



# 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

Mr. Bucky Taylor  
February 24, 2010  
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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](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](mailto: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.



## Commonwealth of Virginia

**Registration No:** 61341 **AFS Plant ID:** 800-00121  
**Plant Name:** SPSA - Regional Landfill **Classification:** Major/Potential Major  
**Address:** 1 Bob Foeller Drive **Region:** TRO  
**Report No:** 265720

<b>AIR INSPECTION REPORT</b>
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<b>Inspection Date:</b> 02/17/10	<b>Contact Name:</b> Glenda Dodson										
<b>Type:</b> PCE With Site Visit	<b>Contact Phone No:</b> (757) 539-9373										
<b>Inspector:</b> David N Sellers	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; border-bottom: 1px solid black;"><u>Air Program</u></th> <th style="text-align: left; border-bottom: 1px solid black;"><u>Subpart</u></th> </tr> </thead> <tbody> <tr> <td>NSPS</td> <td>WWW</td> </tr> <tr> <td>MACT</td> <td>AAAA</td> </tr> <tr> <td>TITLE V</td> <td></td> </tr> <tr> <td>SIP</td> <td></td> </tr> </tbody> </table>	<u>Air Program</u>	<u>Subpart</u>	NSPS	WWW	MACT	AAAA	TITLE V		SIP	
<u>Air Program</u>	<u>Subpart</u>										
NSPS	WWW										
MACT	AAAA										
TITLE V											
SIP											
<b>Inspection Result:</b> Out of Compliance											
<b>Reason:</b> Complaint Investigation											

**Inspector Comments:**

On February 9, 2010, Sean Priest and David Sellers visited the areas around SPSA Landfill to determine odor levels in the area. Wind was from the east-northeast at 2 mph. We drove twice on Nansemond Parkway to Wilroy Road, and on Progress Road, all areas where complaints of objectionable odors have been frequent. A mild level of landfill odor was evident in the area bounded by Wilroy Rd, Nansemond Pkwy, and Progress Rd. We then drove on Rte 17 by John C. Holland Industrial Landfill. No odors were evident there.

On February 12, 2010, Milt Johnston and David Sellers visited neighborhoods adjacent to SPSA Landfill from 6:45 pm to 9:30 pm. Several complaints had been received concerning strong odors on Friday, 2/12, and previously. We drove to Suffolk on US 58 West with wind northeast at 5 mph. Passing the landfill entrance, no odor was evident. As we exited US 58 West to US 58 West Bypass, a strong, objectionable odor was evident at Nansemond Parkway. Odor was light at Wilroy Rd North. The odor plume smelled like landfill gas, and appeared to be narrow, and coming from the direction of Cell VI on the southwest side of the SPSA Landfill property.

We drove around Woodlake, Woodlake North, Cedar Lake, and Beamon's Pond, neighborhoods of residents that complained of frequently strong odors in the last few weeks. Most complaints indicated that periods of very strong odors have been occurring frequently since October, 2009, and have been stronger than any odor events previously associated with the landfill. Landfill odor of minor intensity was evident along Nansemond Parkway between Progress Rd and US 58 Bypass overpass, and on Progress Road. Odor complaints have been received by DEQ from about 40 residents near the landfill since October, 2009.

We visited Mr. Leroy Bennett's house at 2004 Nansemond Parkway. No odor was evident. He called on December 8, 2009, regarding strong odors, and most recently on February 12, 2010. We visited Ms. Wyndall Rogers' house at 222 Equinox Landing. No odor was evident. She had called at 2:49 pm on February 12 saying she has had objectionable odors most nights on her street recently, and had noticed odor around Nansemond Parkway and Progress Rd.

Odors have frequently been reported as a rotten egg-type odor, and strongest in early evening hours (between 6 pm and 11 pm), and early morning hours (between 5 and 7). Other potential

## Commonwealth of Virginia

Registration No: 61341 AFS Plant ID: 800-00121  
Plant Name: SPSA - Regional Landfill Classification: Major/Potential Major  
Address: 1 Bob Foeller Drive Region: TRO  
Report No: 265720

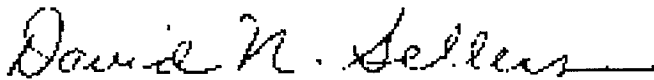
**AIR INSPECTION REPORT****Inspector Comments:**

sources of odor (industrial sources and natural sources) have been investigated, but have not been determined to be significant contributors to the offensive odor.

Mr. Scott Emerson, 228 Holbrook Arch, called February 17, 2010. He said odor has been strong, objectionable, and frequent in his Woodlake North neighborhood recently. He has noticed offensive odor, though not as strong as recently, for a year around Nansemond Parkway between Progress Rd and US 58 Bypass overpass.

Ms Debby Eberhart, 601 Jones St., in Riverview, called February 17, 2010. She notices strong, objectionable odor often when driving on US 58 when winds are generally from the north. Lately she has noticed these odors as far away as her house in the Riverview section of Suffolk which is more than three miles from the landfill.

Mr. Scott Whitehurst, SPSA Landfill Manager, has indicated that they are updating their odor control plan. The plan will be submitted soon to DEQ for review and comment. DEQ will expect that the plan will address options for installing a gas collection system under active Cells VI A and VI B prior to the deadlines specified in federal landfill regulation 40 CFR 60, Subpart WWW. Five years from January 8, 2008 (when Cell VI became active), is prescribed by NSPS and NESHAP Landfill standards as the time by which wells should be operational.



Inspector's Electronic Signature  
Approval Date: Feb 22, 2010



Manager's Electronic Signature  
Approval Date: Feb 24, 2010



## Commonwealth of Virginia

Registration No: 61341

AFS Plant ID: 800-00121

Plant Name: SPSA - Regional Landfill

Classification: Major/Potential Major

Address: 1 Bob Foeller Drive

Region: TRO

Report No: 265720

## INSPECTION CHECKLIST

Permit Date or Basis	#	Requirement Narrative	Observation	Comp Status
12-06-07	VIII	STATE-ONLY ENFORCEABLE REQUIREMENTS. The following terms and conditions are not required under the federal Clean Air Act or under any of its applicable federal requirements, and are not subject to the requirements of 9 VAC 5-80-290 concerning review of proposed permits by EPA and draft permits by affected states. 1. 9 VAC 5 Chapter 50, Part II, Article 2: Standards of Performance for Odorous Emissions. 2. 9 VAC Chapter 50, Part II, Article 3: Standards of Performance for Toxic Pollutants. (9 VAC 5-80-110 N and 9 VAC 5-80-300	Odor complaints have been received at DEQ concerning objectionable odors emanating from the landfill. DEQ inspectors encountered the odors, and determined that the odors were objectionable. DEQ has determined, based on investigation, that the predominant source of the odor is the SPSA Landfill.	Out of Compliance
12-06-07	III.A	LANDFILL OPERATIONS AND FUEL BURNING EQUIPMENT REQUIREMENTS - (emission unit ID# FL-1, GEN-1, GEN-2, GEN-3 and GEN-4) LIMITATIONS. The GCCS System - Prior to December 7, 2004, the permittee installed an active collection and control system, approved by the Administrator to capture gas generated within the landfill. The GCCS at Suffolk Regional Landfill was certified under 40 CFR 60.752 (b) (2) (ii) (A). The active collection system shall be designed to handle the maximum expected gas flow rate from the entire area of the landfill that warrants control over the intended use period of the gas control or	OK. Cell VI in the southwest corner of SPSA Landfill property, has been active since January, 2008. SPSA Landfill gas collection system is required by federal NSPS Subpart WWW to be expanded to include Cell VI by January, 2013. Cell V was completed at about the time Cell VI became active, and has a landfill gas collection well system and cap installed, as do the other cells at the landfill (Cells I to IV).	In Compliance





## Commonwealth of Virginia

Registration No: 61341

AFS Plant ID: 800-00121

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Classification: Major/Potential Major

Address: 1 Bob Foeller Drive

Region: TRO

Report No: 265720

## INSPECTION CHECKLIST

Permit Date or Basis	#	Requirement Narrative	Observation	Comp Status
		of Virginia.	objectionable to individuals	
		C. The provisions of this article do not apply to accidental or other infrequent emissions of odors.	of ordinary sensibility. The determination of objectionable odor has been made after a thorough review of all data or evidence relating to the situation.	
		9 VAC 5-40-140. 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.	The owner shall use such measures as approved by the board for the economically and technologically feasible control of odorous emissions.	
		9 VAC 5-40-150. Determination of violation.		
		A. The determination of objectionable odor shall be made after a thorough review of all data or evidence relating to the situation which may be obtained by an investigation directed by the board. As a part of the investigation, the board, at its discretion, may hold a public hearing in accordance with 9 VAC 5-20-40 A 1 to hear complaints. The investigation may also include use of an odor panel survey and other methods approved by the board, or both.		
		B. Upon determination that an odor violates 9 VAC 5-40-140 the owner shall use such measures as approved by the board for the economically and technologically feasible control of odorous emissions.		