



North Carolina Department of Environment and Natural Resources
Dexter R. Matthews, Director Division of Waste Management Michael F. Easley, Governor
William G. Ross Jr., Secretary

February 20, 2008

CERTIFIED MAIL
Mr. W. S. Andrews
1800 Hamlin Road
Durham, N.C. 27704

Mr. Andrews,

I have reviewed your response to our Facility Compliance Audit Report based on our audit conducted on November 14, 2007.

You are well aware and have been warned repeatedly that you may not operate your treatment and processing facility without a permit. There is no "grace period" in the statutes or the rules for operators, like yourself, who either do not submit their application in time and/or who do not provide a complete application. Although we have given you both written and oral notices and compliance orders, you continue to defy the law by continuing to operate. We do not agree with your letter. If you do not adhere to the following schedule and begin to do so immediately, a Compliance Order with Administrative Penalty will be the next communication you receive from this office.

- 1) Removal of all solid waste from the floodway, as designated on your operational plan maps submitted by you and approved by the Solid Waste Section (Section), is required. To avoid further compliance action, please complete the removal of all solid waste from the floodway within 90 days.
- 2) We understand you disagree with the definition of "yard trash". However, your facility is not permitted to accept yard trash as defined in NCAC 13B .0101 (55). Although, you stated in your November letter that you had only taken composted material from the Durham City facility, in your October letter you stated that your facility received 59 loads of "unprocessed wood waste" from the facility. Apparently, Mr. Ted Lyon had some concern about the amount of low carbon nitrogen or "green" waste in those loads because you stated he warned you about the fire potential you created at your facility.
- 3) To prevent further enforcement action, within 120 days you shall reduce pile sizes (i.e. 30 feet high and 50 feet wide as recommended by Ted Lyon, March 2007 letter) and reestablish access areas in accordance with the operations plan you submitted to and was approved by the Solid Waste Section.
- 4) You stated in your November letter that the operations have remained the same and in the exact location for 30 years. Comparing the present and previous site plans and aerial photos

it is evident that the facility operations have continued to expand into the 100-year floodplain at your facility, substantially enlarging the solid waste management operations area over the past few years. You have been informed by the Section in the past that disposing of inert material at your facility is prohibited. However, you continued to accept and dispose of inert material, as well as other prohibited waste (e.g. gas tanks, scrap metal, C&D material) for which you received notices of violation.

Previous excavation operations in the 100-year floodplain were accepted because your facility had a mining permit. This no longer being the case, further expansion of operations into the 100-year floodplain, including disposal and stockpiling, cannot be permitted by the Solid Waste Section and will be considered a violation of your approved operations plan. The Section never intended for solid waste management operations to expand into the 100-year floodplain.

- 5) Changes in the erosion control measures at the facility are required. For example, highlighting our concern about sediment leaving the site you stated in your November letter that the creek washed out the original berm to the sediment basin. The temporary diversion and temporary sediment basins need to be restored to plan dimension as indicated on the approved plan by the Division of Land Resources. Please complete this task within 30 days.

Please be reminded that you are operating without a permit in direct violation of solid waste rules and law and are subject to penalties up to \$15,000 per day per violation.

Sincerely,



Paul Crissman, Chief
Solid Waste Section
Division of Waste Management

cc: Mike Scott
Dennis Shackelford
Mary Whaley