

May 3, 2005

(This information was gathered in response to the SWAN message post:
<http://members.boardhost.com/SWAN/msg/387.html>)

Hi Everyone,

Construction ordinances are becoming a big issue in most villages. SWAN is currently working on a statewide village survey of village ordinances. We have been talking to several villages asking about what ordinances they have, whether they've been effective, and if they've ever carried out any enforcement. We'll get the results up as soon as we can, and list that in our What's New page, as well as post a message to this board.

In the meantime, check out The Native Village of Selawik's Construction waste policies at <http://www.ccthita-swan.org/main/ordinances.cfm#6> . These have not been formally adopted yet, but they are written up in their Operation and Management Plan. We think this is a pretty good policy. A competent contractor will be able to make a very good estimate of the type and amount of waste they will generate. Getting them to give you a waste disposal plan allows them a chance to plan. Working with the contractor (instead of against them), you will both benefit. Knowing exactly what is expected of them, the contractor will be much better at adjusting their bid, and being resource conscious. You will be able to ease your mind, or be able to plan for the wastes and the fee revenue.

As a general estimate for construction wastes, you can use this table:

	Residential Construction (pounds/square foot)	Non-Residential (pounds/square foot)
New Construction	4.38	3.89
Renovation	Varies	17.67
Demolition	115.00	155.00

(Source: Franklin Associates, "Characterization of Building-Related Construction and Demolition Debris in the United States," U.S. Environmental Protection Agency, Jun. 98, p. 2-2, 2-3, 2-6, 2-7, 2-8, 2-9, 2-10, and A-5.)

Note: "Square feet" is an area measurement. You just multiply the width and length of the house (or room), and that is your square footage. A 10 foot wide by 8 foot long room would be 80 square feet. If a 1,000 square foot house was constructed, an average of 4,380 lbs (i.e. 1,000 x 4.38) of waste would be generated.

What general types of material is in there?

Average percent by weight of construction waste types (nationwide)

	Wood	Drywall	Metals	Concrete	Plastics	Other
Residential						
New Construction	53	19	2	9	2	15
Renovation	37	31	3	5	<1	24
Demolition	33	10	4	27	1	25

Non-Residential	31	23	10	33	3	0
New Construction						
Renovation	28	22	19	22	3	6
Demolition	21	10	7	53	3	

(Source: Franklin Associates, "Characterization of Building-Related Construction and Demolition Debris in the United States," U.S. Environmental Protection Agency, Jun. 98, p. A-10 to A-16 and the Author.)

If your contractor gives you much different numbers for their estimates, you can ask them why.

Hazardous Construction Materials

Often, when you are dealing with construction wastes, it is the hazardous materials to be most concerned about, and not so much inert waste, like concrete (as long as you have the space). To manage Project hazardous materials, the Native Village of Venetie has an excellent Ordinance and Contractor Notification Program that they actively enforce.

Lance Whitwell, from Venetie, writes on the SWAN message board:

.....I will require the contractor to give me a haz mat list that they are bringing, then I make them sign off that they have received and read our ordinance, and they agree that all employees of the project will abide by the ordinance. This would also include leak prevention, and response plan. Before the project is over, or before we sign off on the project, They must give me back a listing of all haz mat used, and if any containers were disposed of, where was it put, if there is anything left they will be given the opportunity to leave it with the council if they want or can use it for anything, other wise, the contractor must backhaul it. ...

Lance is willing to share copies of the forms they use. Go to the message board for the full message and a chance to ask him questions, at <http://members.boardhost.com/SWAN/msg/393.html> . If you want to contact Lance directly, he can be reached at:

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Other communities that have hazardous waste/C&D ordinances that you can contact for information are:

Community	Contact Phone Number
Evansville	692-5005
Eagle	574-2281
Igiugig	533 3211

Here are some more tips that we've learned in our research (which has included asking agencies):

1. CONTRACTS

Always, always try to get waste disposal stipulations in the contract – up front.

If you have it in a written contract, you don't actually need an ordinance. The one exception would be if your contract had something in there that was illegal, and the contractor could get out of it that way.

To get what you want in the contract, you need to **get involved in the project as soon as possible**. And we mean from "Day 1" that you find out about a project in your community, regardless of whether the project is a public project, or a private business.

Different agencies work different ways. It is easier to work with some funding agencies than others. For example, with State projects you might not have a lot of say about who gets hired – it will generally be the lowest bidder. With BIA 638 contracts, you have pretty much all the say about who gets hired, as long as you follow guidelines.

Regardless, you do have the right to work with your funding agency on what your community needs. Generally, **there will be a project officer** or project manager or community liaison **assigned to work with your community** on an agency project. **Talk to this person as soon as you can, and talk to them often.** Let them know that you want to insert waste management stipulations in the contract. Tell them first, and follow that up immediately with a formal letter from your Tribe or City (or both) that repeats what you said, and contains the details of what you want in the contract.

Timing is everything on these projects. **The language has to be inserted into the RFP before it goes out to bid.** Otherwise, contractors will not know enough to account for the extra costs. Although it is changing, most agency personnel will not be used to communities giving them contract language. They may not feel they have the time to do this, or may imply that the project could be delayed. Generally, agency personnel are like anyone else, treat them with respect and give them the benefit of the doubt that they want to do the right thing.

If you feel you still are not getting anywhere with your project contact, look for someone else to talk with. For DOT projects, a great resource is their Civil Rights Office. Contact Jon

Dunham, at 269-0850. They have a lot of experience in working with communities to maximize local hire and carry out a project according to community desires. Most federal agencies have Tribal liaison offices. This is a person or a whole program devoted to ensuring the interaction between American Indian Tribes and Alaska Native Villages goes smoothly for their agency projects. They are a friendly advocacy office when all else fails.

Here are some Contacts we found on the Internet:

U.S. Fish and Wildlife Service

Native American Liaison
1011 East Tudor Road
Anchorage, Alaska 99503-6199
T-LIP Contact: Tony DeGange (907) 786-3492

HUD - Alaska Office of Native American Programs

3000 C Street, Suite 401
Anchorage, AK 99503
Toll Free: 1-877-302-9800 (Alaska Only) or (907) 677-9800
Staff directory: <http://www.hud.gov/offices/pih/ih/codetalk/onap/akonap/staff.cfm>

If you can't get your issue resolved, and feel you are facing an Environmental Justice issue, you can contact the Environmental Justice Office. Joe Sarcone, EPA, 271-1316 and Kristin Keit, BIA, 1 800 645 8397 ext. #9, are the Alaska Environmental Justice contacts.

2. ORDINANCES

Ordinances provide a legal backup insurance to get construction wastes out of town. If they are in effect, the contractor needs to follow them, regardless of what is in the contract. However, **be warned that if the contractor is not aware that you require all construction wastes to be removed (or otherwise treated differently), they might decide to leave the wastes anyway.** With good lawyers, they could even succeed in avoiding any penalties. And of course, if you are a Tribe, you may not want to get involved in a jurisdictional authority case. Many Tribal advocacy lawyers and scholars believe this is a time period to avoid jurisdiction cases. Where Tribal jurisdiction is involved, the cases can take up much more significance than with City jurisdiction. And they are likely to be long and costly.

How to solve this? If you pass waste ordinances, **be sure to provide every agency and every potential contractor and every contracted contractor a copy of them.** That way, they know what to expect.

Also, remember, **to be legal, ordinances must be fair.** This means that they must apply equally to all contractors. If you provide free-of-charge disposal for lumber wastes, then you must provide that to all construction contractors, (not just the ones you like!)

3. SITE-SPECIFIC PERMIT

If you don't want construction wastes at your landfill, you need to be aware too that DEC offers a site specific permit process for construction projects in your village. The contractor or agency can apply for a permit to essentially make their own landfill. This same process can work to your advantage if you want to collect fees for construction waste disposal, but don't want your community dump filled up. In this case, you would be the one that applied for the permit, or you would lease the land.

If you refuse waste disposal at your dump, the contractor can apply for a project-specific landfill to discard up to 1,000 cubic yards of construction wastes, without your permission. The limitations are that – they still can't discard hazardous wastes—and the landfill must be on land controlled by the applicant. If the applicant (the contractor, agency, village) etc. does not control the land, they need a lease agreement, land use authorization, or consent by the landowner. So if the contractor can't find any land where they are allowed to have their landfill, they are back to Square 1. They will have to backhaul their wastes or pay you a disposal fee to use your landfill.

For more information on this construction waste permit process, go to:

<http://www.dec.state.ak.us/eh/docs/sw/SWG0303000.pdf>

4. TECHNICAL INFORMATION RESOURCES

Are you are interested in finding out more about construction and demolition wastes? We haven't got around to compiling a list of best resources, or a Village-specific tutorial, but so far, here is a general document that we like. It is comprehensive (i.e. long), but it is not too difficult to read, compared with many technical documents.

Construction and Demolition (C&D) Waste. Management Guide by the U.S. Airforce, Headquarters for Environmental Excellence at:

<http://www.p2pays.org/ref/24/23088.pdf>

They also have a “pocket guide” that summarizes the information at:

<http://www.afcee.brooks.af.mil/eq/debris/pocketguide.pdf>

Remember to check our A-Z index (<http://www.ccthita-swan.org/main/a-z.cfm>) under Construction and Demolition ordinances in the future for further information about ordinances.

Regards,

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