



Certified Mail – Return Receipt Requested No. 7020 3160 0000 0515 4796

March 15, 2024

Danette Cabber
Interim Director
Estancia Valley Solid Waste Authority
P.O. Box 736
Estancia, New Mexico 87106

Re: Notice of Violation – Estancia Valley Regional Landfill

Dear Danette Cabber,

On February 9, 2024, Ken R. Churan and Daniel R. Galasso, Enforcement Officers, Solid Waste Bureau (“SWB”), New Mexico Environment Department (“NMED”), inspected the Estancia Valley Regional Landfill to determine compliance with the New Mexico Solid Waste Rules (“SWR”), 20.9.2 – 20.9.10 NMAC, and the New Mexico Recycling, Illegal Dumping and Scrap Tire Management Rule (“RIDSTMR”), 20.9.20 NMAC. The following violations were observed:

1. **Failure to control litter and excessive litter** - The inspection documented excessive litter at the landfill due to limited cover and prolonged stockpiling of waste at the active face. Excessive litter was observed along the east side of Cell 4, the northeast corner of Cell 1, the south side of Cell 1, and windblown litter was noted off the footprint of the landfill, southeast of Cell 1 moving towards Osita Draw. Inspectors arrived at 10:30 a.m., and despite the presence of stockpiled waste, no activity was in progress at the active face and no compaction equipment was operating. During the inspection, no pickers were observed removing litter. It is apparent from the inspection that more cover is needed on the identified areas of the landfill to limit the movement of windblown waste. Additionally, as a follow up to information received by the State Land Office on February 2, 2024, the Martinez Road fence line, approximately 4 miles to the east of the landfill, was inspected and found to have limited waste (three to four plastic bags in a few areas) caught in the barbed wire. In addition, it is recommended that the upcoming application to modify the Solid Waste Permit include a revised litter management plan to incorporate more comprehensive “Best Management Practices” such as immediate compaction of waste at the active face, use of portable fencing based on current wind direction to effectively corral the active face, use of snow fencing and/or trenches in series to capture most windblown litter that escapes the active face area, perimeter fencing, and a regular schedule for crew to remove litter both on and off the property, especially in noted areas of concern.

The SWR, 20.9.5.8.A(2) NMAC, states that owners and operators of each solid waste facility shall “control and mitigate odor and litter.” The SWR, 20.9.5.9(L) NMAC, further states that all

municipal and special waste landfill owners or operators shall “control litter...”.

2. **Failure to provide adequate intermediate cover** – While deck areas were clean and adequately covered, the inspection documented limited to no intermediate cover and significant areas of loose, exposed waste along south and east facing slopes within Cells 1 and 4, respectively. These locations should be compacted and covered immediately to avoid windblown trash leaving the landfill footprint, specifically towards Osita Draw, which might be a conduit for transport of trash moving eastward toward the neighboring ranches.

The SWR, 20.9.5.9.O(1) & (2) NMAC, states that all municipal and special waste landfill owners and operators shall provide intermediate cover which shall be “at least one foot thick, or other specifically approved thickness [and] placed on all areas of a landfill that have not received waste for 60 days or longer, or have not reached final elevation.”

3. **Failure to measure leachate head on the liner** – During the inspection, there was no evidence that leachate levels were being monitored and recorded. Currently, the leachate system in Cell 2 is reported to have a disconnected coupling and a drill tool stuck within the sump and pumping has not occurred since 2019. While we understand that repairs to the system have been attempted and, as of yet, unsuccessful, that does not remove your obligation to remedy the matter in a timely and effective manner. In addition, the permit states that pumping activities will be recorded on a monthly basis, however, pumping totals appear to be completed and reported only quarterly. The pumping recording form identified in the permit is not currently being utilized. These monthly pumping values should be reported and included in the annual report.

The SWR, 20.9.5.9.K NMAC, states that all municipal and special waste landfill owners and operators shall “measure leachate head on the liner and sump pump as necessary...”.

4. **Failure to implement a plan to inspect loads to detect and prevent the disposal of unauthorized waste** – During the inspection, records show two and a half weeks when no inspections for unauthorized waste occurred (January 5, 2024, through January 24, 2024). According to the permit, waste inspections of unauthorized waste should be completed on 1% of incoming loads, or at least one time daily.

The SWR, 20.9.5.8.B(2) NMAC, states that owners and operators of a solid waste facility shall “implement a plan approved by the secretary to inspect loads to detect and prevent the disposal of unauthorized waste...”.

During file review and as part of the inspection, it was also determined that white goods (scrap metal), tires, concrete, wood spools and telephone poles are being stored off the landfill footprint in the area registered as the EVSWA Septage Composting Facility. The Solid Waste Permit Modification and the Septage Composting Facility Registration renewal should include revised site maps to indicate separate designated storage areas. Diverted materials, recyclables, and clean fill should be stored and processed within the landfill facility boundary and feedstock materials within the area registered to compost septage. In addition, after a review of the annual report, it seems scrap metals/white goods are

included in the EVSWA Septage Composting Facility totals. It is not appropriate to receive and record scrap metals/white goods under the Septage Composting Registration. Finally, the application for modification of the Solid Waste Permit should detail, as part of the revised Operations Plan, how freon is managed when accepting refrigerated appliances for recycling or disposal.

Pursuant to the NMED Delegation Order dated February 19, 2024, the Cabinet Secretary has delegated the authority to issue SWB Notices of Violation to the Chief of the SWB in the Resource Protection Division. The NMED is seeking your voluntary cooperation in the immediate correction of these violations. Please respond in writing within 10 calendar days of receipt of this notice to advise the Bureau of actions taken or planned, to correct the violations. Corrective actions should achieve compliance within ninety (90) days of receipt of this letter to avoid the possibility of an Administrative Compliance Order. Send your response to Rick Shean, Acting SWB Chief, Enforcement Section, Solid Waste Bureau, NMED District I, 121 Tijeras Avenue NE, Suite 1000, Albuquerque, New Mexico 87102-3400. Failure to assure corrective action or continued non-compliance may result in additional enforcement action, which may include the assessment of a civil penalty.

All documentation submitted to NMED's SWB related to this Notice of Violation must include the following certification, signed by you or a delegated responsible official:

"I certify under penalty of law that this document and all its attachments were prepared under my directions or supervision according to 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 the gathering of 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 fines and imprisonment for knowing violations."

If you have any questions, please contact me at (505) 629-6494 or rick.shean@env.nm.gov.

Sincerely,

Rick Shean
Director, Resources Protection Division
Acting Chief, Solid Waste Bureau

Enclosure – Copy of Solid Waste Facility Inspection Report

RS:drg:db:krc

cc: Ryan Schwebach - EVSWA Board Chairman, Torrance County Commission, PO BOX 48
205 S Ninth Street, Estancia NM, 87016
Ted Hart - EVSWA Board Vice Chairman, City of Moriarty, PO Box 130, Moriarty, NM 87035

ec: Daniele Berardelli, Acting Enforcement Manager, SWB
Daniel R. Galasso, Enforcement Coordinator, SWB
Jaime Rodriguez, Senior Enforcement Officer, SWB
Ken R. Churan, Enforcement Officer, Area I, SWB