

DURHAM



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CITY OF DURHAM

DEPARTMENT OF SOLID WASTE MANAGEMENT
1833 CAMDEN AVENUE • DURHAM, NC 27704
919.560.4185 • fax 919.560.4647
www.ci.durham.nc.us

Mailing Address:
101 CITY HALL PLAZA • DURHAM, NC 27701

- Administration
- Residential Collections
- Stationary Container Collections
- Waste Reduction Services
- Yard Waste Collections
- Impact Team
- Transfer Station



November 9, 2006

Paul S. Crisman
Chief, Solid Waste Section
NCDENR - Division of Waste Management

Mark Poindexter
Branch Head, Solid Waste Field Operations Branch
NCDENR - Division of Waste Management, Solid Waste Section

John Crowder
Eastern Regional Supervisor, Solid Waste Field Operations Branch
NCDENR - Division of Waste Management, Solid Waste Section

Mary Whaley
Waste Management Specialist, Solid Waste Field Operations Branch
NCDENR - Division of Waste Management, Solid Waste Section

401 Oberlin Road, Suite 150
1646 Mail Service Center
Raleigh, NC 27699

Re: Transmittal of Offer of Settlement

Dear Mr. Crisman, Mr. Poindexter, Mr. Crowder, and Ms. Whaley:

Attached please find a letter that constitutes an Offer of Settlement by the City of Durham for the Compliance Order with Administrative Penalty, City of Durham Yard Waste Compost Facility, Permit No. 32-04 SWC, issued on October 23, 2006. We greatly appreciate the opportunity to submit an offer, as well as all other assistance we have received from the NCDENR Division of Waste Management.

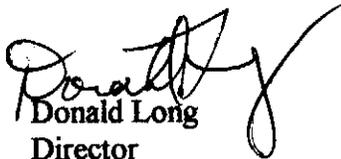
Since the City's informal conference with DWM on November 2, 2006, we have continued to work diligently toward obtaining approval from the Division of Water Quality as requested by DWM. As you know, we initially met with DWQ wastewater staff on October 31, 2006 in Raleigh following a referral from DWQ stormwater. On November 6, 2006, we met at our facility with staff from DWQ stormwater, wastewater,

and the regional office, as well as DWM and Pollution Prevention. DWQ assessed the site and received input from City stormwater staff, our engineering consultant, and others. Since then, we have been communicating with DWQ stormwater and wastewater staff, and are addressing issues relating to wetlands, sedimentation and erosion control, and the 100-year flood plain as requested.

In addition, we are working to make funds available to perform the improvements DWM has indicated we must complete prior to securing a valid solid waste permit. Our current contractor estimates the cost at \$110,000.00. Given the depleted resources at Solid Waste Management, we are seeking to divert those funds from other City appropriations.

Thank you again for the opportunity to submit an offer of settlement, and please accept our commitment to come into, and remain, in compliance with the requirements of the NCDENR Division of Waste Management.

Sincerely,


Donald Long
Director

Attachment

cc: Ted Lyon, Branch Head, Solid Waste Composting and Land Applications Branch,
NCDENR DWM, Solid Waste Section
Patrick W. Baker, City Manager, City of Durham
Theodore L. Voorhees, Deputy City Manager, City of Durham

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401 Oberlin Road, Suite 150
1646 Mail Service Center
Raleigh, NC 27699

Re: Offer of Settlement of Compliance Order with Administrative Penalty,
City of Durham Yard Waste Compost Facility, Permit #32-04 SWC,
issued October 23, 2006 (received October 24, 2006)

Dear Mr. Crisman, Mr. Poindexter, Mr. Crowder, and Ms. Whaley:

This letter constitutes an Offer of Settlement ("Offer") by the City of Durham ("City") for the Compliance Order with Administrative Penalty, City of Durham Yard Waste Compost Facility, Permit No. 32-04 SWC, issued on October 23, 2006 ("Compliance Order"). The City received the Compliance Order on October 24, 2006.

An informal conference on the Compliance Order was held on November 2, 2006, at 401 Oberlin Road, Raleigh, NC. In attendance were Mark Poindexter (Branch Head, Solid Waste Field Operations Branch, NCDENR DWM, Solid Waste Section), John Crowder (Eastern Regional Supervisor, Solid Waste Field Operations Branch, NCDENR DWM,

Solid Waste Section), Mary Whaley (Waste Management Specialist, Solid Waste Field Operations Branch, NCDENR DWM, Solid Waste Section), Ted Lyon (Branch Head, Solid Waste Composting and Land Applications Branch, NCDENR DWM, Solid Waste Section), Patrick Baker (City Manager, City of Durham), Ted Voorhees (Deputy City Manager, City of Durham), Donald Long (Director, City of Durham, Solid Waste Management Department, and Julia Mullen (Program Analyst, City of Durham, Solid Waste Management Department). Compliance and permit matters were discussed and the City was encouraged to submit an Offer.

This Offer is intended to be considered in its totality. By submitting this Offer, the City of Durham does not admit or deny any of the assertions or statements contained in the Compliance Order. Any admissions or statements of fact contained in this Offer, in the Compliance Order, or in any document which may memorialize a settlement are solely for the purpose of settlement as between the parties, and such statements are not for the benefit of, to be relied upon, or to be used by, any third parties. The City reserves the right to request an administrative hearing if a settlement agreement is not in effect by the requested deadline (November 23, 2006).

This Offer recognizes that the City of Durham is in the process of applying for a Solid Waste Compost Facility permit for the facility addressed in the Compliance Order, the City's Yard Waste Compost Facility ("Facility"), a Type 1 compost facility.

OFFER OF SETTLEMENT - SPECIFICS

PENALTY

The City of Durham will pay the entire penalty imposed in the Compliance Order, seven-thousand seven-hundred and fifty dollars (\$7,750.00), within fifteen (15) days of the effective date of a settlement agreement.

FACILITY OPERATION

The City of Durham will secure a valid solid waste permit from the Division of Waste Management prior to operating the Facility.

Until the City secures a valid solid waste permit, it will continue its current approved practice of accepting new yard waste, grinding the waste at least two to three times per week, and removing the ground waste from the Facility within twenty-four (24) hours of grinding to a facility authorized by DWM to accept the waste. City vehicles and large commercial vehicles will transport waste directly to the Facility. Citizen vehicles and small commercial vehicles will transport waste to the citizen drop-off location at the transfer station. The City will then transport that waste to the Facility for grinding and removal.

Until the City secures a valid solid waste permit, it will manage the existing windrows at the south end of the Facility pursuant to the operating plan contained in the Facility's

expired permit. The City will sell or donate the old material in the existing windrows within six months of obtaining a valid solid waste permit.

IMPROVEMENTS - FACILITY AND OFF-SITE

The City of Durham will complete Facility and off-site improvements as follows (please refer to the attached photograph with marked and numbered piles of material):

Pile 1 (old mixed material and stumps behind existing windrows along the south side of the Facility) Remove and dispose prior to securing a valid solid waste permit.

**Pile 2 (garbage-contaminated material along and in the ditch along the west side of the north half of Facility)
Remove and dispose prior to securing a valid solid waste permit.**

**Piles 3 (two windrows of old mixed material to the east of the burn area)
Remove and dispose prior to securing a valid solid waste permit, except that the northern portion of the eastern windrow is usable material and will be treated as are Piles 4, described below.**

**Piles 4 (old usable material in floodplain)
Move from the floodplain onto the Facility operating area within three months of obtaining a valid solid waste permit unless DWQ requires otherwise.
Sell or donate within six months of securing a valid solid waste permit.**

**Piles 5 (two windrows of usable material to the south of the burn area)
Sell or donate within one year of securing a valid solid waste permit.**

Pile 6 (large pile of buried yard waste covered with burned material and clay in the southwest corner of the Facility)

The City has removed this area from the Facility in the current permit application. The City will remove and begin processing the material according to the following schedule once a valid solid waste permit is secured:

One-fourth of the material within six months.

The second fourth of the material within one year.

The third fourth of the material within one and one-half years.

The last fourth of the material within two years.

The City will monitor and manage the material during that time to prevent fires.

The City will make Facility improvements necessary for Facility operation, such as grading the north half of the Facility, pursuant to a schedule included in a valid solid waste permit. The City hopes to phase in such improvements as funds can be appropriated in the City's annual budget cycle.

SETTLEMENT OF ALL MATTERS

The City proposes that the terms of this Offer, if accepted, be incorporated into a settlement document that is final and determinative as to all of the issues addressed within it. The settlement would constitute the final disposition by it of all past events and actions concerning the City of Durham Yard Waste Compost Facility, and set out the terms that would govern future actions by the City concerning the Facility. By agreeing to the penalty and the terms of the settlement, the City of Durham would not admit liability or fault for actions or events concerning the Facility or the matters addressed by this Offer.

CONCLUSION

The City of Durham greatly appreciates the opportunity to submit this Offer of Settlement and hopes that the NCDENR Division of Waste Management will find it acceptable. The City also greatly appreciates the ongoing and extraordinary assistance provided by DWM during the last two months, and DWM's recognition of the challenges and constraints the City faces. Please do not hesitate to contact us if you have any questions regarding this information or find it unsatisfactory in any way.

Sincerely,


Donald Long
Director

cc: Ted Lyon, Branch Head, Solid Waste Composting and Land Applications Branch,
NCDENR DWM, Solid Waste Section
Patrick W. Baker, City Manager, City of Durham
Theodore L. Voorhees, Deputy City Manager, City of Durham