

June 18, 2014

Certified Mail - Return Receipt Requested

Advanced Disposal Services Eagle Bluff Landfill, Inc.
125 South 84th Street, Suite 175
Milwaukee, Wisconsin 53214-1499

Certified Mail - Return Receipt Requested

Mr. Charlie Appleby, President
Advanced Disposal Services Eagle Bluff Landfill, Inc.
90 Fort Wade Road
Ponte Verda, Florida 32081

Certified Mail - Return Receipt Requested

Mr. Charlie Gray, Regional Vice President-South
Advanced Disposal Services Eagle Bluff Landfill, Inc.
300 Colonial Center Parkway
Roswell, Georgia 30076

Certified Mail - Return Receipt Requested

Mr. Michael Stowe, Regional Environmental Compliance Manager
Advanced Disposal Services Eagle Bluff Landfill, Inc.
300 Colonial Center Parkway, Suite 230
Atlanta, Georgia 30076

Certified Mail - Return Receipt Requested

Mr. Jeff Pope, Landfill Manager
Advanced Disposal Services Eagle Bluff Landfill, Inc.
3301 Acmar Road
Acmar, Alabama 35004

Re: Notice of Intent to Sue for Continuing Violations of NPDES Permit No. ALG160090

Gentlemen:

Pursuant to the Clean Water Act § 505, 33 U.S.C. § 1365, and 40 C.F.R. Part 135, Subpart A, you are hereby notified that after the expiration of sixty (60) days following the date of this notice, Friends of Hurricane Creek may file suit against Advanced Disposal Services Eagle Bluff Landfill, Inc. for the violations of NPDES Permit No. ALG160090 at the Eagle Bluff Landfill located at 4701 12th Street NE, Holt, Alabama alleged herein.

Permit Requirements

NPDES Permit No. ALG160090, Part II, B. 2. c. provides:

The permittee shall prepare and implement a Best Management Practices (BMP) Plan according to Part IV of this permit.

Part IV, B. provides, in part:

1. Plan Content for Landfill Activities: The permittee shall prepare (or as required have a QCP prepare) and implement a best management practices (BMP) plan which shall:
 - a. Provide control sufficient to prevent or control pollution of storm water by soil particles to the degree required to prevent violation of the turbidity water quality standard applicable to the waterbody receiving the discharge;

* * *

1. Appropriate measures must be taken to prevent the deposition of airborne pollutants such as spray paint, herbicides, excessive road dust, etc. from entering any waterbody.
2. Plan Content for Construction Activities
 - g. Appropriate measures must be taken to prevent the deposition of airborne pollutants such as spray paint, herbicides, excessive road dust, etc. from entering any waterbody.

Best Management Practices Plan Requirements

The *Best Management Practices (BMP) & Storm Water Pollution Prevention Plan (SWPPP)* (revised Jan. 2014, submitted Feb. 3, 2014) for the Eagle Bluff Landfill, prepared by Alabama registered professional engineers William W. Stubbs and Nathan Daniel Dunn, provides the following:

4.2 Good Housekeeping

Good housekeeping is an essential non-structural control measure that reduces the likelihood for storm water discharges to contain various pollutants. Good housekeeping practices will be employed on a daily basis at this facility. In addition, the twice per week inspections will be performed throughout the overall

facility for good housekeeping. Good housekeeping at this facility consists of the following measures:

* * *

- *Regular cleaning of facility entrance to control off-site sediment tracking*

4.3 Maintenance

Routine site inspections will be completed following the twice per week inspection. These inspections will identify any control measures which require maintenance. All required maintenance will be reported to the team leader and follow up activities will be documented on a follow up inspection report.

Routine maintenance at this facility consists of cleaning sediment basins and traps (for both floating and submerged trash and sediment), dust control, maintaining ditches, *control off-site tracking*, maintaining vegetation across the site ensuring proper operation of skimmer, and all other erosion control (silt fence, check dams, rock filter rings, etc.).

(Emphasis added).

Violations

The Permittee has operated the Eagle Bluff Landfill in such a manner that trucks leaving the landfill are tracking sediment onto the surface of 12th Street NE. The Permittee's efforts to remove the sediment from the surface of 12th Street NE are merely (1) pushing the sediment to the side of the road where it is carried by stormwater into drainage ditches and transported to a tributary of Hurricane Creek or (2) causing the sediments to become airborne and deposited on land surfaces and vegetation where it is carried by stormwater into drainage ditches and transported to a tributary of Hurricane Creek. Such off-site tracking is a violation of NPDES Permit No. ALG160090, Part II, B. 2. c. and Part IV, B. 1. a., Part IV, B. 1. l., and Part IV, B. 2. g.

The dates when off-site tracking has occurred and been documented include the following seventy-one days:

August 2, 2013	August 14, 2013	August 18, 2013	August 19, 2013
September 2, 2013	September 20, 2013	September 21, 2013	September 23, 2013
September 25, 2013	October 17, 2013	October 18, 2013	October 20, 2013
October 21, 2013	October 28, 2013	November 14, 2013	November 18, 2013
November 20, 2013	November 25, 2013	November 26, 2013	November 27, 2013
November 28, 2013	November 29, 2013	November 30, 2013	December 2, 2013

December 5, 2013	December 6, 2013	December 7, 2013	December 8, 2013
December 9, 2013	December 11, 2013	December 12, 2013	December 13, 2013
December 14, 2013	December 19, 2013	December 20, 2013	December 21, 2013
December 22, 2013	December 23, 2013	December 28, 2013	January 15, 2014
January 22, 2014	February 3, 2014	February 6, 2014	February 10, 2014
February 11, 2014	February 12, 2014	February 14, 2014	February 17, 2014
February 23, 2014	March 2, 2014	March 3, 2014	March 4, 2014
March 6, 2014	March 12, 2014	March 18, 2014	March 21, 2014
March 23, 2014	March 28, 2014	April 1, 2014	April 4, 2014
April 11, 2014	April 14, 2014	April 15, 2014	April 21, 2014
May 7, 2014	May 10, 2014	May 29, 2014	June 10, 2014
June 11, 2014			

Complaints

Friends of Hurricane Creek filed complaints with the Alabama Department of Environmental Management concerning off-site tracking on 12th Street NE from trucks leaving Eagle Bluff Landfill on the following dates:

September 6, 2013	September 23, 2013	September 25, 2013	October 21, 2013
October 25, 2013	November 25, 2013	December 12, 2013	December 20, 2013
February 2, 2014	February 13, 2014	March 24, 2014	May 19, 2014
June 11, 2014			

Most complaints can be obtained at <http://edocs.adem.alabama.gov/eFile/>.

ADEM Inaction

The Alabama Department of Environmental Management conducted an inspection of the Eagle Bluff Landfill on September 16, 2013. The inspector made the following observation: “Sediment was present outside of the facility’s gate from apparent offsite tracking.” The inspection report includes photographs of “[o]ff-site tracking outside of the facility’s gate.”

On October 25, 2013, the Alabama Department of Environmental Management issued a Notice of Violation to Advanced Disposal Services Eagle Bluff Landfill, Inc. The Notice states “At the time of the July and September 2013 inspections, sediment was present outside of the facility’s gate from apparent offsite tracking. * * * Offsite tracking and the accumulation of sediment at the facility’s discharge points which are conveyances to waters of the state are indicators of solids being discharged in more than trace amounts.”

The Alabama Department of Environmental Management conducted an inspection of the Eagle Bluff Landfill on March 27, 2014. The inspector made the following observation: “ Also, observed during the inspection, was offsite tracking of gravel and gravel dust. A build up of

sediment was noted in several areas along the shoulder of the road just below the landfill entrance.” The inspection report includes photographs of “[o]ff-site [g]ravel” and “[g]ravel [d]ust.”

Apparently, no further actions have been taken by the Alabama Department of Environmental Management and off-site tracking continues.

Sanctions

The Court may assess civil penalties of up to \$37,500 per violation per day and litigation costs (including attorney and expert witness fees). Suit may be avoided if these violations have been permanently abated before the expiration of sixty (60) days following the date of this notice. Please advise the undersigned of any measures that you may undertake which you contend have permanently abated these violations before suit is filed. Friends of Hurricane Creek may be contacted through the undersigned.

Sincerely,

David A. Ludder
Attorney for Friends of Hurricane Creek

cc: Hon. Gina McCarthy, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building (AR)
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20004

Hon. Heather McTeer Toney, Regional Administrator
Environmental Protection Agency-Region 4
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303-3104

Hon. Lance LeFleur, Director
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, AL 36130-1463

The Corporation Company
Registered Agent for Advanced Disposal Services Eagle Bluff Landfill, Inc.
2000 Interstate Park Drive, Suite 204
Montgomery, Alabama 36109

Friends of Hurricane Creek
5600 Holt Peterson Road
Tuscaloosa, Alabama 35404
(205) 507-0867