

**VIRGIN ISLANDS WASTE MANAGEMENT AUTHORITY  
STATEMENT BEFORE THE  
SENATE COMMITTEE ON FINANCE  
FY2017 BUDGET – JULY 21, 2016**

1 Good Morning, Honorable Chairman Graham, other Honorable Members of the Senate  
2 Committee on Finance and the 31<sup>st</sup> Legislature, and to the viewing and listening audience. Thank  
3 you for the invitation to appear before you to inform and update the Legislature, our colleagues,  
4 and the listening and viewing public on the state of affairs of the Virgin Islands Waste  
5 Management Authority.

6

7 For the record, I am Steven Aubin, Interim Executive Director of the VI Waste Management  
8 Authority. I am accompanied by my Executive Management Team: Ann Hanley, Acting Chief  
9 Operating Officer, Deandre Atwell, Chief Financial Officer, James Grum, Chief Engineer, and  
10 Kelvin Vidale, General Counsel. Today we will be providing testimony and information regarding  
11 the recommended Fiscal Year (FY) 2017 budget of \$32.04 million dollars.

12

13 It is important that we all focus today on the Virgin Islands Waste Management Authority's  
14 (Authority or WMA) financial position and unresolved issues that have migrated from previous  
15 fiscal years and continue to compound. In our FY2016 budget hearing before this body on August  
16 23, 2015, we reported that the Authority's financial position was poor and projected to worsen.  
17 Budget reductions, allotment shortfalls and the outstanding reimbursement by the Government  
18 of the Virgin Islands (GVI) to the WMA for landfill closure capital cost expenditures were cited as  
19 key reasons for the Authority's poor fiscal health. Today I report to this body that the Authority's  
20 overall financial state has worsened further due to these unresolved issues. Three key issues  
21 continue to present themselves in the analysis:

- 22 1. The solid waste bale production and placement project at the Anguilla landfill on St. Croix  
23 remains an unfunded capital cost at approximately \$5.6 million annually.
- 24 2. Capital funds, which include the cost of Item 1, have not been allocated to WMA by the  
25 GVI to fund Court ordered closure tasks at the Anguilla and Bovoni landfills necessary to  
26 achieve compliance with the Landfill Consent Decrees.

27 3. The Authority has once again not received its full appropriation from the Sewage Fund of  
28 \$3.0 million annually.

29

30 As a result of the unresolved issues, the Authority is facing the following critical conditions:

31 1. The GVI owes the WMA approximately \$12.8 million as of June 2016 for landfill closure  
32 capital costs.

33 2. The Authority's available cash to pay its contractors/vendors timely is critically limited  
34 resulting in:

35 a. Delayed payments to its contractors/vendors;

36 b. Growing Accounts Payable which is currently on the order of \$10 million for its  
37 major contractors/vendors; and

38 3. Non-compliance at the Anguilla and Bovoni landfills with Court ordered mandates.

39 *Note: See Attachment 1 for a list of the Authority's Accounts Payable as of July 8, 2016.*

40 I will discuss the implications in more detail later, however the outcome from not addressing the  
41 unfunded capital costs of the landfills as well as the Sewage Fund shortfall in the near term shall  
42 be: work stoppage by the impacted contractors/vendors due to continued non-payment resulting  
43 in the failure to properly dispose of solid waste at the Anguilla landfill, discharging of untreated  
44 sewage into the environment, and fines assessed by the EPA for non-compliance with the Landfill  
45 Consent Decrees. The former would undoubtedly create a public health crisis. Based on the  
46 Authority's large Accounts Payable, it is clear that the contractors are bearing the brunt while  
47 trying to provide critical services in hopes of payment by the Authority as soon as possible. I say  
48 to this body today that due to the aforementioned reasons, the Authority predicts work stoppage  
49 of the contractors, particularly at the Anguilla landfill and the contracted treatment plants, near  
50 the end of FY 2016 unless the above mentioned issues are addressed immediately.

51

## 52 **FY2017 Budget Concerns.**

53 The requested FY2017 budget represents a reduction in overall appropriated funds from FY2016  
54 of \$204,014 dollars or (1%). FY2016 and FY2017 funds along with the net percent change is  
55 summarized by funding source below in Table 1.

56 **Table 1.**

Fund	FY2016	FY2017	Percent Difference
General Fund	\$22,850,000	\$22,850,000	0%
Antilitter & Beautification Fund	\$4,704,014	\$5,000,000	6%
Sewage Fund	\$3,000,000	\$3,000,000	0%
St. John CIP Fund	\$1,000,000	\$500,000	(50%)
Tourism Advertising Revolving Fund	\$300,000	\$300,000	0%
Miscellaneous General Fund	\$390,000	\$390,000	0%
<b>Total</b>	<b>\$32,244,014</b>	<b>\$32,040,000</b>	<b>(1%)</b>

57

58 Although the recommended FY2017 budget appropriation reflects a minor overall reduction of  
 59 one percent (1%) from FY2016, the Authority projects that allotment levels with respect to the  
 60 Sewage Wastewater fund shall remain deficient based on the pending negative balance in the  
 61 fund of approximately \$5.7 million. This will impact the Authority's ability to pay wastewater  
 62 contractors and vendors in a timely manner. Overall, the recommended budget of 32.04 million  
 63 is insufficient to cover the current cost of essential solid waste and wastewater services provided  
 64 to this community by the Authority.

65

66 **Unfunded Mandates**

67 I am going to first focus on the Authority's unfunded mandates centered on solid waste disposal  
 68 costs at the Anguilla landfill and landfill closure costs at both landfills. Both topics are interrelated  
 69 and have substantially impacted the Authority's financial position and its ability to pay vendors  
 70 timely, and are arguably the main reasons for our current financial state.

71 Bale Production and Placement at the Anguilla Landfill.

72 The solid waste bale production and placement project at the Anguilla landfill consist of the  
 73 receipt and baling of municipal solid waste at the St. Croix Transfer Station (SCTS) and the  
 74 placement of bales into the Anguilla landfill. This process is used to build out the slopes of the  
 75 landfill to meet compliance requirements set forth in the Consent Decree. Although it is an  
 76 unfunded capital cost, the project continues due to its necessity on many fronts. This project  
 77 provides several important benefits including: a near term disposal option for the St. Croix solid  
 78 waste stream, advancement of the closure mandates outlined in the Landfill Consent Decrees  
 79 and compliance with terms outlined in the land lease between the WMA and VI Port Authority

80 (VIPA) which includes bird hazard mitigation requirements of the Federal Aviation Administration  
81 (FAA). The latter benefit provides critical direct benefits for VIPA and our Territory including  
82 continued eligibility (and receipt) of millions of dollars in FAA discretionary funds and continued  
83 daily operation of the Henry E. Rohlsen Airport. The cost of the bale production and placement  
84 project is \$5.6 million annually. This project has been unfunded since May 2014 when Public  
85 Finance Authority (PFA) bond proceeds earmarked for the landfills were exhausted.

86

87 Landfill Closure Costs.

88 In addition to the bale production and placement project services, other projects and tasks are  
89 required by the Landfill Consent Decrees for both the Bovoni and Anguilla landfills. The Decrees  
90 have court mandated schedules to bring each landfill into compliance with U.S. Environmental  
91 Protection Agency (EPA) requirements. The projects and tasks are largely capital costs in nature.  
92 Since the execution of both Decrees in 2011 (Anguilla Landfill) and 2012 (Bovoni Landfill), the GVI  
93 has been unsuccessful in identifying capital funds for the projects. Although several specific  
94 projects and tasks have been postponed due to the absence of capital funds, some were critical  
95 (time-sensitive, safety, etc.) and thus performed to minimize risks to Authority (staff, contractors,  
96 etc.) and the community. Those associated project costs have accrued and were either borne by  
97 the Authority's General Fund or remain outstanding to date and continue to increase. The GVI  
98 and the Authority are also at risk of being assessed fines by the EPA for failure to comply with the  
99 schedules.

100

101 As of June 2016, the Authority has incurred \$12.8 million dollars for essential project services and  
102 tasks related to landfill closure requirements. The Authority requested the GVI to reimburse \$8.9  
103 million in capital fund expenditures, the amount due as of September 30, 2015, via PFA bond  
104 proceeds. The request was embedded in a \$30 million dollar bond authorization bill submitted  
105 to the Legislature in March 2016 by the GVI for closure projects at both landfills. A breakdown  
106 of the \$8.9 million request by fiscal year is shown below in Table 2:

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108

109 **Table 2.**

Description	Fiscal Year	Amount
Expenditures Incurred by WMA to Close Landfills	2013	\$1,173,944.79
Expenditures Incurred by WMA to Close Landfills	2014	\$2,566,439.19
Expenditures Incurred by WMA to Close Landfills	2015	\$5,197,126.21
<b>Total</b>		<b>\$8,937,510.19</b>

110

111 The Authority has recently learned that the requested reimbursement of capital costs (\$8.9M)  
 112 may not qualify for reimbursement via the submitted bond request due to applicable tax law  
 113 governing the bond proceeds. If this condition stands, the Authority will require reimbursement  
 114 of the landfill capital expenditures via an alternative funding source in order to improve its  
 115 financial state and to avoid stoppage of work, particularly at the Anguilla landfill’s bale production  
 116 and placement project.

117

118 A previous request for capital funds was requested via a bond authorization bill that was  
 119 submitted on or about June 7, 2014, to the 30<sup>th</sup> Legislature by the GVI. The submitted legislation  
 120 requested bond authorization of \$23.4 million for the certain projects outlined in the Consent  
 121 Decree schedule and the approved landfill closure plans. Although the 30<sup>th</sup> Legislature did not  
 122 act on the proposed legislation, the costs have continued to accumulate as noted above. Coupled  
 123 with the uncertainty of the current bond authorization request, the essential bale production and  
 124 placement project at the Anguilla landfill is in jeopardy of shutdown. The ill-effects would be far-  
 125 reaching to the quality of life of our residents, the business sector and our tourism product.

126 Regardless of outcome to the question of reimbursement of past landfill capital expenditures, I  
 127 must emphasize to you today and the listening public that delaying funding of the landfill closure  
 128 capital projects shall be deemed more costly in the long term. In absence of any funding  
 129 approvals, the GVI and the Authority are forced into a state of non-compliance with the closure  
 130 plan. This has resulted in modifications to the closure plan and increased its overall cost.

131

132 With respect to non-compliance at the landfills, as of October 30, 2015, penalties for violations  
 133 at the two landfills in the Territory have accrued to \$2,530,500. As the violations continue,  
 134 penalties will accrue at a rate of an additional \$1,600,000 annually.

135 I respectfully request of this body to consider and approve the bond authorization bill of \$30  
136 million (or its final form) to avoid further noncompliance and to minimize the total capital cost of  
137 the landfill closure projects.

138

139 **Sewage Fund Shortfall.**

140 The Authority has historically received an appropriation of \$3 million from the Sewage Fund  
141 which is funded by the Authority's Wastewater User Fee (WUF) that is collected on property tax  
142 bills annually. As noted earlier, FY2016 allotments have been below appropriation levels. This  
143 shortfall has contributed to delayed payments to the Authority's primary wastewater contractor,  
144 Veolia, which operates the Harold Thompson Treatment Plant on St. Croix and the Pedrito  
145 Francois Treatment Plant on St. Thomas. The shortfall has been attributed to the fund's negative  
146 balance of \$5.7 million. Only 50 percent of revenue from collected WUF fees are distributed to  
147 WMA. The remaining 50 percent is applied by the GVI to the negative balance. Delinquent and  
148 unpaid property tax bills have also compounded this issue. I am requesting of this body to  
149 consider legislation to address the negative balance in the near future to allow for full allotments  
150 to be released to the WMA for its services. As stated earlier, the Authority cannot continue to  
151 carry this burden as it is negatively impacting its financial position and threatens to suspend  
152 related contractor services.

153 **Revenue Generation.**

154 The Authority has and must continue to focus efforts on becoming self-sufficient by generating  
155 its own revenue. The Authority is authorized and mandated to collect fees for the services it  
156 provides. It is currently funded principally by GVI appropriations. A significant accomplishment  
157 was achieved this year toward shifting to self-sufficiency. In April 2016, the Public Services  
158 Commission (PSC) approved the solid waste tipping fees. These fees will be assessed at the  
159 Authority's three disposal sites within the Territory: the St. Croix Transfer Station, the Bovoni  
160 Landfill on St. Thomas, and the Susannaberg Transfer Station on St. John. The Authority plans to  
161 implement the fees no later than October 2016. The WMA's anticipated annual revenue for the  
162 tipping fees from direct customers (scale house transactions) is \$6.9 million. This fee will be  
163 collected by the Authority directly rather than by the GVI and provides immediate relief to the

164 current financial position. Notwithstanding, its landfills annual contractual costs is currently \$8.7  
165 million. Thus, the shortfall of \$1.8 million will be paid from the General Fund Allotment.

166

167 The WMA will impose the PSC-approved Special Waste Fees (SWF) by October 2016. The SWF  
168 will be assessed to the following "hard to dispose of items": lubricant oil, white goods,  
169 fluorescent bulbs, and electronic waste (e-waste). It will be collected at the point of importation  
170 to the Territory at VI Internal Revenue Bureau (IRB) locations. The WMA anticipates collecting  
171 \$1.2 million annually for these items. The SWF on motor vehicles is being modified for approval  
172 by the PSC (Initial applications for it was held for modification). This would generate  
173 approximately \$711,000 in annual revenue.

174

175 The WMA also anticipates the approval of the Wastewater Septage Disposal Fee application  
176 which was recently filed with the PSC. This fee will be assessed to the permitted septage waste  
177 hauler companies that deliver septage to the WMA's septage receiving facilities. This fee will be  
178 collected directly by the WMA and it is anticipated to generate approximately \$420,000 annually.

179

180 The Authority will also be submitting an application to the PSC for the Solid Waste Residential  
181 Collection Fee to generate revenue from residential properties for solid waste collection,  
182 including the proposed recycling services.

183

184 Finally, the Authority plans to submit a request to the PSC for an increase in the WUF in during  
185 FY2017. This will enhance revenue from the wastewater customer base to apply toward  
186 wastewater cost of services.

187

188 A summary of the WMA's present and future fees, anticipated revenue and implementation  
189 dates is shown below in Table 3.

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191

192

193 **Table 3.**

Fee Name	Anticipated Annual Revenue	Implementation Date
<i>WW User Fee (Current Fee)</i>	<i>\$2,431,000</i>	<i>Existing Fee</i>
SW Tipping Fees	\$6,900,000	October 2016
SW Special Waste Fee	\$1,203,415	October 2016
WW Septage Disposal Fee	\$ 420,000	Pending PSC Approval
SW Residential Collection Fee	N/A	Not Submitted
WW Wastewater User Fee INCREASE	N/A	Not Submitted
<b>Total Projected Revenue</b>	<b>\$10,954,415</b>	

194

195 Impact of Projected Revenue to the WMA Budget.

196 The Authority's cost of services currently exceeds its annual revenue by approximately \$10  
 197 million annually due to unfunded mandates and budget shortfalls noted earlier. Revenue  
 198 generated by tipping fees beginning October 2016 shall provide immediate revenue to the  
 199 Authority. Funds from this fee will be utilized to pay for solid waste disposal services. This  
 200 includes the unfunded bale production and placement project until such time as capital funds  
 201 can be assigned. Although it may be deduced that the Authority's GVI appropriation should be  
 202 reduced as a result of the influx of tipping fees and other revenue, it should be made clear that  
 203 the Authority will still require the GVI funds for payment of other services including its Accounts  
 204 Payable.

205

206 **FY 2016 Accomplishments**

207 Despite funding constraints and shortfalls, the Authority continues to pursue its mandates and  
 208 has made significant accomplishments this fiscal year. Some highlights are:

209

- 210 • **St. Croix - Mon Bijou Bin Site Upgrades:** The facility was fenced and gated, has daytime  
 211 hours of operation and is staffed. Although not a convenience center such as the Peters  
 212 Rest Convenience Center, the upgrades have eliminated illegal dumping and the Authority  
 213 has realized improved efficiency and aesthetics. The Authority aims to construct a  
 214 convenience center on or near this location in the near term however funds  
 215 (approximately \$1M) have not been identified.

- 216 • **St. Thomas - Mandahl SW Convenience Center (CC):** Mirroring services at the Peters Rest  
217 CC on St. Croix, it is the flagship site on St. Thomas. The CC's represents the Authority's  
218 advancement toward elimination all unmanned open bin sites throughout the Territory  
219 and transition to a closed collection system comprising of expanded curbside collection  
220 and CC's for the remaining areas. The Authority is happy to report that the Mandahl CC  
221 will be opening its doors on Saturday, July 23<sup>rd</sup>, and will host an Open House session from  
222 10am – 2pm to educate customers and visitors about the services offered there. Similar  
223 to Peters Rest CC here on St. Croix, it will be a manned facility, with set operating hours  
224 and will accept residential waste only.
- 225 • **Increased Insourcing of Sewer Repairs:** The wastewater division has increased its in-  
226 house repair capacity which has realized a financial savings to the Authority.
- 227 • **Electronic Fund Transfer (EFT) Policy:** Effective August 1, 2016, the Authority will  
228 transition to EFT for issuance of payments to its vendors and vice versa. Benefits include  
229 increased transaction efficiency and reduction of required resources (human, materials).
- 230 • **Removal of three wastewater plants from the Amended Wastewater Consent Decree:**  
231 The District Court removed the Harold Thompson, Pedrito Francois and Mangrove Lagoon  
232 wastewater treatment plants from the longstanding Amended Wastewater Consent  
233 Decree. This achievement is a direct result of investment of capital to construct new  
234 facilities and upgrade the sewer systems and efforts of WMA staff and its partners to  
235 achieve consistent compliance with the operating permits and Decree requirements.
- 236 • **Public - private partnership:** The Authority has engaged Wyndham-Margaritaville hotel  
237 located on St. Thomas – Smith Bay to construct a solid waste convenience center in this  
238 neighborhood.
- 239 • **Sanitas Partners VI, LLC. Amendment:** The Authority was successful in negotiating an  
240 amendment to include composting and diversion of green waste from the Anguilla Landfill  
241 to conserve air space and generation of a commodity for sale (revenue generation).

#### 242 **Upcoming Initiatives**

243 The Authority is currently researching the requirements and needs to implement the proposed  
244 recycling bills (Plastic Bag Ban Bill, Bottle Redemption Bill and Source Separation Bill) that were

245 submitted to this body earlier this year by the Honorable Governor Kenneth E. Mapp for your  
246 consideration. The Authority fully supports the intent of the bills but I must caution this body  
247 that the Authority and its GVI partners will require adequate capital investment and startup  
248 funding to ensure the success of the programs. The Authority is most concerned with the Source  
249 Separation Bill which mandates curbside separation and recycling of the solid waste stream. This  
250 will require the largest investment to ensure that the Territory has adequate facilities, systems,  
251 and human resources in place to carry out its mandate. The three bills will also require extensive  
252 public education and support of the community leadership, organizations, and the public to  
253 ensure success.

254 **Conclusion.**

255 The financial condition of the Virgin Islands Waste Management Authority is dire and requires  
256 immediate attention and relief to address its accrued expenditures related to unfunded landfill  
257 closure costs, including the critical bale production and placement project at the Anguilla landfill  
258 on St. Croix as well as to address the continued shortfall of the Sewer Wastewater Fund. Inaction  
259 shall result in work stoppage, non-compliance at the impacted sites, and subsequently a public  
260 health crisis. The Authority is progressing toward self-sufficiency however implementation and  
261 collection of fees from its customer base will primarily address the future cost of services, thereby  
262 improving the outlook. However they will not significantly address the outstanding expenditures  
263 noted in my testimony today. Solid Waste and Wastewater services are an essential service to a  
264 community, equal to and arguably more important than other services such health care, human  
265 services, and electric & water services. We testified last Wednesday evening before the  
266 Committee on Energy and the Environment regarding WAPA and heard of WAPA's declining  
267 financial state. The WMA, albeit a smaller authority, is on a similar path of financial disaster. The  
268 financial staff of the WMA face difficult choices every month when deciding on which contractors  
269 are prioritized for payment with available allotment funds. The Authority is cognizant and  
270 sensitive to our contractor's precarious financial position as they await payment of invoices for  
271 services rendered and the Authority thanks them for staying the course to ensure the requested  
272 services are provided. I would also like to acknowledge all of my staff at the WMA who work  
273 tirelessly with minimal resources to continue the charge. Your efforts do not go unnoticed.

274 In closing, I implore this body and the Administration to provide the requested assistance to allow  
275 the Authority to continue toward success and self-sufficiency. Our success will have permanent  
276 effects for generations to come. I thank you for this opportunity today and my team and I remain  
277 available to answer any questions at this time.

278

279 • Attachment 1: Chart of Outstanding Obligations (Accounts Payable) as of July 8, 2016;

280 • Video of WMA activities and staff (to be played during testimony)

281

282

283 *Prepared by Steven R. Aubin, Interim Executive Director of the VIWMA, with the assistance and*  
284 *support of the VIWMA Senior Management Team.*

## VI Waste Management Authority - Outstanding Obligations

July 8, 2016

Vendor	Description of Services	Outstanding Obligation As of July 8, 2016	Outstanding Period
Water and Power Authority	Electric and Water Services	\$ 1,942,907.00	August 2015 to June 2015
A9 Trucking Enterprise	Operation and Management of Landfill, Bale Placement, Transportation of Fill Material & Construction Services of West Berm, Knolls & Interim Road	\$ 3,400,175.78	Sept. 2015 to June 2016 and 2009-2013
Sanitas Partners, VI	Bale Production at the St. Croix Transfer Station	\$ 1,181,673.73	Dec. 2015 to June 2016
VWNA, Caribbean	Operate and Maintain Treatment Plants on St. Croix and St. Thomas	\$ 1,938,114.14	Nov. 2015 to June 2016
Patrick Charles Enterprise	Garbage Hauling & Bins Removal Services	\$ 99,868.50	May and June 2016
Gem's Construction	Garbage Hauling & Bins Removal Services	\$ 286,768.16	May and June 2016 and 2011-2013
Paradise Waste Systems	Garbage Hauling & Bins Removal Services	\$ 199,830.06	May and June 2016
Bates Trucking & Trash Removal	Garbage Hauling & Bins Removal Services	\$ 101,479.00	May and June 2016
Marco St. Croix	Garbage Hauling & Bins Removal Services	\$ 68,128.79	May and June 2016
EDL Enterprise	Garbage Hauling & Bins Removal Services	\$ 25,607.24	May and June 2016
Just Right Trucking	Garbage Hauling & Bins Removal Services	\$ 23,802.78	May and June 2016
Joshua's Trucking and Landscaping	Garbage Hauling & Bins Removal Services	\$ 16,743.74	May and June 2016
Dan's Trucking	Garbage Hauling & Bins Removal Services	\$ 11,348.05	May and June 2016
Penn's Trucking	Garbage Hauling & Bins Removal Services	\$ 190,303.00	May and June 2016
Your Environmental Services (YES)	Garbage Hauling & Bins Removal Services	\$ 40,167.24	April to June 2016
V.I. Recycling	Scrap Metal Disposal Services	\$ 216,120.00	Jan. 2016 to June 2016
Meridian Resources	Operate & Maintain Gas Collection & System Control	\$ 26,140.00	May and June 2016
Oasis Consulting Services	Engineering Consulting Services for the Closure of the Landfills	\$ 306,850.05	Feb. 2016 to June 2016
Heavy Materials	Fill Material for Landfill Operations	\$ 75,496.12	Aug. 2015 to June 2016
<b>Total</b>		<b>\$ 10,151,523.38</b>	