

HOW A GARBAGE DUMP BECAME A POST OFFICE

A five-acre municipal dump proved to be an environmentally and economically responsible site for an air mail facilities building.

by John J. Wallace, CRE

The assignment: to acquire five acres of land for the U.S. Postal Service at Albuquerque International Airport. The problems: the only available site was filled with 40 feet and 30 years of accumulation of municipal garbage; the Postal Service was unwilling to assume liability for environmental contamination of unknown dimensions, nor to spend more for the use of the land than the worth of its surface rights. Although the assignment was seemingly impossible at the time, a major postal facility sits on that five-acre site today. Completion of this assignment may provide a model for cleaning up and reusing similarly polluted properties.

The Assignment

In early 1987, at the time of the Albuquerque assignment, our firm (Wallace & Steichen, Inc.) already had extensive experience with the Postal Service. This experience provided us with a detailed understanding of the Postal Service's site and facility requirements and acquisition procedures. We also had a strong working relationship with the staff of the Postal Service's real estate, facilities and environmental divisions. A close and trusting consultant-client relationship is important to the success of any consulting assignment, but it is crucial to the success of the really difficult jobs. We soon were to learn that this job would be a difficult one.

Air Mail Facilities

Air Mail Facilities, usually referred to in Postal Service lingo as AMFs, are located at major airports that serve an area through which all mail moving by air must pass. The Albuquerque AMF serves the entire state of New Mexico. Any mail in the air mail, first class, overnight, special delivery or priority categories that is sent to or from the state of New Mexico likely will pass through the Albuquerque AMF. Third and fourth class mail which travels by air on a space-available basis also may pass through this AMF.

AMFs have unique site requirements that are often difficult to meet. First, the site must be located within an airport's security fence to provide direct access to flight ramps so air cargo containers from airlines that have contracts with the Postal Service may be picked up and delivered directly.

Second, the site must possess direct vehicular access to public streets so that Postal Service vehicles can collect and distribute mail to major postal facilities throughout the state.

Third, the site must be relatively large; space must be allowed for adequate exterior secured paved

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areas for cargo and postal vehicle parking and maneuvering, an air cargo container storage area, unsecured employee parking areas and a one-story building of about 30,000 square feet.

Finally, an AMF must have vehicular access and parking to provide the retail postal customer with 24-hour service.

Albuquerque International Airport

At the time we accepted this assignment, the Albuquerque AMF was in desperate need of more space. Because of the lack of space, mailbags often were left outside on the airport tarmac, covered only with tarps when rainfall was imminent. The AMF was operating out of a 5,000-square-foot building on a 36,000-square-foot site. Our assignment was to identify and acquire a 220,000-square-foot site on which a 30,000-square-foot building could be built and later expanded to 45,000 square feet or more. To complicate matters, the airport was in the process of its own major expansion program. The existing AMF consequently was slated for demolition; already, giant earth moving equipment was operating within 50 feet of the AMF.

We discovered that the airport expansion plans made no provision or allowance for the Postal Service's needs. That the \$120 million Albuquerque airport expansion program did not include space for a postal facility was not unusual. Increased need for airport land, caused by the rapid growth of air travel and restricted airport locations due to urban encroachment, have created tight space conditions at airports throughout the United States. In addition, airport planners often have placed the needs of commercial air carriers and air cargo companies ahead of the Postal Service's needs. The Postal Service does not own or operate its own planes, while United Parcel Service, Emery and Federal Express own and operate their own aircraft. Thus the Postal Service is in the unique position of needing access to airline ramp areas even though it does not operate aircraft.

Two other factors made site selection and acquisition difficult. The runways at Albuquerque International Airport are used jointly by commercial carriers and U.S. Air Force planes from Kirkland Air Force Base, an active, secured military establishment. It is not uncommon for takeoff of a commercial jetliner to be followed by the simultaneous takeoff of a pair of jet fighters. Because Kirkland Air Force Base controls about half of the airport property and adjacent land, many nearby sites were off-limits for all but military uses.

The airport is located on the western edge of a mesa. Steep drop-offs to the west and southwest made expansion difficult in these directions. Thus, site selection for a Postal Service AMF at Albuquerque Airport was hampered by urban growth, the presence of a secured military facility and natural topography.

The Assignment Changes

At my initial meeting with airport officials, I was told not only that there were no sites available for

a new AMF but that within six months the Postal Service would have to vacate its existing AMF. This news was unexpected and serious in its implications on our work. Without the existing facility, no matter how inadequate it was, how could the Postal Service fulfill the needs of the residents of New Mexico? The news set off alarm bells at the Postal Service's Western Regional Headquarters in San Bruno, California, and changed our number-one priority from finding a site for a new AMF to keeping the existing facility in operation.

The Postal Service was leasing the land and building for the present AMF from a private real estate investor who had a master ground lease from the city of Albuquerque which owned the fee property rights. All terms and conditions of the land and building leases were reviewed with a fine-tooth comb, not only by our firm but by the Postal Service's real estate and legal staff at Western Regional Headquarters. The leases subsequently were sent to the legal staff at the Postal Service's national headquarters in Washington, DC. Review of the leases indicated that: (1) because the leases had no provision for early termination, the Postal Service had the right to use the existing AMF for another five years, (2) because the Postal Service had options to extend the lease for six additional five-year terms, it had the right to operate its AMF at the same location for almost 30 more years. Legal review also demonstrated that the city's eminent domain powers could not be used to take over land leased by a federal agency.

The Postal Service decided to affirm to the city of Albuquerque, in the most clear, direct and unequivocal terms possible, the following: (1) the validity of the Postal Service's lease and the lessor's master ground lease; (2) the Postal Service's intention to defend its leasehold interest through legal action at the highest levels, extending even to Washington, DC, if necessary; and (3) the Postal Service's intention to continue to operate at the existing location until a suitable new location was acquired.

I suggested that it might be wise for Postal Service employees to operate the existing facility 24 hours a day to ensure that the structure was not "mistakenly" demolished by an errant earth mover in the middle of the night. Although I offered this suggestion partly in jest, I was aware of more than one case in which demolition or destruction of real property improvements or natural amenities (trees, for example) rendered lease provisions, even with court protection, moot. If the AMF were mistakenly damaged or demolished, a lawsuit to recover monetary damages would drag on for years; in the meantime, the Postal Service would be without an operating AMF. I also knew that airport officials were motivated to assist the Postal Service in finding a site for a new facility in order to eliminate the existing one which put a monkey wrench in the airport's \$120 million expansion plans.

A Search Goes Nowhere

The Postal Service's letter served its purpose; the city of Albuquerque agreed that the existing AMF would not have to be vacated. With the AMF now protected, our search for a permanent site shifted into high gear. Because we had virtually no suitable site leads, we decided to leave no stone unturned. In addition to airport officials, we contacted most of the owners of nearby property (even owners of property that did not have direct airport access) and tenants, including the commander of Kirkland Air Force Base.

We undertook investigations (legal, engineering, site planning, environmental, appraisal) of a number of properties that offered at least the prospect of being workable. However, each property possessed one or more major problems, and the most likely prospects conflicted with the airport's long range plans. Still, we persisted in an attempt to make at least one of these sites work. The Postal Service's legal staff in Washington, DC, even dusted off its condemnation powers, a right the Postal Service seldom threatened and had not invoked in at least a decade.

The Garbage Dump

It was during this period that airport officials first offered the site which our acquisition team thereafter referred to simply as the "Dump Site." I was introduced to the "Dump Site" as a passenger during an airport vehicle tour of potential site locations for the new AMF. My guide's brief description of the site fit the Postal Service's site criteria perfectly. However, the guide's description ended with the observation: "... Oh by the way, it's a fill site; previously, it was a garbage dump." As we approached the site, I suggested, in the most diplomatic way possible, that we not even stop or turn off the engine, because there was no chance in hell that the Postal Service would locate a post office on a garbage dump. I had worked with the Postal Service long enough to know how careful it was in accepting any site and

how even the smallest toxic hazard or environmental blemish was reason enough to remove an otherwise excellent site from consideration. In this case, the potential for liability and constraints on building was enormous.

We soon learned that every bit of the more than five-acre "Dump Site" had been filled with garbage, in some spots up to 40-feet deep, and the site had been covered with a thin layer of noncompacted fill. The site was generating significant quantities of methane gas that was migrating beyond the landfill's boundaries. Natural soils below the landfill had been contaminated. The surface of the site looked like a moonscape; its topography varied because of uneven settling of the noncompacted fill. Foot-wide pipes, for draining off methane gas, shot six feet up from the ground throughout the site. In its current state, the site was unable to support any building foundations. Its highest and best use seemed to be its current use: as an exterior storage area for construction materials and a rough parking area for the construction workers who were involved in the airport expansion.

It was widely known that the site had been used as a municipal garbage dump for the city of Albuquerque from the early 1940s through the 1960s. Given the absence of environmental controls and adequate methods of disposal of toxic materials during that period, we feared there was much more than municipal garbage on the site, even though recent soil tests confirmed the nonindustrial nature of the fill.

Our wildest, though unfounded, fears centered on the possibility of radioactive contamination of the site because of its proximity to the areas in which the first atomic weapons were developed and tested. Los Alamos is located 60 miles north of the site. During the late 1940s and 1950s, Kirkland Air Force Base was home to the Armed Forces Special Weapons Command and an atomic test squadron that took part in the 12 nuclear test series conducted in Nevada and the Pacific. In addition, nuclear weapons research laboratories located in and around Albuquerque assisted in the atomic weapons programs. With this information as background, I told airport officials that hell would freeze over before the Postal Service would accept this site, even if it was provided free of charge.

What It Takes To Make An Unusable Site Usable?

Airport officials did not back off this site as I had hoped, and soon were pushing it even harder. I was frustrated. I knew at the time that it would be foolish for the Postal Service to accept the site. It was my opinion that the city of Albuquerque was trying to pass off on Uncle Sam not only an unusable site but an enormous potential liability as well.

To convince airport officials that the site had been diligently and thoroughly considered, the Postal Service set into writing the precise conditions under which it would accept the site. We did not expect

View of property prior to rehabilitation.



these demands to be met but thought that by stating these requirements the site could be totally and completely eliminated as an alternative. The two most important conditions were: (1) the airport would remove all landfill material from the site and refill and rehabilitate the site with fill that met U.S. Environmental Protection Agency and Postal Service environmental and engineering standards; and (2) the site would be ground leased to the Postal Service for 40 years at fair market rental value.

These conditions, which were fair and logical from the Postal Service's perspective, were like asking for Albuquerque's first born in terms of their economic implications. Fair market ground lease annual rental was estimated to be \$0.50 per square foot of surface area based on a 10% return on an estimated land value of \$5.00 per square foot. However, for every surface foot of land, there were up to 40 cubic feet of garbage, fill or contaminated soil that had to be removed and replaced with clean fill. The cost of removing the fill, rehabilitating the site and relocating and extending utilities and roads to the site was expected to cost more than the property's land value and 10 to 20 times the annual rental revenue. Thus, the airport would receive at best a below market return on the site preparation costs and no return on the land.¹

You've Got To Be Kidding!

Astoundingly, within a few weeks airport officials agreed to meet the Postal Service's requirements, with only minor clarifications and modifications. Our initial reactions included both surprise and cynicism. We knew there had to be a Trojan horse somewhere in the city's offer. We never found it.

Negotiations were concluded in early 1988: The rent was set at \$116,000 annually for 20 years (based on a 10% return on \$5.20/per square foot of land

value). An option extended the lease for an additional 20 years with the rent adjusted on the basis of a reappraisal of the property.

Over the next two years, an estimated 150,000 cubic yards of fill were removed. A plastic polyvinyl chloride liner was placed on the bottom and sides of the excavation to protect against the migration of methane gas from surrounding dump properties. The site was re-engineered with clean fill and delivered to the Postal Service in buildable condition in late summer, 1990. The Postal Service completed construction of its building in May, 1991 and moved into its new AMF in June, 1991. Ultimately, the cost to the airport exceeded \$1.4 million for a site with an appraised market value of about \$1.1 million.

Why Spend More To Rehabilitate A Site Than The Site Is Worth?

Although my client acquired a suitable site at fair market value under very difficult conditions, I was puzzled by the outcome. I was bothered by the seemingly uneconomic terms airport officials ultimately accepted. Throughout my career, I have advocated reaching fair deals in which both parties win. I wondered if the Postal Service's ability to block the airport expansion was the ultimate reason for the officials' decision, or if other factors also were at work.

Although still unsure of airport officials' motivation, I have concluded that they acted in an environmentally responsible and economically logical manner. I base my conclusion on the following two guidelines:

1. A particular piece of real property should not always have to bear the full burden of cleaning up environmental pollution even though that pollution is located entirely within the boundaries of the property.

A regional airport of necessity must include many elements and uses, including runways, passenger terminals, air cargo facilities, aircraft service facilities, public parking, etc. An AMF is just one element that must be accommodated at a regional airport such as Albuquerque International. In this case, the airport had insufficient land to accommodate all its necessary uses unless it reclaimed some of the "Dump Site." Responsibility for reclamation of the "Dump Site" rested with the airport, not with the tenant who ultimately leased the site. The cost of the dump site cleanup might therefore be considered as a capital cost that should be spread over the entire airport property. Thus, the cleanup cost of \$6.36/per square foot (1.4 million ÷ 220,000 square feet) for the five-acre site is reduced to \$0.016 per square foot when spread over the entire 2,000-acre airport property.

This conclusion may be extended to any real estate project, either new development or redevelopment. Today, some portion of many large properties on which development has been proposed has been polluted and must be cleaned up. Unless the cleanup is considered to be a capital cost of the entire project,

Photograph of the site being compacted with clean fill. Polyvinyl chloride liner can be seen around the edges of the site.



View of rear of the new air mail facilities building at Albuquerque International Airport in the weeks before occupancy.



development of these properties would seem to be prohibitively expensive and economically unfeasible.

2. The entity responsible for the pollution and those who may have benefited from a dump site should be responsible for the cost of the cleanup.

The city of Albuquerque did nothing illegal, unethical, immoral or anti-environmental by operating a municipal dump at the site over a 30-year period. For health and safety reasons, a solid waste dump was necessary to accommodate the needs of the residents and businesses of the city. The location of the dump on this site was appropriate.

However, the city owned and operated the dump. Albuquerque International Airport, a department of the city, managed the dump property for two decades. The residents and taxpayers of Albuquerque benefited from the dump. All fingers, therefore, pointed to the city of Albuquerque as the entity responsible for the pollution and the entity that

benefited from the dump site. (Determining environmental responsibility is far more difficult when the polluters have long since disappeared and the property has changed hands.)

Conclusion

We did not plan this outcome; we tripped over it. Yet the outcome proved better than we had envisioned. The Postal Service has a new facility; the airport met its mission in an economically logical manner; and in the process a dump site has been cleaned up.

Prior to the conclusion of this assignment, I, like most of my real estate colleagues, would have automatically eliminated from consideration any property that had potentially significant environmental pollution or liability. We should not do this.

A property's environmental pollution or liability problems should be evaluated as any other cost factor that affects the parcel's use or value. This evaluation should involve: (1) a detailed assessment of the pollution by an experienced engineering or environmental expert; (2) a determination of the cost of remedying the situation; (3) a determination of the property owner's exposure to continuing pollution liability, if any; and (4) identification of others who may help to offset the cost of the cleanup (e.g., sellers, past users or local governments that may provide more generous zoning of a particularly obnoxious property in need of cleanup). Only after all this information is compiled should real estate professionals proceed with the economic analysis for the property's acquisition or development.

NOTE

1. A shortage of land did not raise the price of the land (or the rent) until demand and supply for the land were in equilibrium. Because the airport holds a monopoly position on property with airport access and because it acts as a public service, the airport sets rent levels and land prices based on an analysis of similar industrial properties in the extended market area located outside of the airport.