COMMONWEALTH of VIRGINIA

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VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
WASTE MANAGMENT OF VIRGINIA, INC.
FOR THE
CHARLES CITY COUNTY LANDFILL
Solid Waste Permit No. 531

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 Waste Management of Virginia, Inc., regarding the Charles City County Landfill, for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable 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 the Charles City County Landfill located at 8000 Chambers Road in Charles City County, Virginia.

5. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.

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

7. "Permit" means Solid Waste Permit No. 531, which was issued under the Virginia Waste Management Act and the Regulations to Waste Management on September 18, 1989.

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

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

10. "VAC" means the Virginia Administrative Code.

11. "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 10.1-1413.1) of the Virginia Waste Management Act addresses Solid Waste Management.

12. "Waste Management" means Waste Management of Virginia, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Waste Management is a "person" within the meaning of Va. Code § 10.1-1400.

SECTION C: Findings of Fact and Conclusions of Law

1. On September 18, 1989, Waste Management 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 allows for the disposal of sanitary waste.

2. The Facility has been operated as a sanitary landfill since the Permit was issued. Operations at the Facility are subject to the Virginia Waste Management Act, the Regulations, and the Permit.

3. On April 16, 2013, a DEQ Solid Waste Inspector conducted a compliance inspection of the Charles City Landfill, Solid Waste Permit No. 531. The following was observed during the inspection:

    a) Numerous leachate seeps were observed on the lower slopes of the previously closed portions of the Phase I and Phase II disposal areas, as well as Phase III.

    b) Leachate originating from seeps on Facility side slopes was observed entering the subsurface conveyance system which discharges to storm water basins SB-1 and SB-2. Leachate was observed collecting in the storm water conveyance ditches at the bottom of the slopes outside the lined disposal area. In two locations, facility personnel had placed a pump in the ditch and were pumping some of the leachate to the leachate collection system. However, not all leachate in the ditch was being

collected and leachate was observed draining from the ditch into a caged drop inlet. In other areas, it appeared that leachate was freely draining from the slope, to the ditch, and into the subsurface pipe. The drop inlets lead to a subsurface storm water conveyance pipe that leads to facility storm water management ponds SB-1 and SB-2. Discharge to multiple drop inlets was observed around the facility. Water was observed entering the basins from the subsurface conveyance pipes and subsequently discharging from the basin outfalls to surface water streams. This leachate was not treated onsite and the Facility did not have a VPDES permit authorizing its discharge.

c) The Facility received Special Waste approvals in March 2012, September 2012, and February 2013 to receive contaminated dredge material transported via truck from Port Weanack for disposal only since the material did not meet the Beneficial Use Demonstration (BUD) for dredge sediments as alternate daily cover. On the day of this inspection, dredge material approved for disposal only was observed stockpiled without cover on a lined portion of the Facility outside of the active working face on top of portions of Phase II and Phase III. Additionally, the material was observed spread without cover on external Phase III slopes.

d) Facility personnel indicated that some of the stockpile dredge material had been outside the active working face for over 30 days and intermediate cover had not been applied and maintained.

4. 9VAC20-81-210(F)(2) states "Leachate seeps. If a leachate seep occurs, the owner or operator shall repair the seep and do the following: Take immediate action to minimize, control, or eliminate the seep, and to contain and properly manage the leachate at the source of the seep."

5. 9VAC20-81-140(A)(6)(a) of the Virginia Solid Waste Management Regulations (VSWMR) states a "Landfill shall not: allow leachate from the landfill to drain or discharge into surface waters except when treated onsite and discharged into surface waters as authorized under a VPDES Permit."

6. 9VAC20-81-140(B)(1)(c) states "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. Alternate materials of an alternate thickness may be approved by the department if it has been demonstrated that the alternate material and thickness control disease vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment."

7. 9VAC20-81.140(B)(1)(d) states "Intermediate cover of at least 6 inches of additional compacted soil shall be applied and maintained whenever an additional lift of refuse is not to be applied within 30 days."

8. On May 16, 2013, the Department issued NOV No. 2013-05-PRO-601 to Waste Management for violations based on the observations in paragraphs C(3) through C(7) above. By letter dated May

21, 2013, Waste Management responded to the NOV. On June 14, 2013, the Department met with Waste Management to discuss the issues.

9. Based on the results of the April 16, 2013 inspection, the May 21, 3013 letter, and the June 14, 2013 meeting, the Board concludes that Waste Management has violated 9VAC20-81-210(F)(2), 9VAC20-81-140(A)(6)(a), 9VAC20-81-140(B)(1)(c)and 9VAC20-81.140(B)(1)(d) as described in paragraphs C(3) through C(7).

10. In order for Waste Management to complete its return to compliance, DEQ staff and representatives of Waste Management 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 Waste Management, and Waste Management agrees to:

1. Perform the actions described in Appendix A of this Order; and

2. Pay a civil charge of $28,652 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

Waste Management shall include its 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). If the Department has to refer collection of moneys due under this Order to the Department of Law, Waste Management shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Waste Management for good cause shown by Waste Management, 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, Waste Management admits to the jurisdictional allegations, and agrees not to contest, but does not admit, the findings of fact and conclusions of law in this Order.

4. Waste Management 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. Waste Management 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 Waste Management 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. Waste Management 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 unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Waste Management shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Waste Management 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 parties intend 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 and any 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 Waste Management. Nevertheless, Waste Management 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 Waste Management has completed all of the requirements of the Order;

    b. Waste Management 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 Waste Management.

    Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Waste Management 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 Waste Management 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 Waste Management certifies that he or she is a responsible official [or officer] authorized to enter into the terms and conditions of this Order and to execute and legally bind Waste Management to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Waste Management.

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, Waste Management voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 13th day of March, 2014.

Michael P. Murphy, Regional Director
Department of Environmental Quality

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Waste Management of Virginia, Inc. voluntarily agrees to the issuance of this Order.

Date: 1/22/14 By: _____, Director of Operations
Name Title
Waste Management of Virginia, Inc.

Commonwealth of Virginia
City/County of Prince George

The foregoing document was signed and acknowledged before me this 22ND day of

January, 2014, by H. Scott Shacker on behalf of the

Corporation.

Terry W. Dunkerry
Notary Public

285662
Registration No.

My commission expires: 4/30/16

Notary seal:

APPENDIX A
SCHEDULE OF COMPLIANCE

1. Leachate Management

   a. On or before March 31, 2014, submit to the Department for review and approval a leachate and storm water management plan (LSMP) with an interim and long term schedule for the reduction of leachate seeps and drainage issues at the Facility. Once approved by the Department, the LSMP and implementation schedule shall become a part of the operations plan.

   b. On or before March 31, 2014, Waste Management shall modify and implement an updated operations plan for the Facility. The operations plan shall be submitted to the Department for review and approval and shall be kept at the Facility for Department review during routine inspections.

   c. The LSMP submitted by Waste Management shall contain a statement that if the LSMP is found by Waste Management to be ineffective in minimizing leachate seeps or managing storm water, Waste Management shall adjust and amend the LSMP plan within 10 days and inform the Department of the changes.

2. Interim Capping

   On or before June 30, 2014, Waste Management shall complete construction of a Department approved interim cap consisting of an exposed geosynthetic membrane system, including landfill gas collection and stormwater management infrastructure, on the upper top deck of the landfill across portions of Phase I, II, and III.

3. Contact

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

   Frank Lupini
   Enforcement Specialist
   VA DEQ –Piedmont Regional Office
   4949A Cox Road,
   Glen Allen, Virginia 23060
   Frank.Lupini@deq.virginia.gov