

December 17, 2009

Certified Mail
Return Receipt Requested
Electronic Mail

Hon. John P. Hagood, Director
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

Hon. A. Stanley Meiburg, Acting Regional Administrator
U.S. Environmental Protection Agency-Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-3104

Re: **Complaint regarding offsite discharge of contaminated water at Arrowhead Landfill
Perry County Associates, LLC, SWDF Permit No. 53-03**

Dear Messrs. Hagood and Meiburg:

On July 13, 2009, aerial reconnaissance of the Arrowhead Landfill provided by *Southwings* identified a pump that had been used to remove contaminated water from a depression adjacent to an active cell. Hose placement indicates that the contaminated water was discharged into a sediment pond. A portion of the contaminated water and sediments was discharged from the sediment pond through a culvert into a ditch alongside County Road 1. See Photo MG2889 by *John Wathen* (attached; link to high resolution photo at <https://acrobat.com/#d=vPbem-nHtTwSqYO7wKwgZg>). That ditch then crosses beneath County Road 1 and enters a headwater of Chilatchee Creek. See USGS Topographic Map (attached). Sediment is visible in the headwater of Chilatchee Creek.

On December 10, 2009, aerial reconnaissance of the Arrowhead Landfill provided by *Southwings* identified a pump that had been used to remove leachate collected at the bottom of an active cell and a pump that had been used to remove contaminated water from an inactive cell. Hose placement indicates that the leachate and contaminated water was discharged onto the haul road bordering the landfill cells at the Landfill. At least three bulldozers can be seen spreading fresh dirt on the haul road. See Photos MG7487 and MG7549 by *John Wathen* (attached; link to high resolution photos at <https://acrobat.com/#d=F8GHAnanMy95fJCoiKfseg> and <https://acrobat.com/#d=WrcyZSkk45aIQre7O5qe9g>). Some portion of the contaminated water flowed to a point where it left the haul road and entered a ditch alongside County Road 1. That ditch then crosses beneath County Road 1 and enters a headwater of Chilatchee Creek. Sediment is visible in the headwater of Chilatchee Creek.

During the evening of December 15, 2009, Perry County Associates, LLC pumped contaminated water from a ditch bordering the Arrowhead Landfill onto a haul road bordering the landfill cells at the Landfill. See Photos PC158731 and PC158733 by *John Wathen* (attached). Some portion of the contaminated water then flowed to a point where it left the haul road, see Photos PC158768 and PC158736 by *John Wathen* (attached), and entered a ditch alongside County Road 1. See Photos PC158756, PC157863 and PC158753 by *John Wathen*. That ditch then crosses beneath County Road 1 and enters a headwater of Chilatchee Creek. Sediment is visible in the headwater of Chilatchee Creek.

In addition to the above-mentioned incidents, local residents report frequent offsite discharges during nighttime hours.

Ala. Admin. Code R. 335-13-4-.21(d) provides that “[t]he landfill unit shall be operated in such a manner that there will be no water pollution or unauthorized discharge.”

Ala. Admin. Code R. 335-13-4-.17(3) provides:

Run-off from the active and/or closed portions of the landfill unit must be handled in accordance with 335-13-4-.01(2)(a), and (b) and shall be routed to a settling basin or other sedimentation control structure to remove sediment prior to release onto adjacent properties or waters.

Ala. Admin. Code R. 335-13-4-.02(2)(a) provides:

A facility shall not cause a discharge of pollutants into waters of the State, including wetlands, that is in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES), Alabama Water Pollution Control Act, Code of Alabama 1975, §§ 22-22-1 to 22-22-14 and/or section 404 of the Clean Water Act, as amended.

Ala. Admin. Code R. 335-13-4-.21(1)(a) provides that “[t]he operation and use of the landfill unit shall be as stipulated in the permit.” Section II. D. of Solid Waste Disposal Facility Permit No. 53-03 provides *inter alia*:

The Permittee shall operate the disposal facility in such a manner that there will be no water pollution or unauthorized discharge

Section VII of Solid Waste Disposal Facility Permit No. 53-03 provides *inter alia*:

The Permittee must collect and dispose of any leachate that is generated at the facility, and the leachate must be managed at a facility permitted to treat leachate.

40 C.F.R. §258.26 provides:

(a) Owners or operators of all MSWLF units must design, construct, and maintain:

* * *

(2) A run-off control system from the active portion of the landfill to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

“Run-off means any rainwater, leachate, or other liquid that drains over land from any part of a facility.” 40 C.F.R. § 258.2. “Leachate means a liquid that has passed through or emerged from solid waste and contains soluble, suspended, or miscible materials removed from such waste.”

It is apparent that Perry County Associates, LLC is not managing leachate and contaminated water properly. Intentional discharges of pollutants to ditches that enter the headwater of Chilatchee Creek is unlawful and has contaminated the property of nearby residents. This contamination has resulted in offensive odors and deprived the residents of the beneficial use of the headwater of Chilatchee Creek. Despite numerous inspections of the landfill by ADEM and EPA, no Notices of Violation or other enforcement actions have been taken regarding these discharges.

On behalf of residents living near the landfill, I request that ADEM and/or EPA thoroughly investigate these allegations, including the issuance of investigatory subpoenas to compel sworn testimony from landfill personnel responsible for pump operation and hose placement, and take appropriate enforcement action against Perry County Associates, LLC for violations.

Sincerely,



David A. Ludder



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Arrowhead 12.09

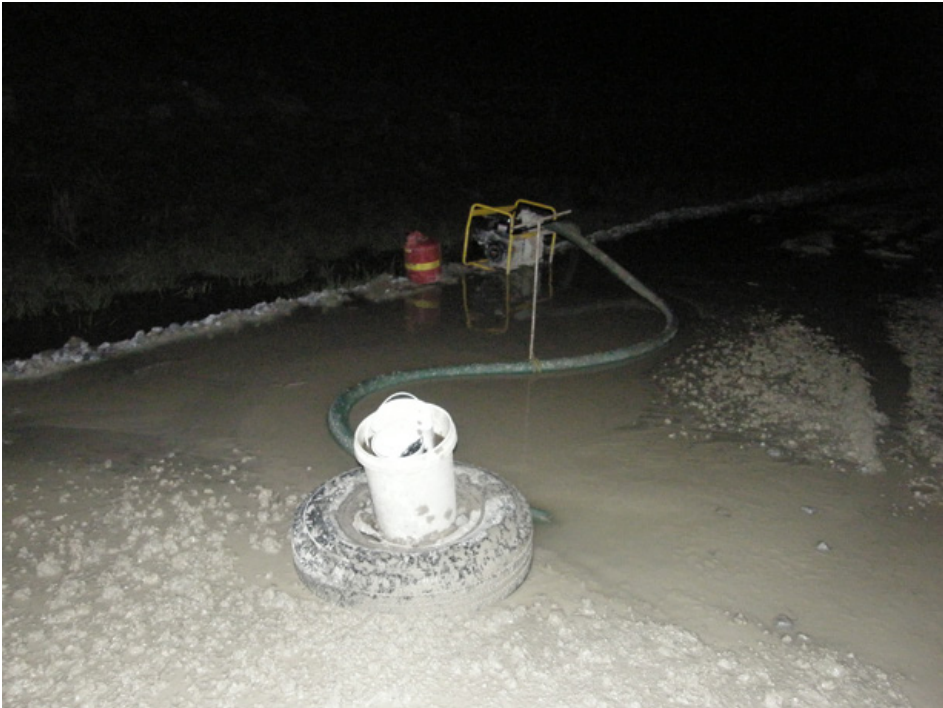


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PC158731.jpg



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PC158753.jpg

