



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

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Richard C. Doucette, CPG
Regional Director

October 31, 2023

VIA Electronic Mail
David Kaasa
Waste Management
10376 Bullocks Drive
King George, Virginia 22485
dkaasa@wm.com

NOTICE OF VIOLATION

Re: Lorton CDD Landfill - 10001 Furnace Road, Lorton
Solid Waste Permit (SWP) 331

Dear Mr. Kaasa:

This letter notifies you of information upon which the Department of Environmental Quality (“Department” or “DEQ”) may rely in order to institute an administrative or judicial enforcement action. Based on this information, DEQ has reason to believe that the Furnace Associates, Inc may be in violation of the Virginia Waste Management Act, Va. Code § 10.1-1400 *et seq.* (“Act”), the Virginia Solid Waste Management Regulations, 9 VAC 20-81-10 *et seq.* (“Regulations”), SWP331.

This letter addresses conditions at the facility named above and also cites compliance requirements of the Act, Regulations, and SWP331. Pursuant to Va. Code § 10.1-1455 (G), this letter is not a case decision under the Virginia Administrative Process Act, Va. Code § 2.2-4000 *et seq.* (“APA”). DEQ requests that you respond **within 10 days of the date of this letter** to arrange a prompt meeting.

OBSERVATIONS AND LEGAL REQUIREMENTS

On October 11, 2023, DEQ Northern Regional staff conducted a records review of the Lorton CDD Landfill. A copy of the inspection checklist is attached. The following describe the staff's factual observations and identify the applicable legal requirements:

1. *Observations:* On October 6, 2023, the facility reported that a methane concentration of 4.6% was detected at facility boundary well GP-13I on September 25, 2023. 4.6% percent methane is above 80% of the Lower Explosive Limit (LEL) for methane. DEQ records indicate the facility did not notify the DEQ about the action level exceedance within 5 working days.

Legal Requirements: 9 VAC 20-81-200.C.1 Gas Remediation states

“When the gas monitoring results indicate concentrations of methane in excess of the action levels, 25% of the lower explosive limit (LEL) for methane in landfill structures (excluding gas control or recovery system components) or 80% of the LEL for methane at the facility boundary, the operator shall:

a. Take all immediate steps necessary to protect public health and safety including those required by the contingency plan.

b. Notify the department in writing within five working days of learning that action levels have been exceeded, and indicate what has been done or is planned to be done to resolve the problem.”

2. *Observations:* On October 6, 2023, the facility reported that a methane concentration of 5.1% was detected at facility boundary well GP-13I on October 5, 2023. The methane concentration detected at the GP-131 exceeded the Lower Explosive Limit (LEL) for methane at the facility boundary.

Legal Requirements: 9 VAC 20-81-200.A.1.b General requirements states

‘The concentration of methane gas migrating from the landfill shall not exceed the lower explosive limit for methane at the facility boundary.’

ENFORCEMENT AUTHORITY

Va. Code § 10.1-1455 of the Waste Management Act provides for an injunction for any violation of the Waste Management Act, Waste Management Board regulations, order, or permit condition, and provides for a civil penalty up to \$32,500 per day of each violation of the Waste Management Act, regulation, order, or permit condition. In addition, Va. Code § 10.1-1455 (G) authorizes the Department to issue orders to any person to comply with the Waste Management Act and regulations, including the imposition of a civil penalty for violations of up to \$100,000. Also, Va. Code § 10.1-1186 authorizes the Director of DEQ to issue special orders to any person to comply with the Waste Management Act and regulations, and to impose a civil penalty of not more than \$10,000. Va. Code §§ 10.1-1455 (D) and 10.1-1455 (I) provide for other additional penalties.

FUTURE ACTIONS

The first sentence of this paragraph will be case specific and depend on whether corrective actions have been listed in the inspection report, you have compiled a list yourself to attach, or are not necessary. Please see enumerated list below:

- 1. The facility shall take all immediate steps necessary to protect public health and safety including those required by the contingency plan.**
- 2. The facility shall reduce methane concentrations at monitored facility boundaries to below compliance levels in the timeframes specified in the gas remediation plan.**
- 3. The facility shall notify the department in writing within five working days of learning that action levels have been exceeded.**

DEQ staff wishes to discuss all aspects of their observations with you, including any actions needed to ensure compliance with state law and regulations, any relevant facts or related measures you plan to take or have taken which demonstrate a good faith effort to achieve compliance, and a schedule, as needed, for further activities. In addition, please advise us if you dispute any of the observations recited herein or if there is other information or relevant facts of which DEQ should be aware. Full compliance with the Virginia Waste Management Act (§ 10.1-1400 *et. seq.*) and regulations and remediation of the alleged violation(s) within the next 30 days may result in the administrative closure of this matter through return to compliance.

If compliance and remediation is not achieved within 30 days, the Department may proceed with a formal enforcement action including assessment of civil charges under its enforcement authority described in the section above.

If discussions with staff do not lead to a satisfactory conclusion concerning the contents of this letter, you may elect to participate in DEQ's Process for Early Dispute Resolution. To request the Process for Early Dispute Resolution, please send a letter detailing any facts or observations listed in this notice of violation that you dispute, a reasoned analysis of why this notice of violation is inappropriate, and any documentation you would like DEQ to consider when reviewing your request to **Jim Datko** at James.Datko@deq.virginia.gov within 30 days of the date of this letter. Additional information regarding the Process for Early Dispute Resolution may be found on DEQ's website: DEQ.Virginia.GOV/PEDR. If informal discussions do not lead to a satisfactory conclusion, you may request in writing that DEQ take all necessary steps to conduct an informal fact-finding proceeding and issue a case decision under the APA on whether or not a violation has occurred.

Please contact Mark Miller at (571)-866-6487 or Mark.Miller@deq.virginia.gov **within 10 days of the date of this letter** to discuss this matter and arrange a prompt meeting.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Datko', written over a horizontal line.

Jim Datko, P.E.
Regional Land Protection Program Manager

cc: Mark Miller, Enforcement Manager, mark.miller@deq.virginia.gov
Jeffrey Modliszewski, Compliance Inspector, Jeffrey.modliszewski@deq.virginia.gov
Priscilla D. Fisher, Compliance Coordinator, priscilla.fisher@deq.virginia.gov
ECM - SWP331



Compliance Inspection Report

Inspection Summary

Facility: Lorton Construction Landfill
Permit: SWP331
Region: Northern
Inspection Type: Records Review
Facility Staff: Not Applicable

Inspector: Jeffrey Modliszewski
Inspection Date: 10/11/2023
Approximate Arrival Time: 9:00 a.m.
Inspection Method: Announced
Exit Interview: No
Weather Conditions: Not Applicable

Construction / Demolition / Debris (CDD) Landfill (Post-Closure)

Reference	Description	SL	Result
Compliance Area: Operator Information			
10.1-1408.1	Disclosure Statement	I	
Compliance Area: Recordkeeping, Reporting & Permit			
20-81-100.B	Compliance with the facility's permit	II	
20-81-530	Permittee recordkeeping and reporting	II	✓
Compliance Area: Design, Construction & Operation			
20-81-140.A.6	Pollutant discharge	III	
Compliance Area: Closure & Post-Closure Care			
20-81-160	Closure requirements	II	
20-81-170	Post-closure care requirements	II	
Compliance Area: Decomposition Gas Control			
20-81-200	Decomposition gas control	II	X
Compliance Area: Leachate Control			
20-81-210	Leachate control	II	
Compliance Area: Groundwater Monitoring			
20-81-250	Groundwater monitoring program	II	
20-81-260	Corrective action program	II	
Compliance Area: Landfill Mining			
20-81-385 & 395	Landfill Mining	II	

SL = Severity Level ✓ = In Compliance X = Alleged Violation N/A = Not Applicable Blank = Not Inspected

Alleged Violations

Reference	Comments
20-81-200	<p>Decomposition gas control - On October 6, 2023, the facility reported that a methane concentration of 4.6% was detected at facility boundary well GP-131 on September 25, 2023. 4.6% percent methane is above 80% of the Lower Explosive Limit (LEL) for methane. DEQ records indicate the facility did not notify the DEQ about the action level exceedance within 5 working days.</p> <p>On October 6, 2023, the facility reported that a methane concentration of 5.1% was detected at facility boundary well GP-131 on October 5, 2023. The methane concentration detected at the GP-131 exceeded the Lower Explosive Limit (LEL) for methane at the facility boundary.</p>

General Comments

Reference	Comments
20-81-530	Permittee recordkeeping and reporting - The facility provided the 24-hour notification and five day report for the October 5,

Disclosure Statement Details

Key Personnel	Title
David Kaasa	District Manager
David Moreira	Area Director
EnviroSolutions Holdings Inc	
Envirosolutions Real Property Holdings Inc	
Furnace Associates Inc	
Michael J. Magee	Director of Finance for Market Area
Ronald S. Ward	President
Waste Management Holdings Inc	

Disclosure Statement Last Updated: 6/30/2021

PLEASE advise the Regional Office within 10 calendar days if any information noted in this report is incorrect, if you have taken appropriate action to meet compliance, or if there is other information that the department should consider regarding any alleged violations.


PLEASE be advised that this report is not an agency proceeding or determination which may be considered a case decision under the Administrative Process Act (VA Code 2.2-4000 et seq). If informal discussions do not lead to a satisfactory conclusion on the contents of this report, you may request in writing that DEQ take all necessary steps to issue a final decision or fact finding under the APA on whether or not a violation has occurred.

SWP Notice Of Violation

Modliszewski, Jeffrey (DEQ) <Jeffrey.Modliszewski@deq.virginia.gov>

Tue 10/31/2023 11:09 AM

To:Kaasa, David (dkaasa@wm.com) <dkaasa@wm.com>;Miller, Mark (DEQ) <Mark.Miller@deq.virginia.gov>;Datko, James (DEQ) <James.Datko@deq.virginia.gov>

 1 attachments (374 KB)

SWP331 NOV 20231018.pdf;

David

I have attached the Notice of Violation from the September 25, 2023, methane exceedance. If you have any questions or concerns about the NOV feel free to contact Mark or Jim. Thanks jrm