



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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VIRGINIA WASTE MANAGEMENT BOARD EMERGENCY ORDER BY CONSENT ISSUED TO ATLANTIC WASTE DISPOSAL, INC. FOR ATLANTIC WASTE DISPOSAL LANDFILL 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) and (21), between the Virginia Department of Environmental Quality ("DEQ"), pursuant to authority delegated by the Virginia Waste Management Board ("Board"), and Atlantic Waste Disposal, Inc., for the purpose of addressing ongoing noncompliance at the Atlantic Waste Disposal Landfill.

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. "Facility" or "Landfill" means the Atlantic Waste Disposal Landfill located at 3474 Atlantic Lane in Waverly, Virginia.
6. "Leachate" means a liquid that has passed through or emerged from solid waste and contains soluble, suspended, or miscible materials from such waste. Leachate and any material with which it is mixed is solid waste; except that leachate that is pumped from a collection tank for transportation to disposal in an off-site facility is regulated as septage, leachate discharged into a waste water collection system is regulated as industrial waste water and leachate that has contaminated groundwater is regulated as contaminated groundwater.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
8. "Order" means this document, also known as an Emergency Order by Consent.
9. "Permit" means Solid Waste Permit No. 562, which was issued under the Virginia Waste Management Act and the Regulations to Atlantic on December 29, 1993.
10. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
11. "Regulations" or "VSWMR" means the Virginia Solid Waste Management Regulations, 9 VAC 20-81-10 *et seq.*
12. "State Water Control Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
13. "Va. Code" means the Code of Virginia (1950), as amended.
14. "VAC" means the Virginia Administrative Code.

SECTION C: FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. On December 29, 1993, Atlantic was granted a permit to operate a sanitary Landfill by the Director. The Permit allows for the disposal of sanitary waste.
2. The Facility has been operated as a sanitary Landfill since the Permit was issued. Operations at the Facility are subject to the Virginia Waste Management Act, the Regulations, and the Permit.
3. In 2014 Atlantic indicated there was a gas management issue at the site. Atlantic purchased the Waverly Gas Producer system to gain control of the operation and the facility installed its own flare. In mid 2014, Atlantic also began experiencing elevated temperatures in gas extraction wells as a result of an exothermic reaction within the waste

- mass. In addition to the elevated temperatures and odors, the Facility also began seeing an increase in liquids production (Leachate).
4. In August 2014, DEQ began receiving multiple complaints of odors alleged to be related to the Facility from residents of Sussex and Prince George Counties.
 5. On January 22, 2015 and April 28, 2015, Atlantic met with DEQ to address the elevated temperature issue and information relevant to its management (including management of settlement issues).
 6. On March 10, 2015, the Facility experienced a significant release of Leachate off the lined disposal area to nearby wetlands that resulted in Notice of Violation No. 2015-04-PRO-651 and No. 15-03-PRO-701 being issued to Atlantic on April 1 and 2, 2015, respectively, by DEQ.
 7. In order to address the odor issues, Atlantic proposed installing a 30 acre temporary synthetic cover. The modification was approved by DEQ on March 30, 2015.
 8. Due to increased Leachate production, Atlantic submitted a permit modification in June 2015, along with a temporary authorization request for the construction of a temporary Leachate storage impoundment.
 9. Atlantic has subsequently submitted six more temporary authorization requests for additional Leachate impoundments, for a total of 7 lagoons with a total maximum design capacity of 57,617,148 gallons.
 10. In September 2015, Atlantic submitted a permit modification to revise the March 30, 2015, modification for the temporary synthetic cap, to include a slope buttress to address slope stability issues. This permit modification was approved on September 14, 2015.
 11. The Virginia Waste Management Board executed a Consent Order with Atlantic on October 29, 2015, for finding number 6, described above.
 12. The State Water Control Board executed a Consent Order with Atlantic on November 23, 2015, for finding number 6, described above.
 13. On December 3, 2015, Leachate was observed flowing outside the limits of the lined disposal area, through a stormwater culvert pipe which extended under the perimeter road located adjacent to undeveloped Cell 12A. The Leachate flowed from the culvert pipe, beyond groundwater monitoring well MW-32, continuing approximately 50 feet before entering forested wetlands. The Leachate was observed to have flowed approximately 500-600 feet within the forested wetlands, impacting approximately 3.4 acres.
 14. At the time of the inspection, Facility personnel stated they were unaware of the Leachate flowing into forested wetlands and thus did not provide notification to the Department.

15. 9 VAC 20-81-530(C)(3) states that “the permittee shall report to the Department any noncompliance or unusual condition that may endanger health or the 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.”
16. Additionally, at least four sinkholes were observed on top of the landfill in the vicinity of Cells 5A and 6A. The sinkholes varied in size, but typically ranged from 12 to greater than 15 feet in diameter and unknown depth.
17. The sinkholes appeared to be continuously emitting odor and steam. Four sinkholes had been marked off with yellow caution tape to alert personnel of the holes. Facility personnel reported that the sinkholes were a result of landfill gas wells collapsing and being consumed in the landfill. Atlantic did not provide 24 hour notification and 5 day written follow up to the Department about the existence of the sinkholes, as required by 9 VAC 20-81-530(C)(3).
18. On January 6, 2016, Atlantic submitted the AWD Landfill Management Plan (“Plan”). The purpose of the Plan is to 1) proactively inspect and manage landfill operations; 2) manage daily operations including management of seeps and repairs; and, 3) manage daily risks related to the elevated temperatures. This document is incorporated into this Order by reference.
19. Based on Department observations, Atlantic is adversely affecting the environment as a result of the observed exothermic reactions within the landfill waste mass, resulting in odor, elevated temperatures within the landfill waste mass, increased liquid production and potentially compromised slope stability.
20. Va. Code § 10.1-1402(18) states that the Board 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.”
21. Va. Code § 10.1-1402(21) states that the Board is authorized to “abate hazards and nuisances dangerous to public health, safety or the environment, both emergency and otherwise, created by the improper disposal, treatment, storage, transportation or management of substances within the jurisdiction of the Board.”

SECTION D: AGREEMENT AND ORDER

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1402, the Board orders Atlantic Waste Disposal, Inc., and Atlantic Waste Disposal, Inc., agrees to perform the actions described below:

1. Comply with the terms of Appendix A of this Order.
2. Implement the January 2016 AWD Landfill Management Plan, incorporated by reference as Appendix B.

SECTION E: ADMINISTRATIVE PROVISIONS

1. This Order addresses only those observations specifically identified 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 additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
2. Failure by Atlantic 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.
5. Atlantic shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Atlantic shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Atlantic shall notify the DEQ Regional 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.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

6. This Order shall continue in effect until:

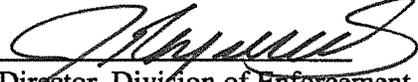
- a. The Director or his designee terminates the Order after Atlantic has completed all of the requirements of the Order;
- b. Atlantic petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order;
- c. the Director or Board terminates the Order in his or its sole discretion upon written notice to Atlantic; or
- d. A determination is made at the hearing that the Order shall be canceled.

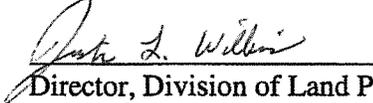
Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Atlantic from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 7. Any plans, reports, schedules or specifications attached hereto or submitted by Atlantic 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 Atlantic 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 Atlantic.
- 9. For purposes of this Order and any subsequent actions with respect to this Order only, Atlantic admits the jurisdictional allegations, and agrees not to contest, but does not admit, the findings of fact and conclusions of law in this Order.
- 10. By its signature below, Atlantic voluntarily agree to the issuance of this Order.
- 11. This Order shall become effective upon signing by the Director of DEQ or his designee.

Emergency Order
Atlantic Waste Disposal, Inc.

And it is so ORDERED this 5th day of February, 2016.

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


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

Emergency Order
Atlantic Waste Disposal, Inc.

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

Date: February 5, 2016 By: [Signature], Director of Disposal Operations
(Person) (Title)
Atlantic Waste Disposal Inc.

Commonwealth of Virginia
City/County of Sussex

The foregoing document was signed and acknowledged before me this 5th day of February, 2016, by Harold S. Thacker who is Director of Disposal Ops. of Atlantic Waste Disposal Inc., on behalf of the corporation.

[Signature]
Notary Public

285662
Registration No.

My commission expires: 4/30/16

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. Within 90 days of execution of this Order, the following activities shall be completed:
 - i) All leachate, contaminated stormwater, or both, shall have been removed from future Cell 11A and relocated to a lined storage area or sent off site for disposal;
 - ii) Contaminated soils shall have been removed, properly disposed and the area properly graded to prevent ponding;
 - iii) Construction activities associated with the slope stability buttress, to include installation of necessary infrastructure and placement of soils for the purpose of constructing the stability buttress, shall have commenced.
2. Upon execution of this Order, Atlantic shall not accept more than 35,000 tons of waste per week (Monday through Sunday). Atlantic shall submit waste acceptance figures, in both daily and weekly amounts, to the Department by close of business the following Friday.
3. Premised on the current lack of capacity to transport Leachate and contaminated stormwater, upon execution of this Order, Atlantic shall pursue all reasonable efforts to adhere to the following schedule:
 - i) From the date of execution of this Order through day 30, Atlantic shall remove no less than 2,500,000 million gallons of Leachate and contaminated stormwater per week (Monday through Sunday).
 - ii) From the day 31 through day 60, Atlantic shall remove no less than 3,000,000 million gallons of Leachate and contaminated stormwater per week (Monday through Sunday).
 - iii) From the day 61 through the termination of this Order, Atlantic shall remove no less than 3,500,000 million gallons of Leachate and contaminated stormwater per week (Monday through Sunday).
 - iv) Atlantic shall submit Leachate and contaminated stormwater removal figures, in both daily and weekly amounts to the Department by close of business the following Friday.
4. Upon execution of this Order, Atlantic shall address and prevent the migration of Leachate seeps outside the lined disposal area within 24 hours of their discovery, and adhere to the provisions of 9 VAC 20-81-210(F).
5. Upon execution of this Order, Atlantic shall backfill sinkholes within 24 hours of their discovery.
6. Upon execution of this Order, Atlantic shall notify DEQ verbally of noncompliance or unusual condition that may endanger health or the environment within 24 hours of its

discovery pursuant to 9 VAC 20-81-530(c)(3), and provide a written submission within five days of such discovery.

7. Within 60 days of execution of this Order, Atlantic shall provide the Department Office of Financial Responsibility and Waste Programs a detailed written updated cost estimate that includes the costs to complete remediation and close the landfill under current conditions pursuant to 9 VAC 20-70-111 and 9 VAC 20-70-112. Upon Department approval, Atlantic shall provide the Department with an updated financial assurance mechanism in the amount of the updated cost estimate.
8. Upon execution of this Order, Atlantic shall provide the Department with weekly data regarding the internal temperature of the Landfill.
9. Within 90 days of execution of this Order, Atlantic shall remove all Leachate and stormwater comingled with Leachate currently being managed within unlined areas of the Landfill. Liquids shall be relocated to approved Leachate containment areas of the Landfill or hauled off site for proper disposal. In the event of weather conditions leading to the deposition of new Leachate or contaminated stormwater entering an unlined area, Atlantic shall remove this new Leachate or contaminated stormwater within 24 hours to an approved Leachate management unit.

Contact

Unless otherwise specified in this Order, Atlantic shall submit all requirements of Appendix A of this Order to:

Jason Miller, Land Protection Manager
VA DEQ – Piedmont Regional Office
4949-A Cox Road
Glen Allen, VA 23060
(804)527-5028
Jason.miller@deq.virginia.gov

Emergency Order
Atlantic Waste Disposal, Inc.

APPENDIX B
AWD LANDFILL MANAGEMENT PLAN

Upon execution of this Order, Atlantic shall implement the January 2016 AWD Landfill Management Plan, incorporated here by reference. Atlantic shall notify the Department of any modifications to the plan within 24 hours. If any conflict between the Landfill Management Plan and provisions of this Order arise, Atlantic shall notify the Department. The Department, in consultation with Atlantic, will make a determination as to the resolution of such a conflict.

Emergency Order
Atlantic Waste Disposal, Inc.