

June 22, 2017

Jeffrey W. Cown, Chief
Georgia Environmental Protection Division
Land Protection Branch
4244 International Parkway, Suite 104
Atlanta, GA 30354

Re: Draft Site Limitations for Eagle Point
MSW Landfill Proposed Horizontal and Vertical Expansion
Forsyth County APL 05801

Dear Mr. Cown:

This letter was prepared to address significant environmental impacts associated with the proposed expansion at the Eagle Point Landfill in Ball Ground, Forsyth County Georgia ("the Landfill"). It has been prepared for the benefit of neighboring residents of Forsyth County and other persons impacted by the Landfill's current operations and proposed expansion.

On November 22, 2016, Eagle Point Landfill, LLC submitted a "Major Modification Request ¹" to the Georgia Environmental Protection Division (GAEPD) for the expansion of operations at the Landfill. In short, this expansion, if approved, would result in a greater than 50% lateral increase in surface area along with a greater than 20% vertical increase in elevation to support landfill operations (HHNT, 2014/HHNT, 2016). In turn, this would extend the lifespan of the Landfill well past 2026 and 2044 for the municipal solid waste (MSW) and construction and demolition (C&D) waste, respectively (GAEPD, 2016).

The 577-acre Landfill is located in the northwest corner of Forsyth County along the banks of the Etowah River and has been in continuous operation since 2002 (USFW, 2014). Currently, the Landfill accepts waste from generators located throughout the State of Georgia (Big Canoe News, 2017). The attached Figure 1 with aerial photos, illustrates the location of the Landfill relative to the Etowah River.

¹ Major Modifications include those changes which substantially alter the design of the facility, management practices, the types of wastes being handled, or the method of waste handling, and due to the nature of the changes, would likely have an impact on the ability of the facility to adequately protect human health and the environment. Major modifications therefore require closer review and public input than minor modifications. (GA R. & Regs. 391-3-4a)



Of concern to the surrounding community is the fact that the Landfill has a demonstrated history of operational and design failures² including, but not limited to:

- contaminated leachate outbreak releases from the Landfill (GAEPD, 2012),
- contaminated water in the Landfill underdrains system (HHNT, 2012), and
- slope stability (failure) problems which were determined to be the result of natural rainfall conditions in combination with various design and operational practices. (BLE, 2017).

With respect to the slope failure problems relative to the close proximity (~500 feet) of the Landfill to the Etowah River, this represents a potential landslide liability that could result in catastrophic impacts to the Etowah River. Granting the expansion to a landfill with a demonstrated history of regulatory non-compliance and engineering design problems in such a sensitive environmental area violates applicable rules, regulations, and guidelines and endangers the public's safety and welfare. Expansion would only induce more stress to a landfill that has struggled with waste management and containment and is located within a seismic impact zone as defined under Ga. R. & Regs. 391-3-4-05(1)(g).

The Landfill is located in the Upper Etowah River watershed, which covers approximately 610 square miles, encompassing 98 miles of the river's main stem and over 100 tributaries (UERA, 2017). The City of Canton obtains its potable water from the Etowah River, where the water treatment plant and only water intake is located 7.7 miles west of the Landfill (15.8 nautical miles downstream along the river) (BLE, 2017) - as illustrated on the attached Figure 2. Based on the proximity of the water intake to the Landfill, erosion sediments generated during the construction/expansion are likely to impact the water supply intake, water treatment plant and water quality of the City of Canton.

The aquatic biodiversity of the Etowah River watershed is well documented, with 76 extant (surviving) native fish species, including three species listed under the Endangered Species Act (ESA) and six others designated as imperiled (USFW, 2014). More importantly, five Federally listed mussel species were once found in the Etowah, however all but one are now considered extirpated (locally extinct) (USFW, 2014). According to research cited by GAEPD, the Etowah River has

² This correspondence only focuses on the design concerns outlined in applicable GAEPD rules and regulations. However, it is worth noting that there are many chronic public safety concerns that are not discussed herein. For example, such reported concerns include the heavy traffic congestion of greater than 700 trucks per day on a two lane road shared by school buses in a residential area, persistent putrescent/offensive odors affecting nearby residences and recreational activities on the Etowah (including the new immediately adjacent Eagle Beak Park, Figure 1), continuous build-up of truck track-out of soil/mud/debris at nearby residences due to failure of the Landfill to properly clean truck wheels upon exiting the Landfill, and substantial vector (vermin/rats) problems at nearby residences.

more imperiled fish and invertebrates than any other river system of its size in the southeastern United States. (GAEPD, 1998, Burkhead, 1997)

With respect to the species protected under the ESA in the Etowah, the U.S. Fish & Wildlife Service (USFW) is required to assess the population health, habitat quality and existing threats of the listed species every 5-years. The purpose of a 5-year review is to ensure that listed species have the appropriate level of protection under the ESA. In the most recent 5-year review completed by USFW, the Landfill was specifically mentioned with respect to the continued degradation of the Etowah watershed and habitat (USFW, 2014 p. 19), and the review further identified one of the primary causes of habitat destruction as:

“Increased development and land clearing that increases siltation from erosion, accelerates runoff, allows transport of pollutants into the Etowah River system, and requires additional road and landfill infrastructure.”
(USFW, 2014, p. 18)

The document also noted that habitat impacts are still,

“...occurring as local governments construct and expand needed infrastructure (roads, utility lines and pipes, landfills, et. al).” (**emphasis added**) (USFW, 2014, p. 5)

As evidenced by USFW, currently the Landfill is an unequivocal continuing source of degradation to the Etowah River Watershed and Habitat. Of particular importance here is that this on-going degradation to the Etowah River habitat by the Landfill is occurring despite the *existing* buffers and erosion control systems mandated by GAEPD. Thus, any expansion to the Landfill would only augment and extend this degradation to the Etowah River watershed.

Further, the location of solid waste management facilities (landfills) immediately next to a major river is contrary to accepted industry practices and USEPA guidance. That is, rivers and associated endangered and protected flora and fauna habitats are specifically referenced as areas to be excluded during a landfill siting process (Bacchi, 1994, USEPA 1990/1995/2001). Regrettably, this siting criteria restriction was not followed when the Landfill was first permitted. Thus, the busiest and largest landfill, based on daily tonnage intake, in Georgia is located less than 500 feet from the impaired Etowah River.

We therefore and respectfully recommend that GAEPD deny the request for expansion of the Landfill based on all the above described non-compliance history and degradation impacts to the Etowah River watershed/habitat, a water source of great value to the neighboring citizens of Forsyth County as well as other nearby counties, municipalities and Georgia's many tourists. While this act alone will not completely reverse the on-going degradation (until eventual closure), it will trigger and allow for the opportunity for a proper search for a site

in the region that can accommodate future waste management needs that is more in line with the regulatory landfill site selection guidance that avoids locations of landfills on the banks of protected and/or impaired rivers.

Please do not hesitate to call me at (404) 860-1331 if you have any questions or comments.

Sincerely,

truGround Environmental, LLC

James R. Henderson, P.E.
Managing Director/Senior Engineer

Attachments

REFERENCES/DOCUMENTS RELIED UPON

Bagchi, 1994. "Design, Construction, and Monitoring of Landfills", Bagchi, A., 2nd Edition, John Wiley & Sons, Inc. 1994.

Big Canoe News, 2017. "Forsyth landfill expansion may threaten Etowah River, Will increase truck traffic, reduce air quality", Barbara Schneider. June 6, 2017.

Bunnell-Lammons Engineering, Inc. (BLE), 2016. "Eagle Point Landfill – Lateral and Vertical Expansion, Forsyth County, Georgia, Permit Number 058-012-D (MSWL).

Burkhead, N.M., S.J. Walsh, B.J. Freeman, and J.D. Williams. 1997. Status and restoration of the Etowah River, an imperiled Southern Appalachian ecosystem. Pages 375-444 in G.W. Benz and D.E. Collins, editors, Southeastern Aquatic Fauna in Peril: The Southeastern Perspective. Special Publication 1, Southeast Aquatic Research Institute. Lenz Design and Communications, Decatur, GA.

GAEPD, 2012. August 9, 2012 GAEPD Letter to Eagle Point Landfill, LLC. RE: Underdrain Monitoring Action Plan– SWC-6, Municipal Solid Waste Landfill, Permit No. 058-012D (MSWL), Forsyth Co. – Eagle Point Landfill.

GAEPD, 2016. GAEPD Permitted Solid Waste Facilities, Remaining Landfill Capacity – 2016 database. <https://epd.georgia.gov/permitted-solid-waste-facilities>

Hodges, Harbin, Newberry and Tribble, Inc. (HHNT), 2016. "Major Modification Request for 058-012D (MSWL), Permit Application for Expansion of the Eagle Point Landfill, HHNT Project No. 1210-309-01. Eagle Point Landfill, LLC. Forsyth County, Georgia.

HHNT, 2012. May 9, 2012 HHNT Letter to GAEPD RE: Underdrain Monitoring Action Plan – SWC-6, Eagle Point Landfill.

HHNT, 2014. "Site Development Plan, Eagle Point MSW and C&D Landfill, Cells 12-16 and Flood Plain Reclamation Areas No. 1&2. Eagle Point Landfill, LLC. Forsyth County, Georgia.

United States Environmental Protection Agency (USEPA), 1990. "Sites For Our Solid Waste: A Guidebook For Effective Public Involvement, USEPA, Office of Solid Waste, Office of Public Policy, Planning, and Evaluation.

USEPA. 1995. "Decision-maker's Guide to Solid Waste Management", Second Edition. Solid Waste and Emergency Response, EPA530-R-95-023. August.

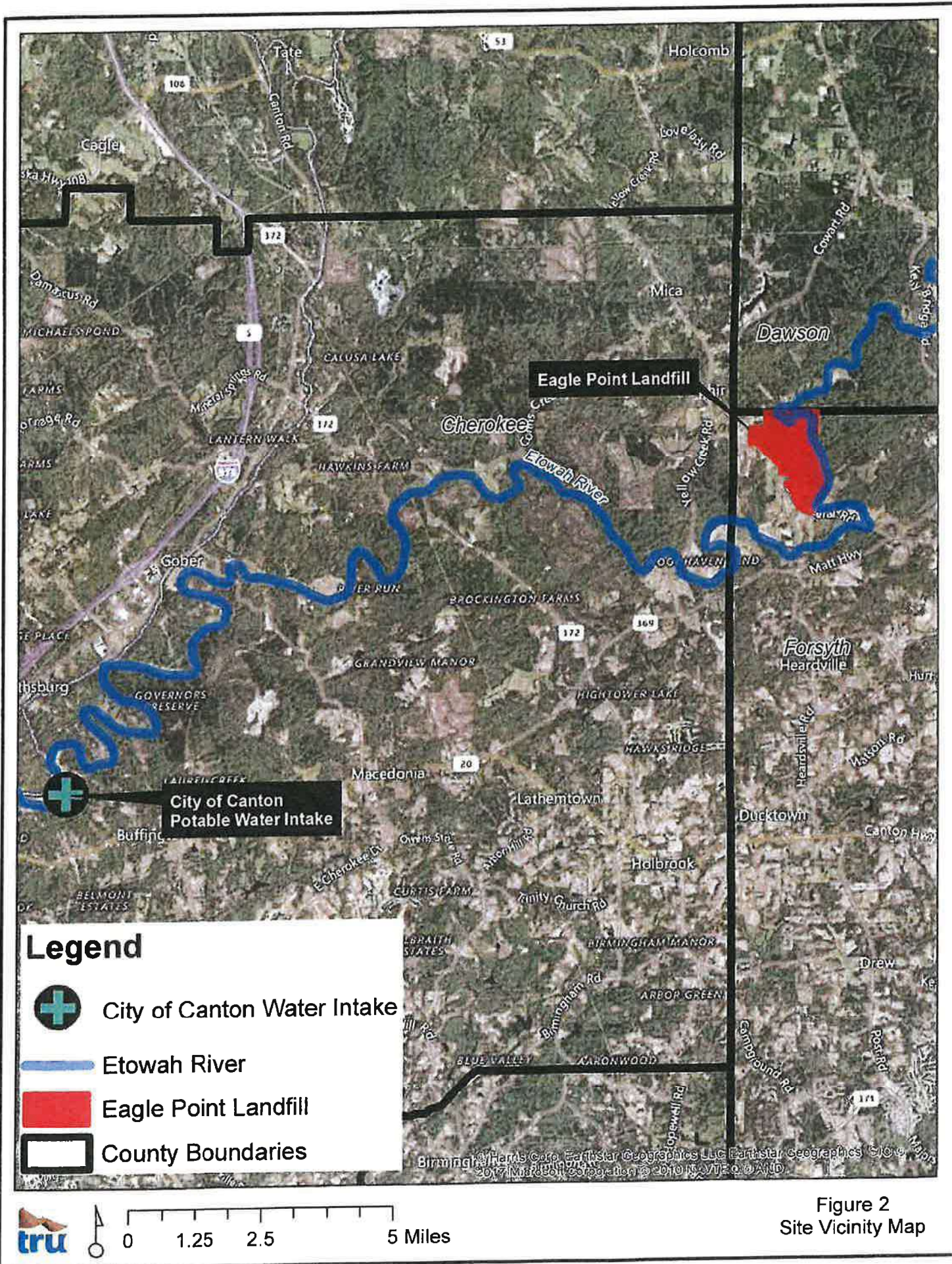
USEPA, 2001. "Waste Transfer Stations, A Manual for Decision-Making", Solid Waste and Emergency Response (5306W), EPA 530-R—02-001. June.

United States Fish & Wildlife Service (USFW), 2014. "Five-Year Review: Summary and Evaluation, Etowah Darter, Cherokee Darter, Amber Darter", U.S. Fish and Wildlife Service Southeast Region, Georgia Ecological Services Field Office. Athens, Georgia.

Upper Etowah River Alliance (UERA), 2017 Upper Etowah River Watershed, <https://www.etowahriver.org/what-is-a-watershed/>



Figure 1
Eagle Point Landfill Area



July 27, 2018

Jeffrey W. Cown, Chief
Georgia Environmental Protection Division (GAEPD)
Land Protection Branch
4244 International Parkway, Suite 104
Atlanta, GA 30354

Re: Advanced Disposal Services - Eagle Point Landfill
MSW Landfill Proposed Horizontal and Vertical Expansion
Forsyth County APL 05801

Dear Mr. Cown:

This letter has been prepared to address the proposed expansion of the Advanced Disposal Services' (ADS) Eagle Point Landfill (EPLF) in Ball Ground, Forsyth County Georgia. It has been prepared for the benefit of neighboring residents of Forsyth County and other persons impacted by the EPLF's current operations and proposed expansion.

Please note that this letter is a follow-up to our June 22, 2017 letter requesting that GAEPD deny the expansion request of the EPLF (truGround, 2017). As you know, that letter was prepared to address significant environmental impacts associated with the proposed expansion and in that letter several concerns were documented specific to EPLF's demonstrated history of operational and/or design failures including, but not limited to:

- contaminated leachate releases from the Landfill (GAEPD, 2012),
- contaminated water in the Landfill underdrains system (HHNT, 2012), and
- slope stability (failure) problems which were determined to be the result of natural rainfall conditions in combination with various design and operational practices. (BLE, 2017).

It has now come to our attention, that as of May 17, 2018, the leachate releases and slope stability issues have persisted to the point of causing a *'temporary halt of operations'*. Consequently, GAEPD performed a *'review of the design and operational history of the EPLF'* to determine compliance, which resulted in GAEPD issuing a **"NOTICE OF VIOLATION"** letter (NOV) that cited specific rule and permit violations related to slope stability, leachate releases and operational failures (e.g. daily cover requirements, disease vector control). (GAEPD, 2018)

Again, as stated in our last letter, with respect to the slope failure problems relative to the Etowah River's close proximity (~500 feet) to the landfill, this particular violation represents a liability that could potentially result in catastrophic impacts to the Etowah River. Granting expansion to a landfill with a demonstrated history of regulatory non-compliance and engineering design problems in such a sensitive environmental area violates applicable rules, regulations, and guidelines and endangers the public's safety and welfare. Expansion would only induce more stress to a landfill that has struggled with basic waste management and containment requirements.



It's also important to note that when GAEPD responded to previous public comments regarding the EPLF's "Previous Issues of Non-Compliance"¹, it stated the following:

*"While EPLF has received notices of operational deficiencies during past inspections (e.g. Notices of Deficiencies, Notices of Non-compliance), these issues have been addressed in a timely manner. Higher level enforcement options, such as **Notices of Violations**, Consent Orders, and Administrative Orders have not been issued to EPLF. EPD would not typically **deny or delay approval** of a major modification to a facility that has **only** received Notices of Deficiencies." (emphasis added)*

However, now the EPLF has received a 'Notice of Violations' which would certainly suggest that GAEPD should reconsider whether to 'deny or delay approval' of the expansion permit. A preliminary review of the ADS/EPLF's recent (ADS, 2018) response to the **NOTICE OF VIOLATION** letter demonstrates that 1) GAEPD and ADS/EPLF are not in agreement regarding the causes of the persistent slope failure and leachate releases and 2) the corresponding corrective actions proposed are based on theory and conjecture regarding the causes.

Based on the above described recent developments, we again respectfully recommend that GAEPD deny the request for expansion of the EPLF. Alternatively, if GAEPD determines that an outright denial is not support by the several violations noted in the NOV, we recommend that EPD at a minimum delay final approval of the expansion construction for at least 2-years during which the EPLF must demonstrate an ability to operate the landfill without further violations or non-compliance as previously described.

We also ask for a meeting with both you and Chad Hall to discuss further our concerns and potential available regulatory options at your earliest convenience. Please do not hesitate to call me at (404) 860-1331 if you have any questions or comments.

Sincerely,

truGround Environmental, LLC

James R. Henderson, P.E.
Managing Director/Senior Engineer

cc:

Chad Hall, Georgia EPD
Kimberley Hale, KMCL Law
Brenda Henderson, Forsyth County Citizen

Attachments

¹ https://epd.georgia.gov/sites/epd.georgia.gov/files/EaglePoint_ResponseToSitingComments.pdf

REFERENCES/DOCUMENTS RELIED UPON

ADS, 2018. July 13, 2018 Advanced Disposal Letter to Georgia EPD. RE: Response to Notice of Violation Issued to Advanced Disposal Services Eagle Point Landfill, Permit No. 058-012D, Forsyth County.

Bunnell-Lammons Engineering, Inc. (BLE), 2016. "Eagle Point Landfill – Lateral and Vertical Expansion, Forsyth County, Georgia, Permit Number 058-012-D (MSWL). Revised 2/27/17.

GAEPD, 2012. August 9, 2012 GAEPD Letter to Eagle Point Landfill, LLC. RE: Underdrain Monitoring Action Plan– SWC-6, Municipal Solid Waste Landfill, Permit No. 058-012D (MSWL), Forsyth Co. – Eagle Point Landfill.

GAEPD, 2018. June 22, 2018 GAEPD Letter to Advance Disposal Services - Eagle Point Landfill, LLC. RE: NOTICE OF VIOLATION, Eagle Point MSWFL (Facility), Permit No. 058-012D (MSWL), Forsyth Co.

Hodges, Harbin, Newberry and Tribble, Inc. (HHNT), 2012. May 9, 2012 HHNT Letter to GAEPD RE: Underdrain Monitoring Action Plan – SWC-6, Eagle Point Landfill.

truGround, 2017. June 22, 2017 truGround Letter to Georgia Environmental Protection Department. RE: Draft Site Limitations for Eagle Point, MSW Landfill Proposed Horizontal and Vertical Expansion, Forsyth County APL 05801.

February 5, 2019

Charles Mueller, Chief
Georgia Environmental Protection Division (GAEPD)
Land Protection Branch
2 Martin Luther King Jr. Drive SE, Suite 1054 East
Atlanta, GA 30334

Re: Advanced Disposal Services - Eagle Point Landfill
Public Notice/Comment: EPD-SW-2819, EPD-WP-8620, EPD-AQC-6945
Forsyth County APL 05801

Dear Mr. Mueller:

This letter has been prepared to provide comments to the recently issued GAEDP Enforcement Order(s)¹ regarding past and on-going violations at the Advanced Disposal Services' (ADS) Eagle Point Landfill (EPLF) in Ball Ground, Forsyth County Georgia. It has been prepared for the benefit of neighboring residents of Forsyth County and other persons impacted by the EPLF's past and current operations.

Please also note that this letter serves as a follow-up to our July 30, 2018 letter requesting that GAEPD deny the expansion request of the EPLF (truGround, 2018). As you know, that letter was prepared to address GAEPD's June 22, 2018 "**NOTICE OF VIOLATION**" letter (NOV) to ADS that cited specific rule and permit violations related to slope stability, leachate releases and operational failures (e.g. daily cover requirements, disease vector control). (GAEPD, 2018)

Upon initial review of the above referenced Enforcement Orders, it's apparent that GAEPD has taken these documented violations seriously and has issued three (3) Enforcement Orders against ADS/EPLF (the Respondent) with associated compliance conditions and civil penalties. Moreover, the Enforcement Orders state that the proposed horizontal expansion application will *'be held in abeyance by the Division'* until the Respondent has demonstrated compliance with the Enforcement Orders and all applicable rules and laws. With that said, we would like to thank GAEPD for their sincere and professional efforts in addressing this matter from a regulatory perspective.

As a general comment to the Enforcement Orders, we would like to call further attention to the on-going/chronic slope failure problems at EPLF over the last five years (since 2014). Here, we again state our serious concern of the proximity (~500 feet) of the landfill to the Etowah River. These documented slope failure violations represent a continuing liability

¹ EPD-SW-2819, EPD-WP-8620, EPD-AQC-6945



that could potentially result in catastrophic impacts to the Etowah River. Consequently, we believe this needs further attention as it relates to the historical '*higher than average rainfall*'² which ADS cites as a factor that contributed to the '*unstable slope condition*'³. ADS appears to suggest that this '*higher than average rainfall*' is just a one-time anomaly. However, it should be noted that increased rainfall in Georgia has been scientifically predicted to be likely - due to the effects of climate change. Specifically, a recent USEPA Climate Change Study about its effect on Georgia noted,

"Change in the climate is likely to increase the severity of both inland flooding and droughts. Since 1958, the amount of precipitation falling during heavy rainstorms has increased by 27 percent in the Southeast, and the trend toward increasing heavy rainstorms is likely to continue." (emphasis added), (USEPA, 2016.)

Thus, higher and more severe rainfall events are expected to be an increasing threat in the future that should be considered in landfill engineering design. Noting that EPLF has historically demonstrated an inability to manage this competently, we ask that GAEPD keep this in mind when evaluating EPLF's compliance efforts and, more importantly, when considering the lifting of the expansion abeyance. As you know, we are unequivocally against any expansion of the EPLF both in the short and long term.

Also, the Enforcement Orders note that GAEPD received approximately 88 odor complaints within a six-month period in 2018. However, the conditions in the Enforcement Orders do not specify any corrective action for odor control and/or similar public nuisances. We respectfully request the Enforcement Orders incorporate the prescribed use of conventional odor control technologies. As you are aware, there are several odor control systems (i.e. surface treatment, misting systems, vapor systems) available that are suited for landfills which can substantively reduce and in some cases eliminate odor releases. Currently, we are aware that EPLF has historically employed odor mitigation technologies such as misting/masking agents. However, the surrounding community has observed no change in odor nuisances since this implementation. Hence, we are asking for GAEPD to use the Enforcement Order mechanism to compel quantifiable improvement/compliance for odor nuisances.

Finally, as documented in the Enforcement Orders, the EPLF has (over the last 5 years) generated numerous violations of the Comprehensive Solid Waste Management Act, Water Quality Control Act, and Air Quality Act notwithstanding all the nuisance complaints. The investigation and assessment of these violations has in turn resulted in the allocation of a substantive amount of technical and legal resources at GAEPD at the expense of Georgia's tax paying citizens. Therefore, we request that the Enforcement Orders include a condition where ADS/EPLF (the Respondent) funds the direct cost of a GAEPD employee/inspector to be present on-site (at the EPLF) full time for one-year (during normal business hours at a minimum). This would provide a stricter and more comprehensive oversight that does not further consume GAEPD's limited fiscal resources. Similarly, we are aware that Forsyth County has allocated code enforcement resources to monitor EPLF; however, we are concerned this does not provide a needed level of aggressive monitoring that EPLF currently requires. Further, there is serious concern that Forsyth County has a financial conflict of interest present as it relates to enforcement. That

²EPD-SW-2819, EPD-WP-8620, EPD-AQC-6945 (page 6)

³ EPD-SW-2819, EPD-WP-8620, EPD-AQC-6945 (page 6)

is, Forsyth County has negotiated tipping fees (e.g. \$1.50 per ton of waste accepted) and expansion fees (e.g. 10 cents per cubic yard) of additional sanitary landfill capacity if the expansion is granted⁴. In short, it's financially not in Forsyth County's best interest to constrain EPLF's operations or expansion plans. Hence, we are requesting a full time GAEPD on-site inspector with no vested financial interest.

Again, and in closing, we would want to convey our sincere appreciation for the attention and effort GAEPD has given this matter and most importantly appreciate the respect you have given the neighboring and affected residents of Forsyth County. Please do not hesitate to call me at (404) 860-1331 if you have any questions or comments.

Sincerely,

truGround Environmental, LLC



Digitally signed by James
R. Henderson, P.E.
Date: 2019.02.05
14:24:50 -05'00'

James R. Henderson, P.E.
Managing Director/Senior Engineer

cc:

Chad Hall, Georgia EPD
James A. Capp, Georgia EPD
Karen Hays, Georgia EPD
Kimberley Hale, KMCL Law
Stop Trashing Forsyth & The Etowah, LLC

REFERENCES/DOCUMENTS RELIED UPON

GAEPD, 2018. June 22, 2018 GAEPD Letter to Advance Disposal Services - Eagle Point Landfill, LLC. RE: NOTICE OF VIOLATION, Eagle Point MSWFL (Facility), Permit No. 058-012D (MSWL), Forsyth Co.

truGround, 2018. July 30, 2018 truGround Letter to Georgia Environmental Protection Department. RE: Draft Site Limitations for Eagle Point, MSW Landfill Proposed Horizontal and Vertical Expansion, Forsyth County APL 05801.

USEPA, 2016. What Climate Change Means for Georgia. EPA 430-F-16-012, U.S. Environmental Protection Agency. August 2016.

⁴ https://www.northfulton.com/forsyth/code-enforcement-officer-hired-to-handle-eagle-point-landfill/article_add20f30-8e95-11e8-8932-d32734683112.html

