



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

Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

Thomas A. Faha
Regional Director

July 21, 2015

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, Va
Solid Waste Permit 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 10 days of the date of this letter**.

OBSERVATIONS AND LEGAL REQUIREMENTS

On May 21, 2015, 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. Observation: The facility could not document that during the first quarter of 2015 the scale house was monitored for methane.

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

The gas monitoring network shall be designed to ensure detection of the presence of decomposition gas migrating beyond the landfill facility boundary and into landfill structures.

Legal Requirements: 9 VAC 20-81-200.B.4 requires ...

At a minimum, the gas monitoring frequency shall be quarterly. The department may require more frequent monitoring at locations where monitoring results indicate gas migration or gas accumulation in devices or structures designed to detect migrating gas.

2. Observation: The operations manual was certified on May 1, 2014. The facility could not document it had recertified the operations manual within 12 months of May 1, 2014.

Legal Requirements: 9 VAC 20-81-485 requires ...

An operations manual shall be prepared and maintained in the operating record. The operations manual shall include a certification page signed by a responsible official. This signature shall certify the manual meets the requirements of this chapter. This manual shall be reviewed and recertified annually (by December 31 of each calendar year) to ensure consistency with current operations and regulatory requirements, and shall be made available for review by the department upon request.

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 10 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 at Jeffrey.modliszewski@deq.virginia.gov.

Sincerely,



Richard C. Doucette
Land Protection and Revitalization Program Manager

cc: CASE FILE
Priscilla D. Fisher, DEQ-CO, Solid Waste Compliance Coordinator
Crystal Hamrick, Fairfax County

CDD Landfill [SW]
Inspection Report

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

Permit No.: SWP331
Inspection Date: 21-MAY-15

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	X			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				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				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				0
20-81-140.C	Compaction and cover	I	X			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	X		X	1
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	The facility could not document that during the first quarter of 2015 the scale house was monitored for methane. The facility exceeded the compliance level for methane at Boundary Probe GP-10 on the following days: February 12, February 18, February 25, March 2, March 12, March 17, March 23, March 30, April 9, April 15, April 21, April 28, May 7, and May 15, 2015.
20-81-485	The operations manual was certified on May 1, 2014. The facility could not document it had recertified the operations manual within 12 months of May 1, 2014.

**CDD Landfill [SW]
General Comments**

Reference	Comments
10.1-1408.1	The September 4, 2014 Disclosure Statement identifies the following as Key Personnel: Eric Wallace, Marc Bourhis, Gary Hewes, Kirk Nimitz, James Stenborg, Larry Bayne, and David Howard. Larry Bayne indicated during the inspection that the Disclosure Statement needed to be updated to reflect the recent changes in the company's structure.
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, 2016) and David Howard (License Number 4605002135 which expires on April 30, 2017).
20-81-80	The 2014 SWIA form was accepted by the DEQ on May 4, 2015.
20-81-100.E	The facility documented that it was inspecting 10% of the incoming loads of waste generated outside of Virginia. The facility reviewed a portion of the unauthorized waste program during the weekly safety training.
20-81-140.A.1,4	The facility conducted weekly safety training. The safety training log was reviewed; it contained documentation of safety topics.
20-81-140.A.9-13	The facility documented when additional personnel were used to pick up litter.
20-81-140.A.16	The facility conducted self inspections in February, March, April, and May 2015.
20-81-140.C	The landfill's intermediate cover was inspected; no compliance issues were observed.
20-81-530	The facility provided the 24-hour notifications and the five day written submissions for the methane exceedances.

Overall Inspection Comments

On May 21, 2015, at approximately 9:15 AM Jeffrey Modliszewski, a representative from the Virginia Department of Environmental Quality (DEQ) arrived at the Lorton Construction Landfill, SWP 331. The DEQ representative was 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.

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)

From: Modliszewski, Jeffrey (DEQ)
Sent: Tuesday, July 21, 2015 1:54 PM
To: Larry Bayne
Cc: 'Crystal.Hamrick@fairfaxcounty.gov'
Subject: SWP331 Warning Letter
Attachments: SWP331 WL 20150521 (1).pdf

Larry,

Sorry for the delay in getting you my inspection report from May. I consider the methane issue closed because you provided the methane reading from the office building for the second quarter. Please send me a copy of the Ops Manual's signature page for SWP331 to close that deficiency. Thanks jrm

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