

COMMONWEALTH of VIRGINIA

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Secretary of Natural Resources

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VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO THE TOWN OF FARMVILLE FOR THE TOWN OF FARMVILLE SANITARY LANDFILL Solid Waste Permit No. 195

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 Town of Farmville, regarding the Town of Farmville Sanitary Landfill, for the purpose of resolving violations of the Virginia Waste Management Act and the applicable regulations. This Order supersedes and terminates the Consent Order issued by the Board to the Town of Farmville on July 9, 2007.

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. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
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, as described in Va. Code § 10.1-1185.

5. "Facility" or "Landfill" means the Town of Farmville Landfill, Solid Waste Permit No. 195, located in Farmville, Virginia, which is owned and operated by the Town of Farmville.
6. "FAR" means the Financial Assurance Regulations for Solid Waste Disposal, Transfer and Treatment Facilities, 9 VAC 20-70-10 *et seq.*
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
8. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
9. "Permit" means Solid Waste Permit (SWP) No. 195, which was issued under the Virginia Waste Management Act and the Regulations to the Town of Farmville on December 15, 1975.
10. "Regulations" or "VSWMR" means the Virginia Solid Waste Management Regulations, 9 VAC 20-80-10 *et seq.*
11. "Town" means the Town of Farmville, a political subdivision of the Commonwealth of Virginia. The Town is a "person" within the meaning of Va. Code [§ 10.1-1300/§ 10.1-1400/§ 62.1-44.3.
12. "Va. Code" means the Code of Virginia (1950), as amended.
13. "VAC" means the Virginia Administrative Code.
14. "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.
15. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.

SECTION C: Findings of Fact and Conclusions of Law

1. On December 15, 1975, the Town was granted a permit to operate a sanitary landfill by the Commissioner of the Virginia Department of Health, predecessor-in-interest to the Director of DEQ. The Permit allowed for the disposal of sanitary waste. The Town asserts that the Facility last received waste on or about September 1990.
2. The Town is party to a Consent Order dated July 9, 2007 ("2007 Order"). The main focus of the 2007 Order was for the Town to close the landfill and begin the post-closure

care (gas management, groundwater monitoring, demonstrate financial assurance; implement corrective action program ("CAP"), etc).

3. On May 14, 2009, the Department requested a revised CAP to be submitted no later than August 12, 2009 (90 days).
4. 9 VAC 20-80-310(A) requires the Town to implement a corrective action program whenever the ground water protection standard is exceeded at statistically significant levels.
5. The 2007 Consent Order, Item 5 of the Appendix requires the Town to respond in writing following the receipt of any additional comments and/or notice of deficiency in the CAP, in the timeframe specified in the comment(s) until such time DEQ approves the CAP.
6. On September 9, 2009, Department compliance staff reviewed Department files and noted that the Town had not submitted a revised CAP, as requested.
7. On September 16, 2009, based on the file review, the Department issued Notice of Violation No. NOV-09-09-BRRO-L-007 to the Town for the violations described in paragraphs C(5) through C(6), above.
8. On September 30, 2009, the Town submitted a written response to the NOV. In the written response, the Town requested that it be allowed to review the September 2009 semi-annual groundwater results before developing a revised corrective action plan.
9. On January 8, 2010, Department enforcement staff met with representatives of the Town to discuss the violations, including the Town's written response.
10. On January 12, 2010, the Town submitted a letter as a follow-up to the January 8, 2010 meeting. In the letter, the Town provided an overview of its efforts to comply with the 2007 Order.
11. In a letter dated January 29, 2010 (received by the Department on February 2, 2010), the Town submitted a letter which outlined a list of proposed field activities. On March 4, 2010, the Department, by letter, requested that the Town submit additional information so that the Department could complete the review of the proposed field activities.
12. In a letter dated April 5, 2010 (received by the Department on April 9, 2010), the Town proposed an Action Plan in which the current groundwater monitoring wells would be redeveloped, additional Nature and Extent wells would be installed, and new sampling via 'low-flow' sampling techniques would be used. The purpose of the Action Plan was to obtain the necessary information to revise the CAP.
13. The Town continued work during the remainder of 2010 to proceed with the action plan but problems with finding an acceptable up gradient well location (as required by the

Regulations), improper well installations, weather related delays, and access to third party property limited the progress of the action plan.

14. Based on the results of the file review, the January 8, 2010 meeting, and the documentation submitted on January 12, 2010, February 2, 2010, and April 9, 2010, the Board concludes that the Town has violated 9 VAC 20-80-310(A) and the 2007 Consent Order, Item 5 of the Appendix, as described in paragraphs C(4) through C(6), above.
15. In order for the Town to return to compliance, DEQ staff and representatives of the Town have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders the Town, and the Town agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$6,300 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," and delivered to:

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

The Town shall include its Federal Employer Identification Number (FEIN) 54-6001272 with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of the Town for good cause shown by the Town, 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, the Town admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
 4. The Town 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 Town 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 the Town 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 Town 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 Town shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The Town 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 Town 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 Town. Nevertheless, the Town 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 Town 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
 - b. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to the Town.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the Town 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 the Town 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 the Town 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 the Town to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of the Town.
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, the Town voluntarily agrees to the issuance of this Order.

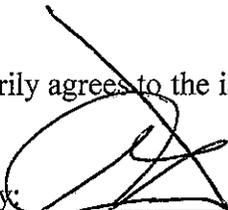
And it is so ORDERED this 6th day of July, 2011.



Robert J. Weld, Regional Director
Department of Environmental Quality

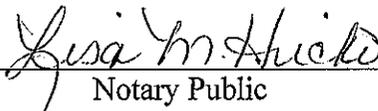
The Town of Farmville voluntarily agrees to the issuance of this Order.

Date: 5/12/2011

By:  _____, Town Manager
Gerald J. Spates
Town of Farmville

Commonwealth of Virginia
City/County of Prince Edward

The foregoing document was signed and acknowledged before me this 12th day of May, 2011, by Gerald J. Spates who is the Town Manager of the Town of Farmville, on behalf of the Town.



Notary Public

335855

Registration No.

My commission expires: 9/30/2011

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. Groundwater

The Town shall perform a groundwater corrective action program at the Facility as required by 9 VAC 20-81-260.

- a. The Town shall, pursuant to 9 VAC 20-81-250(B)(3), conduct groundwater Assessment Monitoring until the Facility's Corrective Action permit amendment is issued.
- b. In order for the Town to select monitoring of natural attenuation to address groundwater protection standard exceedances, the Town shall provide evidence and documentation that the groundwater contamination is characterized and assessed as required by 9 VAC 20-81-260(C)(1). This evidence and documentation shall be provided by the Town to DEQ by March 31, 2012.
- c. The Town shall, pursuant to 9 VAC 20-81-260(D), submit a corrective action plan and monitoring plan by June 30, 2012.
- d. The Town shall obtain a Corrective Action permit amendment no later than December 31, 2012.
- e. The Town shall respond to any notices of deficiency with respect to its corrective action program in accordance with the notice and shall comply with the corrective action provisions in the permit as issued.
- f. Until such time that the Corrective Action permit amendment is issued, the Town shall undertake interim measures necessary to ensure protection of human health and the environment by controlling and preventing migration of pollutants in groundwater and surface water. A report of interim measure activities is due by the 10th day of the first month of each calendar quarter (January, April, July, and October), beginning the first month of the calendar quarter following the effective date of the Order. The report shall provide information on the previous calendar quarter's interim measure activities and shall also provide information on the Town's progress in obtaining a Corrective Action permit amendment.

2. Contact

Unless otherwise specified in this Order, the Town shall submit all requirements of Appendix A of this Order to:

Jerry Ford, Jr.
VA DEQ - Blue Ridge Regional Office
3019 Peters Creek Road
Roanoke, VA 24019
Phone: (540) 562-6817
e-mail: Jerry.Ford@deq.virginia.gov