



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

DEPARTMENT OF ENVIRONMENTAL QUALITY
CONSENT ORDER
ISSUED TO
County of Page
FOR
Battle Creek Landfill

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455 for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable permit and/or regulations. This Consent Order supersedes and terminates the Consent Order issued to County of Page on July 20, 2023 and resolves EA#'s VR22-0708 and #VR23-0318.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the terms used in this Consent Order have the meanings assigned to them in Va. Code §10.1-1182 et seq., §10.1-1400 et seq., 9 VAC 20-81-10 et seq., and 9 VAC 20-70-10 et seq.

SECTION C: Findings of Fact and Conclusions of Law

Table with 4 columns: Responsible Party, Facility Name, Facility Address, Solid Waste Facility Type, Inspection Date, Warning Letter Date, Notice of Violation Date. Includes details for County of Page, Battle Creek Landfill, 219 Landfill Drive, Luray, VA 22835, Sanitary Landfill-Active, 4/16/2024, and 6/3/2024.

The Responsible Party is a "person" within the meaning of Va. Code § 10.1-1455.

Violation	Observations and Legal Requirements	Civil Charge	Subtotal
✓	Leachate Discharge/Seeps. 9 VAC 20-81-140, 210	\$ 3,307.00 # of Violations 1	\$ 3,307.00
	Landfill slope failure. 9 VAC 20-81-130, 140	\$ 0.00 # of Violations	\$ 0.00
	Failure to extinguish landfill fire. 9 VAC 20-81-140	\$ 0.00 # of Violations	\$ 0.00
	Failure to implement landfill gas remediation. 9 VAC 20-81-200	\$ 0.00 # of Violations	\$ 0.00
	Failure to implement groundwater corrective action remedy. 9 VAC 20-81-250, 260	\$ 0.00 # of Violations	\$ 0.00
	Failure to adhere to closure plan or closure timeframe. 9 VAC 20-81-160	\$ 0.00 # of Violations	\$ 0.00
✓	Disposal of solid waste beyond permitted landfill disposal unit boundary or vertical design capacity. 9 VAC 20-81-100, 130	\$ 13,229.00 # of Violations 1	\$ 13,229
	Unauthorized open burning of solid waste. §10.1-1410.3 9 VAC 20-81-95, 140	\$ 0.00 # of Violations	\$ 0.00
✓	Improper management of waste. 9 VAC 20-81-100, 110, 140, 610, 620, 630, 640, 650, 660	\$ 6,615.00 # of Violations 1	\$ 6,615.00
✓	Facility Operations §10.1-1408.2 9 VAC 20-81-140, 210, 385, 395	\$ 6,615.00 # of Violations 3	\$ 19,845.00
	Failure to conduct groundwater monitoring or landfill gas monitoring. 9VAC20-81-200, 250, 260	\$ 0.00 # of Violations	\$ 0.00
	Failure to comply with Financial Assurance requirements. 9 VAC 20-70-10 et seq. 9 VAC 20-81-10 et seq.	\$ 0.00 # of Violations	\$ 0.00

Violation	Observation and Legal Requirements	Civil Charge	Subtotal
	Failure to properly conduct post-closure care maintenance. 9 VAC 20-81-170	\$ 0.00 # of Violations	\$ 0.00
✓	Housekeeping, or maintenance 9 VAC 20-81-130, 140	\$ 3,250.00 # of Violations 2	\$ 6,500.00
	Record Keeping/Reporting Violations §10.1-1408.1 9 VAC 20-81-80, 100, 140, 200, 250, 260, 485, 530	\$ 0.00 # of Violations	\$ 0.00
	Other:	\$ 0.00 # of Violations	\$ 0.00
	Other:	\$ 0.00 # of Violations	\$ 0.00
Violations and Frequency Subtotal			\$ 49,496.00
Aggravating Factors			
	Additional Civil Charge Assessment		Subtotal
Degree of Culpability	Serious		\$ 24,748.00
Consent Order is another media program within 36 months	No		\$ 0.00
Consent Order in the same media program within 36 months	Yes		\$ 12,374.00
Aggravating Factors Subtotal			\$ 37,122.00
Civil Charge Subtotal and Aggravating Factor Subtotal			\$ 86,618.00
Cooperativeness and Quick Settlement	0%		\$ 0.00
Economic Benefit of Noncompliance	No		
In accordance with 62.1-44.15(8e), the Responsible Party's Ability to Pay was evaluated and it was determined that there is an ability to pay.	Yes		
Total Civil Charge			\$ 86,618.00
Based on the observations and legal requirements cited above, the Department concludes that the Responsible Party has violated Va. Code and Regulations as identified herein.			

Section D: Order with SEP

By virtue of the authority granted pursuant to Va. Code §10.1-1455 and upon consideration of Va. Code § 10.1-1186.2, the DEQ order County of Page, and County of Page agrees:

1. To perform the actions described in Appendices A and B of this Order; and
2. To a civil charge of \$86,618 in settlement of the violations cited in this Order, paid as follows:
 - a. County of Page shall pay \$8,749 of the civil charge within 30 days of the effective date of this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, VA 23218

County of Page shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Consent Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department must refer collection of moneys due under this Consent Order to the Department of Law, Responsible Party shall be liable for attorneys' fees of 30% of the amount outstanding.

b. County of Page shall satisfy \$77,869 of the civil charge by satisfactorily completing the Supplemental Environmental Project (SEP) described in Appendix B of this Order.

SECTION E: Administrative Provisions

1. The Department may modify, rewrite, or amend this Consent Order with the consent of the Responsible Party for good cause shown by the Responsible Party, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Consent Order addresses and resolves only those violations specifically identified in Section C of this Consent Order. This Consent Order shall not preclude the Department or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Consent Order.
3. For purposes of this Consent Order and subsequent actions with respect to this Consent Order only, the Responsible Party admits the jurisdictional allegations, and agrees not to contest, but neither admits nor denies, the findings of fact and conclusions of law in this Consent Order.
4. The Responsible Party consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Consent Order.
5. The Responsible Party declares it has received fair and due process under the Administrative Process Act and the Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Department to modify, rewrite, amend, or enforce this Consent Order.
6. Failure by the Responsible Party to comply with any of the terms of this Consent Order shall constitute a violation of an order of the Department. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Department or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Consent Order is found to be unenforceable for any reason, the remainder of the Consent Order shall remain in full force and effect.
8. The Responsible Party shall be responsible for failure to comply with any of the terms and conditions of this Consent Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. The Responsible Party shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The Responsible Party shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Consent Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.
 - e. Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Consent Order.
9. This Consent Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Consent Order shall become effective upon execution by both the Director or his designee and The Responsible Party. Nevertheless, the Responsible Party agrees to be bound by any compliance date which precedes the effective date of this Consent Order.
11. This Consent Order shall continue in effect until:
 - a. The Director or his designee terminates the Consent Order after the Responsible Party has completed all of the requirements of the Consent Order;
 - b. The Responsible Party petitions the Director or his designee to terminate the Consent Order after it has completed all of the requirements of the Consent Order and the Director or his designee approves the termination of the Consent Order; or
 - c. The Director or Department terminates the Consent Order in his or its sole discretion upon 30 days' written notice to the Responsible Party.Termination of this Consent Order, or any obligation imposed in this Consent Order, shall not operate to relieve the Responsible Party from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. Any plans, reports, schedules or specifications attached hereto or submitted by the Responsible Party and approved by the Department pursuant to this Consent Order are incorporated into this Consent Order. Any non-compliance with such approved documents shall be considered a violation of this Consent Order.
13. The undersigned representative of the Responsible Party certifies that he or she is a responsible official [or officer] authorized to enter into the terms and conditions of this Consent Order and to execute and legally bind the Responsible Party to this document. Any documents to be submitted pursuant to this Consent Order shall also be submitted by a responsible official of the Responsible Party.
14. This Consent Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Consent Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Consent Order.

15. By its signature below, the Responsible Party voluntarily agrees to the issuance of this Consent Order.

And it is so ORDERED.

DEQ Signee Signature

Date

DEQ Signee Name (Printed)

Title

I hereby certify that I am the Responsible Party or duly appointed representative/officer of the Responsible Party and acknowledge that there are no material facts in dispute with respect to the violations as identified in this consent order.

Amity Moler

Responsible Party Name (Signature)

11/20/24

Date

Amity Moler

Responsible Party Name (Printed)

County Administrator

Title

DEQ Contact

Unless otherwise specified in this Order, the Responsible Party shall submit all requirements of Appendix A and Appendix B of this Order to:

Michelle Callahan
1111 East Main Street, Suite 1400
Richmond, VA 23219

APPENDIX A SCHEDULE OF COMPLIANCE

The Responsible Party shall take the following actions:

Check all that apply	Correction to be Performed	Due Date
✓	Submit to DEQ for approval, a corrective action plan to address the violations described in this order. The corrective action plan shall include a plan and schedule to achieve and maintain consistent compliance with Permit and regulatory requirements. Upon approval by DEQ, the corrective action plan and schedule become enforceable under this Order.	02/01/2025
	<p>To address the violations described in this Order submit to DEQ the following plan:</p> <p>This document shall include a plan and schedule to achieve and maintain consistent compliance with Permit and regulatory requirements. Upon review/approval by DEQ, this plan and schedule become enforceable under this Order.</p>	
	Submit to DEQ for review and approval, a Major Permit Modification Application to address the violations described in this Order.	
	Submit to DEQ for review and approval, a Minor Permit Modification Application to address the violations described in this Order.	
	Submit documentation demonstrating financial responsibility in accordance with 9 VAC20-81-10 <i>et seq.</i> and 9VAC20-70-10 <i>et seq.</i>	

Appendix B
Supplemental Environmental Project (SEP)

In accordance with Va. Code § 10.1-1186.2, County of Page shall satisfy \$77,869.00 of the civil charge specified in Section C. of this Consent Order by satisfactorily completing the Supplemental Environmental Project (SEP) described below. As used in the Consent Order and Appendix, SEP means an environmentally beneficial project undertaken as partial settlement of a civil enforcement action and not otherwise required by law.

1. The SEP to be performed by County of Page entails the purchase of self-contained breathing apparatus for the Page County Fire-EMS Department. The equipment shall be purchased within 90 days from the effective date of this Consent Order as follows:

Item	Description	QTY	Unit Price	Amount
X891402530530	Air-Pak X3 Pro SCBA (2018 Edition) with Snap-Change, Parachute Buckles, 4.5, Standard, No Accessory Pouch, E-Z Flo+ Regulator with Quick Disconnect Hose (Rectus-type fittings), Universal EBSS, None, No, Pak-Tracker, No Case, 1 SCBA Per Box	7	\$8,025.00	\$56,175.00
200129-35	Snap-change, carbon-Wrapped 30-Year, Pressure 30 Minutes (at 40 LPM)	14	\$895.00	\$12,530.00
201215-28	Scott new AV3000HT 4 Point Kevlar RT BRKT Size Med	21	\$375.00	57,875.00

2. The SEP to be performed by County of Page also entails hosting one additional Household Hazardous Waste collection day. This additional collection day shall be performed no later than November 1, 2025.
3. The County of Page shall submit a written verification of the final overall and net project cost of the SEP in the form of a certified statement itemizing costs, invoices, and proof of payment verifying that the SEP has been completed in accordance with the terms of this Consent Order and shall be certified by an authorized County Official. The final report and certification to the Department is due no later than December 31, 2025.

The net project costs of the SEP shall not be less than \$77,869.00. If it is, County of Page shall pay the remaining amount in accordance with Section D of this Order, unless otherwise agreed to by the Department. "Net project costs" means the net present after-tax cost of the SEP, including tax savings, grants and first-year cost reductions and other efficiencies realized by virtue of project implementation. If the proposed SEP is for a project for which the party will receive an identifiable tax savings (e.g., tax credits for pollution control or recycling equipment), grants or first-year operation cost reductions or other efficiencies, the net project cost shall be reduced by those amounts. The costs of those portions of SEPs that are funded by state or federal low-interest loans, contracts or grants shall be deducted.

4. By signing this Order County of Page certifies that it has not commenced performance of the SEP. In the event County of Page publicizes the SEP or the SEP results, County of Page shall state in a prominent manner that the project is part of a settlement of an enforcement action.

5. If the SEP has not or cannot be completed as described in this Consent Order, County of Page shall notify DEQ in writing no later than April 1, 2025. Such notification shall include:
 - a. An alternate SEP proposal; or
 - b. Payment of the total amount specified in Section C of this Consent Order.
6. The Department has sole discretion to:
 - a. Authorize any alternate or equivalent SEP proposed by the Facility; and
 - b. Determine whether the SEP or alternate SEP has been completed in a satisfactory manner.
7. County of Page hereby consent to reasonable access by DEQ or its staff to property or documents under the County of Page's control, for verifying progress or completion of the SEP.
8. Should the Department determine that County of Page has not completed the SEP or alternate SEP in a satisfactory manner, the Department shall so notify County of Page in writing. Within 30 days of being notified, County of Page shall pay the amount specified in Section C. of this Consent Order.
9. County of Page acknowledges that it is solely responsible for completing the SEP project. Any transfer of funds, tasks or otherwise by County of Page to a third party shall not relieve County of Page of its responsibility to complete the SEP as described in this Consent Order.