

**VIRGINIA WASTE MANAGEMENT BOARD  
ENFORCEMENT ACTION**

**ORDER BY CONSENT  
ISSUED TO  
Campbell County Sanitary Landfill Permit Number 285  
Campbell County, Virginia**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1185 and 10.1-1455.C and F between the Waste Management Board and Campbell County for the purpose of resolving certain alleged violations of environmental law and regulations.

**SECTION B: Definitions**

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

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the Virginia Waste Management Board, a permanent collegial body 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 a Consent Order.
6. “Campbell” means the County of Campbell located in Virginia.

7. “Facility or Landfill” means the Campbell County Sanitary Landfill, Solid Waste Facility Permit Number 285, located in Campbell County, Virginia.
8. “SCRO” means the South Central Regional Office of DEQ, located in Lynchburg, Virginia.
9. “Permit” means Solid Waste Facility Permit – Permit Number 285 issued to Campbell County on October 26, 1979, which was amended on October 7, 1994, August 7, 2001, and again on September 10, 2001.
10. “VSWMR” means the Virginia Solid Waste Management Regulations, 9 Virginia Administrative Code (“VAC”) 20-80-10 *et seq.*
11. “Interim Measures” means the corrective actions delineated in Appendix A of this Order that will be implemented until a DEQ approved corrective action program pursuant to 9 VAC 20-80-310 is incorporated into the Permit.
12. “Appendix 5.1” means the list of hazardous constituents found at 9 VAC 20-80, App. 5.1.
13. “Appendix 5.5” means the list of constituents for detection monitoring found at 9 VAC 20-80, App. 5.5.

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

1. Campbell owns and operates a sanitary landfill in Campbell County, Virginia under Solid Waste Facility Permit – Permit 285 issued in 1979. The closed Phase II Disposal Area is an unlined area; the Phase III Disposal Area is a Subtitle D landfill that has been operational since 1995.
2. Groundwater in the Phase II Disposal Area is monitored by a permitted compliance monitoring well system consisting of six wells. In January and February of 2002, Campbell installed three wells along the northern boundary of the Landfill; the well locations were selected to delineate impacts in compliance monitoring well MW-6A known by Campbell, and to identify the potential for off-site impacts. Analytical data from the three wells indicated that one of the wells, located between the Phase II Disposal Area and the adjacent property to the north, had elevated levels of volatile organic compounds (“VOCs”). A report documenting these results was provided to Campbell by its consultant, Joyce Engineering, Inc., on March 8, 2002. On or about April 22, 2002, Campbell notified the owners of the adjacent property of the sampling results.
3. Twin Oaks Mobile Home Park (hereinafter referred to as “Twin Oaks”) is located immediately adjacent to and north of the closed, unlined Phase II Disposal Area of the Landfill. The owners of Twin Oaks own and operate 53 potable water

supply wells, which according to the owners serve 218 dwelling units. The Virginia Department of Health does not regulate the water supply system of Twin Oaks.

4. On or about July 9, 2002, the DEQ met with the owners of Twin Oaks to discuss contamination of one of the potable water supply wells on their property. The owners believe the contamination emanates from the adjacent Landfill. In support of their assertion, the owners provided to DEQ sampling data from a potable water supply well, and a groundwater monitoring well (installed by the owners of Twin Oaks) located north of the Landfill on the property of Twin Oaks, which demonstrated elevated levels of VOCs. The owners of Twin Oaks reported to DEQ and Campbell that the potable water supply well impacted by the VOCs was taken off-line, as were the other potable water supply wells located in the area of the known impacted well. Twin Oaks Owners reported that residents were being supplied with potable water from wells not impacted based on sampling data.
5. Also during the July 2002 meeting, the owners of Twin Oaks presented DEQ representatives a copy of a letter dated March 8, 2002, from Joyce Engineering. In this letter, Joyce informed Campbell that it had installed and sampled groundwater monitoring wells north of the Landfill in January and February 2002. One of these wells was located at the property line between the Landfill and Twin Oaks; Joyce informed Campbell that sampling from this well indicated contamination emanating from the Landfill in the form of elevated levels of 13 VOCs.
6. On July 29, 2002, the DEQ inspected the Landfill and based on the inspection, and a review of Department records, issued a Notice of Violation (“NOV”) number NOV-02-10-SCRO-002 on October 25, 2002. The NOV alleges that Campbell failed to:
  - a. Implement a groundwater monitoring system capable of determining the impact by the Facility to the quality of the groundwater in the uppermost aquifer underlying the Facility pursuant to 9 VAC 20-80-250.D.2; and
  - b. Install groundwater monitoring wells at appropriate locations to represent the quality of groundwater at the boundary of the Facility.
7. On November 4, 2002, and in a follow-up submittal on December 23, 2002, Joyce Engineering provided detailed responses to the NOV on behalf of Campbell.
8. On September 10, 2001, Groundwater Protection Standards (“GPS”) was incorporated into the Permit. On November 15, 2002, Campbell notified DEQ of GPS exceedance.

9. On or about March 5, 2003, it was determined that the potable water supply well of an adjacent landowner, other than a resident of Twin Oaks, was impacted by the release. Campbell is providing a carbon filtration system for this landowner.
10. Campbell represents that it is proceeding with plans to provide potable water to the households impacted by the contamination. Campbell commenced groundwater sampling at Twin Oaks on December 9, 2002, and is assessing the nature and extent of the release and developing a corrective action program in accordance with the VSWMR and the Permit.
11. Campbell has made an offer to the owners of Twin Oaks to provide public water to impacted households through the Campbell County Utilities and Service Authority. However, an agreement has not been reached due to concerns by Twin Oaks related to costs associated with individual home connections, easements, and flexibility of future land use.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted in Va. Code §10.1-1455.C and F orders Campbell, and Campbell consents, to perform the actions contained in Appendix A and Appendix B of this Order. In addition, the Board orders, and Campbell consents, to pay a civil charge of \$14,000.00 in settlement of the alleged violations cited herein.

1. \$3,500.00 of the civil charge shall be paid within 30 days of the effective date of this Order. The payment shall note that it is being made pursuant to this Order and shall note the Federal Identification number for Campbell. 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 10150  
Richmond, Virginia 23240

2. \$10,500.00 of the civil charge shall be satisfied upon completion by Campbell of a Supplemental Environmental Project ("SEP") pursuant to Va. Code § 10.1-1186.2 and as described in Appendix B of this Order.
3. The Department has the sole discretion to:
  - a. authorize any alternate SEP proposed by Campbell; and
  - b. determine whether the SEP, or alternate SEP, has been completed in a satisfactory manner.

4. If the Department determines that the SEP, or alternate SEP, has not been completed in a satisfactory manner, the Department shall notify Campbell of such determination in writing. Within 30 days of such notification Campbell shall pay the amount specified in Paragraph 2 of Section D in accordance with the procedures set forth in Paragraph 1 of Section D.

**SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Campbell, for good cause shown by Campbell, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those matters specifically identified herein, including the alleged violations in NOV number NOV-02-10-SCRO-002 issued to Campbell by DEQ on October 25, 2002. 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 as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Campbell admits to the jurisdictional allegations contained herein.
4. Campbell 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. Campbell declares it has received fair and due process under the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, and the Waste Management Act and 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 enforce this Order.
6. Failure by Campbell 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. Campbell 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. Campbell shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Campbell shall notify the DEQ Regional Director in writing 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 within one (1) business day 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.

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 Campbell. Notwithstanding the foregoing, Campbell agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the corrective action program pursuant to 9 VAC 20-80-310 is incorporated into the Permit, or the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Campbell. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Campbell from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Campbell consents to the issuance of this Order.

And it is so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Robert G. Burnley, Director  
Department of Environmental Quality

Campbell consents to the issuance of this Order.

By: \_\_\_\_\_

Date: \_\_\_\_\_

Commonwealth of Virginia

City/County of \_\_\_\_\_

The foregoing document was signed and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2003, by \_\_\_\_\_, who is the County Administrator of Campbell County, Virginia.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

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## APPENDIX A

### **Campbell County shall:**

1. Within 10 days of notification by a person(s) that potable water is no longer available to such person(s) as a direct result of the migration of contaminants from the Landfill, Campbell shall provide potable water to such person(s) so affected.
2. Within 60 days of the issuance of this Order, Campbell shall provide the Department with a “potable water supply plan” that shall address item number 1 of this Appendix, and shall include schedules and costs estimates for all impacted households and potentially impacted households by the contaminants from the Landfill. Once the “potable water supply plan” is submitted and approved by the Department it shall become an enforceable part of this Order. If Appendix 5.5 or Appendix 5.1 constituents are detected in any water supply well Campbell shall immediately notify DEQ, the well owner, and the impacted household(s) within one (1) business day.
3. Within 30 days of the issuance of this Order, Campbell shall submit a minor Permit amendment request to modify the permitted groundwater monitoring system for the closed Phase II Disposal Area of the Facility.
4. Within 60 days of receipt of DEQ comments on the assessment of corrective measures, Campbell shall submit a major Permit amendment for a corrective action program pursuant to 9 VAC 20-80-310.
5. Within 30 days of the issuance of this Order, and in accordance with 9 VAC 20-80-250.D.6.g(1)(c), Campbell shall submit to the Department documentation demonstrating that Campbell, to the best of its ability and subject to the cooperation of the owners of Twin Oaks, has notified “all persons who own the land or reside on the land that directly overlies any part of the plume of contamination” that has migrated beyond the Facility boundary.
6. Within 30 days of the issuance of this Order, Campbell shall initiate the following Interim Measures:
  - (a) Conduct monthly monitoring (one sampling event per month) of Monitoring Well MW-19D as shown on Drawing Number 14 prepared by Joyce Engineering, Inc. dated March 1, 2003 styled, “Total Dissolved VOC Isopleth Nature and Extent Study Permit Number 285” as provided in the Nature and Extent Study done by Joyce Engineering dated March 2003. MW-19D as shown of the aforesaid Drawing shall be the downgradient sentinel well. Monitoring constituents shall include, at a minimum, all Appendix 5.5 constituents and all detected Appendix 5.1 constituents as indicated by sampling under 9 VAC 20-80-250.D.6.b. of the VSWMR. Groundwater sampling and analysis procedures/protocols, including quality assurance/quality control procedures, shall be as specified in the Permit.

- (b) Conduct Monthly monitoring (one sampling event per month) of one active drinking water well from each of two (2) clusters of wells that supply potable water to Twin Oaks. The first cluster being adjacent to MW-19D as shown on the Drawing identified in item number 6(a) of this Appendix. The second cluster being the cluster northwest of MW-20 as shown on the Drawing identified in item number 6(a) of this Appendix. Monitoring constituents shall include, at a minimum, all Appendix 5.5 constituents and all detected Appendix 5.1 constituents as indicated by sampling under 9 VAC 20-80-250.D.6.b. of the VSWMR. Groundwater sampling and analysis procedures/protocols, including but not limited to, quality assurance/quality control procedures, shall be as specified in the Permit.
7. If hazardous constituents are detected in the sentinel well identified in item number 6(a) of this Appendix, or either of the drinking water wells identified in item number 6(b) of this Appendix, Campbell shall notify DEQ within one (1) business day and conduct sampling verifications of the drinking water well(s). If such sampling of the drinking water well(s) verify the presence of organic hazardous constituents, Campbell shall provide potable water in accordance with item number 1 and 2 of this Appendix. If such sampling of the drinking water well(s) verify the presence of inorganic hazardous constituents statistically significant above background, or above GPS, Campbell shall provide potable water in accordance with item number 1 and 2 of this Appendix.
8. All requirements delineated in item numbers 1, 4, 5, and 6 of this Appendix, except sampling of the sentinel well, shall depend upon Campbell obtaining the consent of the landowners thereto.
9. Within 30 days of the issuance of this Order, and on the fifth day of each month during the period this Order is in effect, Campbell shall provide a progress report to the SCRO identifying the status and results of all activities required under this Order. Where sampling is required under this Order, the results of the sampling shall be reported to the SCRO in the following month's progress report. The progress reports shall also include the status of the assessment of corrective measures, selection of remedy, and implementation of the corrective action plan required by 9 VAC 20-80-310 as well as actions taken to further characterize the nature and extent of groundwater contamination emanating from the Facility.
10. Unless otherwise specified in the Order, or the Permit, all correspondence related to this Order shall be submitted to:

Harry F. Waggoner  
Department of Environmental Quality  
South Central Regional Office  
7705 Timberlake Road  
Lynchburg, Virginia 24502

## APPENDIX B

1. The SEP is to be performed by Campbell is Three Tire Amnesty Days. The project is beneficial to the environment, as a pollution reduction SEP as it will provide citizens of Campbell County an opportunity to dispose of waste tires that might otherwise be disposed of at unauthorized locations.
2. The SEP shall be completed by September 30, 2003.
3. Campbell certifies that it has not commenced performance of the SEP prior to the identification of the violations cited in this Consent Order and the approval of the SEP by the Department.
4. The net cost of the SEP to Campbell shall not be less than \$10,500.00. In the event that the final net cost of the SEP is less than this amount, Campbell shall pay the remainder of the amount in accordance with Paragraph D. 3. of this Order to the Commonwealth of Virginia, unless otherwise agreed to by the Department. Net costs shall mean the costs of the project minus any tax savings, grants and first-year operation cost reductions or other efficiencies.
5. Campbell acknowledges that it is solely responsible for completion of the SEP project. Any transfer of funds, tasks, or otherwise by Campbell to a third party, shall not relieve Campbell of its responsibility to complete the SEP as contained in this Order.
6. Campbell shall provide the Department with written verification of completion of the SEP by providing reports of the number of tires collected, the collection dates, and the disposition thereof, together with all costs associated therewith. The project completion verification must be submitted to the Department within 30 days from the completion date of the SEP.
7. Campbell shall submit written verification to the Department in the form of a certified statement itemizing costs, invoices and proof of payment, or similar documentation of the final overall and net cost of the SEP within 30 days of the project completion date. This shall be accompanied by certification from Campbell's County Administrator concerning the projected tax savings, grants or first-year operation cost reductions or other efficiencies, if any there are.
8. When Campbell publicizes the SEP or the results of the SEP, Campbell shall state in a prominent manner that the project is part of a settlement for an enforcement action.
9. Documents to be submitted to the Department, other than the civil charge payment described in Section D of the Order, shall be sent to:

Harry F. Waggoner  
Department of Environmental Quality  
South Central Regional Office  
7705 Timberlake Road  
Lynchburg, Virginia 24502