



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

13901 Crown Court, Woodbridge, Virginia 22193

(703) 583-3800

www.deq.virginia.gov

Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

Thomas A. Faha
Regional Director

March 31, 2017

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

NOTICE OF VIOLATION

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

Dear Mr. Bayne:

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 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* (APA). The Department requests that you respond **within 10 days of the date of this letter** to arrange a prompt meeting.

OBSERVATIONS AND LEGAL REQUIREMENTS

On January 19, 2017, 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:* The facility could not document that during the fourth quarter of 2016 the scale house and pump house were monitored for methane. The

facility received a warning letter on July 21, 2015, because they could not document that the scale house was monitored during the first quarter of 2015.

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. *Observations:* On December 19, 2016, the facility detected a methane concentration of 19% in boundary probe GP-22 and 17% percent in boundary probe GP-26. The methane concentrations detected at GP-22 and GP-26 exceeded 100% of Lower Explosive Limit (LEL) for methane. DEQ records indicated that the facility did not provide the 24-hour verbal notifications or the five day written report for the methane exceedance.

Legal Requirements: 9 VAC 20-81-530.C.1. 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.

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. Va. Code §§ 10.1-1455 (D) and 10.1-1455 (I) provide for other additional penalties.

FUTURE ACTIONS

DEQ staff wishes to discuss all aspects of their observations with you, including any actions needed ensure compliance with state law and regulations, any relevant or related measures you plan to take or have taken, 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 of which DEQ should be aware. In order to avoid adversarial enforcement proceedings, Lorton CDD Landfill may be asked to enter into a Consent Order with the Department to formalize a plan and schedule of corrective action and to settle any outstanding issues regarding this matter, including the assessment of civil charges.

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" (<http://www.deq.virginia.gov/Programs/Enforcement/Laws,Regulations,Guidance.aspx>) or ask the DEQ contact listed below.

Please contact Jeffrey Modliszewski at (703) 583-3832 or jeffrey.modliszewski@deq.virginia.gov **within 10 days of the date of this letter** to discuss this matter and arrange a prompt meeting.

Respectfully,



Richard C. Doucette
Land Protection and Revitalization Program Manager

cc: CASE FILE
Crystal Hambrick, Fairfax County
Priscilla D. Fisher, Solid Waste Compliance Coordinator



Compliance Inspection Report

Inspection Summary

Facility: Lorton Construction Landfill

Inspector: Jeffrey Modliszewski

Permit: SWP331

Inspection Date: 1/19/2017

Region: Northern

Approximate Arrival Time: 9:00 a.m.

Inspection Type: Compliance Evaluation Inspection

Inspection Method: Announced

Facility Staff: Larry Bayne

Exit Interview: Yes

Weather Conditions: Cloudy

Construction / Demolition / Debris (CDD) Landfill (Active)

Reference	Description	SL	Result
Compliance Area: Operator Information			
10.1-1408.1	Disclosure Statement	I	✓
10.1-1408.2	Operator Certification	II	✓
Compliance Area: Recordkeeping, Reporting & Permit			
20-81-80	Waste Assessment Program	I	✓
20-81-100.B	Compliance with the facility's permit	II	✓
20-81-100.E	Unauthorized waste program and inspection	II	✓
20-81-140.A.16	Facility self inspections	I	✓
20-81-140.A.17	Record maintained of waste received and processed	I	✓
20-81-485	Operations Manual	II	✓
20-81-530	Permittee recordkeeping and reporting	II	X
Compliance Area: Design, Construction & Operation			
20-81-110.B	Prohibited waste	II	✓
20-81-130	Facility design / construction	I	✓
20-81-140.A.1,4	Safety and fire control	II	✓
20-81-140.A.6	Pollutant discharge	III	✓
20-81-140.A.7	Stormwater control system maintenance	II	✓
20-81-140.A.8,14-15	Facility operation, maintenance, and training	II	✓
20-81-140.A.9-13	Hazard and nuisance control	I	✓
20-81-140.C	Compaction and cover	I	✓
20-81-610-660	Special Waste	II	✓
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	N/A

SL = Severity Level

✓ = In Compliance

X = Alleged Violation

N/A = Not Applicable

Blank = Not Inspected

Alleged Violations

Reference	Comments
20-81-530	Permittee recordkeeping and reporting - On December 19, 2016, the facility detected a methane concentration of 19% in boundary probe GP-22 and 17% percent in boundary probe GP-26. The methane concentrations detected at GP-22 and GP-26 exceeded 100% of Lower Explosive Limit (LEL) for methane. DEQ records indicated that the facility did not provide the 24-hour verbal notifications or the five day written report for the methane exceedance.
20-81-200	Decomposition gas control - The facility could not document that during the fourth quarter of 2016 the scale house and pump house were monitored for methane. The facility received a warning letter on July 21, 2015, because they could not document that the scale house was monitored during the first quarter of 2015. The facility continues to exceed the compliance level for methane at the Landfill Gas Monitoring Probes on the northwestern, western and eastern boundary of the property.

General Comments

Reference	Comments
10.1-1408.1	Disclosure Statement - The Disclosure Statement was reviewed: no compliance issues were noted.
20-81-80	Waste Assessment Program - The 2016 Solid Waste Information and Assessment Program (SWIA) Form DEQ 50-25 is due March 31, 2017, instructions and the link where the form can be submitted online can be found at http://www.deq.virginia.gov/Programs/LandProtectionRevitalization/SolidHazardousWasteRegulatoryPrograms/SolidWaste/SolidWasteInformationandAssessmentProgram.aspx . Please contact Daniel Demers 703-583-3901 or by email daniel.demers@deq.virginia.gov or Yurek Aurelson, at 703-583-3844 or by email at yurek.aurelson@deq.virginia.gov if you need additional assistance in completing the form.
20-81-100.B	Compliance with the facility's permit - The Certificate to Operate Cell 3B South was issued on December 27, 2016.
20-81-100.E	Unauthorized waste program and inspection - The facility inspects incoming loads before they enter the facility and at the waste tipper. November and December's 2016 random waste inspections were reviewed; no compliance issues were noted. The facility reviewed a portion of the unauthorized waste program during the weekly safety training.
20-81-485	Operations Manual - Larry Bayne recertified the operations manual on June 7, 2016.
20-81-110.B	Prohibited waste - The facility maintained a log of the truck load's carrying prohibited wastes which were not accepted into the facility.
20-81-140.A.1,4	Safety and fire control - The facility conducted weekly safety training. The safety training log was reviewed; it contains documentation of safety topics.
20-81-140.A.7	Stormwater control system maintenance - Sediment Basin, SB-5 had been cleaned out.
20-81-140.C	Compaction and cover - The facility was operating two working faces during the inspection; the facility had an adequate amount of equipment to handle the incoming waste. The landfill's intermediate cover was inspected; no compliance issues were observed
20-81-210	Leachate control - The leachate above ground storage tanks (ASTs) were inspected: no compliance issues were noted.

Disclosure Statement Details

Key Personnel	Title
Dean Kattler	CEO
Gary Hewes	Vice President Operations
James Stenborg	Director of Landfill Engineering
Jim Alderson	CFO
Larry Bayne	General Manager

Disclosure Statement Last Updated: 12/9/2015

Waste Management Facility Operators

Licensed Operator	License #	Expiration Date
Larry Bayne	4605002098	12/31/2018
William Williams	4605003459	3/31/2018

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.

Modliszewski, Jeffrey (DEQ)

From: Modliszewski, Jeffrey (DEQ)
Sent: Friday, March 31, 2017 2:51 PM
To: Larry Bayne (lwayne@esiwaste.com)
Cc: Crystal.Hamrick@fairfaxcounty.gov
Subject: SWP331 NOV
Attachments: SWP331 NOV CIR 20170331.pdf

Larry

I have attached the NOV from January's inspection. According to our conversation today both the pumphouse and scale house have been monitored this quarter. Thanks jrm

Respectfully,

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