# 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

Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director


# VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO KING GEORGE LANDFILL, INC. FOR THE KING GEORGE COUNTY SANITARY LANDFILL Solid Waste Permit No. 586

## SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and King George Landfill, Inc., for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

## SECTION B: Definitions

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

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.

2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

4. "Facility" or "Landfill" means the King George County Sanitary Landfill, located at 10376 Bullock Drive. King George, Virginia 22485.

5. "King George" means King George Landfill, Inc., a company authorized to do business in Virginia and its members, affiliates, partners, subsidiaries, and parents. King George Landfill, Inc. is a "person" within the meaning of Va. Code § 10.1-1300.

6. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.

7. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.

8. "Order" means this document, also known as a "Consent Order" or "Order by Consent."

9. "Permit" means Solid Waste Permit (SWP) No. 586, which was issued under the Virginia Waste Management Act and the Regulations to King George Landfill, Inc. on November 11, 1996.

10. "Regulations" or "VSWMR" means the Virginia Solid Waste Management Regulations, 9 VAC 20-80-10 *et seq.*

11. "Va. Code" means the Code of Virginia (1950), as amended.

12. "VAC" means the Virginia Administrative Code.

13. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 2 (Va. Code §§ 10.1-1408.1 through -1413.1) of the Virginia Waste Management Act addresses Solid Waste Management.

## SECTION C: Findings of Fact and Conclusions of Law

1. King George operates the Facility which is a regional municipal solid waste disposal facility that has an active landfill gas collection and control system.

2. Operations at the Facility are subject to the Virginia Waste Management Act, the Regulations, and the Permit.

3. Since January 2010, DEQ has received ninety-nine citizen complaints regarding the odor emanating from the facility. DEQ conducted follow-up investigations on February 12, March 3, July 14, and August 19, 2010, which found odors consistent with the complaints.

4. On March 2, 2010, Department staff conducted a compliance inspection of the Facility for compliance with the requirements of the Virginia Waste Management Act, the Regulations and the Permit.

5. On March 25, 2010, Department staff issued a Warning Letter (WL) attached to an inspection report detailing that during the inspection conducted on March 2, 2010, Department staff observed litter and windblown waste materials along the road leading to the active areas and the failure to control excessive odor.

6. On June 18, 2010, Department staff conducted a compliance inspection of the Facility for compliance with the requirements of the Virginia Waste Management Act, the Regulations and the Permit.

7. On June 30, 2010, Department staff issued an inspection report cover letter stating the alleged violations for not meeting the requirements of 9 VAC 20-80-250(C)(13)(a). The attached inspection report detailed that during the inspection conducted on June 18, 2010, Department staff observed litter and windblown waste materials along the road leading to the active areas.

8. On August 19, 2010, Department staff conducted an inspection of the facility. During the inspection the following observations were made:
    a. Litter and windblown waste materials along the road leading to the active areas. (9 VAC 20-80-250.C.13.a)
    b. A sulfur odor was detected especially on the eastern side of the landfill along State Route 605, consistent with the DEQ observations made during the February 12, March 3, July 14, 2010, follow-up investigations to citizen complaints regarding odor. (9 VAC 20-80-250.C.13.b)
    c. Areas of exposed waste that were neither compacted nor covered were observed in violation of the requirements of its Landfill Operations Manual Sections 5.2.3 Dust, Odor and Vector Control.

9. 9 VAC 20-80-250(C)(13)(a) requires that "litter and blowing paper shall be confined to refuse holding and operating areas by fencing or other suitable control means."

10. 9 VAC 20-80-250(C)(13)(b) requires that "dust and odors shall be controlled so they do not constitute nuisances or hazards."

11. 9 VAC 20-80-240(B) requires that "solid waste disposal facilities shall be maintained and operated in accordance with the permit issued pursuant to this chapter, and in accordance with the approved design and intended use of the facility."

12. SWP Permit Module I.B.5 requires the submission of a Landfill Operations Manual, in accordance with 9 VAC 20-80-240(C), which states: the landfill will be operated in a manner, which controls the odors associated with the disposal of solid waste. Specified landfill operating landfill practices such as the immediate spreading and compaction of refuse at the working face should normally control odors adequately.

13. On September 29, 2010, based on the inspections, the Department issued a Notice of Violation to King George Landfill, Inc. for the violations described in paragraphs C(4) through C(12), above.

14. On November 4, 2010, King George Landfill, Inc. met with DEQ to discuss the NOV and potential options to resolve the violations.

15. Based on the results of March 2, June 18, and August 19, 2010, inspections, the Board concludes that King George Landfill, Inc. has violated 9 VAC 20-80-240 B, 9 VAC 20-80-250(C)(13)(a), 9 VAC 20-80-250(C)(13)(b), and Permit Module I.B.5, as described in paragraphs C(4) through C(12), above.

## SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders King George Landfill, Inc., and King George Landfill, Inc. agrees to:

1. Perform the actions described in Appendix A of this Order; and

2. Pay a civil charge of $15,000.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

King George Landfill, Inc. shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

## SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of King George for good cause shown by King George Landfill, Inc., or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. 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.

3. For purposes of this Order and subsequent actions with respect to this Order only, King George admits the jurisdictional allegations, and agrees not to contest, but does not admit, the findings of fact and conclusions of law in this Order.

4. King George consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

5. King George declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by King George 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.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. King George 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 occurrence. King George shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. King George 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 King George intends 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.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and King George. Nevertheless, King George agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until:

    a. King George 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; or

    b. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to King George.

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

12. Any plans, reports, schedules or specifications attached hereto or submitted by King George 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.

13. The undersigned representative of King George 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 King George to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of King George.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no

representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, King George Landfill, Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 23rd day of May, 2011.

Thomas A. Faha, Regional Director
Department of Environmental Quality

King George Landfill, Inc. voluntarily agrees to the issuance of this Order.

Date: 4/12/2011 By: _____, Director of Operations
(Person) (Title)
King George Landfill, Inc.

Commonwealth of Virginia
City/County of Russell

The foregoing document was signed and acknowledged before me this 12th day of April, 2011, by D. Richard Guidry who is Director of Operations of King George Landfill, Inc., on behalf of the Corporation.

Terry W. Dunsberry
Notary Public

285662
Registration No.

My commission expires: 4-30-12

Notary seal:

# APPENDIX A
# SCHEDULE OF COMPLIANCE

King George Landfill, Inc. shall at Cell 5 and Cell 2(C):

1. Discontinue the use of all alternate daily covers and revert to six inches of compacted soil for daily cover.

2. Notify the DEQ 15 days prior to the installation of additional down drains and gas collection wells. Update the facility gas management plan with this information in the next permit amendment.

3. Within 30 days of the effective date of this Order, submit an updated complete and approvable odor monitoring plan for the monitoring of $H_2S$ to DEQ for review and approval. At a minimum the plan shall include the following:
   A. Monitoring equipment will be used that is calibrated to detect ambient $H_2S$ concentrations down to 0.003 ppm.
   B. Readings will be taken at specified locations around the landfill.
   C. Readings will be taken at all locations at least 2 times per day on Monday through Friday excluding holidays. (Readings must be taken between 5:00AM and 10:00AM, and between 4:00PM and 9:00PM. If the readings are taken by an automated monitoring device then the last daily reading must occur between 10:00PM and 12:00AM.) Readings will be taken at least once per day on Saturdays.
   D. Monitoring results will be kept in the landfill's operating record and results will be submitted to DEQ on a monthly basis.
   E. Notification of DEQ via email or telephone within 24 hours of any $H_2S$ reading that exceeds 0.007 ppm.

4. Implement the odor monitoring plan within 14 days of DEQ approval. King George shall respond to DEQ within 15 days of any deficiencies of the odor monitoring plan. Upon approval, the said plan shall become an enforceable part of this Order.

5. At the end of three months of twice-daily monitoring as specified in paragraph 3(C) above, and upon King George's written request with supporting data, the DEQ will determine the feasibility of decreasing the monitoring to once per day with respect to $H_2S$ results. After six months of monitoring, and upon King George's written request with supporting data, the DEQ will determine the feasibility of decreasing the monitoring to a lesser frequency, terminating the monitoring requirement with respect to $H_2S$ results. The DEQ reserves the right to change the above monitoring requirements at any time and determine the appropriate frequency of monitoring and terms of notification of results, based on but not limited to: the review of the compliance certification, complaints, monitoring results, and/or Department findings.

6. Within 30 days of the effective date of this Order, King George shall place intermediate cover consisting of compacted soil and/or a geosynthetic material on Cell 5 and Cell 2(C) exterior slope areas.

Submit all requirements of Appendix A of this Order to:

Department of Environmental Quality
Northern Regional Office
Attn: Enforcement
13901 Crown Court
Woodbridge, VA 22193