



**COMMONWEALTH of VIRGINIA**  
*DEPARTMENT OF ENVIRONMENTAL QUALITY*

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Secretary of Natural Resources

**PIEDMONT REGIONAL OFFICE**

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Robert G. Burnley  
Director

Gerard Seeley, Jr.  
Piedmont Regional Director

**WASTE MANAGEMENT BOARD  
ENFORCEMENT ACTION  
ISSUED TO  
NORTHUMBERLAND, LANCASTER, AND RICHMOND COUNTIES  
d/b/a  
TRI-COUNTY SANITARY LANDFILL  
PERMIT NO. 175**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Waste Management Board and Tri-County Sanitary Landfill for the purpose of bringing the landfill into compliance with the current permit 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. "Tri-County Landfill," "Landfill" and "Facility" mean the Tri-County Sanitary Landfill located approximately 12 miles southeast of Callao on State Route 600 in Northumberland County.
7. "Counties" mean the counties of Northumberland, Lancaster and Richmond.
8. "Permit" means Virginia Solid Waste Permit No. 175, which was issued on November 20, 1974, authorizing the Counties to operate the Tri-County Landfill.
9. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
10. "VSWMR" means the Virginia Solid Waste Management Regulations 9 VAC 20-80-10 *et seq.*

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

1. Tri-County Landfill is a closed sanitary landfill, which is jointly owned and was jointly operated by the Counties of Northumberland, Lancaster, and Richmond.
2. In the mid- 1970s the Landfill began accepting municipal waste.
3. On June 30, 1993, the Landfill ceased accepting municipal waste.
4. On August 30, 1996, the Department received the closure certification. The Department's receipt of the closure certification started the 10 year post-closure care period.
5. On June 9, 1997, the last of the required closure documents were submitted and the Landfill was considered closed on and from that date.
6. On October 14, 2002, ground water monitoring results were submitted routinely to DEQ by Tri-County Landfill in accordance with the Landfill's groundwater monitoring plan, which was filed with DEQ in 1991. DEQ alleges that the Tri-County Landfill failed to provide written notification within 14 days of discovery of groundwater protection standard exceedence. DEQ further alleges a failure to characterize the nature and extent of the release within 90 days of exceedence by installing additional monitoring wells; and to initiate an assessment of corrective measures or a proposal of presumptive remedy. The Tri-County Landfill and the Counties deny such allegations.
7. On March 11, 2003, a Notice of Violation was issued for the failing to bring the Landfill into compliance with the current regulations.

8. The Tri-County Landfill, in 1991, filed with DEQ a ground water monitoring plan and has been conducting ground water monitoring and reporting of results since that time pursuant to such plan and other instructions from DEQ. Based on data received during the Ground Water Protection Standards (GPS) process, DEQ has determined that it is necessary to amend the Permit which will include modules I, X, and XI; and attach an up-to-date groundwater monitoring plan (GMP) and a sampling and analysis plan (SAP). 9 VAC 20-80-300 C.4.d.(3).
9. On May 23, 2003, a meeting was held to discuss the actions required to bring the landfill into compliance with the current permit regulations.
10. At the request of the Counties, final discussions on the requirements of the Order were delayed until the three County Boards had a chance to discuss the content of the draft Order.
11. On January 23, 2004, a meeting was held to finalize the Order and discuss requirements of the modified permit.

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

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1455 orders Tri-County Landfill, and Tri-County Landfill agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders Tri-County Landfill and Tri-County Landfill voluntarily agrees, to pay a civil charge of \$2,205 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 payable to the "Treasurer of Virginia", delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Tri-County Landfill, for good cause shown by Tri-County Landfill, or on its own motion after notice and opportunity to be heard.
2. This Order addresses and resolves only those requirements specifically identified herein, including those matters addressed in the Notice of Violation issued to Tri-County Landfill by DEQ on March 11, 2003. 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; (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 to enforce or modify this Order, and for no other purpose, Tri-County Landfill admits the jurisdictional allegations, factual findings, and conclusions of law contained herein. Tri-County's endorsement of this Order is solely for the purpose of resolving its dispute with DEQ and does not constitute an admission of liability on the part of Tri-County, the Counties, or any other entity.
4. Tri-County Landfill consents to venue in the Circuit Court of the County of Northumberland for any civil action taken to enforce the terms of this Order.
5. With respect to this Order, Tri-County Landfill 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 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 finding of fact or conclusion of 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. Except as provided in Paragraph 8, below, failure by Tri-County Landfill to comply with any of the terms of this Order shall constitute a violation of an order of the Board, and 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. Tri-County Landfill 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, vandalism or other such occurrence. Tri-County Landfill shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Tri-County Landfill 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 5 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. Notice shall be deemed to satisfy this requirement when it is in writing and delivered by hand, facsimile, express or courier service or electronic mail, or postmarked, within the time specified above. Notice shall be delivered to:

Gerard Seeley, Jr.  
Piedmont Regional Director  
4949-A Cox Road  
Glen Allen, Virginia 23060

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 Tri-County Landfill. Notwithstanding the foregoing, Tri-County Landfill 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 Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Tri-County Landfill. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Tri-County Landfill 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, Tri-County Landfill voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of December 7, 2004.

Robert G. Burnley, Jr.  
Robert G. Burnley, Director  
Department of Environmental Quality

Tri-County Landfill voluntarily agrees to the issuance of this Order.

By: [Signature]  
Date: 10/1/04

Commonwealth of Virginia

City/County of Northumberland

The foregoing document was signed and acknowledged before me this 5<sup>th</sup> day of Oct., 2004, by Kenneth D. Eades, who is the (name)

Co-owner of Tri-County Landfill, on behalf of the County.  
County Administrator of Northumberland County

[Signature]  
Notary Public

My commission expires: 4-30-05

Tri-County Landfill voluntarily agrees to the issuance of this Order.

By: [Signature]  
Date: 10/12/04

Commonwealth of Virginia

City/County of Northumberland

The foregoing document was signed and acknowledged before me this 12<sup>th</sup> day of October, 2004, by William Pennell, who is the (name)

Co-owner of Tri-County Landfill, on behalf of the County.  
County Administrator of Lancaster County

Jean D McKinney  
Notary Public

My commission expires: 4-30-05

Tri-County Landfill voluntarily agrees to the issuance of this Order.

By: William E. Duncanson

Date: 10/01/2004

Commonwealth of Virginia

City/County of Northumberland

The foregoing document was signed and acknowledged before me this 1<sup>st</sup> day of October, 2004, by William E. Duncanson, who is the (name)

Co-owner of Tri-County Landfill, on behalf of the County.  
County Administrator of Richmond County

Jean D McKinney  
Notary Public

My commission expires: 4-30-05

## **APPENDIX A**

### **SCHEDULE OF COMPLIANCE**

Tri-County Landfill shall:

1. Submit an application for a Major permit amendment including modules I, X, and XI in accordance with 9 VAC 20-80-620 with the applicable fee within 45 days of the effective date of this order. The amendment shall include modification of the previously filed Ground Water Monitoring Plan (GMP), which modifications will meet the requirements of 9 VAC 20-80-300 of the VSWMR as applicable. The GMP shall detail the site monitoring network and sampling and analysis procedures undertaken during groundwater monitoring events. If the VSWMR are amended while this Order is in effect, the GMP and amendment shall meet the requirement of the latest amendment.
2. Tri-County Landfill shall characterize the nature and extent of the release by installing additional monitoring wells as necessary. Install at least one additional well at the facility boundary in the direction of the contaminant migration and sample the well in accordance with the VSWMR. Notify all persons who own land or reside on the land that directly overlies and part of the plume contamination if contaminants have migrated off-site within 90 days from the date the order becomes effective. Additionally the Facility shall submit the assessment of corrective measures (ACM) or Proposal for Presumptive Remedy (PPR) within 180 days of the effective date of the Order. (9 VAC 20-80-310 A.1.)