COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
PIEDMONT REGIONAL OFFICE
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Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

Michael P. Murphy
Regional Director

STATE WATER CONTROL BOARD
ENFORCEMENT ACTION
AMENDMENT TO A SPECIAL ORDER BY CONSENT
ISSUED TO
BFI WASTE SYSTEMS OF VIRGINIA L.L.C.
FOR
OLD DOMINION LANDFILL
VPDES Permit No. VA0091499

SECTION A: Purpose

This is an Amendment to a Consent Order issued under the authority of Va. Code §62.1-44.15 between the State Water Control Board and BFI Waste Systems of Virginia L.L.C., regarding the Old Dominion Landfill, for the purpose of revising certain provisions of that Consent Order issued by the State Water Control Board to BFI on March 24, 2004.

SECTION B: Background and Basis for Amendment

1. BFI Waste Systems of Virginia L.L.C. (BFI) owns and operates the Old Dominion Landfill (Landfill), which was originally used as a sand and gravel pit by a former owner. The Landfill is situated over a deposit of Miocene clay which is mined in the process of constructing disposal cells. The mined clay is stored in a large pile for later use as liner and cap material.

2. Miocene clay is a fine, grey, compactable clay which contains a reduced form of sulfur. When exposed to oxygen, the reduced sulfur in the clay oxidizes and forms H_2SO_4 (sulfuric acid). The sulfuric acid mixes with stormwater runoff from the earth disturbing activities both related to the Landfill and occurring prior to the Landfill, lowering the stormwater's pH below the acceptable water quality

standard of 6.0. BFI stated that pH analysis of rainfall on average is 5.4 and average groundwater pH is between 4.3 and 5.5.

3. On March 24, 2004, the Department issued a Special Order by Consent (2004 Order) which required BFI to apply for an individual permit and develop a conceptual engineering report (CER) with an implementation schedule to separate stormwater runoff from industrial process discharges. BFI submitted, and the Department approved, the CER; however after construction and implementation, noncompliance with permit limits continued and the separation of stormwater runoff and industrial process discharges did not control pH at a level to prevent contravention of 9 VAC 25-260-50, the water quality standard for pH.

4. After completion of the separation of stormwater runoff and industrial process discharges, BFI continued to develop and implement a number of stormwater Best Management Practices (BMPs) designed to separate areas of exposed Miocene clay from stormwater. BFI stated that it has expended in excess of $2,500,000 but has not achieved consistent compliance with its VPDES permit limit for pH. Exceedences continue to occur, predominantly when the clay pile is being worked and its working face is exposed. In submitting permit required Discharge Monitoring Reports (DMRs) from January 2008 to May 5, 2010, BFI reported 10 pH and 14 total suspended solids (TSS) violations at outfall 005. At no point has the subject of the 2004 Order involved any waste disposed in or leachate generated by the Landfill.

5. On March 18, 2010, BFI developed and submitted a new stormwater discharge corrective action plan (CAP) for outfall 005. DEQ reviewed the submittal and met with representatives of BFI on May 3, 2010 to discuss the plan. In order for BFI to return to compliance, DEQ staff and representatives of BFI have agreed to a Schedule of Compliance, which is incorporated as Appendix A of this Amendment. The parties acknowledge that until the completion of work authorized by this Order (anticipated to be April 15, 2011 or sooner or, if alternative 7b and/or 7c of Appendix A are required to be performed as part of corrective action, at the completion of any approved schedule for those alternatives) BFI may experience additional violations of permit effluent limitations for pH and TSS at outfall 005. Therefore, BFI will operate and maintain systems of stormwater management, control and treatment at Old Dominion Landfill in a workmanlike manner, in order to ensure that those systems produce the best quality stormwater discharge of which they are capable. From and after April 15, 2011 or, if alternative 7b or 7c of Appendix A is required as a method of corrective action, at the completion of the approved schedule of corrective action, BFI must fully comply with pH and TSS effluent limitations for outfall 005. Prior to that time the Department will evaluate the facts surrounding any violations of pH and TSS permit effluent limitations at outfall 005 and exercise enforcement discretion with respect those violations, as warranted.

6. BFI has failed to obtain stormwater samples for the May 2010 monitoring period

even though there were 4 qualifying rain events during the month. This has occurred several times during the past year and BFI stated that for safety reasons, they prefer to collect stormwater samples only when a qualifying event occurs during daylight hours. Due to the frequency of missed samples due to rain events that occur at night, the Department is allowing BFI to utilize amended stormwater requirements prior to the Permit reissuance. BFI will collect a stormwater compliance sample as soon as enough rainfall has fallen during an event to cause a discharge. In addition, BFI will not be required to obtain stormwater samples if rainfall events occur when the Facility is closed.

7. On July 12, 2010 DEQ staff inspected the Facility and verified that the covering of the Miocene clay pile; removal of the check dams in the concrete ditch leading to outfall 005; and the removal of clay sediment in the basins and perimeter ditches identified in the CAP was completed.

SECTION C: Agreement and Order

Accordingly, the State Water Control Board, by virtue of the authority granted it in §62.1-44.15(8a), orders BFI and BFI agrees to the following:

1. Perform the actions described in Appendix A of this Amendment, which amends item 1 and supersedes Items 2 and 3 of Appendix A of the 2004 Order.

2. Pay a civil charge of $13,100 within 30 days of the effective date of this Amendment.

Both the State Water Control Board and BFI understand and agree that this Amendment does not alter, modify, or amend any other provision of the 2004 Order and that the unmodified provisions of the 2004 Order or its Appendix A remain in effect by their own terms.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

BFI shall include its Federal Employer Identification Number with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

And it is so ORDERED this 4th day of OCTOBER, 2010.

Michael P. Murphy,
Piedmont Regional Director
Department of Environmental Quality

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BFI Waste Systems of Virginia L.L.C. voluntarily agrees to the issuance of this Amendment.

By: Alan W. Hemma Vice President

Date: 8/3/2010

State of Virginia
City/County of Fairfax

The foregoing instrument was acknowledged before me this 3 day of

August, 2010, by Alan W. Hemma, who is

Vice President of BFI Waste Systems of Virginia L.L.C. on behalf of the L.L.C.

Janet E. Conner
Notary Public

7324479
Registration No.

My commission expires: June 30th 2014

Notary seal:

JANET ELAINE CONNER
NOTARY PUBLIC
REG # 7324479
COMMISSION EXPIRES 6/30/014
COMMONWEALTH OF VIRGINIA

APPENDIX A

BFI shall:

1. On or before October 15, 2010, place off-site (non Miocene clay impacted) soil material around the perimeter of the covered Miocene clay stockpile. Provide the Department with photographic documentation no later than 2 weeks after completion.

2. On or before November 1, 2010, initialize a vegetative cover to stabilize the basin areas identified in the CAP. Maintain and/or re-initialize the vegetative cover and provide complete and adequate stabilization on or before April 15, 2011. Provide the Department with photographic documentation no later than 2 weeks after initialization and final stabilization of the vegetative cover.

3. On or before November 15, 2010, complete the planned drainage of the basin adjacent to the Miocene clay stock pile. The drainage water may be used for onsite irrigation. Should the need arise to discharge to State Waters, the pH must be monitored daily during the discharge and adjusted to a range of 6.0-9.0 prior to discharge from the basin. Permit requirements must be followed with respect to any discharges from the basin. Provide the Department with photographic documentation of the completion of the drainage no later than 2 weeks after completion.

4. Monitor pH in the basin as it fills up naturally over time and conduct a pilot study to determine source of water flow and whether additional pH controls will be required. Submit the monitoring results to the Department with a report on or before January 15, 2011.

5. On or before November 15, 2010, develop and submit to the Department for review and approval a Standard Operating Plan (SOP) for working the Miocene clay pile in the event of the need to remove or eliminate the stockpile. Once approved by the Department BFI must follow the SOP when removing any material from the Miocene clay pile.

6. Until the Permit is re-issued, BFI will follow the current acceptable guidelines for a measurable storm event which is now defined as a storm event that results in an actual discharge from the site. If no qualifying storm event results in runoff during daylight hours from the facility during a monitoring period, BFI is excused from monitoring for that period provided that documentation is included with the monitoring records indicating that no qualifying storm event occurred during daylight hours that resulted in storm water runoff during that monitoring period.

7. On or before April 15, 2011, submit to the Department one of the following:
    a. A final report documenting that after implementation of Appendix items 1-6 above, BFI can meet Permit effluent limits for pH and TSS at outfall 005;
    b. A schedule for DEQ approval, no longer than 8 months, to remove the Miocene Clay stockpile from the site; OR
    c. A copy of an engineering report including plans and specifications for the installation of a control system for TSS and pH or an alternate compliance plan and schedule suitable for DEQ approval that is designed to allow compliance with the Permit effluent limits at outfall 005.

8. BFI shall submit all requirements of Appendix A of this Amendment to:

Frank Lupini
Enforcement Specialist
VA DEQ –Piedmont Regional Office
4949A Cox Road,
Glen Allen, Virginia 23060
Frank.Lupini@deq.virginia.gov