



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

13901 Crown Court, Woodbridge, Virginia 22193

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Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

Thomas A. Faha
Regional Director

April 17, 2014

Mr. Larry Bayne
Lorton Construction Landfill
10001 Furnace Road
Lorton, Virginia 22079

VIA EMAIL: lbayne@esiwaste.com

WARNING LETTER

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

Dear Mr. Bayne:

The Department of Environmental Quality (“DEQ” or “the Department”) has reason to believe that the Lorton CDD Landfill located at 10001 Furnace Road, Lorton, Virginia, may be in violation of the Waste Management Law and Regulations.

This letter addresses conditions at the facility named above, and also cites compliance requirements of the Waste Management Law and Regulations. 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. The Department requests that you respond **within 20 days of the date of this letter**

OBSERVATIONS AND LEGAL REQUIREMENTS

On March 24, 2014, DEQ Northern Regional Office staff conducted a compliance inspection of the Lorton CDD Landfill. A copy of the inspection report is attached. Staff also reviewed documents provided to DEQ during the course of the inspection. The following describe the staff’s factual observations and identify the applicable legal requirements:

1. *Observations:* On March 24, 2014, DEQ observed exposed waste on a portion of the eastern slope of the landfill.

Legal Requirements: 9 VAC 20-81-140 C.1.b requires ...

Compacted soil cover shall be applied as needed for safety and aesthetic purposes. A minimum one-foot thick progressive cover shall be maintained weekly such that the top of the lift is fully covered at the end of the work week. If the landfill accepts

Category I or II nonfriable asbestos-containing material for disposal, daily soil cover shall be placed upon all exposed Category I or II nonfriable asbestos-containing material prior to the end of each operating day. The open working face of a landfill shall be kept as small as practicable, determined by the tipping demand for unloading.

2. *Observations:* On March 18, 2014, the facility detected a methane concentration of 5% at Boundary Probe 17 and a 4% concentration at Boundary Probe 18. The methane concentration at Boundary Probe 17 is 100% of the Lower Explosive Limit (LEL) for methane, and the the concentration at Boundary Probe 18 is 80% of the LEL for methane. Our records indicate that the facility did not report within 24 hours that a methane concentration was at the LEL at Boundary Probe 17.

Legal Requirements: 9 VAC 20-81-530 C.3 requires ...

The permittee shall report to the department any noncompliance or unusual condition that may endanger health or environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the circumstances and its cause; the period of occurrence, including exact dates and times, and, if the circumstance has not been corrected, the anticipated time it is expected to continue. It shall also contain steps taken or planned to reduce, eliminate, and prevent reoccurrence of the circumstances resulting in an unusual condition or noncompliance.

The facility is also receiving an Area of Concern (AOC) for continuing to exceed the methane action level (VAC20-81-200. C).

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, an 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 Waste Management Board 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. The Court has the inherent authority to enforce its injunction, and is authorized to award the Commonwealth its attorneys' fees and costs.

FUTURE ACTIONS


These issues were discussed with facility representatives during the inspection. On March 26, 2014, Larry Bayne forwarded one picture to the DEQ. The picture documented that the exposed waste on the eastern slope of the landfill had been covered. Observation 1 appears to be resolved. After reviewing this letter, please respond in writing to DEQ **within 20 days of the date of this letter** detailing actions you have

taken or will be taking to ensure compliance with state law and regulations. If corrective action will take longer than 90 days to complete, you may be asked to sign a Letter of Agreement or enter into a Consent Order with the Department to formalize the plan and schedule. *It is DEQ policy that appropriate, timely, corrective action undertaken in response to a Warning Letter will avoid adversarial enforcement proceedings and the assessment of civil charges or penalties.*

Please advise us if you dispute any of the observations recited herein or if there is other information of which DEQ should be aware. In the event that 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. Also, if informal discussions do not lead to a satisfactory conclusion, 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. For further information on the Process for Early Dispute Resolution, please see Agency Policy Statement No. 8-2005 posted on the Department's website under "Programs," "Enforcement," and "Laws, Regulations, & Guidance" (Virginia DEQ - Laws, Regulations, & Guidance) or ask the DEQ contact listed below.

Your contact at DEQ in this matter is Jeffrey Modliszewski. Please direct written materials to his attention. If you have questions or wish to arrange a meeting, you may reach him directly at (703) 583-3832 or by email at Jeffrey.modliszewski@deq.virginia.gov.

Sincerely,



Richard C. Doucette
Land Protection and Revitalization Program Manager

cc: CASE FILE
DEQ CO/SW Compliance Program Coordinator (L. Shultz)

CDD Landfill [SW]
Inspection Report

Facility Name: Lorton Construction Landfill
Region: Northern Regional Office
Inspected By: Modliszewski, Jeffrey R

Permit No.: SWP331
Inspection Date: 24-MAR-14

Reference	Description	S	I	A	V	O
10.1-1408.1	Disclosure Statement	I	X			0
10.1-1408.2	Operator Certification	II	X			0
20-70-10 et seq.	Financial Assurance	II				0
20-90-10 et seq.	Permit Action Fees	II				0
20-81-80	Waste Assessment Program	I				0
20-81-100.B	Compliance with the facility's permit	II				0
20-81-100.E	Unauthorized waste program and inspection	II	X			0
20-81-110.B	Prohibited waste	II	X			0
20-81-130	Facility design / construction	I				0
20-81-140.A.1,4	Safety and fire control	II	X			0
20-81-140.A.6	Pollutant discharge	III				0
20-81-140.A.7	Stormwater control system maintenance	II	X			0
20-81-140.A.8,14-15	Facility operation, maintenance, and training	II				0
20-81-140.A.9-13	Hazard and nuisance control	I	X			0
20-81-140.A.16	Facility self inspections	I	X			0
20-81-140.A.17	Record maintained of waste received and processed	I	X			0
20-81-140.C	Compaction and cover	I	X		X	1
20-81-160	Closure requirements	II				0
20-81-170	Post-closure care requirements	II				0
20-81-200	Decomposition gas control	II	X	X		0
20-81-210	Leachate control	II				0
20-81-250	Groundwater monitoring program	II				0
20-81-260	Corrective action program	II				0
20-81-485	Operations Manual	II	X			0
20-81-530	Permittee recordkeeping and reporting	II	X		X	1
20-81-610-660	Special Waste	II	X			0

S = Severity Level I = Inspected A= Area of concern V = Alleged violation O = Occurrences

**CDD Landfill [SW]
Alleged Violations**

Reference	Comments
20-81-140.C	The DEQ observed exposed waste on a portion of the eastern slope of the landfill (Photos 1-3).
20-81-530	On March 18, 2014, the facility detected a methane concentration of 5% at Boundary Probe 17 and a 4% concentration at Boundary Probe 18. The methane concentration at Boundary Probe 17 is 100% of the Lower Explosive Limit (LEL) for methane, and the the concentration at Boundary Probe 18 is 80% of the LEL for methane. Our records indicate that the facility did not report within 24 hours that a methane concentration was at the LEL at Boundary Probe 17.

**CDD Landfill [SW]
Area of Concern**

Reference	Comments
20-81-200	On March 18, 2014, the facility detected a methane concentration of 5% at Boundary Probe 17 and a 4% concentration at Boundary Probe 18. The methane concentration at Boundary Probe 17 is 100% of the Lower Explosive Limit (LEL) for methane; this exceeds the action level for methane.

**CDD Landfill [SW]
General Comments**

Reference	Comments
10.1-1408.1	Please review the facility's current Disclosure Statement, if the form is not accurate, revise and submit and updated copy to the DEQ. The January 19, 2007 Disclosure Statement lists the following as Key Personnel: Gary L. Mead, Sean P. Madden, Jon E. Mattson, W. Scott Eden, Bryan Flanagan, Jeffrey Alan Draper, N. Howard, Burns, James W. Stenborg, Larry Bayne, David Howard, Charles B. Fromm, Clayton Walton, Dan Kirkpatrick.
10.1-1408.2	The facility has two licensed facility operators listed as Key Personnel: Larry Bayne (License Number 4605002098 which expires on December 31, 2014) and David Howard (License Number 4605002135, which expires on April, 30 2015).
20-81-100.E	Random load inspections are performed at the facility: the random load inspection log was reviewed. The facility increased the number of random inspections since the December inspection. Unauthorized waste training is performed as part of the weekly safety meeting.
20-81-110.B	The facility maintains a log of trucks which were not accepted into the facility because they were carrying prohibited loads.
20-81-140.A.1,4	The facility conducts weekly safety training. The safety training records were reviewed; the records document the safety topic, trainer, and attendees.
20-81-140.A.9-13	The facility demonstrates litter control through manual efforts and litter fencing. The facility was collecting litter during the inspection.
20-81-140.A.16	The facility conducted a self inspection on December 26, 2013; January 29, 2014; and February 26, 2014.
20-81-485	Larry Bayne recertified the operations manual on May 8, 2013.
20-81-610-660	Non-friable asbestos is accepted at the facility; the facility marks on a site map where the non-friable asbestos is buried.

Overall Inspection Comments

On March 24, 2014, at approximately 11:00 AM Daniel Demers and Jeffrey Modliszewski representatives from the Virginia Department of Environmental Quality (DEQ) arrived the Lorton Construction Landfill, SWP 331. The DEQ representatives were greeted by Larry Bayne. Mr. Bayne escorted the DEQ representative throughout the compliance inspection. The DEQ staff conducted an exit interview with Mr. Bayne to discuss the findings of the inspection

This inspection report addresses conditions at this facility and also cites compliance requirements of the Virginia Waste Management Law and Regulations. Pursuant to Virginia Code 10.1-1455(G), this report is not a case decision under the Administrative Process Act, Code of Virginia, Section 2.2-4000 et seq.

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 these 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.

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

Northern Regional Office

Photos have not been altered except to change the size of the file.

Site Name: Lorton Construction Landfill

Permit#

SWP 331

Camera: Kodak Easy Share

Taken By: Modliszewski



Photo Number:

1

Date:

March 24, 2014

Comments:

Exposed waste on the eastern slope of the landfill; viewed towards the east looking down the slope of the landfill.



Photo Number:

2

Date:

March 24, 2014

Comments:

Exposed waste on the eastern slope of the landfill.

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

Northern Regional Office

Photos have not been altered except to change the size of the file.

Site Name: Lorton Construction Landfill

Permit#

SWP 331

Camera: Kodak Easy Share

Taken By: Modliszewski



Photo Number:

3

Date:

March 24, 2014

Comments:

Exposed waste on the eastern slope of the landfill; viewed towards the west looking up the slope of the landfill.



Photo Number:

4

Date:

March 24, 2014

Comments:

Hydro-seeded south slope; viewed towards the south and down slope.

Modliszewski, Jeffrey (DEQ)

From: Modliszewski, Jeffrey (DEQ)
Sent: Thursday, April 17, 2014 10:06 AM
To: 'lbayne@esiwaste.com'
Subject: Inspection Report from the March Solid Waste Inspection at SWP 331
Attachments: SWP331 CIR WL 3-24-14.pdf

Larry

I have attached the warning letter and report from my March 24, 2014 Solid Waste Inspection. You have already documented that the exposed waste was covered. Thanks jrm

Jeffrey Modliszewski
Environmental Specialist II
Phone: 703-583 3832
Fax: 703 583-3821
Email: Jeffrey.modliszewski@deq.virginia.gov