

ALABAMA DEPARTMENT
OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF:)

City of Selma)
City of Selma C/D Landfill)
4555 Water Avenue)
Selma, Dallas County, Alabama)
Solid Waste Disposal Permit No. 24-07))

Order No. 24-XXX-CSW

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (hereinafter “the Department”) and the City of Selma (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. The City of Selma (hereinafter “Permittee”) operates a construction/demolition landfill known as the City of Selma C/D Landfill (hereinafter “landfill”) in Selma, Dallas 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 August 7, 2019, the Department renewed Solid Waste Disposal Permit No. 24-07 to the Permittee for the operation of the construction/demolition landfill located at 4555 Water Avenue in Selma, Dallas County, Alabama.

5. On May 24, 2022, Department personnel conducted an inspection of the Permittee’s landfill to determine compliance with Solid Waste Permit No. 24-07 and Division 13

of the ADEM Administrative Code. During the inspection, the following violations were documented:

A. ADEM Admin. Code r. 335-13-4-.21(1)(b) states that waste accepted at the facility shall be strictly controlled so as to only allow waste stipulated in the facility permit or otherwise as may be approved by the Department. The City of Selma C/D Landfill has been approved to accept non-putrescible, non-hazardous construction and demolition waste, discarded tires, approved waste from Global Security Glazing and rubbish. During the visit, automobile shredder residue (shredder fluff) was noted in an area outside of the current disposal area. The City of Selma C/D Landfill is not approved to accept shredder fluff.

B. ADEM Admin. Code r. 335-13-4-.23(1)(d) states that the landfill unit must be operated in accordance with approved plans and permits. Section II.A. of the facility permit states that the permittee shall operate and maintain the disposal facility consistent with the application, the permit, and Division 335-13 of the ADEM Admin. Code. During the visit, shredder fluff and tires were noted in an area outside of the current disposal area. After a review of Department files, it was determined that the shredder fluff was disposed outside of the permitted disposal area.

6. On July 28, 2022, the Department issued a Notice of Violation to the Permittee addressing the violations noted above. In addition to the aforementioned violations, the Department also requested that the Permittee begin the process of removing the shredder fluff from the landfill and dispose of it properly.

7. On September 29, 2022, the Department received an extension request to provide a proper response to the aforementioned Notice of Violation, which was subsequently approved.

8. On October 31, 2022, the Department received a response to the Notice of Violation, indicating the corrective measures that had been/were to be taken to correct the noted violations.

9. On May 8, 2023, Department personnel conducted a site visit of the City of Selma C/D Landfill, Permit No. 24-07, to investigate a complaint received by the Department

on May 1, 2023, citing discolored water, smoking on site, and covering with mulch. During the visit, the following violations were noted:

A. ADEM Admin. Code r. 335-13-4-.23(1)(a)1. and Section III.D. of the facility permit states that a minimum of six inches of compacted earth shall be added at the conclusion of each week's operation. The site visit was conducted in the early morning hours of a Monday morning. Based on the amount of uncovered waste, it was apparent that the disposal area had not been covered at the end of the previous week's business.

B. ADEM Admin. Code r. 335-13-4-.26(2)(b) states that litter shall be controlled within the permitted facility. Litter was observed near the sediment pond and in the drainage feature for the facility.

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 Administrative Code div. 335-13 and Solid Waste Disposal Permit No. 24-07 regarding landfill operations.

B. 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 has a history of similar violations. On October 14, 2020, the Department issued Consent Order No. 21-002-CSW (hereinafter "Consent Order") addressing failure to properly maintain run-on control and on-site drainage structures, failure to prevent unauthorized discharge, failure to properly cover, failure to provide adequate equipment, acceptance of unapproved waste streams, failure to have permanent boundary markers, deep rooted vegetation on landfill slopes, failure to confine the waste mass, operating two working faces, failure to prevent vectors and failure to compact the waste mass.

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.

A. The City of Selma agrees with the provisions stated in Preamble and Stipulations 1, 2, and 3 within this Consent Order.

B. The City of Selma documents its contentions by itemizing each and correlating them back to the Department's Contentions mentioned above in this Consent Order.

1. Department Contention #4: The City of Selma expresses no contention to item

4.

2. Department Contention Numbers 5, 6, 7, and 8: The City of Selma expresses its contentions as described in detail in its letter dated November 27, 2024, incorporated herein by reference, and as summarized below:

Since August 2019, the City of Selma's landfill has made significant improvements in addressing longstanding issues and enhancing operations. After a renewed focus on compliance with ADEM's regulations, the City implemented corrective actions, including hiring E3 Solutions to provide technical expertise and manage reporting compliance through March 2022. Despite challenges like a global pandemic, natural disasters, and supply chain issues, the City successfully addressed several Department of Environmental Management contentions. Notably, the City took swift action when it was discovered that an employee illegally allowed the dumping of shredder fluff, which had previously been used as alternative cover. The employee was terminated, the fluff was removed, and non-hazardous lab results confirmed the material's safe disposal at an approved facility. Additionally, the City has made significant progress in modernizing landfill operations, such as the installation of a new office building, road improvements, and the purchase of new equipment. Recent efforts also include staff training, ongoing surface water management, and the removal of tornado debris. Despite resource limitations and decisions by the City Council to manage the landfill internally, Selma remains committed to maintaining compliance and continuing improvements in waste management operations.

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 Consent Order with the following terms and conditions:

A. That, not later than **forty-five days** after issuance of this Order, the Permittee shall pay to the Department a civil penalty in the amount of \$21,800.00 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 and address and the ADEM Administrative Order number of this action.

B. That immediately, upon the issuance of this 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 24-07.

C. That, not later than **sixty days** from the issuance of this Order, the Permittee shall submit a Corrective Action Plan to the Department, for review and approval. The Corrective Action Plan shall include:

1. A detailed description of measures that have or will be taken to address the violations noted in this Order, including but not limited to the proper routing of stormwater, and cover practices (including any changes to current practices).

2. A schedule for implementation of recommended actions to address the deficiencies outlined in this Order.

3. If the Department determines through its review of the submitted Corrective Action Plan that it is not sufficient to accomplish compliance with all applicable provisions of

ADEM Administrative Code div. 335-13 and Solid Waste Disposal Permit No. 24-07, then the Permittee shall submit a revised Corrective Action Plan, addressing the Department's concerns, no later than **thirty days** after receipt of the Department's 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 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.

CITY OF SELMA


(Signature of Authorized Representative)

JAMES PERKINS, Jr.
(Printed Name)

MAYOR
(Printed Title)

11-27-2024
(Date Signed)

ENVIRONMENTAL MANAGEMENT

Lance R. LeFleur
Director

(Date Signed)

Attachment A
City of Selma C/D Landfill
Selma, Dallas County
Solid Waste Disposal Permit # 24-07

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Failure to cover waste weekly (5/8/23)	1	\$3,000	\$2,000	\$1,500	
Failure to control blown litter (5/8/23)	1	\$500	\$250	\$0	
Disposal of unapproved waste (shredder fluff) (5/24/22)	1	\$1,000	\$500	\$1,000	
Failure to operate as stipulated in permit (disposal of shredder fluff material outside of the permitted disposal area) (5/24/22)	1	\$5,000	\$5,000	\$0	
Failure to comply with Consent Order 21-002-CSW	1	\$5,000	\$2,500	\$0	
					Total of Three Factors
TOTAL PER FACTOR		\$14,500	\$10,250	\$2,500	\$27,250

Adjustments to Amount of Initial Penalty	
Mitigating Factors (-)	\$0
Ability to Pay (-)	\$0
Other Factors (+/-)	\$5,450
Total Adjustments (+/-) <i>Enter at Right</i>	\$5,450

Economic Benefit (+)	\$0
Amount of Initial Penalty	\$27,250
Total Adjustments (+/-)	\$5,450
FINAL PENALTY	\$21,800

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