



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

13901 Crown Court, Woodbridge, Virginia 22193

(703) 583-3800 Fax (703) 583-3821

[www.deq.virginia.gov](http://www.deq.virginia.gov)

Molly Joseph Ward  
Secretary of Natural Resources

David K. Paylor  
Director

Thomas A. Faha  
Regional Director

August 22, 2014

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

VIA EMAIL: [lbayne@esiwaste.com](mailto: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 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 August 18, 2014, DEQ Northern Regional Office staff conducted a Records Review of the Lorton Construction Landfill. A copy of the inspection report is attached. The following describe the staff’s factual observations and identify the applicable legal requirements:

- 1. Observations: On August 14, 2014, the facility detected a methane concentration of 27.4% at Boundary Probe 23. The methane concentration detected at Boundary Probe 23 exceeded the Lower Explosive Limit (LEL) for methane.*

**Legal Requirements: 9 VAC 20-81-200.A.1 requires ...**

*To provide for the protection of public health and safety, and the environment, the operator shall ensure that decomposition gases generated at a landfill are controlled during the periods of operation, closure and postclosure care, in accordance with the following requirements:*

- a. The concentration of methane gas generated by the landfill shall not exceed 25% of the lower explosive limit (LEL) for methane in landfill structures (excluding gas control or recovery system components); and*
- b. 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, 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**

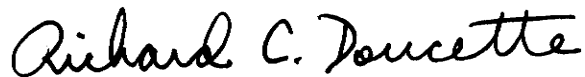
After reviewing this letter, please respond in writing to DEQ **within 20 days of the date of this** letter detailing actions you have taken or will be taking to ensure compliance with state law and regulations. If corrective action will take longer than 90 days to complete, you may be asked to sign 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](mailto:Jeffrey.modliszewski@deq.virginia.gov).

Sincerely,

A handwritten signature in cursive script that reads "Richard C. Doucette".

Richard C. Doucette  
Land Protection and Revitalization Program Manager

cc: CASE FILE  
DEQ/CO Director of the Office of Waste Permitting & Compliance (J. Williams)

<b>CDD Landfill [SW]</b>
<b>Inspection Report</b>

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

Permit No.: SWP331  
Inspection Date: 18-AUG-14

Reference	Description	S	I	A	V	O
10.1-1408.1	Disclosure Statement	I				0
10.1-1408.2	Operator Certification	II				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				0
20-81-110.B	Prohibited waste	II				0
20-81-130	Facility design / construction	I				0
20-81-140.A.1,4	Safety and fire control	II				0
20-81-140.A.6	Pollutant discharge	III				0
20-81-140.A.7	Stormwater control system maintenance	II				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				0
20-81-140.A.16	Facility self inspections	I				0
20-81-140.A.17	Record maintained of waste received and processed	I				0
20-81-140.C	Compaction and cover	I				0
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	1
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				0
20-81-530	Permittee recordkeeping and reporting	II	X			0
20-81-610-660	Special Waste	II				0

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

**CDD Landfill [SW]  
Alleged Violations**

Reference	Comments
20-81-200	On August 14, 2014, the facility detected a methane concentration of 27.4% at Boundary Probe 23. The methane concentration detected at Boundary Probe 23 exceeded the Lower Explosive Limit (LEL) for methane.

**CDD Landfill [SW]  
General Comments**

Reference	Comments
20-81-530	On August 15, 2014, the facility provided the 24-hour notification of the August 14, 2014 gas exceedance.

**Overall Inspection Comments**

This inspection report addresses the August 14, 2014 gas exceedance 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.**

## **Modliszewski, Jeffrey (DEQ)**

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**From:** Modliszewski, Jeffrey (DEQ)  
**Sent:** Friday, August 22, 2014 9:50 AM  
**To:** 'Larry Bayne'  
**Cc:** 'jstenborg@esiwaste.com'  
**Subject:** SWP331 Gas Exceedance  
**Attachments:** SWP331 WL CIR FR.pdf

Larry

I have attached a copy of the Warning Letter from last week's gas exceedance. I mailed the original. Jrm

Jeffrey Modliszewski  
Environmental Specialist II  
Phone: 703-583 3832  
Fax: 703 583-3821  
Email: [Jeffrey.modliszewski@deg.virginia.gov](mailto:Jeffrey.modliszewski@deg.virginia.gov)