

Subject	Puerto Rico Landfill Initiative Thursday, March 14, 2013	Enforcement Confidential For Internal Use Only: Do Not Release
Contact	<u>George Meyer</u> DECA-RCB	Phone 212-637-4070

Issue

The majority of Puerto Rico's landfills are past or near capacity and may present an imminent and substantial threat to human health and the environment. Minimal municipal solid waste recycling programs are in place. Although the Puerto Rico Environmental Quality Board (EQB) is approved to implement permitting and enforcement within the RCRA solid waste program, EQB has largely not addressed non-compliant landfills via enforcement actions. Similarly, the Puerto Rico Solid Waste Management Authority has not implemented any of the solid waste management plans proposed over the last 15 to 20 years. In addition, the existing PR solid waste regulations are not consistent with Federal requirements.

EPA's overall compliance strategy comprises four elements: 1) closure of all open dumps, 2) implementing recycling, 3) replacement of open dumps with RCRA compliant landfills, in instances where the operating proceeds of such new landfills are needed to fund the closure of open dumps, and 4) greenhouse gas reductions via landfill gas collection and control, landfill gas to energy, and photovoltaics.

Current Status

Regulatory Changes

In February 2010, EQB transmitted to EPA draft proposed revisions to its existing solid waste regulations per our recommendations. EPA has reviewed these proposed revisions for consistency with the federal requirements and found that only minor additional modifications are necessary for federal consistency. A letter requesting that EQB adopt the proposed revisions was sent in January 2011. The changes have not been officially adopted.

EPA Case Update

EPA ordered closure of six municipal landfills using RCRA 7003 imminent and substantial endangerment authority, and will take additional actions in FY13 and beyond. Two landfills are currently the subject of CAA and RCRA Judicial Referrals.

- **Aguadilla Landfill:**

The Aguadilla Landfill was an unlined municipal open dump, located in karst. The landfill was closed in September 2010 under a 2007 RCRA 7003 Order on Consent (AOC) naming the Municipality of Aguadilla, Owner, and Land-Tech, Operator, as Respondents. Post closure care under the 2007 AOC continues.

- **Vega Baja Landfill:**

The Vega Baja Landfill is an unlined municipal open dump, located in/adjacent to wetlands, and is located on PR Land Authority property.

A September 2012 AOC naming the Municipality of Vega Baja, Owner, and La Vega Landfill & Resources, Inc., Operator, as Respondents, requires cessation of waste by July 1, 2013, phased

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closure of the existing landfill cell, landfill gas collection and control, acceptance of waste from Florida, construction of a new fully compliant expansion cell, and a comprehensive recycling program in and around Vega Baja. A Unilateral Order was issued to the PR Land Authority in January 2013 and the Land Authority is cooperating with the terms.

Vega Baja is ready to go with its small, new West Cell so that it can cease receiving waste in the old landfill and proceed with its closure. The new cell is part of a 50 acre landfill site that previously received Planning Board approval, so new environmental statements are not required. The previous EQB administration Resolution # 7-11165 preventing lateral expansion to help closure may need to be waived in this case or rescinded (the project began well before issuance of the Resolution). All the conditions previously raised by EQB have been met, and accordingly EQB now needs to make a final decision on whether it will authorize the West cell development to proceed and, without further delay, issue a letter memorializing their decision and, if needed, waiving or rescinding the Resolution's applicability. Regardless of EQB's decision, the terms of the September 2012 AOC and January 2013 UAO hold and all parties, the Municipality of Vega Baja, La Vega Landfill & Resources, Inc., and the PR Land Authority will jointly and severally be held liable for the closure and post closure of this landfill.

- **Toa Baja Landfill:**

The Toa Baja Landfill is a large, unlined municipal open dump, located in karst, with nearby residential communities. The landfill is partially located on GSA (former Navy Base) property. The Municipality of Toa Baja, Owner, and Land-Tech, Operator, are the Respondents in the landfill closure Consent Order and 2012 Amendment. The PR Land Authority, as past owner, is a Respondent under a 2007 Unilateral Order.

A September 2012 amended AOC requires cessation of waste by September 30, 2014, landfill gas collection and control, gas to energy, photovoltaics, construction of a new fully compliant expansion cell, and a comprehensive recycling program in and around Toa Baja. Toa Baja is constructing its new, compliant, lined cell and needs EQB support and any necessary approvals.

- **Florida Landfill:**

The Florida Landfill is a small, poorly designed and operated, unlined municipal open dump, located in karst, with nearby drinking water wells. The Municipality of Florida, Owner, and Waste Disposal Management Inc., Operator, are the Respondents in separate Orders for landfill closure.

The compliance schedule was stayed when the Municipality invoked dispute resolution based on inability to pay issues. Cessation of waste receipt and implementation of closure at the Florida Landfill was deferred until resolution of the situation at the Vega Baja Landfill (resolved) which is prepared to accept Florida's waste at below market rate. An amended AOC has been drafted to establish a new compliance schedule and to require recycling. We anticipate that Florida and Vega Baja will sign a contract for acceptance of Florida waste and that the

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municipality of Florida will sign an amended AOC in April 2013. The amended AOC will include phased closure and a comprehensive recycling program in and around Florida.

- **Juncos Landfill:**

The Juncos Landfill is a moderately large, municipally owned and operated, unlined open dump with significant, long term non-compliance issues. The Municipality of Juncos, Owner and Operator, is the Respondent in an October 2012 landfill closure AOC, requiring cessation of waste by December 31, 2014, landfill gas collection and control, gas to energy, photovoltaics, construction of a new fully compliant expansion cell, and a comprehensive recycling program in and around Juncos.

- **Arecibo Landfill:**

The Arecibo Landfill borders the Caño Tiburones, an environmentally sensitive wetland and natural reserve. CAA injunctive relief requires a landfill gas collection and control system. RCRA injunctive relief sought includes: slope stabilization; flood protection; stormwater run-on/off controls; leachate controls; halting wetland encroachment; removal of solid waste (e.g., junked autos) from wetland; site security; pathogen control; financial assurance for closure; proper closure when capacity is reached, and a comprehensive municipal recycling program.

The case was referred to DOJ in June 2009.

- **Santa Isabel Landfill:**

The Santa Isabel Landfill is a small, municipally owned and operated, unlined open dump with persistent, long term non-compliance issues. The Municipality of Santa Isabel, Owner and Operator, and two past operators were Respondents in the original 2007 landfill closure Consent Order. A September 2011 AOC, naming the municipality of Santa Isabel as Respondent, replaced and supplemented the 2007 AOC by adding comprehensive recycling provisions. The 2011 AOC required closure of the Landfill in three annual phases, beginning in December 2011, and included comprehensive recycling provisions. The first two closure phases were completed in December 2011 and December 2012. The Recycling Plan is significantly overdue. Santa Isabel has a final, EPA-approved closure plan ready to proceed which now needs EQB review and approval so that closure can proceed.

The case was referred to DOJ in June 2012 for noncompliance with the 2011 AOC.

FY 2013 and Beyond

RCRA 7003 AOCs will be issued to two additional dumps in FY 2013. Moca and Lajas Orders are currently under development.

Options & Recommendations

- Encourage the Governor to ensure that SWMA provides funding to the municipalities to aid landfill closures;

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- Encourage development and implementation of an island-wide, up-to-date, solid waste management plan;
- Continue with RCRA 7003 Orders to achieve systematic, permanent closure of old landfills with, where possible:
 - Construction of a new fully compliant expansion cell to provide both funding for closure and to insure that subsequent waste disposal is within a lined, environmentally protective landfill cell;
 - A comprehensive recycling program to reduce waste volume and promote local recycling industries; and
 - Greenhouse gas reductions via landfill gas collection and control, landfill gas to energy, and photovoltaics.
- Request that EQB adopt the proposed revisions to its existing solid waste regulations; and
- As a delegated solid waste program, EQB must staff programs and implement its solid waste permitting and compliance sections to meet its authorization obligations.