COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
TIDEWATER REGIONAL OFFICE
5636 Southern Boulevard, Virginia Beach, Virginia 23462
(757) 518-2000 Fax (757) 518-2009
www.deq.virginia.gov

Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

Maria R. Nold
Regional Director

VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
The "A" Corporation

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 The "A" Corporation for the purpose of resolving certain violations of the Virginia Waste Management Act and the Virginia Solid Waste Management 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. "EC&C" means The "A" Corporation, doing business as EC&C, a corporation authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. EC&C is a 'person' within the meaning of Va. Code § 10.1-1400.

5. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.

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

7. "Permit" means the written permission of the Director to own, operate or construct a solid waste management facility.

8. "Permit-by-Rule" or "PBR" is a provision of the Regulations stating a facility or activity is deemed to have a permit if it meets the requirements of the Regulations. Unless the owner or operator of a transfer station, materials recovery, energy recovery, thermal incineration, incineration, compost facility or waste pile chooses to apply for and receive a full permit pursuant to the Regulations, the owner or operator shall be deemed to have a solid waste permit if the conditions of the Regulations are met.

9. "RACM" means Regulated Asbestos-Containing Materials, as defined in 9 VAC 20-81-620 and 40 CFR Part 61 Subpart M.

10. "Regulations" or "VSWMR" means the Virginia Solid Waste Management Regulations, 9 VAC20-80-10 *et seq.*

11. "Solid Waste" means any of those materials defined as 'solid waste' in 9 VAC 20-80-140 *et seq.*

12. "Solid Waste Management Facility" means a site used for planned treating, storing, or disposing of solid waste

13. "Transfer Station" means any solid waste storage or collection facility at which solid waste is transferred from collection vehicles to haulage vehicles for transportation to a central solid waste management facility for disposal, incineration, or resource recovery.

14. "TRO" means the Tidewater Regional Office of DEQ, located in Virginia Beach, 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 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. EC&C is a waste consulting and asbestos management company located at 4434 Gulls Quay in Virginia Beach, Virginia.

2. On February 7, 2013 and May 2, 2013, Department staff inspected the EC&C facilities located at 5500 Bainbridge Boulevard in Chesapeake, Virginia ("Bainbridge Facility"), 2352 Windway Lane in Virginia Beach, Virginia ("Windway Facility") and 2508 South Military Highway in Chesapeake, Virginia ("Military 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. Bags of RACM stored at the Bainbridge Facility and Windway Facility did not have labels containing the generator's name and the location at which the RACM was generated.
b. The bags of RACM stored at the Bainbridge Facility, the Windway Facility and the Military Facility were generated at multiple sites, were placed in collection vehicles, transported to the facilities and were transferred from the collection vehicles to the facilities for storage. The bags of RACM were transported from the facilities to the King and Queen Landfill, a permitted solid waste landfill (Solid Waste Permit No. 554) located in Little Plymouth, Virginia that is authorized to accept RACM.

3. 40 CFR §61.150(a)(1)(v) (Subpart M) incorporated under 9 VAC 20-81-620(B) requires RACM to be transported off the facility site to be labeled with the name of the waste generator and the location at which the waste was generated.

4. §10.1-1408.1 and 9 VAC 20-81-40 require a permit for the disposal, treatment or storage of nonhazardous solid waste.

5. On June 14, 2013, based on the inspections and follow-up information, the Department issued a Notice of Violation to EC&C for the violations described in paragraphs C(2) through C(4), above.

6. On May 2, 2013, DEQ met with representatives of EC&C to discuss the violations.

7. Based on the results of the February 7, 2013 and May 2, 2013 inspections, and the May 2, 2013 meeting with EC&C representatives, the Board concludes that EC&C has violated the Regulations as described in paragraph C(2) through C(4) above.

8. Documentation submitted by EC&C and the May 2, 2013 inspection verify that the violations described in paragraphs C(2) through C(4), above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it pursuant to Va. Code § 10.1-1455, the Board orders EC&C, and EC&C agrees to 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 EC&C for good cause shown by EC&C, 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, EC&C admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

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

b) EC&C 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 EC&C.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve EC&C 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 EC&C 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 EC&C 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 EC&C to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of EC&C.

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, EC&C voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 8th day of August, 2014.

Regional Director
Department of Environmental Quality

The "A" Corporation voluntarily agrees to the issuance of this Order.

Date: 8th By: [signature] (Person) Sec/Treas (Title)

of The "A" Corporation.

Commonwealth of Virginia
City/County of Virginia Beach
The foregoing document was signed and acknowledged before me this 8 day of August, 2014, by Billy J. Avery, who is Secretary/Treasurer of The "A" Corporation on behalf of the company.

Cynthia Cooke
Notary Public

7013740
Registration No.

My commission expires: 12/31/14

Notary Seal:

APPENDIX A
SCHEDULE OF COMPLIANCE

EC&C shall:

1. By October 1, 2014, submit to DEQ for review and approval an approvable Corrective Action Plan and Schedule ("CAP") to prevent reoccurrence of the violations described in paragraphs C(2) through C(4), above.

2. Implement the CAP within 30 days of approval by DEQ.

3. Mail all submittals and reports required by this Appendix A to:

   Regional Director
   DEQ, Tidewater Regional Office
   5636 Southern Blvd.
   Virginia Beach, VA 23462