

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

THE COMMONWEALTH OF VIRGINIA, )  
 )  
 MICHAEL ROLBAND, in his official )  
 capacity as Director of the Department of )  
 Environmental Quality, )  
 )  
 THE VIRGINIA WASTE MANAGEMENT )  
 BOARD, and )  
 )  
 THE VIRGINIA AIR POLLUTION )  
 CONTROL BOARD, )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 THE CITY OF BRISTOL, VIRGINIA, )  
 )  
 Defendant. )

Case No. CL23000274-00 - 8

CONSENT DECREE

WHEREAS Plaintiffs the Commonwealth of Virginia, Michael Rolband, Director of the Department of Environmental Quality, the Virginia Air Pollution Control Board, and the Virginia Waste Management Board (collectively, "Plaintiffs") have filed a Complaint in this matter asserting alleged violations of the Virginia Air Pollution Control Law, the Regulations for the Control and Abatement of Air Pollution, the Virginia Waste Management Act, and the Solid Waste Management Regulations (collectively, the "Allegations") against Defendant City of Bristol, Virginia ("Defendant," or "Bristol," together with Plaintiffs, the "Parties");

WHEREAS the Parties entered into negotiations intended to resolve Plaintiffs' claims and thereby avoid the burden and expense to all Parties of litigation;

WHEREAS, as a result of those negotiations, the Parties achieved a conceptual framework of a settlement and then negotiated the specific terms of a judicial consent decree in the general form of this Consent Decree;

WHEREAS the Parties recognize, and this Court finds by entering this Consent Decree, that the Parties have negotiated this Consent Decree in good faith, that implementation of this Consent Decree will avoid prolonged and complicated litigation between the Parties, and that the terms of this Consent Decree are fair, reasonable, and in the public interest.

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without adjudication or admission of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby ORDERED, DECREED, and ADJUDGED as follows:

#### I. DEFINITIONS

Whenever the terms listed below are used in this Consent Decree, the following definitions shall apply:

- (a) “Air Board” means the State Air Pollution Control Board, as described in Va. Code § 10.1-1301.
- (b) “Air Regulations” means the Regulations for the Control and Abatement of Air Pollution, 9 VAC 5 chapters 10 through 80.
- (c) “Bristol” means the City of Bristol, Virginia, a political subdivision of the Commonwealth of Virginia. Bristol is a “person” within the meaning of Va. Code §§ 10.1-1300 and -1400.
- (d) “Complaint” means the Complaint filed in the Circuit Court of the City of Richmond, Case No. CL23000274-00, which is styled *The Commonwealth of Virginia, et al. v. City of Bristol, Virginia*.
- (e) “Court” means the Circuit Court for the City of Richmond, Virginia.

- (f) “Department” and “DEQ” mean the Virginia Department of Environmental Quality, as described in Va. Code § 10.1-1183.
- (g) “Director” means the Director of the Virginia Department of Environmental Quality, as described in Va. Code § 10.1-1185.
- (h) “Facility” or “Landfill” means the Bristol Integrated Solid Waste Management Facility located on contiguous property and separated by landfill haul roads in Bristol, Washington County, Virginia, which is owned and operated by Bristol, and consisting of:
1. The landfill that is permitted by SWP 498 (the “SWP 498 Landfill”);
  2. The landfill that is permitted by SWP 588 (the “SWP 588 Landfill”);
  3. The landfill that was permitted by Solid Waste Permit (SWP) No. 221, which was issued under title 32, Chapter 1, Section 32-9.1, Code of Virginia, as amended by the 1970 General Assembly, and regulations adopted by the State Board of Health on May 24, 1977 (“Landfill 221”). SWP 221 was terminated on December 1, 1988 by the Virginia Department of Waste Management pursuant to section 10.1-1408.1B of the Code of Virginia, 1950, as amended; and
  4. The landfill gas flare, which is located at 2655 Valley Drive (formerly 2125 Shakesville Road).
- (i) “Permits” means the following four permits:
1. A New Source Review Permit to construct and operate a municipal solid waste landfill and landfill gas utility flare, issued under the State Air

- Pollution Control Law and Air Regulations to Bristol, effective September 30, 2015 (the “NSR Permit”);
2. Solid Waste Permit (SWP) No. 498, which was issued under Section 32.1-180, Title 32.1, Code of Virginia (1950), as amended, and Regulations adopted by the State Board of Health to Bristol on June 24, 1986 (“SWP 498”);
  3. Solid Waste Permit (SWP) No. 588, which was issued under the Virginia Waste Management Act and the Waste Regulations to Bristol on February 13, 1996 (“SWP 588”); and
  4. The Article 3 Federal Operating Permit to modify and operate three landfill units, located on contiguous property and separated by landfill haul roads, issued to the Bristol, effective March 13, 2016 and renewed on March 13, 2021 (the “Title V Permit”).
- (j) “Virginia Air Pollution Control Law” means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.
- (k) “Virginia Waste Management Act” means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Virginia Code.
- (l) “Waste Board” means the Virginia Waste Management Board, as described in Va. Code § 10.1-1401.
- (m) “Waste Regulations” means Chapter 81 (§ 20-81-10 *et seq.*) of Title 9 of the Virginia Administrative Code.

## **II. JURISDICTION AND VENUE**

The Parties agree that this Court has jurisdiction over the subject matter herein and over the Parties. The Parties agree that venue is proper in this Court. The Parties further agree that this Court shall retain jurisdiction over the Parties with respect to this Consent Decree until this Consent Decree is terminated as provided in Paragraph IX (Termination).

## **III. PARTIES**

The obligations of this Consent Decree apply to and are binding upon Plaintiffs, Bristol, and any of their respective successors, assigns, or other entities or persons otherwise bound by law, including any entity or person to whom the Permits are transferred, until the Permits are terminated in accordance with the Air Regulations and the Waste Regulations, or until the obligations of this Consent Decree are satisfied or are waived, amended or modified by the Parties in writing. Except as otherwise provided here, the Consent Decree shall not create any rights in any parties, other than those named in this Consent Decree.

## **IV. SCHEDULES OF COMPLIANCE**

- (a) Bristol shall complete all actions pursuant to the schedules of compliance set forth in Appendix A and Appendix B, which are attached hereto and incorporated herein.
- (b) Upon Bristol's satisfactory completion and financial demonstration of monies spent for items listed in Appendix A, Bristol may petition the Department for reimbursement of up to Two Million and 00/100 Dollars \$2,000,000.00 of funding set aside by the General Assembly to assist Bristol with resolution of ongoing environmental issues at the Facility. Reimbursement from this funding shall only be applicable for costs incurred by Bristol to resolve environmental issues at the Facility in association with Appendix A, excluding for the avoidance of doubt, any

civil penalty. Unless otherwise instructed in writing by the Department, Bristol shall request such funding in writing to:

Nancy Perry, Fiscal Director  
Virginia Department of Environmental Quality  
P.O. Box 1104  
Richmond, VA 23218  
[nancy.perry@deq.virginia.gov](mailto:nancy.perry@deq.virginia.gov)

## V. PENALTIES AND PAYMENT OF COSTS

- (a) **VEERF Reimbursement Cost.** DEQ convened an expert panel March 21-22, 2022 to provide recommendations for addressing odor problems and operational concerns at the Facility. The expert panel released its final report on April 25, 2022. DEQ funded the expert panel's work from the Virginia Environmental Emergency Response Fund (VEERF) at a total cost of \$92,000.00. Bristol shall pay **Ninety-Two Thousand and 00/100 Dollars (\$92,000.00)** within 30 days of the date of this Consent Decree for reimbursement to the VEERF.
- (b) **Civil Penalty.** Bristol shall be assessed a civil penalty of **Three Hundred Seventy-Seven Thousand Six Hundred Ninety-Seven and 00/100 Dollars (\$377,697.00)**. The entire \$377,697.00 civil penalty shall be suspended, pending Bristol's satisfactory completion of the injunctive relief items described in Appendices A and B of this Consent Decree.

Bristol acknowledges that it is solely responsible for completing the injunctive relief items described in Appendices A and B of this Consent Decree. Any transfer of funds, tasks or otherwise by Bristol to a third party shall not relieve Bristol of its

responsibility to complete the injunctive relief items described in Appendices A and B of this Consent Decree.

If Bristol fails to complete any of the injunctive relief items pursuant to Appendices A and B of this Consent Decree, the Department shall so notify Bristol in writing with a demand that Bristol pay an additional amount of the remaining suspended civil penalty balance, which amount shall be determined at the Department's sole discretion. The decision of the Department shall become final thirty (30) days after the Department notifies Bristol, unless Bristol elects to invoke the dispute resolution set forth in Paragraph VII (Dispute Resolution).

- (c) **Costs.** Plaintiffs shall be entitled to collect the costs (including attorneys' fees) incurred in any action necessary to enforce the provisions of this Consent Decree including, but not limited to, any action necessary to collect any undisputed portion of the civil penalty. Bristol shall also pay the Plaintiffs' costs (including attorney's fees) for any action by the Plaintiffs to enforce this Consent Decree, in which dispute resolution is unsuccessful.
- (d) **Method of Payment.** Any payments made pursuant to this Paragraph V (Penalties and Payment of Costs) shall be by check, certified check, money order, or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond Virginia 23218

Bristol shall include its Federal Employer Identification Number (FEIN) with all payments made pursuant to the terms of this Consent Decree. Furthermore, any

payments made pursuant to the terms of this Consent Decree must indicate that the payment is being made in accordance with the requirements of this Consent Decree for deposit into the Virginia Environmental Emergency Response Fund.

## **VI. FORCE MAJEURE**

- (a) Bristol shall be responsible for failure to comply with any of the terms and obligations of this Consent Decree unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, protest actions by third parties, or such other unforeseeable circumstances beyond the control of Bristol or any of Bristol's officers, directors, agents, employees, subcontractors, successors, or assigns and not due to a lack of good faith or diligence on their part. Bristol shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on their part. "Force Majeure" does not include Bristol's financial inability to perform any obligation under this Consent Decree. Unanticipated or increased costs or expenses associated with performance of any obligation under this Consent Decree shall not constitute circumstances beyond Bristol's control nor serve as a basis for an extension of time to come into compliance.
- (b) Bristol shall notify DEQ (i) verbally as soon as practicable but in no event later than twenty-four (24) hours and (ii) in writing as soon as practicable thereafter but in no case later than three (3) business days of when Bristol becomes aware that circumstances will occur, are occurring, or have occurred that have or are reasonably certain to delay compliance or cause noncompliance with any requirement of the Consent Decree. Such notice shall set forth:

- (1) The reasons for the noncompliance;
  - (2) The projected duration of any such delay or noncompliance;
  - (3) The measures taken and to be taken to prevent or minimize such delay or noncompliance;
  - (4) The timetable by which such measures will be implemented, and the date full compliance will be achieved; and
  - (5) Available documentation supporting the claim that delay or noncompliance is attributable to a force majeure event.
- (c) Failure to timely notify DEQ as described above shall constitute a waiver of any such claim to inability to comply with a requirement of this Consent Decree for the period beyond the deadlines above until the time the notice was actually made.
- (d) If DEQ agrees that the delay, anticipated delay, or noncompliance is attributable to a force majeure event, either the time for performance of the obligations under this Consent Decree that are affected by the force majeure event will be extended by DEQ for such time as DEQ deems necessary to complete those obligations or the noncompliance will be deemed excused. An extension of time for performance of the obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. DEQ shall notify Bristol in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.
- (e) If DEQ does not agree that the delay, anticipated delay, or noncompliance has been or will be caused by a force majeure event, DEQ will notify Bristol in writing of its decision. The decision of the Department shall become final thirty (30) days after DEQ notifies Bristol, unless Bristol elects to invoke the dispute resolution set forth in Paragraph VII (Dispute Resolution). In any such dispute, Bristol shall have the burden of demonstrating by a preponderance of the evidence that the delay or

anticipated delay has been or will be caused by a force majeure event, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that all reasonable efforts were exercised to avoid and mitigate the effects of the delay, and that Bristol complied with the requirements of this Paragraph VI (Force Majeure).

## **VII. DISPUTE RESOLUTION**

- (a) **Dispute Resolution Process.** The Dispute Resolution procedures set forth in this Paragraph VII (Dispute Resolution) shall be the exclusive mechanism to resolve disputes arising under this Consent Decree. The dispute shall be considered to have arisen when Bristol sends DEQ a written Notice of Dispute. Such Notice of Dispute shall clearly state the matter in dispute. Any such dispute shall first be subject to informal negotiations. The period of informal negotiations shall not exceed sixty (60) days from the date the dispute arises, unless that period is modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations, then Plaintiffs shall send to Bristol a Statement of Position within fifteen (15) days following the end of the period of informal negotiations. Such Statement of Position shall be binding unless, within thirty (30) days after Bristol's receipt of the Statement of Position, Bristol seeks judicial review of the dispute in accordance with Paragraph VII(b).
- (b) **Judicial Review.** Bristol may seek judicial review of the dispute by filing within the Court and serving upon Plaintiffs a motion requesting judicial resolution of the dispute. Should Plaintiffs respond to Bristol's motion within the time allowed by the Rules of the Supreme Court of Virginia, Bristol shall have the burden of demonstrating, by a preponderance of the evidence, that Plaintiffs' position is

arbitrary and capricious, not in accordance with law, or contrary to the terms of this Consent Decree.

- (c) **Covenant Not To Sue by Bristol.** Bristol covenants not to sue and agrees not to assert any claims or causes of action against the Commonwealth, DEQ, or any other Commonwealth agency with respect to this Consent Decree, or the Complaint. This includes, but is not limited to:
  - (i) Any claims against the Commonwealth, DEQ, or any other Commonwealth agency brought under any statute for which the waiver of sovereign immunity is found for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Commonwealth prior to the lodging of this Consent Decree;
  - (ii) Any claims for trespass or takings under federal or state law.

#### **VIII. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS**

- (a) **Claims Resolved.** This Consent Decree resolves Plaintiffs' civil claims against Bristol for the violations alleged in the Complaint.
- (b) **Plaintiffs' Reservation of Rights.** The Plaintiffs reserve all legal and equitable remedies to enforce the provisions of this Consent Decree. This Consent Decree shall not be construed to limit the rights of Plaintiffs to obtain penalties or injunctive relief under any applicable law or regulation, including but not limited to the Virginia Air Pollution Control Law, the Virginia Waste Management Act or their implementing regulations, except as expressly stated in Paragraph VIII(a). This Consent Decree shall not preclude the Plaintiffs, the Air Board, the Waste Board, the Director, or DEQ from taking any action authorized by law, including but not

limited to (i) taking any action authorized by law against any additional, subsequent, or subsequently discovered violations; (ii) seeking subsequent remediation of the Landfill; or (iii) taking subsequent action to enforce the terms of this Consent Decree. Plaintiffs further reserve all legal and equitable remedies available to address any imminent and substantial endangerment to the public health or welfare, or the environment, caused by any and all activities related to the Landfill, whether related to the Allegations addressed in this Consent Decree or otherwise.

- (c) **Responsibility for Acts of Agents and Employees.** In any action to enforce this Consent Decree, Bristol shall not assert as a defense the failure of its officers, directors, agents, employees, subcontractors, successors, and assigns to take any actions necessary to comply with this Consent Decree, except to the extent such failure constitutes a force majeure event as defined in Paragraph VI (Force Majeure).
- (d) **Waiver of Defenses.** Bristol waives any and all defenses with respect to any legal or equitable action brought by the Plaintiffs to enforce the terms of this Consent Decree. In waiving these defenses, Bristol does not concede that any of the Allegations are correct or accurate.
- (e) **Not a Permit.** This Consent Decree is not a permit, or a modification of any permit, under any federal, state, or local law or regulation. Bristol is responsible for achieving and maintaining compliance with all applicable federal, state, and local law, regulation, ordinance, permits, and approvals of any kind. Bristol's compliance with this Consent Decree shall be no defense to any action commenced

pursuant to such law, regulations, ordinance, permits, or approvals, except as stated in Paragraph VIII(a) or as otherwise set forth herein.

- (f) **Right-of-Entry/Inspection.** This Consent Decree in no way limits or affects any right of entry and inspection or any right to obtain information held by the Plaintiffs pursuant to applicable federal or state laws, regulations, permits, certificates, certifications, or authorizations, nor does it limit or affect any duty or obligation of Bristol to maintain documents, records, or other information imposed by applicable federal or state laws, regulations, permits, certificates, certifications, or authorization.

## IX. TERMINATION

Upon Bristol's completion of the actions set forth in Appendices A and B, Bristol may submit to the Plaintiffs a request for termination certifying that it has completed all required actions under the Consent Decree.

If the Plaintiffs agree that the conditions for termination as set forth in the preceding paragraph have been met, the Plaintiffs shall timely file, for the Court's approval, a joint stipulation terminating this Consent Decree. If the Plaintiffs do not agree that the conditions for termination have been met, the Plaintiffs shall submit in writing to Bristol the basis of their disagreement within sixty (60) days of receipt of the request for termination. The decision of the Plaintiffs shall become final thirty (30) days after the basis for their decision is submitted to Bristol unless Bristol invokes dispute resolution in accordance with Paragraph VII (Dispute Resolution).

Termination of this Consent Decree or any obligation imposed by this Consent Decree, shall not relieve Bristol from its obligation to comply with any statute, regulation, ordinance, permit condition, plan, order, certificate, certification, standard, or requirement otherwise applicable.

## X. GENERAL PROVISIONS

- (a) **Entire Agreement.** This Consent Decree represents the entire agreement and understanding between the Parties, and supersedes any and all prior oral and written agreements, orders and understandings. The Parties acknowledge that there are no inducements, promises, representations, agreements, or understandings relating to the subject matter of this Consent Decree other than those expressly contained in this Consent Decree.
- (b) **Headings.** Headings in this Consent Decree are provided for convenience only and shall not limit, expand, modify or otherwise affect the meaning of any provision of the Consent Decree.
- (c) **Modification.** No provision of this Consent Decree may be waived, amended, or modified in any respect whatsoever, except by written agreement signed by the Parties.
- (d) **Severability.** If any provision of this Consent Decree is held to be invalid, void, or unenforceable, all other provisions of this Consent Decree will nevertheless remain in full force and effect.
- (e) **Calculation of Reporting and Notification Deadlines.** If the final day of a requirement stated in this Consent Decree to provide information or reports to Plaintiffs within a specified number of days falls on a weekend or holiday, Bristol shall provide the information or reports on the next business day.
- (f) **No Admission of Liability and Reservation of Rights.** This Consent Decree is entered into by the Parties without any adjudication or finding of violation by or liability of Bristol by the Court. Bristol, by its consent or otherwise, does not admit fault or liability to Plaintiffs or to any third party/ies. This Consent Decree is

intended by the Parties to constitute a consensual resolution of the Allegations in the Complaint without any finding that would form the basis of any enforcement orders or actions against Bristol. Except as expressly provided in this Consent Decree, the execution of this Consent Decree is not an admission or denial of the factual allegations arising out of the transactions or occurrences alleged in the Complaint or relating to the Allegations.

- (g) **Full Authority.** The Parties represent, through their signatures below, that they have full authority to enter into this Consent Decree and that they are competent and over the age of majority.
- (h) **Final Judgment.** Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment of the Court as to the Parties.
- (i) **Notices.** Unless otherwise specified herein, whenever written notifications, communications, or submittals are required by this Consent Decree, such notifications, communications, or submittals shall be made to the individuals specified below, or to such other individuals as may be designated by a Party on written notice to the other Parties:

**As to Plaintiffs:**

Director, Enforcement Division  
Virginia Department of Environmental Quality  
P.O. Box 1105  
Richmond, VA 23218

**As to Defendant:**

City Manager  
300 Lee Street  
Bristol, VA 24201

and

Public Works Director  
2515 Valley Drive  
Bristol, VA 24201

- (j) **Governing Law.** This Consent Decree shall be interpreted, enforced, and governed in accordance with the laws of the Commonwealth of Virginia, regardless of any conflicts-of-law principles.

Entered: \_\_\_\_\_, 2023

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Judge of the Circuit Court

WE ASK FOR THIS:

**THE COMMONWEALTH OF VIRGINIA,  
MICHAEL ROLBAND, THE VIRGINIA  
WASTE MANAGEMENT BOARD, AND  
THE VIRGINIA AIR POLLUTION CONTROL  
BOARD**



Jason S. Miyares  
*Attorney General of Virginia*

Charles H. Slemp, III  
*Chief Deputy Attorney General*

Leslie A. T. Haley  
*Deputy Attorney General*

Ross Phillips (VSB No. 86632)\*  
*Senior Assistant Attorney General/Chief*

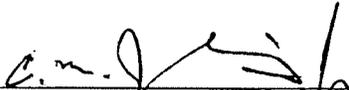
Katherine E. Kulbok (VSB No. 90853)\*  
Thomas J. Sanford (VSB No. 95965)\*  
*Assistant Attorneys General*

Office of the Attorney General  
202 North Ninth Street  
Richmond, Virginia 23219  
Telephone: (804) 225-4878  
Facsimile: (804) 786-2650  
Email: RPhillips@oag.state.va.us  
*\*Counsel of Record for Plaintiffs*

Public Works Director  
2515 Valley Drive  
Bristol, VA 24201

- (j) **Governing Law.** This Consent Decree shall be interpreted, enforced, and governed in accordance with the laws of the Commonwealth of Virginia, regardless of any conflicts-of-law principles.

Entered: March 28, 2023

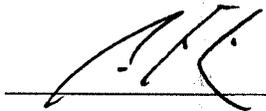
  
\_\_\_\_\_  
Judge of the Circuit Court

A Copy  
Teste EDWARD F. JEWETT, CLERK

BY: \_\_\_\_\_ D.C.

WE ASK FOR THIS:

**THE COMMONWEALTH OF VIRGINIA,  
MICHAEL ROLBAND, THE VIRGINIA  
WASTE MANAGEMENT BOARD, AND  
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\_\_\_\_\_

Jason S. Miyares  
*Attorney General of Virginia*

Charles H. Slemp, III  
*Chief Deputy Attorney General*

Leslie A. T. Haley  
*Deputy Attorney General*

Ross Phillips (VSB No. 86632)\*  
*Senior Assistant Attorney General/Chief*

Katherine E. Kulbok (VSB No. 90853)\*  
Thomas J. Sanford (VSB No. 95965)\*  
*Assistant Attorneys General*

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Email: RPhillips@oag.state.va.us  
*\*Counsel of Record for Plaintiffs*

The undersigned consents to the entry of this Consent Decree, subject to public notice and comment.

SEEN AND AGREED:

**THE CITY OF BRISTOL, VIRGINIA**



Randall C. Eads  
City Manager for the City of Bristol, Virginia

Counsel for the City of Bristol, Virginia:

John D. Adams (VSB 65203)  
Justin D. Howard (VSB 94108)  
Erin B. Ashwell (VSB 79538)  
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jadams@mcguirewoods.com  
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eashwell@mcguirewoods.com

## APPENDIX A SCHEDULE OF COMPLIANCE

Bristol shall complete the following actions for the SWP 588 Landfill by the specified dates:

1. **GAS COLLECTION** – Bristol shall conduct the following actions to improve gas collection, remove heat from the waste, and manage odors at the Landfill:
  - i. Continue to identify and eliminate any landfill gas fugitive emissions at the Landfill surface (e.g., pipe penetrations, inadequate cover, etc.) and continue weekly surface emissions monitoring at the Landfill surface and will conduct monthly monitoring of the leachate collection components, including but not limited to cleanouts, risers, etc. Data from the surface emissions and monthly gas monitoring of leachate collection components must be reported to DEQ and the EPA by Wednesday of the following week in an agreed upon format beginning November 1, 2022.
  - ii. Bristol shall improve the performance of the existing gas extraction system, including minimizing air intrusion pathways through the landfill cover, confirming that dual-phase extraction pumps are operating properly to promote an open well screen, tuning each gas well to prevent over-drawing or under-pulling, and ensuring that all gas collection infrastructure is in proper operating condition. Any gas collection system infrastructure (i.e., gas extraction wells, piping, pumps, etc.) not in proper operating condition shall be returned to proper operating condition or replaced as soon as possible.
  - iii. Implement a remote monitoring system for landfill gas wellhead temperatures. Data collected through the remote monitoring system shall be available to DEQ and EPA on a daily basis. Gas wellhead data shall be available to DEQ and the EPA by November 30, 2022.
  - iv. Install a minimum of 5 large-diameter, dual-phase extraction wells into the waste mass with a suitable casing pipe by June 30, 2023. For the purposes of this Section 1.iv, “suitable” shall mean that the collective performance of the dual-phase extraction wells is equal to or greater than the collective performance of 5 dual-phase wells with 12-inch diameter casing, as recommended in the expert panel’s April 25, 2022 report. Integrate these wells into the landfill gas collection and control system (GCCS). A plan including dual-phase extraction well specifications, details, and locations shall be submitted to DEQ by December 31, 2022. The plan shall be certified and stamped/sealed by a Professional Engineer licensed in the Commonwealth of Virginia (VA-PE) and shall become an enforceable part of this Consent Decree. Upon completion of installation, place extraction wells into operation for removal of gas and leachate and determine appropriate treatment requirements for the extracted leachate.

- v. Prior to installation of the ethyl vinyl alcohol (EVOH) cover system (see Section 6), obtain DEQ concurrence on sufficiency of the wells and install additional wells as necessary.
2. SIDEWALL ODOR MITIGATION – Bristol shall conduct the following actions to the landfill sidewall to manage odors at the Landfill:
- i. Design and install a perimeter gas collection system near the sidewalls by May 1, 2023, with the intent of drawing gas away from sidewall to reduce sidewall emissions. Bristol shall submit the plan to DEQ by December 31, 2022. The plan shall be certified and stamped/sealed by a VA-PE and shall become an enforceable part of this Consent Decree.
  - ii. Bristol shall design a sidewall odor mitigation system and seal around the landfill perimeter that mitigates landfill gases emanating from the landfill sidewalls to the extent practical by November 1, 2022. This system shall integrate into the existing sidewall lining system and the GCCS, while maintaining an intact and compliant lining system. All materials needed to construct the sidewall odor mitigation system will be identified and specified in the design, along with potential sources of materials. The system shall be certified and stamped/sealed by a VA-PE.
  - iii. Bristol shall, by February 10, 2023, construct and initiate a pilot sidewall odor mitigation system along approximately 220 feet of sidewall. The system shall be certified and stamped/sealed by a VA-PE. Bristol shall collect data from the system for 3 months, analyzing data during collection, and making adjustments and alterations to the test pilot system, as needed. Any gas collection elements from this system shall be integrated into the GCCS.
  - iv. Design and construct a sidewall odor mitigation system around the entire Landfill perimeter that will mitigate landfill gases emanating from the landfill/quarry sidewalls. Any gas collection elements from this system shall be integrated into the GCCS. Construction shall be completed by June 14, 2023. The system shall be certified by a VA-PE. Bristol may simultaneously construct the entirety of the sidewall odor mitigation system while the pilot mitigation system is being evaluated.
3. WASTE TEMPERATURE MONITORING – Bristol shall conduct the following actions to monitor temperatures within the waste mass at the Landfill.
- i. Install a dedicated system for temperature monitoring in the waste mass by December 31, 2022 that will provide temperatures at multiple depths throughout the vertical extent of the waste mass (*aka* profile) at multiple locations in the landfill. The intent is to provide spatial monitoring of temperatures throughout the waste mass with sufficient resolution for evaluating the effectiveness of the remedial actions. The temperature monitoring system must be equipped with remote monitoring and integrate into the remote wellhead monitoring system

described in Section 1(iii). Bristol shall provide a plan for the system to DEQ by November 30, 2022. The plan shall be certified and stamped/sealed by a VA-PE. Bristol shall alter the quantity of temperature sensors, including depths, spacing/location, and frequency of data collected as requested by DEQ. Temperature monitoring data shall be available by February 15, 2023.

4. LEACHATE EXTRACTION AND MONITORING – Bristol shall conduct the following actions to extract and analyze leachate from the Landfill above and beyond those actions originally and currently undertaken at the Landfill for leachate collection and management:

- i. Bristol will optimize operation of the leachate extraction pumps within existing dual-phase extraction wells within 90 days of the effective date of this Consent Decree. Monitoring of the leachate extraction pumps, including pump count data, shall be conducted weekly and submitted to DEQ monthly (by the tenth day of the following month).
- ii. Sampling and analysis of leachate from existing and any new dual-phase extraction wells will be conducted on a monthly basis and submitted to DEQ by the tenth day of the following month, beginning December 1, 2022. A plan for sampling and analysis of leachate shall be submitted to DEQ by November 1, 2022. The plan shall be certified and stamped/sealed by a VA-PE and shall become an enforceable part of this Consent Decree.

5. SETTLEMENT MONITORING AND MANAGEMENT – Bristol shall conduct the following actions to monitor and timely address settlement of the Landfill surface:

- i. Develop a settlement monitoring and management plan that provides for means and methods for monitoring surface elevations across the surface of the landfill, prior to, and after placement of the EVOH cover system. This settlement monitoring and management plan will include temporary settlement monuments, used to monitor settlement prior to the EVOH cover, and permanent monuments installed in conjunction with the EVOH cover system. The settlement monitoring and management plan will be prepared in accordance with generally accepted surveying practices and minimum standards within the Commonwealth of Virginia and shall be certified and stamped/sealed by a VA-PE and a surveyor licensed in the Commonwealth of Virginia. Bristol shall submit the settlement monitoring and management plan to DEQ by November 15, 2022. The accepted settlement monitoring and management plan shall become an enforceable part of this Consent Decree.
- ii. Conduct monthly topographic surveys of the settlement monuments to document the magnitude and rates of settlement throughout the waste mass, beginning November 9, 2022 (i.e., thirty days after the installation of intermediate cover). Topographic survey data must be available to DEQ and the EPA by the tenth day of the month following data collection. Upon request, and at the discretion of DEQ, survey frequency may be reduced after the first year.

6. INTERMEDIATE COVER AND EVOH COVER SYSTEM – Bristol shall conduct the following actions to address adequate cover of the Landfill:
  - i. Install intermediate cover in accordance with 9 VAC 20-81-140(B)(1)(d) of the Virginia Solid Waste Management Regulations by October 10, 2022.
  - ii. Design, and submit to DEQ, a plan for an EVOH cover system deployment over the entire SWP 588 Landfill by January 30, 2023. The plan shall be certified and stamped/sealed by a VA-PE and shall become an enforceable part of this Consent Decree.
  - iii. Bristol shall begin the procurement process for the EVOH cover system by January 30, 2023.
  - iv. Install the EVOH cover system within 60 days of completing all other remedial actions, not to exceed 12 months from the effective date of this Consent Decree. Prior to installation of the EVOH cover, shape the existing Landfill surface to direct storm water runoff to a storm water management (SWM) basin located at an appropriate point of the Landfill.
  
7. STORM WATER MANAGEMENT (SWM) – Bristol shall conduct the following actions to address storm water management for the Landfill:
  - i. Develop, and submit to DEQ for review and concurrence, an effective and sustainable SWM plan, using best engineering practices for both pre- and post-EVOH deployment, by April 30, 2023. The SWM plan shall also address storm water discharged offsite, including monitoring protocols, monitoring parameters, discharge limits, and sampling frequencies. The plan shall be certified and stamped/sealed by a VA-PE and shall become an enforceable part of this Consent Decree.
  - ii. Design and construct a SWM basin at the most appropriate point of the Landfill surface, utilizing best engineering practices, and direct storm water runoff to the basin in accordance with the SWM plan specified above.
  - iii. The SWM plan shall be fully implemented, with all required features and controls constructed and functional, at the appropriate time to coincide with completion of installation of the EVOH cover system.
  - iv. The SWM plan shall adequately address long-term control and removal of storm water from the Landfill until such time that an updated Closure Plan and Post Closure Plan, which addresses permanent SWM, has been approved by DEQ and implemented by Bristol.

- v. Perform monthly monitoring of storm water being discharged offsite from SWP 588 Landfill. Monitoring shall begin when offsite discharge commences. Monitoring frequency shall be monthly during the first year. If monitoring results warrant, as determined by DEQ, monitoring frequency may be reduced to quarterly during the second year and to semi-annually thereafter. Proposed monitoring protocols, parameters, discharge limits, etc. shall be submitted to DEQ for concurrence prior to implementation of monitoring.

## 8. MISCELLANEOUS

- i. SWP 588 Landfill ceased acceptance of offsite waste prior to September 12, 2022.
- ii. Develop and implement a long-term plan to monitor, maintain, and repair/upgrade the cover systems, leachate and gas collection systems, sidewall odor mitigation systems, and SWM systems. The long-term plan shall be submitted to DEQ by December 31, 2022 and implemented by March 31, 2023. Specific individuals and/or contractors shall be assigned for specific tasks. The plan shall be certified and stamped/sealed by a VA-PE and shall become an enforceable part of this Consent Decree.
- iii. Bristol shall submit monthly progress reports (“Monthly Compliance Reports”) to DEQ beginning in November 2022. The Monthly Compliance Reports shall include comprehensive updates regarding progress towards completion of each item outlined in Appendix A of this Consent Decree. The Monthly Compliance Reports shall be received by DEQ no later than the tenth day of the following month (e.g., the report for reporting period October 1, 2022 through October 31, 2022 shall be due by November 10, 2022). Information to be included in the updates will be agreed upon with DEQ.
- iv. Develop and implement an active community outreach program within 30 days of the effective date of this Consent Decree. The community outreach program shall communicate strategies, provide status updates and progress reports, and receive citizen feedback. The Monthly Compliance Reports shall be made available for public review in an agreed upon format on the City’s website.
- v. Where Bristol is delayed in completing work due to circumstances out of its control, such as supply chain (including shipping) delays, Bristol shall exhaust reasonable means to rectify the delay, to include seeking reasonable alternatives. Where the delay cannot be rectified through available means, Bristol shall promptly notify DEQ and provide proper documentation, which shall include a statement from Bristol’s supplier, contractor, or subcontractor documenting the initial date upon which Bristol made a request for goods and/or services and documenting the delay. Contingent upon evaluation of documentation provided by Bristol and any other available information, and at the reasonable discretion of DEQ, the time for performance may be extended by a reasonable period of time.

Unless otherwise specified in this Consent Decree, Bristol shall submit all requirements of Appendix A of this Consent Decree to:

Jonathan Chapman  
Enforcement Specialist  
VA DEQ – Southwest Regional Office  
355-A Deadmore Street  
Abingdon, Virginia 24210  
[jonathan.chapman@deq.virginia.gov](mailto:jonathan.chapman@deq.virginia.gov)

## **APPENDIX B SCHEDULE OF COMPLIANCE**

Bristol shall complete the following actions for the SWP 498 Landfill and Landfill 221 by the specified dates:

1. **LEACHATE PUMP STATION** – Bristol shall conduct the following actions to improve the leachate pump station infrastructure and mechanical equipment at SWP 498 Landfill:
  - i) By October 31, 2022, properly characterize, remove, and dispose of all the floating material within the pump station.
  - ii) By January 31, 2023, repair and replace the two inoperable pumps within the pump station.
  - iii) By January 31, 2023, inspect, diagnose, and repair or replace the existing pump station alarm/notification system.
  
2. **COVER INTEGRITY AND EXPOSED WASTES** – Bristol shall conduct the following actions to eliminate exposed wastes and ensure cover integrity:
  - i) By November 30, 2022, properly install/deploy approved alternate daily cover (ADC) tarps over any areas of SWP 498 Landfill where surface disturbance is anticipated to occur within 30 to 60 days.
  - ii) By December 31, 2022, place intermediate soil cover over areas of SWP 498 Landfill surface that have been inactive for more than 30 days to eliminate exposed waste.
  - iii) Surface emissions monitoring on SWP 498 Landfill and Landfill 221 shall be conducted in accordance with Federal and State regulations.
  
3. **GAS COLLECTION** – Bristol shall conduct the following actions to optimize gas collection and minimize air intrusion:
  - i) Bristol shall optimize the performance of the existing gas extraction system and gas collection system infrastructure (i.e. landfill gas extraction wells 1-25, associated piping, etc.) including minimizing air intrusion pathways through the landfill cover, reducing oxygen concentrations in Landfill 221 and gas collection system, tuning each gas well to prevent over-drawing or under-pulling, and ensuring that all gas collection infrastructure is in proper operating condition. Any gas collection system infrastructure not in proper operating condition shall be returned to proper operating condition or replaced as soon as possible.

- ii) By December 1, 2022, Bristol shall submit to DEQ a plan that provides for means and methods for optimizing the performance of the existing gas extraction system in SWP 498 Landfill and Landfill 221. The plan shall be certified and stamped/sealed by a VA-PE. The Plan shall be fully implemented by February 1, 2023. All monthly wellhead monitoring shall be conducted according to Federal and State Air Regulations for SWP 498 Landfill and Landfill 221. Monthly wellhead monitoring data for Landfill 221 shall also include oxygen concentration. Monthly wellhead monitoring data shall be submitted to DEQ and the EPA by the first Wednesday of every month beginning November 1, 2022.
4. GRADING, GEOMETRIC CONFIGURATION AND GAS EXPANSION – Bristol shall conduct the following actions to ensure the surface of SWP 498 Landfill is graded to the appropriate geometric configuration to allow for final closure:
- i) By January 31, 2023, develop and submit to DEQ for review, a plan for closing and installing final cover to SWP 498 Landfill as required by the Waste Regulations. This shall also include a comprehensive gas collection and control system in accordance with Federal and State Air regulations. The plan shall provide estimated timeframes for completion of all closure construction activities, including gas management, collection and control systems that comply with Federal and State regulations. The plan shall be certified and stamped/sealed by a VA-PE.
  - ii) A certification by a VA-PE verifying that final closure has been completed in accordance with the Waste Regulations and verifying installation of a comprehensive GCCS in accordance with Federal and State Air regulations shall be submitted to DEQ no later than 12 months after the effective date of this Consent Decree.
5. LEACHATE SEEP AND PONDING – Bristol shall conduct the following actions for abatement of leachate seeps and ponding at SWP 498 Landfill:
- i) By November 30, 2022, perform periodic inspections during and after precipitation events in excess of 0.25 inches, as determined utilizing an on-site rain gauge, in order to identify and characterize areas demonstrating leachate seeps and/or ponding. Seep and ponding locations must be marked in the field and mapped. Mapping must be available for DEQ review upon request.
  - ii) By April 30, 2023, complete all work activities for elimination of areas of ponding and repair of seeps. Submit documentation to DEQ verifying completion by May 15, 2023.
6. STORM WATER DRAINAGE AND MANAGEMENT – Bristol shall conduct the following actions to improve storm water drainage and management at SWP 498 Landfill:

- i) By January 31, 2023, develop, and submit to DEQ for review, a comprehensive storm water management plan that minimizes the potential for storm water contact with exposed waste and offsite releases of storm water comingled with leachate. The plan shall also include design parameters and specifications for clean out and adequate stabilization of the storm water diversion channel/trench berm and for long-term maintenance of the storm water diversion channel/trench berm.
  - ii) By February 28, 2023, complete clean out of the storm water diversion channel/trench berm, and apply stabilization measures. Submit documentation to DEQ verifying completion by March 15, 2023.
7. SELF-INSPECTION AND RECORDKEEPING – Bristol shall conduct the following actions to improve self-inspection filing and recordkeeping at SWP 498 Landfill:
  - i) By November 30, 2022, develop updated self-inspection log templates and recordkeeping protocols, and submit the self-inspection log templates and recordkeeping protocols to DEQ for review.
  - ii) By November 30, 2022, provide training to Facility staff regarding self-inspection procedures and recordkeeping protocols, to include communication of the designated location for Facility records, whether hard copy or digital. By October 15, 2022, submit training records and documentation specifying the location for Facility records to DEQ for review.
  - iii) By November 30, 2022, assign self-inspection and recordkeeping responsibilities to specific Facility staff, and implement the updated self-inspection log templates and recordkeeping procedures. By December 15, 2022, submit documentation of Facility staff tasked with self-inspection and recordkeeping responsibilities to DEQ.
8. PROGRESS REPORTS:
  - i) Submit monthly progress reports to DEQ until closure and installation of final cover are completed for the SWP 498 Landfill. Submit monthly progress reports to DEQ for Landfill 221. The progress reports shall include comprehensive updates regarding progress towards completion of each item outlined above. The reports shall be received no later than the tenth day of the following month (e.g., the report for the reporting period October 1, 2022 through October 31, 2022 shall be due by November 10, 2022).

Unless otherwise specified in this Consent Decree, Bristol shall submit all requirements of Appendix B of this Consent Decree to:

Jonathan Chapman  
Enforcement Specialist  
VA DEQ – Southwest Regional Office  
355-A Deadmore Street  
Abingdon, Virginia 24210

[jonathan.chapman@deq.virginia.gov](mailto:jonathan.chapman@deq.virginia.gov)