COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
PIEDMONT REGIONAL OFFICE
4949-A Cox Road, Glen Allen, Virginia 23060
(804) 527-5020 Fax (804) 527-5106
www.deq.virginia.gov

L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Gerard Seeley, Jr.
Regional Director

STATE WATER CONTROL BOARD
ORDER BY CONSENT
ISSUED TO
Atlantic Waste Disposal, Inc.
VPDES Permit No. VAR051428

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §10.1-1185 and 62.1-44.15(8a) and (8d), between the State Water Control Board and Atlantic Waste Disposal, Inc., for the purpose of resolving certain violations of environmental law and/or 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. "Atlantic Waste" means Atlantic Waste Disposal, Inc., a corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

3. "Board" means the State Water Control Board, a permanent citizen's board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.

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

5. "Director" means the Director of the Department of Environmental Quality.

6. "Order" means this document, also known as a Consent Special Order.

7. "Facility" means the Atlantic Waste facility located at 3474 Atlantic Lane in Sussex County, Virginia.

8. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.

9. "VPDES Permit" means Virginia Pollutant Discharge Elimination System Industrial Storm Water General Permit, issued by DEQ on July 1, 2004 and expires on June 30, 2009. Atlantic Waste is registered for coverage under the VPDES Permit as evidenced by registration No. VAR051428.

10. "VPDES Permit Regulation" means General Virginia Pollutant Discharge Elimination System Permit for Discharges of Storm Water Associated with Industrial Activity Regulations 9 VAC 25-151-10 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

1. Atlantic Waste operates a private sanitary landfill located at the Facility. Atlantic Waste holds the VPDES Permit for the Facility.

2. On November 9, 2006, PRO staff was notified by Atlantic Waste, of a release of 8,000 gallons of leachate into wetlands. The release was due to overfilling of a tanker truck in the load out pad area. The leachate flowed off of the load out pad into a drainage ditch, which ultimately discharged to state waters. Subsequently the Department conducted a review of the Facility's VPDES Permit file. The following alleged violations were noted as a result:

    a. Unpermitted discharge of leachate to state waters. The discharge is not authorized by the current VPDES Permit, as required by, 9 VAC 25-151-70.Part I.B.1, 9 VAC 25-151-70.Part II.F, 9 VAC 25-151-190.B, and 9 VAC 25-151-70.Part II.L of VPDES Permit Regulations;

    b. Two exceedances of effluent limits, as required by 9 VAC 25-151-190.Part IV.E.4 of VPDES Permit Regulations;

    c. Failure to notify the Department of noncompliance of effluent limits, as required by 9 VAC 25-151-70 Part II.I. of VPDES Permit Regulations;

    d. Failure to submit DMRs as required by 9 VAC 25-151-70.Part I.A.1.d (2) of VPDES Permit Regulations.

3. On February 20, 2007, DEQ issued Notice of Violation ("NOV") Number 2007-02-PRO-602 regarding the above-described violations.

4. On March 13, 2007, a meeting was held between DEQ staff and representatives of Atlantic Waste. During the meeting, DEQ discovered that Atlantic Waste did not

perform annual monitoring as required by 9 VAC 25-151-70.Part I.A.1.d.(1). The failure to perform annual monitoring and failure to submit DMRs has been addressed through compliance assistance by DEQ permitting staff. The Department requested that Atlantic Waste submit a monitoring plan as soon as possible for the wetland area affected by the release of leachate. The Department received a copy of the proposed monitoring plan on March 15, 2007.

SECTION D: Agreement and Order

1. Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1185 and 62.1-44.15(8a) and (8d), orders Atlantic Waste, and Atlantic Waste voluntarily agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders Atlantic Waste, and Atlantic Waste voluntarily agrees, to pay a civil charge of **$14,250** 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 1104
   Richmond, Virginia 23218

   Payment shall include the Federal Tax Identification Number for the Facility.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Atlantic Waste, for good cause shown by Atlantic Waste, or on its own motion after notice and opportunity to be heard.

2. This Order only addresses and resolves the violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Atlantic Waste by DEQ on February 20, 2007. 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, Atlantic Waste admits the jurisdictional allegations, factual findings, and without admission of liability will consent to conclusions of law derived by the Department for purposes of this Order.

4. Atlantic Waste 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. Atlantic Waste declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law, 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 enforce this Order.

6. Failure by Atlantic Waste 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. Atlantic Waste 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. Atlantic Waste shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Atlantic Waste shall notify the PRO 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 24 hours 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 Atlantic Waste. Notwithstanding the foregoing, Atlantic Waste 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 Atlantic Waste. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Atlantic Waste 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, Atlantic Waste voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of _____, 2007.

_____
Gerard Seeley, Jr., Regional Director
Department of Environmental Quality

Atlantic Waste voluntarily agrees to the issuance of this Order.

By: Michael P. Kearns
Michael P. Kearns,
District Manager

Date: 12th December 2007

Commonwealth of Virginia
~~City~~/County of Sussex

The foregoing document was signed and acknowledged before me this 12 day of December, 2007, by Michael P. Kearns, who is
Michael P. Kearns

District Manager of Atlantic Waste, on behalf of the Corporation.
District Manager

Judith B. Harrington
Notary Public

My commission expires: May 31, 2008 #2215.23

APPENDIX A

1. Atlantic Waste shall submit and amend the monitoring plan to include a new control area and ammonia sampling at a sufficient detection level to allow for comparison to Groundwater Detection Protection Standards within 14 days of the effective date of this order. Monitoring shall be conducted in the new control area, the leachate spill area, and the control area that is identified in the report dated August 8, 2007.

2. Atlantic Waste shall submit to DEQ a request for a VPDES Permit amendment to incorporate all of the Facility's outfalls within 14 days of the effective date of this order.

3. Atlantic Waste shall submit results of the monitoring required by Number 1, above, no later than October 1, 2008 to DEQ for review and analysis.

4. If the monitoring results indicate that the leachate spill has impacted wetlands, DEQ will notify Atlantic Waste and Atlantic Waste shall submit to DEQ for review and approval a corrective action plan (CAP) that shall include, and not limited to: (a) an impact analysis; (b) proposed corrective actions; (c) an implementation schedule; and (d) a monitoring plan. The CAP shall be submitted with the monitoring results required by number 3, above, no later than December 31, 2008. The DEQ-approved corrective action plan shall be implemented by Atlantic Waste in accordance with the approved schedule.

5. If the impact analysis in the CAP indicates, or if DEQ determines, that corrective action will not sufficiently correct the wetland impacts, Atlantic Waste shall submit to DEQ for review and approval a mitigation plan for the impacted wetlands by March 1, 2009. The proposed mitigation shall be in accordance with the applicable provisions of § 62.1-44.15:5 E of the Code of Virginia and 9 VAC 25-210-115. Proof of purchase of mitigation bank credits or contribution to an in-lieu fee fund, if applicable, shall be submitted within 60 days of the mitigation plan approval by DEQ. Any approved restoration or creation shall be implemented in accordance with the approved plan and schedule.

6. Atlantic Waste shall notify DEQ upon completion of changes made to the layout of the load out pad area to prevent overflows from reaching wetlands in the future.

7. Within 30 days of the effective date of this order, Atlantic Waste shall submit to DEQ for review and approval a CAP that shall include, and not limited to the proposed corrective actions and an implementation schedule for control of pH and TSS sufficient to ensure that stormwater discharges from industrial activities on the property are in compliance with the VPDES Permit. The DEQ-approved corrective action plan shall be implemented by Atlantic Waste in accordance with the approved schedule.

8. Atlantic Waste shall submit an updated Storm Water Pollution Prevention Plan within 30 days of the effective date of this order.