COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
TIDEWATER REGIONAL OFFICE
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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Francis L. Daniel
Regional Director

VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO

York County

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§10.1-1182 *et seq.*, 10.1-1402, 10.1-1405, and 10.1-1455 between the Virginia Waste Management Board and York County for the purpose of resolving certain violations of environmental law and 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 Va. 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.

8. "Facility" means the York County Landfill No. 2, Solid Waste Permit #298.

7. "Order" means this document, also known as a consent order.

8. "TRO" means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.

9. "Regulations" means the Virginia Solid Waste Management Regulations, 9 VAC 20-80-10 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

1. York County owns and operates the Facility, which is a closed sanitary landfill located on Goodwin Neck Road in Yorktown, Virginia. York County was issued Solid Waste Permit #298 by the Virginia Department of Health on May 15, 1980. York County completed closure and commenced post-closure care in accordance with the Regulations on December 1, 1998, confirmed by DEQ letter dated January 22, 1999.

2. On December 29, 2006, DEQ compliance staff conducted an inspection and subsequent file review at the Facility. The file review revealed that York County did not perform post-closure quarterly landfill gas monitoring in 2006 at the Facility and that there was missing landfill gas monitoring data in years before 2006: 2001 (one quarter); 2002 (two quarters); 2003 (two quarters); 2004 (one quarter); and 2005 (two quarters), indicating that landfill gas monitoring had not been conducted at the Facility as required by the Regulations.

3. The file review also revealed that of the data available, the following information required during landfill gas monitoring at the Facility was not documented in the records: documentation of time, barometric pressure, atmospheric temperature, general weather conditions, probe pressures, names of sampling personnel, apparatus utilized and the description of the methods used to monitor the landfill gas.

4. 9 VAC 20-80-280.A.2 of the Regulations requires written authorization from the Department to discontinue post-closure landfill gas monitoring. A review of Department files did not find written authorization from the Department for York County to discontinue post-closure landfill gas monitoring at the Facility.

5. 9 VAC 20-80-F.1.d of the Regulations states that following closure of all disposal units, the operator or owner shall conduct post-closure care which includes maintaining and operating the gas monitoring system. 9 VAC 20-80-280.C of the Regulations requires the Facility to monitor landfill gas quarterly. York County violated the Regulations by not conducting quarterly landfill gas monitoring for twelve (12) quarterly monitoring periods since 2001, including all four quarters of 2006 at the Facility.

6. 9 VAC 20-80-280.D of the Regulations requires recordkeeping of atmospheric and landfill gas monitoring conditions while conducting the landfill gas monitoring to include documentation of date, time, barometric pressure, atmospheric temperatures, general weather conditions, probe pressures, names of sampling personnel, apparatus utilized and the description of the methods used to monitor the landfill gas. The records provided by York County did not include these documentations. York County violated the Regulations by not documenting the atmospheric and landfill gas monitoring conditions while conducting landfill gas monitoring at the Facility.

7. DEQ issued York County a Notice of Violation on February 16, 2007 advising of the above facts and applicable regulatory and statutory citations.

8. In a meeting with York County on March 16, 2007, York County representatives asserted that post-closure landfill gas monitoring and required documentation of atmospheric and landfill gas monitoring conditions at the Facility have been conducted in 2007 and will continue for the duration of the post-closure period.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1455, orders York County, and York County voluntarily agrees, to pay a civil charge of $8,950.00 within 30 days of the effective date of this Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia," shall indicate York County's Federal Identification Number, and shall be sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of York County for good cause shown by York County 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 Notice of Violation issued to York County by DEQ on February 16, 2007. 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 the purposes of this Order and subsequent actions with respect to this Order, York County admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.

4. York County 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. York County declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, 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 enforce this Order.

6. Failure by York County 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. York County 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. York County shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. York County shall notify the TRO 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 TRO 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 York County. Notwithstanding the foregoing, York County 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 York County. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve York County 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, York County voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of _____, 2007.

_____
Francis L. Daniel

York County voluntarily agrees to the issuance of this Order.

By: _____

Date: 6/29/07

Commonwealth of Virginia
~~City~~/County of YORK

The foregoing document was signed and acknowledged before me this 29th day of JUNE (month), 2007, by JOHN HUDGINS (name), who is DIRECTOR (title) of York County, on behalf of York County.
ENVIRONMENTAL & DEVELOPMENT SERVICES

_____
Notary Public

My commission expires: SEPTEMBER 30, 2008
NOTARY REGISTRATION NO. 238306