

LANCE R. LEFLEUR  
DIRECTOR



KAY IVEY  
GOVERNOR

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Montgomery, Alabama 36130-1463  
(334) 271-7700 ■ FAX (334) 271-7950

September 14, 2021

**CERTIFIED MAIL** 9489 0090 0027 6286 8096 78

Mayor Kerry Underwood, Chairperson  
Solid Waste Disposal Authority of the Cities of  
Muscle Shoals, Sheffield and Tuscumbia, Alabama  
603 E 2<sup>nd</sup> Street  
Sheffield, AL 35660

Subject: **Administrative Order No. 21-088-SW**  
Cherokee Industrial Landfill  
Solid Waste Disposal Permit No. 17-10

Dear Mr. Underwood:

Enclosed please find an ADEM Administrative Order No. 21-088-SW, which requires the Cherokee Industrial Landfill to **immediately** resume proper operation of the leachate collection system and off-site disposal of leachate. In addition, the Order requires the Cherokee Industrial Landfill to take certain actions in response to alleged violations of applicable requirements of Division 13 of the ADEM Administrative Code. This Administrative Order has been issued without the consent of the responsible parties.

While this Administrative Order does not assess a civil penalty, due to the significance of the violations noted in the Order, the Department is considering further enforcement action to include a civil penalty. If you have any questions regarding this matter, please contact Heather Jones, Chief of the Compliance and Enforcement Section at (334) 271-7849 or by email at [hjones@adem.alabama.gov](mailto:hjones@adem.alabama.gov).

Sincerely,

Stephen A. Cobb, Chief  
Land Division

Issued: 09-14-2021

Served: 09-20-2021

cc: Mr. Steve Witmer, CWI Cherokee LF, LLC

**Birmingham Branch**  
110 Vulcan Road  
Birmingham, AL 35209-4702  
(205) 942-6168  
(205) 941-1603 (FAX)

**Decatur Branch**  
2715 Sandlin Road, S.W.  
Decatur, AL 35603-1333  
(256) 353-1713  
(256) 340-9359 (FAX)



**Mobile Branch**  
2204 Perimeter Road  
Mobile, AL 36615-1131  
(251) 450-3400  
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**Mobile-Coastal**  
4171 Commanders Drive  
Mobile, AL 36615-1421  
(251) 432-6533  
(251) 432-6598 (FAX)



ALABAMA DEPARTMENT  
OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF: \_\_\_\_\_ )

Solid Waste Disposal Authority of the Cities of )  
Muscle Shoals, Sheffield, and Tuscumbia, Alabama )  
Cherokee Industrial Landfill )  
Cherokee, Colbert County, Alabama )  
Solid Waste Disposal Permit No. 17-10 )

ADMINISTRATIVE  
ORDER No. 21-088-SW

***FINDINGS OF FACT***

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-17, as amended, and the Solid Wastes and Recyclable Materials Management Act (hereinafter “SWRMMA”), Ala. Code §§ 22-27-1 to 22-27-18, as amended, and the ADEM Administrative Code promulgated thereunder, the Alabama Department of Environmental Management (hereinafter “ADEM” or “the Department”) makes the following findings of fact:

1. The Solid Waste Disposal Authority of the Cities of Muscle Shoals, Sheffield, and Tuscumbia, Alabama (hereinafter “Permittee”) holds the permit for an industrial landfill, known as the Cherokee Industrial Landfill (hereinafter “landfill”) located in Cherokee, Colbert County, Alabama.

2. The Permittee has contracted with CWI Cherokee LF, LLC (hereinafter “Operator”) to operate the Cherokee Industrial Landfill.

3. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-17, as amended.

4. Pursuant to Ala. Code § 22-22A-4(n), as amended and Ala. Code § 22-27-9(a), as amended, the Department is the state agency authorized to administer and enforce the provisions



of the Solid Wastes and Recyclable Materials Management Act, Ala. Code §§ 22-27-1 to 22-27-18, as amended.

5. Pursuant to Ala. Code §§ 22-22A-5(10) and 22-27-11(b), as amended, the Department is authorized to issue an administrative order as the Department deems necessary in the enforcement of any regulations promulgated or permit issued in accordance with the SWRMMA.

6. On October 30, 2020, the Department renewed Solid Waste Disposal Permit No. 17-10 to the Permittee for the landfill located at 1750 Cane Creek Road, Cherokee, Colbert County, Alabama.

7. Pursuant to ADEM Admin. Code r. 335-13-4-.18(2), the owner or operator is required to install a leachate collection system designed and constructed to maintain less than a twelve inch (30 cm) depth of leachate over the liner.

8. Pursuant to Section I.E.6. of the facility permit, the owner or operator is required at all times to properly maintain and operate all facilities and systems of control (including related appurtenances). The leachate collection and removal system is a system of control subject to this requirement.

9. Pursuant to Section VI. of the facility permit, leachate generated at the facility is required to be collected and properly disposed.

10. Pursuant to ADEM Admin. Code r. 335-13-4-.21(1)(d) and Section II.D. of the facility permit, the facility is required to be operated in such a manner that there will be no water pollution or unauthorized discharge.

11. On September 3, 2021, Department personnel conducted an inspection of the Permittee's landfill to determine compliance with Division 13 of the ADEM Administrative Code



and Solid Waste Disposal Facility Permit No. 17-10. During the inspection, Department personnel documented that the sump pump for the previous disposal area was in the off position due to malfunction. When the pump was turned on, the meter displayed an error message of “1”. A second sump pump, for the current disposal area, was also in the off position and did not display the current leachate level. The leachate holding tank was at capacity and the tank had overflowed into the secondary containment system, which was also nearly full (approximately 18” of freeboard). Based on information provided by the Operator, the combined capacity of the leachate tank (104,000 gallons) and the secondary containment system (105,000 gallons) equals approximately 209,000 gallons of known stored leachate. This estimate does not account for leachate collected in the each of the cell sumps or on the liner. When asked, facility personnel indicated that the last date of leachate disposal was July 7, 2021. (In addition, between March and May of 2021, there was an additional period of time where leachate was not disposed.) During the inspection, leachate seeps were noted flowing into the stormwater conveyance (drainage ditches) of the previous disposal cell. Leachate was observed pooling in the stormwater ditches with minimal safeguards in place to prevent migration of the leachate to the nearby stormwater pond.

12. Leachate discharged to a stormwater pond allows for the potential to discharge to a water of the State.

13. Accumulation and storage of leachate in the secondary containment system constitutes improper management of the leachate collection and disposal system and presents an imminent threat to human health or the environment.



## ***ORDER***

Based on the foregoing findings of fact and pursuant to Ala. Code, §§ 22-22A-5(1), 22-22A-5(10), 22-22A-5(18), 22-27-4(b), 22-27-7 and 22-27-11, it is hereby ordered:

A. That, the Permittee and Operator shall immediately resume proper operation of the leachate collection system and proper disposal of on-site generated leachate.

B. That, within seven days of issuance of this order, the Permittee or Operator shall submit to the Department:

1. Documentation, in the form of manifests or shipping receipts, of the proper transportation and disposal of excess leachate currently stored in the leachate tank, the secondary containment system and the sumps for all disposal cells (including Cells 1-1, 1-2, 3 and 4-A);

2. Documentation, in the form of manifests or shipping receipts, of the proper transportation and disposal of leachate beginning with January 2019 and ending with the effective date of this order;

3. Documentation of measures that have or will be employed to ensure that the leachate sump pump remains operational at all times;

4. Documentation of measures that have or will be employed to return the leachate sump to a low-level state (below 12 inches of leachate on the liner, as determined by sump specific specifications);

5. Documentation of back-up measures to determine the level of leachate in each sump (on the liner) if the sump is inoperable or in the high-level alarm state;

C. The Permittee or Operator shall investigate for the presence of leachate seeps or accumulations of leachate along landfill slopes, in stormwater conveyances or ditches, in the



stormwater ponds, or outside of the facility boundary. Any identified seeps shall be reported to the Department and remedial actions shall be implemented immediately.

D. The Permittee or Operator shall provide the Department with weekly progress reports, until released in writing by the Department, documenting the following:

1. Continued submittal of manifests or shipping receipts of the proper disposal of leachate generated at the facility;

2. Continuation of measures to achieve compliance with ADEM Admin. Code r. 335-13-4-.18(2) to maintain less than a 12 inch (30 cm) depth of leachate over the liner.

3. Documentation of remedial measures employed to address leachate seeps as they are identified. .

E. That this Order does not affect the Permittee's obligation to comply with any federal, State, or local laws or regulations.

F. That, should any provision of this Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with federal or State law and, therefore, unenforceable, the remaining provisions herein shall remain in full force and effect.

G. That, except as otherwise set forth herein, this Order is not and shall not be interpreted to be a permit or modification of an existing permit under federal, State or local law, and shall not be construed to waive or relieve the Permittee of the Permittee's obligations to comply in the future with any permit coverage.

H. That the issuance of this Administrative Order does not preclude the Department from seeking civil penalties, criminal fines or other appropriate sanctions or relief against the Permittee for the violations cited herein.



I. That failure to comply with the provisions of this Order shall constitute cause for commencement of legal action by the Department against the Permittee for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this 14<sup>th</sup> day of September 2021.

A handwritten signature in blue ink, appearing to read "Lance R. LeFleur", is written over a horizontal line.

Lance R. LeFleur

Director



## CERTIFICATE OF SERVICE

I, Stephen A. Cobb, hereby certify that I have this date served the foregoing Administrative Order by regular United States Mail, properly addressed and postage prepaid to:

Mr. Kerry Underwood, Chairperson  
Solid Waste Disposal Authority of the Cities of Muscle Shoals, Sheffield, and Tuscumbia,  
Alabama.  
116 East 6<sup>th</sup> Street  
Tuscumbia, Alabama 35674

Done this 14<sup>th</sup> day of September, 2021.

  
\_\_\_\_\_  
Stephen A Cobb



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