

## Proposed Second Agreement and Judicial Order

The Municipality of Toa Alta has agreed to a judicial settlement with the U.S. Environmental Protection Agency (EPA) and the U.S. Department of Justice (DOJ) to reduce environmental and public health risks at its landfill in Puerto Rico. The proposed second agreement would require the municipality to address the risk of leachate releases from the lined southeast portion of the landfill and to pay a \$50,000 civil penalty. The closure process of the landfill would be under Puerto Rico's Department of Natural and Environmental Resources (DNER) oversight.

The municipality entered into a first settlement with DOJ and EPA in 2022 that required waste disposal permanently end at the landfill, the application of daily and intermediate cover, and stormwater and leachate management.

### We Want to Hear From You!




EPA and DOJ will hold an in-person community meeting on April 30, 2024 at the Lauro Dávila Coliseum in Toa Alta at 6:30 PM, to receive further comments on the proposed second settlement and order. Comments received will be documented and considered by DOJ and EPA in determining whether they still support the proposed second settlement and before they submit it to the federal court for its approval.

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## Background

Toa Alta has operated its solid waste landfill since 1966. Most of the landfill does not have a required bottom liner and is therefore considered an "open dump." In 1991, the Resource Conservation and Recovery Act (RCRA) required all municipal solid waste landfill (MSWLF) units to close their open dumps by 1998. RCRA also required all landfills to include measures such as daily cover, leachate collection, and stormwater controls to protect people's health and the environment. In Puerto Rico, the DNER is responsible for enforcing compliance with landfill regulations, while the EPA has the authority to address urgent problems at landfills that present a danger to the community and the environment.

 **Leachate** is a liquid that has passed through or emerged from solid waste and contains soluble, suspended, or materials capable of being mixed, removed from such waste.

The Toa Alta landfill generates and releases an estimated 28 – 46 million gallons of leachate into the environment each year with potential direct impacts to water supply through surface water runoff and north coast aquifer system through infiltration to the groundwater. For over a decade, EPA reports raised concerns that the landfill lacked adequate stormwater controls and that the municipality’s failure to apply proper soil cover in active and inactive areas of the landfill has contributed to the leachate problem and exposes nearby residents to an increased risk of disease.

On June 2017, EPA issued an administrative order to require the landfill to correct its actions. EPA found that the landfill was at or over capacity. However, Toa Alta continued to dispose waste in the unlined (open dump) portions of its landfill. The municipality was not consistently applying daily cover; did not have leachate collection system or stormwater controls; and had created steep slopes which potentially created a risk of collapse. Citing a number of these problems in its 2021 lawsuit, EPA and DOJ argued that Toa Alta was operating the landfill in a manner that created risk to people’s health and the environment.

**In response to these conditions, EPA, DOJ and/or DNER have taken the following actions:**

- February 2021 – DOJ filed a complaint in the Federal Court against the Toa Alta claiming that the conditions at the landfill constitute an “imminent and substantial endangerment.”
- July 2021 – DOJ requested the Federal Court to issue an order requiring Toa Alta to immediately address the “endangerments” at the landfill. The parties -- EPA/DOJ and Toa Alta -- discussed a potential settlement, called Stipulation and Preliminary Injunction Order (SPIO), to require the municipality to take action to address issues.
- August 2021 – DOJ filed an amended motion requesting a preliminary injunction order.
- October 2021 – DNER announced a plan to address all the “open dumps” in Puerto Rico.
- January through March 2022 – EPA and DOJ conducted a community engagement process including a public comment period and a public meeting to receive comments on the preliminary order.
- April 2022 – The municipality stopped disposing waste at the landfill.
- August 2022 – DOJ filed, and the Federal Court approved, the SPIO, which was the first settlement and injunction order in this case.
- June 2023 – DOJ filed a motion with the court to enforce the August 2022 order. The municipality has been late in complying with the obligation to apply intermediate cover as required in the court order.
- February 2024 – EPA and DOJ reached another settlement with Toa Alta to address some of the remaining issues at the landfill, civil penalty amount and leachate in the southeast portion of the landfill. EPA and DOJ sought public input during the public comment period from Tuesday February 13, 2024, to Friday March 22, 2024, on the proposed second agreement and final order.



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