



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

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Robert G. Burnley
Director

Steven A. Dietrich
Regional Director

COMMONWEALTH OF VIRGINIA WASTE MANAGEMENT BOARD CONSENT ORDER ISSUED TO BLUE RIDGE DISPOSAL

Section A: Purpose

This is a Consent Order issued under the authority of §§ 10.1-1182 *et seq.*, 10.1-1402, 10.1-1405, and 10.1-1455 of the Code of Virginia (1950), as amended, by the Virginia Waste Management Board to Blue Ridge Disposal to resolve certain violations of environmental laws and/or regulations.

Section B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Code" means the Code of Virginia (1950), as amended.
2. "Waste Board" means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1401 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Code §10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a consent order.
6. "Regulations" means the Solid Waste Management Regulations, 9 VAC 20-80-10 *et seq.*

7. “Blue Ridge” means Blue Ridge Disposal, a solid waste management facility located in the Town of Christiansburg, Virginia.
8. “Mr. Curtis” means Mr. Paul E. Curtis, owner and operator of Blue Ridge Disposal.

Section C: Findings of Fact and Conclusions of Law

1. Blue Ridge Disposal, Inc. is located at 205 Scattergood Drive, Christiansburg, VA. The facility is classified as a materials recovery facility (“MRF”) and received a permit by rule (“PBR”) on July 26, 1996.
2. On May 23, 2001, the Virginia Waste Management Board amended the Virginia Solid Waste Management Regulations (“VSWMR”). Facilities operating under a PBR were given until November of 2001 to upgrade their facilities, re-certify their facilities, and submit the required documentation to DEQ.
3. On November 28, 2001, WCRO compliance staff conducted an inspection at the facility. During the inspection, compliance staff discussed the new regulatory requirements with Mr. Paul Curtis, the owner and operator of the facility. Mr. Curtis stated that he was unaware of the new amendment to the VSWMR and the additional requirements.
4. On December 17, 2001, WCRO compliance staff notified Mr. Curtis, by letter, of the findings from the November 28, 2001 inspection. In the letter, Mr. Curtis was reminded that the amended VSWMR incorporates new provisions that affect PBR facilities. A listing of the new provisions was provided and stated that “Permit-By-Rule facilities are deemed to have a permit if they make certain required submissions”. A re-certification is required to verify that the facility meets the new provisions pertaining to siting, design and construction, and closure. Further it was stated that if a PBR facility is not in compliance with the new provisions, it no longer has a PBR. Mr. Curtis was requested to update and re-certify the facility by January 20, 2002.
5. On January 16, 2002, Mr. Michael Gay, of Gay and Keesee, Inc., submitted a letter on behalf of Blue Ridge Disposal, Inc. The letter was a response letter to the December 17, 2001 DEQ letter and requested a thirty day extension to the January 20, 2002 re-certification deadline.
6. On January 23, 2002, WCRO compliance staff conducted a compliance inspection at the facility. As a result of the inspection, a Notice of Violation (“NOV”) was issued on February 22, 2002. The NOV stated that the facility had not complied with new requirements of the VSWMR, specifically a control plan for unauthorized waste, an updated disclosure statement, and design and operation requirements. Furthermore, the

thirty day extension had been reached and no documents had been received by DEQ.

7. On February 27, 2002, Mr. Gay submitted a letter with enclosures to address the concerns outlined in the December 2001 and February 2002 DEQ letters.
8. On February 28, 2002, WCRO compliance staff conducted an inspection of the facility. The inspection report, mailed to Blue Ridge Disposal on March 11, 2002, stated the boundary fencing and gates required for access control were being repaired.
9. On March 12, 2002, WCRO compliance staff responded to the February 27, 2002 submittal. The response stated that PBR would need to be re-certified by a P.E. upon completion of the perimeter fence/gates and that the certification should be submitted by March 20, 2002.
10. On March 25, 2002, WCRO compliance staff conducted an inspection of the facility. The inspection report, mailed to Blue Ridge Disposal on April 12, 2002, stated that the fence and gates had not been completed and Mr. Curtis was given a 45 day extension. Completion of the project by May 13, 2002 was required.
11. On May 30, 2002 and June 28, 2002, WCRO compliance staff conducted inspections of the facility. The May 30, 2002 inspection report indicated that the fencing had not been completed and the facility was given an additional 30 days to complete the project. The June 28, 2002 inspection report indicates that the fence had not been completed and Mr. Curtis requested an additional extension. Both inspection reports were mailed to Blue Ridge Disposal on July 26, 2002.
12. On August 27, 2002, WCRO compliance staff conducted an inspection at the facility. The August 27, 2002 inspection report indicated that the fencing had not been completed.
13. On September 16, 2002, a NOV was issued to Blue Ridge Disposal for failure to complete the perimeter fence/gates and obtain a re-certification by a P.E. as required in the PBR regulation. Mr. Gay, responded to the NOV on September 26, 2002. Mr. Gay stated that the fence was being completed as fast as resources allowed.

Section D: Agreement and Order

Accordingly, by virtue of the authority of Code §§ 10.1-1182 *et seq.* and §§ 10.1-1402, 10.1-1405, and 10.1-1455.F, the Board orders and Blue Ridge Disposal, without admitting liability, either criminal or civil, agrees that:

1. Blue Ridge Disposal shall pay a civil charge of One Thousand Five Hundred Dollars (\$1,500.00). Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, VA 23240

Either on a transmittal letter or as a notation on the check, Blue Ridge Disposal shall indicate that the check is submitted pursuant to this Order. If applicable, Blue Ridge Disposal shall also write the federal identification number (FIN) for the facility on the check. The civil charge shall be due no later than 30 days after the effective date of the Order.

2. Within ninety (90) days of the effective date of the Order, Blue Ridge Disposal shall submit to the Department of Environmental Quality a report documenting the current discharge of wash water/process water at the facility.

Section E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Blue Ridge Disposal for good cause shown by Blue Ridge Disposal, or on its own motion after notice and opportunity to be heard.
2. This Order addresses only those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
3. Solely for the purposes of the execution of this Order, for compliance with this Order, and for and subsequent actions with respect to this Order, Blue Ridge Disposal admits the jurisdictional allegations in this Order, but does not admit factual findings, and conclusions of law contained herein. Blue Ridge Disposal specifically denies any and all criminal or civil liability with regard to the jurisdictional allegations, factual findings and conclusions of law contained herein with respect to any matter arising outside of the scope of this Order, and both the Board and Blue Ridge Disposal agree that Blue Ridge Disposal has engaged in the preparation and execution of this Order in an effort to compromise and settle any and all disputes with the Board without recourse to litigation.
4. Blue Ridge Disposal declares that he has received fair and due process under the Administrative Process Act, Code §§ 9-6.14:11 *et seq.* and the Virginia Waste Management Act, Code §§ 10.1-1400 *et seq.*, and waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to judicial

review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding, or to judicial review of, any action taken by the Board or the Director to enforce this Order.

5. Failure by Blue Ridge Disposal to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
6. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
7. Blue Ridge Disposal shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, or other act of God, war, strike, or other such occurrences. Blue Ridge Disposal must show that the circumstances resulting in the noncompliance were beyond its control and were not due to a lack of good faith or diligence on its part. Blue Ridge Disposal shall notify the Director and the Director of the Department's West Central Regional Office ("WCRO") in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Director and the Director of the Department's West Central Regional Office as soon as reasonable practicable under the circumstances then existing of the commencement of the condition causing or anticipated to cause the delay or noncompliance shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

8. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.
9. This Order shall become effective upon execution by both the Director of the Department of Environmental Quality or his designee and Blue Ridge Disposal. Notwithstanding the

foregoing, Blue Ridge Disposal agrees to be bound by any compliance date that precedes the effective date of this Order.

10. This Order shall continue in effect until:
 - a. Blue Ridge Disposal petitions the Director to terminate the Order after he has completed all requirements of the Order. The Director's determination that Blue Ridge Disposal has satisfied all the requirements of the Order is a “case decision” within the meaning of the Administrative Process Act.
 - b. The Director may terminate this Order in his sole discretion upon 30 days written notice to Blue Ridge Disposal.

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Blue Ridge Disposal from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

11. By the signature of Mr. Paul E. Curtis, owner, Blue Ridge Disposal voluntarily agrees to the issuance of this Order.

Steven A. Dietrich for Date: 6-12-03
Robert G. Burnley, Director
Department of Environmental Quality

Seen and Agreed to:

Paul E. Curtis
Mr. Paul E. Curtis

The foregoing instrument was acknowledged before me on April 23, 2003
By Mr. Paul E. Curtis, Owner, in the County of Montgomery, Commonwealth of Virginia.

Holly E. Hill
Notary Public

My Commission expires: May 31, 2006