COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE
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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Amy Thatcher Owens
Regional Director

VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION
ORDER BY CONSENT
ISSUED TO
Augusta County Service Authority
Solid Waste Permit No. 585

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1185 and 10.1-1455(C) and (F) between the Virginia Waste Management Board and the Augusta County Service Authority 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 meanings assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizen's board of the Commonwealth of Virginia described in Va. Code §§ 10.1-1401 and 10.1-1184.

2. "ACSA" means Augusta County Service Authority, the owner and operator of the Landfill.

3. "Department" means the Virginia 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. "NOV" means Notice of Violation.

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

7. "Owner" means Augusta County Service Authority.

8. "Facility" means the Augusta County Sanitary Landfill, which is located at 749 Christian Creek Road, Staunton, Virginia.

9. "VRO" means the Valley Regional Office of DEQ.

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

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

SECTION C: Findings of Facts and Conclusions of Law

1. Augusta County Service Authority (ACSA) owns and operates a regional permitted landfill which is subject to both VSWMR and the conditions of permit number 585, as amended on August 8, 2008.
2. On November 24, 2008, DEQ Valley Regional Office staff conducted an unannounced compliance inspection of the Facility. The following describe the Department's factual observations:
    a. The compacted waste on the facility working face was not covered with compacted soil or other approved material as required by 9 VAC 20-80-250(C)(2)(c). This condition began prior to the close of business on Saturday, November 22, 2008, and continued until the facility opened its gates to receive waste on November 24, 2008.
    b. Blowing litter was not confined to refuse holding and operating areas by fencing or other suitable means as required by 9 VAC 20-80-250(C)(13)(a).
3. 9 VAC 20-80-250(C)(2)(c) states that "[d]aily cover consisting of six inches of compacted soil or other approved material shall be placed upon and maintained on all exposed solid waste prior to the end of each operating day, or at more frequent intervals if necessary, to control disease vectors, fires, odors, blowing litter, and scavenging…"
4. 9 VAC 20-80-250(C)(13)(a) states that "[l]itter and blowing paper shall be confined to refuse holding and operating areas by fencing or other suitable means. Further, 9 VAC 20-80-250(C)(2)(c) states that daily cover consisting of six inches of compacted soil or other approved material shall be placed upon and maintained on all exposed solid waste prior to the end of each operating day, or at more frequent intervals if necessary, to control disease vectors, fires, odors, blowing litter, and scavenging."
5. On December 2, 2008, a Notice of Violation (NOV), number WS-09-11-VRO-002, was issued to the ACSA as a result of the observations made during November 24, 2008, DEQ inspection. The NOV requested a response from the ACSA by December 12, 2008.
6. On December 18, 2008, representatives of ACSA and DEQ met at VRO to review of all violations cited in the NOV and to discuss possible remedies and corrective actions for each violation. ACSA provided DEQ staff with a written, formal response containing detailed information regarding the events surrounding the violations observed on November 24, 2008. This response also included a corrective action plan to minimize the potential for future non-compliance events. Portions of this plan included additional training for facility employees and the development of three new written Standard Operating Procedures for "Daily Cover", "Blowing Trash" and "Leachate Seeps".
7. On January 14, 2009, DEQ received a follow-up response from ACSA updating staff on their progress towards completing and implementing the discussed corrective action plan. It included a copy of completed "Landfill Daily Report" and a Daily Facility "Inspection Checklist"

performed by trained Facility personnel.

8. Based on the observations noted in paragraph 2 of this section, ACSA violated the VHWMR at sections 9 VAC 20-80-250(C)(2)(c) and 9 VAC 20-80-250(C)(13)(a).

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 10.1-1455(C) and (F) orders the ACSA, and the ACSA agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders the ACSA, and the ACSA voluntarily agrees to pay a civil charge of **$4,950.00 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 1104,
Richmond, Virginia 23218

The payment shall include the ACSA's Federal ID number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

SECTION E: Administrative Provisions

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

2. This Order only addresses and resolves those violations specifically identified herein. 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 affect 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, the ACSA admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.

4. The ACSA 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. The ACSA 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 and all other facts and conclusions of law, including any action taken by the Board to enforce this Order.

6. Failure by the ACSA 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. The ACSA 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. The ACSA shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The ACSA 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 72 hours of learning of any condition above, which the ACSA intends 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 the ACSA. Notwithstanding the foregoing, the ACSA 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 the ACSA. The ACSA may petition the Director to terminate the Order following completion of all actions required under the Order. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the ACSA 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, the Augusta County Service Authority voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 16th day of June, 2009.

Amy T. Owens, Regional Director
Department of Environmental Quality

Augusta County Service Authority voluntarily agrees to the issuance of this Order.

By: Kenneth J. Fanfani

Date: 4/29/09

Commonwealth of Virginia

City/County of Augusta

The foregoing document was signed and acknowledged before me this 29 day of April, 2009, by Kenneth J. Fanfani (Name), who is Executive Director (Title) of ACSA on behalf of ACSA.

Sallie W. Trimble
Notary Public

My commission expires: April 30, 2010.

SALLIE W. TRIMBLE
Notary Public
Commonwealth of Virginia
313648
My Commission Expires Apr 30, 2010

APPENDIX A

1. **By June 30, 2009**, ACSA shall submit a revised Operations Manual that includes the three new Standard Operating Procedures for "Daily Cover", "Blowing Trash" and "Leachate Seeps". ASCA shall also submit the necessary documentation and information for a minor permit amendment in accordance with 9 VAC 20-80-620 for the revised Operations Manual. ASCA will also provide notification to the local governing body as required in 9 VAC 20-80-260.

2. **By June 30, 2009**, ACSA shall complete and submit a study of what other landfills in the surrounding counties are doing to minimize wind blown litter. Based on an evaluation of effective litter control measures observed at other facilities, ACSA shall implement the appropriate measures needed to minimize wind blowing litter at the facility. ACSA shall submit, in letter format, the findings of the study and the actions taken to comply with this regulatory requirement.

3. All correspondence related to the Order, unless otherwise specified by regulation, shall be submitted to:

   David Robinett
   Enforcement Specialist
   DEQ – Valley Regional Office
   P.O. Box 3000
   Harrisonburg, Virginia 22801