



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

TIDEWATER REGIONAL OFFICE

5636 Southern Boulevard, Virginia Beach, Virginia 23462

(757) 518-2000 Fax (757) 518-2009

www.deq.virginia.gov

Doug Domenech
Secretary of Natural Resources

David K. Paylor
Director

Francis L. Daniel
Regional Director

February 24, 2010

CERTIFIED MAIL
Return Receipt Requested

Southeastern Public Service Authority (SPSA)
723 Woodlake Drive
Chesapeake, VA 23320
Attn: Mr. Bucky Taylor, Executive Director

Tidewater Regional Office – Air Division WARNING LETTER

RE: Southeastern Public Service Authority (SPSA), Regional Landfill, Registration No. 61341

Dear Mr. Taylor:

The Department of Environmental Quality (“DEQ” or “the Department”) has reason to believe that the SPSA Regional Landfill facility located at 1 Bob Foeller Drive in Suffolk may be in violation of the Air Pollution Control Law and Regulations.

This letter addresses conditions at the facility named above, and also cites compliance requirements of the Air Pollution Control Law and Regulations. Pursuant to Va. Code § 10.1-1309 (A) (vi), this letter is not a case decision under the Virginia Administrative Process Act, Va. Code § 2.2-4000 et seq. The Department requests that you respond **within 20 days of the date of this letter.**

OBSERVATIONS AND LEGAL REQUIREMENTS

On February 3, 2010, February 9, 2010, February 12, 2010, and February 17, 2010, DEQ Tidewater Regional Office staff conducted odor complaint investigations at the SPSA Regional Landfill and surrounding area. A copy of the inspection report is attached. The following describe the staff’s factual observations and identify the applicable legal requirements:

1. *Observations:* Complaints of objectionable odor from approximately 40 residents in the Nansemond Parkway area have been received by DEQ since October of 2009. The complainants described the odor as rotten egg, garbage, plastic, etc.

2. *Observations:* DEQ staff mobilized on several occasions to the neighborhoods along and adjacent to Nansemond Parkway in Suffolk from where the vast majority of the complaints have originated. On February 3 and February 12, 2010, DEQ staff encountered a strong objectionable odor on Nansemond Parkway that was identified by DEQ staff as landfill gas. DEQ staff classified the odor as objectionable and based on the investigations, concluded that the SPSA Regional Landfill was the predominant source of the odor.

Legal Requirements: Standard for odor. No owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions which cause an odor objectionable to individuals of ordinary sensibility. (9VAC 5-40-140 of the Virginia Regulations for the Control and Abatement of Air Pollution)

ENFORCEMENT AUTHORITY

Va. Code § 10.1-1316 of the Air Pollution Control Law provides for an injunction for any violation of the Air Pollution Control Law, the Air Board regulations, an order, or permit condition, and provides for a civil penalty up to \$32,500 per day of each violation of the Air Pollution Control Law, regulation, order, or permit condition. In addition, Va. Code §§ 10.1-1307 and 10.1-1309 authorizes the Air Pollution Control Board to issue orders to any person to comply with the Air Pollution Control Law and regulations, including the imposition of a civil penalty for violations of up to \$100,000. Also, Va. Code § 10.1-1186 authorizes the Director of DEQ to issue special orders to any person to comply with the Air Pollution Control Law and regulations, and to impose a civil penalty of not more than \$10,000. Va. Code §§ 10.1-1320 and 10.1-1309.1 provide for other additional penalties.

The Court has the inherent authority to enforce its injunction, and is authorized to award the Commonwealth its attorneys' fees and costs.

FUTURE ACTIONS

After reviewing this letter, please respond in writing to DEQ **within 20 days of the date of this letter** detailing actions you have taken or will be taking to ensure compliance with state law and regulations. **Included in your response should be an updated odor control plan.** If corrective action will take longer than 90 days to complete, you may be asked to sign a Letter of Agreement or enter into a Consent Order with the Department to formalize the plan and schedule. *It is DEQ policy that appropriate, timely, corrective action undertaken in response to a Warning Letter will avoid adversarial enforcement proceedings and the assessment of civil charges or penalties.*

Please advise us if you dispute any of the observations recited herein or if there is other information of which DEQ should be aware. In the event that discussions with staff do not lead to a satisfactory conclusion concerning the contents of this letter, you may elect to participate in DEQ's

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Process for Early Dispute Resolution. If you complete the Process for Early Dispute Resolution and are not satisfied with the resolution, you may request in writing that DEQ take all necessary steps to issue a case decision where appropriate. For further information on the Process for Early Dispute Resolution, please visit the Department's website under "Laws & Regulations" and "DEQ regulations" at: http://www.deq.virginia.gov/regulations/pdf/Process_for_Early_Dispute_Resolution_8260532.pdf or ask the DEQ contact listed below.

I will be your contact at DEQ in this matter. Please direct written materials to my attention. If you have questions or wish to arrange a meeting, you may reach me directly at (757) 518-2006 or tdbreathwaite@deq.virginia.gov.

Sincerely,



Troy D. Breathwaite
Air Compliance & Monitoring Manager

Enc: Inspection Report
Document Certification



VIRGINIA DEPARTMENT OF
ENVIRONMENTAL QUALITY

DOCUMENT CERTIFICATION FORM

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Facility Name: _____ Registration
No.: _____

Printed Name of Responsible Official:

TITLE: _____ TELEPHONE NO: _____

SIGNATURE: _____ DATE: _____

The following is optional; its purpose is to assist in determining whether a person is a "Responsible Official as defined by the Regulations for the Control and Abatement of Air Pollution, section 9 VAC 5-20-230.

A. 1. This facility is (a corporation, an association, or a cooperative), **AND**
2a. I am (president, secretary, treasurer, a vice-president) of the business entity in charge of a principal business function, **OR**
2b. I am a person who performs similar policy or decision-making functions for the business entity.
(Qualified if can check a box in 1, and either a box in 2a or the box in 2b.)

B. 1. This facility is (a corporation, an association, or a cooperative), **AND**
2. I am a duly authorized representative of such business entity, **AND**
3. I am responsible for the overall operation of one or more manufacturing, production, or operating facilities) **AND** either:
4a. the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars [\$60 million in 2005 dollars]),
OR
4b. the authority to sign documents has been assigned or delegated to me in accordance with procedures of the business entity.
(Qualified if can check a box in 1, plus the box in 2, plus the box in 3, and either the box in 4a or 4b.)

C. This facility is a partnership, and I am a general partner. *(Qualified if can check both boxes.)*

D. This facility is a sole proprietorship, and I am the proprietor. *(Qualified if can check both boxes.)*

E. 1. This facility is (a municipality, a state agency, a federal agency, or an other public agency), AND

2. I am (a principal executive officer, or a ranking elected official). A principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency. *(Qualified if can check a box in 1 and 2.)*

9 VAC 5-20-230 Certification of documents.

[Which submissions need a certification:]

A. The following documents submitted to the board shall be signed by a responsible official: (i) any emission statement, application, form, report, or compliance certification; (ii) any other document containing emissions data or compliance information the owner wishes the board to consider in the administration of its air quality programs. A responsible official is defined as follows:

[Who can sign:]

1. For a business entity, such as a **corporation, association or cooperative**, a responsible official is either:

(a) The president, secretary, treasurer, or a vice-president of the business entity in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the business entity; or

(b) A duly authorized representative of such business entity if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either (i) the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), or (ii) the authority to sign documents has been assigned or delegated to such representative in accordance with procedures of the business entity.

2. For a **partnership**, or sole **proprietorship**, a responsible official is a general partner or the proprietor, respectively.

3. For a **municipality**, state, federal, or other **public agency**, a responsible official is either a principal executive officer or ranking elected official. A principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency.