



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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Robert G. Burnley
Director

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Piedmont Regional Director

WASTE MANAGEMENT BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO VIRGINIA UNION UNIVERSITY EPA ID No. VAR000015081

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Waste Management Board and Virginia Union University, for the purpose of resolving certain violations of environmental law and/or 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 collegial body 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. "VUU" means Virginia Union University, an academic university in Richmond, Virginia.
7. "Facility" means the Virginia Union University located at 1500 North Lombardy Street in Richmond, Virginia.
8. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. "VHWMR" means the Virginia Hazardous Waste Management Regulations 9 VAC 20-60-12 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

1. VUU is a large quantity generator of hazardous waste in Richmond, Virginia.
2. On July 7, 16, and 17, 2003, DEQ conducted an inspection of VUU. Based upon the observations during the inspections, DEQ issued Notice of Violation (NOV) No. 2003-08-PRO-601 on August 6, 2003 for violations of hazardous waste management; unpermitted treatment of hazardous waste: the contingency plan; training; and record keeping requirements. Leaking and unlabeled containers were noted in the drums when the hazardous waste was returned to Ellison Hall and on the shelves in the Science Building (Ellison Hall). The specific citations included the following:
 - a) Failure to manage hazardous waste to prevent the hazardous waste from being transported and acquired by a small quantity generator. A small quantity generator is not permitted to transport, store, or dispose of hazardous waste. ((40 CFR 262.11 ref by 9 (VAC 20-60-262))
 - b) Exceedence of the 90 day storage limit of hazardous waste and failure to have a manifest for the shipment of hazardous waste to an unpermitted small quantity generator. ((40 CFR 262.34 ref by 9 VAC 20-60-262))
 - c) Failure to obtain a permit as a hazardous waste storage facility and failure to properly manage hazardous waste. ((9 VAC 20-60-420.E.; 9 VAC 20-60-450.B.; 40 CFR 262.20(a) ref by 9 VAC 20-60-262; & 40 CFR 265.14(a).))
 - d) Failure to keep copies of all manifests for three years. (40 CFR 262.40(a) ref by 9 VAC 20-60-262))
 - e) Failure to train employees in the handling of hazardous waste and emergency procedures. (40 CFR 262.34 (d)(5)(iii) ref by (9 VAC

20-60-262)) (40 CFR 265.16(a)(1) ref by 9 VAC 20-60-265)) (40 CFR 265.16(a)(1) ref by 9 VAC 20-60-265))

- f) Failure to label drums containing hazardous waste. (40 CFR 262.34(a)(2))
 - g) Failure to have a written contingency plan and an on-site emergency coordinator. (40 CFR 265.51 through 40 CFR 265.56)
 - h) Treatment of hazardous waste without a permit. (40 CFR 268.7(a)(5) & 40 CFR 270.1(c))
 - i) Failure to keep hazardous waste containers closed. (40 CFR 265.173(a))
 - j) Failure to establish and conduct weekly inspections in a <90 day accumulation area. (40 CFR 265.174) and 9 VAC 20-60-262 B(4).
 - k) Failure to identify incompatible or reactive situations. (40 CFR 265.177)
3. On July 28, 2003, DEQ issued VUU a temporary emergency permit to treat hazardous waste under 9 VAC 20-60-270.61 and 40 CFR 270.61. ("Permit"). VUU informed DEQ that there was no money for the permit.
 4. On August 13, 2003, the facility met with the Department to discuss the above violations. During this meeting the facility said they were considering purchasing a Fourier Transform Infrared Spectroscopy (FTIR) instrument to determine what was in the hazardous waste containers. VUU informed DEQ that money would not be available for the FTIR until October 2003. VUU was given until December 31, 2003 to purchase the FTIR, train its operators and complete identification of the hazardous waste. VUU subsequently changed its mind and contracted with a consultant firm to have the hazardous waste properly identified and disposed. During this meeting, the Department agreed to postpone completion of this Consent Order until an approvable plan to address the decontamination of the area which stored the hazardous waste in Ellison Hall could be developed.
 5. A number of meetings and phone conversations occurred since the initial meeting on August 13, 2003, which focused on bringing the Facility back into compliance. Part of this effort resulted in VUU reporting 98% of the hazardous waste identified and removed by November 5, 2003.
 6. On December 2, 2003, VUU applied for a second temporary emergency permit to treat the remaining hazardous waste for safe shipment to a disposal facility.

7. On December 5, 2003, the Department agreed to accept immediate payment of \$1,330 for the two temporary emergency treatment permits and to include payment of the \$2,660 permit balance plus the public notice costs as part of this Order.
8. The second temporary emergency permit was issued on December 17, 2003.
9. In a letter dated January 14, 2004, the Department was notified that the remaining 2% of the hazardous waste was treated and properly disposed of on December 19, 2003.
10. On May 6, 2004, the Department received the payment balance for the two temporary emergency treatment permits and for the public notice.
11. On July 1, 2005, the Department approved VUU's Decontamination and Assessment Plan for the decontamination of the area in Ellison Hall which stored hazardous waste.
12. On May 4, 2005, DEQ conducted an inspection of VUU and found that the School had hired a new laboratorian and who had not received hazardous waste training or that her job position reflected her duties managing hazardous waste. The inspection also noted that the School did not have documentation regarding the management of expired fluorescent tubes. In addition there does not appear that the Department was notified of a hazardous waste accumulation area for the physical plant.
13. On July 26, 2005, a Notice of Violation (2005-07-PRO-601) was issued for the above violations resulting from the May 4, 2005 inspection.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1455(F), orders VUU and VUU agrees to perform the actions described in Appendix A of this Order. In addition, the Board orders VUU and VUU agrees to pay a civil charge of \$8,400 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 payable to the "Treasurer of Virginia" and shall be delivered to:

Virginia Department of Environmental Quality
Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

Either on a transmittal letter or as a notation on the check, VUU shall include its Federal Identification Number.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of VUU for good cause shown by VUU, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notices of Violation issued to VUU by DEQ on August 6, 2003 and July 26, 2005. 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 preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, VUU admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. VUU 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. VUU 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.
6. Failure by VUU 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. VUU 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. VUU shall show

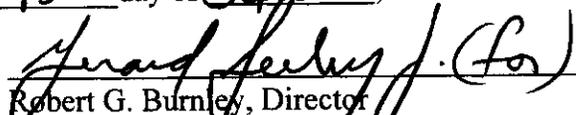
that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. VUU shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such 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 within 24 hours 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.

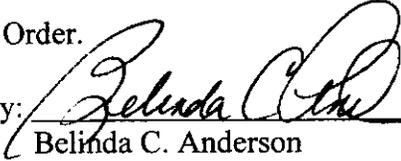
9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and VUU. Notwithstanding the foregoing, VUU agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to VUU. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve VUU from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, VUU voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 13th day of September, 2005.


Robert G. Burnley, Director
Department of Environmental Quality

VUU voluntarily agrees to the issuance of this Order.

Date: Aug. 5, 2005

By: 
Belinda C. Anderson
President

Commonwealth of Virginia

City/County of Richmond

The foregoing document was signed and acknowledged before me this 5th day of August, 2005, by Belinda C. Anderson, who is
(Name)

President
(Title) of VUU, on behalf of the University.


Notary Public

My commission expires: July 31, 2006

APPENDIX A

SCHEDULE OF COMPLIANCE

VIRGINIA UNION UNIVERSITY

Virginia Union University shall:

1. Virginia Union University shall not treat, store, or dispose of hazardous waste at its facility in Richmond, Virginia, nor at any other facility owned, leased, or otherwise controlled by Virginia Union University within the Commonwealth, except as specifically provided in the VHWMR, unless Virginia Union University has applied for and been granted a hazardous waste management facility under 9 VAC 20-60-970 and -980, or has been granted an temporary emergency permit under 9 VAC 20-60-1050.A. for such activity.
2. Virginia Union University shall properly classify all waste at its facility and appropriately manage hazardous waste as either characteristic or listed.
3. Virginia Union University shall complete decontamination of the Facility in accordance with the procedures and schedule in the approved decontamination plan. In no event shall decontamination of the areas in the approved Decontamination and Assessment Plan be completed later than August 25, 2005.
4. Virginia Union University shall notify DEQ in writing within seven days of completion when all requirements of the approved Decontamination and Assessment Plan have been completed.
5. Virginia Union University shall notify DEQ in writing within 15 days of issuance of this Order written notification of a hazardous waste accumulation area for the physical plant.
6. Virginia Union University shall provide DEQ a copy of their plans and procedures to manage expired fluorescent tubes by August 30, 2005 as required by 40 CFR 262.11, as referenced by 9 VAC 20-60-262.
7. Virginia Union University shall provide hazardous waste training by October 15, 2005 to all employees having hazardous waste responsibilities as required under 40 CFR 265.16(a)(1), as referenced by 9 VAC 20-60-262. In addition individuals having hazardous waste responsibilities shall have their job descriptions reflect their hazardous waste duties by October 15, 2005, as required by 40 CFR 265.16(d), as referenced by 9 VAC 20-60-265.
8. Unless otherwise notified, all documents pertaining to the decontamination required by the approved Decontamination and Assessment Plan shall be submitted to:

Vernon C. Williams
VADEQ 4949-A Cox Road
Glen Allen, VA 23060