

**STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION**

IN THE MATTER OF:)	DIVISION OF SOLID WASTE
)	MANAGEMENT
MAURY COUNTY)	
DML 60-000-0029)	CASE NO. SWM19-0015
)	
RESPONDENT)	

CONSENT ORDER

This Consent Order is made and entered into by and between the Tennessee Department of Environment and Conservation and Maury County, Tennessee for the purpose of resolving the issues set forth herein. The parties stipulate and agree as follows:

PARTIES

I.

David Salyers, P.E., is the duly appointed Commissioner of the Tennessee Department of Environment and Conservation (the "Department") and is charged with the responsibility for administering and enforcing the Tennessee Solid Waste Disposal Act ("Act"). Lisa A. Hughey, CHMM, is the duly appointed Director of the Division of Solid Waste Management ("Division") by the Commissioner of the Department. She has received written delegation from the Commissioner to administer and enforce the Tennessee Solid Waste Disposal Act ("Act").

II.

Maury County ("Respondent") is a political subdivision existing within the State of Tennessee. The Respondent owns and operates a construction and demolition landfill located at 1419 Santa Fe Pike, Columbia, Tennessee ("facility"). Service of process may be made on the

Respondent through the Honorable Andy Ogles, Mayor, Maury County, 41 Public Square, Columbia, Tennessee 38401.

JURISDICTION

III.

The Department is authorized to exercise general supervision over the operation and maintenance of solid waste processing facilities and disposal facilities or sites. Tenn. Code Ann. § 68-211-107. Such general supervision shall apply to all the features of operation or maintenance which do or may affect the public health and safety or the quality of the environment and which do or may affect the proper processing and disposal of solid wastes. Tenn. Code Ann. § 68-211-107. When the Commissioner finds that provisions of the Act are not being complied with or carried out, the Commissioner is authorized to issue orders for correction to the responsible person. Tenn. Code. Ann. § 68-211-112. Further, the Commissioner has the authority to assess damages and civil penalties against any person who violates any provision of the Act or any rule, regulation, or standard adopted pursuant to the Act. Tenn. Code Ann. § 68-211-117. Rules governing operation and maintenance of solid waste facilities or sites have been promulgated. Tenn. Comp. R. & Regs. Chapter 0400-11-01-.01.

IV.

The Respondent is a “person” under the Act. Tenn. Code Ann. § 68-211-103(6).

V.

The Respondent is authorized by Solid Waste Permit DML 60-000-0029 (“permit”) issued by the Department on October 8, 2002. The permit has been supplemented by an Operations Plan and Engineering Plans. The Operations Plan and Engineering Plans were prepared by the Respondent and approved by the Department. Pursuant to Rule 0400-11-01-.02(5)(b), the

Operations Plan is incorporated by reference into the permit and is enforceable as part of the permit.

FACTS

VI.

On February 15, 2019, a meeting was conducted with the Respondent concerning survey data which had been previously submitted in September of 2018 showing the horizontal and vertical contours of the facility's footprint. According to the data submitted, an overflow of waste disposal may have occurred at the site. During the meeting it was agreed that more information in the form of additional calculations and a resubmittal of the site survey was needed. In March of 2019, the Respondent resubmitted the requested information. After review of the submitted information, it was determined that waste had been placed outside the permitted waste boundary, horizontally and vertically.

VII.

On February 26, 2019, Division personnel conducted a Compliance Evaluation Inspection (CEI) at the facility. The Division inspector observed leachate coming from the side slopes above the sedimentation pond in multiple areas. The leachate was entering the run-off ditch leading to the sediment pond, which discharges to Knob Creek. This violation was noted on the inspection checklist and a copy was given to the Respondent.

VIII.

On March 27, 2019, a follow up inspection was conducted at the facility. The Division inspector observed that erosion was present on the side slope facing the sediment pond and that emplaced solid waste was exposed. Leachate was leaving the side slope, then entering the run-off

ditch leading to the sediment pond, which discharges to Knob Creek. The following violations were noted on the inspection checklist and a copy was given to the Respondent:

- Washout of solid waste.
- Leachate entering the run-off system.
- Inadequate erosion control.

IX.

On May 14, 2019, the Division conducted a CEI at the facility. The Division inspector observed leachate in the same area noted in previous inspections seeping out of the side slope and entering into the run-off ditch and sediment basin. Multiple erosion rills were observed with one erosion rill deep enough to expose emplaced solid waste. Sediment was observed washed across the access road due to the run-off/run-on ditch being full of sediment, impairing its function. The inspector observed that waste had not been covered and left exposed longer than the allowed fourteen day interval. Furthermore, the updated survey data of the facility's existing contours of the cell had been reviewed by the date of this CEI and it was confirmed that an overflow of waste had occurred, both horizontally and vertically. The inspector marked the following violations on the inspection checklist:

- Washout of solid waste.
- Leachate observed at the site.
- Leachate entering the run-off system.
- Inadequate maintenance of the run-on/run-off system.
- Inadequate erosion control.
- Operation does not correspond with permit conditions due to the overflow of waste.

X.

On May 20, 2019, the Division issued a Notice of Violation to the Respondent for the violations found during the May 14, 2019 CEI.

XI.

On June 14, 2019, a meeting was held between the Respondent and the Division. During the meeting the violations and the steps necessary to correct them and bring the site into compliance were discussed.

VIOLATIONS

XII.

By failing to cover emplaced waste leaving it uncovered for more than the allowed fourteen days the Respondent violated Rule 0400-11-01-.04(6)(b)2(ii) and the conditions of its permit.

Rule 0400-11-01-.04(6)(b)2(ii). states:

(6) Waste Handling and Cover Standards

(b) Class II, Class III, and Class IV Disposal Facilities

2. Emplaced solid wastes shall be covered with soil or other material approved by the Commissioner of such depths and at such intervals as the Commissioner deems necessary to prevent fire hazards, promote a stable fill, minimize potential harmful releases of solid wastes or solid waste constituents, and control disease vectors.

(ii) Unless otherwise specified by the Commissioner, Class III disposal facilities must be covered at least once every 14 days with at least a six inch layer of compacted soil or an adequate standard of other material as approved by the Commissioner.

XIII.

By failing to manage the leachate so that it is separate from the run-on and run-off, the Respondent violated Rule 0400-11-01-.04(2)(i)5 and the conditions of its permit.

Rule 0400-11-01-.04(2)(i)5. states:

- (2) General Facility Standards - Unless specifically noted otherwise, the standards of this paragraph apply to Class I, Class II, Class III, and Class IV disposal facilities.

- (i) Run-on, Run-off, and Erosion Control

- 5. Run-on and run-off must be managed separately from leachate unless otherwise approved by the Commissioner.

XIV.

By failing to minimize the potential for releases of solid wastes, solid waste constituents, or other potentially harmful materials to the environment by allowing leachate to enter into the sediment pond which discharges to Knob Creek, the Respondent violated Rule 0400-11-01-.04(2)(a)3.

Rule 0400-11-01-.04(2)(a)3. states:

- (2) General Facility Standards - Unless specifically noted otherwise, the standards of this paragraph apply to Class I, Class II, Class III, and Class IV disposal facilities.

- (a) Overall Performance Standard - The facility must be located, designed, constructed, operated, maintained, closed, and cared for after closure in such a manner as to minimize to the extent practicable:

- 3. The potential for releases of solid wastes, solid waste constituents, or other potentially harmful materials to the environment except in a manner authorized by state and local air pollution control, water pollution control, and/or waste management control agencies;

XV.

By failing to implement erosion control measures necessary to control erosion of the site, the Respondent has violated Rule 0400-11-01-.04(2)(i)6.

Rule 0400-11-01-.04(2)(i)6. states:

- (2) General Facility Standards - Unless specifically noted otherwise, the standards of this paragraph apply to Class I, Class II, Class III, and Class IV disposal facilities.

(i) Run-on, Run-off, and Erosion Control

6. The operator must take other erosion control measures (e.g., temporary mulching or seeding, silt barriers) as necessary to control erosion of the site.

XVI.

By failing to maintain the storm water run-on/run-off system, the Respondent has violated Rule 0400-11-01-.04(2)(i)1 and 2.

Rule 0400-11-01-.04(2)(i)1 and 2. states:

(2) General Facility Standards - Unless specifically noted otherwise, the standards of this paragraph apply to Class I, Class II, Class III, and Class IV disposal facilities.

(i) Run-on, Run-off, and Erosion Control

1. The operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the facility for all flow up to and including peak discharge from a 24-hour, 25-year storm.
2. The operator must design, construct, operate, and maintain a run-off management system to collect and control at least the peak flow volume resulting from a 24-hour, 25-year storm.

XVII.

By failing to comply with all conditions of their permit by disposing of solid waste outside the permitted boundary of the cell, as approved in the Engineering Plans that are incorporated into the permit, the Respondent has violated Rule 0400-11-01-.02(5)(a)1.

Rule 0400-11-01-.02(5)(a)1. states:

(5) Terms of the Permit

(a) Conditions Applicable to all Permits - The following conditions apply to all permits, and shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to this subparagraph must be included in the permit.

1. Duty to Comply - The permittee must comply with all conditions of this permit, unless otherwise authorized by the Department in

writing. Any permit noncompliance constitutes a violation of the Act and is grounds for termination, revocation and/or reissuance, or modification of the permit and/or the assessment of civil penalties by the Commissioner.

XVIII.

By failing to comply with the above-mentioned regulations, the Respondent has violated Tenn. Code Ann. § 68-211-104, which states in pertinent part:

§ 68-211-104. Unlawful methods of disposal.

- (3) Construct, alter, or operate a solid waste processing or disposal facility or site in violation of the rules, regulations, or orders of the commissioner or in such a manner as to create a public nuisance; or
- (4) Transport, process or dispose of solid waste in violation of this chapter, the rules and regulations established under this chapter or in violation of the orders of the commissioner or board.

ORDER

XIX.

Pursuant to the authority vested sections 68-211-112 and 68-211-117 of the Act, Lisa A. Hughey orders, and the Respondent agrees, as follows:

1. The Respondent hereby agrees and intends to close the landfill in accordance with the closure requirements described in Tenn. Comp. R. & Regs. 0400-11-01-.04(8), including that Respondent agrees to accept no new waste at the site and further agrees to address both the horizontal and vertical overfill of the landfill in accordance with all relevant Tennessee statutes, rules, and regulations as described herein.
2. The Respondent shall take the following specific actions at the site:

Within 30 days of entering into this Consent Order, the Respondent shall submit an application for a major modification to the facility's permit. This major modification shall include a corrective action plan to remediate the site. This

corrective action plan shall be submitted for review and approval to the Division of Solid Waste Management, Columbia Field Office, 1421 Hampshire Pike, Columbia, Tennessee, 38401. This corrective action plan shall include, but not be limited to the following:

- Propose expanded boundaries and contours for the facility that encompass the waste that has been placed outside the currently permitted boundaries and contours.
- Assessment of ground water at the facility through the installation of permanent ground water wells or document that contamination is not present under the current landfill with a minimum of three locations including one up gradient, and two downgradient by collection data generated by temporary groundwater collection devices.
- Demonstrate that a hydrogeologic buffer that meets the requirement of Rule 0400-11-01-.04(4)(c) underlies the proposed horizontal portion of the expansion.
- Demonstrate that all wastes which are horizontally outside of the currently permitted landfill have been identified and are included in the new landfill footprint proposed in the major permit modification.
- Submit an updated final cover and grading plan that incorporates erosion issues, storm water management, and a sediment pond.
- Install or modify the perimeter fence to ensure it encompasses the newly proposed footprint of the landfill.

- Provide a detailed work completion schedule for all actions to be taken, including specific deadlines for completion of each action.
3. Respondent shall file all necessary closure paperwork and follow all statutory and regulatory requirements for closure of the site as listed in Tenn. Comp. R. & Regs. Chapter 0400-11-01-.04(8), including all relevant notification requirements.
 4. In the event the Respondent fails to submit the appropriate major modification forms/paperwork related to the landfill to the Division as agreed in Paragraph 2 of this Consent Order and the Respondent does not proceed with closure of the landfill as agreed, Respondent shall provide to the Division updated financial assurance documents to ensure there is adequate financial assurance associated with the closure and 2 years of post-closure required for the landfill.

The Director of the Division may, for good cause shown, extend the compliance dates contained within this Consent Order. To be eligible for this time extension, the Respondent shall submit a written request to be received in advance of the compliance date. The written request must include sufficient detail to justify the extension and include at a minimum the anticipated length of the delay, the precise cause or causes of the delay, and all preventive measures taken to minimize the delay. Any extension granted by the division will be in writing. Should the Respondent fail to meet the requirement by the extended date, the Department reserves the right to assess an appropriate civil penalty that shall become due 30 days following Respondent's default.

RESERVATION OF RIGHTS

In issuing this Consent Order, the Department does not implicitly or expressly waive any provision of the Act or the regulations promulgated thereunder or the authority to assess costs, civil penalties, and/or damages incurred by the State against the Respondent. The Department expressly reserves all rights it has at law and in equity to order further corrective action, assess civil penalties and/or damages, and to pursue further enforcement action including, but not limited to, monetary and injunctive relief, if, in the Division Director's determination, such actions or activities are necessary for the protection of the public health or the environment. Compliance with this Consent Order will be considered as a mitigating factor in determining the need for any future enforcement action(s).

WAIVER OF RIGHT TO APPEAL

The Respondent understands that it has the right to appeal this Consent Order pursuant to sections 68-212-113 and 68-212-114 of the Act. By signing below, the Respondent knowingly and voluntarily waives any and all rights it may have to appeal the terms of this Consent Order.

AUTHORITY TO SIGN

The undersigned representatives of the Department and the Respondent hereby represent and warrant that they are fully authorized and competent to execute this Consent Order and Agreement on behalf of the entity for which they are signing.


Issued by the Director of the Division of Solid Waste Management, Department of Environment and Conservation and agreed to by Respondent.



Lisa A. Hughey, CHMM, Director
Division of Solid Waste Management
Tennessee Department of Environment
and Conservation

01/26/21

Date



12/13/20

Andy Ogles, Mayor
Maury County

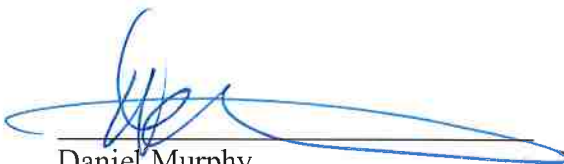
Reviewed by:



Denard Mickens (Jan 26, 2021 16:30 CST)

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