal year.

### **New Hartford v. CRRA et al**

The trial portion of this litigation initiated by attorneys representing the towns of New Hartford and Barkhamsted in December 2003 is completed. Concerns over the costs and the validity of the suit and the benefit, if any (given that the 70 member towns pay fully the costs of the Mid-Connecticut Project), initially kept other towns from joining the lawsuit. Ultimately the remaining 68 towns were joined to the suit when the court granted the plaintiff's lawyer's request for class certification in late 2006.

Additionally, the court prohibited CRRA from communicating with member towns regarding anything remotely related to this action. Accordingly we have been unable to provide you with any information regarding the lawsuit or the impacts the suit has had or will have on the project, project costs or costs to member towns. Now that the trial portion of the case is completed and

the gag order is lifted we are again free to provide you with information important to your understanding of the case and the impacts on CRRA and your town's finances.

In a lengthy ruling, Judge Dennis C. Eveleigh decided a number of legal issues and ordered the Project to pay \$35.8 million to the plaintiff towns. The CRRA Board of Directors, after careful consideration of the consequences to the CRRA and the member towns they serve, decided to pursue an appeal. There are a number of compelling reasons the Board took this decision but there is one in particular that warrants your attention:

*The judge ruled that CRRA suffered no harm in the Enron transaction.* This ruling impacts CRRA's efforts to pursue additional legal recoveries from the remaining Enron defendants. Left uncontested, it greatly reduces our opportunity for success against a host of defendants responsible for CRRA losses due to Enron. CRRA is seeking to recover up to \$160 million in additional damages through legal initiatives managed by the Office of the Attorney General as provided for in Public Act 02-46. Failure to appeal would most certainly deprive the project and towns of additional financial relief.

The CRRA Board had a number of additional reasons for accepting our lawyers' recommendation to appeal. If you are interested in a more comprehensive discussion of the lawsuit please go to our Web site, <http://www.crra.org>.

As you know CRRA is a non-profit quasi-public entity providing at-cost services under long-term agreements with participating towns. Any judgment paid by CRRA would be a project operating cost paid from project revenues. Insurance protection for this judgment is not available or not applicable so any judgment paid by CRRA to the towns would result in higher tipping fees charged to the towns in order to pay that judgment. Simply speaking, this lawsuit equates essentially to the towns suing themselves.

The costs of this unfortunate litigation have been significant. As to legal fees there are two notes of importance.

- Fortunately, CRRA's insurance carrier has been reimbursing the legal fees of CRRA defense (after we paid a \$100,000 deductible). We expect that our carrier will continue to pay the legal fee costs of appeal.
- Plaintiff's lawyers' fees are contingent and payable by the class (all 70 member towns) from the proceeds of any judgment. If a judgment is upheld after appeal the member towns will pay fees as determined by the court (estimated at \$7 to \$10 million based on a \$35.8 million judgment). Although these fees would be paid with public money and would result in a net loss to the towns, this net loss to the towns did not figure in the Board's decision to appeal. Although members of the CRRA Board are outspoken in their concern over public (taxpayer) money being used to pay for lawsuits against public (taxpayer) entities, they are unanimous in their desire to leave the decisions regarding legal fees to the individual towns.

We are pleased the appeal has been taken up by the Connecticut Supreme Court, bypassing the Appellate Court and we can expect a decision in mid to late 2008..

## **\$14.8 Million Distribution**

On Jan. 25, 2007, the CRRA Board voted to distribute \$14.8 million to the 70 Mid-Connecticut Project towns. The distribution was made possible by our improved financial position thanks to successes in bankruptcy court, contract renegotiations, new energy sales, improved cost performance and other legal settlements with Enron defendants. Additional cash not distributed to the towns was allocated to final debt retirement and other project costs otherwise paid through tipping fee revenue. (The schedule for distribution is attached).

Regrettably we were prevented from making this distribution. The plaintiffs' lawyer (in New Hartford vs CRRA) asked for and received from the court an order establishing a lien on this cash which remains in place today, thus prohibiting the distribution to the towns.

We have asked the appellate Court for a routine substitution of the value of CRRA real estate in lieu of this lien on cash. CRRA may then complete this distribution to the towns without waiting for the conclusion of the appeal process. Although the plaintiffs' lawyers vigorously oppose this substitution we are optimistic that an appeals court will allow this substitution and the distribution of cash to the towns. No date has been set for consideration of this motion. CRRA will keep the towns apprised of any developments.

## **Hartford landfill closure**

By Dec. 31, 2008, the Hartford landfill will close and cease accepting ash and process residue from the Mid-Connecticut Project facilities. There are two financial impacts to the project as a result of this closure.

- Costs associated with the closure and 30-year post-closure monitoring of the landfill.
- Costs associated with transportation and disposal of Project ash and process residues to out of state locations after closure.

Both impacts are very substantial. The project is responsible for closure/post closure costs totaling \$38 million. Costs associated with transportation and disposal of residues will net additional project costs of \$17 million per year or an additional \$20 per ton of trash.

CRRA has been accruing and reserving funds from project revenues to assure these costs can be addressed while maintaining the municipal tipping fee at reasonable and stable levels. However, tipping fees may rise precipitously if the assumptions relied on by CRRA do not occur, specifically:

- reduced State Bond finance assistance for the closure of the Hartford Landfill.
- the new CRRA ash landfill (under development) is prevented from opening and accepting ash by 2011;
- CRRA is unsuccessful in realizing additional cash settlements or judgments from remaining Enron defendants; or
- any cash settlement is paid as a result of the New Hartford vs., CRRA

I trust this letter provides you with a better understanding of these important issues surrounding the Mid-Connecticut Project. It's regrettable that we have been precluded from talking to you on these important items due to the judge's rulings in New Hartford vs. CRRA. Now that the court's

gag order has been removed we can resume our practice of providing routine status updates and presentations to municipal officials, regional councils of governments and interested public groups. We remain determined to operate this public agency under the highest standards of openness, accountability and integrity in the best interests of the state and our member towns.

As always, should you have any questions or concerns please contact me directly.

Sincerely,

A handwritten signature in blue ink that reads "Thomas D. Kirk". The signature is written in a cursive style with a large, stylized 'T' and 'K'.

Thomas D. Kirk  
President

C: CRRA Chrono file