COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
SOUTH CENTRAL REGIONAL OFFICE
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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Thomas L. Henderson
Regional Director

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DEQ SCRO

VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION

ORDER BY CONSENT
ISSUED TO
Town of Farmville Sanitary Landfill
Solid Waste Permit Number 195

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1185 and 10.1-1455 between the Virginia Waste Management Board and the Town of Farmville, Virginia for the purpose of resolving certain violations of environmental law and regulations.

SECTION B: Definitions

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

1. "Va. Code" means the Code of Virginia (1950), as amended.

2. "Board" means the Virginia Waste Management Board, a permanent citizen's board 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 Va. 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. "Farmville" or "the Town" means the Town of Farmville located in Prince Edward County, Virginia.

7. "Facility" or "Landfill" means the Town of Farmville Sanitary Landfill, Permit Number 195.

8. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.

9. "SCRO" means the South Central Regional Office of DEQ, located in Lynchburg, Virginia.

10. "Permit" means Solid Waste Facility Permit Number 195 issued on December 15, 1975.

11. "VSWMR" means the Virginia Solid Waste Management Regulations at 9 VAC 20-80-10 *et seq.*

12. "FAR" means the Virginia Financial Assurance Regulations for Solid Waste Disposal, Transfer and Treatment Facilities, 9 VAC 20-70-10 et seq.

13. "NOV" means Notice of Violation.

SECTION C: Findings of Fact and Conclusions of Law

1. On December 15, 1975, Farmville was granted a Permit to operate a Sanitary Landfill by the Virginia Department of Health, predecessor to DEQ.

2. Farmville asserts that the Facility last received wastes on or about September 1990. Under the terms of the Virginia Solid Waste Management Regulations, the Facility should have completed closure within 180 days of the last receipt of waste. In correspondence issued between August 1993 and October 1997, PRO notified Farmville of the requirement to close the Facility under the provisions of the VSWMR.

3. Based on observations made during a January 28, 1999, inspection of the Facility, PRO issued NOV 99-02-PRO-601 to Farmville on February 28, 1999. The NOV cited Farmville for failure to complete certain of the closure provisions of the VSWMR.

4. On September 26, 2000, a Waste Board Consent Order ("2000 Order") between DEQ and Farmville was executed. The 2000 Order required Farmville to conduct closure and post-closure activities at the Facility and to provide for financial assurance for the Facility in accordance with the terms of the VSWMR and the FAR.

5. Physical closure activities at the site were implemented under the 2000 Order; however, the Facility was not formally certified as closed in accordance with the VSWMR.

6. In accordance with 9 VAC 20-80-300.B.3.h of the VSWMR, in 2002, Farmville established Groundwater Protection Standards ("GPS") for the Facility.

7. In late 2003, Farmville first documented exceedances of GPS; accordingly, in 2004, Farmville completed a nature and extent ("N&E") study pursuant to 9 VAC 20-80-300B.3.g of the VSWMR. During performance of the N&E study, Farmville first began to suspect the inadequacy of the Facility's final cover

system. The results of a subsequent assessment of the final cover system indicated that in certain areas, the Facility cap did not meet the minimum VSWMR standards for thickness and permeability.

8. On June 28, 2005, staff of the SCRO inspected the Facility to determine its compliance with the VSWMR. Based on observations made during the inspection, on August 31, 2005, SCRO issued NOV-05-08-SCRO-001 to Farmville citing the following apparent violations of the VSWMR:

   a. Failure to properly close the Facility (9 VAC 20-80-250.E of the VSWMR);
   b. Failure to properly implement landfill gas management requirements at the Facility (9 VAC 20-80-280 of the VSWMR); and,
   c. Failure to implement groundwater corrective action requirements at the Facility (9 VAC 20-80-310 of the VSWMR).

9. Pursuant to 9 VAC 20-80-280 of the VSWMR, in February 2005, Farmville submitted a landfill Gas Management Plan ("GMP") to DEQ for review and approval. Following confirmation in September 2005 that elevated gas levels existed in certain gas probes, pursuant to 9 VAC 20-80-280.E.1 of the VSWMR, in October 2005, Farmville submitted a landfill Gas Remediation Plan ("GRP") to DEQ for review and approval. By letters dated February 23, 2006 and April 18, 2006, DEQ provided comments and/or recommendations on the GMP and GRP to Farmville. On April 24, 2006, DEQ received Farmville's revised GRP for review and approval. The Department transmitted approval of "Town of Farmville Revised Gas Management Plan" and "Town of Farmville Sanitary Landfill Revised Gas Remediation Plan" on May 8, 2006.

10. In July 2005, Farmville submitted to DEQ for review and approval a "2nd Revision Closure Plan and Post-Closure Plan" for the facility pursuant to 9 VAC 20-80-250.E and 9 VAC 20-80-250.F, respectively. At the same time, the Town submitted a "Revised Construction Quality Assurance Plan" for the facility, pursuant to 9 VAC 20-80-250.B.18(a)(1).

11. Pursuant to 9 VAC 20-80-310 of the VSWMR, in September 2005, Farmville submitted a groundwater Corrective Action Plan ("CAP") to DEQ for review and approval. By letter dated March 29, 2006, DEQ provided its Technical Review of the CAP to Farmville, which requested additional consideration be made for specific aspects of the site. The Department requested a revised CAP be submitted within 90 days of this letter. An extension of the deadline was granted to allow for further site investigation and plan revisions. "Town of Farmville Sanitary Landfill Revised Corrective Action Plan" was received on September 5, 2006.

12. On November 6, 2006, representatives of the Town of Farmville met with DEQ staff at the SCRO in Lynchburg to discuss the remaining technical issues to be resolved in the Closure and Post-Closure Plan and the CQA Plan. The Town indicated that these issues would be resolved in a timely manner.

13. The Department received "Town of Farmville Revised Closure and Post-Closure Plan" and "Town of Farmville Revised Construction Quality Assurance Plan" in December, 2006 for review.

14. On January 30, 2007, the Department requested additional revisions to the closure cost estimate and grading notes be submitted by February 13, 2007.

15. The requested revisions were not received by the requested deadline, therefore, on February 23, 2007 an additional request was made with a deadline of March 9, 2007. Farmville has since submitted the required information.

16. The Closure and Post-Closure Plan, as well as the CQA Plan, were approved by the Department on April 5, 2007.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 10.1-1455, orders Farmville, and Farmville agrees:

1. That this Order cancels and supersedes the 2000 Order; and,
2. To perform the actions described in Appendix A of this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Farmville, for good cause shown by Farmville, or on its own motion after notice and opportunity to be heard.

2. This Order only addresses and resolves 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; or (3) taking subsequent action to enforce the Order. This Order shall not affect appropriate enforcement actions by other federal, state, or local regulatory authorities whether or not arising out of the same or similar facts.

3. For purposes of this Order and subsequent actions with respect to this Order, Farmville admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.

4. Farmville declares it has received fair and due process under the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, and the Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any 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 for, or to judicial review of, any action taken by the Board to enforce this Order.

5. Failure by Farmville 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 the 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. Farmville 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, other acts of God, war, strike, or other similar occurrence. Farmville shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Farmville shall notify the DEQ South Central Regional Director verbally and in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such written notice shall set forth:

   a. the reasons for the delay or noncompliance;
   b. the projected duration of any 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.

   Failure to notify the Regional Director verbally within two business days and in writing within five business days of learning of any condition above, which Farmville intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to 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 the Director, or his designee, and Farmville. Notwithstanding the foregoing, Farmville agrees to be bound by any compliance date which precedes the effective date of this Order.

10. This Order shall continue in effect until the Board, the Director, or his designee, terminates the Order in its or his sole discretion upon 30 days written notice to Farmville. **Farmville may petition the Director to terminate the Order not less than 90 days following the date of the certification submitted to DEQ pursuant to Paragraph 7(d) of Appendix A of the Order.** Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Farmville from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

11. By its signature below, Farmville consents to the issuance of this Order.

And it is so ORDERED this 9th day of July, 2007.

Thomas L. Henderson, Regional Director
Department of Environmental Quality

Farmville consents to the issuance of this Order.

By: _____

Date: 5-16-07

Commonwealth of Virginia
City/County of Prince Edward

The foregoing document was signed and acknowledged before me this 16th day of May, 2007, by Gerald J. Spates, who is the
Gerald J. Spates

Town Manager of the Town of Farmville, Virginia on behalf of the Town.

Susan M. Hricko
Notary Public

My commission expires: September 30, 2007

APPENDIX A
SCHEDULE OF COMPLIANCE

Town of Farmville Sanitary Landfill
Solid Waste Permit Number 195

1. Farmville shall perform closure for the landfill areas/units designated as "Main", "North", and "South", in accordance with the Town's approved Closure Plan, and complete closure within six (6) months following the beginning of closure for each area/unit listed above.

2. As approved by the Department on May 8, 2006, or subsequent amendments, Farmville shall implement the GMP and GRP as part of closure.

3. If leachate is detected during the period that the Order remains in effect[1], Farmville shall notify the South Central Regional Office of the DEQ in writing within 5 business days of detection to include the immediate measures taken to contain and prevent discharge to State waters. In addition, a leachate control and monitoring plan that meets the requirements of 9 VAC 20-80-290 shall be submitted for DEQ approval within 90 days of detection. The plan shall state the nature and extent of the problem and the proposed remedy. Farmville shall respond in writing within 30 working days of receiving any notice of deficiency in the leachate control and monitoring plan until such time DEQ approves the plan. Farmville shall implement the plan upon receipt of DEQ's approval.

4. Until such time of the CAP implementation, Farmville shall undertake interim measures necessary to ensure protection of human health and the environment by controlling and preventing migration of pollutants in groundwater and surface water. A report of interim measure activities is due by the 10th day of each month, beginning the first month following the effective date of this Order.

5. Farmville shall respond in writing following receipt of any additional comments and/or notices of deficiency in the CAP, in the timeframe specified in the comment(s), until such time DEQ approves the CAP. Upon its approval by DEQ, Farmville shall implement the CAP in a timely manner according to plan.

6. The post closure care period shall begin on the date that the Department acknowledges proper closure has been performed, in accordance with 9 VAC 20-80-250.E.7.

7. Pursuant to 9 VAC 20-80-250.E.5.d of the VSWMR, following the completion of closure, Farmville shall:

   a. Post one sign at the entrance of the facility notifying all persons of the closing, and providing a notice prohibiting further receipt of waste materials. Further, suitable barriers shall be installed at former accesses to prevent new waste from being deposited;

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[1] Any leachate detected following termination of the Order will be subject to the applicable provisions of the VSWMR.

b. Within 90 days of the posting of closure, submit to the local land recording authority a survey plat prepared by a professional land surveyor registered by the Commonwealth or a person qualified in accordance with Title 54.1 of the Code of Virginia indicating the location and dimensions of landfill disposal areas. Monitoring well locations should be included and identified by the number on the survey plat. The plat filed with the local land recording authority shall contain a note, prominently displayed, which states the owner's or operator's future obligation to restrict disturbance of the site as specified;

c. Record a notation on the deed to the facility property, or on some other instrument which is normally examined during title searches, notifying any potential purchaser of the property that the land has been used to manage solid waste and its use is restricted under 9 VAC 20-80-250.F.4.c of the VSWMR. A copy of the deed notation as recorded shall be filed with the Department; and,

d. Submit to the Department a certification, signed by a registered professional engineer, verifying that closure has been completed in accordance with the requirements of subdivision 5 d (1) through 5 d (3) of 9 VAC 20-80-250.E of the VSWMR (10.a. through 10.c of this Paragraph) and the Facility Closure Plan.

8. Farmville shall demonstrate financial assurance using one of the mechanisms listed under Article 4 (9 VAC 20-70-140) of the FAR. Within 90 days of each of the following events, Farmville shall adjust its financial assurance mechanism (to include cost estimates and supporting documentation submitted to DEQ for approval) in accordance with the FAR:

a. DEQ's approval of the Closure Plan;
b. DEQ's approval of the Post-Closure Plan;
c. DEQ's approval of the CAP; and,
d. DEQ's approval of any leachate control plan submitted pursuant to Paragraph 3 of this Appendix.

9. The Closure Plan, approved April 5, 2007, shall be incorporated into and become enforceable under the Order.

10. This Order shall remain in effect until satisfactory completion of all items listed in this Appendix "A", and upon implementation of Post-Closure care as outlined in items 6 and 7 of this Appendix "A".

11. All correspondence related to this Order, unless otherwise specified, shall be sent to:

Waste Media Enforcement
Department of Environmental Quality
South Central Regional Office
7705 Timberlake Road
Lynchburg, Virginia 24502