

ALABAMA DEPARTMENT
OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF:)	
)	
Turkey Trot Landfill, LLC)	Order No. 24-XXX-SW
2328 Mannish Ryan Road)	
Citronelle, Washington County, Alabama)	
Solid Waste Disposal Permit No. 65-05)	
)	

FINDINGS OF FACT

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (hereinafter “the Department”) and Turkey Trot Landfill, LLC (hereinafter “Permittee”), a domestic limited liability company, 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 the “SWRMMA”), Ala. Code §§ 22-27-1 to 22-27-18, as amended.

STIPULATIONS

1. Turkey Trot Landfill, LLC (hereinafter the “Permittee”) is a domestic limited liability corporation registered with the Alabama Secretary of State’s Office, and operates a municipal solid waste landfill, known as the Turkey Trot Landfill (hereinafter “landfill”) in Citronelle, Washington 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 CONTENTIONS

4. On August 18, 2020, the Department issued renewal Solid Waste Disposal Permit Number 65-05 (hereinafter the "Permit") to the Permittee for the operation of the landfill located at 2328 Mannish Ryan Road, Citronelle, Washington County, Alabama.

5. On October 26, 2022, Department personnel conducted a site visit at the Permittee's landfill to determine compliance with Division 13 of the ADEM Administrative Code. During the site visit, the following violations were noted:

A. ADEM Admin. Code r. 335-13-4-.22(1)(a)1. and Section III.H. of Solid Waste Disposal Permit No. 65-05 require that a minimum of six inches of compacted earth or other alternative cover material that is approved by the Department be added at the conclusion of each day's operation, or as otherwise approved by the Department, to control disease vectors, fires, odors, blown litter, and scavenging. The site visit was conducted in the early morning hours, before facility operations began. It was apparent by the amount of exposed waste that cover had not been applied at the close of the previous workday. In addition, an excessive amount of flagging was noted within the disposal area, which is an indication that the required six inches of cover material was not applied during previous cover operations.

B. ADEM Admin. Code r. 335-13-4-.22(1)(a)2. requires that in the event that erosion develops on previously covered disposal areas, or when covered waste otherwise becomes exposed, cover must be reapplied to comply with the minimum cover requirements of 335-13-4-.22(1)(a)1. During the site visit, erosion was noted along the northwestern slope of the landfill causing waste to become exposed.

C. ADEM Admin. Code r. 335-13-4-.22(1)(d) requires that the landfill unit be operated in accordance with approved plans and permits. Section I.F. of the Permit requires that the facility be operated to minimize the possibility of an unplanned sudden or nonsudden release of contaminants (including leachate) to air, soil, groundwater, or surface water. Leachate was observed in a stormwater ditch at the toe of the southeastern slope of the landfill.

D. ADEM Admin. Code r. 335-13-4-.22(2)(b) and Section III.X. of the facility permit require that litter shall be controlled within the permitted facility. Blown litter was observed throughout the landfill, including in the stormwater drainage ditch leading to the borrow pit.

6. On January 25, 2023, the Department issued a Notice of Violation (hereinafter “NOV”) addressing the violations listed above.

7. On February 27, 2023, Department personnel received a response to the NOV, from the Permittee, indicating that the violations documented during the October 26, 2022, site visit had been corrected.

8. On March 9, 2023, Department personnel conducted a site visit at the Permittee’s landfill to determine compliance with Division 13 of the ADEM Administrative Code. During the site visit, the following violations were noted:

A. ADEM Admin. Code r. 335-13-4-.22(1)(a)1. and Section III.H. of the 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, or as otherwise approved by the Department, to control disease vectors, fires, odors, blown litter, and scavenging. The site visit was conducted during the early morning hours, before facility operations began. It was apparent by the amount of exposed waste that cover had not been applied at the close of the previous workday. In addition, an excessive amount of flagging was noted within the disposal area which is an indication that the required six inches of cover material was not applied during the previous cover operations.

B. ADEM Admin. Code r. 335-13-4-.22(1)(b) and Section III.J. of the facility permit require that all waste be confined to as small an area as possible. Based on the amount of exposed waste, the active disposal area was not confined to a small area.

9. On June 2, 2023, the Department issued a NOV addressing the violations listed above.

10. On July 3, 2023, Department personnel received a response to the NOV, from the Permittee, indicating that the violations related to cover documented during the March 9, 2023, site visit had been corrected.

11. On August 17, 2023, Department personnel conducted a site visit at the Permittee’s landfill to investigate a complaint related to lack of adequate personnel and to

determine compliance with Division 13 of the ADEM Administrative Code. During the site visit, the following violations were noted:

A. ADEM Admin. Code r. 335-13-4-.22(1)(a)1. and Section III.H. of the Permit require that a minimum of six inches of compacted earth or other alternative cover material that is approved by the Department be added at the conclusion of each day's operation, or as otherwise approved by the Department, to control disease vectors, fires, odors, blown litter, and scavenging. The site visit was conducted during the early morning hours before facility operations began. Flagging waste was noted around the toe of the working face slope, in the rear areas of the working face, and the upper southwest slope near the inactive tipper. Flagging waste is an indication that the required six inches of cover material was not applied during previous cover operations.

B. ADEM Admin. Code r. 335-13-4-.22(1)(a)2. requires that in the event that erosion develops on previously covered disposal areas, or when covered waste otherwise becomes exposed, cover must be reapplied to comply with the minimum cover requirements of 335-13-4-.22(1)(a)1. Erosion rills with exposed waste were observed on the south and southwest slopes of the landfill.

12. 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. 65-05 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.

13. 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

14. 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.

15. The Permittee is not aware of any evidence of any irreparable harm to the environment or any threat to the health or safety of the public as a result of the operations of the Landfill or the violations alleged by the Department.

16. On September 21, 2022, EcoSouth Services, LLC (hereinafter, "EcoSouth") sent a letter to the Department, notifying the Department that it had purchased the Landfill and that the Permittee would continue to hold the Permit. In addition, the letter provided the Department with a copy of ADEM Form 568 (Application for Facility Name Change or Transfer of Solid Waste Disposal Facility Permit).

17. On December 19, 2022, Department personnel conducted a facility inspection at the Permittee's Landfill.

18. On December 23, 2022, the Department issued an inspection report to the Permittee for the facility inspection conducted on December 19, 2022. No issues or violations were reported.

19. On February 27, 2023, EcoSouth responded to the January NOV and acknowledged certain operational issues but confirmed the alleged violations had been corrected. In addition, this response reminded the Department of the letter dated September 21, 2022, in which EcoSouth informed the Department that it had recently purchased the Landfill, and explained that the operational issues noted during the site visit conducted on October 26, 2022, were attributable to the transition of personnel and assets.

20. On June 28, 2023, Department personnel conducted a facility inspection at the Permittee's Landfill.

21. On June 30, 2023, the Department issued an inspection report to the Permittee for the facility inspection conducted on June 28, 2023. No issues or violations were reported.

22. On August 22, 2023, Department personnel conducted a facility inspection at the Permittee's Landfill.

23. On August 25, 2023, the Department issued an inspection report to the Permittee for the facility inspection conducted on August 22, 2023. No issues or violations were reported.

24. On November 8, 2023, Department personnel received a response to the site visit dated August 18, 2023, from the Permittee, indicating that the alleged violations related to cover documented during the August 17, 2023, site visit had been corrected, and that the employee responsible for applying daily cover had been replaced. As part of the response, the Permittee explained that it was continuing to train its employees on the importance of applying daily cover as required. In addition, the Permittee indicated that the alleged violations related to flagging and erosion had been addressed.

25. On December 19, 2023, Department personnel conducted a facility inspection at the Permittee's Landfill.

26. On December 22, 2023, the Department issued an inspection report to the Permittee for the facility inspection conducted on December 19, 2023. No issues or violations were reported.

27. On March 23, 2024, Department personnel conducted a facility inspection at the Permittee's Landfill.

28. On March 24, 2024, the Department issued an inspection report to the Permittee for the facility inspection conducted on March 23, 2024. No issues or violations were reported.

29. On March 27, 2024, Department personnel conducted a facility inspection at the Permittee's Landfill.

30. On March 29, 2024, the Department issued an inspection report to the Permittee for the facility inspection conducted on March 27, 2024. No issues or violations were reported.

31. As described in the Permittee's correspondences dated February 27, 2023, July 3, 2023, and November 8, 2023, the Permittee has taken multiple steps to correct the alleged violations, including the completion of additional training with employees and making personnel changes.

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)c., 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 Consent Order, the Permittee shall pay to the Department a civil penalty in the amount of \$14,600.00 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 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 65-05.

C. That the Permittee shall submit a Corrective Action Plan to the Department for review and approval no later than **sixty days** following the issuance of this Consent Order. The Corrective Action Plan shall address:

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 cover practices.

2. A detailed description of measures that have or will be taken to address the violations noted in this Consent Order, including but not limited to cover practices (including

any changes to current practices and re-application of cover), prevention of unauthorized discharge(s), and controlling litter. This should also include any corrective measures that are necessary as a result of the site assessment detailed above, and:

3. A schedule for implementation of any recommended actions described in C.2.

4. 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 Admin. Code div. 335-13 and Solid Waste Permit No. 65-05, then the Permittee shall submit a revised Corrective Action Plan, addressing the Department's concerns, to the Department 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.

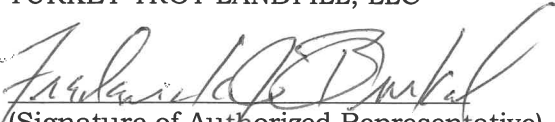
L. The parties agree that, should any provision of this Consent Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

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.

TURKEY TROT LANDFILL, LLC


(Signature of Authorized Representative)

Frederick J Buekel
(Printed Name)

Chief Executive Officer
(Printed Title)

7/11/2024
(Date Signed)

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Lance R. LeFleur
Director

(Date Signed)

Attachment A
Turkey Trot Landfill
Citronelle, Washington County
Solid Waste Disposal Permit # 65-05

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Failure to cover waste daily (10/26/22 and 3/9/23)	2	\$6,000	\$4,000	\$0	
Failure to properly apply cover (flagging waste) (8/17/23)	1	\$1,000	\$500	\$0	
Failure to confine waste (3/9/23)	1	\$1,000	\$500	\$0	
Failure to reapply cover (erosion rills) (10/26/22 and 8/17/23)	2	\$2,000	\$1,000	\$0	
Failure to operate as stipulated in permit (leachate management) (10/26/22)	1	\$1,000	\$500	\$0	
Failure to control blown litter (10/26/22)	1	\$500	\$250	\$0	
					Total of Three Factors
TOTAL PER FACTOR		\$11,500	\$6,750	\$0	\$18,250

Adjustments to Amount of Initial Penalty	
Mitigating Factors (-)	\$0
Ability to Pay (-)	\$0
Other Factors (+/-)	-\$3,650
Total Adjustments (+/-)	\$0
<i>Enter at Right</i>	

Economic Benefit* (+)	\$0
Amount of Initial Penalty	\$18,250
Total Adjustments (+/-)	-\$3,650
FINAL PENALTY	\$14,600

Footnotes See the "Department's Contentions" portion of the Order for a detailed description of each violation and the penalty factors.
 *Economic benefit determined by estimating approximate avoided costs for failing to cover and airspace gained through such action.