

COPY



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

290 BROADWAY

NEW YORK, NEW YORK 10007-1866

OCT - 4 2012

VIA OVERNIGHT MAIL

Alejandro G. Carrasco Castillo, Esq.
Parana 1684
Urb. El Cerezal
San Juan, Puerto Rico 00926-3144

Re: Juncos Municipal Landfill
Docket No.: RCRA-02-2012-7304

Dear Mr. Carrasco,

Enclosed please find a fully executed Order. This Order is effective October 12, 2012, fifteen (15) days after the date the Order was signed by the Regional Administrator. Kindly confirm that Juan Carlos Mercado is the Project Coordinator for this site and provide us with the name of an Alternate (pursuant to paragraph 108 of the Order). (See also paragraph 111.)

Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Carl R. Howard".

Carl R. Howard
Assistant Regional Counsel

cc: Maria Victoria Rodriguez Munoz, PREQB

Enc.

Bcc: John J. Martin, (PAD-POB)
George Meyer, (2DECA-RCB)
William Sawyer, (2ORC-WTS)
Carl Howard, (2ORC-WTS)
Carl Plossl, (2DECA-RCB)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

In the Matter of:

Juncos Municipal Landfill
Juncos, Puerto Rico.

ADMINISTRATIVE ORDER
ON CONSENT

Municipality of Juncos,
Puerto Rico.

Docket No.: RCRA-02-2012-7304

Respondent.

Proceeding Under Section 7003 of the
Solid Waste Disposal Act, as amended.

I. JURISDICTION

1. This Administrative Order (the "Order") is issued on consent to the Municipality of Juncos, Puerto Rico ("Municipality" or "Respondent").
2. The Juncos Municipal Solid Waste Landfill ("Landfill") is located in the Municipality of Juncos in the Commonwealth of Puerto Rico. The Landfill consists of one (1) already existing non-hazardous waste cell hereafter referred to as the "Existing Landfill" or the "Existing Cell."
3. The Municipality is and has been the owner and the operator of the Landfill.
4. This Order is issued by the United States Environmental Protection Agency ("EPA") pursuant to the authorities vested in the Administrator of EPA by Section 7003 of the Solid Waste Disposal Act, as amended by various laws, including most notably the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6901 *et seq.* ("RCRA" or "the Act"), which authority has been duly delegated to the Regional Administrator of EPA, Region 2.
5. Notice of this Order has been provided to the Government of Puerto Rico, pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973.
6. Respondent agrees to undertake all actions required by the terms and conditions of this Order, consents to and will not contest EPA's jurisdiction to issue or, if necessary, enforce this Order, and will not contest the terms of this Order.

II. PARTIES BOUND

7. This Order shall apply to and is binding on Respondent and each and every agent of the Respondent and upon all other persons and entities who are under the direct or indirect control of the Respondent (including but not limited to any contractor or independent agent retained to perform work related to this Order). Respondent shall supply any such contractor or agent with a complete copy of this Order.

8. The obligations of the Respondent under this Order shall be binding on any successor, whether such successor is created by merger, expansion or otherwise pursuant to the laws of the Commonwealth of Puerto Rico. Respondent shall give any such successor official notice of this Order.

III. EPA'S FINDINGS OF FACT AND CONCLUSIONS OF LAW

Statutory and Regulatory Background

9. Municipal solid waste landfills are subject to the federal regulations promulgated at 40 C.F.R. Part 258, entitled Criteria for Municipal Solid Waste Landfills. These regulations "establish [the] minimum national criteria ... for all municipal solid waste landfill units." 40 C.F.R. § 258.1.

10. The Landfill, located off PR-185, Las Piñas Ward, La Tajea Sector, Juncos, Puerto Rico, is a "municipal solid waste landfill unit," as that term is defined at 40 C.F.R. § 258.2.

11. Existing municipal solid waste landfill units are subject to many of the requirements set forth in 40 C.F.R. Part 258.

12. The Landfill is also subject to the Non-Hazardous Solid Waste Management Regulations of Puerto Rico, administered by the Puerto Rico Environmental Quality Board ("EQB").

13. The Landfill is not authorized by EPA to accept or dispose of "hazardous waste," as that term is defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(5), and in 40 C.F.R. § 261.3.

Owner and Operator

14. Respondent has been the "owner" and the "operator" of the Landfill since at least 1978, as those terms are defined in 40 C.F.R. § 258.2. Respondent has contributed and continues to contribute to the handling and disposal of solid waste at the Landfill.

Respondent is a Person

15. Respondent is a "person" as that term is defined in Section 1004(15) of the Act, 42 U.S.C. § 6903(15).

Geographic and Geological Background

16. The Municipality of Juncos is approximately 27 square kilometers in size and has a population of about 43,000 people.
17. The Landfill facility has an area of approximately 41 acres of which some 34 acres bears waste, constituting the Landfill. The Landfill facility is surrounded by undeveloped land.
18. Residential homes are located approximately 200 meters to the west of the waste footprint.
19. The Landfill is located in a region that receives significant amounts of rainfall, averaging more than 65 inches per year.
20. The Landfill is located in the Gurabo-Juncos Valley with regional groundwater flow in the underlying alluvial deposits to the south, towards the Gurabo River.
21. The Landfill overlays, in part, and discharges to a locally significant unconsolidated sand and gravel drinking water aquifer.
22. The alluvial valley aquifers are an important source of public water supply for municipalities in the interior areas of Puerto Rico.
23. The Landfill is located approximately 1,500 meters northeast from seven Puerto Rico Aqueduct and Sewer Authority ("PRASA") drinking water wells.
24. Juncos Landfill is sited in a seismic zone.
25. Pursuant to 40 CFR Section 258.14, new municipal solid waste landfill units and lateral expansions shall not be located in seismic impact zones, unless the owner or operator demonstrates that all containment structures, including liners, leachate collection systems, and surface water control systems, are designed to resist the maximum horizontal acceleration in the lithified earth material for the site.

Landfill Background and Regulatory History

26. The Landfill has been receiving municipal solid waste since at least 1978.
27. The Landfill obtained an Operation Permit RSM-40 from the EQB beginning January 15, 1999 until January 15, 2004.
28. On January 8, 2002, the EQB approved an amended Operation Plan.
29. In an EQB report covering July-December 2001, the Juncos Landfill was rated as poor, with significant deficiencies concerning daily cover, personnel training, stormwater run-on/off controls, leachate control, groundwater monitoring wells, and inspections of incoming wastes.

30. On May 21, 2003, the EQB issued an Administrative Order (#OA-03-TE-93) that detailed violations concerning the operation of the Landfill. The identified environmental problems included lack of daily cover and dust control, wind-blown waste, failure to submit required reports, leachate system inefficiencies, lack of proper intermediate cover, inadequate stormwater controls, leachate releases into waterways, no emergency area for waste disposal, and no leachate, surface water, or groundwater sampling. Issuance of the EQB Order did not resolve problems at the Landfill.

31. The Landfill currently receives an average of 85 tons per day of solid waste from the Municipality of Juncos. As of April, 2012, the Landfill also receives an average of 190 tons per day of solid waste from other Municipalities, including Humacao, Aguas Buenas, San Lorenzo, Trujillo Alto, and Las Piedras, and a limited amount from commercial sources (approximately 10%). The current rate of waste deposition represents a significant decrease from prior rates (e.g., 860 tons/day in 2004).

32. The Landfill receives primarily household solid waste, construction and demolition debris, scrap automobiles, automotive shredder residue wastes, and also likely include household hazardous waste (such as solvents, paints, pesticides and household chemicals), mixed paper, rubber, glass and food and yard wastes.

33. According to a December 2004 report conducted for the Solid Waste Authority of Puerto Rico (*Juncos Landfill Progress Report*, Puerto Rico Solid Waste Authority, December 2004 (the "VHL/MPI Report")), the active portion of the Landfill would reach capacity by approximately August 2005.

34. Comparison of aerial photographs from 1997-1998 and 2001-2002 indicates a considerable expansion of the waste footprint in the southeast corner of the landfill. Comparison of the 2003 Limit-of-Waste survey (contained within the VHL/MPI Report) with 2004 and 2006 aerial photography documents a sizeable expansion of the waste footprint along the north side of the Landfill during this operational period. The 2004 VHL/MPI Report indicated that solid waste had been placed over an area of approximately 450 meters squared in several locations outside of the Landfill.

35. During the 2012 Inspection, broken Cathode Ray Tube (CRT) monitors and other electronic wastes (presenting risk of lead and other toxins leaching into the soil) were found stored on soil in the scrap metal disposal area below the Landfill, just beyond the toe of the southern slope (within the Landfill). Limited waste deposition in southern, adjoining property was seen.

Landfill Inspections, Findings and Environmental Impact

36. On or about August 1, 2002, March 21, 2003, August 24, 2004, December 13, 2010, and April 11, 2012 authorized representatives of EPA inspected the Landfill (the "Inspections"). During and subsequent to the Inspections, EPA obtained information concerning the Landfill and its waste disposal practices, including the facts set forth herein.

37. During its Inspections, EPA observed evidence of disease vectors, underground fires, buried automobiles, scavengers, after hours dumping, no inspection of incoming wastes, potentially unstable slopes, inadequate stormwater controls, and lack of daily cover.

38. The Landfill does not have proper cover as required by 40 C.F.R. § 258.21. During the 2012 Inspection, the surface cover appeared eroded in numerous locations exposing substantial quantities of waste including tires and household trash. Proper cover is required to control disease vectors, fires, odors, blowing litter, and scavenging. During the 2012 Inspection, many birds were visible on uncovered waste. There was evidence (*i.e.* hoof prints), of numerous cattle on top of the landfill. Large numbers of flies were present.

39. During the 2010 and 2012 Inspections, some of the Landfill's surfaces had steep slopes that were likely to be unstable including along the north (upper slope), over the office area (southwest area), over the downchute (south-southwest area) and at the south corner.

40. During its Inspections, EPA observed that the Landfill has inadequate stormwater runoff controls. These controls are required by 40 C.F.R. § 258.26. The Landfill also had no retention or treatment of stormwater. Stormwater, originating from the Landfill, flowed overland to two receiving creeks, unnamed tributaries of the Rio Gurabo. Other stormwater, also originating from the Landfill, was conveyed through the facility and then discharged directly to the two unnamed creeks.

41. Uncontrolled surface water run-off, which contains contaminants, can flow onto and infiltrate and percolate into surface soils, potentially adversely impacting soil and groundwater. Significant uncontrolled run-off is more likely to occur in instances where, as at this Landfill, there is significant rainfall, steep surface gradients and eroded landfill cover.

42. The Landfill does not have an operational impermeable liner. Liners, which are required for "new municipal solid waste landfill units" and "lateral expansions" as those terms are defined in 40 C.F.R. § 258.2, minimize the possibility that liquids, including leachate, can percolate and seep through a landfill, infiltrate the subsurface, and contaminate soil and groundwater.

43. During the December 2010 and April 2012 Inspections, EPA observed discharges from the Landfill leachate interception/collection system of leachate, a pollutant, and leachate-contaminated stormwater discharging to discrete conveyances (open channel) located below the southwestern slope of the Landfill which discharge flow directly south into the two creeks.

44. The Rio Gurabo is a "navigable water" of the United States pursuant to Section 502(7) of the Clean Water Act, 33 U.S.C. § 1362(7).

45. During the April 2012 Inspection, EPA representatives estimated that the observed leachate flow rate was approximately 8 gallons per minute, equating to approximately 11,000 gallons per day.

46. As of EPA's December 2010 Inspection and continuing through the 2012 Inspection, the Landfill had rusting, out-of-service leachate tanks intended for the collection and storage of

leachate. Parts of the leachate collection system remained inaccessible for inspection or maintenance (due to overgrown vegetation).

47. Leachate is a "liquid that has passed through or emerged from solid waste and contains soluble, suspended or miscible materials removed from such waste." 40 C.F.R. § 258. 2. Landfill leachate may be contaminated with hazardous constituents such as toxic chemicals, heavy metals, and complex organic compounds. Leachate can also contain microbial pathogens.

48. Increased volumes of leachate are generated by and released from landfill units, such as this one, that do not have requisite engineering controls in place such as surface water run-on controls, impermeable liners and leachate collection systems. Failure to have these controls increases the likelihood that the aquifer beneath the Landfill can become contaminated by operations at the Landfill.

49. An adequate groundwater monitoring system is necessary to determine if contaminants are being released into groundwater and are migrating away from the Landfill. Groundwater contaminated by landfill operations could contain hazardous constituents such as toxic chemicals, heavy metals, and complex organic compounds.

50. As of December 2010, one operational groundwater monitoring well existed. The Landfill had two groundwater monitoring wells in 2012. EPA has requested data from the sampling of these wells, but to date no sampling analyses have been received or reviewed.

51. As of at least December 2010 and continuing through the 2012 Inspection, the Landfill did not have an operational explosive gases control system. A methane monitoring system is required by 40 C.F.R. § 258.23.

52. The groundwater and methane wells located behind the office (down gradient) were observed to be unlocked and buried under dumped soil and debris during the 2010 Inspection. These wells were no longer buried under dumped soil and debris during the 2012 Inspection, but were still unlocked.

53. Landfill gas is generated during the natural process of anaerobic decomposition of refuse contained in a landfill. Landfill gas is predominantly methane and carbon dioxide, and small amounts of non-methane organic compounds ("NMOCs") such as ethane, toluene and benzene. NMOCs are a collection of toxic pollutants, which when released into the atmosphere can lead to adverse effects. Methane gas is odorless and highly combustible. The accumulation of methane gas within a landfill can potentially cause fires and/or explosions.

54. Subsurface migration is the underground movement of landfill gas from landfills to other areas within the landfill property or outside the landfill property. Most subsurface migration occurs at older, unlined landfills because there is minimal barrier for lateral migration of landfill gas. It is possible for landfill gas to travel underground, accumulate in enclosed structures, and ignite. Incidences of subsurface migration have caused fires and explosions on both landfill property and private property.

55. Carbon dioxide and methane are greenhouse gases that can contribute to climate change, and NMOCs contribute to ozone formation. Methane is of particular concern because it is extremely effective in trapping heat in the atmosphere. Some NMOCs which can be produced and released at a landfill are known or suspected carcinogens, and can also have non-cancerous adverse health effects.

56. The Landfill does not have adequate control regarding public access to the Landfill as required by 40 C.F.R. § 258.25. During the 2010 Inspection and prior Inspections, unauthorized individuals were seen on the Landfill site picking through waste, after hours; nothing prevented these individuals from entering the Landfill. EPA believes that such conditions remain in 2012. Failure to completely control public access increases the likelihood of individuals entering the Landfill and the potential for illegal dumping of wastes, thereby potentially jeopardizing human health and the environment.

Respondent's Recycling Program

57. Respondent presently conducts limited recycling in the Municipality.

58. Respondent informed EPA that it would like to expand its recycling program which according to Respondent will both create revenue for the Municipality as well as reduce the amount of waste from the Municipality that has to be disposed of at the Landfill. Respondent has also indicated that its intention is to collect and market the methane gas from the Landfill and/or use the methane to generate electricity for market. Respondent also intends to install a photovoltaic power generation and landfill cap system ("PV Cap System").

Conclusion

59. The lack of proper operational controls at the Landfill, including insufficient cover material, lack of run-off controls, lack of leachate collection, lack of adequate impermeable liners, lack of proper groundwater monitoring, lack of explosive gases control, and lack of access controls at the Landfill all contribute to the handling and disposal of solid waste in a manner that may present an imminent and substantial endangerment to human health and the environment.

IV. DETERMINATION

 60. Based on the foregoing EPA's FINDINGS OF FACT AND CONCLUSIONS OF LAW and the full Administrative Record, the Regional Administrator of EPA Region 2, upon receipt of evidence and information that the past and present handling and disposal of solid wastes at the Landfill may present an imminent and substantial endangerment to human health and the environment, has determined that the issuance of this Order is necessary to protect public health and the environment.

V. ORDER AND WORK REQUIREMENTS

61. IT IS HEREBY ORDERED that Respondent shall perform the actions required by this Order and comply with its provisions. Respondent shall fully cooperate with EPA representatives in carrying out the provisions of this Order.

62. All submissions to EPA by Respondent pursuant to this Order shall be in English. This includes progress reports, notices, letters, plans and specifications, certifications and other such submissions required by the terms of this Order. Documents in Spanish that are intended to direct and execute work and other operations at the Landfill shall be submitted to EPA upon its request. Reports, letters and other documents may be submitted to EPA electronically in an accessible form that incorporates necessary signatures.

Early Operational Requirements

63. No later than ten (10) calendar days after the effective date of this Order, Respondent shall cause the following NOTICE to be posted in Spanish and English at the Landfill entrance in large lettering on mounted signs at least four feet by five feet in size:

NOTICE

THIS LANDFILL IS SUBJECT TO A UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ADMINISTRATIVE ORDER ON CONSENT WITH THE MUNICIPALITY OF JUNCOS.

Respondent shall confirm in writing to EPA that the Notice has been posted, and shall send EPA one or more photographs either in digital form or clearly developed of the Notice signs.

64. Starting no later than three (3) calendar days of the effective date of this Order, Respondent shall undertake best efforts to improve security at the Landfill to better restrict unauthorized access to the Landfill so as to prevent theft, scavenging, trespass and waste disposal. Such security measures shall include maintenance of existing fencing and ensuring that entrance gates are locked during non-business hours, when the Landfill is otherwise not operating, and when the Landfill does not have someone inspecting incoming loads. Respondent shall report all trespass incidents it becomes aware of to EPA within seven calendar days of such incidents.

 If EPA or Respondent determines that the security measures already implemented are insufficient, Respondent shall submit to EPA for review and approval, a plan for substantial, timely, additional steps to ensure that unauthorized access to the Landfill is prevented ("Enhanced Security Plan"). Such additional measures may include, for example, additional security personnel, installation and maintenance of additional gates, and perimeter fencing (chain link with barbed wire). Unless otherwise indicated by EPA, the Enhanced Security Plan shall be submitted within twenty (20) calendar days of either notification by EPA or Respondent's own determination of need and shall include a schedule for implementation. Upon receipt of EPA's approval, Respondent shall carry out the provisions of the *Enhanced Security Plan*.

65. Starting no later than three (3) calendar days of the effective date of this Order, Respondent shall inspect all incoming loads of waste to be deposited at the Landfill so as to prevent the disposal of prohibited materials, including i) hazardous wastes; ii) liquid wastes prohibited by 40 C.F.R. § 258.28; and iii) White Goods, scrap tires, or any bulk disposal of recyclable material, ash, or green waste (as those terms are defined in the Recycling and Green Waste Management Program paragraphs below) at the Landfill. Respondent shall maintain a log of incoming waste loads. The log shall contain the delivery date, name of the hauler or carter, a brief description of each load's contents and an estimate of its volume, as well as details (similar to those just listed) regarding the receipt and rejection of any loads with prohibited materials. Respondent shall not deposit any solid waste beyond the current waste footprint.

66. Starting three (3) calendar days after the effective date of this Order, Respondent shall cover disposed solid waste with six inches of earthen material, and/or an acceptable alternative daily cover, at the end of each operating day, or at more frequent intervals if necessary, to control disease vectors, fires, odors, blowing litter, and scavenging. Daily cover must be maintained.

67. Within 30 calendar days of the effective date of this Order, Respondent shall use only a single active face unless, for operational reasons, the use of multiple active faces cannot be avoided.

68. Within 30 calendar days of the effective date of this Order, Respondent shall perform an inspection of the existing leachate interception system in order to identify deficiencies and provide recommendations on any temporary corrective measure required to avoid the discharge of leachate and storm-water contaminated with leachate from said system into any waterways. A report with such recommendations and an implementation timetable shall be submitted to EPA for review and approval within 60 calendar days of the effective date of this Order. After approval, Respondent shall undertake and complete the temporary repairs. Permanent improvements to the leachate interception system requiring engineering and heavy construction will be performed under Paragraph 74 of this Order.

69. Respondent shall submit a written report to EPA within 90 calendar days of the effective date of this Order, or by such other later deadline as is approved by EPA, documenting compliance with the Early Operational Requirements set forth above in Paragraphs 63 – 67. The report shall be accompanied by the certification set forth in Section VII. CERTIFICATIONS of this Order.

Other Operational Requirements

70. Within 30 calendar days of the effective date of this Order, Respondent shall submit to EPA, for review, the current Stormwater Control Plan for the Landfill. This plan is to be revised and updated as per Paragraph 74 of this Order considering the Revised Operational Perimeter. Unless otherwise notified by EPA, Respondent shall implement the current Stormwater Control Plan, in accordance with its provisions and timetable until the plan is revised and updated pursuant to Paragraph 74 of this Order.

Waste Extent Determination

71. Within 40 calendar days of the Effective Date, Respondent shall submit to EPA, for review and approval, a Solid Waste Delineation Protocol designed to determine the full (i.e., total, complete and comprehensive) extent of solid waste disposal as distinguished from the EQB permitted extent. The submittal shall also include a clear delineation of the area that has been permitted by EQB for solid waste disposal and supporting documentation including Respondent's EQB permit. Unless otherwise agreed to by EPA, this protocol shall be designed so that the waste extent survey will be conducted in two distinct phases:

- a. Phase 1 Delineation of Bulk Waste Area. Respondent shall determine, in areas where the waste extent is obscured by foliage, topography or otherwise, the actual extent of bulk waste disposal along the entire landfill perimeter through the use of soil borings and/or trenching. "Bulk Waste" shall mean the contiguous or mostly contiguous solid waste disposed anywhere in the Landfill area to a depth of 6 inches or more. After performing this study, Respondent shall delineate the bulk waste disposal along the entire perimeter of the Landfill ("Bulk Waste Perimeter") by establishing a series/system of highly visible markers. The Bulk Waste Perimeter shall be defined by survey (or other means agreed to by EPA) and kept in the facility records and shall constitute the existing landfill under this Order until the establishment of a Revised Operational Perimeter (as provided in the paragraphs below). Respondent shall provide and maintain access for inspection of the landfill slope and for engineering controls such as stormwater channels and leachate interception systems.
- b. Phase 2 Assessment of Peripheral Disposal Areas. Respondent shall determine, to the extent practicable, the location of other solid waste deposits, including but not limited to scrap metal, in locations between the Bulk Waste Perimeter and adjoining waterways. In areas around the Landfill not bordered by an adjoining waterway (e.g., the north side), Respondent shall look for solid waste deposits in each such area that is 100 meters or less from the Bulk Waste Perimeter. The location and characteristics of these solid waste deposits shall be documented and entered into the facility records and a report shall be provided to EPA. In particular, any scrapped vehicles, tanks, drums, and any other vessels potentially containing fluids shall be identified.

 Within 130 calendar days of EPA's approval of the Solid Waste Delineation Protocol, Respondent shall undertake and complete the approved two phases of work.

72. Within 20 calendar days of completion of the work required under the approved Solid Waste Delineation Protocol, Respondent shall submit to EPA, for review and approval, a Solid Waste Delineation Report and Plan that shows the results of the Phase 1 and Phase 2 investigations and includes an Action Plan to implement the following requirements:

- a. Establish conclusively a Revised Operational Perimeter, which shall be used for this Order for all relevant future construction, maintenance, and planning activities, including closure, based on one of the following:

- i. Relocation of any existing, bulk, solid waste disposed beyond the EQB “approved, permitted” disposal area, as delineated in Phase 1, to an area within the “approved, permitted” disposal area (in which case the Revised Operational Perimeter shall be the same as the “approved, permitted” disposal areas); or
 - ii. Establishment of the Bulk Waste Perimeter delineated in Phase 1 as the Revised Operational Perimeter.
- b. To the extent not previously achieved, demarcation of the Revised Operational Perimeter through a system of substantial engineering constructs such as permanent roadway, concrete post systems, and/or perimeter fencing. Access to this new permanent perimeter for inspection and repairs of the landfill slope (via vehicular or pedestrian traffic) and for engineering controls such as stormwater channels and leachate interception systems, shall be maintained for the life of this Order.
 - c. Identification and removal of scrapped vehicles, tanks, drums, and any other vessels, potentially containing fluids, and any other waste material representing a significant, ongoing risk of releases, located beyond the Revised Operational Perimeter, as determined in Phase 2, to relocation/disposal site(s). Note: The activities required herein under this subparagraph shall be implemented only upon prior EPA approval and, if so requested by EPA, under EPA's direct oversight. Except as noted above, Respondent is not required by this Order to recover solid waste disposed beyond the Revised Operational Perimeter. Respondent shall take steps to limit the negative impacts of any investigative and/or removal activities taking place in the area located between the Landfill and adjoining waterways.

73. Within 120 calendar days of EPA approval of the Solid Waste Delineation Report and Plan, or by such other later deadline as is approved by EPA, Respondent shall complete the approved tasks and incorporate the Revised Operational Perimeter into all required Landfill system designs and plans. The area within the Revised Operational Perimeter will constitute the “Existing Landfill” or the “Existing Cell.”

74. Within 40 calendar days of EPA approval of the Solid Waste Delineation Report and Plan, Respondent shall complete and submit to EPA, for review and approval, a design manual or document plans, drawings and a schedule for constructing and implementing improvements to the existing control measures including but not limited to the following:

- 
- a. Leachate interception and collection system to cease all discharge of leachate and storm-water contaminated with leachate from said system into any waterways (e.g., quebrada, creek, channel) leading to wetlands, streams or rivers.
 - b. A Storm Water Control Plan that will comply with the following:
 - i. Meet the criteria set forth at 40 C.F.R. § 258.26 (run-on/run-off control systems), which requires owners and operators of municipal solid waste landfill units to design, construct and maintain a run-on control system to prevent storm water

run-on flow onto the active portion (i.e., not closed and capped) of the Landfill during the peak discharge from a 25-year storm;

- ii. Meet the criteria set forth at 40 C.F.R. § 258.26, which requires owners and operators of municipal solid waste landfill units to design, construct and maintain a run-off control system from the active portion (i.e., not closed and capped) of the Landfill to collect and control at least the water volume resulting from a 24-hour, 25-year storm;
- iii. Prevent the discharge of a nonpoint source of pollution into the adjacent waterways (e.g., quebrada, creek, channel) leading to wetlands or any waters of the United States that violates any requirement of the Clean Water Act, including, but not limited to, the National Pollutant Discharge source Elimination System (NPDES) requirements, pursuant to Section 402, or any area-wide or Commonwealth-wide water quality management plan that has been approved under Section 208 or 319 of the CWA; and
- iv. Be designed to become part of the storm water control system that will be part of the final Closure Plan.

After review and approval by EPA, Respondent shall undertake and complete the implementation and construction of the improvements in accordance with the EPA approved timetable.

Intermediate Cover

75. Within 210 calendar days of the Effective Date, Respondent shall complete application of Intermediate Cover on all areas of the Landfill where waste is not being deposited on a regular basis. Any intermediate cover shall be maintained until a Final Cover is installed. For purposes of this Order, Intermediate Cover is defined as a waste cover, more durable than daily cover, consisting of at least 12 inches of compacted soil with appropriate storm water erosion controls (e.g., vegetated cover, temporary chutes, channels, berms, and/or swales). An Intermediate Cover is intended to further limit precipitation infiltration and to control disease vectors, fires, odors, blowing litter and scavengers until a final landfill cover is installed. Respondent may request that EPA approve installation of an alternative form of Intermediate Cover that will provide equivalent protection.

Ground Water Monitoring

76. Within 45 calendar days of the Effective Date, Respondent shall submit to EPA a copy of the current Groundwater Monitoring Plan for the Landfill. Respondent shall also submit sufficient information concerning the implementation of such plan, including the most current and the last three years of groundwater monitoring analytical results, to allow EPA to determine whether the plan and its implementation are sufficient to detect contamination, above background levels, in the uppermost aquifer. Furthermore:

- a. If EPA determines that the Groundwater Monitoring Plan and its implementation are insufficient to detect contamination, above background levels, in the uppermost aquifer, Respondent shall, within 90 days of being notified of such determination, submit to EPA, for review and approval, a revised Groundwater Monitoring Plan and implementation schedule that will be sufficient to detect such contamination.
- b. Upon notification of approval by EPA, Respondent shall implement the revised Groundwater Monitoring Plan, in accordance with its approved provisions and timetable.

77. Respondent shall provide to EPA the preceding year's analytical results with supporting documents (such as quality assurance/quality control, and other information requested by EPA) from any required periodic groundwater monitoring on or before September 30 of each calendar year.

78. If information obtained through groundwater monitoring, or otherwise, indicates that measures and procedures are necessary to conduct a corrective action assessment and/or a corrective action remedy, as those terms are described in 40 C.F.R. §§ 258.56, 258.57, and 258.58, Respondent shall undertake such measures or procedures as approved by EPA and EQB.

Schedule for Ceasing Receipt of Waste at the Landfill

79. Respondent shall permanently cease receiving waste for disposal in the existing cell of the Landfill no later than December 31, 2014, unless a later date is agreed upon by EPA through an approved closure plan, based on calculations made within the closure plan through analysis of waste flow, final geometry, cap thickness, allowable slopes, and top deck area. Respondent shall thereafter secure the existing cell against unauthorized waste disposal.

80. If thirty (30) calendar days before the date Respondent is required to cease to receive waste for disposal in the existing cell of the Landfill there is not a new Landfill cell or cells within or adjacent to the current Landfill that is open and operating to receive waste for disposal, Respondent shall give written notice to carters serving customers outside of Juncos and to municipalities outside Juncos that dispose of waste in the existing cell of the Landfill specifying the date after which waste from such carters and municipalities may no longer be deposited at the Landfill. This notification shall be made earlier if contractual arrangements for waste disposal require more advance notification to carters or municipalities. Respondent shall send EPA an English translation of the notices and copies of the notices themselves.

81. After the Landfill ceases to receive waste deposits in the existing cell of the Landfill, Respondent shall within 120 days of the date when cessation is required provide and thereafter maintain Intermediate Cover throughout all parts of the existing cell until final closure of each part.

- a. If EPA determines that the Groundwater Monitoring Plan and its implementation are insufficient to detect contamination, above background levels, in the uppermost aquifer, Respondent shall, within 90 days of being notified of such determination, submit to EPA, for review and approval, a revised Groundwater Monitoring Plan and implementation schedule that will be sufficient to detect such contamination.
- b. Upon notification of approval by EPA, Respondent shall implement the revised Groundwater Monitoring Plan, in accordance with its approved provisions and timetable.

77. Respondent shall provide to EPA the preceding year's analytical results with supporting documents (such as quality assurance/quality control, and other information requested by EPA) from any required periodic groundwater monitoring on or before September 30 of each calendar year.

78. If information obtained through groundwater monitoring, or otherwise, indicates that measures and procedures are necessary to conduct a corrective action assessment and/or a corrective action remedy, as those terms are described in 40 C.F.R. §§ 258.56, 258.57, and 258.58, Respondent shall undertake such measures or procedures as approved by EPA and EQB.

Schedule for Ceasing Receipt of Waste at the Landfill

79. Respondent shall permanently cease receiving waste for disposal in the existing cell of the Landfill no later than December 31, 2014, unless a later date is agreed upon by EPA through an approved closure plan, based on calculations made within the closure plan through analysis of waste flow, final geometry, cap thickness, allowable slopes, and top deck area. Respondent shall thereafter secure the existing cell against unauthorized waste disposal.

80. If thirty (30) calendar days before the date Respondent is required to cease to receive waste for disposal in the existing cell of the Landfill there is not a new Landfill cell or cells within or adjacent to the current Landfill that is open and operating to receive waste for disposal, Respondent shall give written notice to carters serving customers outside of Juncos and to municipalities outside Juncos that dispose of waste in the existing cell of the Landfill specifying the date after which waste from such carters and municipalities may no longer be deposited at the Landfill. This notification shall be made earlier if contractual arrangements for waste disposal require more advance notification to carters or municipalities. Respondent shall send EPA an English translation of the notices and copies of the notices themselves.

81. After the Landfill ceases to receive waste deposits in the existing cell of the Landfill, Respondent shall within 120 days of the date when cessation is required provide and thereafter maintain Intermediate Cover throughout all parts of the existing cell until final closure of each part.

Notice of Future Plans for New Cell

82. Within 60 calendar days of the effective date of this Order, Respondent shall notify EPA concerning any plans and its timetable for the development of a new landfill cell or cells within or adjacent to the Landfill, and shall notify EPA if the design of the new cell has any overlap with, or effect on, the design of the Closure Plan for the existing cell of the Landfill. If so, Respondent shall provide such further information as EPA may request. The development of any such new cell shall incorporate the installation and operation of a Gas Collection and Control System ("GCCS") or any alternate system for reducing methane and NMOC emissions from the Landfill, in accordance with the Landfill Gas Control Requirements paragraphs of this Order. Any new cell must meet the requirements of the federal landfill criteria set forth in 40 C.F.R. Part 258 (including a composite liner and a leachate collection system).

Closure and Post Closure Plans

83. Professional Engineer and Plan Preparation: As soon as practicable after the effective date of this Order, Respondent to the extent it has not already done so, shall retain the services of a professional engineer, experienced in landfill design and licensed by the Commonwealth of Puerto Rico or permitted to practice engineering in Puerto Rico, to prepare final Closure and Post-Closure Plans for the existing cell of the Landfill. Preparation of final Closure and Post-Closure Plans may, at Respondent's discretion, consist of amendments and/or modification of existing Closure and Post-Closure Plans. The plans must at a minimum meet the closure and post-closure criteria set forth in 40 C.F.R. §§ 258.60 and 258.61. The Closure and Post-Closure Plans shall incorporate measures to obtain any necessary permits or approvals and shall also incorporate measures to meet any applicable requirements of the Clean Water Act, 42 U.S.C. § 1252 et seq. ("CWA") relating to storm water discharges and its implementing regulations, including permit requirements set forth in 40 C.F.R. Part 122, Subpart B, Section 122.26. The Plans shall incorporate the Revised Operational Perimeter as required in the paragraph above. The Plans shall provide for management of leachate and leachate contaminated storm water, and include enhanced measures for collection/interception as described in the subparagraph below. The Closure Plan shall incorporate the installation of a GCCS or any alternate system for reducing methane and NMOC emissions from the Landfill, in accordance with the Landfill Gas Control Requirements provisions of this Order (paragraphs 90-92). The Closure Plan shall incorporate the installation of a PV Cap System, if deemed viable, in accordance with the Photovoltaic Power Generation and Landfill Cap System provisions of this Order. The Closure and Post Closure Plans shall also take into account any physical intersection of the existing cell and any new cells that affect the design and implementation of the Closure Plan for the existing cell of the Landfill and its post-closure care.

Leachate System

84. Respondent shall incorporate within the Closure Plan provisions for an enhancement of the existing, gravity-flow leachate interception and collection system along the western, southern, and eastern perimeter of the Landfill capable of intercepting and managing, to the extent feasible, the leachate, flowing south-southwest toward the location of the Gurabo River, that is generated from the unlined, existing cell.

Timetable

85. The Closure Plan shall include a timetable for prompt implementation, including any stages or phases that may be part of the plan. The timetable shall provide dates for timely completion of any designated stages or phases that the plan may contain including completion of final closure of the existing cell of the Landfill.

Submittal of Closure and Post-Closure Plans

86. After their preparation by the professional engineer and acceptance by Respondent, the Closure and Post-Closure Plans shall be submitted to EPA for review. The Plans shall include an engineering report and associated plans and specifications for permanent closure and shall include a closure construction schedule, specifications and timetable for installation of the GCCS system, identification of any required permits or other approvals, and necessary measures, procedures and information for post-closure care. The plans shall be submitted within 300 calendar days after the effective date of the Order, unless EPA approves a later date in writing. EPA will review the Plans and within 60 calendar days of their receipt will endeavor to notify Respondent in writing of EPA's approval or non-approval of the Plans. In the event of non-approval of either the Closure or Post-Closure Plans, EPA will specify deficiencies in the Plan(s) in writing and outline necessary revisions or modifications. Thereafter, Respondent shall within 30 calendar days of receipt of EPA's notice of non-approval of the Plan(s), modify/revise the Plan(s) and resubmit the Plan(s) to EPA for final review. This process shall be repeated in the event of EPA's non-approval of the resubmitted Plan(s), but if the repeated process does not produce acceptable revised Plan(s), EPA may in its discretion determine that it is necessary to invoke the procedures set forth below in the Final Notice of Deficiencies paragraph. Throughout the process, EPA and Respondent shall confer as necessary and appropriate in order to clarify and resolve any outstanding issues. EPA will notify Respondent in writing of its final approval or non-approval of each of the Closure and Post-Closure Plans.

Final Notice of Deficiencies

87. When EPA determines in its sole discretion that it is necessary to invoke the procedures in this subparagraph in order to achieve approvable Closure and Post-Closure Plans, it will notify Respondent in writing setting forth a final date for Respondent's submission of acceptable Plan(s) to EPA. The written notice will specify the corrections, amendments and/or changes that Respondent needs to make to previously submitted Plan(s) to achieve EPA approval, and the reasons why such corrections, amendments and/or changes are necessary. The notification letter will carry the caption: FINAL NOTICE OF DEFICIENCIES across the top of the page and will specify the date by which the Plan(s), signed by the professional engineer and approved by Respondent, must be submitted to EPA. If the professional engineer believes in his best professional judgment that certain proposed corrections, amendments and/or changes described in the FINAL NOTICE OF DEFICIENCIES cannot or should not be complied with, Respondent may provide notice to EPA that the matter is subject to the Dispute Resolution provisions set forth herein. After a decision on any matter or matters submitted for dispute resolution, EPA will, if necessary, submit a SECOND FINAL NOTICE OF DEFICIENCIES letter specifying the date by which the Plan(s) must be resubmitted to EPA. Thereafter, EPA will promptly notify Respondent in writing of its final approval or non-approval of the Closure and/or Post Closure Plans. Respondent's failure to submit acceptable

Closure and/or Post Closure Plans by the date specified in the FINAL NOTIFICATION OF DEFICIENCIES, or in the event of a dispute resolution, by the date specified in the SECOND FINAL NOTIFICATION OF DEFICIENCIES, shall constitute Respondent's failure to comply with a requirement of this Order, and Respondent shall be subject to stipulated penalties for such failure.

Submittals to Puerto Rico Environmental Quality Board

88. Respondent shall submit the final Closure and Post-Closure Plans to EQB for its review and comments prior to or simultaneously with their submittal to EPA. Respondent shall obtain any required approvals from EQB for such Plans.

Closure Plan Implementation

89. Respondent shall implement the Closure Plan for the Existing cell of the Landfill, in accordance with its approved provisions and the timetables in this Order and in the Plan.

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- a. Closure Plan Work: Respondent shall begin Closure Plan work in accordance with its implementation schedule, or within 20 calendar days of any required EQB approval, whichever comes later. Quarterly Reports: During implementation of the approved Closure Plan, Respondent shall submit quarterly reports to EPA on the status of implementation activities. The quarterly reports shall be submitted no later than 20 calendar days after the end of each calendar quarter.
 - b. Certification of Completion of Closure Plan Work: Respondent shall notify EPA in writing within 30 calendar days after completion of the Closure Plan work, and shall certify that the work has been performed in accordance with the provisions of the Closure Plan approved by EPA, its associated plans and specifications, and any permits or other forms of prior approval Respondent obtained in connection with the Closure work. The notification shall be signed by a professional engineer. A senior official of Respondent shall also certify that the work has been completed.
 - c. Carrying Out The Post-Closure Plan: Respondent shall carry out the provisions of the Post-Closure Plan. If monitoring discloses that repairs or alterations must be made to the landfill cap, the gas monitoring system, the groundwater monitoring system, or any other component, Respondent shall timely make such repairs.
 - d. Post-Closure Reports: Respondent annually shall submit a report to EPA that describes post-closure activities during the preceding year. The report shall include information on the results of groundwater and gas monitoring and the status of the permanent landfill cap, operating and maintenance activities, financial assurance, and other relevant information. The annual report shall be submitted on or before September 30 of each calendar year beginning after the Closure Plan work has been completed.

Landfill Gas Control Requirements

90. Respondent shall meet the following requirements regarding Gas Collection and Control Systems ("GCCS"):

- a. Within thirty (30) calendar days of the effective date of this Order, Respondent shall submit to EPA a design capacity report for the current calendar year which meets the substantive requirements of the New Source Performance Standards ("NSPS") for municipal solid waste landfills, 40 C.F.R. Part 60, Subpart WWW ("NSPS Subpart WWW") and/or the Puerto Rico Regulations for the Control of Atmospheric Pollution ("PRRCAP"), Part VII, Rule 701 et seq. ("Puerto Rico 111(d) Plan"), collectively hereinafter called the Landfill Regulations.
- b. Within thirty (30) calendar days of the effective date of this Order, Respondent shall submit a report which describes any modifications, as defined by 40 C.F.R. § 60.751, made to the Landfill since May 30, 1991.
- c. If the current calendar year design capacity report does not reflect the initial design capacity, previous design capacity calculations and/or reports shall be submitted.
- d. With any design capacity report submitted pursuant to "a." or "c." of this paragraph, submit a non-methane organic compound ("NMOC") emission rate report that reflects the emission rate calculation for the year(s) for which the design capacity report(s) was developed.
- e. If a design capacity report and/or NMOC emission rate calculation is not in accordance with the specifications of 40 C.F.R. § 60.757(a) and (b), EPA will notify Respondent in writing.
- f. Within fifteen (15) calendar days of receipt of an EPA notification provided pursuant to paragraph "e." above, Respondent shall modify the report and/or calculation in response to EPA's notification and resubmit the report to EPA.
- g. If a design capacity report, submitted pursuant to "a.", "c.", or "f." of this paragraph, indicates that the landfill's design capacity is equal to or greater than 2.5 million megagrams ("Mg") and 2.5 million cubic meters and an NMOC report, submitted pursuant to "d." or "f." of this paragraph, indicates that the landfill's NMOC emission rate is greater than 50 Mg/yr, within sixty (60) calendar days of the effective date of this Order, Respondent shall submit to EPA, in writing, a notification of intent to 1) submit a design plan for a gas collection and control system ("GCCS"); or 2) submit a Tier II NMOC emission rate calculation to demonstrate that the NMOC rate is less than 50 Mg/yr; or 3) submit Tier II and Tier III NMOC emission rate calculations simultaneously to demonstrate that the NMOC rate is less than 50 Mg/yr. All calculations and plans submitted must meet the substantive requirements of the Landfill Regulations.

- h. If Respondent's notification of intent, submitted pursuant to "g." of this paragraph, indicates that it shall submit only a Tier II emission rate calculation, Respondent shall submit that calculation within thirty (30) days of submission of the notification of intent.
- i. If Respondent's notification of intent, submitted pursuant to "g" of this paragraph, indicates that it shall submit Tier II and Tier III emission rate calculations, Respondent shall submit that calculation within sixty (60) days of submission of the notification of intent.
- j. If a NMOC emission rate calculation, submitted pursuant to "h." or "i." of this paragraph, is not calculated in accordance with the specifications of the Landfill Regulations, EPA will notify Respondent in writing.
- k. Within twenty-one (21) calendar days of receipt of an EPA notification provided pursuant to "j." of this paragraph, Respondent shall revise its emission rate calculation in response to EPA's notification and resubmit the calculation to EPA.
- l. Respondent shall submit to EPA a design plan for a GCCS that meets the substantive requirements of the Landfill Regulations in the following circumstances:
- i. if Respondent's notification of intent, submitted pursuant to "g." of this paragraph, indicates that it shall submit a design plan for a GCCS;
 - ii. if Respondent's Tier II calculation, submitted pursuant to "h.", "i." or "k." of this paragraph, indicates that the landfill's NMOC rate is greater than 50 Mg/yr;
 - iii. if Respondent's Tier III calculation, submitted pursuant to "i." or "k." of this paragraph, indicates that the landfill's NMOC rate is greater than 50 Mg/yr; or
 - iv. if EPA makes a determination that Respondent's reports and/or calculations, submitted pursuant to this Order, have not satisfactorily demonstrated that the landfill's design capacity is less than 2.5 Mg or 2.5 million cubic meters and/or have not satisfactorily demonstrated that the NMOC rate calculations is less than 50 Mg/yr;
- m. Respondent shall submit the design plan required pursuant to "l." of this paragraph, within one hundred eighty (180) days of the submission of the report and/or calculation referenced in paragraph "l."
- n. If Respondent submits a design plan in accordance with this Order, Respondent shall submit to EPA, together with its design plan for the GCCS, a start-up, shut-down, malfunction plan ("SSM") that contains the information specified in 40 C.F.R., Part 63, Subpart AAAA.



- o. Within ninety (90) calendar days of submission of the design plan pursuant to this Order, in accordance with the Landfill Regulations, Respondent shall submit to EPA and EQB, an application for an operating permit under 40 C.F.R. Part 70 (Title V).
- p. Within one (1) year of submission of the design plan, Respondent shall install and commence operation of the GCCS, in accordance with the design plan and thereafter operate the GCCS in accordance with the Landfill Regulations.
- q. Within one hundred twenty (120) days after initial start-up of the GCCS, Respondent shall conduct performance testing and submit notifications and reports in accordance with the substantive requirements of 40 C.F.R. § 60.8 and the Landfill Regulations.
- r. Respondent shall submit protocol for performance testing to EPA for approval no later than sixty (60) days after initial start-up of the GCCS.
- s. Every calendar quarter after Respondent begins operation of the GCCS, Respondent shall monitor the surface concentrations of methane in accordance with the instrument specifications and procedures provided in 40 C.F.R. § 60.755.
- t. Within thirty (30) calendar days of each calendar quarter after Respondent begins operation of the GCCS, Respondent submit quarterly monitoring reports to EPA that contain the data specified in "s." of this paragraph.

91. Respondent shall either plan, design, install, and operate a GCCS in accordance with the provisions of the above paragraph or if a GCCS is not required under the Landfill Regulations, Respondent shall plan, design, install, and operate an alternative landfill gas system to provide for significant reductions in methane and NMOC emissions.

92. To the extent technically and economically viable, Respondent agrees to recover gas from the Landfill and either market it for energy recovery or directly use it to generate electrical power for market. Any energy recovery must be coordinated with the GCCS or other gas system to be installed by Respondent at the Landfill. Respondent shall maintain compliance with applicable regulations governing the GCCS in connection with any energy recovery system. Respondent agrees to periodically, and upon EPA request, consult with and supply status reports to EPA on this matter. Upon request, EPA will provide technical assistance to Respondent with planning landfill gas to energy systems. Final determination on the technical and economic viability of landfill gas to energy systems, after due consultation with EPA, will be made by Respondent.

Photovoltaic Power Generation and Landfill Cap System

93. To the extent technically and economically viable, Respondent agrees to design and install an integrated geomembrane and photovoltaic power generation system applied as a closure system. Respondent agrees to periodically, and upon EPA request, consult with and supply status reports to EPA on this matter. Upon request, EPA will provide technical assistance to Respondent with planning the PV Cap System. Final determination on the

technical and economic viability of the PV Cap System, after due consultation with EPA, will be made by Respondent.

Recycling and Green Waste Management Program

94. Within 120 days of the Effective Date of the Order, the Respondent shall submit a Recycling and Green Waste Management Program ("Recycling Program") to EPA for its review and approval which shall be consistent with all Commonwealth of Puerto Rico regulations and/or requirements. The Recycling Program will include all the definitions, requirements and time schedules or phases that are set forth below. EPA will review the Recycling Program, and provide its comments in writing to Respondent. Within thirty (30) calendar days after receipt of EPA's comments, Respondent shall resubmit a revised Recycling Program. EPA and Respondent will consult as necessary, and, after any further revisions are incorporated into the Recycling Program, EPA will notify Respondent in writing of its approval of the Recycling Program. Respondent shall carry out the Recycling Program in accordance with its implementation schedules, and the Program shall be implemented pursuant to this Order for as long as the Facility receives waste for disposal.

95. The following definitions apply to development and implementation of Respondent's Recycling and Green Waste Management Program:

- a. Agricultural Waste shall mean waste generated by residential sources, commercial sources and or from agricultural activities including but not limited to bean, nut and grain hulls and chaff, sugar cane bagasse, orchard pruning, and coffee bean hulls and ground.
- b. Ash shall mean the residue matter that remains after burning, and includes, but is not limited to, such residues produced by manufacturing, energy production, burning coal and other commercial processes.
- c. Composting shall mean the controlled biological aerobic decomposition of organic material that is sanitized through the generation of heat and stabilized to the point that it is beneficial to plant growth in that it has the unique ability to improve the chemical, physical, and biological characteristics of soils or growing media.
- d. Green Waste shall mean agricultural and yard waste.
- e. Recyclable Material shall mean waste glass, paper, cardboard, metals, plastics, electronics, and batteries.
- f. Recycling shall mean the collection, processing, and sale or distribution of waste glass, paper, cardboard, metals, plastics, electronics, and batteries.
- g. Scrap Tires shall mean motor vehicle, truck or heavy equipment tires that are discarded.

- h. White Goods shall mean refrigerators, stoves, washers, dryers, sinks or other such objects that are discarded.
- i. Yard Waste shall mean vegetation waste, such as grass, bushes, shrubs, trees and associated clippings, generated by residential and/or commercial source through the maintenance of private or public lands.

96. The Recycling Program shall be consistent with all Commonwealth of Puerto Rico regulations and/or requirements regarding recycling. The Recycling Program shall have the goal of eliminating the disposal of Recyclable Material, Green Waste, Ash, Scrap Tires and White Goods at the Landfill. The Recycling Program shall include the following:

- a. The development and implementation of disposal restrictions and/or incentives to ensure that all households covered by the Recycling Program, in accordance with the phased schedule set forth below, place Recyclable Materials in bins to be provided by Respondent;
- b. The development and implementation of an inspection program at the Landfill to ensure that incoming loads, from the Municipality or elsewhere, do not include White Goods, Scrap Tires, or any bulk disposal of Recyclable Material, Ash, or Green Waste;
- c. The identification of a specific storage area at or near the Landfill for Green Waste and Recyclable Material in order to avoid the disposal of such material at the Landfill;
- d. A plan to transfer Recyclable Materials to a Material Recycling Facility ("MRF") or, if it becomes economically viable, the development and implementation of a MRF by the municipality within or adjacent to the Landfill;
- e. An educational and community outreach program, including community workshops, to educate the community regarding composting, its benefits, and guidelines for household and/or commercial implementation, and an implementation timetable;
- f. A Composting Pilot Project at the Landfill and an implementation timetable. The Composting Pilot Project will be designed so that it can be expanded, and the Recycling Plan will set forth the criteria for such expansion;
- g. The development of a continuous education program to be implemented in each phase of the Recycling Program focused on the participant communities;
- h. A plan for implementation in four (4) phases, starting 30 days from EPA's approval of the Recycling Program. The Recycling Program shall also contain details showing specific actions to be taken in each phase, including the proposed distribution of collection bins for curbside collection and establishment of regional "Drop Off" collection points in semi-urban or rural parts of the Municipality, the distribution of recycling containers, and other appropriate actions;

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- i. Distribution of collection bins to the households in the Municipality for Recyclable Materials, in accordance with the four phases of the Recycling Program;
- j. Establishment of recycling collection centers in those areas where there is no curbside trash collection, in accordance with the four phases of the Recycling Program;
- k. Development and implementation of a program to ensure that Recyclable Materials, Green Waste, Ash, Scrap Tires, and White Goods are not disposed of at the Landfill (whether or not generated in the Municipality). The program shall include routine documented inspections of incoming loads, and the prohibition by local ordinance or regulation of the disposal of these materials in the Landfill if Respondent determines such action to be necessary to achieve compliance with the above requirements; and,
- l. Development and implementation of a program to promote compliance with the Municipality's recycling and green waste management requirements (i.e., the Recycling Program) by residents and businesses. This may include the passing of necessary local rules or ordinances authorizing the imposition of penalties or creation of incentives if Respondent determines such action to be necessary to achieve compliance with the above referenced requirements.

97. Respondent shall evaluate the feasibility of entering into an agreement with MRFs to take the Recyclable Material and shall also identify appropriate haulers of the Recyclable Materials. The Recycling Program shall outline a schedule that enables the Municipality to transfer Recyclable Material to the MRF(s) when the first phase of implementation of the Recycling Program commences and shall address, at a minimum, the following waste categories: Green Waste, electronics, battery recycling, and general Recyclable Materials (i.e., Recyclable Material excluding batteries and electronics).

Recycling Program Implementation

98. Within 30 days after EPA approval of the Recycling Program, the Respondent shall start the implementation of the Recycling Program. The Recycling Program requirements under this Order shall end when the Landfill no longer receives waste for disposal.

99. Within 90 days of EPA's approval of the Recycling Program, Respondent shall develop an educational and outreach program that will be implemented along with the Recycling Program schedule. Steps to remind the community of the program shall be made on an annual basis. The educational program shall include schools, industries, municipal facilities, businesses and households.

100. Prior to each phase of the Recycling Program, Respondent shall develop and implement a scheme to ensure that Green Waste and Recyclable Materials are not disposed of at the Landfill from those households covered by the Recycling Program, in accordance with the phased schedule set forth below. The program shall include routine documented inspections of incoming loads.

101. Unless otherwise approved by EPA, Respondent shall implement the Recycling Program based on the following phased schedule. The Recycling Program shall contain details describing the specific actions to be taken in each phase to incrementally expand the Recycling Program to incorporate all residents and business in the Municipality either through curbside collection in areas where there is curbside trash collection or the establishment of regional "Drop Off" collection points in areas where there is no curbside trash collection. The details shall include but not be limited to the number of households covered in each phase, percentage of rural and urban households covered in each phase, a schedule for the distribution of recycling containers, locations of regional collection points, and other appropriate actions.

- a. The first phase of the Recycling Program shall run from the start of the Recycling Program, as provided in Paragraph 98, until December 31, 2014.
- b. The second phase of the Recycling Program shall run from January 1, 2015 until of December 31, 2015.
- c. The third phase of the Recycling Program shall run from January 1, 2016 to December 31, 2017.
- d. The fourth phase of the Recycling Program shall run from January 1, 2018 to December 31, 2020.

Recycling Program Reports

102. Respondent shall submit annual reports to EPA, on or before March 1 of each year, summarizing the efforts undertaken during the prior calendar year to implement the requirements of the Recycling Program and pilot composting program including, without limitation, the following information for the prior calendar year: (a) the number of households serviced with Curbside Collection, (b) the number and type of other locations serviced with Curbside Collection, (c) the tons of waste material generated in the Municipality that were Recycled under the Recycling Program, including a breakdown of the amount of Recyclable Material obtained using Curbside Pickup and the amount of Recyclable Material obtained using "Drop-Off" locations, (d) if known, tons of waste material generated in the Municipality that were Recycled outside of the Recycling Program, (e) tons of waste material generated in the Municipality that were sent to the Landfill or other solid waste landfills for disposal, (f) with respect to the Recyclable Material collected under the Recycling Program, the percentage composition of each type of material in the wastestream, and (g) the amount charged by MRFs to take Recycled Materials. The first such report shall be submitted on March 1, 2015. The last such report shall be submitted on March 1, 2021. The Municipality may submit supplemental reports to EPA to inform EPA of any information concerning market conditions, Commonwealth regulations, or other factors that may affect the Recycling Program.

103. In any of the annual or supplemental reports, the Municipality may submit to EPA proposed changes to the Recycling Program based on the information obtained during operation of the Recycling Program prior to the submission of the report, in order to improve the efficiency of the recovery efforts or to vary the quantity, quality, and diversity of Recyclable Materials collected.

VI. FINANCIAL ASSURANCE

104. Compliance Requirements: Respondent, by no later than March 31, 2013 shall submit to EPA for review and approval, a Financial Assurance Plan ("FAP"), describing how Respondent shall comply with the requirements set forth in 40 C.F.R. Part 258 Subpart G. with respect to financial assurance for closure and post-closure care.

105. Financial Assurance For Corrective Action: In the event that corrective measures are required during the post-closure period, Respondent shall come into compliance with the financial assurance requirements for corrective action as set forth in 40 C.F.R. § 258.73 by the time of submission of its next annual post-closure report after the estimated cost of corrective measures has been established. Respondent shall include evidence of the maintenance of the required financial assurance for corrective action in such annual post-closure report and succeeding annual reports filed pursuant to this Order.

VII. CERTIFICATIONS

106. Wherever this Order requires that a "Certification" be submitted to accompany written reports or documents, the following Certification form shall be submitted, and shall be dated and signed by a senior official of Respondent:

"I certify under penalty of law that this document [Identify Document] and all attachments being submitted were prepared under my direction or supervision in order to ensure that qualified personnel properly gathered, evaluated and prepared this submission. Based on my review of the documents, data and other information available at the time of this certification, including my inquiry of the person or persons who prepared the submission, the information contained in this submission is to the best of my knowledge, true, accurate and complete. I am aware that there are significant potential penalties for submitting false information."

VIII. RETENTION OF RECORDS

107. Respondent shall maintain business records pertaining to the operations of the Landfill and the recycling and green waste management program and shall make such records available to EPA and its representatives for inspection upon request. Respondent shall also maintain business records pertaining to the work being performed pursuant to this Order, including the recycling and green waste management program, and shall make such records available to EPA and its representatives for inspection upon request. Each record relating to closure shall be maintained for a period of at least five (5) years from the date that permanent closure of the Existing Landfill is completed. Post-closure records shall be retained until the completion of post-closure or for a period of at least five (5) years whichever is longer. Records relating to recycling and green waste management program shall be maintained for a period of at least ten years from the Effective Date of this Order, and shall be maintained at Juncos' Municipal offices located within Juncos City Hall.

IX. PROJECT COORDINATORS

108. On or before the effective date of this Order, EPA and the Respondent each shall designate a Project Coordinator ("PC") and the name of at least one alternate who may function in the absence of the designated Project Coordinator. The Project Coordinators shall be responsible for overseeing implementation of this Order. EPA and the Respondent shall each have the right to change the PC and shall inform the other parties should such change occur. The EPA has designated Carl Plössl, Environmental Engineer, as Project Coordinator and Ron Völkel, as Alternate Project Coordinator. Unless approved by EPA, counsel for Respondent may not serve as a PC.

109. All communications between Respondent and EPA, and all documents, reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order, shall be directed to and through the respective Project Coordinators.

X. NOTICES

110. For purposes of this Order, all written communications, notices or submissions required by this Order shall be directed to a person specified by each party. EPA and the Respondent, with written advance notice, shall each have the right to change the person(s) who are to receive documents. The EPA has designated the EPA Project Coordinator as recipient, at the following address:

Carl Plössl
Environmental Engineer
U.S. Environmental Protection Agency, Region 2
RCRA Compliance Branch, 21st Floor
290 Broadway
New York, New York 10007-1866

111. By no later than fifteen (15) calendar days after the effective date of this Order, Respondent shall designate a person or persons to receive such written communications, notices or response to submissions required by this Order and shall provide a mailing address for such person(s).

XI. EMERGENCY PROVISIONS/CORRECTIVE ACTION

 112. In the event Respondent identifies a current or immediate threat to human health or the environment at the Landfill other than those identified in Section III herein, Respondent shall immediately upon becoming aware of it, notify EPA orally and in writing within twenty four (24) hours summarizing the immediacy and magnitude of the potential threat to human health or the environment. The Respondent shall thereafter submit to EPA for approval, as soon as possible, a plan to mitigate this threat. EPA will approve or modify this plan, and the Respondent shall implement this plan as approved or modified by EPA. In the case of an extreme emergency, Respondent may act as it deems appropriate at its own risk.

113. In the event Respondent identifies the need for corrective action due to conditions at the Landfill, or off-site, caused by contamination released from the Landfill, other than those conditions identified in Section III herein or identified by groundwater monitoring carried out pursuant to the Post-Closure Plan, Respondent shall notify EPA within fifteen (15) calendar days of such identification. After review of available information, EPA may, after consultation with Respondent, require Respondent to prepare and implement a corrective action assessment and/or corrective action remedy. The corrective action assessment and/or corrective action remedy shall be implemented subject to EPA oversight.

114. If EPA determines that activities in compliance or non-compliance with this Order have caused or may cause a release of a hazardous waste or hazardous constituent, or may pose a threat to human health or the environment, EPA may direct Respondent, as it deems appropriate, to stop further implementation of this Order, or a portion of this Order, for such period of time as EPA determines may be needed to abate any such release or threat, and/or to undertake any action which EPA determines to be necessary.

115. If EPA determines the need for corrective action due to conditions at the Landfill, or off-site, caused by contamination released from the Landfill, other than those conditions identified in Section III herein or identified by groundwater monitoring pursuant to the Post-Closure Plan, EPA will notify Respondent and may, after consultation with Respondent, require Respondent to prepare and implement a corrective action assessment and/or corrective action remedy. The corrective action assessment and/or corrective action remedy shall be implemented subject to EPA oversight

XII. RESERVATION OF RIGHTS

116. EPA expressly reserves, without limitation, all of its statutory and regulatory powers, authorities, rights, remedies and defenses, both legal and equitable, including the right to seek injunctive relief, cost recovery, monetary penalties, or punitive damages. EPA may exercise its authority under federal law to undertake removal or remedial actions.

117. This Order shall not be construed as a covenant not to sue, or as a release, waiver or limitation of any claim, rights, remedies, defenses, powers and or authorities which EPA has under RCRA, or any other statutory, regulatory or common law authority of the United States.

118. This Order shall not limit or otherwise preclude:

a. EPA from taking any additional legal action against the Respondent should EPA determine that any such additional legal action is necessary or warranted.

b. This Order shall not limit or otherwise preclude Respondent from taking legal actions, which may be otherwise brought, against any other person(s) for indemnification, contribution or other legal action it may deem appropriate; provided however, EPA is not a party in such actions. Third party actions initiated by or against Respondent shall not alter the obligations in the Order and shall not toll deadlines in this Order.

119. Notwithstanding compliance with the terms of this Order, the Respondent is not released for the costs of any response actions taken by EPA. EPA reserves the right to seek reimbursement from Respondent for any costs incurred by the United States.

XIII. STIPULATED PENALTIES

120. Unless the Respondent is excused under the "Force Majeure and Excusable Delay" provision of the Order, Respondent shall pay a stipulated penalty for failure to comply with any requirement, term, or condition set forth in or required by this Order. The stipulated penalty for each non-complying act is as follows:

<u>Period of Failure to Comply</u>	<u>Penalty for Non-compliance Per Calendar Day</u>
1st through 60 th day	<u>\$250.00</u>
61 st through 120 th day	<u>\$500.00</u>
121 st through 180 th day	<u>\$1,500.00</u>
181 st day and thereafter	<u>\$3,000.00</u>

a. Stipulated penalties shall be paid by cashier's or certified check, payable to the Treasurer, United States of America, and mailed to the

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

b. Said payment(s) shall be identified as **Juncos Municipal Solid Waste Landfill, Juncos, Puerto Rico** and must reference the **Docket Number** set forth on the title page of this Order.

121. All stipulated penalties begin to accrue on the day each act of noncompliance with any requirement, term, or condition set forth in or required by this Order first takes place. Said stipulated penalties shall continue to accrue through, and including, the day on which any failure to comply with such requirement, term, or condition is remedied. Nothing herein shall preclude, or is intended to preclude, the simultaneous accrual of separate stipulated penalties for each separate act of noncompliance with this Order. Penalties shall accrue regardless of whether EPA has notified Respondent of the act or acts of non-compliance, but need only be paid upon demand.

122. After receipt of a demand from EPA for stipulated penalties pursuant to this Section of the Order, Respondent may within thirty (30) calendar days of such demand, provide EPA with a written explanation of why it believes the stipulated penalties are not appropriate for the act(s) of non-compliance cited by EPA. If Respondent elects not to file such explanation, the stipulated penalties shall be paid within ninety (90) calendar days after receipt of the penalty demand.

123. The Director of the Division of Enforcement and Compliance Assistance may, in his or her sole discretion, reduce or eliminate such stipulated penalties based on Respondent's written explanation as specified immediately above. If Respondent makes a submittal as specified above, and the Division Director does not eliminate the stipulated penalties, then EPA will again notify Respondent in writing that the original or reduced stipulated penalties must be paid by Respondent. Respondent shall pay the stipulated penalties as set forth in EPA's notice pursuant to this sub-section within ninety (90) calendar days of its receipt of the notice.

124. At any time prior to Respondent's payment of stipulated penalties, the Director of the Division of Enforcement and Compliance Assistance may, for good cause as independently determined by him or her, reduce or eliminate the stipulated penalties. If the Director makes such determination, EPA will notify Respondent in writing of the change.

Except as provided above, all penalties owed to EPA under this Section XIII. STIPULATED PENALTIES, shall be due and owing within ninety (90) calendar days of the date of EPA's written notice to Respondent described above. Interest shall also accrue on any amount not paid when due at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717.

125. If Respondent fails to pay stipulated penalties as required under this Order, EPA may refer this matter to the U. S. Department of the Treasury or the Department of Justice for collection under applicable law. Nothing in this section, however, limits, or shall be construed as limiting, any rights or remedies available to EPA to enforce this Order and to seek compliance with the terms and conditions of this Order or any other applicable law or regulation.

XIV. NON-RELEASE OF OTHER CLAIMS AND PARTIES/COOPERATION WITH THIRD PARTIES

126. Nothing in this Order shall constitute, or be construed to constitute, a release from any claim, cause of action or demand in law or equity brought by EPA against any person, firm, partnership, or corporation for any liability it may have arising out of, or relating in any way to, the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituent, hazardous substance, solid waste, hazardous waste, pollutant, or contaminant found at, taken to, taken from, or emanating from the Landfill.

127. In carrying out its responsibilities under this Order, Respondent, upon notification from EPA, shall use its best efforts to cooperate with any third party who is issued a unilateral or consent order relating to the closure of the Landfill. Respondent shall keep all such third parties fully informed of its activities pursuant to the Order's requirements and shall, unless otherwise agreed to by the parties, provide copies to such parties of all correspondence and submissions to EPA under the Order.

XV. INDEMNIFICATION OF THE UNITED STATES GOVERNMENT

128. Respondent shall indemnify, save and hold harmless the United States Government, its agencies, departments, agents, and/or employees, from any and all claims or causes of action arising from or on account of acts or omissions of Respondent or its agents, independent

contractors, receivers, trustees, subcontractors or successors and/or assigns in carrying out activities required by this Order. This indemnification shall not be construed as in any way affecting or limiting the rights or obligations of the Respondent or the United States under their various contracts or statutes.

XVI. OTHER APPLICABLE LAWS

129. Nothing herein shall relieve Respondent of its obligations to undertake all actions required by this Order in accordance with local, Commonwealth and federal laws and regulations. Respondent shall obtain all permits or approvals necessary to perform the work required by this Order.

XVII. SEVERABILITY

130. If any provision or authority of this Order or the application of this Order to any party or circumstance is found to be invalid, or is temporarily stayed, the remainder of this Order shall remain in force and shall not be affected thereby.

XVIII. FORCE MAJEURE AND EXCUSABLE DELAY

131. Respondent shall perform all the requirements of this Order within the time limits set forth, approved, or established herein, unless the performance is prevented or delayed solely by events which constitute a force majeure. A force majeure is defined as any event arising from causes not reasonably foreseeable and beyond the control of the Respondent which could not be overcome by due diligence and which delays or prevents performance by a date required by this Order. Such events do not include unanticipated or increased costs of performance, changed economic circumstances, normal precipitation events, or failure to obtain federal, Commonwealth, or local permits. Nothing in this Section XVIII. bars Respondent from seeking a scheduling modification pursuant to XXI. MODIFICATION, herein.

132. The Respondent shall notify in writing the EPA Project Coordinator within ten (10) days after becoming aware of any event, which it knows or should know, constitutes a force majeure. Such notice shall detail the estimated length of delay, including necessary demobilization and remobilization, its causes, measures taken or to be taken to minimize the delay, and an estimated timetable for implementation of these measures. Respondent shall adopt all reasonable measures to avoid and minimize the delay. Failure to comply with the notice provision of this section shall constitute a waiver of Respondent's right to assert a force majeure and may be grounds for EPA to deny Respondent an extension of time for performance.

133. After receiving notice from Respondent that it is invoking the force majeure provisions of this Order, EPA will respond in writing indicating either EPA's agreement that the event constitutes a force majeure or its disagreement and the reasons therefore.

134. If the Parties agree that a force majeure has occurred, the time for performance may be extended, upon EPA approval, for a period equal to the delay resulting from such circumstances. This shall be accomplished through written amendment to this Order, or modifying the schedule in a previously approved plan. Such an extension or modification will

not alter the schedule for performance or completion of any other tasks required by this Order unless EPA determines that the delayed task is a prerequisite or necessary requirement for other specified tasks and the schedule is specifically altered in accordance with XXI. MODIFICATION, herein.

135. In the event the parties cannot agree that any delay or failure has been or will be caused by a force majeure, or if there is no agreement on the length of the extension, the dispute will be resolved in accordance with the Dispute Resolution provisions contained in this Order.

XIX. ON-SITE AND OFF-SITE ACCESS

136. Respondent shall permit EPA representatives, including authorized designees, employees, agents, contractors, subcontractors, or consultants to enter and freely move about the Landfill for, but not limited to, the following purpose(s): observing conditions and/or activities at the Landfill, including work performed pursuant to this Order, interviewing personnel, conducting sampling or monitoring, taking photographs and verifying information or data that have been submitted.

137. Respondent shall make available to EPA for inspection, copying, or photographing, all records, files, photographs, documents, or any other writing, including monitoring and sampling data that pertain to any work undertaken pursuant to this Order.

138. To the extent that work required by this Order must be performed on property not owned or controlled by Respondent, Respondent shall use best efforts to obtain "Site Access Agreements" to perform such work within thirty (30) days of the date Respondent become aware or should be aware of the need to perform such work. Any such access agreement shall provide for reasonable access by EPA. In the event that Site Access Agreements are not obtained within the thirty (30) day period, Respondent shall notify EPA, in writing, documenting their best efforts to obtain such agreements.

139. Nothing in this Order shall be construed to limit or otherwise affect EPA's right of access and entry pursuant to any applicable laws and regulations.

140. Nothing in this Order shall be construed to limit or otherwise affect Respondent's liabilities and obligations to perform corrective action, including corrective action beyond the Landfill property boundary, notwithstanding the lack of access. EPA may determine that additional on-site measures must be taken to address releases beyond the Landfill boundary if access to off-site areas cannot be obtained.

XX. NO FINAL AGENCY ACTION

141. Notwithstanding any other provision of this Order, no action or decision by EPA pursuant to this Order, including without limitation, decisions of the Regional Administrator, Region 2, or any authorized representative of EPA, shall constitute final agency action giving rise to any rights of judicial review prior to EPA's initiation of a judicial action for a violation of

this Order, which may include an action for penalties, an action to compel Respondent's compliance with the terms and conditions of this Order, or such other relief as may be available at law.

142. In any action brought by EPA for a violation of this Order, Respondent shall bear the burden of proving that EPA's action was arbitrary and/or capricious and not in accordance with law, or this Order. In any such action, EPA shall bear the burden of proving that Respondent has violated a term or terms of this Order.

XXI. MODIFICATION

143. This Order may be amended by Respondent and EPA. Such amendment(s) shall be in writing, shall first be signed by Respondent, and shall have as their effective date the date on which they are signed by the EPA Regional Administrator.

144. Notwithstanding the above, EPA's and the Respondent's Project Coordinators may agree to changes in the scheduling of events. Any such changes shall normally be requested in writing by the Respondent and must be approved in writing by the EPA PC.

145. No informal advice, guidance, suggestions, or comments by EPA regarding reports, plans, specifications, schedules, and any other writing submitted by the Respondent will be construed as an amendment or modification to this Order.

XXII. TRANSFER OF OBLIGATIONS

146. Respondent shall give notice, and a copy, of this Order to any successor in interest prior to any transfer of ownership or responsibility for the Landfill. Respondent shall give notice to EPA at least sixty (60) days prior to any such transfer. No such transfer shall in any way alter, extinguish or otherwise affect Respondent's responsibility to meet all the terms and obligations of this Order. Respondent may, however, transfer the responsibility for unperformed obligations imposed by this Order to a new owner/operator of the Landfill, provided there is a demonstration provided to EPA's satisfaction that the new owner/operator is capable of undertaking these obligations and has expressly agreed to do so in writing, provided further that EPA has given its approval in writing to any such transfer of obligations, and provided finally that this Order has been modified to reflect the transfer. Any stipulated penalties which may have accrued pursuant to the terms of this Order shall remain the responsibility of the Respondent against whom the penalties accrued unless EPA consents in writing to the transfer of said liability to the successor. The Order Modification reflecting the transfer of obligations to a successor party or parties may, if appropriate, establish modified schedules for continuing obligations under the Order.

XXIII. DISPUTE RESOLUTION

147. All parties shall use their best efforts to informally and in good faith resolve all disputes and differences of opinion, which may arise concerning provisions of this Order. Notwithstanding the foregoing, if Respondent disagrees, in whole or in part, with any disapproval or modification or other decision or directive made by EPA pursuant to this Order,

Respondent shall notify EPA in writing of such disagreements and their basis or bases within twenty (20) calendar days of receipt of EPA's disapproval, modification, decision or directive. The notice shall set forth the specific points of the dispute, the position Respondent maintains, the basis or bases for Respondent's position, and any matters the Respondent consider necessary for EPA's review. EPA may unilaterally refuse to review any dispute brought by Respondent under this provision if Respondent fails to fully set forth the basis or bases of their position and/or fails to provide materials which are necessary for EPA's determination. EPA may, but is not obliged, to request that Respondent submit additional information regarding any points concerning any dispute brought by Respondent. EPA will determine which of its officials will have responsibility for a decision concerning a dispute. Within thirty (30) calendar days of EPA's receipt of such written notice, or by any other date as may be agreed upon by the parties, EPA shall provide to Respondent its decision in writing on the pending dispute, which decision shall be binding. The parties may continue to confer and to use informal efforts to resolve the dispute during the period that EPA's final determination is pending. Notwithstanding the above, Respondent may not invoke the dispute resolution procedures for the deadline for ceasing receiving solid waste for disposal in the existing cell of the Landfill, nor may Respondent invoke the dispute resolution procedures concerning which EPA official is designated by EPA as the official to make a determination concerning the dispute.

148. EPA's decision on any dispute shall be incorporated into and become an enforceable part of this Order, and shall no longer be subject to dispute pursuant to this Order. Respondent shall proceed in accordance with EPA's decision regarding the matter in dispute. If Respondent does not actually perform the work in accordance with EPA's decision, EPA reserves the right in its sole discretion to conduct the work itself, and seek reimbursement from Respondent, seek enforcement of this Order, seek stipulated penalties, and/or seek any other appropriate relief. Any disputes arising under this Order, and EPA's decisions concerning such disputes, are not subject to judicial review until such time as EPA seeks judicial enforcement of this Order.

149. The existence of a dispute as defined herein, and EPA's consideration of such matters as are placed into dispute, shall excuse, toll or suspend during the pendency of the dispute resolution process the compliance obligation which is demonstrably dependent on the matters in dispute, and EPA shall not seek to impose a penalty for non-compliance with the obligation for the period of time during which the obligation was excused, tolled or suspended, regardless of the final decision on the dispute. No compliance obligation shall be excused, tolled or suspended, unless Respondent's dispute is in good faith and Respondent exercises due diligence to resolve the dispute.



XXIV. TERMINATION

150. This Order and all of its terms and provisions shall remain in effect until all of the activities called for by the Order are completed and Respondent is so notified in writing by the EPA. Such notice shall be signed by the Regional Administrator, EPA Region 2. Respondent may request that EPA Region 2 provide Respondent with such notice, and shall supply EPA with such information, including certifications, as EPA may specify.

XXV. ENFORCEMENT

151. The failure of Respondent to comply with any provision of this Order may be considered a violation of this Order. Such violation may give rise to an enforcement action pursuant to Section 7003(b) of the Act, 42 U.S.C. § 6973(b), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. Section 3701 et seq.

152. Nothing herein shall preclude EPA from taking any additional enforcement actions, and/or such other actions as it may deem necessary for the abatement or prevention of an imminent threat to public health or the environment arising from conditions at the Landfill. Nor shall EPA be precluded from taking any such other enforcement actions under the Act or other laws as EPA may deem necessary based on additional information about conditions at the Landfill.

XXVI. COOPERATION AND POTENTIAL ASSIGNMENT OF RESPONSIBILITIES AMONG RESPONDENTS

153. Respondent shall use its best efforts to cooperate with any Respondent or Respondents that may be ordered to carry out legal obligations relating to the Landfill. Respondent shall keep any such other Respondent or Respondents fully informed as to its activities pursuant to the Order's requirements, and shall provide copies to such Respondent or Respondents of correspondence and submissions to EPA under the Order. In the event that one or more additional Respondents is issued an Order to carry out legal obligations relating to the Landfill, EPA reserves its right to assign some of the specific tasks set forth in this Order to any additional Respondent or Respondents that are ordered to carry out legal obligations relating to the Landfill.

XXVII. GENERAL PROVISIONS

154. Nothing in this Order constitutes a satisfaction or release from liability with respect to any conditions or claims arising as a result of past, current or future operation, ownership or use of the Landfill by the Respondent, its agents, officials, successors or assigns.

155. Nothing in this Order affects any right, claim, interest, defense or cause of action of EPA with respect to the Respondent or any third parties.

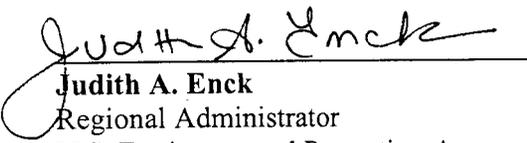


XXVIII. CONSENT/AUTHORITY TO SIGN

156. Respondent consents to and agrees not to contest EPA's jurisdiction to issue this Order. In addition, whether brought in an administrative or judicial proceeding, Respondent consents to and agrees not to contest EPA's jurisdiction to enforce or compel compliance with any term of this Order. Respondent neither admits nor denies the EPA's Findings of Fact and Conclusions of Law stated herein. Respondent enters into this Order in good faith, and the execution of this Order is not intended and shall not be construed as an admission relating to any violations of any law or regulations or an assumption of liability beyond that expressly stated herein.

Administrative Order on Consent
Juncos Municipal Landfill
Juncos, Puerto Rico
Docket No. RCRA 02-2012-7304

It is so Ordered:



Judith A. Enck
Regional Administrator

Date: 9/27/12

U.S. Environmental Protection Agency, Region 2
290 Broadway
New York, New York 10007-1866