COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
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VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
RWG5 LLC
FOR
DISPOSAL & RECYCLING SERVICES OF LUNENBURG
Solid Waste Permit No. SWP544

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 RWG5 LLC, regarding Disposal & Recycling Services of Lunenburg, for the purpose of resolving violations of the Virginia Waste Management Act and the applicable permit and 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. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.

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 "Landfill" means Disposal & Recycling Services of Lunenburg, located at 45 Landfill Road, State Route 659, in Lunenburg, Virginia, which is owned and operated by RWG5 LLC, a subsidiary of Container First Services.

6. "RWG5" means RWG5 LLC, a limited liability company authorized to do business in Virginia and its members, affiliates, partners, and subsidiaries. RWG5 is a "person" within the meaning of Va. Code § 10.1-1400.

7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.

8. "Order" means this document, also known as a "Consent Order" or "Order by Consent."

9. "Permit" means Solid Waste Permit (SWP) No. SWP544, which was issued under the Virginia Waste Management Act and the Regulations to Lunenburg County on November 20, 1992. RWG5 LLC purchased the Lunenburg County sanitary landfill permitted under Permit No. SWP544 and assumed the daily operations of the Facility on February 25, 2013.

10. "Regulations" or "VSWMR" means the Virginia Solid Waste Management Regulations, 9 VAC 20-81-10 *et seq.*

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

12. "VAC" means the Virginia Administrative Code.

13. "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. On November 20, 1992, Lunenburg County was granted a permit to operate a sanitary landfill by Virginia Department of Waste Management, predecessor-in-interest to the DEQ.

2. The Facility has been operated as a sanitary landfill since the Permit was issued. Operations at the Facility are subject to the Virginia Waste Management Act, the Regulations, and the Permit.

3. RWG5 purchased the Lunenburg County sanitary landfill permitted under the Permit and assumed the daily operations of the Facility on February 25, 2013.

4. On December 4, 2013, Department staff inspected the Facility for compliance with the requirements of the Virginia Waste Management Act, the Regulations and the Permit.

Based on the inspection and follow-up information, Department staff made the following observations:

a. The active working face was contiguous with a large area of exposed solid waste with no daily or intermediate soil cover.
b. The exposed solid waste was located on a side slope and extended from the top grade of the slope to the toe of the slope of the active cell.
c. The dimensions of the exposed solid waste appeared to be equivalent in volume to the amount of solid waste received over several days and appeared to far exceed the volume of waste received in the early morning hours of December 4, 2013.
d. A review of Department files indicated that RWG5 did not report to the Department its failure to provide daily or intermediate soil cover.

5. On December 6, 2013, Department staff inspected the Facility, prior to any solid waste being received and placed on the working face, for compliance with the requirements of the Virginia Waste Management Act, the Regulations and the Permit. Based on the inspection and follow-up information, Department staff made the following observations:

   a. The active working face was contiguous with a large area of exposed solid waste with no daily or intermediate soil cover.
   b. The exposed solid waste was located on a side slope and extended from the top grade of the slope to the toe of the slope of the active cell.
   c. The dimensions of the exposed solid waste appeared to be equivalent in volume to the amount of solid waste received over several days.
   d. A review of Department files indicated that RWG5 did not report to the Department its failure to provide daily or intermediate soil cover.

6. 9 VAC 20-81-140 and 140(B)(2) require that the working face to be confined to the smallest area practical and size to be determined by the tipping demand for unloading.

7. 9 VAC 20-81-140(B)(1)(c) requires that daily cover or an approved alternative daily cover to be applied at the end of each operations day or more frequently if conditions warrant. Furthermore, a minimum three-day stockpile of acceptable cover material is to be maintained at the working face and additional cover material is to be readily available.

8. 9 VAC 20-81-530(C)(3) requires that a permittee to report to the Department any noncompliance or unusual condition that may endanger health or the environment. The report shall be made orally within 24 hours and in writing within five days from the time the permittee becomes aware of the noncompliance.

9. On December 18, 2013, based on the inspections and follow-up information, the Department issued Notice of Violation No. NOV-13-12-BRRO-005 to Container First Services, the parent company of RWG5 LLC for the violations described in paragraphs C(4) through C(8), above.

10. On December 19, 2013, RWG5 submitted a written response (e-mail) to the NOV and requested a meeting to discuss the NOV.

11. On January 8, 2014, Department staff conducted an inspection of the Facility and confirmed that RWG5 had taken actions to correct the violations identified in the NOV.

12. On January 10, 2014, Department staff met with representatives of RWG5 to discuss the violations.

13. As a follow-up to the meeting, RWG5 submitted a detailed report of site operations undertaken at the Facility by RWG5 since assuming daily operations at the Facility, documentation supporting the need to re-shape the Facility and the re-shaping activities performed by RWG5 to date.

14. Based on the results of the December 4, 2013 and December 6, 2013 inspections and the January 10, 2014 meeting, the Board concludes that RWG5 has violated 9 VAC 20-81-140 and 140(B)(2), 9 VAC 20-81-140(B)(1)(c), and 9 VAC 20-81-530(C)(3) , as described in paragraphs C(4) through C(8), above.

15. RWG5 has submitted documentation that verifies and DEQ staff inspected the Facility on January 9, 2014 and verified that the violations described in paragraphs C(4) through C(8), above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders RWG5, and RWG5 agrees to pay a civil charge of $13,500 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

RWG5 shall include its Federal Employer Identification Number (FEIN) 45-5489099 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, RWG5 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 RWG5 for good cause shown by RWG5, 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. NOV-13-12-BRRO-005 dated December 18, 2013. 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, RWG5 admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. RWG5 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. RWG5 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 RWG5to 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. RWG5 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. RWG5 shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. RWG5 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 RWG5. Nevertheless, RWG5agrees 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 RWG5has completed all of the requirements of the Order;

    b. RWG5 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 RWG5.

    Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve RWG5from 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 RWG5and 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 RWG5 certifies 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 RWG5 to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of RWG5.

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, RWG5 LLC voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 27th day of May, 2014.

Robert J. Weld, Regional Director
Department of Environmental Quality

RWG5 LLC voluntarily agrees to the issuance of this Order.

Date: 4/15/14 By: _____, President
Rob Guidry
RWG5 LLC

Commonwealth of Virginia
City/County of Roanoke

The foregoing document was signed and acknowledged before me this 15th day of April, 2014, by Rob Guidry who is President of RWG5 LLC, on behalf of the company.

Cathy D. Kibler
Notary Public

361784
Registration No.

My commission expires: 8/31/17

Notary seal:

CATHY D. KIBLER
NOTARY PUBLIC
REG. #361784
MY COMMISSION EXPIRES 8/31/2017
COMMONWEALTH OF VIRGINIA