



**STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION**

Division of Remediation
William R. Snodgrass TN Tower
312 Rosa L. Parks Avenue, 14th Floor
Nashville, Tennessee 37243

January 31, 2019

VIA U.S. MAIL & ELECTRONIC TRANSMISSION

Tom Grosko
ACC, LLC
400 Arrow Mines Road
Mt. Pleasant, Tennessee 38474

Re: Corrective Action Work Plan – **Notice of Noncompliance**
ACC Landfill (2016 Consent Order)
Site # 60-555

Dear Mr. Grosko:

As a follow-up to our recent correspondence and discussions, as well as the chancery court action, the Tennessee Department of Environment and Conservation – Division of Remediation (TDEC) is formally notifying you that ACC is not in compliance with the provisions of the 2016 Consent Order, agreed upon and finalized November 23, 2016.

The Consent Order required ACC to “implement an interim measure, approved by the Department, that prevents surface water and leachate with concentrations of ammonia, chlorides and/or total dissolved solids exceeding the Tennessee Water Quality Criteria from leaving the ACC property and polluting downstream waters including Sugar Creek” within 120 days of receipt of the order. The Consent Order also provided ACC with the option of submitting a “written corrective action work plan to replace the interim action” and “designed to prevent ammonia, chlorides, and/or total dissolved solids in surface water from leaving the ACC property in concentrations exceeding Tennessee Water Quality Criteria for the designated uses” within 90 days of receipt of the order.

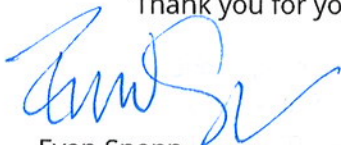
ACC has not provided the Department with a Corrective Action Work Plan (CAWP) designed to achieve the corrective action objective under that Consent Order for surface water leaving the ACC site to meet Tennessee Water Quality Criteria, as promulgated under Tenn. Comp. R. & Reg. 0400-40-03, and has failed to incorporate all of the Department’s comments on the CAWP, as required under the Consent Order. Additionally, ACC has not successfully implemented an approved interim measure to prevent surface water containing ammonia, chlorides, and total dissolved solids exceeding these criteria from leaving the ACC property and polluting downstream waters. As our previous comment letters to you on your proposed CAWPs reflected, the Department required ACC

to meet these objectives by November 1, 2018, (having extended an earlier deadline of April 15, 2018). But, ACC has failed to do so.

Recent sampling results collected by TDEC after November 1, 2018, from the unnamed tributary to Sugar Creek at the road crossing on Arrow Lake Road have revealed exceedances for all three constituents of concern. Specifically, on December 5, 2018, the level of ammonia was chronically toxic and both ammonia and chlorides were well over the water quality criterion. On November 5, 2018, the level of chloride was chronically toxic and total dissolved solids were well over the water quality criterion. On November 20, 2018, chloride levels were acutely toxic, ammonia concentrations were chronically toxic, and total dissolved solids were five times the water quality criterion. Additionally, on October 22, 2018, a biological survey was performed on the Unnamed Tributary to Sugar Creek which documented that only nine families of benthic aquatic life were present, of which none were indicators of clean water. This resulted in the very low biorecon score of 5, a violation of Tennessee's biointegrity criterion.

In accordance with Section XX. I. of the 2016 Consent Order, and as requested by ACC in chancery court earlier this month, and in its recent petition for declaratory order, TDEC is invoking the contingent penalty provisions in the Consent Order and assessing you with a contingent penalty of \$500.00 per day for calendar days one (1) through seven (7) from the date of this notice, and one thousand dollars (\$1,000.00) per day for day eight (8) and each day thereafter, from the date of this letter. Attached hereto is an invoice for this prospective civil penalty. In order to dispute the civil penalty, you may respond to this notice by submitting a written notice of dispute, to me, explaining why you believe you are not in violation of the 2016 Consent Order, with any supporting documentation, within thirty days of receipt of this letter. If you dispute the civil penalty, you will be given the opportunity to attend a show cause meeting with the Commissioner's Designee to resolve the dispute.

Thank you for your attention to this matter.



Evan Spann
Project Manager
Division of Remediation

Attachment

cc: Sheri Jacobs, Esq.
Elizabeth P. McCarter, Tennessee Attorney General's Office