



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

Division of Solid Waste Management
Fifth Floor, L & C Tower
401 Church Street
Nashville, Tennessee 37243 – 1535

January 12, 2011

Steve Field, Chairman
Loudon County
Solid Waste Disposal Commission
100 River Road #106
Loudon, TN 37774

CERTIFIED MAIL #7003 1680 0005 5764 6020
RETURN RECEIPT REQUESTED

Santek Environmental, Inc.
c/o Kenneth Higgins
650 25th Street
Cleveland, TN 37311

CERTIFIED MAIL #7003 1680 0005 5764 6037
RETURN RECEIPT REQUESTED

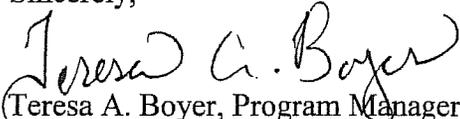
**RE: CASE NO. SWM10-0009
SNL 53-0203 (MATLOCK BEND LANDFILL)**

Dear Mr. Field and Mr. Higgins:

Enclosed please find an Order and Assessment issued to the Loudon County Solid Waste Disposal Commission and Santek Environmental, Inc. by the Tennessee Department of Environment and Conservation, Division of Solid Waste Management. Please read it carefully and pay special attention to the NOTICE OF RIGHTS section.

If you or your attorney have any questions, please feel free to call me at (615) 532-0814.

Sincerely,


Teresa A. Boyer, Program Manager
Enforcement Section
Division of Solid Waste Management

cc: Larry Cook, DSWM/KEFO
Enforcement file

**STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION**

IN THE MATTER OF:)	DIVISION OF SOLID WASTE
)	MANAGEMENT
LOUDON COUNTY SOLID WASTE)	
DISPOSAL COMMISSION and)	CASE NO. SWM10-0009
SANTEK ENVIRONMENTAL, INC.)	
)	
RESPONDENTS)	

DIRECTOR'S ORDER

PARTIES

I.

James H. Fyke is the duly appointed Commissioner of the Department of Environment and Conservation and among other duties and responsibilities he is charged with the responsibility for administering and enforcing the *Tennessee Solid Waste Disposal Act* (hereinafter the "Act"), Tennessee Code Annotated §68-211-101 *et seq.* Mike Apple is the duly appointed Director of the Division of Solid Waste Management (hereinafter the "Division"). He has received written delegation from the Commissioner to administer and enforce particular aspects of the Act.

II.

The Loudon County Solid Waste Disposal Commission (hereinafter "LCSWDC" or "Respondent") is the owner of the Loudon County Class I Solid Waste Disposal facility, SNL 53-0203 (hereinafter the "facility"). The facility is also known as the

Matlock Bend Landfill. Process may be served on the Loudon County Solid Waste Disposal Commission as follows: Steve Field, Chairman, Loudon County Solid Waste Disposal Commission, 100 River Road #106, Loudon, TN 37774.

III.

Santek Environmental, Inc. (hereinafter "Santek" or "Respondent") is the operator of the facility. Santek's agent for service of process is Kenneth Higgins, 650 25th Street, Cleveland, TN 37311.

JURISDICTION

IV.

When provisions of the Act are not being complied with, the Commissioner or his representative is authorized by T.C.A. §68-211-112 to issue orders for correction to the responsible person. Further, T.C.A. §68-211-117 gives the Commissioner or his authorized representative the authority to assess damages and civil penalties against any person who violates any provision of the abovementioned Act or any rule, regulation, or standard adopted pursuant to said Act.

V.

The Respondents are "persons" within the meaning of T.C.A. §68-211-103.

FACTS

VI.

On August 7, 1997 LCSWDC was issued a permit for the construction, operation, closure and post closure monitoring and maintenance of a Class I solid waste disposal facility. The facility is located on the north side of Interstate 75 on Highway 72 North about five miles west of the City of Loudon. Santek operates the facility for LCSWDC.

VII.

On February 23, 2010, Division personnel conducted an inspection at the facility and discovered "leachate free flowing into ditch system". As a result of the inspection, on February 24, 2010, the Division issued a Notice of Non-Compliance to the LCSWDC.

The Notice of Non-Compliance stated, in part:

The Division directs immediate collection of leachate observed free flowing. Pumping capabilities must be established and maintained to recover all impacted liquids. All impacted liquids must be directed to leachate permanent holding tanks, temporary tanks, or tankers and hauled to the local waste water treatment plant. Proper access to observe the site ditch system must be constructed enabling the inspector to properly observe the condition of liquids for the full length of the ditch system into the pond. Pond liquids must be sampled to determine if it has been impacted and if so must be pumped. The leachate lines must be excavated and inspected to determine if they are clogged or improperly constructed. All excavated materials must be properly placed inside the working face and covered with daily cover. All wastes over the rain flap into the non-active waste newly constructed cell must be pulled back into the active cell without damaging the liner. All leachate outbreaks must be covered with clean soils. Any seeps that cannot be stopped must be fitted with collection pipe, contained and not allowed to run into the stormwater ditch system.

The Notice of Non-Compliance scheduled a Compliance Review Meeting for March 5, 2010.

VIII.

On March 5, 2010, the Division conducted a Compliance Review Meeting with LCSWDC. As a result of that meeting, on March 12, 2010, the Division sent a proposed Compliance Agreement to LCSWDC. The Compliance Agreement stated, in part:

As agreed, the following actions must be taken to bring your disposal site into compliance with the Tennessee Solid Waste Disposal Act.

- (1) Facility placed an additional basin in line with leachate lines to allow for sediment to drop out and for the lines to remain operable and unclogged. This structure must be formally requested as a minor modification and plan drawings showing locations must accompany the minor permit modification request. The request should be received by the Knoxville Field Office by April 12, 2010.
- (2) The leachate lines were related during our March 5th meeting as recently been jetted and unclogged. The maintenance item must occur as a normal part of ongoing operations. The lines must remain to flow freely. This item is understood as already completed.
- (3) Fresh daily or intermediate cover must be applied at the site. Some improvement has been identified although additional cover is still necessary. The Division will conduct a follow-up inspection for this on or after March 29, 2010.
- (4) Additional ditch maintenance (shape, width and cleaning of sediments) must be conducted. An engineered ditch system with acceptable base grade and check dams must be established along the pond. The Division will conduct a follow-up inspection for this on or after April 12, 2010.
- (5) The sediment pond must be cleaned and design capacity must be re-established. The Division will conduct a follow-up investigation for this on or after April 12, 2010.
- (6) Pond sample results must be sent under cover letter to the Division of Water Pollution with a copy provided for the Knoxville Field Office facility file. The Division requests this item to be completed by March 29, 2010.

The Compliance Agreement was returned to the Division signed and dated March 15, 2010. All corrective actions established in the Compliance Agreement had been corrected by June 21, 2010.

IX.

On August 18, 2010, Division personnel conducted an inspection at the site and observed outbreaks of leachate continuing after several remedial efforts. As a result of continuing leachate outbreaks, additional design and system modification was performed by the Respondents.

X.

On August 25, 2010, Division personnel conducted a follow-up inspection during the installation of a cleanout pipe and discovered that some progress had been made. However, there were "still wet leachate spots above open pit construction area and a couple upon older slope to be fixed".

XI.

On or about November 3, 2010, a slope failed at the facility releasing approximately 100,000 cubic yards of waste to the environment. Some of the waste was released outside of the permitted footprint. However, none of the waste escaped the property boundaries. The rear edge of the failure occurred at approximately the same location of a slide that occurred on or about July 2009. The leading edge of the slide involved the front toe of the waste, where the leachate outbreaks were most frequently

observed during the 2010 inspection year. On November 3, 2010, after the Respondents had reported the slope failure, Division personnel conducted an inspection and discovered that the Respondents had begun corrective action by building a retaining berm and by pulling the waste into another lined area of the facility. Pumps were placed on the site to direct any impounded liquids to the leachate lines. As a result of this inspection, on November 5, 2010, the Division issued a Notice of Non-Compliance to the LCSWDC scheduling a Compliance Review Meeting for November 10, 2010. The Notice of Non-Compliance stated, in part:

The Division directs immediate collection of wastes off certified, engineered liner footprint. Pumping capabilities must be established and maintained to recover all impacted liquids. All impacted liquids must be directed to leachate permanent holding tanks, temporary tanks, or tankers and hauled to the local waste water treatment plant. All excavated recovered materials must be properly placed inside the separate cell and covered with daily cover, keeping extreme care in the bottom most lift to prevent and large bulky or sharp items from damaging the liner.

The Division directs a root-cause investigation and assessment for the MSW fill failure, with a subsequent plan on how to fix and stabilize the cell the waste fell from and/or what operational/design elements, or waste handling practices will be changed. A compliance agreement will set a completion by date however some plans on the operator-owner behalf should begin by the time of the meeting to relate the expertise of those that will perform this task.

XII.

On November 10, 2010, the Division conducted a Compliance Review Meeting with Respondents. During the course of the meeting, the Respondents discussed mitigative measures. On December 3, 2010, the Respondents presented a proposed Investigation and Assessment Strategy to determine the cause of the failure and determine any impacts to the facility.

XIII.

As a result of Respondents' violations the Division has incurred expenses in the amount of TWO THOUSAND ONE HUNDRED FIFTY SEVEN DOLLARS AND NINETY SIX CENTS (\$2,157.96).

VIOLATIONS

XIV.

By allowing the release of solid waste and solid waste constituents to the environment, the Respondents have failed to comply with Division Rule 1200-1-7-.04(2)(a)3. This is a violation of T.C.A. §§68-211-104 (3), and (4).

T.C.A. §§68-211-104(3) and (4) provide:

It is unlawful to:

- (3) Construct, alter or operate a solid waste processing or disposal facility or site in violation of the rules, regulations, or orders of the commissioner on in such a manner as to create a public nuisance:
or
- (4) Transport, process or dispose of solid waste in violation of this chapter, the rules and regulations established under the provisions of this chapter or in violations of the orders of the commissioner or board.

Division Rule 1200-1-7-.04(2)(a)3. states:

- (a) Overall Performance Standard – The facility must be located, designed, constructed, operated, maintained, closed, and cared for after closure in such a manner as to minimize to the extent practicable:
 - (3) The potential for releases of solid wastes, solid waste constituents, or other potentially harmful materials to

the environment except in a manner authorized by state and local air pollution control, water pollution control, and/or waste management control agencies.

XV.

By failing to design, construct, operate, and maintain an adequate run-on/run-off system at the facility and by failing to control erosion at the facility, the Respondents have failed to comply with Division Rule 1200-1-7-.04(2)(i). This is a violations of T.C.A. §§68-211-104(3) and (4).

Division Rule 1200-1-7-.04(2)(i). states:

1. The operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the facility for all flow up to and including peak discharge from a 24 hour, 25-year storm.
2. The operator must design, construct, operate and maintain a run-off management system to collect and control at least the peak flow volume resulting from a 24 hour, 25 year storm.
3. Holding facilities (e.g. sediment basins) associated with run-on and run-off control systems must be designed to detain at least the water volume resulting from a 24 hour, 25 year storm and to divert through emergency spillways at least the peak flow resulting from a 24 hour, 100 year storm.
4. Collection and holding facilities associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.
5. The operator must take other erosion control measures (e.g., temporary mulching or seeding, silt barriers) as necessary to control erosion at the site.

ORDER AND ASSESSMENT

XVI.

WHEREFORE, PREMISES CONSIDERED, pursuant to the authority vested by T.C.A. §68-211-112 and §68-211-117 of the Act, I, Mike Apple issue the following ORDER AND ASSESSMENT.

1. The Respondents shall immediately begin to correct the violations listed in the ORDER, in accordance with the Solid Waste Disposal Act, Division Rules and Regulations, Chapter 1200-1-7, and the terms and conditions set out in its permit.
2. The Respondents shall immediately repair all leachate seeps.
3. The Respondents shall immediately take steps necessary to prevent stormwater flow onto the facility by designing, operating, and maintaining a run-on/run-off control system.
4. The Respondents shall immediately institute and maintain measures to control erosion at the site.
5. On or before February 14, 2011, the Respondents shall submit, an Assessment of the root cause of the slope failure. Such Assessment shall be prepared by a third party and shall include, but not be limited to, all existing engineering studies, all structural integrity analyses, results of previous investigations, and any documents that discuss the potential for slope failure and the ultimate cause of the slope

failure. Further the Assessment Report shall include recommendations for corrective actions and preventative actions. The Assessment Report and recommendations for corrective action shall include the following:

(a.) Assessment Report

- (1) Develop cross-sections of area prior to the November 2, 2010 slide
- (2) Perform slope stability calculations and assess sensitivity to liquid levels, location and orientation of weak interface and waste/sludge strength
- (3) If necessary, develop and implement a subsurface investigation report, including the installation of piezometers
- (4) Confirm the integrity of the anchor trench system and the liner system
- (5) Confirm the operation of the leachate collection system
- (6) Prepare a summary report of the findings

(b.) Short-term Recommendation

- (1) Recommendations regarding the grading and placement of interim cover
- (2) Monitoring and investigation recommendations
- (3) Recommendations regarding stabilization berm(s)

(c.) Long-term Recommendations

- (1) Modifications to operations and design of the current Modules G and B as a result of the slide
 - (i) Potential staging of waste placement
 - (ii) Modifications to leachate collection system
 - (iii) Construction of stabilizing berm(s)

- (iv) Control of storm water run-on.
 - (2) Recommendations regarding handling and management of sludge from various sources.
 - (3) Recommendations for the modification of the design and operation of the proposed expansion area. The review of the current application is suspended until the recommended modifications are submitted.
6. Immediately following the Division's review of the Assessment to determine if the methods of investigation are sufficient and the results are conclusive and the approval of the recommendations, the Respondents shall begin implementing the recommendations in accordance with the schedule of implementation established by the Division.
7. The Respondents are hereby assessed DAMAGES in the amount of TWO THOUSAND ONE HUNDRED FIFTY SEVEN DOLLARS AND NINETY SIX CENTS (\$2,157.96) to be paid to the State within thirty (30) days of the receipt of this ORDER.
8. The Respondents are hereby assessed a CIVIL PENALTY in the amount of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) to be paid as follows:
- A. FIVE THOUSAND DOLLARS (\$5,000.00) shall be paid to the Department within thirty (30) days of the receipt of this ORDER.

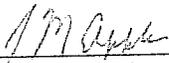
B. The remaining TWENTY THOUSAND DOLLARS (\$20,000.00) shall be due and payable to the Department within one hundred eighty (180) days after the date this ORDER is received. However, if the Division Director is satisfied that the Respondents have timely complied with each and every term and condition of this ORDER, this portion of the CIVIL PENALTY shall be waived. The full TWENTY THOUSAND DOLLARS (\$20,000.00) shall remain due and payable unless a written waiver is given to the Respondents by the Director of the Division.

C. Payment of the CIVIL PENALTY and DAMAGES should reference Case No. SWM10-0009, be made payable to the "Treasurer, State of Tennessee" and sent to the Division of Solid Waste Management, ATTN: Teresa A Boyer, 5th Floor, L&C Tower, 401 Church Street, Nashville, TN 37243-1535.

9. Extensions of a deadline provided in this ORDER may be granted by the Director in advance of the deadline if the Respondent demonstrates in writing to the satisfaction of the Director that there is good cause for an extension of the deadline

In issuing the foregoing ORDER AND ASSESSMENT, the Director does not implicitly or expressly waive any provisions of the Act or regulations promulgated thereunder. Compliance with the provisions of this ORDER AND ASSESSMENT will be considered as a mitigating factor in determining the need for future enforcement action(s).

Issued this 12th day of JANUARY, 2011, in the Office of the Director of the Division of Solid Waste Management, Tennessee Department of Environment and Conservation.



Mike Apple, Director
Division of Solid Waste Management
Tennessee Department of Environment
and Conservation

NOTICE OF RIGHTS

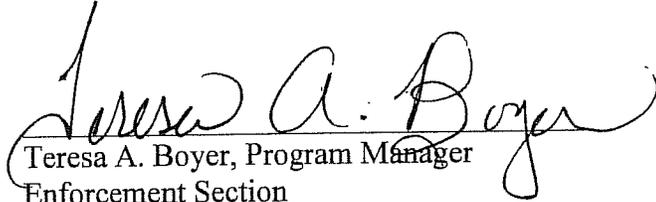
Tennessee Code Annotated §68-211-113 allows the Respondent to secure review (appeal) of this Order and Assessment. To do so a written petition setting forth the grounds (reasons) for requesting a hearing before the Solid Waste Disposal Control Board must be RECEIVED by the Department within THIRTY (30) DAYS of the date the Respondent received the Order and Assessment or it will become final (not subject to review).

Artificial Respondents (corporations, limited partnerships, limited liability companies, etc.) cannot engage in the practice of law. They may secure review (appeal) before the Solid Waste Disposal Control Board only through an attorney licensed to practice law in Tennessee. Natural Respondents may represent themselves or be represented by an attorney licensed to practice law in Tennessee. Low-income individuals may be eligible for representation at no cost or reduced cost through a local bar association or legal aid organization.

Any hearing of this case before the Board will be a contested case hearing governed by T.C.A. §4-5-301 *et seq.* (the Uniform Administrative Procedures Act) and the Department of State's Uniform Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies. Such hearings are in the nature of a trial before the Board sitting with an Administrative Law Judge. The Respondent may subpoena witnesses to testify.

At the conclusion of a hearing the Board has the authority to affirm, modify, or deny the Order and Assessment. This includes the authority to modify the penalty within the statutory confines (from \$5,000.00 per day per violation). Furthermore, the Board has the authority to assess additional damages incurred by the Department including, but not limited to, all docketing expenses associated with the setting of the matter for a hearing and the hourly fees incurred due to the presence of an administrative law judge and a court reporter.

Any petition for review (appeal) or correspondence regarding this matter must be directed to Teresa A. Boyer, L & C Tower, 5th Floor, 401 Church Street, Nashville, TN 37243-1535, or call (615) 532-0814. The Case Number should be written on all correspondence regarding this matter.

A handwritten signature in black ink that reads "Teresa A. Boyer". The signature is written in a cursive style with a large initial "T" and a long, sweeping underline.

Teresa A. Boyer, Program Manager
Enforcement Section
Division of Solid Waste Management
Tennessee Department of Environment and
Conservation