



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO**

**King George Landfill, Inc.
FOR**

**King George County Sanitary Landfill and Recycling Center
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., regarding the King George County Sanitary Landfill, for the purpose of resolving violations of the Virginia Waste Management Act and the applicable permit and 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. "County" means King George County, a political subdivision of the Commonwealth of Virginia.
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, as described in Va. Code § 10.1-1185.
5. "Facility" or "Landfill" means the King George County Sanitary Landfill and Recycling Center, located at 10376 Bullock Drive in King George County, Virginia, which is owned and operated by King George Landfill, Inc.
6. "King George" means King George Landfill, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. King George is a "person" within the meaning of Va. Code § 10.1-1400.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
8. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
9. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
10. "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.
11. "Regulations" or "VSWMR" means the Virginia Solid Waste Management Regulations, 9 VAC 20-81-10 *et seq.*
12. "Va. Code" means the Code of Virginia (1950), as amended.
13. "VAC" means the Virginia Administrative Code.
14. "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. The Facility is a regional municipal solid waste disposal facility. The County owns the Facility and King George operates the Facility.
2. Operations at the Facility are subject to the Virginia Waste Management Act, the Regulations, and the Permit.
3. From November 27, 2018 through April 8, 2019, DEQ received approximately 72 citizen complaints concerning odors, in which those complaining claimed the odors to be emanating from the Facility.

4. The presence of odors at various offsite locations near the Facility was confirmed as follows:
 - a. On March 13, 2019, DEQ staff performed a compliance inspection and odor investigation at the Facility, and odors were detected offsite.
 - b. On March 28, 2019, DEQ staff performed an odor investigation in response to citizen complaints, and odors were detected offsite.
 - c. On April 4, 2019, DEQ staff performed an odor investigation in response to citizen complaints, and odors were detected offsite. In email correspondence dated April 4, 2019 (sent in response a citizen complaint), King George confirmed that it detected a landfill related odor offsite.
5. 9 VAC 20-81-140.A.10 states: “Odors and vectors shall be effectively controlled so they do not constitute nuisances or hazards. Odor hazard or nuisances shall be controlled in accordance with 9 VAC 20-81-200.”
6. During the March 13, 2019, compliance inspection of the Facility, DEQ staff observed leachate seeps and the ponding of leachate at select locations around the Facility.
7. 9 VAC 20-81-210.F states: “Leachate seeps. If a leachate seep(s) occurs, the owner or operator shall repair the seep(s) and do the following: (1) Take all immediate steps necessary to protect public health and safety including those required by the contingency plan. (2) Take immediate action to minimize, control, or eliminate the seep, and to contain and properly manage the leachate at the source of the seep.”
8. During the March 13, 2019, compliance inspection of the Facility, DEQ staff observed erosion rills, exposed waste, and insufficient cover at select locations around the Facility.
9. 9 VAC 20-81-140.B.1.d states: “Intermediate cover of at least six inches of additional compacted soil shall be applied and maintained whenever an additional lift of refuse is not to be applied within 30 days. Further, all areas with intermediate cover exposed shall be inspected as needed, but not less than weekly. Additional cover material shall be placed on all cracked, eroded, and uneven areas as required to maintain the integrity of the intermediate cover system.”
10. On April 10, 2019, DEQ issued a Notice of Violation (NOV) to King George for the violations described above in paragraphs C(1) through C(9).
11. On April 22, 2019, King George submitted a written response to the NOV, and on May 7, 2019, DEQ staff met with representatives of King George to discuss the NOV and King George’s response.

12. As part of the NOV response, King George provided documentation to DEQ showing that it had sufficiently corrected the erosion/exposed waste and leachate seep/ponding issues described above in paragraphs C(6) through C(9).
13. King George explained that it did, and is still in the process of, completing numerous systematic improvements at the Facility in attempt to manage the odor issue. These included:
 - a. The Facility's gas collection system was recently upgraded, and active gas collection devices are present in approximately 245 acres of its 252 acres of constructed cell space.
 - b. King George is in the process of installing synthetic temporary capping over select locations to help control potential fugitive emissions.
 - c. In February and March of 2019, 2,400 feet of waterless odor mister systems were installed at the Facility.
14. On June 25, 2019, DEQ staff performed another compliance inspection and odor investigation at the Facility and performed additional review of the Facility's records.
15. In follow-up to requests from DEQ during the June 25th site visit and records review, King George provided additional documentation to DEQ via email on May 15, 2019 and July 1, 2019.

Additionally, on July 2, 2019, a representative of the County provided requested documentation to DEQ, which summarized offsite and onsite odors that were observed by County staff during routine inspections at and around the Facility.

16. Based on a review of DEQ's inspection reports, available information related to the citizen complaints, and the additional information submitted by King George and the County, DEQ staff made the following observations:
 - a. From November 1, 2017 through November 26, 2018, King George completed an odor survey on average every two to four days to investigate for any offsite odors that may have been emanating from the Facility. The results of each survey were logged on an odor survey form as per the approved Odor Management Plan for the Facility. The surveys followed a fairly routine protocol, which followed a set route of survey points, and each survey was conducted around the same time each day it was performed.
 - i. From November 27, 2018 through April 8, 2019 (the period in which approximately 72 odor-related complaints were received), the odor survey routine described above was not altered in any significant manner.

- b. Daily Odor Inspection Reports and corresponding Monthly summary reports from the County show that County staff were regularly detecting landfill related odors at offsite locations and were reporting these offsite odor detections to DEQ.
 - i. The County reported performing 57 odor inspections in November 2018, and odors were observed at offsite locations on 27 occurrences.
 - ii. The County reported performing 48 odor inspections in December 2018, and odors were observed at offsite locations on 26 occurrences.
 - iii. The County reported performing 29 odor inspections in January 2019, and odors were observed at offsite locations on 23 occurrences.
 - iv. The County reported performing 38 odor inspections in February 2019, and odors were observed at offsite locations on 15 occurrences.
 - v. The County reported performing 49 odor inspections in March 2019, and odors were observed at offsite locations on five occurrences.
 - vi. The County reported performing 62 odor inspections in April 2019, and odors were observed at offsite locations on 30 occurrences.
- c. Odor survey logs completed by King George between November 27, 2018 and April 8, 2019 show that King George detected offsite odors emanating from the Facility during this time.
 - i. In comparing to data from November 1, 2017 through November 26, 2018, the frequency at which odors were detected offsite was higher from November 27, 2018 through April 8, 2019.
 - ii. An increase of offsite odor detections from November 27, 2018 through April 8, 2019 is confirmed by data from the County's Daily Odor Inspection Reports.
 - iii. The application of biosolids at a farm field located near Sealston Elementary School could have been the source of, or a contributing factor to, the observed odors on March 13, 2019.

With the exception of March 13, 2019, there is no documentation present in King George's odor survey logs or the County's Daily Odor Inspection Reports that indicate that odors detected offsite were emanating from any other sources aside from the Facility.

There is no clear evidence or documentation to show that King George reacted to or performed corrective actions as a result of the increasing detection of offsite odors emanating from the Facility.

- d. Three Odor Complaint Forms were filled out by King George from November 27, 2018 through December 31, 2018, and one Odor Complaint Form was filled out by King George from January 1, 2019 through April 8, 2019.
 - i. This time period, in which a total of four Odor Complaint Forms were filled out by King George, is the exact same time period in which DEQ records show approximately 72 separate citizen complaints were received as described above in paragraph C(3)
17. SWP Permit Module I.B. requires King George to comply with all conditions of the Permit and 9 VAC 20-81, and states that it is the duty of King George to ensure that the applicable requirements are met.
18. SWP Permit Module I.F.7. requires King George to comply with the Odor Management Plan that was submitted to DEQ by King George and approved by DEQ for implementation by King George.
19. Section 5 of King George's Odor Management Plan requires King George to implement an Odor Survey Program. As part of that Program, "at each odor Survey Point, the [King George] Survey Staff Member shall note any odors detected from nearby off-site sources or observations of any activities at nearby off-site sources that may generate odors."
20. Section 6 of King George's Odor Management Plan requires King George to process and follow-up on odor complaints by recording pertinent information onto an Odor Complaint Form. King George is also required to check and record weather data at the time of the complaint, visit the location of the complaint as soon as possible after the complaint is received when possible, and follow-up with the person who filed the complaint [if requested] to inform the person of King George's investigation and any steps taken or plan to address the odors.

Additionally, Section 6.3 of King George's Odor Management Plan requires King George to perform the following actions when a complaint or series of complaints is received:

- a. Compare present odor complaint(s) to any past odor complaints. Identify any correlation between the current complaint and any past complaints (e.g., do the complaints come at a specific time of day, when a specific operation is taking place on the site, or certain weather conditions?).
- b. Evaluate potential on-site sources for the causes of the odor complaint.
- c. Identify any necessary corrective measures and evaluate feasibility.
- d. Implement corrective measures deemed necessary. Record corrective measures on Odor Complaint Form.

21. Based on the results of the Facility inspections performed by DEQ staff on December 5, 2018 and March 13, 2019, the results of the odor investigations performed by DEQ staff on March 28 and April 4, 2019, King George's April 22, 2019 NOV response, the May 7, 2019 meeting, the documentation submitted to DEQ on May 15, July 1, and July 2, 2019, and related corresponded between DEQ and representative of King George, the Board concludes that King George has violated Permit Modules I.B. and I.F.7, 9 VAC 20-81-140.A.10, 9 VAC 20-81-140.B.1.d, and 9 VAC 20-81-210.F, as described above in paragraphs C(1) through C(20).
22. King George is currently working with DEQ's Division of Land Protection and Revitalization and has initiated the process of submitting an application for modification of the Permit. DEQ has discussed with King George the expectation that King George will be required to submit [for DEQ approval] an updated/revised odor management plan as part of the permit modification application.
23. In order for King George to complete its return to compliance, DEQ staff and representatives of King George have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

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

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of **\$35,437.50** 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 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). If the Department has to refer collection of moneys due under this Order to the Department of Law, King George shall be liable for attorneys' fees of 30% of the amount outstanding.

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, 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 and in the Notice of Violation dated April 10, 2019. 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 to the jurisdictional allegations, and agrees not to contest, but neither admits nor denies, 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 unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. King George shall demonstrate 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 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 and any 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. The Director or his designee terminates the Order after King George has completed all of the requirements of the Order;
 - b. 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
 - c. 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 or officer 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 voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 14th day of August, 2020.



Thomas A. Faha, Regional Director
Department of Environmental Quality

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

Date: June 22, 2020 By: [Signature], Director of Disposal Operations
(Person) (Title)
King George Landfill, Inc.

Commonwealth of Virginia
City/County of GLoucester

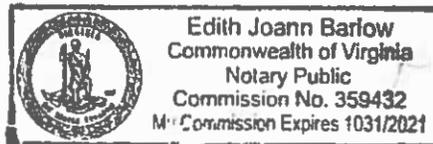
The foregoing document was signed and acknowledged before me this 22nd day of JUNE, 2020, by HAROLD S. THACKER who is DIRECTOR OF DISPOSAL OPERATIONS of King George Landfill, Inc., on behalf of the corporation.

[Signature]
Notary Public

359432
Registration No.

My commission expires: 10/31/2021

Notary seal:



**APPENDIX A
SCHEDULE OF COMPLIANCE**

King George Landfill, Inc. shall:

1. Within 180 days of the effective date of this Order, receive approval from DEQ for either an updated/revised Odor Management Plan, or a Permit Modification Application to DEQ that includes an updated/revised Odor Management Plan, to ensure King George's compliance with 9 VAC 20-81-140.A.10.
2. Unless otherwise specified in this Order, King George shall submit all requirements of Appendix A of this Order to:

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