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COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
West Central Regional Office
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L. Preston Bryant, Jr
Secretary of Natural Resources

David K. Paylor
Director

Steven A. Dietrich
Regional Director

COMMONWEALTH OF VIRGINIA
WASTE MANAGEMENT BOARD
CONSENT ORDER ISSUED TO
MR. REGINALD L. GINTER
AND
MRS. SANDRA L. GINTER

Section A: Purpose

This is a Consent Order issued under the authority of § 10.1-1182, 10.1-1184, and 10.1-1455(G) of the Code of Virginia (1950), as amended, by the Virginia Waste Management Waste Board to Mr. Reginald L. Ginter and Mrs. Sandra L. Ginter to resolve certain violations of environmental laws and/or regulations.

Section B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

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

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

7. "The Ginters" means Mr. Reginald L. Ginter and Mrs. Sandra L. Ginter, individuals, and joint owners of the property located at 1185 Ildewood Road, Hardy, Virginia, 24101.

8. "Site" means the property located at 1185 Ildewood Road, Hardy, Virginia and listed as parcel 02601 on tax map 01300 and owned by the Ginters.

9. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.

Section C: Findings of Fact and Conclusions of Law

1. The Ginters have disposed of various "solid waste" as that term is defined in Va. Code 10.1-1400. Most of the solid waste disposed is wood waste from land clearing activities generated off-site.

2. The Ginters do not have a permit from DEQ to dispose of solid waste at the Site in apparent violation of § 10.1-1408.1.A - Operation of a facility for the disposal, treatment, or storage of non-hazardous solid waste without a permit from the Director or the Department as required by 9 VAC 20-80-90 relating to unpermitted facilities as follows: "No person shall operate any sanitary landfill or other facility for the disposal, treatment, or storage of solid waste without a permit from the director. No person may allow waste to be disposed of on his property without a permit."

3. On November 3, 2005, DEQ WCRO Waste Compliance Staff conducted an inspection at the Site. The inspection was conducted in response to a complaint that land clearing debris ("LCD") generated from the development of parcels in the subdivision Idlewood Shores was being disposed of on the property.

4. During the inspection, staff observed that LCD including stumps had been placed in a slight gully/ravine that runs down the hillside along a strip of woods. Most of the stumps were not buried, but at the top of the hill near the road the LCD has been covered with soil. It appears that stumps were being used for fill on the property. The area of the LCD disposal is approximately one to two acres.

5. The VSWMR at 9 VAC 20-80-60.E.9 provide an exemption for the disposal of stumps and other LCD from agricultural or forestal activities on the condition that the LCD is disposed of on the site of generation and that the LCD is not buried.

6. Stumps and other LCD generated from the development of residential property do not

constitute an agricultural or forestal activity as defined by the VSWMR.

7. The Department issued a Notice of Violation to the Ginters on November 16, 2005, which cited the Ginters for apparent violations of the Virginia Code and the Virginia Solid Waste Management Regulations.

8. The land clearing debris that the Ginters disposed at the Site constitutes "debris waste" at that term is used in 9 VAC 20-80-10 et seq. Accordingly, the Site is governed by 9 VAC 25-80-260 relating to Construction/demolition/debris/landfills.

9. The Ginters removed all LCD from the Site and disposed of the LCD in an approved manner. The Department inspected the Site and determined that the Ginters had achieved compliance with the VSWMR.

Section D: Agreement and Order

By virtue of the authority granted it pursuant to Va. Code §10.1-1455, the Waste Board orders the Ginters, and the Ginters agree, to perform the actions described below and in Appendix A of this Order. In addition, the Waste Board orders the Ginters, and the Ginters voluntarily agree to pay a civil charge of Two Thousand One Hundred Dollars ($2,100.00) 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," delivered to:

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

The payment shall include the Ginters' Federal ID number or social security numbers.

Section E: Administrative Provisions

1. The Waste Board may modify, rewrite, or amend this Order with the consent of the Ginters for good cause shown by the Ginters, or on its own motion after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified herein. This Order shall not preclude the Waste 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; and/or (3) taking

subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.

3. For the purposes of this Order and subsequent actions with respect to this Order, the Ginters admit the jurisdictional allegations, factual findings, and conclusions of law contained herein.

4. The Ginters consent to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of the Order.

5. The Ginters declare that they have received fair and due process under the Administrative Process Act, Code §§ 2.2-4000 *et seq.* and the Virginia Waste Management Act, Code §§ 10.1-1400 *et seq* and they waive the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to 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 Waste Board or the Director to modify, rewrite, amend, or enforce this Order, or any subsequent deliverables required to be submitted by the Ginters and approved by the Department, without consent of the Ginters.

6. Failure by the Ginters to comply with any of the terms of this Order shall constitute a violation of an order of the Waste Board. Nothing herein shall act to waive or bar the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Waste Board or 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. The Ginters 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, or other acts of God, war, strike, or other such occurrences. The Ginters must show that such circumstances resulting in the noncompliance were beyond their control and were not due to a lack of good faith or diligence on their part. The Ginters shall notify the Director and the Director of the Department's West Central Regional Office ("WCRO") in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:

a. the reasons for the delay or noncompliance;

b. the projected duration of 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 Director and the Director of the Department's West Central Regional Office in writing within 24 hours of learning of any condition above, which the Ginters intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of 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 of the Department of Environmental Quality or his designee and the Ginters. Notwithstanding the foregoing, the Ginters agree to be bound by any compliance date that precedes the effective date of this Order.

11. This Order shall terminate upon receipt by DEQ of the funds specified in Section D herein.

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve the Ginters from their obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By the signatures of Mr. Reginald L. Ginter and Mrs. Sandra L. Ginter, both voluntarily agree to the issuance of this Order.

_____ Date: _____
Steven A. Dietrich, Regional Director
West Central Regional Office
Department of Environmental Quality

Seen and Agreed to: Reginald L. Ginter
Mr. Reginald L. Ginter

The foregoing instrument was acknowledged before me on August 9th, 2006

By Mr. Reginald L. Ginter, in the County of Franklin, Commonwealth of Virginia.

Kimberly E Blankenship
Notary Public

My Commission expires: My commission expires September 30, 2008

And

Sandra L. Ginter
Mrs. Sandra L. Ginter

The foregoing instrument was acknowledged before me on August 9th, 2006

By Mrs. Sandra L. Ginter, in the County of Franklin, Commonwealth of Virginia.

Kimberly E Blankenship
Notary Public

My Commission expires: My commission expires September 30, 2008