

## City Attorney's Office

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November 17, 2016

Brandon Rogers- General Manager  
Republic Services  
5757 A Oates Rd.  
Houston, TX 77078

Re: Blue Ridge Landfill Settlement Agreement

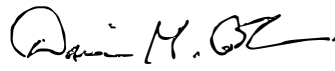
Dear Mr. Rogers:

As you are aware, the City and Republic Services ("Republic") are parties to the Blue Ridge Landfill Settlement Agreement. Pursuant to Section II (G) (3) (vi) of the Agreement, Republic must provide the City the results of all quarterly surface emission monitoring. Specifically, any detection of 268 ppm of VOC's or more above background is required to be recorded as an exceedance and reported to the TCEQ and the City. The Surface Emission Monitoring Form submitted with Republic's quarterly reports (see attached) uses the threshold of 500 ppm of VOC's above background for determining an exceedance. The City requests that Republic immediately modify the Surface Emission Monitoring Exceedance Form, as required by the Agreement, to reflect the agreed threshold of 268 ppm of VOC's. It has also been brought to the City's attention by TCEQ investigators that Republic has been operating the landfill outside of the allowable operating hours set forth in Section II (J) of the Agreement. The Agreement authorizes operations from 4:00 AM to 7:00 PM Monday through Friday; 5:30 AM to 6:00 PM on Saturday; and the landfill is required to remain closed on Sunday. Recent TCEQ investigative reports indicate that the landfill has been accepting waste as early as 3:00 AM on weekdays in violation of the Agreement.

The City believes Republic's compliance with the terms of the Agreement is of paramount importance, therefore I respectfully request a written response from Republic, within ten (10) business days of receipt of this notice, informing the City of the corrective measures Republic plans to make in order to comply with the terms of the Agreement.

Please contact me should you have any questions.

Regards,

  
Darrin M. Coker

Enclosures: Blue Ridge Landfill Settlement Agreement; Surface Emission Monitoring Exceedance Form

## BLUE RIDGE LANDFILL SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made and entered into on this 19th day of May, 2009, by and between BLUE RIDGE LANDFILL TX, LP, a Delaware limited partnership ("Blue Ridge") by and through its general partner, Allied Waste Landfill Holdings, Inc., Allied Waste North America, Inc. ("Allied") a Delaware corporation, and the City of Pearland, Texas, ("Pearland"), who agree as follows:

### RECITALS

WHEREAS, Blue Ridge is a limited partnership whose general partner, Allied Waste Landfill Holdings, Inc. is a wholly-owned subsidiary of Allied;

WHEREAS, Blue Ridge represents that it holds a permit to operate a landfill in Fort Bend County, Texas ("Landfill") collecting refuse from cities and industries located in Fort Bend County and surrounding counties and owns in fee simple the real property ("Real Property") on which the Landfill sits;

WHEREAS, the population of surrounding areas is increasing and Blue Ridge submitted an application (the "Application") for permit amendment (the "Permit Amendment") to Texas Commission on Environmental Quality ("TCEQ") for MSW Permit No. 1505A (the "Permit") to expand this Landfill and increase the permitted height of this Landfill;

WHEREAS, Pearland is a home rule municipality created under the Constitution and laws of the State of Texas;

WHEREAS, Pearland city limits are located within 500 feet of the Landfill permit boundaries;

WHEREAS, Pearland has challenged and opposed the Application for the Permit Amendment before TCEQ in Docket Number 2007-0614-MSW;

WHEREAS, Blue Ridge and Pearland agree that the Landfill, if not properly constructed and operated, could pose a potential nuisance and/or health hazard to certain Pearland residents; and

WHEREAS, Blue Ridge, Allied, and Pearland desire to resolve their differences and settle their dispute in a mutually satisfactory manner.

- (3) Perform quarterly surface emission monitoring across the surface of the Landfill area that contains Class I Waste. The surface emission monitoring will be performed as follows:
- i) A portable monitor ("Instrument") will be used to determine the VOC concentration at the Landfill surface. The instrument will be calibrated and maintained, according to the manufacturer's recommendations.
  - ii) Monitoring will be performed during typical meteorological conditions.
  - iii) The background concentration will be determined by moving the Instrument detector probe inlet upwind and downwind outside the Permit Boundary of the Landfill.
  - iv) The Instrument detector probe will be positioned within 2 to 4 inches from the ground surface or top of the vegetation during surface scans.
  - (v) Monitoring will occur along a pattern of parallel lines approximately 100 feet apart over the surface area of the Landfill that contains Class I Waste.
  - \* vi) Blue Ridge will provide Pearland the results of all quarterly surface emission monitoring in both electronic and hard copy form within ten (10) days of acquisition by Blue Ridge. Any detection of 268 ppm of VOCs or more above background will be recorded as an exceedance and reported to TCEQ and Pearland. Cover maintenance and/or adjustments to the GCCS will be made and the location will be re-monitored to verify that the exceedance has been remediated.
  - (vii) Blue Ridge will provide fourteen (14) days notice to Pearland of the dates for the quarterly surface emission monitoring and a Pearland representative will be allowed to observe the monitoring activity described in this section.
- (4) Use commercially reasonable efforts to deliver 100% of the landfill gas collected for an onsite or offsite beneficial use.

(H) Vertical Expansion:

- (1) Blue Ridge agrees that the Landfill will not exceed 130' msl (approximately 60' above-grade) for a period of 12 years after issuance of the Final Amended Permit.
- (2) Blue Ridge agrees that the Landfill will not exceed 200' msl (approximately 130' above grade) for a period of 20 years after issuance of the Final Amended Permit.

(I) Screening:

Blue Ridge agrees that existing screening will be maintained throughout the life of the Landfill. Upon issuance of the Final Amended Permit, prior to the Landfill height increasing beyond 130' msl, a grade break will be constructed and landscaping will be installed to further screen the Landfill along the eastern slope of the landfill. The grade break to be constructed and landscape to be installed is depicted in Exhibit D, attached hereto. The plans to construct the grade break and to install the landscaping will be incorporated into the pending Application, unless prohibited by a ruling of the ALJ or by an Executive Director determination that such an amendment would require new notice and opportunity for hearing requests.

X (J)

Landfill Operating Hours:

- (1) Blue Ridge will limit its operating and waste acceptance hours as follows:

Monday through Friday:	4:00 a.m. to 7:00 p.m.
Saturday:	5:30 a.m. to 6:00 p.m.
Sunday:	Closed

- (2) Blue Ridge will not accept waste on the following holidays:

Thanksgiving  
Christmas

- (3) The hours identified may be changed by Applicant upon written consent of Pearland.

(K) Landfill Traffic:

- (1) Blue Ridge will prohibit its waste trucks and any waste trucks it or any parent entity exercises control over either through ownership or contract, other than for any local residential or commercial service, from using either Broadway or Shadow Creek Parkway, east of FM 521 ("Prohibited Routes"). Blue Ridge and Pearland acknowledge that neither Blue Ridge

**Individual Monitoring Exceedance  
Surface Monitoring Design Plan**

Exceedance #: No Exceedances

Date: _____	Time: _____	Monitoring Technician Initials: _____
Instrument reading - Background reading: _____ ppm - _____ ppm = <u>0</u> ppm		
Location of monitored exceedance (include description of field marker used): _____		

Describe cover maintenance or adjustments to the vacuum of adjacent wells to increase gas collection in vicinity of measured exceedance before remonitoring in 10 days: \_\_\_\_\_

Remonitor location within 10 calendar days of Initial Exceedance:		
Date: _____	Time: _____	Monitoring Technician Initials: _____
Instrument reading - Background reading: _____ ppm - _____ ppm = <u>0</u> ppm		
If 10 day remonitoring shows an exceedance, describe additional corrective action taken before remonitoring again within 10 days: _____		
If the 10 day remonitoring is <500 ppm, remonitor 1 Month from Initial Exceedance:		
Date: _____	Time: _____	Monitoring Technician Initials: _____
Instrument reading - Background reading: _____ ppm - _____ ppm = <u>0</u> ppm		
If the 1 Month remonitoring is <500 ppm, resume normal quarterly monitoring.		
If the 1 Month remonitoring shows an exceedance, describe additional corrective action taken before remonitoring again within 10 Days: _____		

Remonitor location within 10 calendar days of 2nd Exceedance:		
Date: _____	Time: _____	Monitoring Technician Initials: _____
Instrument reading - Background reading: _____ ppm - _____ ppm = <u>0</u> ppm		
If the 10 Day remonitoring is <500 ppm, remonitor 1 Month from Initial Exceedance:		
Date: _____	Time: _____	Monitoring Technician Initials: _____
Instrument reading - Background reading: _____ ppm - _____ ppm = <u>0</u> ppm		

If the 1 Month remonitoring is <500 ppm, resume normal monitoring.		
If the 1 Month remonitoring shows an exceedance, describe additional corrective action taken before remonitoring again within 10 Days: _____		

*Use additional forms if necessary*

If monitoring shows 3 Exceedances within a quarterly period, a new well or other collection device must be installed within 120 Days of the Initial Exceedance or alternative remedies/timelines may be submitted to the Administrator for approval. Further monitoring is not necessary until the remedy is completed. The 3 Exceedances do NOT have to be consecutive.

Use this form to record an individual monitoring exceedance and follow-up monitoring activities.

This form is only to be used when a reading of 500 ppm above background is encountered during the surface monitoring.

\*Use a separate form for each initial exceedance.\*



Blue Ridge Landfill  
2200 FM 512, Fresno, Tx 77545

December 1, 2016

Mr. Darrin Coker, City Attorney  
City of Pearland  
3519 Liberty Drive  
Pearland, TX 77581

Re: Response to Blue Ridge Landfill Settlement Agreement

Dear Mr. Coker:

This letter is submitted on behalf of the Blue Ridge Landfill TX, LP ("Blue Ridge") to respond to your November 17, 2016 letter regarding the Blue Ridge Landfill settlement agreement. In your letter, you requested information pertaining to the quarterly surface emission monitoring and Blue Ridge's operating hours per the settlement agreement.

Blue Ridge is committed to following the settlement agreement with the City of Pearland. As we discussed, Blue Ridge has changed the quarterly Surface Emission Monitoring Exceedance Form to reflect the limit of 268 ppm of VOC's. This will be reflected in the next quarterly surface emission monitoring report sent to the City of Pearland for Q4 2016.

Per the agreement, Blue Ridge is authorized to operate from 4:00 AM to 7:00 PM Monday through Friday; 5:30 AM to 6:00 PM on Saturday; and is required to remain closed on Sunday. Blue Ridge is in compliance with these operating hours. Our employees arrive at the landfill approximately forty-five (45) minutes before Blue Ridge is open for customers. There are instances where trucks will line-up on the entrance road before the authorized operating time, but in no instance is waste accepted before the authorized operating time.

Please contact me at 713-676-7613 if you require additional information or have any questions regarding this response.

Sincerely,

A handwritten signature in black ink, appearing to read "Brandon Rogers".

Brandon Rogers  
General Manager