



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
MS. NINA SHOOSMITH
FOR
SHOOSMITH DEBRIS LANDFILL
Permit No. SWP 377**

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 Ms. Nina Shoosmith, regarding the Shoosmith Debris Landfill for the purpose of resolving violations of the Virginia Waste Management Act and the Regulations.

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. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

4. "Facility" or "Landfill" means Shoosmith Debris Landfill (Permit No. SWP 377), located on Nena Grove Lane in Chesterfield County, Virginia, which is owned and operated by Mrs. Nina Shoosmith.
5. "Ms. Shoosmith" means Mrs. Nina Shoosmith, currently a resident of Chester, Virginia. Ms. Shoosmith is a "person" within the meaning of Va. Code § 10.1-1400.
6. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
7. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
8. "Permit" means Solid Waste Permit No. 377, which was issued in accordance with the Code of Virginia and Regulations, as adopted by the State Board of Health, to Jack T. Shoosmith on October 20, 1982, and amended in 1995.
9. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
10. "Regulations" or "VSWMR" means the Virginia Solid Waste Management Regulations, 9 VAC 20-81-10 *et seq.*
11. "Va. Code" means the Code of Virginia (1950), as amended.
12. "VAC" means the Virginia Administrative Code.
13. "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.

SECTION C: Findings of Fact and Conclusions of Law

1. On October 20, 1982, the State Department of Health, Bureau of Solid Waste Management, predecessor of the DEQ, granted Mr. Jack T. Shoosmith Solid Waste Management Permit No. 377 (Permit) to operate a debris landfill (Landfill), which is located on Nena Grove Lane, Chesterfield County, Virginia. The Permit was last amended on May 17, 1995, to Shoosmith Brothers, Inc. In the year 2000, the business, Shoosmith Brothers, Inc. was sold. In December 2000, the Landfill stopped accepting waste, and on December 28, 2000, Mr. Shoosmith implemented post-closure care for the Landfill.
2. The Landfill had been operated as a solid waste debris landfill since the Permit was issued. Operations and maintenance at the Landfill are subject to the Virginia Waste Management Act, the Regulations, and the Permit.

3. In 2006, Ms. Shoosmith assumed responsibility for the Landfill and is the current owner and operator of the Landfill.
4. On December 4, 2009, PRO DEQ staff inspected the Landfill for compliance with the requirements of the Virginia Waste Management Act, the Regulations and the Permit and observed a discharge of leachate from the Landfill to surface waters. Based on the inspection and Department records, DEQ staff made the following observations:
 - a. An apparent discharge of leachate from a tear in the cover of the northwest corner of the Landfill, flowing into a storm water ditch and into Piney Branch.
5. 9 VAC 20-80-260(F)(1)(a), currently 9 VAC 20-81-170(A)(1)(a), requires that landfills in post-closure care maintain the integrity and effectiveness of any final cover, including making repairs to the cover as necessary to correct the effects of settlement, subsidence, erosion, or other events, and preventing run-on and run-off from eroding or otherwise damaging the final cover.
6. 9 VAC 20-80-260(C)(14), currently 9 VAC 20-81-140(A)(6), requires that leachate from a solid waste disposal facility shall not be permitted to drain or discharge into surface waters except when authorized under a VPDES permit issued pursuant to the State Water Control Board Regulation (9 VAC 25-31).
7. By letter dated December 31, 2009, Engineering Design & Development, Inc. (EDD), contractor for Ms. Shoosmith, provided a follow-up report of the discharge and corrective actions taken to contain the leachate and repair the cover.
8. On February 9, 2010, DEQ issued Notice of Violation (NOV) No. 2010-02-PRO-604 to Ms. Nina Shoosmith for the Shoosmith Debris Landfill for the violations described in paragraph C(4) through C(6).
9. On February 25, 2010, DEQ staff inspected the Landfill and observed another discharge of leachate from a tear in the cover of the Landfill to surface waters. On March 1, 2010, a representative for Ms. Shoosmith reported that the repair to the discharge area had been completed.
10. On March 2, 2010, Ms. Shoosmith met with the Department to discuss resolution of the NOV. In response to the meeting, Ms. Shoosmith provided a corrective action plan by letters dated March 20, 2010, May 4, 2010, and May 20, 2010.
11. Based on the results of the December 4, 2009 and February 25, 2010 inspections, the December 31, 2009 report from EDD, and the March 2, 2010 meeting, the Board concludes that Ms. Shoosmith has violated 9 VAC 20-80-260(F)(1)(a), currently 9 VAC 20-81-170(A)(1)(a), and 9 VAC 20-80-260(C)(14), currently 9 VAC 20-81-140(A)(6), as described in paragraphs C(4) through C(6), and C(9) above.

12. On November 19, 2010, DEQ staff inspected the Landfill and observed the Landfill in compliance with the Permit and no discharges of leachate.

SECTION D: Agreement and Order

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

1. Pay a civil charge of **\$2,730** 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 cashiers check payable to the "Treasurer of Virginia" and shall be delivered to:

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

Ms. Shoosmith shall include her Federal Employer Identification Number (FEIN) 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 the Order with the consent of Ms. Shoosmith for good cause shown by Ms. Shoosmith, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-400 *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, Ms. Shoosmith admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Ms. Shoosmith 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. Ms. Shoosmith declares she has received fair and due process under the Administrative Process Act and Virginia Waste Management Act and she 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 Ms. Shoosmith 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. Ms. Shoosmith 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 other such occurrences. Ms. Shoosmith shall show that such circumstances were beyond her control and not due to a lack of good faith or diligence on her part. Ms. Shoosmith 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 Ms. Shoosmith 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 Ms. Shoosmith. Nevertheless, Ms. Shoosmith 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 Director or his designee terminates the Order after Ms. Shoosmith has completed all of the requirements of the Order.
 - b. Ms. Shoosmith 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
 - c. The Director or Board terminates the order in his or its sole discretion upon 30 days' written notice to Ms. Shoosmith.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Ms. Shoosmith from her 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 Ms. Shoosmith 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 the Order.
13. Any documents to be submitted pursuant to this Order shall also be submitted by Ms. Shoosmith or an authorized representative of Ms. Shoosmith.
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, covenant, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By her signature below, Ms. Shoosmith voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 8th day of DECEMBER, 2011.



Michael P. Murphy, Regional Director
Department of Environmental Quality

Ms. Shoosmith voluntarily agrees to the issuance of this Order.

Date: 10-28-2011 By: Nina Shoosmith
Nina Shoosmith
(Person)
Ms. Nina Shoosmith

Commonwealth of Virginia
City/County of Chesterfield

The foregoing document was signed and acknowledged before me this 28 day of
October, 2011, by Nina Shoosmith
(Name)

Jenna Marie Athey
Notary Public

7379818
Registration No.

My commission expires: Jan 31, 2015

Notary seal: 