

LANCE R. LEFLEUR  
DIRECTOR



Alabama Department of Environmental Management  
adem.alabama.gov

1400 Coliseum Blvd. 36110-2400 ■ Post Office Box 301463  
Montgomery, Alabama 36130-1463  
(334) 271-7700 ■ FAX (334) 271-7950

ROBERT J. BENTLEY  
GOVERNOR

March 24, 2014

CERTIFIED MAIL 91 7199 9991 7030 3430 1258  
RETURN RECEIPT REQUESTED

Mr. Wesley Bridges  
Brownlee Landfill, LLC  
Post Office Box 1627  
Hammond, LA 70404

Dear Mr. Bridges:

**RE: Consent Order No. 14-047-CSW  
Brownlee C/D Landfill**

Please find the enclosed ADEM Consent Order No. 14-047-CSW which requires you to take certain actions in regard to alleged violations of the Solid Wastes and Recyclables Materials Management Act. This Order has been issued with the consent of you and the Department. Please note that the assessed civil penalty is due within 90 days of the effective date of the Order.

If you have any questions concerning this matter, please contact Ms. Ashley Powell at (334) 271-7760 or at [aspowell@adem.state.al.us](mailto:aspowell@adem.state.al.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Phillip D. Davis", followed by a horizontal line.

Phillip D. Davis, Chief  
Land Division

Enclosure

PDD/asp

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

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



**Mobile Branch**  
2204 Perimeter Road  
Mobile, AL 36615-1131  
(251) 450-3400  
(251) 479-2593 (FAX)

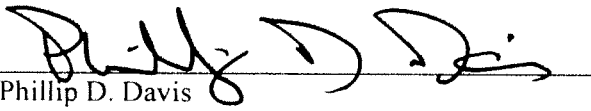
**Mobile-Coastal**  
4171 Commanders Drive  
Mobile, AL 36615-1421  
(251) 432-6533  
(251) 432-6598 (FAX)

**CERTIFICATE OF SERVICE**

I, Phillip D. Davis, hereby certify that I have this date served the foregoing Consent Order by regular United States Mail, properly addressed and postage prepaid to:

**Mr. Wesley Bridges  
Brownlee Landfill, LLC  
Post Office Box 1627  
Hammond, LA 70404**

Done this 24<sup>th</sup> day of March, 2014

  
Phillip D. Davis

ALABAMA DEPARTMENT  
OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF:	)	
	)	
Brownlee Landfill, L.L.C.	)	Order No. 14-047-CSW
Brownlee C/D Landfill	)	
5237 Henry Road	)	
Eight Mile, Mobile County, Alabama	)	
Solid Waste Disposal Permit No. 49-22	)	
_____	)	

***PREAMBLE***

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (hereinafter “the Department”) and Brownlee Landfill, L.L.C. (hereinafter “Permittee”) pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16, as amended, and the Solid Wastes and Recyclable Materials Management Act (SWRMMA), Ala. Code §§ 22-27-1 to 22-27-18, as amended.

***STIPULATIONS***

1. Brownlee Landfill, L.L.C. (hereinafter “Permittee”) operates a construction/demolition landfill in Eight Mile, Mobile County, Alabama, which is the subject of this Administrative Order.

1. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-16, as amended.

2. Pursuant to Ala. Code § 22-22A-4(n) (2006 Rplc. Vol.) and Ala. Code § 22-27-9(a), as amended, the Department is the state agency authorized to administer and enforce the provisions of the Solid Wastes and Recyclable Materials Management Act (SWRMMA), Ala. Code §§ 22-27-1 through 22-27-18, as amended.

3. On October 31, 2008, the Department issued a renewal Solid Waste Disposal Permit number 49-22 to the Permittee for the operation of a construction/demolition landfill (hereinafter "landfill") located at 5237 Henry Road, Eight Mile, Mobile County, Alabama.

#### ***DEPARTMENT'S CONTENTIONS***

4. On December 20, 2011, Department personnel inspected the Permittee's landfill to determine compliance with the ADEM Administrative Code. During the inspection the following violations were documented:

a. ADEM Admin Code r. 335-13-4-.23(1)(a)1 requires that all waste shall be covered with a minimum of six inches of compacted earth or other alternative cover material that includes but is not limited to foams, geosynthetic or waste products and is approved by the Department shall be added at the conclusion of each week's operation or as otherwise specified by the Department. At the time of inspection, Department personnel documented that the Permittee had failed to properly cover the waste.

b. ADEM Admin Code r. 335-13-4-.23(1)(b) requires that all waste shall be thoroughly spread in layers two feet or less in thickness and thoroughly compacted with adequate landfill equipment prior to placing additional layers of waste or the placing of weekly cover. At the time of inspection, Department personnel documented that the Permittee had failed to properly compact the waste.

c. ADEM Admin Code r. 335-13-4-.23(1)(c) requires that all waste shall be confined to as small an area as possible and placed onto an appropriate slope not to exceed 4 to 1 (25%) or as approved by the Department. At the time of the inspection, Department personnel

documented that the Permittee had failed to confine waste to a small area and landfill slopes appeared to be greater than 4 to 1.

5. On January 3, 2012, the Department issued a Notice of Violation (hereinafter "NOV") for the violations documented during the December 20, 2011, inspection.

6. On February 9, 2012, the Department received a response to the January 3, 2012, NOV.

7. On June 20, 2013, Department personnel inspected the Permittee's landfill to determine compliance with the ADEM Administrative Code. During the inspection the following violations were documented:

a. ADEM Admin Code r. 335-13-4-.21(1)(b) requires that waste accepted at the facility shall be strictly controlled so as to allow only waste stipulated on the permit or otherwise as may be approved by the Department. At the time of inspection, Department personnel documented that the Permittee had accepted for disposal household waste. The Permittee was not approved to accept this waste stream.

b. ADEM Admin Code r. 335-13-4-.23(1)(a)1 requires that all waste shall be covered with a minimum of six inches of compacted earth or other alternative cover material that includes but is not limited to foams, geosynthetic or waste products and is approved by the Department shall be added at the conclusion of each week's operation or as otherwise specified by the Department. At the time of inspection, Department personnel documented that the Permittee had failed to properly cover the waste.

c. ADEM Admin Code r. 335-13-4-.23(1)(c) requires that all waste shall be confined to as small an area as possible and placed onto an appropriate slope not to exceed 4 to 1 (25%) or as approved by the Department. At the time of the inspection, Department personnel

documented that the Permittee had failed to confine waste to a small area. The working face had waste spread over a large area.

d. ADEM Admin. Code r. 335-13-4.29(1) requires that owners or operators of a landfill unit must record specified information and retain that information in an operating record available for review at the facility, or in an alternate location approved by the Department. At the time of inspection, Department personnel documented that the Permittee had failed to maintain an operating record for review.

e. ADEM Admin. Code r. 335-13-12.01 requires all public waste management facilities in the State to have at least one certified operator on-site during hours of operation. At the time of inspection, Department personnel documented that the Permittee had failed to have at least one certified operator on-site.

8. On July 2, 2013, the Department issued a NOV for the violations documented in the June 20, 2013, inspection.

9. On August 14, 2013, the Department received a response to the July 2, 2013, NOV.

10. On September 12, 2013, Department personnel inspected the Permittee's landfill to determine compliance with the ADEM Administrative Code. During the inspection Department personnel documented the following violations:

a. ADEM Admin Code r. 335-13-4-.21(1)(b) states: "Waste accepted at the facility shall be strictly controlled so as to allow only waste stipulated on the permit or otherwise as may be approved by the Department." At the time of inspection, Department personnel documented that the Permittee had accepted for disposal household waste. The Permittee was not approved to accept this waste stream.

b. ADEM Admin Code r. 335-13-4-.23(1)(a)1 provides: All waste shall be covered with a minimum of six inches of compacted earth or other alternative cover material that includes but is not limited to foams, geosynthetic or waste products and is approved by the Department shall be added at the conclusion of each week's operation or as otherwise specified by the Department. At the time of inspection, Department personnel documented that the Permittee had failed to properly cover the waste.

c. ADEM Admin Code r. 335-13-4-.23(1)(b) states: All waste shall be thoroughly spread in layers two feet or less in thickness and thoroughly compacted with adequate landfill equipment prior to placing additional layers of waste or the placing of weekly cover. At the time of inspection, Department personnel documented that the Permittee had failed to properly compact the waste.

d. ADEM Admin Code r. 335-13-4-.23(1)(c) states: All waste shall be confined to as small an area as possible and placed onto an appropriate slope not to exceed 4 to 1 (25%) or as approved by the Department. At the time of the inspection, Department personnel documented that the Permittee had failed to confine waste to a small area and landfill slopes appeared to be greater than 4 to 1.

e. ADEM Admin. Code r. 335-13-4-.23(1)(e) states: The site shall be adequately secured to prevent entry except by authorized person(s) unless an operator on-site. At the time of the inspection, Department personnel documented that the Permittee had failed to provide adequate site security. The facility gate was open and no personnel were on-site.

11. Pursuant to Ala. Code § 22-22A-5(18)c. (2006 Rplc. Vol.), in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or

safety of the public; the standard of care manifested by the Permittee; the economic benefit which delayed compliance may confer upon the Permittee; the nature, extent and degree of success of the Permittee's efforts to minimize or mitigate the effects of such violation upon the environment; the Permittee's history of previous violations; and the ability of the Permittee to pay such penalty. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000.00. Each day such violation continues shall constitute a separate violation. In arriving at this civil penalty, the Department has considered the following:

A. SERIOUSNESS OF THE VIOLATION: The Permittee failed to comply with certain provisions of ADEM Admin. Code div. 335-13 regarding landfill operations. The Department is unaware of any irreparable harm to the environment, or any immediate threat to human health or the safety of the public as a result of this violation.

B. THE STANDARD OF CARE: The Permittee failed to comply with certain solid disposal waste requirements even after receiving notice from the Department.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department has been unable to ascertain if the Permittee has realized a significant economic benefit as a result of the violations noted.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: The Department is unaware of any efforts employed by the Permittee to mitigate potential effects upon the environment that may have been created as a result of the violation listed.

E. HISTORY OF PREVIOUS VIOLATIONS: The Permittee does not have a history of similar violations.

F. THE ABILITY TO PAY: The Permittee has not alleged an inability to pay the civil penalty.

G. OTHER FACTORS: It should be noted that this Consent Order is a negotiated settlement and, therefore, the Department has determined the amount of the penalty it believes is warranted in this matter in the spirit of cooperation and the desire to resolve this matter amicably, without incurring the unwarranted expense of litigation.

12. The Department neither admits nor denies Permittee's contentions, which are set forth below. The Department has agreed to the terms of this Consent Order in an effort to resolve the alleged violations cited herein without the unwarranted expenditure of State resources in further prosecuting the above violations. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

#### ***PERMITTEE'S CONTENTIONS***

13. The Permittee neither admits nor denies the Department's contentions. The Permittee consents to abide by the terms of this Consent Order and to pay the civil penalty assessed herein.

#### ***CONSENT ORDER***

THEREFORE, without admitting that it has violated any statutes or regulations, the Permittee, along with the Department, desires to resolve and settle the alleged violations cited above. The Department has carefully considered the facts available to it and has considered the

six penalty factors enumerated in Ala. Code § 22-22A-5(18) (2006 Rplc. Vol.), as well as the need for timely and effective enforcement; the Department believes that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Permittee agree to enter into this Consent Order with the following terms and conditions:

A. That, not later than ninety days after issuance of this Order, the Permittee shall pay to the Department a civil penalty in the amount of \$12,000.00 for the violations cited herein. Said penalty shall be made payable to the Alabama Department of Environmental Management by certified check or cashier's check and shall be remitted to:

Office of General Counsel  
Alabama Department of Environmental Management  
P.O. Box 301463  
Montgomery, Alabama 36130-1463

All checks shall reference the Permittee's name and address and the ADEM Administrative Order number of this action.

B. That, by no later than May 31, 2014, the Permittee shall employ a certified landfill operator(s) at the facility.

C. That, upon issuance of this Order and continuing each and every day after, the Permittee shall comply with the requirements outlined in ADEM Admin. Code r. 335-13-12-.01(3) by having at least one certified landfill operator on-site at all times of operation.

D. The parties agree that this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented, and to legally bind such party.

E. The parties agree that, subject to the terms of these provisions and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations which are cited in this Consent Order.

F. The Permittee agrees that it is not relieved from any liability if it fails to comply with any provision of this Consent Order.

G. For purposes of this Consent Order only, the Permittee agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County.

H. The parties agree that the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should additional facts and circumstances be discovered in the future which would constitute possible violations not addressed in this Consent Order, then such future violations may be addressed in Orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement action as may be appropriate; the Permittee shall not object to such future orders, litigation, or enforcement action based on the issuance of this Consent Order if future orders, litigation, or other enforcement action address new matters not raised in this Consent Order.

I. The parties agree that this Consent Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and the Permittee does hereby waive any hearing on the terms and conditions of this Consent Order.

J. The parties agree that this Consent Order shall not affect the Permittee's obligation to comply with any Federal, State, or local laws or regulations.

K. The parties agree that final approval and entry into this Consent Order are subject to the requirements that the Department give notice of proposed Orders to the public, and that the public have at least thirty days within which to comment on the Order.


L. The parties agree that, should any provision of this Consent Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

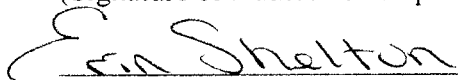
M. The parties agree that any modifications of this Consent Order must be agreed to in writing signed by both parties.

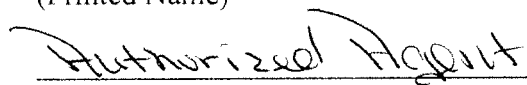
N. The parties agree that, except as otherwise set forth herein, this Consent Order is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State or local law, and shall not be construed to waive or relieve the Permittee of its obligations to comply in the future with any permit.

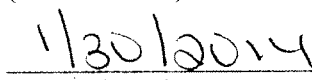
Executed in duplicate, with each part being an original.

Brownlee Landfill, LLC

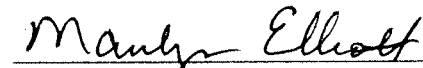
  
(Signature of Authorized Representative)

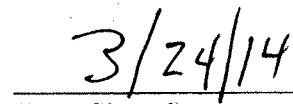
  
(Printed Name)

  
(Printed Title)

  
(Date Signed)

ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

  
Lance R. LeFleur  
Director

  
(Date Signed)

## Attachment A

### Penalty Synopsis

**Brownlee Landfill, LLC (Brownlee C/D Landfill)**  
**Permit #49-22**  
**Eight Mile, AL**

<b>Violation*</b>	<b>Number of Violations*</b>	<b>Seriousness of Violation &amp; Base Penalty*</b>	<b>Standard of Care*</b>	<b>History of Previous Violations*</b>
Unauthorized waste streams	2	\$2,000	\$500	
Failure to cover waste weekly	3	\$3,000	\$2,500	
Failure to properly compact waste	2	\$2,000	\$1,000	
Failure to confine waste to a small area and/or place on an appropriate slope	3	\$3,000	\$2,500	
Failure to provide adequate site security	1	\$500		
Failure to maintain operating record on-site and available for review	1	\$400	\$100	
Failure to employ certified landfill operator	1	\$1000	\$250	
<b>Totals:</b>	<b>15</b>	<b>\$11,900</b>	<b>\$6,850</b>	<b>\$0</b>

**Economic Benefit:** \$0.

**Mitigating Factors:** \$0.

**Ability to Pay:** \$0.

**Other Factors:** -\$6,750

**Civil Penalty:** **\$12,000**

#### Footnotes

\* See the "Findings" of the order for a detailed description of each violation and the penalty factors.