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City Attorney

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May 27, 2022

Settlement Agreement Statement

***For Settlement Purposes Only**

Yesterday, the City of Bristol, Tennessee filed a three-count complaint in the United States District Court for the Western District of Virginia alleging the City of Bristol, Virginia has violated the Clean Air Act (CAA), the Resource Conservation and Recovery Act (RCRA) and has created a public nuisance due to the odors emanating from the City's landfill.

The City of Bristol, Tennessee is seeking the following relief from the lawsuit:

1. declaring that Bristol, VA has violated the CAA and RCRA;
2. declaring that Bristol, VA's negligent operation and maintenance of the Landfill has created a public nuisance;
3. awarding temporary and permanent injunctive relief:
 - a. enjoining Bristol, VA from violating the CAA and RCRA and requiring Bristol, VA to comply with CAA and RCRA immediately, including, but not limited to, implementing the recommendations set forth in the Expert Report;
 - b. requiring Bristol, VA to take all actions necessary to eliminate the public nuisance created by the Landfill, including, but not limited to, implementing the recommendations set forth in the Expert Report;
 - c. requiring that Bristol, VA cease accepting waste for disposal while such actions are implemented;
 - d. requiring Bristol, VA to expeditiously develop a plan for the closure of the Landfill in accordance with the Expert Panel report;
4. awarding Bristol, TN its actual damages in an amount to be proven at trial caused by the public nuisance Bristol, VA has created;
5. awarding Bristol, TN its costs incurred in this litigation, including its reasonable attorneys' and expert witness fees, pursuant to 42 U.S.C. § 7604(d) and 42 U.S. § 6972(e);
6. imposing civil penalties on Bristol, VA in an amount to be determined by the evidence at trial, payable to the United States Treasury, for Bristol, VA's violations of the CAA pursuant to 42 U.S.C. § 7604(g); and
7. Any and all other relief that that Court deems just and proper.

The City of Bristol, Tennessee is seeking the following relief in the Motion for a Preliminary Injunction:

1. Install a sidewall odor mitigation system around the perimeter of Defendant's Bristol Integrated Solid Waste Management Facility located at 2125 Shakesville Road, Bristol, Virginia, 24201(the "Landfill");
2. Install and monitor a dedicated system of thermocouples in the waste mass to monitor Landfill temperatures;
3. Cease accepting waste at the Landfill;
4. Provide adequate cover of the waste at the Landfill; and
5. Submit a report within sixty days detailing how the other recommendations of the Expert Panel Report: Bristol Integrated Solid Waste Management Facility, Bristol, Virginia, dated April 25, 2022, will be accomplished.

In an effort to limit unnecessary litigation, to minimize the financial exposure of legal fees for the citizens of Bristol, Virginia and Bristol, Tennessee, and to ensure available financial resources are expended to correct issues associated with the landfill, the City of Bristol, Virginia is prepared to offer the following to fully settle the lawsuit filed on May 26, 2022:

1. The City of Bristol, Virginia will agree to temporary injunctive relief:
 - a. Bristol, VA agrees to be enjoined from violating the CAA and RCRA and requiring Bristol, VA to comply with CAA and RCRA as soon as practicable, including, but not limited to, implementing the recommendations set forth in the Expert Report;
 - b. Bristol, VA will take all actions necessary to eliminate the odor created by the Landfill, including, but not limited to, implementing the recommendations set forth in the Expert Report;
 - c. Bristol, VA will cease accepting outside commercial waste after the Landfill is contoured to maximize stormwater runoff retention in the southeast corner of the Landfill as discussed in the Expert Panel Report;
 - d. Bristol, VA will develop a plan for the closure of the Landfill in accordance with the Expert Panel report and publicly release the Plan within 120 days of Bristol, TN agreeing to the terms of this proposed settlement agreement outlined herein;
2. Bristol, VA will compensate Bristol, TN in the amount of \$250,000 for its costs incurred in this litigation, which include its reasonable attorneys' and expert witness fees;
3. Install a sidewall odor mitigation system around the perimeter of Defendant's Bristol Integrated Solid Waste Management Facility located at 2125 Shakesville Road, Bristol, Virginia, 24201(the "Landfill"), if it is determined to be successful based on engineering standards after testing a sidewall odor mitigation system at the Landfill. Funding from the state government, federal government or other granting agencies may be necessary to accomplish this task, and Bristol, Virginia will aggressively seek outside funding to install a sidewall odor mitigation system. Bristol, Tennessee agrees to aggressively assist Bristol, Virginia in seeking outside funding opportunities;

4. Install and monitor a dedicated system of thermocouples in the waste mass to monitor Landfill temperatures. Funding from the state government, federal government or other granting agencies may be necessary to accomplish this task, and Bristol, Virginia will aggressively seek outside funding to install thermocouples in the waste mass to monitor Landfill temperatures. Bristol, Tennessee agrees to aggressively assist Bristol, Virginia in seeking outside funding opportunities;
5. Cease accepting outside commercial waste at the Landfill after the Landfill is contoured to maximize stormwater runoff retention in the southeast corner of the Landfill as discussed in the Expert Panel Report;
6. Provide adequate cover of the waste at the Landfill; and
7. Submit a report within one-hundred twenty (120) days, from the signing of a settlement agreement, detailing how the other recommendations of the Expert Panel Report: Bristol Integrated Solid Waste Management Facility, Bristol, Virginia, dated April 25, 2022, will be accomplished.
8. Bristol, Tennessee agrees Bristol, Virginia will have to identify funding sources to accomplish many of the recommendations of the Expert Panel. Both entities acknowledge the entire costs of these corrections cannot be borne solely by the citizens of the City of Bristol, Virginia.

Bristol, Virginia is looking forward to resolving this litigation, as being in the best interest of all the citizens, and moving forward as a united community in the future.

Anthony Farnum
Mayor

Randall C. Eads
City Manager/City Attorney