

ENVIRONMENTAL PROTECTION DIVISION
DEPARTMENT OF NATURAL RESOURCES
STATE OF GEORGIA

IN RE: Agri-Cycle, LLC
Talmo, Georgia
Land Application System Permit No. GA01-477

ORDER NO. EPD-WQ-4803

ADMINISTRATIVE ORDER

WHEREAS, Agri-Cycle, LLC (Company) operates a treatment facility for commercial wastewaters (Facility) in Talmo, Jackson County, Georgia; and

WHEREAS, the Director of the Georgia Environmental Protection Division (Director and EPD) issued on December 28, 2000, Land Application System Permit No. GA01-477 (Permit) with an expiration date of November 30, 2005, authorizing Valley Fresh, Inc. to land apply pretreated wastewater from the Facility to the land application system (LAS) located on Highway 332 in Talmo; and

WHEREAS, on October 15, 2004 the Permit was transferred from Valley Fresh to Agri-Cycle, LLC; and

WHEREAS, on November 30, 2005 the Permit was administratively extended; and

WHEREAS, Part A.2.h.3. of the Permit requires the permittee to maintain the hydraulic loading to the sprayfields within the design criteria as calculated in the May 28, 2004 Design and Development Report (DDR); and

WHEREAS, during the first quarter of 2005 the monitoring reports showed that the Facility exceeded the weekly hydraulic loading rate to the spray fields five times; and

WHEREAS, during the second quarter of 2005 the monitoring reports showed that the Facility exceeded the weekly hydraulic loading rate to the spray fields nine times; and

WHEREAS, Part A.2.h.3 of the Permit requires the permittee to maintain the nitrogen loading rates to the sprayfields within the design criteria for the LAS with the intent of reducing groundwater nitrate levels; and

WHEREAS, during the first and second quarter of 2005 the monitoring reports showed that the Facility applied nitrogen to the sprayfields in excess of the LAS treatment capacity; and

WHEREAS, Part D.1. of the Permit requires the Company to operate the LAS according to the approved DDR submitted to EPD on May 28, 2004; and

WHEREAS, On January 11 and August 26, 2005 inspections were conducted at the Facility following odor complaints; and

WHEREAS, during the January 11 and August 26, 2005 inspections and subsequent file reviews, the following operating conditions were discovered that are inconsistent with, or prohibited by, the approved DDR:

- Domestic organics were discovered in the treatment system indicating the facility has accepted domestic waste;
- The Company was applying wastewater in a drainage feature;
- Preliminary treatment units were either not present or inoperable;
- Rainfall records were not being collected; and

WHEREAS, the findings of the August 26, 2005 complaint inspection and subsequent file reviews show the Company is not operating the Facility in compliance with the Permit and DDR; and

WHEREAS, on October 24, 2006, a meeting was held between representatives of EPD and the Company to discuss the outstanding permit violations, and a procedure for the re-permitting of the Facility; and

WHEREAS, during this meeting, EPD notified the Company of their requirement to

revise the DDR for the Facility; and

WHEREAS, on November 13, 2006, representatives of EPD conducted an inspection of the Facility to identify corrective actions put in place by the Company; and

WHEREAS, during this inspection, EPD documented that a new anaerobic lagoon had been constructed without EPD approval of design plans or specifications; and

WHEREAS, Chapter 391-3-6-.02(3)(a) of the Georgia Rules and Regulation for Water Quality Control (Rules) states that any person who desires to erect, modify, or alter a sewerage system shall obtain approval of any plans, specifications and related materials for such system from the Division prior to the commencement of construction; and

WHEREAS, on February 13, 2007 the Company submitted to EPD a revised DDR; and

WHEREAS, based on EPD's review comments, the revised DDR was further revised and resubmitted to EPD on April 24, 2007; July 9, 2007; and July 30, 2007; and

WHEREAS, to date, the revised DDR is unapproved by EPD; and

WHEREAS; between April 20, 2007 and May 8, 2007, EPD received numerous complaints from local residents of odors and flies related to the Facility operations; and

WHEREAS, following these complaints, on May 8, 2007, representatives of EPD conducted an inspection of the Facility; and

WHEREAS, during the inspection, the following operating conditions were discovered that are inconsistent with or prohibited by the approved DDR:

- Domestic organics were discovered in the treatment system indicating that the facility has accepted domestic waste;
- The sprayfields were hydraulically overloaded;
- Stormwater ponds contained process wastewater;
- Ditches had been constructed around the sprayfields and contained process wastewater;

WHEREAS, on May 13, 2007, representatives of EPD performed a follow-up sampling inspection at the facility. During this inspection it was observed that wastewater was being applied at a rate at which was not adsorbed into the soil; and

WHEREAS, the sampling results indicated that the drainage ditch contained water with a Biochemical Oxygen Demand (BOD₅) concentration of >1300 mg/l, and a Fecal Coliform Bacteria concentration of 4900 MPN/100ml; and

WHEREAS, the sampling results confirmed that the stormwater ponds and drainage ditches contained partially treated process wastewater; and

WHEREAS, on July 11, 2007, representatives of EPD conducted an inspection of the Facility and observed the anaerobic lagoon draining directly into the final polishing pond. According to the Facility staff, the anaerobic lagoon was being drained in preparation for rehabilitation work on the berm structure; and

WHEREAS, on August 1, 2007, the Company notified EPD of their need and intent to perform immediate corrective actions on the anaerobic lagoon berm structure; and

WHEREAS, following this notification, on August 5, 2007, representatives of EPD inspected the facility and documented that a breach of the berm structure had occurred; and

WHEREAS, the breach resulted in an organic overload to the final polishing pond, resulting in the effluent being unsuitable for land application; and

WHEREAS, on August 7, 2007, a meeting was held between representatives of EPD and the Company; and

WHEREAS, during the August 7, 2007 meeting, the Company indicated that the berm was breached intentionally to allow for work to be performed on the structure; and

WHEREAS, on August 15, 2007, representatives of EPD performed an inspection of the Facility in response to citizen complaints; and

WHEREAS, during the August 15, 2007 inspection EPD documented the construction of a new wastewater lagoon without EPD approval; and

WHEREAS, during the August 15, 2007 inspection EPD also documented evidence that an unpermitted discharge had occurred to Allen Creek adjacent to the Facility; and

WHEREAS, on August 16, 2007, a Consent Order was provided to the Company to be signed and returned to EPD by August 20, 2007; and

WHEREAS, the Company failed to sign and return the Consent Order to EPD; and

WHEREAS, Chapter 391-3-6-.03(5)(a) of the Rules states that all waters shall be free from materials associated with municipal or domestic sewage, industrial waste, or any other waste that will settle to form sludge deposits that become putrescent, unsightly, or otherwise objectionable; and

WHEREAS, Section 12-5-29(a) of the Official Code of Georgia Annotated (Code) makes it unlawful to use any waters of the State for the disposal of sewage, industrial wastes, or other wastes, except in such a manner as to conform to and comply with the Act and all rules, regulations, orders, and permits in effect or issued pursuant to the Act, and no permits have been issued for the aforementioned discharges; and

WHEREAS, Chapter 391-3-6-.08(11) of the Rules states that any person who violates any condition or other requirement in a permit issued pursuant to the Act shall be subject to enforcement proceedings pursuant to the Act; and

WHEREAS, Section 12-5-23(b) 12 of the Code authorizes the Director to issue an order directing any particular person or persons to secure within the time specified therein

such operating results as are reasonable and practicable of attainment toward the control, abatement, and prevention of pollution of waters of the State and the preservation of the necessary quality for the reasonable use thereof; and

WHEREAS, Section 12-5-29(a) of the Code makes it unlawful in part to use any waters of the State of Georgia for disposal of sewage, industrial wastes or other wastes, except in such a manner as to conform to and comply with all rules, regulations, orders and permits in effect or issued under the provisions of that Act; and

WHEREAS, Section 12-5-52(a) of the Code specifies that any person violating any provision of the Code or any permit condition or limitation established pursuant to the Code or, negligently or intentionally, failing or refusing to comply with any final or emergency order of the Director as provided by the Code, shall be liable to a civil penalty not to exceed \$50,000.00 per day for each day during which such violation continues; provided, however, that a separate and later incident creating a violation within a 12 month period shall be liable for a civil penalty not to exceed \$100,000.00 per day for each day during which such violation continues; and

NOW, THEREFORE, the Director hereby orders the Company to comply with the following:

1. On and after the issuance date of this Order, the Company shall cease to accept for treatment any waste as authorized in accordance with LAS permit No. GA01-477.
2. Within five (5) days of the issuance date of the Order, implement a stream-monitoring program for the unpermitted discharge. The monitoring program shall include upstream and downstream sampling for the following water quality parameters:

- a. Dissolved Oxygen
- b. Fecal Coliform Bacteria
- c. pH
- d. Temperature

Samples shall be collected once per day for one week (reported as a geometric mean for fecal coliform bacteria), once per week for the remainder of the month (with the entire month reported as a geometric mean for fecal coliform bacteria), once per week in the 3rd month, and once per week in the 12th month (both reported as monthly geometric means for fecal coliform bacteria). The monitoring results are to be submitted to EPD by the 15th day of the month following the sampling period.

3. Within thirty (30) days of the issuance date of this Order, the Company will submit to EPD a closure plan for the facility. The closure plan should include the following:

- A plan for the treatment and removal of all waste at the facility.
- A plan for the abandonment and remediation of all wastewater treatment units, structures and excavated areas at the facility. This plan should be performed in accordance with EPD's Wastewater Treatment Facility abandonment Guidelines.

This Order does not waive EPD's power to take further enforcement action, or imply that EPD will not take such action for violations of previous Orders, or the Georgia Water Quality Control Act or its Rules.

The Respondent is informed of the right to be represented by legal counsel and to petition for a hearing on this Order within thirty (30) days from the date of issuance of the

The original and three (3) copies of any petition for a hearing in this matter shall be filed with the Director by hand delivering same to Filing Clerk, Environmental Protection Division, 2 Martin Luther King Jr., Drive S.E., Suite 1152 east Floyd Tower, Atlanta, Georgia 30334, or by mailing same to the Director at the following address:

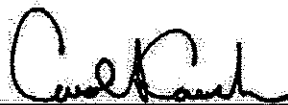
Carol A. Couch, Ph. D., Director
Environmental Protection Division
2 Martin Luther King Jr. Drive S.E.
Suite 1152 East Floyd Tower
Atlanta, Georgia 30334
ATTN: Filing Clerk

The Petition for Hearing shall be deemed filed on the date received by the Filing Clerk or when mailed by first class mail, with proper postage attached, and properly addressed, whichever comes first.

A copy of any Petition for Hearing shall be served on the Director's counsel of record, to wit:

John E. Hennelly
Senior Assistant Attorney General
132 State Judicial Building
40 Capitol Square, S.W.
Atlanta, Georgia 30334-1300

THIS ORDER ISSUED ON THE 21st DAY OF August 2007.



Carol A. Couch, Ph. D.
Director