COMMONWEALTH of VIRGINIA

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VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION
AMENDMENT TO ORDER BY CONSENT
ISSUED TO
MR. MICHAEL WESTMORELAND
D.B.A. WEST IMPORTS METAL RECYCLERS
FOR
WEST IMPORTS METAL RECYCLERS
EPA ID No. VAR000516047
(Formerly VACESQG20715)

SECTION A: Purpose

This is an Amendment to a Consent Order issued under the authority of Va. Code § 10.1-1455(C) and (F), between the Virginia Waste Management Board, and Mr. Michael Westmoreland, regarding West Imports Metal Recyclers, for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Basis for Amendment

1. Under a Consent Order issued by the Board to the Mr Westmoreland on January 22, 2008 ("2008 Order"), the Mr. Westmoreland is required to perform closure under the Regulations of the HWMU.

2. Paragraph 3 of Appendix A of the 2008 Order requires Mr. Westmoreland to submit both "clean closure" and "contingent closure" plans concurrently and to provide financial assurance for both plans in accordance with the requirements of the Regulations.

3. Mr. Westmoreland has indicated that providing clean closure and contingent closure plans, along with financial assurance for both plans, is so financially burdensome that he may not be able to both provide such plans and complete clean closure.

APPENDIX A

1. Within thirty (30) days of the effective date of this Amendment, Mr. Westmoreland shall submit to the Department:

   a. A closure plan meeting the requirements of 40 CFR § 264 Subparts G and L and 40 CFR § 264.258(a) for the HWMU. Mr. Westmoreland is not required to provide the contingent closure and post-closure plans specified at 40 CFR § 264.258(c)(1) as a part of this submittal at this time. The Department shall approve, or modify and approve the closure plan in accordance with the HWMR. Upon its approval by the Department, the closure plan shall become a part of and enforceable under the terms of this Order. Mr. Westmoreland shall implement this closure plan in accordance with the schedule in the approved closure plan.

   b. Evidence of financial assurance in accordance with 40 CFR § 264 Subpart H and 40 CFR § 264.258(a) for the HWMU. Mr. Westmoreland shall modify the amount of such financial assurance as necessary in response to any modifications of the closure plan approved of by the Department.

2. If Mr. Westmoreland is unable to achieve clean closure under 40 CFR § 264.258(a) for the HWMU in accordance with the approved closure plan, Mr. Westmoreland shall immediately notify the Department of this fact. That notification shall constitute a determination that the Facility must be closed as a landfill in accordance with 40 CFR § 264.310. Within sixty (60) days of such determination, Mr. Westmoreland shall submit closure and post-closure plans meeting the requirements of 40 CFR § 264 Subpart G and 40 CFR § 264.310 for closure of the HWMU as a landfill, including plans for a groundwater monitoring program for the HWMU. This groundwater monitoring program shall meet the requirements of 40 CFR § 264 Subpart F, modified as necessary to meet the closure performance standards of 40 CFR § 264.111. Also within sixty (60) days of such determination, Mr. Westmoreland shall submit evidence of financial assurance for closure and post-closure care in accordance with 40 CFR § 264 Subpart H and 40 CFR § 264.310 for the HWMU. The Department shall approve, or modify and approve the closure and post-closure plans in accordance with the HWMR. Upon its approval by the Department, the closure and post-closure plans shall become a part of and enforceable under the terms of this Order. Mr. Westmoreland shall modify such financial assurance as necessary in response to any changes approved by the Department in the closure and/or post-closure plans.

3. Within one hundred eighty (180) days of any determination that Mr. Westmoreland is unable to close the HWMU under 40 CFR § 264.258(a), Mr. Westmoreland shall submit to the Department a post-closure care permit application and the applicable permit application fee in accordance with the requirements set forth in 40 CFR § 264 Subpart G. Following completion of closure in accordance with the modified closure plan, and until such time as a permit is issued, Mr. Westmoreland shall follow the approved post-closure plan and approved groundwater monitoring plan referenced above.

4. Therefore, it is appropriate to amend the 2008 Order to require submittal of the contingent closure plan and financial assurance for the contingent closure plan only if it has been determined that the facility is unable to achieve clean closure.

SECTION C: Agreement and Order

Accordingly, by virtue of the authority granted it in Code § 10.1-1455(C) and (F), the Board orders Mr. Westmoreland, and Mr. Westmoreland agrees to perform the actions described in Appendix A of this Amendment, which supersedes Paragraphs 3, 4, and 5 of Appendix A of the 2008 Order. Both the Board and the Mr. Westmoreland understand and agree that this Amendment does not alter, modify, or amend any other provision of the 2008 Order and that unmodified provisions of the 2008 Order remain in effect by their own terms.

And it is so ORDERED this day of _____, 2010.

_____
Steven A. Dietrich, Regional Director
Blue Ridge Regional Office
Department of Environmental Quality

Mr. Westmoreland voluntarily agrees to the issuance of this Amendment.

By: Mike West

Date: 1-7-10

Commonwealth of Virginia

City/County of Henry

The foregoing instrument was acknowledged before me this 7th day of January, 2010,

by Mr. Michael Westmoreland.

Lisa Brown
Notary Public

My commission expires: Nov. 30, 2012

Lisa S. Brown
Notary Public
Commonwealth of Virginia
Reg# 340431
My Commission Expires 11-30-2012