



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
VALLEY REGIONAL OFFICE

Molly Joseph Ward
Secretary of Natural Resources

4411 Early Road, P.O. Box 3000, Harrisonburg, Virginia 22801
(540) 574-7800 Fax (540) 574-7878
www.deq.virginia.gov

David K. Paylor
Director

Amy Thatcher Owens
Regional Director

VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO RECYCLE MANAGEMENT OF STANLEY, LLC

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 Recycle Management of Stanley, LLC, regarding the Recycle Management of Stanley, LLC facility for the purpose of resolving certain 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. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
4. "Facility" or "Site" means the Recycle Management of Stanley, LLC facility located at 3426 US Highway 340 Business in Stanley, Virginia.
5. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.

6. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
7. "Recycle Management" means Recycle Management of Stanley, LLC, a limited liability company authorized to do business in Virginia, and its affiliates, partners, and subsidiaries. Recycle Management is a "person" within the meaning of Va. Code § 10.1-1400.
8. "Regulations" or "VSWMR" means the Virginia Solid Waste Management Regulations, 9 VAC 20-81-10 *et seq.*
9. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.
10. "Va. Code" means the Code of Virginia (1950), as amended.
11. "VAC" means the Virginia Administrative Code.
12. "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.
13. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.

SECTION C: Findings of Fact and Conclusions of Law

1. Recycle Management of Stanley, LLC (Recycle Management) operates a metals recycling facility (Facility) located in Stanley, Virginia. Operations at the Facility are subject to the Virginia Waste Management Act and the Regulations. JP Salyards Transportation, LLC was issued VPDES permit number VA0001961 for a wastewater treatment facility that includes a Griffith lagoon.
2. On April 9, 2015, 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 which are listed with the applicable legal requirements:
 - a. Approximately 3,000 waste tires were present in several piles at the facility. Tires were stored outside. The Facility had not received a permit from the Department for the storage of tires onsite.

Title 10.1, Chapter 14, §1418.2(B) of the Virginia Waste Management Act states that "It shall be unlawful for any person to store, dispose of, speculatively accumulate or otherwise place more than 100 waste tires on public or private property, without first having obtained a permit as required by § 10.1-1408.1 or in a manner inconsistent with any local ordinance. No person shall allow others to store, dispose of, speculatively accumulate or otherwise place on his property

more than 100 waste tires, without first having obtained a permit as required by § 10.1-1408.1.”

- b. A pile of solid waste with an estimated volume of more than 650 cubic yards was present on site. This pile was reported to have been generated by recycling operations. This waste was stored outside and appeared to be composed of household waste. The Facility had not received a permit for the disposal, treatment or storage of solid waste onsite.

9 VAC 20-81-40 of the VSWMR states that “A. No person shall operate any sanitary landfill or other facility for the disposal, treatment, or storage of solid waste without a permit from the director.

B. No person shall allow waste to be disposed of or otherwise managed on his property except in accordance with this chapter.”

3. On April 14, 2015, DEQ issued Notice of Violation (NOV) No. 15-04-VRO-005 to Recycle Management for the violations listed in paragraph 2, above.
4. On May 21, 2015, DEQ staff met with Facility representatives who stated that the solid waste observed on site had been removed from vehicles that they were processing; that personnel issues at the Stanley Facility led to the violations and that staff had been replaced. Documentation was provided that verified that all of the waste tires and the solid waste pile had been removed from the site.
5. On June 12, 2015, 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 which are listed with the applicable legal requirements:
 - a. Solid waste composed of degraded biosolids and lime had been removed from the wastewater treatment plant Griffith Lagoon and recently used as fill material along the south side of the property bordering US Highway 340 Business. Facility representatives reported that this material had also been used in the past as fill at the back side of the recycling facility along Wampler Road. The Facility had not received a permit for the disposal, treatment or storage of solid waste onsite. The Facility had not received a permit for the land application of wastewater biosolids onsite.

9 VAC 20-81-40 states that “A. No person shall operate any sanitary landfill or other facility for the disposal, treatment, or storage of solid waste without a permit from the director... D. Any person who violates subsection A, B, or C of this section shall immediately cease the activity of improper management and the treatment, storage, or disposal of any additional wastes and shall initiate such removal, cleanup, or closure in place.”

6. On June 23, 2015, DEQ issued Notice of Violation (NOV) No. 15-06-VRO-004 to Recycle Management for the violations listed in paragraph 5, above.
7. Based on the results of the April 9, 2015 inspection, the May 21, 2015 meeting and the June 12, 2015 inspection, the Board concludes that Recycle Management has violated Title 10.1, Chapter 14, §1418.2.B and 9 VAC 20-81-40(A) and (B) as described in paragraph C(2) and C(5), above.
8. Recycle Management has submitted documentation that verifies that the violations described in paragraph C(2), above, have been corrected.
9. In order for Recycle Management to complete its return to compliance, DEQ staff and representatives of Recycle Management 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 Recycle Management, and Recycle Management agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of **\$7,525.00** within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

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

Recycle Management shall include its Federal Employer Identification Number, 45-4147002, 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). If the Department has to refer collection of moneys due under this Order to the Department of Law, Recycle Management shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Recycle Management for good cause shown by Recycle Management, 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 and in NOV No. 15-04-VRO-005 dated April 14, 2015. 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, Recycle Management admits the jurisdictional allegations, but neither admits nor denies the findings of fact, and conclusions of law contained herein.
4. Recycle Management 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. Recycle Management declares it has 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 Recycle Management 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. Recycle Management 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 unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Recycle Management shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Recycle Management 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 the parties intend 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 and any 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 Recycle Management. Nevertheless, Recycle Management 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. The Director or his designee terminates the Order after Recycle Management has completed all of the requirements of the Order;
 - b. Recycle Management petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Recycle Management.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Recycle Management from its 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 Recycle Management 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. The undersigned representative of Recycle Management certifies that he or she is a responsible official [or officer] authorized to enter into the terms and conditions of this Order and to execute and legally bind Recycle Management to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Recycle Management.

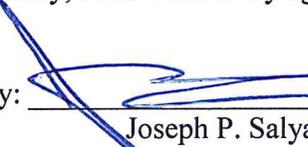
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this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

15. By its signature below, Recycle Management voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 28th day of December, 2015.


Amy T. Owens, Regional Director
Department of Environmental Quality

Recycle Management of Stanley, LLC voluntarily agrees to the issuance of this Order.

Date: 11/16/15 By:  President
Joseph P. Salyards, II Title
Recycle Management of Stanley, LLC

Commonwealth of Virginia
City/County of Harrisonburg

The foregoing document was signed and acknowledged before me this 16th day of NOV, 2015, by JOSEPH P. SALYARDS II who is PRESIDENT of Recycle Management of Stanley, LLC, on behalf of the company.


Notary Public
108395

Registration No.

My commission expires: 6-30-19

Notary seal:



**APPENDIX A
SCHEDULE OF COMPLIANCE**

Waste Characterization

1. Within 30 days of the effective date of this Order, Recycle Management shall obtain the following six grab samples to be analyzed separately at a lab with VELAP accreditation. Mark clearly on the Facility site map the actual location of each sample.

Two separate grab samples separated by a distance of at least ten feet in the area where the sludge was spread.

Two separate grab samples separated by a distance of at least ten feet and within the general area of where the waste sludge was removed from the Griffith Lagoon for use as fill.

Two separate grab samples separated by a distance of at least ten feet on the slope of the Griffith Lagoon where materials were received and deposited from off-site.

Samples shall be analyzed for the following constituents:

- a. Metals (can analyze for total metals)
 - Arsenic
 - Barium
 - Cadmium
 - Chromium
 - Copper
 - Iron
 - Lead
 - Manganese
 - Mercury
 - Nickel
 - Selenium
 - Silver
 - Zinc
- b. Asbestos
- c. PCBs (1242, 1254, 1221, 1232, 1248, 1260 and 1016)

Recycle Management should be aware that this sampling and analysis is ONLY for the evaluation of the situation addressed by this Consent Order. If Recycle Management wishes to sample/analyze additional sludge from Griffith Lagoon for disposal or reuse, they may contact this office for

sampling and analysis guidance.

2. Recycle Management shall desist from any further excavation, removal and land application of sludge from the Griffith lagoon except as authorized by DEQ permit or approval.
3. Within 30 days of sampling, Recycle Management shall submit results of solids testing to DEQ along with the site map showing sampling locations.
4. Should DEQ determine that test results indicate that solids present an environmental risk, or the contaminants present exceed those criteria in the Industrial table 3 (a) of DEQ Division of Land Protection & Revitalization State-Wide Variance Guidance, Memo No. LPR-SW-04-2012, Management and Reuse of Contaminated Media, within 60 days Recycle Management shall excavate the solids and dispose of them at an appropriate permitted waste facility.

Contact

Unless otherwise specified in this Order, Recycle Management shall submit all requirements of Appendix A of this Order to:

Karen Gail Hensley, P.E.
Enforcement Team Leader
VA DEQ –Valley Regional Office
4411 Early Road
P.O. Box 3000
Harrisonburg, VA 22801
(540) 574-7821 - phone
(540) 574-7878 - fax
karen.hensley@deq.virginia.gov