



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
PIEDMONT REGIONAL OFFICE

Douglas W. Domenech
Secretary of Natural Resources

4949-A Cox Road, Glen Allen, Virginia 23060
(804) 527-5020 Fax (804) 527-5106
www.deq.virginia.gov

David K. Paylor
Director

Michael P. Murphy
Regional Director

VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO

**RAYMOND L. FIFE AND DINAH H. FIFE
FOR**

**UNPERMITTED LANDFILL, 844 NEWMAN'S NECK ROAD,
HEATHSVILLE, VA**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board and Raymond L. Fife and Dinah H. Fife, regarding an unpermitted landfill located at 844 Newman's Neck Road, Heathsville, VA, for the purpose of resolving violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

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

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
2. "CDD" means construction and demolition debris.
3. "Closure in place" means the activities described by 9 VAC 20-80-210(B).
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. "Facility" or "Landfill" means the unpermitted landfill located at 844 Newman's Neck Road in Northumberland County Virginia, which is owned by Raymond L. Fife and Dinah H. Fife.
7. "Fife" means Mr. Raymond L. Fife and Dinah H. Fife who are "persons" within the meaning of Va. Code § 10.1-1400.
8. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
9. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
10. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
11. "Property" means the 26.69 acre parcel at 844 Newman's Neck Road in Northumberland County, Virginia recorded in the Northumberland County Circuit Court Clerk's Office in Deed Book 511 at page 260, Tax Map No. 26-(1)-1 owned by Mr. Raymond L. Fife and Dinah H. Fife.
12. "Regulations" or "VSWMR" means the Virginia Solid Waste Management Regulations, 9 VAC 20-80-10 *et seq.*
13. "RCA" means a Request for Corrective Action.
14. "Va. Code" means the Code of Virginia (1950), as amended.
15. "VAC" means the Virginia Administrative Code.
16. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 2 (Va. Code §§ 10.1-1408.1 through -1413.1) of the Virginia Waste Management Act addresses Solid Waste Management.

SECTION C: Findings of Fact and Conclusions of Law

1. Fife owns a 26.69 acre parcel at 844 Newman's Neck Road in Northumberland County, Virginia recorded in the Northumberland County Circuit Court Clerk's Office in Deed Book 511 at page 260. The Property is further described as Tax Map No. 26-(1)-1. The Property contains an unpermitted landfill.
2. On October 27, 2009 DEQ staff received notification that solid waste was being disposed of on the Property.

3. On November 6, 2009 DEQ staff inspected the Facility for compliance with the requirements of the Virginia Waste Management Act and the Regulations. Based on the inspection and follow-up information, Department staff made the following observations:
 - a. At the time of the inspection, DEQ staff observed an area approximately 50 yards long and 40 yards wide that contained trash, vegetative waste, waste wood and CDD, some of which had been covered with soil. No permit had been issued by DEQ for the disposal, treatment, or storage of solid waste at this Facility.

Va. Code §10.1-1408.1 and 9 VAC 20-80-90(A) prohibit any person from operating any sanitary landfill or other facility for the disposal, treatment or storage of solid waste without a permit from the director and prohibit any person from allowing waste to be disposed of or otherwise managed on his property without a permit from the director.
4. DEQ staff issued a RCA on November 12, 2009 for the violations listed in paragraph C.3, above. The RCA requested a response to the Department by November 27, 2009. No response was received.
5. On January 29, 2010 Raymond Fife met with DEQ staff to discuss the violations and cleanup of the Facility; Raymond Fife was informed of the Regulations.
6. On June 7, 2010, based on the inspection and follow-up information, the Department issued NOV No. 2010-06-PRO-652 for the violations described in paragraph C. 3, above.
7. On June 17, 2010, DEQ staff met with Raymond Fife again to discuss the violations and Regulations contained in the NOV. Raymond Fife stated that he could not afford to pay for removal of the waste or closure in place of the Facility, and was referred to the DEQ Office of Financial Assurance. Mr. Fife agreed to stop taking waste at the Facility.
8. On September 13, 2010, the Office of Financial Assurance completed its review of the financial information submitted by Fife, and found that Fife can not currently afford to pay any of the costs associated with removal of the waste from the Facility or its closure in place.
9. Based on the results of November 6, 2009 inspection, the January 29, 2010 and June 17, 2010 meetings and the documentation submitted to date, the Board concludes that Fife has violated 9 VAC 20-80-90, as described in paragraph C.3 above.
10. In order for Fife to return to compliance, DEQ staff and Fife have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

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

1. Perform the actions described in Appendix A of this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Fife for good cause shown by Fife, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. 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; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Fife admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Fife consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Fife declares they have received fair and due process under the Administrative Process Act and the Virginia 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 modify, rewrite, amend, or enforce this Order.
6. Failure by Fife 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.
7. 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.
8. Fife 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 such other occurrence. Fife shall show that such circumstances were

beyond his control and not due to a lack of good faith or diligence on its part. Fife shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days 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 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 and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which Fife 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.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Fife. Nevertheless, Fife agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. Fife petitions the Director or his designee to terminate the Order after they have completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - b. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Fife.

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

12. Any plans, reports, schedules or specifications attached hereto or submitted by Fife and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.

13. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

14. By their signature below, Fife voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 8th day of APRIL, 2011.



Michael P. Murphy, Regional Director
Department of Environmental Quality

-----Remainder of Page Intentionally Left Blank-----

Raymond L. Fife voluntarily agrees to the issuance of this Order.

Date: 2-15-11 By: Raymond L. Fife, Owner.
Raymond L. Fife

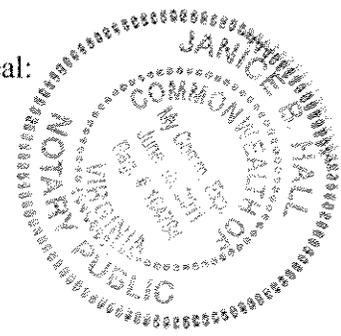
Commonwealth of Virginia
City/County of Westmoreland

The foregoing document was signed and acknowledged before me this 15 day of Feb, 2011, by Raymond L. Fife who is the owner of the Facility.

Jamie B Hall
Notary Public
164794
Registration No.

My commission expires: 6/30/11

Notary seal:



Dinah H. Fife voluntarily agrees to the issuance of this Order.

Date: 2-15-11 By: Dinah H. Fife, Owner.
Dinah H. Fife

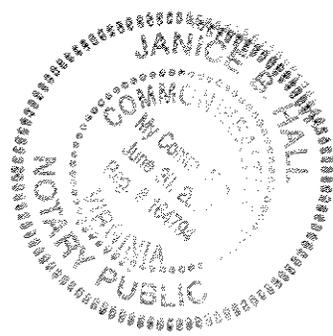
Commonwealth of Virginia
City/County of Westmoreland

The foregoing document was signed and acknowledged before me this 15th day of Feb, 2011, by Dinah H. Fife who is the owner of the Facility.

Janice B Hall
Notary Public
164794
Registration No.

My commission expires: 6/30/11

Notary seal:



**APPENDIX A
SCHEDULE OF COMPLIANCE**

1. Fife shall not dispose of, treat or store solid waste at the Facility without a permit from the Director, nor shall Fife allow waste to be disposed of or otherwise managed at the Facility without a permit from the Director.
2. **No later than April 1, 2011**, Fife shall secure the Property to prevent unauthorized dumping and submit photos of the secured property to the DEQ contact listed below.
3. **No later than April 1, 2011**, Fife shall file a deed notice, to inform potential buyers of the environmental issues at the Facility, with the Clerk of the Circuit Court of Northumberland County. Fife shall send a copy of the filed deed notice to the contact listed below.
4. Fife shall submit all requirements of Appendix A of this Order to:

Gina Pisoni
Enforcement Specialist
VA DEQ – Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060
804-527-5156
804-527-5106 (fax)
Gina.Pisoni@deq.virginia.gov

NOTICE

THIS NOTICE, made on 18th day of January 2011 by Mr. Raymond L. Fife and Ms. Dinah H. Fife, who are the owners of the property hereinafter described, whose mailing address is P.O. Box 38, Edwardsville, Virginia 22456.

WITNESSETH: That Mr. Raymond L. Fife and Ms. Dinah H. Fife are the owners of the following described property to-wit:

844 Newman's Neck Road, Heathsville, Virginia 22473 in Northumberland County
Tax Map Parcel # 26-(1)-1
Recorded at Deed Book 511 at page 260

TAKE NOTICE that the property located at 844 Newman's Neck Road, Heathsville, Virginia in Northumberland County recorded in the Clerk's Office of the Circuit Court for the County of Northumberland in Deed Book 511 at page 260 was used to dispose of trash, vegetative waste, waste wood and construction, demolition, and debris waste, all of which are forms of solid waste, and remains subject to the Virginia Waste Management Act and the Virginia Solid Waste Management Regulations. Disturbance of the property is restricted as specified by the Virginia Solid Waste Management Regulations (See, e.g., 9 VAC 20-80-250.F.4.c). Additional information may be obtained by contacting the Virginia Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia, 23060.

WITNESS the following signature and seal:

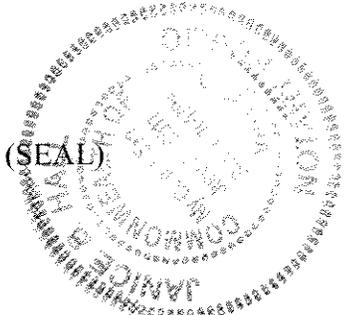
Raymond L. Fife (SEAL)
Raymond L. Fife

COMMONWEALTH OF VIRGINIA
COUNTY/CITY OF Westmoreland

The foregoing Notice dated ¹⁻¹⁸⁻²⁰¹¹ 15th of Feb, 2011 was signed and acknowledged before me, the undersigned Notary Public, by Raymond L. Fife on this 15th day of Feb, 2011.

My commission expires: 6/30/11

Janice B Hall
Notary Public



WITNESS the following signature and seal:

Dinah H. Fife (SEAL)
Dinah H. Fife

COMMONWEALTH OF VIRGINIA
COUNTY/CITY OF Westmoreland

The foregoing Notice dated 1-18-2011 was signed and acknowledged before me, the undersigned Notary Public, by Dinah H. Fife on this 15 day of Feb, 2011.

My commission expires: 6/30/11

Janice B Hall
Notary Public

