

**August 2022**

**Toa Alta Landfill RCRA Settlement  
Summary of Key Community Comments and Concerns and EPA Responses**

***From January to March 2022, EPA and DOJ received comments from the public on a summary of the terms of a draft proposed preliminary injunction order, and conditions at and around the landfill. The following includes a summary of comments made by the public and EPA's responses.***

**Key Community Comments and Concerns:**

**Impact to Community and the Environment**

*Many comments noted that this landfill is an open dump that has been and continues to be improperly managed. The poor operations at the Toa Alta landfill are impacting surrounding communities, which already face challenges and have environmental justice concerns. An open dump in flagrant violation of environmental requirements like this one would not be tolerated in the mainland United States.*

*Several commenters believe that the conditions at the landfill have caused asthma, cancer, and even death. They pointed out that it emits uncontrolled dust and unbearably strong odors. It impacts air quality, harbors disease, and exposes the community to rats, flies, mosquitoes, spiders, and other vermin. Pollution from the landfill has driven families from their homes and no one pays attention because they are not wealthy.*

*Community members noted a loss of biodiversity and adverse impacts to the natural environment around the landfill. These adverse impacts include noise and, in particular, contaminated leachate runoff from the landfill to adjacent properties, surface water and to groundwater that serves as a drinking water source.*

**Landfill Operations**

*Many commented that the landfill must be required to immediately stop taking waste. They asked that soil, not waste, be used as necessary to close and stabilize the landfill and noted that there needs to be government oversight.*

*People also pointed to the fact that there is no control and collection of gases coming from the landfill. The municipality has failed to comply with previous U.S. EPA and Puerto Rico DNER requirements and some members of the public asked why they should believe that a new order will succeed when previous actions by EPA and DNER have not.*

*Many noted that the municipality is operating an illegal dump without a current DNER operating permit.*

**EPA Response:**

EPA agrees that the Toa Alta Landfill is an open dump that must be permanently closed. The U.S. has previously alleged that conditions at the Toa Alta Landfill pose an immediate risk to people and the environment.

To address the serious issues, EPA proposed an agreed-to preliminary injunction order, for which it is seeking approval from the Federal District Court. Under this proposed order, April 1, 2022, was the deadline to stop waste disposal, and any future waste placement would only be allowed if authorized by DNER under a DNER-approved revised permanent closure plan for the entire landfill. The municipality has informed EPA and the Department of Justice that they have already stopped the disposal of waste at the landfill as of April 2022, and as of June continue to take action to comply with the terms of the proposed preliminary injunction order in advance of the official filing of the order with the Court. EPA plans to conduct periodic inspections of the landfill to make sure the municipality is continuing to comply.

The proposed preliminary injunction order will require that the municipality identify all leachate seeps that could impact off-site residences. The municipality will be required as part of a stormwater management plan to address any leachate contamination associated with offsite stormwater flows.

Permanent closure, including the installation of a landfill gas collection and control system, will be managed under DNER authority and oversight.

**Funding Concerns:**

Funding for Permanent Closure

*Members of the community expressed concerns about a lack of funding from the municipality to implement immediate and long-term operational improvements.*

*They asked how the municipality will identify funding sources for proper closure, and for proper transportation to and disposal of municipal waste at compliant landfills. They expressed concern that EPA and DOJ should not finalize a judicial preliminary injunction that does not address costs and funding sources and the municipality's funding commitments. They further noted that a DNER Closure Plan should be a requirement of the settlement.*

**EPA Response:**

The municipality is working on a revised permanent closure plan which will be submitted to DNER for review and approval. The Puerto Rico Governor's plan for addressing the open dumps in the Commonwealth includes the closure of the Toa Alta

Landfill. Funding sources for landfill closure include the American Rescue Plan Act of 2021, from which Toa Alta has been allocated \$33 million. More information on funding sources may be found on EPA's website:

<https://www.epa.gov/system/files/documents/2021-09/gfx-solid-waste-management-in-puerto-rico.pdf>

**Release and Emission Concerns:**

*The community noted that releases and emissions from the landfill are happening when it rains because the leachate management system is not adequate. They noted that landfill gas, odors, and aerosols are also major issues, and sampling for presence of contaminants is needed. In addition, septic tanks at the motor pool are being improperly emptied.*

**EPA Response:**

The proposed preliminary injunction order requires stormwater and leachate controls, and periodic sampling of the landfill's stormwater.

DNER has confirmed that it intends to require the construction and implementation of a gas collection and control system as part of permanent closure of the landfill. EPA previously confirmed and notified the municipality that the facility exceeds the regulatory gas release threshold and is subject to this requirement. DNER will oversee Toa Alta's implementation of the gas collection and control system requirements.

The septic tank issue has been referred to DNER.

**New Waste Cell Concerns:**

*People commented that there should be no new cell at, or expansion of, the landfill. They expressed that it is unfair to consider expansion, and the municipality should not be rewarded with a new cell after its long history of noncompliance and environmental damage.*

**EPA Response:**

Decisions on landfill expansions and new landfill cells are the responsibility of DNER, which is the permitting authority for solid waste in Puerto Rico. EPA does not have permitting or siting authority for solid waste in Puerto Rico.

**Concerns About Keeping Informed:**

*People noted that in light of the environmental justice concerns surrounding this landfill, EPA should work to assure long term community involvement, including the potential creation of a community advisory committee. EPA should also identify mechanisms to*

*assure information sharing, including internet and social media postings and other methods.*

**EPA Response:**

EPA fully supports the need to protect this community from adverse impacts of the landfill, and we understand the decades of environmental injustice that this community has suffered.

The Municipality of Toa Alta will be held accountable. Under the proposed order the municipality will be required to submit monthly reports on its performance of the tasks required under the preliminary injunction order. These reports will be posted, along with other important information, to a public website that EPA has established.

The preliminary injunction order also will require updated signs at the landfill that will include contact information for the Municipality and DNER, and information about EPA's Toa Alta webpage.

**Recycling Concerns:**

*Several commenters noted that the proposed order should include requirements for recycling, waste diversion, and sustainable material management requirements. They further noted that potential impacts to other communities from the Toa Alta landfill closure need to be addressed. For example, other communities may receive more waste after the landfill closes.*

**EPA Response:**

EPA supports municipal recycling and can provide information about the development of recycling programs, as well as waste diversion and sustainable materials management. The proposed order is an interim order that requires necessary short-term measures and is not intended to address broader, longer-term waste management issues such as recycling.

Toa Alta's waste is now being sent to the Toa Baja and Vega Baja landfills, both of which are partially lined and have operational leachate collection systems. DNER is working to address the management of solid wastes on an island-wide basis, including at open dumps. EPA is providing \$40 million in grant funds to DNER to support this effort.