

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

In the Matter of:

Vega Baja Municipal Solid Waste
Landfill, Vega Baja, Puerto Rico.

Municipality of Vega Baja, Puerto
Rico, and

LaVega Landfill & Resources,
Inc.,

Respondents.

Proceeding Under Section 7003 of
the Solid Waste Disposal Act, as
amended.

ADMINISTRATIVE ORDER ON CONSENT

Docket No.

RCRA-02-2012-7303

INTRODUCTION

The purpose of this Administrative Order is to provide for the protection of human health and the environment through the orderly closure of the 25 acre Vega Baja Municipal Solid Waste landfill's active disposal cell which is at full capacity, does not meet regulatory standards, and which constitutes a potential endangerment to health and the environment. The orderly closure of the Vega Baja landfill's active disposal cell necessarily requires substantial resources for implementation of proper closure and post-closure care. Respondents have informed EPA that to assist this process they intend to develop revenue producing and fully compliant new landfill cell within the authorized 50 acre landfill facility at Vega Baja. The Order also provides for a Recycling and Green Waste Management Program to carry out waste diversion and recycling practices consistent with the policies of the U. S. Environmental Protection Agency and the Commonwealth of Puerto Rico, and to reduce waste volume at the landfill.

I. JURISDICTION

1. This Administrative Order (the "Order") is issued on consent to the Municipality of Vega Baja, Puerto Rico ("Vega Baja") and to La Vega Landfill & Resources, Inc./dba La Vega Eco-Park ("LVLR"), collectively hereinafter referred to as the "Respondents." The Respondents are

the operators, of the Municipal Solid Waste Landfill, as defined in Section III, Paragraph 7 (herein the "Facility" or the "MSWLF Facility"), located in the municipality of Vega Baja in the Commonwealth of Puerto Rico. The Order is issued by the United States Environmental Protection Agency ("EPA") pursuant to the authorities vested in the Administrator of EPA by Section 7003 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6901 et seq. collectively hereinafter referred to as "RCRA" or "the Act"), which authority has been duly delegated to the Regional Administrator of EPA, Region 2. Notice of this Order has been provided to the Government of Puerto Rico, pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973. This Order supersedes a prior Order issued by EPA to Vega Baja and A.R. Waste Disposal, Inc., a predecessor corporation of LVL R, Docket No. RCRA-02-2007-7306, ("2007 AOC"). A prior Order was also issued by EPA to the Puerto Rico Land Authority (the "Authority"), Docket No. RCRA-02-2007-7309. This Order incorporates remedial provisions to address conditions at the Vega Baja municipal landfill, as well as a recycling and green waste management program to reduce the volume of solid waste deposited at the landfill.

2. Respondents agree to undertake all actions required by the terms and conditions of this Order, consent to and will not contest EPA's jurisdiction to issue and, if necessary, enforce this Order, and will not contest the terms of this Order.

II. PARTIES BOUND

3. This Order shall apply to and be binding upon the Respondents and each and every agent of the Respondents. Respondents shall supply any person or entity under the direct or indirect control of the Respondents (including but not limited to any contractor or independent agent retained to perform work related to this Order) with a complete copy of the Order. Respondents shall nonetheless be responsible for ensuring that their contractors, subcontractors and agents comply with the requirements of this Order and perform work in accordance with this Order.

4. Unless otherwise specified, Respondents are jointly and severally responsible for carrying out the requirements of this Order, and unless otherwise specified, Respondents are jointly and severally liable for stipulated penalties for non-performance of the Order's requirements.

5. Any change in ownership, control or corporate status of Respondent LVL R, including sale of assets, shall not alter its responsibilities under this Order, except as may be provided by paragraphs 90 and 111, herein.

6. The obligations of Respondent Vega Baja under this Order shall be binding on any successor, whether such successor is created by merger, expansion or otherwise, pursuant to the laws of the Commonwealth of Puerto Rico.

III EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW


7. For purposes of this Order, the Facility consists of three Parts, designated Parts A, B and C. Part A of the Facility is the currently active part of the landfill, and occupies approximately 25 acres. Part B of the facility is a new landfill cell within the permitted 50 acre landfill of approximately 10 acres located immediately west of Part A. Part C of the Facility is a strip of land adjacent to the northern boundary of the Part A of the landfill.
8. Respondents have informed EPA that Part A of the Facility has an operating permit issued by the Puerto Rico Environmental Quality Board ("EQB"), and that Parts A and B of the facility lie within the 50 acre site at this location designated for landfill use by the Puerto Rico Planning Board. Respondents have supplied EPA with copies of relevant documents in support of the foregoing statements. Respondents intend to construct a new landfill cell on Part B, which will be fully compliant with federal landfill criteria set forth in Title 40 Code of Federal Regulations ("C.F.R."), Part 258. Respondents have informed EPA that they received conditional approval from EQB for a new landfill cell in Part B, and that the conditions of the approval have been met.
9. Respondents have informed EPA that Part C of the Facility is intended to be used to assist with final closure of the Facility by helping to provide slope stability, to provide an area for leachate management, and to provide land for a relocated access road.
10. A municipal solid waste landfill, as that term is defined in 40 C.F.R. Section 258.2 has been operational within Part A of the Facility since at least the early 1970s.
11. The MSWLF Facility is located at PR 688, Cibuco, Municipality of Vega Baja, Puerto Rico.
12. Respondent Vega Baja, a Municipality of the Commonwealth of Puerto Rico, leases the 50 acre site for its operation of a landfill from the Authority. Respondent LVLR is a current operator of the landfill under a 20 year contract with Respondent Vega Baja signed in 2011.
13. Respondent Vega Baja has contributed in the past and is currently contributing to the management and disposal of solid waste at the Facility. Respondent LVLR is currently contributing to the management and disposal of solid waste at the Facility.
14. Vega Baja's population in the 2000 Census was 63,355, approximately 13 percent higher than 1990. The population of Vega Baja in the 2010 Census was 59,597.

15. The property on which the Facility is located is owned by the Authority, which has authorized Respondent Vega Baja to operate a landfill on its property. Respondents have informed EPA that the Authority has committed to convey ownership of the 50 acre landfill facility, including Parts A and B of the Facility to Vega Baja in accordance with an agreement between the Authority and Vega Baja.

16. Respondents estimate that the Facility accepts approximately 115,000 - 120,000 tons of solid waste each year for disposal, approximately 30 percent of which is generated by Vega Baja itself. The solid waste is primarily household waste (which as typical household waste may include hazardous waste such as solvents, pesticides, paints and household chemicals), although commercial solid waste is also deposited at the Facility. The Facility also accepts solid waste for disposal from the neighboring municipalities of Manati, Cialis, Dorado, Utuado and Vega Alta and from private carters. There are no municipal recycling regulations in Vega Baja to reduce the volume of solid waste deposits. Respondents estimate that less than five percent of solid waste generated in Vega Baja is currently recycled.

17. Respondent LVLR is a corporation doing business in Puerto Rico. LVLR is a successor corporation to AR Waste Disposal, Inc. ("AR Waste Disposal"), a Respondent to the 2007 AOC.

18. Respondent LVLR is an operator of the Facility, acting under a contractual arrangement with Respondent Vega Baja. AR Waste Disposal and LVLR have managed day-to-day operations at the Facility since 2005. As an operator, LVLR has contributed in the past and is currently contributing to the management and disposal of solid waste at the Facility

 19. Respondents Vega Baja and LVLR are each a "person" as that term is defined in Section 1004(15) of the Act, 42 U.S.C. § 6903(15).

20. As an existing municipal solid waste landfill, Part A of the Facility is subject to the federal regulations promulgated at 40 C.F.R. Part 258, entitled Criteria for Municipal Solid Waste Landfills. A new landfill cell to be developed in Part B of the facility, and any new landfill related uses in Part C of the Facility also are subject to federal landfill regulations.

21. Pursuant to an Administrative Order On Consent issued by EPA in 2007 under RCRA Section 7003(a), 42 U.S.C § 7973(a), the Municipality of Florida, Puerto Rico, is required to close its municipal solid waste landfill. EPA found that conditions at the Florida landfill posed a potential imminent and substantial endangerment to health and the environment. Florida has experienced difficulty in finding an economical alternative for the disposal of its municipal solid waste. Respondents have informed EPA that they have discussed assisting Florida in its efforts to close the Florida landfill by LVLR contracting to accept Florida's municipal solid waste at the Vega Baja Facility, and that Respondents will accept a requirement under this Order to assist Florida in this manner.

22. The Vega Baja Facility is located adjacent to the hundred year flood plain of the nearby Cibuco River, a major ecosystem. The Cibuco River flows northerly into the nearby "Reserva Natural Pantano Cibuco" (the "Reserve") owned by the Commonwealth of Puerto Rico. The Reserve contains a mangrove forest that is home to a large variety of birds and aquatic species.
23. A federal enforcement action was brought in 1998 against the municipality of Vega Baja pursuant to the Clean Water Act, 42 U.S.C. § 1251 et seq. ("CWA"), for illegally excavating and depositing wastes and fill into 12 acres of wetlands adjacent to Part A of the Facility. The U. S. Army Corps of Engineers ("the Corps") required Vega Baja to restore the site, which restoration Vega Baja satisfactorily performed.
24. The Cibuco River ecosystem contains a mix of herbaceous marsh areas that grade into the nearby Cibuco River. These areas are wetlands that provide habitat for a variety of shorebirds, crustaceans and fish species. An "Environmental Sensitivity" analysis published in 2000 by the National Oceanic and Atmospheric Administration of the U.S. Department of the Interior and the EPA lists more than 50 species of plants, animals, birds, invertebrates, fish and reptiles, which are harbored by the wetlands.
25. The Cibuco River ecosystem also serves other important environmental functions, including water quality improvement, sediment retention and flood water storage.
26. The MSWLF Facility is located above a coastal, unconfined aquifer; groundwater beneath the Facility mixes with freshwater floating above saline water and discharges into coastal areas through seeps and springs and as submarine groundwater discharge. Unconfined aquifers do not have an impermeable layer to prevent point (seepage) or diffuse (runoff) source contaminants from accessing the aquifer.
27. Submarine groundwater discharges that may contain nutrient elements, such as nitrogen and phosphorous produced through decomposition of organic wastes, act as fertilizer stimulating significant primary production of microscopic plants and animals, and potentially harmful algal blooms.
28. Pursuant to 40 C.F.R. § 258.1, MSWLF Facilities in operation as of 1994 that continued to accept solid waste for disposal, could not laterally expand unless the expansion cell or area met certain design criteria as set forth in 40 C.F.R. § 258.40, including installation of an impermeable liner membrane and a leachate control system, which acting together, helped prevent uncontrolled leachate releases from the landfill.
29. EPA has determined that Part A of the Facility has expanded laterally since 1994 to the west, north and to the east.

30. The Facility does not contain a liner system or an adequate leachate collection and management system. There has been an increased volume of leachate releases from the Facility over time through the receipt and disposal of additional waste at the Facility.

31. Leachate is liquid that has passed through or emerged from solid waste and contains soluble, suspended or miscible materials removed from such waste. Leachate from MSWLF Facilities may be contaminated with hazardous constituents.

32. Increased area of a landfill increases the surface area subject to direct precipitation and storm water run-on. Without an appropriate leachate control system, leachate enters the subsurface soils and groundwater and may be discharged to nearby surface waters and wetlands from groundwater or seeps. Leachate releases from the Facility have the potential to reach and impact the Cibuco River ecosystems. Such releases can contain constituents that may present a risk to the ecosystem.

33. Storm water runoff may also contribute to surface and groundwater contamination. The Vega Baja area receives an average of approximately fifty-eight (58) inches of rain annually.

34. Landfill gas is generated during the natural process of anaerobic decomposition of refuse contained in a MSWLF. Landfill gas is predominantly methane and carbon dioxide, and small amounts of non-methane organic compounds ("NMOCs") such as ethane, toluene and benzene. Methane gas is odorless and combustible. The accumulation of methane gas within a MSWLF or through subsurface migration off-site can potentially cause fires and/or explosions.

35. Carbon dioxide and methane are greenhouse gases that can contribute to climate change, and NMOCs contribute to ozone formation.

36. EQB rated the Facility as fair in 2001. The EQB report identified numerous deficiencies at the facility, including lack of an operating log, insufficient security, and lack of leachate and storm water runoff controls. Although the original landfill was permitted for a 50 acre site, and approximately 25 acres have been used for the deposit of municipal solid waste, the Puerto Rico Solid Waste Management Authority ("SWMA") in a 2006 Report declared that the Vega Baja landfill was near the end of its useful life. EPA representatives have visited the site on numerous occasions since 2007 and have concluded from their observations that Part A of the Facility has exceeded its capacity. Since 2009, Respondents have submitted to EQB and EPA design plans and drawings for a new landfill cell in Part B. The new cell has been designed to meet federal landfill requirements set forth in 40 C.F.R. Part 258.

37. In the 2007 AOC, EPA in its Findings of Fact confirmed the deficiencies enumerated by EQB. EPA also found in inspections carried out in 2003 and 2006 that wastes such as automotive fluids, scrap metal and used oil cans had been disposed of in Part A of the Facility. EPA also found definitive evidence of leachate releases at the Facility, as well as eroded cover

and exposed waste, and disease vectors. These conditions constituted a potential imminent and substantial endangerment to human health and the environment, and required remedial action. EPA has confirmed that daily operations improved at the Facility, pursuant to the 2007 AOC. An EPA inspection in April 2012 concluded that the working face or tipping area at the Facility was small, and on the day of the inspection, was controlled with application of adequate daily cover.

38. An engineer representative of Riley, Park, Hayden & Associates, Inc., hired by EPA, inspected the landfill in April 2012. The inspection found that Part A of the Facility is approximately 144 feet high with very steep slopes on all landfill faces. The engineer concluded that the slopes are too steep to maintain any long term stability, and need to be remediated. In particular, the north and south slopes need to be addressed immediately.

39. An EPA representative also inspected the Facility in April 2012. The inspection found that there are no active monitoring wells in place to help assess the extent of potential impacts from continued leachate releases from the Facility. The Facility continues to release leachate to storm water channels, which may impact nearby wetlands and the Cibuco River ecosystem. EPA agreed with the engineer's assessment that the southern and northern slopes of Part A at the Facility exceed reasonable safety margins, and require remedial action. EPA instructed Respondent LVLR not to add waste deposits on the southern and northern slopes of Part A, and, pursuant to the provisions of the 2007 AOC, to immediately submit to EPA a remedial plan to achieve slope stability at the Facility. EPA also notified the Authority of the engineer's findings and instructed the Authority to cooperate with the Respondents of the 2007 AOC in addressing the situation.

40. Pursuant to applicable requirements of the 2007 AOC, Respondents submitted a proposed Slope Stability Plan (the "Slope Plan") to EPA for review on May 7, 2012. A revised Slope Plan was submitted on May 30, 2012. The Slope Plan is intended to deal with the conditions on the southern and northern slopes of Part A of the Facility, described in paragraphs 38 and 39, above.

41. Respondents have informed EPA that they plan to act jointly and cooperatively to initiate sustainable recycling activities within the municipality's economic capability, and to accomplish waste diversion, which will reduce the amount of solid waste being deposited at the Facility. Respondents have submitted to EPA the "Municipality of Vega Baja Recycling Plan", dated March 31, 2011, which sets forth recycling and waste diversion activities that LVLR and Vega Baja desire to carry out both in the short and long term. Respondents also are committed to installing a Gas Collection and Control System ("GCCS") at the Facility, or an alternative landfill gas system, and intend to recover gas from the landfill to be used for energy recovery.

42. In order to provide a framework for Respondents' recycling activities that are concurrent with the development of a new landfill cell in Part B of the Facility and the cessation of waste

receipt in Part A of the Facility, the parties have agreed to incorporate specific recycling provisions into this Consent Order.

43. Respondent LVLR and/or Respondent Vega Baja also intend to carry out recycling activities beyond the time frame that is set forth in this Order.


44. The foregoing EPA Findings of Fact describe conditions at the Vega Baja MSWLF Facility that may present an imminent and substantial endangerment to human health and the environment.

45. The foregoing EPA Conclusions of Law demonstrate that Respondents Vega Baja and LVLR as operators of the Vega Baja MSWLF Facility have each in the past contributed to and are now contributing to the handling and disposal of solid waste at the Facility and that the Facility may pose an imminent and substantial threat to human health and the environment.

IV. DETERMINATION

46. Based on the foregoing EPA FINDINGS OF FACT AND EPA CONCLUSIONS OF LAW and the full Administrative Record, the Regional Administrator of EPA Region 2, upon receipt of evidence and information that the past and present handling and disposal of solid wastes at the Facility may present an imminent and substantial endangerment to health and the environment, has determined that issuance of this Order is necessary to protect public health and the environment.

V. ORDER AND WORK REQUIREMENTS

 47. Based on the foregoing EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW, the foregoing DETERMINATION, and the full administrative record, IT IS HEREBY ORDERED that Respondents shall perform all actions required by this Order and comply with all its provisions. Respondents shall fully cooperate with EPA representatives in carrying out the provisions of this Order.

48. All submissions to EPA by Respondents pursuant to this Order shall be in English. This includes progress reports, notices, letters, plans and specifications, certifications and other such submissions required by the terms of this Order. Documents in Spanish that are intended to direct work and other operations at the Facility shall be submitted to EPA upon its request. Reports, letters and other documents may be submitted to EPA electronically in an accessible form that incorporates necessary signatures.

49. No later than twenty (20) calendar days after the effective date of this Order, Respondents shall cause the following NOTICE to be posted in Spanish and English at the MSWLF Facility entrance in large lettering on a mounted sign at least 4 feet by 4 feet in size:
THIS LANDFILL FACILITY IS SUBJECT TO A UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ORDER ON CONSENT WITH THE MUNICIPALITY OF VEGA BAJA AND LA VEGA LANDFILL & RESOURCES, INC.

50. Respondents starting immediately on the effective date of this Order shall continue to inspect all incoming loads of waste to be deposited at the Facility so as to prevent the disposal of prohibited hazardous wastes at the Facility. Respondents shall also ensure that the MSWLF Facility complies with the prohibition on disposal of certain liquid wastes, as set forth in 40 C.F.R. § 258.28. Respondents shall continue to maintain a log of all incoming waste loads. The log shall contain the delivery date, name of the hauler or carter, a brief description of each load's contents and an estimate of its volume. Respondents shall provide adequate security at the Facility, including a gate or gates to be locked when the Facility is not operating, so as to prevent access for scavengers, and to prevent unauthorized waste disposal.

51. Until the Facility stops receiving waste for disposal, Respondents shall continue to provide daily cover for the waste disposal area at the Facility, in accordance with the provisions of 40 C.F.R. § 258.21.

52. Respondents shall implement a Slope Plan upon EPA's written approval of the revised Slope Plan, dated May 29, 2012, including any further revisions, thereto, and shall comply with conditions and an implementation timetable EPA may set forth in its approval. Respondents shall submit written monthly reports to EPA concerning implementation of the approved Slope Plan. EPA reserves the right to assign slope stabilization tasks from the approved Slope Plan to the Puerto Rico Land Authority, including, but not limited to:

- a. Relocation of the northern boundary road; and
- b. Clearing, grading, berming, and other preparation of designated northern boundary property for slope stabilization activities.

53. Respondent LVLIR intends to contract with the Municipality of Florida to accept municipal solid waste generated by Florida at a discounted rate. The contract for the receipt of waste is to be for a term of five years with a provision for extension. Respondent LVLIR intends to execute the contract and begin accepting waste from Florida no later than ninety (90) calendar days after the effective date of this Order, or by such other date as is approved by EPA. Respondent LVLIR shall notify EPA in writing when it starts receiving waste from Florida, and shall furnish EPA with a copy of the contract between LVLIR and Florida.

Schedule For Ceasing Receipt Of Waste At Part A of The Landfill

54. Respondents shall permanently cease receiving waste for disposal at Part A of the Facility no later than July 1, 2013, unless EPA agrees to a later date in writing, and shall thereafter secure Part A against unauthorized waste disposal.

55. If thirty (30) calendar days before the date Respondents cease to receive waste for disposal at Part A of the Facility there is not a new adjacent landfill cell in Part B of the Facility that is open and operating to receive waste for disposal, or waste capacity in Part C of the Facility, Respondents shall give written notice to carters serving customers outside of Vega Baja and to municipalities outside Vega Baja that dispose of waste at Part A of the Facility specifying the date after which waste from such carters and municipalities may no longer be deposited at the Facility. Respondents shall send EPA an English translation of the notices and copies of the notices themselves.

56. After the Facility ceases to receive waste deposits at Part A of the Facility, Respondents shall within four (4) months provide and thereafter maintain Intermediate Cover throughout all parts of Part A until final closure of each part. For purposes of this Order, Intermediate Cover is defined as a waste cover, more durable than daily cover, consisting of at least 12 inches of compacted soil, or other acceptable cover material approved in writing by EPA, with appropriate storm water erosion controls (e.g., vegetated cover, temporary chutes, channels, berms, swales). Intermediate Cover is intended to further limit precipitation infiltration and to control disease vectors, fires, odors, blowing litter and scavengers until a final landfill cover is installed. Respondents may request that EPA approve installation of an alternative form of Intermediate Cover that will provide equivalent protection.

EPA reserves the right to assign certain of the Intermediate Cover and storm water control tasks to the Puerto Rico Land Authority, including, but not limited to:

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- a. Acquisition and delivery of suitable and sufficient intermediate cover soil to the Facility in a means and on a timetable approved by EPA;
 - b. Acquisition and delivery of suitable and sufficient erosion control material (e.g., rip-rap) to the Facility in a means and on a timetable approved by EPA; and
 - c. Siting, design, and construction of one or more stormwater retention ponds capable of properly collecting and controlling at least the Facility run-off water volume resulting from a 24-hour, 25-year storm.

57. New Landfill Cell In Part B of the Facility: Respondents within 30 days after the effective date of this Order shall notify EPA concerning its timetable for the development of a new landfill cell in Part B of the Facility, and shall notify EPA if the design of the new cell has

any overlap with, or effect on, the design of the Closure Plan for Part A of the Facility. If so, Respondents shall provide such further information as EPA may request. Respondents have informed EPA that the new landfill cell is expected to be ready to begin receiving waste by July 1, 2013. In accordance with the provisions of VII CERTIFICATIONS, herein, Respondents and a professional engineer shall certify to EPA that the development of the new cell in Part B of the Facility meets the requirements of federal landfill design criteria set forth in 40 C.F.R. Part 258. After closure of the Part B landfill cell, Respondents and a professional engineer shall certify to EPA that the closure meets the requirements of the closure criteria set forth at 40 C.F.R. § 258.60.

58. Development of Part C of the Facility: The EPA approved Slope Plan may utilize a portion of Part C of the Facility for slope stability (including limited additional waste capacity), leachate management and a relocated access road. Subsequently, if Respondents determine they are in a position to develop Part C of the Facility to add waste disposal capacity that is an increase above the limited additional capacity that is included in any Slope Plan that is approved, they shall notify EPA in writing, and within 30 days thereafter shall submit plans for the development of Part C of the Facility, including a report on planned operating procedures, that are in compliance with any applicable 40 C.F.R. Part 258 criteria. The plans and report shall show how the Part C area is to be used, contain engineering information, incorporate the installation and/or extension and operation of a GCCS, if required under applicable Clean Air Act regulations, and include an implementation timetable. Respondents shall notify EPA if the plan to add increased waste disposal capacity for Part C of the Facility has any overlap with, or effect on, the design of the Closure Plan for Part A of the Facility. If so, Respondents shall provide such further information as EPA may require. In accordance with the provisions of VII CERTIFICATIONS, herein, Respondents and a professional engineer shall certify to EPA that any development of Part C of the Facility meets the requirements of federal landfill design criteria set forth in 40 C.F.R. Part 258. If Part C of the Facility is utilized for additional waste capacity, Respondents and a professional engineer after closure of Part C shall certify to EPA that the closure meets the requirements of the closure criteria set forth in 40 C.F.R. § 258.60.

RECYCLING AND GREEN WASTE MANAGEMENT PROGRAM

59. Within sixty (60) calendar days after the effective date of this Order, Respondents shall submit to EPA for review and approval a Recycling and Green Waste Management Program ("Recycling Program"), which shall be consistent with all Commonwealth of Puerto Rico regulations and/or requirements. The Recycling Program will include all the definitions, requirements and time schedules or phases that are set forth below, will specify joint or separate responsibilities of the Respondents for tasks contained in the Recycling Program. EPA will review the Recycling Program, and provide its comments in writing to Respondents. Within thirty (30) calendar days after receipt of EPA's comments, Respondents shall resubmit a revised Recycling Program. EPA and Respondents will consult as necessary, and, after any further

revisions are incorporated into the Recycling Program, EPA will notify Respondents in writing of its approval of the Recycling Program. Respondents shall carry out the Recycling Program in accordance with its implementation schedules, and the Program shall be implemented pursuant to this Order for as long as the Facility receives waste for disposal.

60. Respondents shall develop and implement disposal restrictions to ensure that bulk ash, bulk green waste, and bulk recyclable materials are not disposed of at the Facility. The disposal restrictions shall be specified in the Recycling Program to be submitted to EPA pursuant to paragraph 59, above, and may include phased implementation. The program shall include routine documented inspections of loads coming into the Facility, and shall also include the prohibition by local ordinance or regulation of the disposal of these materials in the Facility if Respondents determine such action to be necessary to achieve compliance with the disposal restrictions.

61. The following definitions apply to development and implementation of Respondents' Recycling and Green Waste Management Program.

a. "Agricultural waste" is defined, for the purposes of the Order, as waste vegetation generated by residential sources, commercial sources and/or from agricultural activities including but not limited to bean, nut, and grain hulls and chaff, sugar cane bagasse, orchard pruning, and coffee bean hulls and grounds.

b. "Ash" is defined, for the purposes of the Order, as the residue of matter that remains after burning, and includes, but is not limited to, such residues produced by manufacturing, energy production, burning coal and other commercial processes.

c. "Composting" is defined, for the purposes of the Order, as the controlled biological aerobic decomposition of organic material that is sanitized through the generation of heat and stabilized to the point that it is beneficial to plant growth in that it has the unique ability to improve the chemical, physical, and biological characteristics of soils or growing media. (Material that is or will be composted is hereinafter referred to as "compostable material.")

d. "Green Waste" is defined, for the purposes of the Order, as agricultural and yard waste, as defined herein, which are subject to the composting and mulching requirements in this Order.

e. "Mulching" is defined, for the purposes of the Order, as the collection and processing of agricultural and yard wastes to reduce their volume and their subsequent application to soil to provide insulation, limit evaporation, and control weeds and erosion. (Material that is or will be mulched is hereinafter referred to as "mulch material.")

f. "Recycling" is defined, for the purposes of the Order, as the collection, processing, and sale or distribution of waste glass, paper (including cardboard), metals, plastics, electronics, and batteries as defined in 40 C.F.R 273.9 (hereinafter "recyclable materials").

g. "Yard waste" is defined, for the purposes of the Order, as waste vegetation, such as grass, bushes, shrubs, trees, and associated clippings, generated by residential and/or commercial sources through the maintenance of private or public lands.

62. The Recycling Program shall include the following:

a. Development and operation of a Materials Recovery Facility ("MRF") with sufficient throughput capacity at a minimum to manage recycling for Vega Baja households and businesses. The MRF should also have capacity to handle additional recyclable materials resulting from the prohibition on disposal at the Facility of recyclable materials generated outside the Municipality. The Recycling Program submitted to EPA shall include a complete description of the MRF, including its site and equipment, permitting requirements, and a timetable for implementation, and specifying the responsibilities of each Respondent with respect to the MRF's development and operation.

b. Within ninety (90) calendar days of EPA's approval of the Recycling Program, Respondents shall develop an Education and Outreach Series regarding the Municipality's Recycling Program, and specifying the responsibilities of each Respondent with respect to its implementation. Implementation shall be coordinated with each phase of the Recycling Program. This Education and Outreach shall be repeated on an annual basis for all covered households and businesses.

c. A specified Respondent shall distribute suitable receptacles to households in the municipality on a phased schedule consistent with the implementation schedules contained in the Recycling Program. Suitable receptacles will also be placed at regional collection points in those areas where there is no curbside trash collection, in coordination with each phase of the Recycling Program.

d. Within one hundred fifty (150) calendar days of EPA's approval of the Recycling Program, Respondents or a specified Respondent shall begin implementation on a phased schedule of a recycling program that requires all households and small businesses in the municipality to place all their recyclable materials into the suitable receptacles provided to them.

e. Within one hundred fifty (150) calendar days of EPA's approval of the Recycling Program, Respondents or a specified Respondent shall begin implementation on a phased schedule of a composting program that requires all households and small businesses in

the municipality to collect and place their green waste curbside for collection by the Municipality.

f. The Recycling Program shall include a Pilot Program for composting organic materials and food scraps by households in Vega Baja. The Pilot Program shall include information on the number of households to be included in the program, and appropriate procedures, as well as education and outreach components.

g. Respondents shall develop and implement a phased program to ensure that green waste and recyclable materials generated from households, businesses, and other entities in Vega Baja are not disposed of at the landfill Facility. The program shall include routine documented inspections of incoming loads.

h. Respondent LVLR shall implement a composting project at the Facility. The Recycling Program will contain details about the Composting Project, and an implementation timetable. The Composting Project will be designed so that the Composting Project at the Facility can expand, and will set forth the criteria for such expansion.

i. Respondent Vega Baja shall develop a suitable enforcement program to address non-compliance with the municipality's recycling and green waste management requirements, including such actions or procedures as it may determine are suitable to help achieve compliance with the Recycling Program.

j. The Recycling Program shall include the following phased implementation schedule for households in Vega Baja. The Recycling Program shall also contain details showing specific actions to be taken in each phase, including the establishment of regional "Drop Off" collection points, the distribution of recycling containers, and other appropriate actions. Unless otherwise approved by EPA, the program for households in the Recycling Program shall be consistent with Respondents' "Municipality of Vega Baja Recycling Plan", dated March 31, 2011.

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- i. A first phase to be implemented in 2014 and to continue thereafter will cover 3,000 households, of which 500 will be semi-urban or rural.
 - ii. A second phase to be implemented in 2015 and to continue thereafter will cover 3,500 additional households, of which 500 will be semi-urban and rural.
 - iii. A third phase to be implemented in 2016-2017 and to continue thereafter will cover an additional 6,000 additional households, of which 2,000 will be semi-urban and rural.

- iv. A fourth phase to be implemented in 2018-2020 and to continue thereafter will cover an additional 7,250 households, of which 5,250 will be semi-urban and rural.

63. Ground Water Monitoring and Corrective Action: Effective within one hundred eighty (180) calendar days after the effective date of this Order, Respondents shall implement a program for groundwater monitoring at the Facility, as provided in 40 C.F.R. §§ 258.51-55. Respondents may seek EQB approval for Respondents to conduct monitoring less frequently than, or to monitor fewer parameters than, is provided in 40 C.F.R. § 258.54. EPA reserves the right to assign some or all of the requirements of this paragraph to the Puerto Rico Land Authority.

64. Ground Water Corrective Action: Respondents shall perform an assessment for groundwater corrective action, select a remedy and implement the remedy, if required by and in accordance with 40 C.F.R. §§ 258.56-58. Respondents shall comply with any applicable EQB regulations. EPA reserves the right to assign some or all of the requirements of this paragraph to the Puerto Rico Land Authority.

65. Permanent Closure and Post-Closure Plans; Professional Engineer. As soon as practicable after the effective date of this Order, Respondents to the extent they have not already done so, shall retain the services of a professional engineer, experienced in landfill design and licensed by the Commonwealth of Puerto Rico or permitted to practice engineering in Puerto Rico, to prepare final Closure and Post-Closure Plans for Part A of the MSWLF Facility. The plans must at a minimum meet the closure and post-closure criteria set forth in 40 C.F.R. §§ 258.60 and 258.61. The Closure and Post-Closure Plans shall incorporate measures to obtain any necessary permits or approvals, including any from the Corps that may be required, and shall also incorporate measures to meet any applicable requirements of the Clean Water Act, 42 U.S.C. § 1252 et seq. ("CWA") relating to storm water discharges and its implementing regulations, including permit requirements set forth in 40 C.F.R. Part 122, Subpart B, Section 122.26. The Plans shall provide for management of leachate and leachate contaminated storm water, and include measures for collection/interception. The Closure Plan shall incorporate the installation of a Gas Control and Collection System ("GCCS"), if required by the provisions of paragraph 71, below, or an alternative landfill gas system pursuant to the provisions of paragraph 72, below. The Closure Plan for Part A shall take into account any physical intersection of Part A of the Facility with a new cell in Part B of the Facility. The Closure and Post Closure Plans shall also take into account any physical intersection of Parts A and C of the Facility that affects the design and implementation of the Closure Plan for Part A of the Facility and its post-closure care.

66. Timetable: The Closure Plan shall include a timetable for implementation, including any stages or phases that may be part of the plan. The timetable shall provide dates for completion of any designated stages or phases that the plan may contain. Final closure of Part A of the Facility,

including any designated stages or phases, shall be completed within thirty (30) months after Part A of the Facility ceases to receive waste for disposal, unless EPA approves a later date.

67. Submittal of Closure and Post-Closure Plans: After their preparation by the professional engineer and acceptance by Respondents, the Closure and Post-Closure Plans for Part A of the Facility shall be submitted to EPA for review. The Plans shall include an engineering report and associated plans and specifications for permanent closure and shall include a closure construction schedule, specifications and timetable for installation of the GCCS system, identification of any required permits or other approvals, and necessary measures, procedures and information for post-closure care. The plans shall be submitted within one hundred twenty (120) calendar days after the effective date of the Order, unless EPA approves a later date in writing. EPA will review the Plans and within thirty (30) calendar days of their receipt will notify Respondents in writing of EPA's approval or non-approval of the Plans. In the event of non-approval of either the Closure or Post-Closure Plans, EPA will specify deficiencies in the Plan(s) in writing and outline necessary revisions or modifications. Thereafter, Respondents shall within thirty (30) calendar days of receipt of EPA's notice of non-approval of the Plan(s), modify/revise the Plan(s) and resubmit the Plan(s) to EPA for final review. This process shall be repeated in the event of EPA's non-approval of the resubmitted Plan(s), but if the repeated process does not produce acceptable revised Plan(s), EPA may in its discretion determine that it is necessary to invoke the procedures set forth below in paragraph 68. Throughout the process, EPA and Respondents shall confer as necessary and appropriate in order to clarify and resolve any outstanding issues. EPA will notify Respondents in writing of its final approval or non-approval of each of the Closure and Post-Closure Plans.

68. Final Notice of Deficiencies: When EPA determines in its sole discretion that it is necessary to invoke the procedures in this subparagraph in order to achieve approvable Closure and Post-Closure Plans, it will notify Respondents in writing setting forth a final date for Respondents' submission of acceptable Plan(s) to EPA. The written notice will specify the corrections, amendments and/or changes that Respondents need to make to previously submitted Plan(s) to achieve EPA approval, and the reasons why such corrections, amendments and/or changes are necessary. The notification letter will carry the caption: FINAL NOTICE OF DEFICIENCIES across the top of the page and will specify the date by which the Plan(s), signed by the professional engineer and approved by Respondents, must be submitted to EPA. If the professional engineer believes in his best professional judgment that certain proposed corrections, amendments and/or changes described in the FINAL NOTICE OF DEFICIENCIES cannot or should not be complied with, Respondents may provide notice to EPA that the matter is subject to the Dispute Resolution provisions set forth herein. After a decision on any matter or matters submitted for dispute resolution, EPA will, if necessary, submit a SECOND FINAL NOTICE OF DEFICIENCIES letter specifying the date by which the Plan(s) must be resubmitted to EPA. Thereafter, EPA will promptly notify Respondents in writing of its final


approval or non-approval of the Closure and/or Post Closure Plans. Respondents' failure to submit acceptable Closure and/or Post Closure Plans by the date specified in the FINAL NOTICE OF DEFICIENCIES, or in the event of a dispute resolution, by the date specified in the SECOND FINAL NOTICE OF DEFICIENCIES, shall constitute Respondents' failure to comply with a requirement of this Order, and Respondents shall be subject to stipulated penalties for such failure.

69. Submittals to Puerto Rico Environmental Quality Board: Respondents shall submit the final Closure and Post-Closure Plans to EQB for its review and comments prior to or simultaneously with their submittal to EPA. Respondents shall obtain any required approvals from EQB for such Plans.

70. Closure Plan Implementation: Respondents shall implement the Closure and Post-Closure Plans for Part A of the Facility, in accordance with their approved provisions and timetable.

a. Closure Plan Work: Respondents shall begin Closure Plan work in accordance with its implementation schedule, or within twenty (20) calendar days of any required EQB approval, whichever comes later. Respondents shall proceed to carry out the Closure Plan, in accordance with its implementation timetable.

b. Quarterly Reports: During implementation of the approved Closure Plan, Respondents shall submit quarterly reports to EPA on the status of implementation activities. The quarterly reports shall be submitted no later than twenty (20) calendar days after the end of each calendar quarter.

 c. Certification of Completion of Closure Plan Work: Respondents shall notify EPA in writing within thirty (30) calendar days after completion of the Closure Plan work, and shall certify that the work has been performed in accordance with the provisions of the Closure Plan approved by EPA, its associated plans and specifications, and any permits or other forms of prior approval Respondents obtained for the Closure Plan. The notification shall be accompanied by a Certification signed by a professional engineer that the Closure Plan work has been completed in accordance with the Closure Plan, its associated plans and its specifications, and any permits or other forms of prior approval. A senior official of each Respondent shall also certify that the work has been completed.

d. Carrying Out The Post-Closure Plan: Respondents Vega Baja and LVLR shall carry out the provisions of the Post-Closure Plan. If monitoring discloses that repairs or alterations must be made to the landfill cap, the gas monitoring system, the groundwater monitoring system, or any other component, Respondents shall timely make such repairs.

e. Post-Closure Reports: Respondents annually shall submit a report to EPA that describes post-closure activities during the preceding year. The report shall include information on the results of groundwater and gas monitoring and the status of the permanent landfill cap, operating and maintenance activities, financial assurance, and other relevant information. The annual report shall be submitted on or before September 30 of each calendar year beginning after the Closure Plan work has been completed.

71. Landfill Gas Control Requirements:

a. Pursuant to the 2007 AOC, Respondents submitted a design capacity report for the Facility, dated August 2006, which reflected the capacity of the landfill at that time and projected added capacity. Not later than thirty (30) calendar days after the effective date of this Order Respondents shall submit to EPA an updated design capacity report that reflects the projected, combined capacity of Parts A and B of the Facility as described in this Order, which meets the substantive requirements of the New Source Performance Standards ("NSPS") for municipal solid waste landfills, 40 C.F.R. Part 60, Subpart WWW (NSPS Subpart WWW) or the Puerto Rico Regulations for the Control of Atmospheric Pollution ("PRRCAP"), Part VII, Rule 701 *et seq.* (Puerto Rico 111(d) Plan), collectively hereinafter called the Landfill Regulations. If Part C of the Facility is required to be used for the EPA approved Slope Plan, pursuant to paragraph 52 herein, Respondents shall submit an amended, updated design capacity report to include Parts A and B, and the additional area being used or that will be used for waste disposal in Part C, within thirty (30) days after Respondents receive appropriate legal authorization for access and use of Part C to carry out the EPA approved Slope Plan.

b. Not later than thirty (30) calendar days after the effective date of this Order, Respondents shall submit a report which describes any modifications, as defined by 40 C.F.R. § 60.751, made to the Facility since the effective date of the 2007 AOC. If the updated design capacity or amended, updated design capacity report submitted pursuant to "a." of this paragraph, shows Facility capacity greater than 2.5 million cubic yards or shows Facility capacity greater than 2.5 million mega grams ("mg") of solid waste, Respondents shall submit a non-methane organic compound ("NMOC") emission rate report that reflects the emission rate calculation for the projected waste disposal capacity of the Facility as described in the applicable report.

c. If a design capacity report and/or NMOC emission rate calculation does not meet the specifications of the Landfill Regulations, EPA will provide the Respondents with a written notification indicating that the report or calculation is incomplete and/or inaccurate and specify the reasons for its determination.

- d. Within fifteen (15) calendar days of receipt of an EPA notification provided pursuant to "c." above, Respondents shall modify the report and/or calculation in response to EPA's notification and resubmit the report to EPA.
- e. If the updated design capacity report, or an amended, updated design capacity report submitted pursuant to "a.", or "d.", above, indicates that the landfill's design capacity is equal to or greater than 2.5 million mega grams and 2.5 million cubic meters and an NMOC report, submitted pursuant to "b." or "d." of this paragraph, indicates that the landfill's NMOC emission rate is greater than 50 mg/yr, within thirty (30) calendar days after submission of the design capacity report pursuant to "a.", above, or thirty (30) calendar days after resubmission of the report pursuant to "d.", above, whichever date comes later, Respondents shall submit to EPA in writing a notification of intent to 1) submit a design plan for a gas collection and control system ("GCCS"); or 2) submit a Tier II NMOC emission rate calculation; or 3) submit Tier II and Tier III NMOC emission rate calculations simultaneously. All calculations and plans must meet the Landfill Regulations.
- f. If Respondents' notification of intent indicates that they shall submit only a Tier II emission rate calculation, Respondents shall submit that calculation within thirty (30) calendar days after submission of the notification of intent.
- g. If Respondents' notification of intent, submitted pursuant to "e." of this paragraph, indicates that they shall submit Tier II and Tier III emission rate calculations, Respondents shall submit that calculation within sixty (60) calendar days of submission of the notification of intent.
- h. If a NMOC emission rate calculation, submitted pursuant to "e." or "f." of this paragraph, does not meet the specifications of the Landfill Regulations, EPA will provide Respondents with a written notification indicating that the report or calculation is incomplete and/or inaccurate and specify the reasons for its determination.
- i. Within twenty-one (21) calendar days of receipt of an EPA notification provided pursuant to "h." of this paragraph, Respondents shall revise its emission rate
- j. Respondents shall submit to EPA a design plan for a GCCS that meets the substantive requirements of the Landfill Regulations in the following circumstances:
- i. if Respondents' notification of intent, submitted pursuant to "e." of this paragraph, indicates that they shall submit a design plan for a GCCS;

- ii. if Respondents' Tier II calculation, submitted pursuant to "f.", "g." or "i." of this paragraph, indicates that the landfill's NMOC rate is greater than 50 mg/yr;
 - iii. if Respondents' Tier III calculation, submitted pursuant to "g." or "i." of this paragraph, indicates that the landfill's NMOC rate is greater than 50 Mg/yr; or
 - iv. if EPA makes a determination that Respondent's reports and/or calculations, submitted pursuant to this Order, have not satisfactorily demonstrated that the landfill's design capacity is less than 2.5 mg or 2.5 million cubic meters and/or have not satisfactorily demonstrated that the NMOC rate calculations have not satisfactorily demonstrated that the NMOC rate is less than 50 mg/yr.
- k. Respondents shall submit the design plan required pursuant to "j." of this paragraph, within one hundred eighty (180) days of the submission of the notification, determination and/or calculation referenced in paragraph "j." of this paragraph.
- l. If Respondents submit a design plan in accordance with this Order, Respondents shall submit to EPA, together with its design plan for the GCCS, a start-up, shut-down, malfunction plan ("SSM") that contains the information specified in 40 C.F.R., Part 63, Subpart AAAA.
- m. Within ninety (90) calendar days of submission of the design plan pursuant to this Order, in accordance with the Landfill Regulations, Respondents shall submit to EPA and EQB, an application for an operating permit under 40 C.F.R. Part 70 (Title V).
- n. Within one (1) year of submission of the design plan, or such other date as may be approved by EPA, Respondents shall install and commence operation of the GCCS, in accordance with the design plan and thereafter operate the GCCS in accordance with the Landfill Regulations.
- o. Within one hundred twenty (120) days after initial start-up of the GCCS, Respondents shall conduct performance testing and submit notifications and reports in accordance with the substantive requirements of 40 C.F.R. § 60.8 and the Landfill Regulations.
- p. Respondent shall submit protocol for performance testing to EPA for approval no later than sixty (60) calendar days after initial start-up of the GCCS.


q. Every calendar quarter after Respondents begin operation of the GCCS, Respondents shall monitor the surface concentrations of methane in accordance with the instrument specifications and procedures provided in the Landfill Regulations.

r. Within thirty (30) calendar days of each calendar quarter after Respondents begin operation of the GCCS, Respondents submit quarterly monitoring reports to EPA that contain, along with other monitoring requirements, the data specified in "q." of this paragraph, in accordance with the reporting requirements of the Landfill regulations.

72. If a GCCS is not required to be designed, installed and operated pursuant to the provisions of paragraph 71, above, Respondents have voluntarily agreed to design, install and operate an alternative landfill gas system to provide significant reductions in methane and NMOC emissions from the Facility. Respondents have informed EPA that such an alternative landfill gas system will incorporate gas recovery wells located in a pattern designed to maximize energy recovery.

VI FINANCIAL ASSURANCE

73. Compliance Requirements: Respondents by no later than July 1, 2013, shall submit to EPA for review and approval, a Financial Assurance Plan ("FAP"), describing how Respondents shall comply with the requirements set forth in 40 C.F.R. Part 258 Subpart G with respect to financial assurance for closure and post-closure care.

 74. Financial Assurance For Corrective Action: In the event that corrective measures are required during the post-closure period, Respondents shall come into compliance with the financial assurance requirements for corrective action as set forth in 40 C.F.R. § 258.73 by the time of submission of its next annual post-closure report after the estimated cost of corrective measures has been established. Respondents shall include evidence of the maintenance of the required financial assurance for corrective action in such annual post-closure report and succeeding annual reports filed pursuant to this Order.

VII. CERTIFICATIONS

75. Wherever this Order requires that a "Certification" be submitted to accompany written reports or documents, the following Certification form shall be submitted, and shall be dated and signed by a senior official of each Respondent, unless the Order clearly designates a specific Respondent as being responsible.


"I certify under penalty of law that this document [Identify Document] and all attachments being submitted were prepared under my direction or supervision in order to ensure that qualified

personnel properly gathered, evaluated and prepared this submission. Based on my review, including any inquiry of the person or persons who prepared the submission, the information contained in this submission is to the best of my knowledge, true, accurate and complete. I am aware that there are significant potential penalties for submitting false information.”

VIII. STIPULATED PENALTIES

76. Unless the Respondents are excused under the “Force Majeure and Excusable Delay” provision of the Order, Respondent(s) shall pay a stipulated penalty for failure to comply with any requirement, term, or condition set forth in or required by this Order. Respondents shall be jointly and severally liable for such stipulated penalties for failure to comply with a requirement, term or condition set forth in the Order where both Respondents are designated as being responsible for such compliance. In instances where a single Respondent is responsible for compliance with a requirement, term, or condition of the Order, that single Respondent shall be liable for stipulated penalties for non-compliance. The stipulated penalty for each non-complying act is as follows:

<u>Periods of Non-Compliance</u>	<u>Penalty Per Day</u>
1 st through 60 th day	\$250.00
61 st through 120 th day	\$500.00
121 st through 180 th day	\$1500.00
181 st day and thereafter	\$3000.00

 77. All stipulated penalties begin to accrue on the day each act of noncompliance with any requirement, term, or condition set forth in or required by this Order first takes place. The stipulated penalties shall continue to accrue through, and including, the day on which any failure to comply with such requirement, term, or condition is remedied. Nothing herein shall preclude, or is intended to preclude, the simultaneous accrual of separate stipulated penalties for each separate act of noncompliance with this Order. Penalties shall accrue regardless of whether EPA has notified Respondent(s) of the act or acts of non-compliance, but need only be paid upon demand.

78. After receipt of a demand from EPA for stipulated penalties pursuant to this Section of the Order, Respondent(s) may within thirty (30) calendar days of such demand, provide EPA with a written explanation of why they believe the stipulated penalties are not appropriate for the act(s) of non-compliance cited by EPA. If Respondent(s) elect not to file such explanation, the

stipulated penalties shall be paid within sixty (60) calendar days after receipt of the penalty demand.

79. The Director of the Division of Enforcement and Compliance Assistance may, in his or her sole discretion, reduce or eliminate such stipulated penalties based on Respondent(s) written explanation. If Respondents make a submittal as specified in paragraph 78, above, and the Division Director does not eliminate the stipulated penalties, then EPA will again notify Respondent(s) in writing that the original or reduced stipulated penalties must be paid.

80. At any time prior to Respondent(s)' payment of stipulated penalties, the Director of the Division of Enforcement and Compliance Assistance may, for good cause as independently determined by him or her, reduce or eliminate the stipulated penalties. If the Director makes such determination, EPA will notify Respondent(s) in writing of the change.

81. All civil penalties owed to EPA shall be due and owing within thirty (30) calendar days of the date of EPA's written notice to Respondent(s). Interest shall accrue on any amount not paid when due at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717.

82. If Respondent(s) fail to pay stipulated penalties as required under this Order, EPA may refer this matter to the U.S. Department of the Treasury or the Department of Justice for collection under applicable law. Nothing in this section, however, limits, or shall be construed as limiting, any rights or remedies available to EPA to enforce this Order and to seek compliance with the terms and conditions of this Order or any other applicable law or regulation.

83. Stipulated penalties shall be paid by cashier's or certified check, payable to the Treasurer, United States of America, and mailed to the U.S. Environmental Protection Agency, Fines and Penalties, Cincinnati Finance Center, P.O. Box 979077, St. Louis, Mo., 63197-9000. The payment(s) shall be identified as: **Vega Baja Municipal Solid Waste Landfill, Vega Baja, Puerto Rico**, and must reference the **Docket Number RCRA-02-2012-7303**.

IX FORCE MAJEURE AND EXCUSABLE DELAY

84. Respondents shall perform all the requirements of this Order within the time limits set forth, approved or established herein, unless the performance is prevented or delayed solely by events which constitute a force majeure. A force majeure is defined as any event arising from causes not reasonably foreseeable and beyond the control of the Respondents which could not be overcome by due diligence and which delays or prevents performance by a date required by this Order. Such events do not include unanticipated or increased costs of performance, normal

precipitation events, difficulty in arranging a suitable alternative means of disposal of solid waste generated by Vega Baja, or failure to obtain federal, Commonwealth, or local permits. Nothing herein shall be read to prevent Respondents from requesting a change in the scheduling of events or modification of the Order due to delay in receiving permits or approvals, or an unforeseen situation.

85. After receiving notice from Respondent(s) that Respondent(s) are invoking the force majeure provisions of this Order, EPA will respond in writing indicating either EPA's agreement that the event constitutes a force majeure or its disagreement and the reasons therefore. If the Parties agree that a force majeure has occurred, the time for performance may be extended, upon EPA approval, for a period equal to the delay resulting from such circumstances. This shall be accomplished through written amendment to this Order, or modifying the schedule in a previously approved plan. Such an extension or modification will not alter the schedule for performance or completion of any other tasks required by this Order.

86. In the event the parties cannot agree that any delay or failure has been or will be caused by a force majeure, or if there is no agreement on the length of the extension, the dispute will be resolved in accordance with the Dispute Resolution provisions contained in this Order.

X DISPUTE RESOLUTION

87. All parties shall use their best efforts to informally and in good faith resolve all disputes and differences of opinion, which may arise concerning provisions of this Order. Notwithstanding the foregoing, if Respondents disagree, in whole or in part, with any disapproval or modification or other decision or directive made by EPA pursuant to this Order, Respondents shall notify EPA in writing of such disagreements and their basis or bases within twenty (20) calendar days of receipt of EPA's disapproval, modification, decision or directive. The notice shall set forth the specific points of the dispute, the position Respondents maintain, the basis or bases for Respondents' position, and any matters the Respondents consider necessary for EPA's review. EPA may unilaterally refuse to review any dispute brought by Respondents under this provision if Respondents fail to fully set forth the basis or bases of their position and/or fails to provide materials which are necessary for EPA's determination. EPA may, but is not obliged, to request that Respondents submit additional information regarding any points concerning any dispute brought by Respondents. EPA will determine which of its officials will have responsibility for a decision concerning a dispute. Within thirty (30) calendar days of EPA's receipt of such written notice, or by any other date as may be agreed upon by the parties, EPA shall provide to Respondents its decision in writing on the pending dispute, which decision shall be binding. The parties may continue to confer and to use informal efforts to resolve the dispute during the period that EPA's final determination is pending. Notwithstanding the above, Respondents may not invoke the dispute resolution procedures for the deadline for ceasing receiving solid waste for disposal in Area A of the Facility, nor may Respondents invoke the

dispute resolution procedures concerning which EPA official is designated by EPA as the official to make a determination concerning the dispute.

88. EPA's decision on any dispute shall be incorporated into and become an enforceable part of this Order, and shall no longer be subject to dispute pursuant to this Order. Respondents shall proceed in accordance with EPA's decision regarding the matter in dispute. If Respondents do not actually perform the work in accordance with EPA's decision, EPA reserves the right in its sole discretion to conduct the work itself, and seek reimbursement from Respondents, seek enforcement of this Order, seek stipulated penalties, and/or seek any other appropriate relief. Any disputes arising under this Order, and EPA's decisions concerning such disputes, are not subject to judicial review until such time as EPA seeks judicial enforcement of this Order.

89. The existence of a dispute as defined herein, and EPA's consideration of such matters as are placed into dispute, shall excuse, toll or suspend during the pendency of the dispute resolution process the compliance obligation which is demonstrably dependent on the matters in dispute, and EPA shall not seek to impose a penalty for non-compliance with the obligation for the period of time during which the obligation was excused, tolled or suspended, regardless of the final decision on the dispute. No compliance obligation shall be excused, tolled or suspended, unless Respondents' dispute is in good faith and Respondents exercise due diligence to resolve the dispute.

XI MODIFICATION

90. This Order may be modified by Respondents and EPA. Such modification(s) shall be in writing, shall first be signed by Respondents, and shall have as their effective date the date on which they are signed by the EPA Regional Administrator. Notwithstanding the above, EPA's and the Respondents' coordinators may agree to changes in the scheduling of events. Any such changes shall be requested in writing by the Respondents and must be approved in writing by the EPA PC.

91. No informal advice, guidance, suggestions, or comments by EPA regarding reports, plans, specifications, schedules or any other writing submitted by the Respondents will be construed as an amendment or modification of this Order.

XII ADDITIONAL PROVISIONS

92. Non-Release of Other Claims and Parties: Nothing in this Order shall constitute, or be construed to constitute, a release from any claim, cause of action or equity brought by EPA against any person, firm, partnership, or corporation for any liability it may have arising out of, or relating in any way to, the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituent, hazardous substance, solid waste, hazardous waste, pollutant, or contaminant found at, or taken from, or emanating from the Facility.

93. Project Coordinators: By no later than ten (10) calendar days after the effective date of this Order, EPA and the Respondents each shall designate a Project Coordinator ("PC") and the name of at least one alternate who may function in the absence of the designated Project Coordinator. The Project Coordinators shall be responsible for overseeing implementation of this Order. EPA and the Respondents shall each have the right to change the PC and shall inform the other parties should such change occur. Unless approved by EPA, counsel for Respondents may not serve as a PC. The EPA has designated Carl Plossl, Environmental Engineer, as Project Coordinator and Leonard Grossman, Environmental Scientist, as Alternate Project Coordinator. The PCs are hereby designated as the parties to receive notices, submissions and correspondence concerning this Order.

94. Retention of Records: Respondents shall maintain business records pertaining to the operations of the Facility and implementation of the Recycling Program, and shall make such records available to EPA and its representatives for inspection upon request. Respondents shall also maintain business records pertaining to the work being performed pursuant to this Order and shall make such records available to EPA and its representatives for inspection upon request.

95. Emergency Provisions: In the event that Respondents identify a current or immediate threat to human health or the environment at the MSWLF Facility, other than those identified in Section III herein, Respondents shall immediately notify EPA orally and in writing within twenty four (24) hours summarizing the immediacy and magnitude of the potential threat to human health or the environment. The Respondents shall thereafter submit to EPA for approval, as soon as possible, a plan to mitigate this threat. EPA will approve or modify this plan, and Respondents shall implement this plan as approved or modified by EPA. In the case of an extreme emergency, Respondents may act as they deem appropriate at their own risk.

96. In the event Respondents identify the need for corrective action due to conditions at the MSWLF Facility, or off-site, caused by contamination released from the MSWLF Facility, other than those conditions identified in Section III herein or identified by groundwater monitoring carried out pursuant to the Post-Closure Plan, Respondents shall notify EPA within ten (10) calendar days of such identification. After review of available information, EPA may, after consultation with Respondents, require Respondents to prepare and implement a corrective action assessment and/or corrective action remedy. The corrective action assessment and/or corrective action remedy shall be implemented subject to EPA oversight.

97. If EPA determines that activities in compliance or non-compliance with this Order have caused or may cause a release of a hazardous waste or hazardous constituent, or may pose a threat to human health or the environment, EPA may direct Respondents to stop further implementation of this Order, or a portion of this Order, for such period of time as EPA determines may be needed to abate any such release or threat, and/or to undertake any action authorized by law, which EPA determines to be necessary.

98. If EPA determines the need for corrective action due to conditions at the MSWLF Facility, or off-site, caused by contamination released from the MSWLF Facility, other than those conditions identified in Section III herein or identified by groundwater monitoring, EPA will notify Respondents and may, after consultation with Respondents, require Respondents to prepare and implement a corrective action assessment and/or corrective action remedy. The corrective action assessment and/or corrective action remedy shall be implemented subject to EPA oversight.

99. Reservation of Rights

a. EPA expressly reserves, without limitation, all of its statutory and regulatory powers, authorities, rights, remedies and defenses, both legal and equitable, including the right to seek injunctive relief, cost recovery, monetary penalties, or punitive damages. EPA may exercise its authority under CERCLA to undertake removal or remedial actions.

b. This Order shall not be construed as a covenant not to sue, or as a release, waiver or limitation of any claim, rights, remedies, defenses, powers and/or authorities which EPA has under RCRA, the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), or any other statutory, regulatory or common law authority of the United States.

c. This Order shall not limit or otherwise preclude EPA from taking any additional legal action against the Respondents, jointly or separately, should EPA determine that any such additional legal action is necessary or warranted.

d. Notwithstanding compliance with the terms of this Order, the Respondents are not released from liability for the costs of any response actions taken by EPA. EPA reserves the right to seek reimbursement from Respondents for any response costs incurred by the United States.

100. On-Site and Off-Site Access: Until this Order is terminated, Respondents shall permit EPA representatives, including authorized designees, employees, agents, contractors, subcontractors, or consultants to enter and freely move about the Facility for, but not limited to, the following purpose(s): observing conditions and/or activities at the Facility, including work performed pursuant to this Order, interviewing personnel, conducting sampling or monitoring, taking photographs and verifying information or data that have been submitted.

101. To the extent that work required by this Order must be performed on property not owned or controlled by any Respondent, Respondents shall use best efforts to obtain "Site Access Agreements" to perform such work within thirty (30) days of the date Respondents become aware or should be aware of the need to perform such work. Any such access agreement shall

provide for reasonable access by EPA. In the event that Site Access Agreements are not obtained within the thirty (30) day period, Respondents shall notify EPA, in writing, documenting their best efforts to obtain such agreements.

102. Nothing in this Order shall be construed to limit or otherwise affect EPA's right of access and entry pursuant to any applicable laws and regulations, including the Act and the Comprehensive Environmental Response Compensation and Liability Act of 1980 ("CERCLA"), as amended, 42 U.S.C. § 9601 et seq.

103. Nothing in this Order shall be construed to limit or otherwise affect any of the Respondents' liabilities and obligations to perform corrective action, including corrective action beyond the Facility property boundary, notwithstanding any lack of access. EPA may determine that additional on-site measures must be taken to address releases beyond the Facility boundary if access to off-site areas cannot be obtained.

104. Indemnification of the United States Government: Respondents shall indemnify, save and hold harmless the United States Government, its agencies, departments, agents, and/or employees, from any and all claims or causes of action arising from or on account of acts or omissions of Respondents or their agents, independent contractors, receivers, trustees, subcontractors or successors and/or assigns in carrying out activities required by this Order. This indemnification shall not be construed as in any way affecting or limiting the rights or obligations of the Respondents or the United States under their various contracts or statutes.

105. Other Applicable Laws: Nothing herein shall relieve Respondents of their obligations to undertake all actions required by this Order in accordance with local, Commonwealth and federal laws and regulations. Respondents shall comply with environmental regulatory procedures, and obtain all legally required permits or approvals not already issued as are necessary to perform the work required by this Order.

106. No Final Agency Action: Notwithstanding any other provision of this Order, no action or decision by EPA pursuant to this Order, including without limitation, decisions of the Regional Administrator, Region 2, or any authorized representative of EPA, shall constitute final agency action giving rise to any rights of judicial review prior to EPA's initiation of a judicial action for a violation of this Order, which may include an action for penalties, an action to compel one or more Respondents' compliance with the terms and conditions of this Order, or such other relief as may be available at law. In any action brought by EPA for a violation of this Order, Respondents shall bear the burden of proving that EPA's action was arbitrary and/or capricious and not in accordance with law, or this Order. In any such action, EPA shall bear the burden of proving that Respondents have violated a term or terms of this Order.

107. Transfer of Obligations: Respondent(s) shall give notice, and a copy of this Order to any successor in interest prior to any transfer of ownership or responsibility for the MSWLF Facility.

Respondent(s) shall give notice to EPA at least sixty (60) days prior to any such transfer. No such transfer shall in any way alter, extinguish or otherwise affect Respondents' responsibility to meet all the terms and obligations of this Order. Respondent(s) may, however, transfer the responsibility for unperformed obligations imposed by this Order to a new owner/operator of the MSWLF Facility, provided there is a demonstration provided to EPA's satisfaction that the new owner/operator is capable of undertaking these obligations and has expressly agreed to do so in writing, provided further that EPA has given its approval in writing to any such transfer of obligations, and provided finally that this Order has been modified to reflect the transfer. Any stipulated penalties which may have accrued pursuant to the terms of this Order shall remain the responsibility of the Respondents against whom the penalties accrued. The Order Modification reflecting the transfer of obligations to a successor party or parties may, if appropriate, establish modified schedules for continuing obligations under the Order.

108. Enforcement: The failure of Respondents to comply with any provision of this Order may be considered a violation of this Order. Such violation may give rise to an enforcement action pursuant to Section 7003(b) of the Act, 42 U.S.C. § 6973(b), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. Section 3701 et seq. Nothing herein shall preclude EPA from taking any additional enforcement actions, and/or such other actions as it may deem necessary for the abatement or prevention of an imminent threat to public health or the environment arising from conditions at the MSWLF Facility. Nor shall EPA be precluded from taking any such other enforcement actions under the Act or other laws as EPA may deem necessary based on additional information about conditions at the Facility.

109. Termination: This Order and all its terms and provisions shall remain in effect until all the activities called for by the Order are completed and Respondents are so notified in writing by the EPA. Such notice shall be signed by the Regional Administrator, EPA Region 2. Respondents may request that EPA Region 2 provide Respondents with such notice, and shall supply EPA with such information, including certifications, as EPA may specify. Upon Respondents' request, EPA also will notify Respondents in writing confirming the appropriate completion of discrete tasks under the Order. In each instance, such confirmation by EPA will be based on the information then available to EPA, including reports and Certifications submitted pursuant to the terms of the Order. After five (5) years of Post-Closure Monitoring, Respondents Vega Baja and LVLR may request that EPA terminate their post-closure obligations under this Order. In any such request, Respondents should state their reasons for the request and include documentation that EQB will continue to monitor post-closure care of the Facility. EPA will consider any such request and notify Respondents within ninety (90) calendar days of its decision in the matter.

110. Severability: If any provision of this Order or the application of this Order to any party or circumstance is found to be invalid, or is temporarily stayed, the remainder of this Order shall remain in force and shall not be affected thereby.

111. Cooperation Among Respondents: Respondents shall fully cooperate with each other in carrying out the Order's requirements, including sharing copies of documents and information, so that each Respondent is fully informed concerning all matters relating to the Order.

112. Respondents shall use their best efforts to cooperate with the Respondent or Respondents designated in any other EPA Orders in carrying out legal obligations relating to the Facility. Respondents shall keep such other Respondent or Respondents fully informed as to their activities pursuant to the Order's requirements, and shall provide copies to such Respondent or Respondents of correspondence and submissions to EPA under the Order.

113. Consent and Effective Date: Respondents consent to and agree not to contest EPA's jurisdiction to issue Order. In addition, whether brought in an administrative or judicial proceeding, Respondents consent to and agree not to contest EPA's jurisdiction to enforce or compel compliance with any term of this Order. Finding this Order to be accurate and reasonable, Respondents consent to its issuance and its terms, and agree to undertake all actions required by the terms and conditions of this Order. Respondents consent to the issuance of this Order, as an Order, pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, and explicitly waive any rights they may have to request a hearing on this matter.

114. Respondents neither admit nor deny the EPA Findings of Fact and Conclusions of Law stated herein. Respondents enter into this Order On Consent in good faith and the execution of this Order On Consent is not intended and shall not be construed as an admission relating to violations of any law or regulations or an assumption of liability beyond that expressly stated herein.

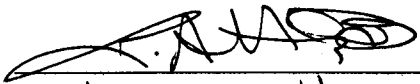
115. Each signatory to this Order certifies that he or she is fully authorized to sign this Order without reservation.

116. The effective date of this Order shall be fifteen (15) calendar days after the date the Order is signed by the Regional Administrator EPA Region 2.

117. Termination of 2007 AOC: Upon the effective date of this Order, the 2007 AOC, Docket No. RCRA-02-2007-7306 terminates, and the Respondents to the 2007 AOC are released from any future work obligations in the 2007 AOC, except for the record retention requirements set forth in paragraph 50 therein.



Respondent LaVega Landfill & Resources, Inc.

BY:  _____

NAME: Luis A. Hernandez Borres

(PRINT)

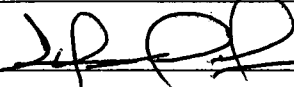
TITLE: President.

DATE: August 7, 2012

Vega Baja Municipal Solid Waste Landfill
Administrative Order On Consent
Docket No. RCRA-02-2012-7303

Respondent Municipality of Vega Baja

BY: IVAN D. HERNANDEZ GONZALEZ

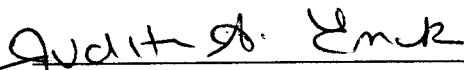
NAME: 

(PRINT)

TITLE: ALCALDE VEGA BAJA

DATE: AGOSTO 18, 2012

IT IS SO ORDERED:



DATE: 9/10/12

Judith A. Enck
Regional Administrator
U. S. Environmental Protection Agency, Region 2
290 Broadway
New York, New York 10007-1866