



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

SOUTHWEST REGIONAL OFFICE

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VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO VP Family Holdings, LLC AND Sterling Hardware, LLC EPA ID No. VAD000020115

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 VP Family Holdings, LLC and Sterling Hardware, LLC, regarding the former Sterling Casket Hardware Company Facility, for the purpose of ensuring compliance with 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. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
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, as described in Va. Code § 10.1-1185.
5. "Facility" or "Site" means the Facility located at 14430 Enterprise Road in Washington County, Virginia. The Facility is owned by VP Family Holdings, LLC and operated by Sterling Hardware, LLC.

6. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.
7. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
8. "LQG" means large quantity generator, a hazardous waste generator that generates 1000 kilograms (2200 pounds) or greater of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(a)-(b) and (g)-(l).
9. "Operator" means Sterling Hardware, LLC, the operator of the Facility.
10. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
11. "Owner" means VP Family Holdings, LLC, the owner of the Facility.
12. "Regulations" or "VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effected date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.
13. "Sterling" means Sterling Hardware, LLC, the operator of the Facility, a limited liability company authorized to do business in Virginia and its members, affiliates, partners, subsidiaries, and parents. Sterling Hardware, LLC is a "person" within the meaning of Va. Code § 10.1-1400.
14. "SWRO" means the Southwest Regional Office of DEQ, located in Abingdon, Virginia.
15. "Va. Code" means the Code of Virginia (1950), as amended.
16. "VAC" means the Virginia Administrative Code.
17. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.
18. "VP Family Holdings" means "VP Family Holdings, LLC", the owner of the Facility, a limited liability company authorized to do business in Virginia and its members, affiliates, partners, subsidiaries, and parents. VP Family Holdings, LLC is a "person" within the meaning of Va. Code § 10.1-1400.

SECTION C: Findings of Fact and Conclusions of Law

1. On September 30, 1994, the Board issued Sterling Casket Hardware Company a Consent Order regarding post-closure care for four hazardous waste surface impoundments capped as two landfills (units). Each of the units was certified closed on May 31, 1989. The post-closure care period extends until May 31, 2019. The order was necessary because, at that time, Sterling Casket Hardware Company could not meet its obligation for financial assurance as prescribed by 40 CFR §264 Subpart H. The Order required that Sterling Casket Hardware Company follow a 20-year payment schedule into a trust fund as an alternative method of providing financial assurance required for post-closure care. Appendix A of the 1994 Order incorporated the post-closure care plan for the Facility.
2. VP Family Holdings purchased the property in Washington County, Virginia on June 30, 2010. Sterling Hardware, LLC operates the Facility. The Facility manufactures a variety of casket hardware and ornaments. Operations at the Facility are subject to the Virginia Waste Management Act and the Regulations.
3. On July 22, 2010, Department staff met with a representative of both VP Family Holdings and Sterling to discuss the existing Consent Order, and the issues of post-closure care and financial assurance.
4. Sterling Casket Hardware Company submitted the original RCRA Subtitle C Site Identification Form that gave notice of regulated waste activity at the Facility. EPA ID No. VAD000020115 was issued to Sterling Casket Hardware Company for the Facility. In a RCRA Subtitle C Site Identification Form received March 18, 2011, VP Family Holdings gave Subsequent Notification as owner of the Facility.
5. A revised cost estimate for the remaining eight years of post-closure care, submitted by Sterling Hardware, LLC, was received by DEQ on April 6, 2011.
6. A new post-closure care plan for the Facility, which includes the requirement that financial assurance for post-closure care be established, is incorporated by reference in 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 VP Family Holdings, LLC and Sterling Hardware, LLC, and both VP Family Holdings, LLC and Sterling Hardware, LLC agree to:

1. Perform the post-closure care actions in the post-closure care plan referenced in Appendix A of this Order; and
2. Meet the financial assurance obligation for post-closure care as detailed in the post-closure care plan referenced in Appendix A of this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of VP Family Holdings and Sterling for good cause shown by VP Family Holdings and Sterling, 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, VP Family Holdings and Sterling admit the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. VP Family Holdings and Sterling consent to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. VP Family Holdings and Sterling declare that they have received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and they waive 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 VP Family Holdings or Sterling 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. VP Family Holdings and Sterling 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. VP Family Holdings and Sterling shall show that such circumstances were beyond their control and not due to a lack of good faith or diligence on their part. VP Family Holdings and Sterling 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 VP Family Holdings and Sterling 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, 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 VP Family Holdings and Sterling. Nevertheless, VP Family Holdings, LLC and Sterling Hardware, LLC agree to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. VP Family Holdings and Sterling petition 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 VP Family Holdings and Sterling.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve VP Family Holdings and Sterling 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 VP Family Holdings and Sterling 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 representatives of VP Family Holdings and Sterling certify that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind VP Family Holdings and Sterling to this document. Any documents to be submitted pursuant to this Order shall also be submitted by responsible officials of VP Family Holdings and Sterling.
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 their signatures below, VP Family Holdings and Sterling voluntarily agree to the issuance of this Order.

And it is so ORDERED this 1st day of September, 2011.



Dallas R. Sizemore, Regional Director
Department of Environmental Quality

VP Family Holdings, LLC voluntarily agrees to the issuance of this Order.

Date: 7/22/2011 By: Joel P. VerPlank, MANAGER
(Person) (Title)
VP Family Holdings, LLC

STATE OF TENNESSEE
~~Commonwealth of Virginia~~

City/County of Loretto/Tennessee

The foregoing document was signed and acknowledged before me this 22 day of
July, 2011, by Joel P. VerPlank who is
manager of VP Family Holdings, LLC, on behalf of the company.

Notary seal:



Sandy Williams
Notary Public
105518476 BCM-09
Registration No.

My commission expires: 05-26-2015

Sterling Hardware, LLC voluntarily agrees to the issuance of this Order.

Date: 7/25/11 By: Larry J. Miller Mgr.
(Person) (Title) Sr.
Sterling Hardware, LLC

STATE OF INDIANA
~~Commonwealth of Virginia~~

City/County of Wells

The foregoing document was signed and acknowledged before me this 25 day of
July, 2011, by Larry Miller who is
Mgr. of Sterling Hardware, LLC, on behalf of the company.

Notary seal:

Debra Milholland
Notary Public



Registration No.

My commission expires: June 30, 17

APPENDIX A SCHEDULE OF COMPLIANCE

1. VP Family Holdings, LLC and Sterling Hardware, LLC shall respond with any comments to the draft post-closure care plan for the Facility within 30 days of receipt of the draft plan from DEQ.

2. Upon approval by DEQ, VP Family Holdings, LLC and Sterling Hardware, LLC shall comply with the post-closure care plan for the Facility, which is enforceable under this Order. VP Family Holdings, LLC and Sterling Hardware, LLC shall not alter, amend, or change the post-closure care plan without prior review and approval by DEQ. If DEQ reviews and approves an amendment to the post-closure care plan for the Facility, VP Family Holdings, LLC and Sterling Hardware, LLC shall comply with the amended post-closure care plan, which becomes enforceable under this Order.