

January 16, 2025

Via electronic Mail and Certified Mail To:

Michael Classen, General Manager
(BU237 Middle TN Post Collection)
Republic Services, Inc. Santek Environmental, LLC, Republic Service Inc
750 East Jefferson Pike
Murfreesboro, TN 37130

Holly Van Kirk, Environmental Manager
Republic Services
750 East Jefferson Pike
Murfreesboro, TN 37130

Teresa Fox, Operations Manager
Republic Services
21712 Highway 72 North
Loudon, TN 37774

RE: Notice to Santek Environmental, LLC, Republic Services, Inc.
On Behalf of the Loudon County Solid Waste Disposal Commission
Regarding Violations of Contract Terms related to Mud, Debris,
Litter, and Foreign Materials

To Ms. Kirk, Mr. Classen, Ms. Fox, Mr. Hollinshead,

Summary.

The purpose of this letter is to inform Santek Environmental, LLC/Republic Inc. (hereafter referred to collectively as "Republic") that with regard to the daily operations of the Matlock Bend Landfill in Loudon County, Republic Inc. as the responsible operating entity, has repeatedly violated the terms of its Operating Agreement with the Commission, specifically sections 5.7 and 5.8 related to the removal of litter, runoff, dirt, mud, debris, and other foreign material from all areas within the Landfill and on all Access Roads thereto within one-quarter mile of the gate of the Landfill, and further violated the terms requiring Republic to ensure that traffic exiting the site fully utilizes the wheel wash system before driving onto any Access Roads. The violations have not stopped despite repeated assurances from Ms. Fox, Ms. Kirk, and Mr. Hollinshead that the violations have been and or will be addressed, and despite a formal Notice of Violation from TDEC dated November 22, 2024 and a site visit by Chairman Adam Waller the day prior on November 21, and a follow up inspection by TDEC several weeks later in December at which time mud on the access roads was plainly visible. Instead of quick corrective action after multiple complaints in November, Republic blamed the Commission in a letter dated January 6, 2025 and provided no basis for the claim.

At the December 19, 2024 Commission meeting, the Commission members reviewed a written report by Chairman Adam Waller of the conditions he observed and documented in November at Matlock Bend. After months of complaints from state officials, local officials, and the public regarding ongoing mud and litter outside the landfill gates along the access roads and considering the photographic documentation of the same, the Commission expressed frustration and the need to take decisive action to 1) notify Republic that the conditions violate the operating agreement, and 2) levy a monetary penalty for these violations in the minimum amount of \$250 per day.

The Contract.

The contract terms at issue are in sections 5.7 and 5.8 in the July 1, 2007 Landfill Operation Agreement, and the amendments as set out in Second Amendment to the Operation Agreement, dated July 2022. Republic is the “Contractor” under the agreement with operational control and management responsibility for the landfill.

Section 5.7 of the 2007 agreement was expressly deleted and replaced by language in paragraph 4 (a) and (b) in the July 2022 Amended Agreement, but section 5.8 was not.

Paragraph 4 of the July 2022 Amendment states unequivocally that the “*Contractor shall maintain and be responsible for the removal of litter, runoff, dirt, mud, debris, and other foreign material from all areas within the Landfill and, to the extent generated or resulting from access to or use of the Landfill, on all Access Roads thereto within one-quarter mile of the surface of two or more lanes.*” The agreement specifically identifies Highway 72 as an Access Road.

The paragraph goes on to state the “*Contractor shall be responsible for maintaining the landfill and, ... all Access Roads thereto ... in a clean and sanitary condition.*” Additionally, the amended language in Paragraph 4 (a) and (b) requires all of the following in relevant part,

- Contractor shall be responsible for compliance with all TDEC rules and regulations regarding litter, runoff, dirt, mud, debris, and other foreign material within the Landfill and on the access roads within one-quarter mile of the gate,
- Contractor shall furnish, maintain and use dust control equipment to reduce dust in operating the Landfill and on all access road within the quarter-mile distance,
- Contractor shall ensure that all traffic exiting the Landfill fully utilizes the wheel wash system before using the Access Roads,
- Contractor shall visually inspect the Landfill, soil borrow area, and Access Roads monthly and “verify” by monthly written reports that it has complied with the sub-parts (a) and (b).

In detail, subsection (b) of Paragraph 4 requires the following:

“Contractor shall visually inspect the Landfill, the soil borrow Area, and Access Road(s) monthly, and verify by brief written reports submitted to the Commission at least monthly, its compliance with the terms of this subsection (b) and the subsection (a) above.”

Violations.

In the 2024 monthly reports submitted by Republic for Matlock Bend, there are no verifications of compliance with Paragraph 4, subsections (a) or (b). Instead, a “Comments” log is provided with a few complaints from the public and notes to the effect that there was mud and the road then swept. The failure to conduct the inspections and verify compliance is part and parcel of the problem the Commission seeks to address here. The contract squarely places the burden of compliance with all of the obligations in secs. 5.7 and 5.8 on the operator. It is not the job the of the Commission or the public to inspect the Landfill and surrounding Access Roads, particularly Highway 72 outside the gate, for mud, litter, debris or other foreign material that belongs in the landfill and not in the way of the traveling public. Moreover, the contract uses the specific term, “verify” which is reasonably interpreted to mean a form of certification or proof following an actual inspection by a responsible person at Matlock Bend. There has been none, as required by the contract, provided to the Commission on this issue.

The lack of verification is significant but also understandable. Any such verification from Republic would stand in sharp contrast and direct contradiction to a growing pile of photos and observations by people who do not work for Republic and who have repeatedly documented the recurring problems that violate the contract.

The Commission has heard months of complaints from the public including written communication from,

- TDOT’s legal counsel escalating public complaints received by TDOT from TDEC private citizens (May 2, 2024),
- Mr. Billy Pickel, Loudon County Road Superintendent, (letter dated November 20, 2024) noting that he was receiving complaints and had personally inspected the area confirming that there is “staining” on the road outside the gate, indicating the mud problem had been ongoing and needed to be addressed,
- TDEC Division of Water Resources issuing a Notice of Violation on 11/14/24 for stormwater discharges to the adjacent stream including mud tracked off the site to access roads being cleaned into the stream. TDEC received a complaint about mud and debris on November 14, 2024 that TDEC staff inspected on a week later on November 20, 2024 only to find the sediment and mud conditions tracked out of the landfill entering a stream. The conditions were well documented and photographs by TDEC staff in the 11/14/24 NOV.
- Randolph Chase, Loudon County Commissioner (email of 12/23/24) contending that the TDEC NOV was inadequate to solve the problem,
- Rep. Lowell Russel, State Representative, (email of 12/23/24) suggesting that local government would need to become involved due to the ongoing nature of the mud and litter problems
- County Mayor Buddy Bradshaw who spoke at a public hearing November 21, 2024 public hearing conveying the multitude of complaints of mud, debris, and litter outside the landfill that he has received and would like resolved
- Members of the public with emailed photos and complaints of mud tracked out into the road for at least the following dates:
 - 9/25/24, 9/26/24, 9/30/24, 11/7/24, 11/9/24, 11/12/24, 11/14/24,

11/19/24, 11/21/24, 12/9/24, 12/13/24, 12/17/24, 12/19/24, 12/23/24,
12/24/24, 12/27/24, 12/28/24 and January 5, 2025

This is not an exhaustive list of complaints and violations. The Commission reserves the right to amend this letter with additional violations/complaints.

In the midst of the complaints and notices from TDEC, Chairman Waller made his own site visit on Thursday, November 21st and documented his findings for the Commission in a written report that was reviewed by the members at the December 19, 2024 regular meeting. The report documented deep mud around the upper deck of the landfill where the trucks dump, along the uppermost access road to the dumping area, a lack of graded road coming in and out of that area, a lack of gravel to stabilize the areas, and that the wheel wash was not being used and was visibly in need of cleaning out, among other things. In addition, he noted that only a few yards of litter fencing had been installed instead of what was required over more than approximately 100 yards where litter was blowing off the top of the dumping area. Ms. Fox confirmed they have the fencing, but it was not installed.

At the December 19, 2024 Commission meeting, the members discussed and debated the history of complaints and efforts by TDEC, all of which have failed to produce a permanent working solution. Some members noted that in the minutes of the Commission meetings from years past, this same issue would come up repeatedly. The Commission discussed and voted on a monetary penalty of up to \$250 per violation to be capped at one per day.

While the contract with Republic for operations plainly requires Republic to pay and be responsible for all fines and penalties issued with regard to those operations, the Commission continues to be at risk as the permit holder as long as the problem is not solved. The Commission has now spent time and money addressing and documenting conditions that are solely within the power of Republic to correct and should have been corrected.

It is worth noting that all of the proposed corrective actions by Republic set out in their January 6, 2025 Corrective Action Plan (responding to TDEC's NOV) could have been installed at any time prior to these violations occurring, and prior to the NOV from TDEC. Mr. Classen invited dialogue and communication but became unavailable when that was needed, and specific actions requested by Chairman Waller of Ms. Fox were not implemented. This occurred despite comments by Ms. Fox to Chairman Waller on site during his visit in November that Mr. Classen had told staff to "spare no expense" in fixing the mud track out and debris issues. It appears that a great deal of expense was indeed spared, and this consequence follows.

Monetary Penalty.

Based on the eighteen (18) days of violation listed above from 9/25/24 to 1/5/25, at a rate of \$250 per violation, the penalty due and payable to the Commission is \$4,500.00.

Opportunity to Cure.

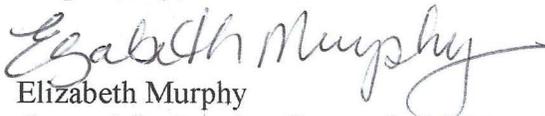
The Commission has every interest in seeing this problem resolved without conflict. Unfortunately, the conduct of Republic in failing to manage this situation suggests that this letter became necessary as a direct result of Republic's operational decisions and inaction. Despite that, the Commission's intention is to continue to work in good faith toward solutions and do so immediately.

The Commission agrees with the statement by TDEC in the November NOV that a "permanent" solution is required. Within 30 days of this letter, the Commission expects all of the following:

- 1) Payment in full of the penalty of \$4,500 payable to the Commission
- 2) Installation of all Corrective Actions listed by Republic in the Jan. 6, 2025 response to the TDEC Notice of Violation
- 3) Monthly verifications from personnel working for Republic based on inspections that the access roads are free of mud/debris and litter and the site is in compliance.

The Commission reserves its rights to amend or add to this letter, assess another monetary penalty against Republic for additional violations, and or seek Declaratory action to enforce any term of the agreement.

Respectfully,



Elizabeth Murphy
Counsel for Loudon County Solid Waste Disposal Commission
On Behalf of Loudon County Solid Waste Disposal Commission
100 River Road
Loudon, Tennessee 37774