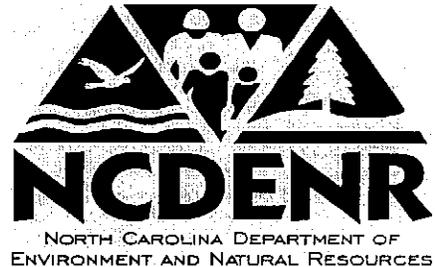


State of North Carolina
Department of Environment
and Natural Resources

Michael F. Easley, Governor
William G. Ross, Jr., Secretary
Dexter R. Matthews, Director



THE DIVISION OF WASTE MANAGEMENT

March 28, 2007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

B&B Topsoil Mine, Inc.
c/o Mrs. Frances D. Andrews, President
1800 Hamlin Road
Durham, NC 27704

Mr. William S. Andrews, III
B&B Topsoil Mine, Inc.
1800 Hamlin Road
Durham, NC 27704

B&B Topsoil Transit, Inc.
c/o Mrs. Frances D. Andrews, President
1800 Hamlin Road
Durham, NC 27704

Mr. George Andrews
B&B Topsoil Mine, Inc.
1800 Hamlin Road
Durham, NC 27704

Re: **Compliance Order**
B&B Topsoil Mine, Inc., - Solid Waste Treatment and Processing Facility
Permit # 32-05, Durham County

Dear Ms. Frances Andrews, Mr. William Andrews, III, and Mr. George Andrews:

Enclosed is a Compliance Order issued to B&B Topsoil Mine, Inc., Mr. William S. Andrews, III, Mr. George Andrews, and B&B Topsoil Transit, Inc., jointly and severally, because of certain violations of the North Carolina Solid Waste Management Act (N.C. General Statute 130A, Article 9) and of the North Carolina Solid Waste Management Rules (15A N.C. Administrative Code 13B) which implements the Act. This Compliance Order describes the violations of concern and the actions required by you to come into compliance with both the General Statutes and the Administrative Code.

I encourage B&B Topsoil Mine, Inc., Mr. William S. Andrews, III, Mr. George Andrews, and B&B Topsoil Transit, Inc. to schedule an informal conference at once with my staff to discuss this Compliance Order. Please contact Ms. Mary Whaley, Environmental Senior Specialist, at the Raleigh Central Office at (919) 508-8523.

Sincerely,

A handwritten signature in cursive script that reads "Paul S. Crissman". The signature is written in black ink and is positioned above the typed name.

Paul S. Crissman, Chief
Solid Waste Section
Division of Waste Management

Enclosure

cc: Lauren Clemmons, Assistant Attorney General
Mark Poindexter, Field Operations Branch
Mary Whaley, Environmental Senior Specialist
John Crowder, Eastern Area Supervisor
Central Files, Solid Waste

**NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF WASTE MANAGEMENT
SOLID WASTE SECTION**

Re: **COMPLIANCE ORDER**

B&B Topsoil Mine, Inc.
c/o Mrs. Frances D. Andrews, President
1800 Hamlin Road
Durham, NC 27704

Mr. William S. Andrews, III
B&B Topsoil Mine, Inc.
1800 Hamlin Road
Durham, NC 27704

B&B Topsoil Transit, Inc.
c/o Mrs. Frances D. Andrews, President
1800 Hamlin Road
Durham, NC 27704

Mr. George Andrews
B&B Topsoil Mine, Inc.
1800 Hamlin Road
Durham, NC 27704

PRELIMINARY STATEMENT

This Compliance Order is issued under N.C. General Statutes 130A-22, the Solid Waste Management Act (N.C.G.S. 130A, Article 9), and the Solid Waste Management Rules (15A N.C. Admin. Code 13B). Title 15A of the N.C. Admin. Code, Chapter 13B contains standards and requirements applicable to the proper management of solid waste.

On March 1, 1971, the State of North Carolina, Department of Human Resources, Division of Health Services, Solid Waste Section, implemented a Solid Waste Management Program under the Solid Waste Management Act, N.C.G.S. 130A, Article 9 and Rules codified at 15A N.C. Admin. Code 13B. Solid Waste Management is now regulated under the Solid Waste Section of the Division of Waste Management of the Department of Environment and Natural Resources. Mr. Paul S. Crissman, Solid Waste Section Chief, Division of Waste Management, Department of Environment and Natural Resources, has been delegated the authority to implement both the Act and the Rules. Based upon information available, the Division has determined that B&B Topsoil Mine, Inc., Mr. William S. Andrew, III, Mr. George Andrews, and B&B Topsoil Transit, Inc. are jointly and severally in violation of certain requirements of the Act and/or Rules, as set forth below.

STATEMENT OF FACTS

1. On August 15, 2001, the Division of Waste Management issued a permit to operate (Permit #32-05) a Solid Waste Treatment and Processing Facility to B&B Topsoil Mine, Inc., located at 1800 Hamlin Road Durham, North Carolina, Durham County. Permit

COMPLIANCE ORDER WITH ADMINISTRATIVE PENALTY

Page 2

#32-05 Condition No. 14 states, "This permit shall expire on August 13, 2006", in accordance with 15A NCAC 13B .1603(a)(5)(B), which requires the owner to submit an application for permit renewal five years from the issuance date of the original permit. No renewal application was received by the Division. B&B Topsoil Mine, Inc. is a family owned and operated business. The property ownership was recorded as transferred from Mr. William S. Andrews, Jr. (now deceased) and wife, Mrs. Frances D. Andrews to B&B Topsoil Transit, Inc. on September 14, 1998. Ms. Frances D. Andrews is listed as the president of both B&B Topsoil Mine, Inc. and B&B Topsoil Transit, Inc. Mr. William B. Andrews, III and Mr. George Andrews are on-site operators and in control of making decisions concerning operation of the facility.

2. On September 14, 2006, Ms. Mary Whaley, Environmental Senior Specialist, Solid Waste Section, spoke by telephone to Mr. William (Billy) Andrews III, Vice President of B&B Topsoil Mine, Inc. Mr. Andrews told Ms. Whaley that B&B Topsoil Mine, Inc. was currently accepting waste.
3. On September 15, 2006, the Division issued a Compliance Order to B&B Topsoil Mine, Inc. in care of Mr. William S. Andrews III, Vice President, pursuant to 15A NCAC 13B .0201(a) for operating a solid waste management facility without a valid permit from the Division (Certified Mail #70023150000652436488, signed for by George Andrews on September 19, 2006). The Conditions for Compliance in the Order stated: "Upon receipt of this Compliance Order, you must:
 - 1) Immediately cease accepting all solid waste materials, or
 - 2) Within 30 days submit a permit application to: Ted Lyon
N.C. DENR"
4. On September 15, 2006, B&B Topsoil Mine, Inc. submitted a permit application to Mr. Ted Lyon, Septage and Land Applications Branch Head. On September 19, 2006, Mr. Lyon reviewed the application with Mr. George Andrews, Office Manager of B&B Topsoil Mine, Inc. and discussed several items in the operational plan, referred to as the "Good Practice Guide" that needed to be changed. Mr. Lyon also discussed with Mr. Andrews that the Division needed to have written documentation that runoff from the facility was being handled properly. Until these items were addressed, Mr. Lyon explained that the permit application would be considered incomplete and the Division would not issue a new permit.
5. On November 6, 2006, Mr. Paul Crissman, Chief of the Solid Waste Section, sent Mr. William S. Andrews III, Vice President, of B&B Topsoil Mine, Inc., a letter (Certified Mail #70041350000340782127, signed for by Frances Andrews) stating that the application submitted to Mr. Lyon on September 15, 2006, was incomplete and additional information was required under the composting rules 15A NCAC 13B .1401 et. seq. before the review could be completed. In addition, the letter informed that the facility could not operate without a permit and must cease operations immediately.

COMPLIANCE ORDER WITH ADMINISTRATIVE PENALTY

Page 3

6. On December 11, 2006, Ms. Whaley conducted a partial audit at the B&B Topsoil Mine, Inc. facility. Ms. Whaley saw that the facility was operating and taking in waste. A Notice of Violation was issued, pursuant to 15A NCAC 13B .0201 (a), for operating a solid waste management facility without first obtaining a valid permit from the Division (Certified letter # 70051820 0003 41695139, signed for by W.S. Andrews on February 6, 2007).
7. On January 8, 2007, Mr. Lyon sent a letter to Mr. George Andrews reminding him what was needed in order to complete the review of the permit application. The letter stated that the permit could not be reissued without a complete permit application.
8. On January 22, 2007, Ms. Whaley called B&B Topsoil Mine Inc. and spoke with Mr. George Andrews and Mr. William S. Andrews, III, who both stated that they were operating and taking in waste. Ms. Whaley advised Mr. William S. Andrews that the next step would be a Compliance Order With Administrative penalty.

STATEMENT OF VIOLATIONS

The above facts constitute a violation of the following:

1. 15A NCAC 13B .0201(a) states:

No person shall establish, or allow to be established on his land, a solid waste management facility, or otherwise treat, store, or dispose of solid waste unless a permit for the facility has been obtained from the Division.

B&B Topsoil Mine, Inc., Mr. George Andrews, and Mr. William B. Andrews, III are jointly and severally in violation of this rule in that Permit #32-05 expired on August 13, 2006, yet the facility has continued to operate without obtaining a valid permit from the Division.

B&B Topsoil Transit, Inc, the property owner, is also in violation of this rule in that it has allowed an unpermitted solid waste management facility to be established on its land.

CONDITIONS FOR COMPLIANCE

Based on the foregoing, you are hereby ordered to take the following actions:

1. Immediately cease accepting waste at the facility and do not operate without first obtaining a valid permit from the Division of Waste Management.

POTENTIAL CONSEQUENCES OF FAILURE TO COMPLY

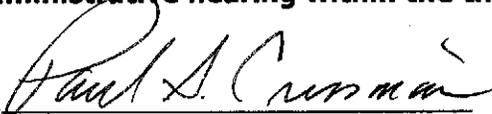
You are hereby advised that, pursuant to N.C.G.S. 130A-22, each day of continued violation of any requirement of the act, the rules, or any order issued under the act or rules constitutes a separate violation for which a penalty of up to \$5,000.00 per day may be imposed. If the violation(s) continue, you may also be subject to further enforcement actions including injunction from operation of a solid waste management facility or a solid waste collection service and any such further relief as may be necessary to achieve compliance with the North Carolina Solid Waste Management Act and Rules.

INFORMAL CONFERENCE

Whether or not you request an administrative hearing, the Division encourages you to schedule an informal conference to discuss this matter and to give you an opportunity to provide additional information, including any actions you have taken to correct the violation(s). If you desire an informal conference, please contact:

Mary Whaley
Environmental Senior Specialist
NC DENR – Division of Waste Management
Solid Waste Section
1646 Mail Service Center
Raleigh, NC 27699-1646
(919) 693-5023

Note: The scheduling of an informal conference does not relieve you of the need to file your petition for an administrative hearing within the thirty-(30) day period.

By: 

Paul S. Crissman
Chief, Solid Waste Section
Division of Waste Management
Department of Environment and Natural Resources

CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing Compliance Order to be served upon the person designated below, at the last known address, causing said copy to be deposited in the U.S. Mail, First Class (certified mail postage prepaid, and return receipt requested) in an envelope addressed to:

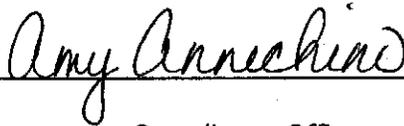
B&B Topsoil Mine, Inc.
c/o Mrs. Frances D. Andrews, President
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1800 Hamlin Road
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Mr. George Andrews
B&B Topsoil Mine, Inc.
1800 Hamlin Road
Durham, NC 27704

Dated this 28 day of March, 2007



Compliance Officer
Division of Waste Management
Department of Environment and Natural Resources