



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

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VIRGINIA WASTE MANAGEMENT BOARD EMERGENCY ORDER BY CONSENT ISSUED TO

**ATLANTIC WASTE DISPOSAL, INC., T. PARKER HOST, INC.,
TRI-PORT TERMINALS, INC., VANE BROTHERS MARINE
SAFETY & SERVICES, INC.**

FOR

**ATLANTIC WASTE DISPOSAL LANDFILL, TRI-PORT FACILITY,
AND VANE BROTHERS BARGE**

Solid Waste Permit No. 562

SECTION A: PURPOSE

This is an Emergency Order by Consent issued under the authority of Va. Code § 10.1-1402(18), between the Virginia Department of Environmental Quality ("DEQ"), pursuant to authority delegated by the Virginia Waste Management Board, and Atlantic Waste Disposal Inc., T. Parker Host, Inc., Tri-Port Terminals, Inc., and Vane Brothers Marine Safety & Services, Inc., regarding the Atlantic Waste Disposal Landfill, Tri-Port Facility, and Vane Brothers barge, for the purpose of allowing emergency offsite transportation of leachate.

DEQ seeks reimbursement of costs incurred and/or to be incurred for administration and oversight of this Order pursuant to Va. Code § 10.1-1402(19).

SECTION B: DEFINITIONS

Unless the context indicates otherwise, the following words and terms have the meaning assigned to them below.

1. "Atlantic" means Atlantic Waste Disposal, Inc., certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

2. “Board” means the Virginia Waste Management Board, a permanent citizens’ board of the Commonwealth of Virginia as described in Code §§ 10.1-1401 and 10.1-1184.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as an Emergency Order by Consent.
6. “Parties” means Atlantic Waste Disposal Inc., T. Parker Host, Inc., Tri-Port Terminals, Inc., and Vane Brothers Marine Safety & Services, Inc., collectively.
7. “Permit” means Solid Waste Permit 562, which became effective December 29, 1993.
8. “T. Parker Host” means T. Parker Host, Inc., certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
9. “Tri-Port” means Tri-Port Terminals, Inc., certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
10. “TRO” means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
11. “Va. Code” means the Code of Virginia (1950), as amended.
12. “Vane Brothers” means Vane Brothers Marine Safety & Services, Inc., certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

SECTION C: FINDINGS OF FACT AND CONCLUSIONS OF LAW

Atlantic and Waste Management-Inc. of Virginia, a corporate affiliate of Atlantic, (collectively “Waste Management”) operates six landfills throughout the Commonwealth of Virginia. Five of these facilities have historically used an industrial pre-treatment facility to manage and discharge leachate, a substance within the jurisdiction of the Board, to a Waste Water Treatment Plant (“WWTP”).

Beginning in October, 2015, the industrial pre-treatment facility was no longer able to process leachate for discharge to the WWTP, leading to an exigency in leachate management, particularly for the Atlantic Waste Landfill facility. The Atlantic Waste

Landfill facility generates approximately 9 million gallons of leachate per month. Although short-term measures have been identified and employed by Waste Management, no durable, local option appears available for the excess volume of leachate.

Waste Management has applied for, and has had approved by DEQ, several temporary authorizations for the construction of a total of 6 lined leachate lagoons with a total capacity of approximately 51,000,000 gallons at the Atlantic Waste Disposal Landfill. Approval for a seventh lagoon has been granted by the Department. Long-term management of leachate at this site involves the construction and operation of a leachate treatment facility, currently anticipated to begin operation in 2017.

An imminent risk of overflow and discharge of leachate is present at the Atlantic Landfill facility. In order to mitigate the risk and promote the long-term management of excess leachate, Waste Management has identified the Passaic Valley Sewerage Commission treatment plant in Newark, New Jersey, as a facility to manage the leachate. Exercising this management option necessitates the barging of the leachate for transport from the Tri Port facility in Chesapeake, to the Passaic Valley Sewerage Commission ("PVSC") by way of an ocean route. The double hulled barge is chartered from Vane Brothers and will travel from Tri-Port up the Elizabeth River to Norfolk harbor, and then travel northward on the Atlantic Ocean to its treatment destination on Newark Bay. The method of transport and management of the leachate at PVSC is more particularly described in the Leachate Management and Transportation Plan and incorporated to this Order by reference as Appendix A.

Va. Code § 10.1-1402(18) states that "The Board shall carry out the purposes and provisions of this chapter and compatible provisions of federal acts and is authorized to: . . . make separate orders and regulations it deems necessary to meet any emergency to protect public health, natural resources and the environment from the release or imminent threat of release of waste.

SECTION D: AGREEMENT AND ORDER

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1402, the Board orders the Parties, and the Parties agree:

1. Each party shall strictly adhere to the leachate management and transportation plan as it relates to its element of responsibility ("its Role"), as described in the documents incorporated by reference in Appendix A of this Order.
2. Atlantic shall pursue obtaining a variance from the Department to address and resolve any required variances from the Transportation of Solid and Medical Waste on State Waters Regulation (9 VAC 20-170).
3. Atlantic shall reimburse DEQ for reasonable costs actually incurred and/or to be incurred for administration and oversight of this Order.
4. That this Order will terminate upon Department approval of a variance, or on July 1, 2016, whichever event occurs first, provided, however, if Atlantic has a pending application for the variance under review by DEQ on July 30, 2016,

then this Order shall automatically extend for the earlier of: (i) 60 days or, (ii) until the variance decision has been made.

SECTION E: ADMINISTRATIVE PROVISIONS

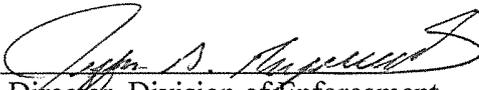
1. This Order addresses only those actions specifically identified in herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any subsequent or subsequently discovered violations; (2) seeking subsequent emergency action; or (3) taking subsequent action to enforce the Order.
2. Failure by the Parties to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
3. If any provision of the Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
4. Unless explicitly set forth within, nothing herein shall be construed as altering, modifying, or amending any term or condition contained in any permit, including the Facility's permit number SWP 562.
5. The Parties shall be responsible for failure to comply with any of the terms and conditions of this Order. The Parties shall notify the DEQ Land Protection Division Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.
6. This Order shall continue in effect until:

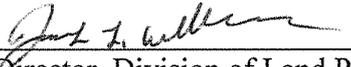
- a. The Director or his designee terminates the Order after the Parties has completed all of the requirements of the Order;
- b. The Parties petition the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to the Parties.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the Parties from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

7. Any plans, reports, schedules or specifications attached hereto or submitted by the Parties and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
8. The undersigned representatives of the Parties certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind the parties to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of the Parties.
9. For purposes of this Order and any subsequent actions with respect to this order, and only during its term, the Parties admit the jurisdictional allegations, findings of fact and conclusions of law contained herein.
10. By their signatures below, the Parties voluntarily agree to the issuance of this Order.
11. This Order shall become effective upon signing by the Director of DEQ or his designee.

And it is so ORDERED this 23rd day of November, 2015.

Approved by: 
Director, Division of Enforcement
Department of Environmental Quality


Director, Division of Land Protection and Revitalization
Department of Environmental Quality

Atlantic Waste Disposal Inc., voluntarily agrees to the issuance of this Order.

Date: 12/16/15 By: [Signature], President
(Person) (Title)
Atlantic Waste Disposal Inc.

Commonwealth of Virginia
City/County of _____

The foregoing document was signed and acknowledged before me this 16th day of December, 2015, by Dave Balbiano who is President of Atlantic Waste Disposal Inc., on behalf of the corporation.

[Signature]
Notary Public

7579764
Registration No.

My commission expires: 4-30-17

Notary seal:

T. Parker Host, Inc., voluntarily agrees to the issuance of this Order.

Date: 12/15/2015 By: David Host, CHAIRMAN AND CEO
(Person) (Title)
T. Parker Host, Inc.

Commonwealth of Virginia

City/County of VIRGINIA BEACH

The foregoing document was signed and acknowledged before me this 15th day of DECEMBER, 2015, by DAVID F. HOST who is CHAIRMAN AND CEO of T. Parker Host, Inc., on behalf of the corporation.

Maria Del Vecchio Burroughs
Notary Public

7597322
Registration No.

My commission expires: 10/31/2018

Notary seal:



Tri-Port Terminals, Inc. voluntarily agrees to the issuance of this Order.

Date: Dec. 15, 2015 By: [Signature], PRESIDENT
(Person) (Title)
Tri-Port Terminals, Inc.

Commonwealth of Virginia
City/County of Chesapeake

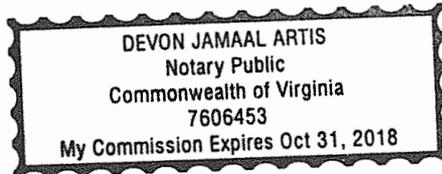
The foregoing document was signed and acknowledged before me this 15 day of December, 2015, by Sidney H. de Conder who is President of Tri-Port Terminals, Inc., on behalf of the corporation.

[Signature]
Notary Public

7606453
Registration No.

My commission expires: 10/31/2018

Notary seal:



Vane Brothers Marine Safety & Services, Inc. voluntarily agrees to the issuance of this Order.

Date: 12/15/2015 By: Thomas G. Gaither COO
(Person) (Title)
Vane Brothers Marine Safety & Services,
Inc.

State of Maryland
~~Commonwealth of Virginia~~
City/County of Baltimore

The foregoing document was signed and acknowledged before me this 15th day of December, 2015, by Thomas G. Gaither who is Chief Operating Officer of Vane Brothers Marine Safety & Services, Inc., on behalf of the corporation.

Judith P. Robbins
Notary Public

75930
Registration No.

My commission expires: July 19, 2018

Notary seal:

APPENDIX A

LEACHATE MANAGEMENT AND TRANSPORTATION PLAN

Documents incorporated by reference:

1. WM Leachate Operations Plan – Barging Leachate_112015
2. TParkerHost_Emergency Order package (Amended)
3. Tri Port Terminals – USCG OPS MANUAL TPT AMENDED 11192015
4. Vane Barge Certificate of Inspection
5. Vane Barge ABS certificates
6. Tank 8 Inspection Report
7. Tank 103 Inspection Report
8. Tank 103 Reinspection Report
9. Engineers Letter Tank 103
10. Russi DS-501 503 505 507 OCIMF Particulars