WASTE MANAGEMENT BOARD
Public Notice

An enforcement action has been proposed for Potomac Landfill, Inc. for violations in Prince William County. The action resolves violations of the Virginia Waste Management Act and Regulations. A description of the proposed action is available at the DEQ office named below or online at www.deq.virginia.gov. Sarah Baker will accept comments by e-mail Sarah.Baker@deq.virginia.gov, fax 703-583-3821 or postal mail Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193 from September 7, 2012, through October 6, 2012.

COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
NORTHERN REGIONAL OFFICE
13901 Crown Court, Woodbridge, Virginia 22193
(703) 583-3800 Fax (703) 583-3821

Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

VIRGINIA WASTE MANAGEMENT BOARD
STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
POTOMAC LANDFILL, INC.
FOR
POTOMAC LANDFILL
Solid Waste Permit No. 441

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455 by the Virginia Waste Management Board and under the authority of Va. Code §§ 10.1-1309, and 10.1-1316 by the State Air Pollution Control Board, to Potomac Landfill, Inc., regarding the Potomac Landfill, for the purpose of resolving violations of the Virginia Waste Management Act, the applicable permit and the Waste Regulations, the Virginia Air Pollution Control Law and the Air Regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Air Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.

2. "Boards" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401, and the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10-1-1184 and 10.1-1301.

3. "Construction/Demolition/Debris landfill" or "CDD landfill" means a land burial facility engineered, constructed and operated to contain and isolate construction waste, demolition waste, debris waste, or combinations of the above solid wastes.

4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

6. "Facility" or "Landfill" means Potomac CDD Landfill, located at 3730 Greentree Lane in Dumfries, Virginia, which is owned and operated by Potomac Landfill, Inc.

7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.

8. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.

9. "Order" means this document, also known as a "Consent Order" or "Order by Consent."

10. "Permit" means Solid Waste Permit (SWP) No. 441, which was issued under the Virginia Waste Management Act and the Regulations to Potomac on August 6, 1984.

11. "Potomac" means Potomac Landfill, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Potomac is a "person" within the meaning of Va. Code § 10.1-1400.

12. "Va. Code" means the Code of Virginia (1950), as amended.

13. "VAC" means the Virginia Administrative Code.

14. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

15. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 2 (Va. Code §§ 10.1-1408.1 through -1413.1) of the Virginia Waste Management Act addresses Solid Waste Management.

16. "Waste Regulations" or "VSWMR" means the Virginia Solid Waste Management Regulations, 9 VAC 20-81-10 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

1. Potomac privately owns and operates the Landfill. The Landfill is subject to the Permit which authorizes the operations of a CDD landfill.

2. The Facility has been operated as a CDD Landfill since the Permit was issued. Operations at the Facility are subject to the Virginia Waste Management Act, the Waste Regulations, and the Permit.

3. On August 18, 2011, DEQ staff reviewed a Part A Permit application for lateral expansion submitted by Potomac on April 4, 2011. As a result of this review, DEQ made the following observations:

    a. Topographic contours of the Landfill, as surveyed September 14, 2010, were provided on the Near Vicinity Map included with the Part A Permit application and identified a large area on top of the Landfill with elevations exceeding 195 feet above mean sea level (ft amsl).

    b. The Closure and Post-Closure Care Plan (Permit Attachment XII-1 of the Part B Permit) incorporated into the Permit on September 3, 2010, identifies the final elevation as 195 ft amsl.

    c. A Part A Permit application for vertical expansion of the existing 40 acre landfill area was approved April 22, 2003, and limited the maximum final elevation of the Landfill to 195 ft amsl.

4. 9 VAC 20-81-100(B) requires that all solid waste disposal facilities shall be maintained and operated in accordance with the permit issued pursuant to this regulation, and in accordance with the approved design and intended use of the facility.

5. On August 19, 2011, based on the review and follow-up information, the Department issued a Notice of Violation to Potomac for the violations described in paragraphs C(3) through C(4), above.

6. In September, 2011, in response to citizen complaints, DEQ staff began an investigation of odors at the Landfill. Through multiple site visits, DEQ confirmed the presence of strong odors associated with the generation of landfill gases containing Hydrogen Sulfide (H_2S). On October 13, 2011, DEQ conducted sampling of H_2S levels at the Landfill and measured seven (7) readings ranging from 15 parts per million (ppm) to the highest range of the meter, 50 ppm.

7. 9 VAC 20-81-140(A)(10) requires that odors shall be effectively controlled so they do not constitute nuisances or hazards.

8. 9 VAC 5-40-140 states that 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.

9. On September 15, 2011, Potomac notified DEQ of a leachate overflow into a sediment basin at the southwestern corner of the Facility. In an effort to contain the contaminated stormwater, Potomac treated the basin with lime and pumped it onto the top of the Landfill to recirculate the leachate to the leachate collection system.

10. On September 16, 2011, Department staff inspected the Facility for compliance with the requirements of the Virginia Waste Management Act, the Waste Regulations and the

Permit. Based on the inspection and follow-up information, Department staff made the following observations:

a. A pond of leachate had formed in the middle of the Phase 3 area which is unlined;

b. The Permit did not authorize recirculation of leachate;

c. Waste was exposed along an interior road and along the southern slope of the Landfill at areas that were not disturbed for more than a week.

11. 9 VAC 20-81-210(D)(3) prohibits leachate recirculation on areas that are unlined and if it causes runoff, ponding, or nuisance odors.

12. 9 VAC 20-81-140(C)(1) requires that compacted soil cover is applied as needed for safety and aesthetic purposes and that a minimum of one-foot thick progressive cover shall be maintained weekly such that the top of the lift is fully covered at the end of the work week.

13. On September 29, 2011, Prince William County Service Authority (PWCSA) identified elevated levels of H_2S concentrations in the leachate being pumped into the sanitary sewer. These elevated levels stemmed from Potomac's leachate pre-treatment system failing to sufficiently treat the leachate. On October 4, 2011, after PWCSA continued to observe elevated levels of H_2S concentrations, PWCSA issued a Notice of Suspension of Sewer Services to Potomac.

14. Potomac's Odor Management Plan (OMP, Permit Attachment II-5 of the Part B Permit) requires Potomac to implement remedial actions upon identification of odors, including repairs to leachate management system components.

15. On October 13, 2011, based on the odor investigation, the September inspection and follow-up information, the Department issued a NOV to Potomac for the violations described in paragraphs C(6) through C(14), above.

16. On October 21, 2011, Potomac submitted a written response to the NOV.

17. Based on the results of the August 18, 2011 Permit application review, Facility Records, the September 16, 2011, and October 13, 2011, inspections, and the documentation submitted by Potomac on October 21, 2011, the Boards conclude that Potomac has violated Part A and Part B of the Permit, 9 VAC 20-81-100(B), 9 VAC 20-81-140(A)(10), 9 VAC 5-40-140, 9 VAC 20-81-210(D)(3), and 9 VAC 20-81-140(C)(1), as described in paragraphs C(3) through C(16), above.

18. Potomac has submitted documentation that verifies that the violations described in paragraphs C(10.c) above, has been corrected.

19. In order for Potomac to address the violations at the facility, DEQ staff and Potomac have agreed to the Schedule of Compliance which is incorporated as Appendix A of this Order. The Schedule of Compliance provides for a specified time period of 60 months from the effective date of this Order for which waste material at the landfill, including temporary stockpiles, will exceed 195 ft amsl. After the 60 month period, the Permit shall be the controlling document for height limitations.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1455, 10.1-1309, and 10.1-1316, the Boards order Potomac and Potomac agrees to:

1. Perform the actions described in Appendix A of this Order; and

2. Pay a civil charge of $50,000.00 in settlement of the violations cited in this Order. The civil charge shall be paid in accordance with the following schedule:

Due Date	Amount
April 1, 2013	$25,000 or balance
October 1, 2013	$25,000 or balance

3. If the Department fails to receive a civil charge payment pursuant to the schedule described above, the payment shall be deemed late. If any payment is late by 30 days or more, the entire remaining balance of the civil charge shall become immediately due and owing under this Order, and the Department may demand in writing full payment by Potomac. Within 15 days of receipt of such letter, Potomac shall pay the remaining balance of the civil charge. Any acceptance by the Department of a late payment or of any payment of less than the remaining balance shall not act as a waiver of the acceleration of the remaining balance under this Order.

4. All 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, Virginia 23218

Potomac 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 Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

SECTION E: Administrative Provisions

1. Either of the Boards may modify, rewrite, or amend this Order with the consent of Potomac for good cause shown by Potomac, 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 Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude either of the Boards 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 Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, Potomac admits the jurisdictional allegations, and agrees not to contest, but neither admits nor denies, the findings of fact, and conclusions of law in this Order.

4. Potomac consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

5. Potomac declares it has received fair and due process under the Administrative Process Act, the Virginia Waste Management Act, and the State Air Pollution Control Law, 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 either of the Boards to modify, rewrite, amend, or enforce this Order.

6. Failure by Potomac to comply with any of the terms of this Order shall constitute a violation of an order of the Boards. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by either of the Boards 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 Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Potomac shall be responsible for failure to comply with any of the terms and conditions of this 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. Potomac shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Potomac 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 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.

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 Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and Potomac. Nevertheless, Potomac agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until:

a. The Director or his designee terminates the Order after Potomac has completed all of the requirements of the Order;

b. Potomac petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or

c. the Director or either of the Boards terminates the Order in his or its sole discretion upon 30 days' written notice to Potomac.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Potomac 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 Potomac and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.

13. The undersigned representative of Potomac certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Potomac to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Potomac.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Potomac voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2012.

_____
Thomas A. Faha, Regional Director
Department of Environmental Quality

Potomac Landfill, Inc. voluntarily agrees to the issuance of this Order.

Date: 9/4/12 By: Sandra Crippen C.E.O.
(Person) (Title)
Potomac Landfill, Inc.

Commonwealth of Virginia
City/County of Prince William

The foregoing document was signed and acknowledged before me this 4th day of September, 2012, by Sandra L. Crippen who is CEO of Potomac Landfill, Inc., on behalf of the corporation.

Kelly L. Dettra
Notary Public

127719
Registration No.

My commission expires: 6/30/13

Notary seal:

APPENDIX A
SCHEDULE OF COMPLIANCE

ELEVATION

1. Potomac shall comply with the Waste Removal Plan (Plan) submitted by Potomac on June 12, 2012, revised on July 3, 2012, and approved by DEQ on July 17, 2012. Said Plan shall be an enforceable part of this Order and Potomac shall not alter, amend, or cease implementation of the Plan without prior approval from DEQ. Potomac shall remove the waste material above 195 ft amsl within 60 months of the execution of this Order and shall meet the following milestones:

    a. Within 12 months of the effective date of this Order, Potomac shall remove 26,000 cubic yards of waste material above 195 ft amsl;
    b. Within 36 months of the effective date of this Order, Potomac shall have removed a total of 130,000 cubic yards of waste material above 195 ft amsl;
    c. Within 60 months of the effective date of this Order, Potomac shall remove and properly manage the waste material above 195 ft amsl. After that time, no waste shall remain or be placed above 195ft amsl, except in accordance with a permit issued by DEQ.
    d. The total volume of waste material to be removed is approximately 260,000 cubic yards based on the 2010 topography, amended March 2012, and calculated using AutoCAD.

    Potomac shall submit a report to DEQ documenting its compliance with the Waste Removal Plan and schedule. Said report shall be due March 31st following each milestone year.

2. At no time during the schedule set forth in the Plan shall waste exceed 230 ft amsl.

3. In addition to all other financial assurance required for the Facility, Potomac shall maintain financial assurance for all stockpiles above 195 ft amsl sufficient to meet the requirements of the Virginia financial assurance regulations and DEQ financial assurance guidance, including Guidance Memos LPR-SW-04-2011 and LPR-SW-17-2002.

4. If Potomac wishes to reuse or store soil outside of the waste management boundary, the facility must follow a DEQ approved Soil Management Plan. Said Plan shall be an enforceable part of this Order and Potomac shall not alter or amend the Plan without prior approval from DEQ.

5. "Soil" and "Waste" as referenced herein shall be defined as set forth in Module I of the Permit.

6. In the event that DEQ issues an approved Permit that authorizes vertical expansion of the landfill, Potomac will be relieved of the obligation to comply with conditions 1 and 2 of this Appendix.

ODOR MANAGEMENT

7. Potomac shall maintain daily records of wind direction, wind speed, barometric pressure, humidity, temperature, and rainfall amounts at the Facility. Records will be kept on site for a minimum of one year and will be provided to the Department upon request.

8. Within 120 days of execution of this Order, Potomac shall submit an updated odor monitoring plan for monitoring H_2S. Said revised plan shall include three (3) additional monitoring locations within the property boundary. The odor monitoring plan shall include contingency planning for offsite monitoring in the event that onsite monitoring at the facility boundary detects hydrogen sulfide above 0.010 ppm, a local citizen complaint is received or upon notification from the Department or the Town of Dumfries. Potomac shall commence monitoring upon Department approval of the revised plan.

9. Within 120 days of execution of this Order, Potomac shall submit procedures to regenerate and zero the Jerome H_2S analyzer before taking H_2S field measurements. Potomac shall also submit a program to quality assure the data collected by the Jerome H_2S analyzer. The program shall meet the quality assurance and maintenance recommendations of the instrument manufacturer. The quality assurance program for the Jerome H_2S analyzer must include at a minimum: 1) challenging the instrument daily with known concentrations of H_2S, and 2) annual factory calibrations. Upon Department approval of the procedures and program, Potomac shall implement them at the facility.

10. Potomac shall document all monitoring results required by the odor management plan on a daily basis. Potomac shall submit a report to the Department on a monthly basis including copies of all daily monitoring logs, daily calibration logs, and odor complaints received by Potomac. Said report shall be due by the 10th of the month following the month the data is collected.

11. Within 120 days of execution of this Order, Potomac shall submit an updated management plan indicating that 5 business days prior to using new odor control chemistry(s), other than those currently listed in the odor management plan, Potomac shall notify and provide to the Department the Material Safety Data Sheets (MSDS) along with any field studies conducted by the manufacturer, and information about the delivery method to be used for the chemicals at the facility.

12. Within 120 days of execution of this Order, Potomac shall submit an updated odor management plan which upon DEQ approval shall become incorporated into this Order. This plan shall include a tiered approach to managing odors and shall include as a potential remedy, the installation and use of an odor remediation system. Potomac shall

not alter, amend, or cease implementation of the plan or gas remediation system without prior approval of the Department

LEACHATE TREATMENT

13. Potomac shall submit for approval a leachate pre-treatment plan which includes plans for handling excess leachate, revised chemical treatment procedures and a copy of the new agreement with Prince William County Service Authority. The plan will include a statement that the facility will pump and haul leachate and leachate-contaminated stormwater when the leachate pre-treatment system is unable to handle excessive volumes of leachate. The pre-treatment plan shall ensure that the pre-treatment system is adequately designed to handle the volume of leachate generated based upon historical pumping records. In the absence of pumping records, the HELP model will be used to estimate leachate generation quantities.

14. Potomac shall notify the Department within one (1) business day of detecting an equipment failure. Said notification shall include an estimate for when equipment repairs shall be completed and Potomac shall notify the Department within one (1) business day of when it was resolved.

MINING

15. Within 120 days of the effective date of this Order, Potomac shall submit a separate, updated landfill mining plan for DEQ review and approval which meets the requirements of 9 VAC 20-81-385. Potomac shall update and revise the plan, as necessary, to reflect the current conditions and activities at the Facility including actions or steps to keep the facility in compliance with the Permit.

16. When (1) H_2S concentrations above 0.010 ppm are detected at the facility boundary; (2) a local citizen complaint is received; or (3) upon notification from the Department or the Town of Dumfries, Potomac shall investigate and verify the presence of H_2S offsite and determine if the landfill is the source. If the landfill is the source of the odors, then Potomac shall apply odor controlling chemistry to or cover the areas determined to be odor sources. If H_2S concentrations continue at or above 0.010 ppm at the facility boundary after 6 hours, Potomac shall apply one foot of clean, compacted soil to the area identified as the odor source. If the working face is identified as the source of odors, the working face shall be covered with one foot of clean, compacted soil and relocated. The identified area will be monitored at least every two hours until the H_2S levels fall below the 0.010 ppm. Use of approved alternate progressive covers shall be suspended during these periods. Potomac shall document the investigation and its outcome and submit a written report (email is acceptable) to the Department and the Town of Dumfries within three (3) business days of concluding the investigation.

PERMIT

17. Potomac will update its Part B Permit to incorporate all comments, plans, and actions from this Order. Sections that require creating or updating at a minimum include: Odor Management Plan, Leachate Pre-Treatment Plan, Mining Plan, Soil Management Plan, Closure and Post-closure Plans. The Permit shall be the controlling document for height limitation after the 60 month period.

18. If Potomac wished to manage temporary stockpiles above 195 ft amsl after 60 months from execution of this Order, and the Permit has not been modified as stated in paragraph 6, Potomac shall submit an updated Mining Plan and Soil Management Plan to DEQ for review and approval.