

NOV 25 2013



Ministry of the Environment
Ministère de l'Environnement

ENVIRONMENTAL COMPLIANCE APPROVAL

NUMBER 7803-9BTLBT

Issue Date: November 20, 2013

Marineland of Canada Inc.
7885 Stanley Ave
Niagara Falls, Ontario
L2E 6X8

Site Location: Marineland Public Entrance
7657 Portage Rd
Niagara Falls City, Regional Municipality of Niagara

You have applied under section 20.2 of Part II.1 of the Environmental Protection Act, R.S.O. 1990, c. E. 19 (Environmental Protection Act) for approval of:

a waste disposal site

to be used for the landfilling of the following types of waste:

municipal waste, limited to dead animals generated at the Site

Note: Use of the site for any other type of waste is not approved under this environmental compliance approval, and requires obtaining a separate approval amending this environmental compliance approval.

For the purpose of this environmental compliance approval, the following definitions apply:

- (1) **"adverse effect"** has the same meaning as in section 1(1) of the EPA;
- (2) **"Approval"** means this entire Environmental Compliance Approval document, issued in accordance with Part II.1 of the EPA, and includes any schedules to it, the application and the supporting documentation listed in Schedule A;
- (3) **"Director"** means any Ministry employee appointed in writing by the Minister pursuant to section 5 of the EPA as a Director for the purposes of Part II.1 of the EPA;
- (4) **"District Manager"** means the District Manager of the local district office of the Ministry in

which the Site is geographically located;

- (5) "EPA" means the *Environmental Protection Act* ;
- (6) "fill area" means the area designated for the deposition of dead animals described in Item 1 of Schedule "A";
- (7) "Minister" means the Minister of the Environment;
- (8) "Ministry" means the Ontario Ministry of the Environment;
- (9) "municipal waste" has the same meaning as in section 1 of Reg. 347;
- (10) "OWRA" means the *Ontario Water Resources Act* ;
- (11) "Operator" means any person, other than the Owner's employees, authorized by the Owner as having the charge, management or control of any aspect of the Site;
- (12) "Owner" means any person that is responsible for the establishment or operation of the Site being approved by this Environmental Compliance Approval, and includes Marineland of Canada Inc., its successors and assigns;
- (13) "PA" means the *Pesticides Act* ;
- (14) "Provincial Officer" means any person designated in writing by the Minister as a provincial officer pursuant to section 5 of the OWRA or section 5 of the EPA or section 17 of PA;
- (15) "Reg. 347" means Regulation 347 (General - Waste Management) made under the EPA;
- (16) "Site" means the waste disposal site located at 7657 Portage Rd, City of Niagara Falls, Regional Municipality Of Niagara;
- (17) "Trained personnel" means competent personnel that have been trained through instruction and/or practice in accordance with Conditions of this Approval;

You are hereby notified that this environmental compliance approval is issued to you subject to the terms and conditions outlined below:

TERMS AND CONDITIONS

1.0 Compliance

- 1.1 The Owner and Operator shall ensure compliance with all of the conditions of this Approval and shall ensure that any person authorized to carry out work on or operate any aspect of the Site is notified of this Approval and the conditions herein and shall take all reasonable measures to

ensure any such person complies with the same.

- 1.2 Any person authorized to carry out work on or operate any aspect of the Site shall comply with the conditions of this Approval.
- 1.3 The Site shall be operated and maintained at all times including the management and disposal of all waste in accordance with the EPA, Reg. 347 and the conditions of this Approval. At no time shall the discharge of a contaminant that causes or is likely to cause an adverse effect be permitted.

2.0 Operate and Maintain in Accordance

- 2.1 Except as otherwise provided for in this Approval, the Site shall be designed, developed, built, operated, modified and maintained in accordance with the application for this Approval, the currently approved Design and Operations Report, and the other supporting documentation listed in Schedule "A".

3.0 Interpretation

- 3.1 Where there is a conflict between a provision of any document referred to in this Approval, including the application, and the conditions of this Approval, the conditions in this Approval shall take precedence.
- 3.2 Where there is a conflict between the application and a provision in any documents listed in Schedule A, the application shall take precedence, unless it is clear that the purpose of the document was to amend the application and that the Ministry approved the amendment.
- 3.3 Where there is a conflict between any two documents listed in Schedule A, other than the application, the document bearing the most recent date shall take precedence.
- 3.4 The requirements of this Approval are severable. If any requirement of this Approval, or the application of any requirement of this Approval to any circumstance, is held invalid or unenforceable, the application of such requirement to other circumstances and the remainder of this Approval shall not be affected thereby.

4.0 Other Legal Obligations

- 4.1 The issuance of, and compliance with, this Approval does not:
 - (1) relieve any person of any obligation to comply with any provision of any applicable statute, regulation or other legal requirement including, but not limited to:
 - (a) obtaining site plan approval from the local municipal authority;
 - (b) obtaining all necessary building permits from the local municipal authority Building Services Division;

- (c) obtaining approval from the Chief Fire Prevention Officer, local municipal authority; or
- (2) limit in any way the authority of the Ministry to require certain steps be taken or to require the Owner and Operator to furnish any further information related to compliance with this Approval.

5.0 Adverse Effect

- 5.1 The Owner and Operator shall take steps to minimize and ameliorate any adverse effect on the natural environment or impairment of water quality resulting from the Site, including such accelerated or additional monitoring as may be necessary to determine the nature and extent of the effect or impairment.
- 5.2 Despite an Owner, Operator or any other person fulfilling any obligations imposed by this Approval, the Owner, Operator or any other person remains responsible for any contravention of any other condition of this Approval or any applicable statute, regulation, or other legal requirement resulting from any act or omission that caused the adverse effect to the natural environment or impairment of water quality.

6.0 Change of Owner

- 6.1 The Owner shall notify the Director in writing, and forward a copy of the notification to the District Manager, within thirty (30) days of any changes to:
 - (1) the ownership of the Site;
 - (2) the Operator of the Site;
 - (3) the address of the Owner or Operator;
 - (4) the partners, where the Owner is or at any time becomes a partnership and a copy of the most recent declaration filed under the *Business Names Act* shall be included in the notification; and
 - (5) the name of the corporation where the Owner is or at any time becomes a corporation, other than a municipal corporation, and a copy of the most current information filed under the *Corporations Information Act* shall be included in the notification.
- 6.2 No portion of this Site shall be transferred or encumbered prior to or after closing of the Site unless the Director is notified in advance and sufficient financial assurance is deposited with the Ministry to ensure that the conditions in this Approval. In the event of any change in ownership of the Site, other than change to a successor municipality, the Owner shall notify the successor of and provide the successor with a copy of this Approval, and the Owner shall provide a copy of the notification to the District Manager and the Director.

7.0 Inspections

- 7.1 No person shall hinder or obstruct a Provincial Officer from carrying out any and all inspections

authorized by the OWRA, the EPA, or the PA, of any place to which this Approval relates, and without limiting the foregoing:

- (1) to enter upon the premises where the approved works are located, or the location where the records required by the conditions of this Approval are kept;
- (2) to have access to, inspect, and copy any records required to be kept by the conditions of this Approval;
- (3) to inspect the Site, related equipment and appurtenances;
- (4) to inspect the practices, procedures, or operations required by the conditions of this Approval; and
- (5) to sample and monitor for the purposes of assessing compliance with the terms and conditions of this Approval or the EPA, the OWRA or the PA.

8.0 Information and Record Retention

8.1 Any information requested by the Ministry concerning the Site and its operation under this Approval, including but not limited to any records required to be kept by this Approval, shall be provided to the Ministry upon request in a timely manner.

8.2 The receipt of any information by the Ministry or the failure of the Ministry to prosecute any person or to require any person to take any action, under this Approval or under any statute, regulation or other legal requirement, in relation to the information, shall not be construed as:

- (1) an approval, waiver, or justification by the Ministry of any act or omission of any person that contravenes any term or condition of this Approval or any statute, regulation or other legal requirement; or
- (2) acceptance by the Ministry of the information's completeness or accuracy.

8.3 All records required by the conditions of this Approval must be retained on Site for a minimum period of two (2) years from the date of their creation.

8.4 Any information relating to this Approval and contained in Ministry files may be made available to the public in accordance with the provisions of the *Freedom of Information and Protection of Privacy Act* .

9.0 Signage and Security

9.1 The Owner shall install a sign at the main entrance/exit to the Site on which is legibly displayed the following information:

- (1) the name of the Site and Owner;
- (2) the number of this Approval; and
- (3) a twenty-four (24) hour telephone number that can be used to reach the Owner in the event of a complaint or an emergency.

- 9.2 The Owner shall clearly indicate the extent of the fill area using metal or wooden posts, or alternative physical indicators acceptable to the Ministry's Niagara District Office.
- 9.3 The Owner shall operate and maintain the Site in a secure manner, such that the Site is secured against access by unauthorized persons.

10.0 Approved Waste Types

- 10.1 (1) No waste may be deposited in the fill area, other than municipal waste limited to dead animals generated on-site.
- (2) No waste generated off-site shall be received at the Site.

11.0 Waste Storage

- 11.1 The Owner shall ensure that all activities related to the storage and handling of dead animals prior to disposal are conducted in a manner that does not result in a nuisance or a hazard to the environment or the public.

12.0 Operations

- 12.1 No waste management processes other than the following shall be carried out at the Site:
- (1) the temporary storage and handling of dead animals generated on-site;
- (2) the disposal of dead animals generated on-site by landfilling in the fill area.
- 12.2 (1) The Owner shall ensure that all activities related to the disposal of dead animals on-site is conducted in a manner that does not result in a nuisance or a hazard to the environment or the public, and in accordance with the following:
1. All dead animals shall be disposed of in pits dug within the fill area.
 2. No pit shall have its lowest point less than 0.9 metres from the uppermost point of any bedrock layer or aquifer.
 3. The mass of dead animals in any single pit shall not exceed 2500 kilograms, except where a pit is used to dispose of a single dead animal and the mass of the single dead animal exceeds 2500 kilograms.
 4. No lime shall be added to any dead animal being disposed of within the fill area.
 5. All pits shall be covered with soil immediately after being used to dispose of dead animals.

6. The height above ground level of the soil covering for each pit shall be no less than the greater of:
 - (a) 0.6 metres; or
 - (b) half the maximum depth of the pit.
7. If any pit used for the disposal of dead animals shows signs of scavenging, sufficient additional soil shall be immediately added to the cover to prevent further scavenging.
8. If any pit used for the disposal of dead animals shows signs of leakage or other containment degradation, the Owner shall immediately take all necessary actions to:
 - (a) clean up and contain any leakage; and
 - (b) dispose of the dead animal(s) in the pit by either: (1) redepositing them in a pit with sufficient additional covering soil to ensure containment; or (2) disposing of them off-site.

(2) The requirements listed in Condition 12.2(1) above may be temporarily altered in accordance with written instructions from the District Manager.

12.3 No dead animals shall be disposed of in any area identified in writing by a professional archaeologist or by the Ministry of Tourism, Culture and Sport as being unsuitable for deposition.

13.0 Nuisance Control

13.1 The Owner shall operate and maintain the Site such that dust, odours, vectors/vermin, litter, vibration and noise do not create a nuisance or an adverse effect.

14.0 Site Inspections

14.1 Trained Personnel shall carry out a weekly visual inspection of the fill area to ensure that:

1. the fill area is secure;
2. the disposal of dead animals in the fill area is not the cause of any nuisances or adverse effects as described in Condition 16 above;
3. the Site is being operated in compliance with this Approval.

14.2 Any deficiencies discovered as a result of an inspection carried out under Condition 14.1 shall be remedied immediately. Operations shall be temporarily ceased as necessary in order to carry out required remedial actions.

14.3 A record of the weekly inspections shall be kept in a log book that includes the following information:

- (1) the name and signature of person that conducted the inspection;
- (2) the date and time of the inspection;
- (3) a list of any deficiencies discovered;
- (4) any recommendations for action; and
- (5) the date, time and description of actions taken.

15.0 Complaints

15.1 If at any time the Owner receives complaints regarding the operation of the Site, either directly from a complainant or indirectly through the Ministry, the Owner shall respond to these complaints according to the following procedure:

- (1) The Owner shall record and number each complaint, either electronically or in a log book, and shall include the following information:
 1. the nature of the complaint;
 2. the name, address and the telephone number of the complainant if the complainant will provide this information;
 3. the time and date of the complaint;
 4. weather conditions at the time of the complaint; and
 5. site operations being carried out at the time of the complaint.
- (3) Within 24 hours of receiving a complaint, the Owner shall:
 1. initiate appropriate steps to determine all possible causes of the complaint;
 2. proceed to take the necessary actions to eliminate the cause of the complaint; and
 3. forward a formal reply to the complainant.
- (4) The Owner shall provide the Ministry's Niagara District Office with a written report within 1 week of the complaint date, listing the actions taken to resolve the complaint and any recommendations for remedial measures, and managerial or operational changes to reasonably avoid the recurrence of similar incidents.

16.0 Training

16.1 The Owner shall ensure that all personnel directly involved with waste management activities on-site have been trained with respect to:

- (1) relevant waste management legislation, regulations and guidelines;
- (2) major environmental concerns pertaining to the waste to be handled;
- (3) occupational health and safety concerns pertaining to the processes and wastes to be handled;
- (4) management procedures including the use and operation of equipment for the processes and wastes to be handled;

- (5) contingency procedures;
- (6) specific written procedures for the control of nuisance conditions;
- (7) the requirements of this Approval.

16.2 The Owner shall maintain a written record of training at the Site which includes:

- (1) the date of training;
- (2) the name and signature of the person who has been trained; and
- (3) a description of the training provided.

16.3 The Owner shall ensure that Trained personnel is/are on duty at all times when the Site is open to carry out any activity required under this Approval.

17.0 Record Keeping

17.1 The Owner shall maintain a daily written record which shall include the following information:

- (1) a record of all dead animal disposal events, including:
 1. the time and date of disposal;
 2. the estimated volume of the disposal;
 3. GPS coordinates of the disposal location, expressed in UTM NAD83;
- (2) a record of the weekly inspections required by Condition 14 above; and
- (3) a record of any spills or upsets at the site, including:
 1. the time and date of the spill or process upset;
 2. the nature of the spill or process upset;
 3. the action taken for the clean up or correction of the spill or process upset; and
 4. for any spills, the time that the Ministry and other persons were notified of the spill in fulfilment of the reporting requirements in the EPA.

Schedule "A"

The following Schedule forms a part of this Approval:

1. Environmental Compliance Approval dated July 24, 2013 signed by Tracy Stewart, Director of Administration, Marineland Canada Inc., including the following attached documents: (1) "Supporting Documentation for ECA Application - Proposed Waste Disposal Site, Marineland of Canada Inc." dated July 2013, prepared by Stantec Consulting Ltd.; and (2) "Subsurface Review Marineland of Canada Inc." dated April 2013, prepared by Stantec Consulting Ltd.

The reasons for the imposition of these terms and conditions are as follows:

The reason for the Definitions section is to define the specific meaning of terms and simplify the wording of conditions in this ECA.

The reason for the conditions in sections 1.0, 3.0, 4.0, 5.0 and 8.0 is to clarify the legal rights and responsibilities of the Owner and Operator under this ECA.

The reasons for the conditions in section 2.0 is to ensure that the waste disposal operations within the Site are designed, operated, monitored and maintained in accordance with the application and supporting documentation submitted by the Owner, and not in a manner which the Director has not been asked to consider.

The reasons for the conditions in Section 6.0 are to ensure that the Site is operated under the corporate name which appears on the application form submitted for this ECA, to ensure that the Director is informed of any changes and to restrict potential transfer or encumbrance of the Site without the approval of the Director and to ensure that any transfer of encumbrance can be made only on the basis that it will not endanger compliance with this ECA.

The reason for the conditions in section 7.0 is to ensure that appropriate Ministry staff have ready access to the Site for inspection of facilities, equipment, practices and operations required by the conditions in this ECA. This condition is supplementary to the powers of entry afforded a Provincial Officer pursuant to the EPA and OWRA.

The reason for condition 9.1 is to ensure that contact information is provided for members of the public or staff who wish to log a complaint or report an emergency.

The reason for condition 9.2 and the conditions in section 10.0 is to specify the approved waste types that may be disposed at the Site and the areas where waste may be disposed of, based on the Owner's application and Supporting Documentation.

The reason for condition 9.3 is to to ensure the controlled access and integrity of the Site by preventing unauthorized access.

The reasons for the conditions in sections 11.0, 12.0, 13.0 and 15.0 are to ensure that the Site is operated, inspected and maintained in an environmentally acceptable manner and does not result in a hazard or nuisance to the natural environment or any person and that any complaints regarding operations at this Site are responded to in a timely and efficient manner.

The reasons for the conditions in section 14.0 are to ensure that detailed records of Site inspections are recorded and maintained for inspection and information purposes and to provide for the proper assessment of effectiveness and efficiency of site design and operation, their effect or relationship to any nuisance or environmental impacts, and the occurrence of any public complaints or concerns.

The reason for the conditions in section 16.0 is to ensure that the Site is supervised and operated by properly trained staff in a manner which does not result in a hazard or nuisance to the natural environment or any

person.

The reason for the conditions in section 17.0 is to ensure that accurate waste records are maintained to ensure accurate waste tracking and compliance with the conditions in this ECA, the EPA and its regulations.

In accordance with Section 139 of the Environmental Protection Act, you may by written Notice served upon me, the Environmental Review Tribunal and in accordance with Section 47 of the Environmental Bill of Rights, 1993, S.O. 1993, c. 28 (Environmental Bill of Rights), the Environmental Commissioner, within 15 days after receipt of this Notice, require a hearing by the Tribunal. The Environmental Commissioner will place notice of your appeal on the Environmental Registry. Section 142 of the Environmental Protection Act provides that the Notice requiring the hearing shall state:

1. The portions of the environmental compliance approval or each term or condition in the environmental compliance approval in respect of which the hearing is required, and;
2. The grounds on which you intend to rely at the hearing in relation to each portion appealed

The Notice should also include:

3. The name of the appellant;
4. The address of the appellant;
5. The environmental compliance approval number;
6. The date of the environmental compliance approval;
7. The name of the Director, and;
8. The municipality or municipalities within which the project is to be engaged in

And the Notice should be signed and dated by the appellant.

This Notice must be served upon:

The Secretary*
Environmental Review Tribunal
655 Bay Street, Suite 1500
Toronto, Ontario
M5G 1E5

AND

The Environmental Commissioner
1075 Bay Street, Suite 605
Toronto, Ontario
M5S 2B1

AND

The Director appointed for the purposes of
Part II.1 of the Environmental Protection Act
Ministry of the Environment
2 St. Clair Avenue West, Floor 12A
Toronto, Ontario
M4V 1L5

*** Further information on the Environmental Review Tribunal's requirements for an appeal can be obtained directly from the Tribunal at: Tel: (416) 212-6349, Fax: (416) 314-3717 or www.ert.gov.on.ca**

This instrument is subject to Section 38 of the Environmental Bill of Rights, 1993, that allows residents of Ontario to seek leave to appeal the decision on this instrument. Residents of Ontario may seek leave to appeal within 15 days from the date this decision is placed on the Environmental Registry. By accessing the Environmental Registry at www.ebr.gov.on.ca, you can determine when the leave to appeal period ends.

The above noted activity is approved under s.20.3 of Part II.1 of the Environmental Protection Act.

DATED AT TORONTO this 20th day of November, 2013



Dale Gable, P.Eng.

Director

appointed for the purposes of Part II.1 of the
Environmental Protection Act

AN/

c: District Manager, MOE Niagara
James Archibald, P. Eng., Stantec Consulting Ltd.