

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

September 26, 2006

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Fogleman & Fogleman Soils, Inc.
c/o Mr. James Fogelman
4005 Intermere Road
Durham, NC 27704

Re: Compliance Order
Fogleman LCID Landfill- Durham County

Dear Mr. Fogelman:

Enclosed is a Compliance Order issued to Fogleman & Fogleman Soils, Inc. 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 Fogleman & Fogleman Soils, Inc. to come into compliance with both the General Statutes and the Administrative Code.

I encourage Fogleman & Fogleman Soils, Inc. to schedule an informal conference at once with my staff to discuss this Compliance Order. Please contact Ms. Mary Whaley, Waste Management Specialist at the Raleigh Central Office at (919) 508-8523.

Sincerely,

A handwritten signature in black ink, which appears to read 'Paul S. Crissman'. The signature is written in a cursive style and is positioned above the typed name of the sender.

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

Enclosure

cc: Lauren Clemmons, Assistant Attorney General
John Crowder, Eastern District Supervisor
Mary Whaley, Waste Management Specialist
Paul Crissman, Chief, Solid Waste Section
Mark Poindexter, Supervisor, Field Operations Branch
Central Files, Solid Waste

COMPLIANCE ORDER

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

In Re: Fogleman & Fogleman Soils, Inc.

COMPLIANCE ORDER

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, Chief of the Solid Waste Section, 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 Fogleman & Fogleman Soils, Inc. is in violation of certain requirements of the Act and/or Rules, as set forth below.

STATEMENT OF FACTS

1. On March 16, 1992, the Division of Waste Management issued a permit to operate a demolition landfill (Permit #32-F) to Fogleman & Fogleman Soils, Inc. located on Red Mill Road in Durham, North Carolina, Durham County. Permit #32-F Condition No. 1 states, "This amendment is issued for a period not to exceed five years from the date of issuance. ... Additionally, conditions and revisions of the approved plan shall be approved by the North Carolina Solid Waste Section." No renewal application or revision plans were deemed as acceptable and approved by the Solid Waste Section.
2. On September 21, 2006, Ms. Amy Annechino, Compliance Officer, Solid Waste Section, spoke with Ms. Avery Ward, Office Manager of Fogleman Landfill. Ms. Ward told Ms. Annechino, when asked, that the facility was currently accepting yard waste at the facility.

COMPLIANCE ORDER

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STATEMENT OF VIOLATIONS

The above facts constitute violations of the following sections of Title 15A N.C. Admin. Code Subchapter 13B:

1. Section .0201(a) states that:

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.

Fogleman & Fogleman Soils, Inc. is in violation of *15A NCAC 13B .0201(a)* in that they operated a solid waste management facility without a valid permit.

CONDITIONS FOR COMPLIANCE

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:

Ed Mussler
N.C. DENR – Div. of Waste Management
1646 Mail Service Center
Raleigh, N.C. 27699-1646

POTENTIAL CONSEQUENCES OF FAILURE TO COMPLY

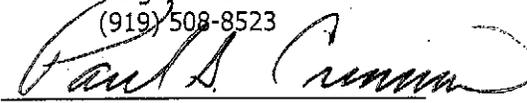
You are hereby advised that, pursuant to N.C.G.S. 130A-22, each day of continued violation of any requirement of the act, the rules, or any order issued under the act or rules constitutes a separate violation for which a penalty of up to \$5,000.00 per day may be imposed. If the violation(s) continue, 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

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
Waste Management Specialist
NC DENR – Division of Waste Management
Solid Waste Section
401 Oberlin Rd. Suite 150
1646 Mail Service Center
Raleigh, NC 27669
(919) 508-8523

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:

Fogleman & Fogleman Soils, Inc.
c/o Mr. James Fogelman
4005 Intermere Road
Durham, NC 27704

Dated this 26 day of September, 2006



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