



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
LOUISA COUNTY
FOR
THE LOUISA COUNTY SANITARY LANDFILL
SWP No. 194**

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 Louisa County, regarding the Louisa 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. "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 Louisa Sanitary Landfill, located at 807 Moorefield Road in Mineral, Virginia which is owned by Louisa County, and currently operated by Santek Environmental, Inc..
5. "Louisa" means Louisa County, a political subdivision of the Commonwealth of Virginia. Louisa County is a "person" within the meaning of Va. Code § 10.1-1400.
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. 194, which was issued under the Virginia Waste Management Act and the Regulations to Louisa County on May 17, 1971.
10. "Regulations" or "VSWMR" means the Virginia Solid Waste Management Regulations, 9 VAC 20-80-10 *et seq.*
11. "Sanitary Landfill" means an engineered land burial facility for the disposal of household waste which is so located, designed, constructed and operated to contain and isolate the waste so that it does not pose a substantial present or potential hazard to human health or the environment. A sanitary landfill also may receive other types of solid wastes, such as commercial solid waste, nonhazardous sludge, hazardous waste from conditionally exempt small quantity generators, construction demolition debris, and nonhazardous industrial solid waste, as defined in 9 VAC 20-80-10.
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.
15. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.

SECTION C: Findings of Fact and Conclusions of Law

1. On May 17, 1971, Louisa County was granted a permit to operate a Sanitary Landfill by the Commissioner of the Virginia Department of Health, predecessor-in-interest to the

Director of DEQ. The Permit allows for the disposal of household waste at the Landfill which is located, designed, constructed, and operated to contain and isolate the waste so that it does not pose a substantial present or potential hazard to human health or the environment.

2. The Facility has been operated as a Sanitary Landfill since the permit was issued. Operations at the Facility are subject to the Virginia Waste Management Act, the Regulations, and the Permit.
3. On August 27, 2008, DEQ issued a Deficiency Letter to Louisa citing an alleged violation for compaction and cover issues noted at the Landfill during the August 14, 2008 inspection. On October 9, 2008, DEQ issued a Warning Letter to Louisa citing an alleged violation for compaction and cover issues noted at the Landfill during the September 17, 2008 inspection. On September 23, 2009, DEQ issued a Deficiency Letter citing an area of concern for compaction and cover issues noted at the Landfill during the September 3, 2009 inspection. On April 6, 2010, DEQ issued a Warning Letter to Louisa citing an alleged violation for compaction and cover issues noted at the Landfill during the March 10, 2010 inspection. On July 15, 2010, DEQ issued a Deficiency Letter to Louisa citing an alleged violation for compaction and cover issues noted during the July 23, 2010 inspection.
4. On August 10, 2010, Department staff inspected the Facility for compliance with the requirements of the Virginia Waste Management Act, the Regulations and the Permit. Based on the inspection, Department staff made the following observations:
 - a. exposed waste on the northern and eastern sides of the Landfill along with erosion rills and areas lacking proper vegetative cover along the eastern, western, and northern slopes.
 - b. areas of insufficient cover around the Landfill. This included areas of insufficient daily cover on the active portion of the Landfill and insufficient intermediate and vegetative cover throughout the rest of the Landfill.
5. 9 VAC 20-80-250.C.2.requires that:
 - c. Daily cover consisting of 6 inches of compacted soil or other approved material shall be placed upon and maintained on all exposed solid waste prior to the end of each operating day, or at more frequent intervals if necessary, to control disease vectors, fires, odors, blowing litter, and scavenging. Alternate materials of an alternate thickness may be approved by the director if the owner or operator demonstrates that the alternate material and thickness control disease vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment. At least three days of acceptable cover soil or approved material at the average usage rate should be maintained at the landfill or readily available at all times.
 - d. 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.

- f. Vegetative cover with proper support layers shall be established and maintained on all exposed final cover material within four months after placement, or as specified by the department when seasonal conditions do not permit. Mowing will be conducted a minimum of twice a year or at a frequency suitable for the species of vegetative cover as specified in the facility permit.
6. 9 VAC 20-80-240.B. states 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.
7. On September 9, 2010, based on the inspection, the Department issued a Notice of Violation to Louisa for the violations described in paragraphs C3 through C5 above.
8. On September 29, 2010, Louisa submitted a written response to the NOV. The response notified DEQ that Louisa had hired a new operational contractor for the landfill. Louisa asserts that the aforementioned violations can be attributed to the actions of their previously contracted operator. Louisa also identified a list of corrective action items in the response, and Louisa informed DEQ that all the corrective action items should be completed by November 30, 2010.
9. DEQ conducted a follow up inspection of the landfill on December 21, 2010. During the inspection, DEQ verified that the violations described in paragraphs C3 through C5 above had been corrected.
10. Based on the results of August 10, 2010, inspection, the Board concludes that Louisa has violated 9 VAC 20-80-250.C.2 and 9 VAC 20-80-240.B, as described in paragraphs C3 through C5, above.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Louisa, and Louisa agrees to pay a civil charge of \$11,070.00 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

Louisa 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 Louisa for good cause shown by Louisa, 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, Louisa admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Louisa consents to venue in the Circuit Court of the County of Louisa for any civil action taken to enforce the terms of this Order.
5. Louisa 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 Louisa 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. Louisa 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. Louisa shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Louisa 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 Louisa 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 Louisa. Nevertheless, Louisa 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 Louisa has completed all of the requirements of the Order;
 - b. Louisa 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 Louisa.

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

- d. Any plans, reports, schedules or specifications attached hereto or submitted by Louisa 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.

- e. The undersigned representative of Louisa 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 Louisa to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Louisa.
- f. 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.
- g. By its signature below, Louisa voluntarily agrees to the issuance of this Order.

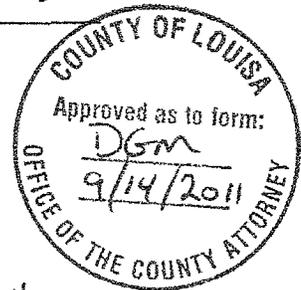
And it is so ORDERED this 24th day of October, 2011.


Thomas A. Faha, Regional Director
Department of Environmental Quality

----- (Remainder of Page Intentionally Blank) -----

Louisa County voluntarily agrees to the issuance of this Order.

Date: 9/14/2011 By: [Signature] County Administrator
(Person) (Title)
Per Resolution
2011-180



Commonwealth of Virginia
City/County of Louisa

The foregoing document was signed and acknowledged before me this 14th day of September, 2011, by Robert Dube who is County Administrator of Louisa County on behalf of the County.

[Signature]
Notary Public

7254379
Registration No.

My commission expires: 7/31/2013

Notary seal:

