

ALABAMA DEPARTMENT
OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF:)	
)	Order No. 24-XXX-CSW
Tallassee Waste Disposal Center, Inc.)	
Stone's Throw Landfill)	
Tallassee, Tallapoosa County, Alabama)	
Solid Waste Disposal Permit No. 62-11)	

FINDINGS OF FACT

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (hereinafter "the Department") and the Tallassee Waste Disposal Center, Inc. (hereinafter "Permittee") pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-17, as amended, and the Solid Wastes and Recyclable Materials Management Act (hereinafter "SWRMMA"), Ala. Code §§ 22-27-1 to 22-27-18, as amended.

STIPULATIONS

1. Tallassee Waste Disposal Center, Inc. (hereinafter "Permittee") operates a municipal solid waste landfill, known as the Stone's Throw Landfill (hereinafter "landfill") in Tallassee, Tallapoosa County, Alabama, which is the subject of this Consent Order.
2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-17, as amended.
3. Pursuant to Ala. Code § 22-22A-4(n), as amended, and Ala. Code § 22-27-9(a), as amended, the Department is the state agency authorized to administer and enforce the provisions of the SWRMMA, Ala. Code §§ 22-27-1 to 22-27-18, as amended.

DEPARTMENT'S CONTENTIONS

4. On February 10, 2017, the Department issued renewal Solid Waste Disposal Permit Number 62-11 to the Permittee for the operation of the landfill located at 1303 Washington Boulevard, Tallassee, Tallapoosa County, Alabama.

5. On July 6, 2023, Department personnel conducted a site visit at the Permittee's landfill to investigate complaints related to odor. During the site visit, Department personnel documented the following violation:

A. ADEM Admin. Code r. 335-13-4-.22(1)(a)1. and Section III.H. of Solid Waste Permit No. 62-11 require that a minimum of six inches of compacted earth or other alternative cover material that is approved by the Department shall be added at the conclusion of each day's operation. The facility has been granted a variance allowing the use of tarps as alternate daily cover (ADC). The site visit was conducted during the early morning hours before facility operations began. Tarps had been used at the conclusion of the previous day as ADC; however, large quantities of uncovered waste were noted in the working face, extending beyond the edge of the tarps. In addition, large quantities of heavy flagging waste were noted along the edges of the working face.

6. On July 27, 2023, Department personnel conducted a site visit at the Permittee's landfill to investigate a complaint related to odor. During the site visit, Department personnel documented the following violation:

A. ADEM Admin. Code r. 335-13-4-.22(1)(a)1. and Section III.H. of the facility permit require that a minimum of six inches of compacted earth or other alternative cover material that is approved by the Department shall be added at the conclusion of each day's operation. The site visit was conducted in the early morning hours before facility operations began. Tarps had been used at the conclusion of the previous day as ADC. The tarps were blown off the waste mass as a result of an overnight storm; however, based on the location of the tarp arm, large quantities of uncovered waste were noted extending beyond the perimeter that would have been covered by the tarps. In addition, large quantities of heavy flagging waste were noted in the working face.

7. On August 14, 2023, the Department issued a Notice of Violation (hereinafter "NOV") to the Permittee addressing the violations noted above.

8. On September 15, 2023, Department personnel received a response from the Permittee indicating that the violations noted in the August 14, 2023 NOV had been corrected.

9. On February 7, 2024, Department personnel conducted a site visit at the Permittee's landfill to investigate multiple complaints related to odor. During the site visit, Department personnel documented the following violation:

A. ADEM Admin. Code r. 335-13-4-.22(1)(a)1. and Section III.H. of the facility permit require that a minimum of six inches of compacted earth or other alternative cover material that is approved by the Department shall be added at the conclusion of each day's operation. The site visit was conducted in the early morning hours before facility operations began. Tarps had been used at the conclusion of the previous day as ADC. At the time of the site visit, one tarp had been removed. However, based on the amount of exposed waste, it was apparent that the tarp was not large enough to cover the entire waste mass. Furthermore, gaps were noted between tarps and exposed waste was noted extending beyond the perimeter of the tarp along the northeast perimeter.

10. Pursuant to Ala. Code § 22-22A-5(18)c., as amended, in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by the Permittee; the economic benefit which delayed compliance may confer upon the Permittee; the nature, extent and degree of success of the Permittee's efforts to minimize or mitigate the effects of such violation upon the environment; the Permittee's history of previous violations; and the ability of the Permittee to pay such penalty. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000.00. Each day such violation continues shall constitute a separate violation. In arriving at this civil penalty, the Department has considered the following:

A. **SERIOUSNESS OF THE VIOLATION:** The Permittee failed to comply with certain provisions of ADEM Admin. Code div. 335-13 and Solid Waste Disposal Permit No. 62-11 regarding landfill operations.

B. **THE STANDARD OF CARE:** The Permittee failed to employ an appropriate standard of care to ensure compliance with certain solid waste disposal requirements.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department has been unable to ascertain if the Permittee has realized an economic benefit as a result of the violations noted.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: The Department is unaware of any efforts employed by the Permittee to mitigate potential effects upon the environment that may have been created as a result of the violations listed.

E. HISTORY OF PREVIOUS VIOLATIONS: The Permittee does not have a history of similar violations.

F. THE ABILITY TO PAY: The Permittee has not alleged an inability to pay the civil penalty.

G. OTHER FACTORS: It should be noted that this Consent Order is a negotiated settlement and, therefore, the Department has determined the amount of the penalty it believes is warranted in this matter in the spirit of cooperation and the desire to resolve this matter amicably, without incurring the unwarranted expense of litigation.

11. The Department neither admits nor denies the Permittee's contentions, which are set forth below. The Department has agreed to the terms of this Consent Order in an effort to resolve the alleged violations cited herein without the unwarranted expenditure of State resources in further prosecuting the above violations. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

PERMITTEE'S CONTENTIONS

12. The Permittee neither admits nor denies the Department's contentions. The Permittee consents to abide by the terms of this Consent Order and to pay the civil penalty assessed herein.

13. During each of the aforementioned inspections, the Department did not detect any odors beyond the landfill facility boundaries. Likewise, no strong odors were detected within the landfill facility boundaries or near the working face.

14. The Permittee disagrees with the Department's assumption related to the location of the tarp arm during the July 27, 2023 inspection. In addition, the Permittee used

tarps as ADC at the conclusion of the day prior to the Department's February 7, 2024 inspection, though there were small gaps noted. The Permittee has addressed this with onsite staff.

14. The Permittee has replaced the damaged tarps. The Permittee will routinely inspect all tarps and will repair or replace them as needed to ensure they remain properly functioning. All tarps will be ballasted each night, and a stockpile of soil will be staged adjacent to the working face and used as needed in combination with tarps to cover all prior day's compacted waste. Additional tarp ballast and soil will be used for severe weather events to ensure the working face remains covered. Staffing have been re-trained on the use of daily cover over the working face each day, including training on the identification of flagged waste, and remediation of flagging.

ORDER

THEREFORE, without admitting that it has violated any statutes or regulations, the Permittee, along with the Department, desires to resolve and settle the alleged violations cited above. The Department has carefully considered the facts available to it and has considered the six penalty factors enumerated in Ala. Code § 22-22A-5(18), as amended, as well as the need for timely and effective enforcement, the Department believes that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Permittee agree to enter into this Order with the following terms and conditions:

A. That, not later than **forty-five days** after issuance of this Consent Order, the Permittee shall pay to the Department a civil penalty in the amount of \$12,000.00 for the violations cited herein. Said penalty shall be made payable to the Alabama Department of Environmental Management by certified check or cashier's check and shall be remitted to:

Office of General Counsel
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

All checks shall reference the Permittee's name, address and the ADEM Consent Order number of this action.

B. That immediately, upon the issuance of this Consent Order and continuing each and every day thereafter, the Permittee shall comply with all applicable provisions of ADEM Admin. Code div. 335-13 and Solid Waste Disposal Permit Number 62-11.

C. That the Permittee shall submit a Corrective Action Plan to the Department no later than **sixty days** following the issuance of this Consent Order. The Corrective Action Plan shall include, at a minimum, the following:

1. A complete assessment of the site to determine what, if any, operational practices, or deficiencies thereof, may have led to or contributed to the violations noted above. During this assessment, special attention should be given to inadequate cover practices.

2. A detailed description of measures that have or will be taken to address the violations noted in this Consent Order. This should also include any corrective measures that are necessary as a result of the site assessment detailed above.

3. A schedule for implementation of recommended actions to address the violations outlined in this Consent Order.

If the Department determines through its review of the submitted Corrective Action Plan that it is not sufficient to accomplish compliance with applicable Federal, State laws, or Departmental regulations, or with ADEM-issued permits, then the Permittee shall submit a revised Corrective Action Plan to the Department, addressing the Department's concerns, no later than **thirty days** after receipt of the comments. The Permittee shall complete implementation of the recommendations made in the Corrective Action Plan pursuant to the schedule set forth in the approved plan.

D. The parties agree that this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented, and to legally bind such party.

E. The parties agree that, subject to the terms of these provisions and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations which are cited in this Consent Order.

F. The Permittee agrees that it is not relieved from any liability if it fails to comply with any provision of this Consent Order.

G. For purposes of this Consent Order only, the Permittee agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County.

H. The parties agree that the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should additional facts and circumstances be discovered in the future which would constitute possible violations not addressed in this Consent Order, then such future violations may be addressed in orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement action as may be appropriate; the Permittee shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order if future orders, litigation, or other enforcement action address new matters not raised in this Consent Order.

I. The parties agree that this Consent Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and the Permittee does hereby waive any hearing on the terms and conditions of this Consent Order.

J. The parties agree that this Consent Order shall not affect the Permittee's obligation to comply with any Federal, State, or local laws or regulations.

K. The parties agree that final approval and entry into this Consent Order are subject to the requirements that the Department give notice of proposed orders to the public, and that the public have at least thirty days within which to comment on the Consent Order.

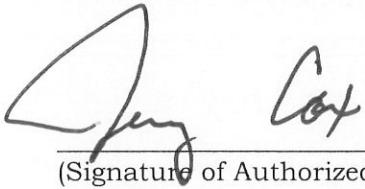
L. The parties agree that, should any provision of this Consent Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and, therefore, unenforceable, the remaining provisions hereof shall remain in full force and effect.

M. The parties agree that any modifications of this Consent Order must be agreed to in writing signed by both parties.

N. The parties agree that, except as otherwise set forth herein, this Consent Order is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State, or local law, and shall not be construed to waive or relieve the Permittee of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

TALLASSEE WASTE DISPOSAL CENTER, INC.



(Signature of Authorized Representative)

Jerry Cox

(Printed Name)

General Manager

(Printed Title)

3-14-2024

(Date Signed)

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Lance R. LeFleur, Director

(Date Signed)

Attachment A
Stone's Throw Landfill
Tallassee, Tallapoosa County
Solid Waste Disposal Permit No. 62-11

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Failure to properly apply alternate daily cover (waste extending beyond tarps) 7/6/23, 7/28/23 and 2/7/24	3	\$9,000	\$6,000	\$0	
					Total of Three Factors
<i>TOTAL PER FACTOR</i>		\$9,000	\$6,000	\$0	\$15,000

Adjustments to Amount of Initial Penalty	
Mitigating Factors (-)	\$0
Ability to Pay (-)	\$0
Other Factors (+/-)	-\$3,000
Total Adjustments (+/-) <i>Enter at Right</i>	-\$3,000

Economic Benefit (+)	
Amount of Initial Penalty	\$15,000
Total Adjustments (+/-)	-\$3,000
FINAL PENALTY	\$12,000

Footnotes * See the "Department's Contentions" portion of the Order for a detailed description of each violation and the penalty factors.