State of North Carolina
Department of Environment
and Natural Resources

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

NCDENR
NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

THE DIVISION OF WASTE MANAGEMENT

May 15, 2007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Wayne County
c/o Mr. Lloyd Cook, Solid Waste Director
460-B Landfill Road
Dudley, NC 28333

Re: **Compliance Order With Administrative Penalty**
Wayne County Landfill, Permit Number 96-01

Dear Mr. Cook:

Enclosed is a Compliance Order issued to Wayne County, 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. Along with the Compliance Order is an Administrative Penalty in the amount of $4,500.00 that is imposed pursuant to N.C. General Statute 130A-22(a). This Compliance Order With Administrative Penalty describes the violations of concern and the actions required by you to come into compliance with both the General Statutes and the Administrative Code.

You may appeal this Compliance Order with Administrative Penalty by filing a written petition for an administrative hearing with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714, within thirty (30) days of the receipt of this Compliance Order. Your petition must be submitted in accordance with the provisions of N.C. General Statutes 150B-23(a) and 130A - 22(e). A copy of your petition must also be served on

Ms. Mary Penny Thompson, General Counsel, NC Department of Environment and Natural Resources, 1601 Mail Service Center, Raleigh, North Carolina 27699-1601.

If no administrative hearing is requested, the administrative penalty must be paid within sixty (60) days by certified check or money order, made payable to the Division of Waste Management. Payment should be mailed to the Solid Waste Section, Department of Environment and Natural Resources, Attn: Compliance Officer, 1646 Mail Service Center, Raleigh, NC 27699-1646. A fee of $20.00 will be charged for all returned checks on which the payer bank has refused payment. I encourage you to schedule an informal conference at once with my staff to discuss this Compliance Order. Please contact Mr. Bradley Bailey, Environmental Senior Specialist, Division of Waste Management, at the Raleigh Central Office at (919) 508-8523.

Sincerely,

Paul S. Crissman

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

Enclosure

cc: Lauren Clemmons, Assistant Attorney General
Mark Poindexter, Field Operations Branch Head
Bradley Bailey, Environmental Senior Specialist
Dennis Shackelford, Eastern Regional Supervisor
Central Files, Solid Waste

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

Re: Wayne County
c/o Mr. Lloyd Cook, Solid Waste Director
460-B Landfill Road
Dudley, NC 28333

COMPLIANCE ORDER WITH ADMINISTRATIVE PENALTY

PRELIMINARY STATEMENT

This Compliance Order With Administrative Penalty 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 Wayne County is in violation of certain requirements of the Act and/or Rules, as set forth below.

STATEMENT OF FACTS

1. In 1991, the North Carolina Commission for Health Services adopted rules requiring that all unlined municipal solid waste (MSW) landfills stop receiving waste on or before January 1, 1998. On October 9, 1993, rules requiring all existing MSW landfills to submit transition plans by April 9, 1994 became effective. On January 8, 1998, Wayne County MSW Landfill, located at 460-B Landfill Road in Dudley, North Carolina, received a Compliance Order with Administrative Penalty for not complying with its transition plan (approved May 6, 1996) and failing to cease operations at the unlined MSW landfill (Permit #96-01). The Wayne County MSW Landfill was granted an extension by the Division for closure until December 31, 1998.

2. On January 20, 2000, Wayne County was issued a permit to operate Phase I and Phase II of a Construction and Demolition (C&D) Landfill Unit. This landfill unit was located on top of a closed, unlined MSW cell. Permit #96-01 was modified on January 25, 2006. The Wayne County C & D landfill was allowed receive land-clearing debris, inert debris, asphalt, construction and demolition debris and C&D like waste.
3. MSW landfills that received waste after October 9, 1993, like the Wayne County MSW Landfill, are governed by Title 15A N.C. Admin. Code Subchapter 13B Section .1600. On October 24, 2001, a violation was indicated on the Facility Compliance Audit Report for Wayne County Landfill (Permit #96-01). This violation was issued pursuant to 15A NCAC 13B Section .1626(7)(c), for not having ground cover sufficient enough to restrain erosion. This violation was noted as corrected on December 31, 2001.
4. On January 10, 2007, Mr. Bradley W. Bailey and Ms. Mary Whaley, Environmental Senior Specialists of the Solid Waste Section, conducted a comprehensive facility audit of the Wayne County Landfill. Mr. Lloyd Cook was present during this audit. Mr. Bailey and Ms. Whaley observed a steady stream of leachate coming out of the south side slope adjacent to the working face of the C&D area located over the old unlined MSW. The leachate was traveling along the slope of the landfill. The landfill operators had created an earthen berm in order to control runoff water from leaving the site. Due to recent heavy rain, the surface water mixed with the leachate and broke through this berm. The surface water and leachate mix continued to flow into a wetland area that bordered the adjacent property. Digital photographs were taken during the inspection.
5. On February 26, 2007, a Notice of Violation pursuant to 15A NCAC 13B .1626 (8)(d) was sent by certified mail (Certified Mail # #70041350000340732160) and was received by Ms. Jennifer Worrell on February 28, 2007.
6. On April 16, 2007, Mr. Bailey conducted a follow-up audit at the Wayne County Landfill. He noted during this audit that the violations found during his audit on January 10, 2007, had been corrected.

STATEMENT OF VIOLATIONS

The above facts constitute a violation of the following:

1. 15A NCAC 13B .1626(8)(d) states:

> Leachate shall be contained on site or properly treated prior to discharge. An NPDES permit may be required prior to the discharge of leachate to surface waters.

15A NCAC .0505(7)(c) states:

> Leachate shall be contained on site or properly treated prior to discharge. An NPDES permit may be required prior to the discharge of leachate to surface waters.

Wayne County failed to properly contain leachate or properly treat it prior to discharge in violation of 15A NCAC 13B .1626(8)(d)/ .0505(7)(c).

CONDITIONS FOR COMPLIANCE

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

1. Monitor to ensure leachate is contained on site or properly treated prior to discharge in accordance with 15A NCAC 13 B.1626(8)(d)/ .0505(7)(c).

2. To assess the impact of the leachate release outside of the waste cell, the County shall acquire the services of a N.C. licensed professional geologist with experience in assessment and remediation of ground water contamination and submit a phased assessment plan to the Division. The professional geologist shall consult with the Solid Waste Section Hydrogeologist about the site prior to developing the plan. The Section will review the submitted plan, approve it, or request more information or amendments before implementation. The plan shall then be implemented as approved. Within 60 days, submit this plan to:

Jaclynne Drummond
Compliance Hydrogeologist
NC DENR – Division of Waste Management
Solid Waste Section
401 Oberlin Road, Suite 150
1646 Mail Service Center
Raleigh, NC 27699-1646

PENALTY IMPOSED

In addition to taking the actions specified above, Wayne County is hereby ordered to pay in accordance with N.C. General Statute 130A-22(a), a total administrative penalty of $4,500.00, for violations of 15A NCAC 13B .1626(8)(d)/ .0505(7)(c).

The North Carolina Solid Waste Management Penalty Computation Procedure, dated April 10, 1997, was used to determine the amount of the administrative penalty imposed with this order. The factors considered in determining the administrative penalty are found in 15A N.C.A.C. 13B .0700 et seq. and include the following: the nature of the violations, the potential effect on the public health and environment, the degree and extent of harm

caused by the violations, the costs of rectifying any damage, the types and amounts of wastes, the ease and costs of compliance, and any history of non-compliance.

The amount of this penalty shall be paid within sixty (60) days of receipt of this order by certified check or money order made payable to the Division of Waste Management. Payment should be mailed to:

Compliance Officer
Solid Waste Section
Division of Waste Management
1646 Mail Service Center
Raleigh, NC 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.

OPPORTUNITY TO REQUEST A HEARING

Wayne County has the right to request an administrative hearing to contest any matter of law, material fact, requirement, or penalty set forth herein. To exercise this right, you must file a written petition in accordance with N.C.G.S. 150B-23(a) and N.C.G.S. 130A - 22(e) within thirty (30) days of receipt of this Compliance Order With Administrative Penalty.

The petition must be signed by you or your attorney. It must state facts tending to establish that the agency has deprived you of property, has ordered you to pay a fine or civil penalty, or has otherwise substantially prejudiced your rights, and that the agency has:

1. exceeded its authority or jurisdiction;
2. acted erroneously;
3. failed to use proper procedure;
4. acted arbitrarily or capriciously; or
5. failed to act as required by law or rule.

Your petition must be filed within thirty (30) days with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714, in accordance with N.C.G.S.

150B-23(a). A copy of your petition must also be served on Ms. Mary Penny Thompson, General Counsel, NC Department of Environment and Natural Resources, 1601 Mail Service Center, Raleigh, NC 27699-1601. Failure to complete either of these acts within the thirty-(30) day period may result in denial of any administrative hearing.

Any administrative hearing will be conducted in accordance with applicable rules contained in Title 26 of the North Carolina Administrative Code. If you file a petition for an administrative hearing within thirty (30) days in accordance with the applicable statutes and rules, payment of the penalty is due within sixty (60) days after service of a copy of any final decision affirming the penalty. You may request a copy of the rules by calling the Office of Administrative Hearings at (919) 733-2698.

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:

Bradley Bailey
Environmental Senior Specialist
NC DENR – Division of Waste Management
Solid Waste Section
401 Oberlin Road, Suite 150
1646 Mail Service Center
Raleigh, NC 27699-1646
(919) 508-8523

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

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 with Administrative Penalty 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:

Wayne County
c/o Mr. Lloyd Cook, Solid Waste Director
460-B Landfill Road
Dudley, NC 28333

Dated this 15 day of May, 2007

Amy Annes Reid

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