

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**

April 13, 2007

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

The Stump Dump, Inc.,  
c/o Mrs. Kay M. Boyette, Registered Agent  
611 Loop Road  
Clayton, North Carolina 27520-6958

Mr. Larry Boyette and Mrs. Kay Boyette  
611 Loop Road  
Clayton, North Carolina 27520-6958

Re: **Compliance Order With Administrative Penalty**  
**Stump Dump, Inc. Land Clearing and Inert Debris Landfill, Permit #51-E,**  
**Johnston County**

Dear Mr. and Mrs. Boyette:

Enclosed is a Compliance Order issued to The Stump Dump, Inc., Mr. Larry Boyette and Mrs. Kay Boyette, 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. Along with the Compliance Order is an Administrative Penalty in the amount of \$8,750.00 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 Ms. Mary Whaley, Environmental Senior Specialist, Division of Waste Management, at the Raleigh Central Office at (919) 508-8496.

Sincerely,



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, Waste Management Specialist  
Central Files, Solid Waste

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

Re: The Stump Dump, Inc.,  
c/o Mrs. Kay M. Boyette, Registered Agent  
611 Loop Road  
Clayton, North Carolina 27520-6958

**COMPLIANCE ORDER  
WITH ADMINISTRATIVE  
PENALTY**

Mr. Larry Boyette and Mrs. Kay Boyette  
611 Loop Road  
Clayton, North Carolina 27520-6958

**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 The Stump Dump, Inc., Mr. Larry Boyette, and Mrs. Kay Boyette are jointly and severally in violation of certain requirements of the Act and/or Rules, as set forth below.

**STATEMENT OF FACTS**

1. One June 15, 1998, the Division of Waste Management issued a Permit to Construct and Operate Phase 1 (areas 1&2) of a Land Clearing and Inert Debris (LCID) Landfill to "Stump Dump, Inc. - Larry and Kay Boyette". Larry and Kay Boyette own the property on which the facility is located at 611 Loop Road (on S.R 1706) in the Archers community, in Clayton, Johnston County, North Carolina. Ms. Kay Boyette is the President of The Stump Dump, Inc., and upon information and belief, is in control of making decisions concerning operation of the facility. Mr. Larry Boyette operates the facility. As an LCID Landfill, permitted as Permit #51-E, The Stump Dump, Inc. facility was required to conform with the operational requirements of 15A NCAC 13B .0566, as stated in Condition Number 7 of Permit #51-E. This permit was issued for period not to exceed five years from the date of issuance, and was subject to review on or before June 15, 2003.
2. On December, 31, 2001, Mr. Robert Hearn, Waste Management Specialist with the Solid Waste Section, inspected the Stump Dump, Inc. LCID Landfill (hereafter referred to as "Facility") and observed that over one acre of waste material was exposed. He observed that some of this uncovered waste was located on the slopes of the landfill. Mr. Hearn issued a Notice of Violation pursuant to 15A NCAC 13B .0566(4) for inadequate soil cover. The Notice of Violation required that, within 90 days, The Stump Dump, Inc. consolidate and cover all exposed waste on the top and on the slopes of the landfill with adequate soil cover, apply one foot of soil cover on the permanent slopes and establish vegetation immediately after. On February 15, 2002, Mr. Ben Barnes, Waste Management Specialist for the Solid Waste Section, noted that progress had been made in covering the waste and documented the violation as corrected on December 31, 2002.
3. On May 29, 2003, Mr. Barnes inspected the Facility and observed that a large area of waste, greater than one acre, was exposed on the working face of the landfill. Mr. Barnes noted that the slopes of the landfill contained exposed waste as well. Mr. Barnes issued a Notice of Violation pursuant to 15A NCAC 13B .0566(4). Mr. Barnes sent this letter by certified mail (Certified Mail #70020860000658417565) and Mr. Larry Boyette signed for it. The Notice of Violation required that, within 90 days, The Stump Dump, Inc. consolidate and cover all exposed waste on the top and on the slopes of the landfill with adequate soil cover, apply one foot of soil cover on the permanent slopes and establish vegetation immediately after.
4. On July 16, 2003, Mr. Barnes returned to the Facility and noted on his Facility Audit Compliance Report that most of the waste had been covered and required the Facility to fully comply by August 29, 2003. Mr. Barnes sent the Facility Compliance Audit Report by certified mail (Certified Mail #70012510000117076411) and Mr. Larry Boyette signed for it. Mr. Barnes returned to the site on August 28, 2003, and documented on his audit report that the violation of 15A NCAC 13B .0566(4) had been corrected.

**COMPLIANCE ORDER WITH ADMINISTRATIVE PENALTY**

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5. Application documents were received in September of 2003. However, because of the application's insufficiencies the renewal of this permit was never issued. The application submitted indicated that operations were outside the approved 1998 plan. The application documents indicated the Facility had exceeded the approved vertical contours, had filled outside of the horizontal limits of the approved plan, had filled wetlands, and had constructed unapproved side slope contours.
6. On April 28, 2006, Ms. Mary Whaley, Waste Management Specialist for the Solid Waste Section, conducted a comprehensive audit at the Facility. Ms. Whaley observed an area of exposed waste at the site that measured approximately one and a half acres in size. A Notice of Violation was issued, for violation of 15A NCAC 13B .0566 (4) and sent by certified mail (Certified Mail #70051160000441855681). Mr. Larry Boyette signed for the NOV on May 11, 2006. The Notice of Violation required that, within 90 days, The Stump Dump, Inc. consolidate and cover all exposed waste on the top and on the slopes of the landfill with adequate soil cover, apply one foot of soil cover on the permanent slopes and establish vegetation immediately after.
7. On December 29, 2006, Ms. Whaley conducted a partial audit at the Facility to check on the status of the existing Notice of Violation. Ms. Whaley observed that the exposed wood debris that was noted on the previous inspection had been covered. However, there was waste material on the side walls of Phase 2 of the landfill that was exposed. Therefore, it was evident to Ms. Whaley that in the completion of Phase 2, the facility did not apply a minimum of one foot of suitable soil cover, sloped to allow surface water runoff in a controlled manner, as required by 15A NCAC 13B .0566(5). In addition, there was new waste material on top of the landfill that was exposed. The total area of exposed waste material measured approximately two and a half acres in size. Ms. Whaley explained to Mr. Boyette that the exposed waste in the side walls was included in the total area of exposed waste and therefore must be adequately covered. Mr. Boyette was given until February 2, 2007, to adequately cover all material, including material on the side walls, so that less than one acre of waste was exposed. It was explained to Mr. Boyette that he must have the side slopes kept at a maximum slope of three foot horizontal to one foot vertical. This report noted that, "COMPLIANCE ACTION WILL BE TAKEN IF THIS IS NOT COMPLETED."
8. On February 27, 2007, mid-morning, Ms. Whaley received a telephone call from Ms. Kim Robertson, Assistant Director of Johnston County Emergency Services. Ms. Robertson informed Ms. Whaley that there was a fire at the Facility. Ms. Whaley and Mr. Bradley Bailey, Environmental Senior Specialist for the Solid Waste Section, arrived at the Facility at approximately 1:30 p.m. Ms. Whaley noted while at the Facility, that the areas that were required to be covered, by the Notice of Violation issued December 29, 2006, had been covered. The side slopes had been brought down to a 3 to 1 grade. With respect to the fire, Ms. Whaley observed that there was a great deal of smoke, but no flames coming from the site. The areas of heaviest smoke were along the edges and side slopes on the eastern edges of the facility. It was observed that there was smoke also

**COMPLIANCE ORDER WITH ADMINISTRATIVE PENALTY**

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coming up through cracks approximately 100 feet in from the edges of the slope. There were sink holes in the surface and side slopes where debris had burned and the soil cover had collapsed in. The fire department was putting out hose to pump water onto the hot spots, at the time of the inspection. Ms. Whaley and Mr. Bailey were scheduled to go to the Facility on February 28, 2007, to conduct a follow-up inspection to the December 29, 2006 audit.

9. On March 2, 2007, Ms. Whaley contacted Ms. Robertson to check on the status of the fire and to get information on any nearby possible receptors. Ms. Robertson told Ms. Whaley that the closest house in the Riverwood subdivision was 1888.7 feet away from the center of the Facility. There was also a subdivision across the street from the facility in which the closest house was 959.5 feet away. There were also several older homes in the area that had wells.
10. Covering LCID landfills monthly creates individual cells within the landfill that are separated from each other and fresh air by the soil cover. Decomposition will consume the oxygen in the cells, resulting in anaerobic conditions. This will not prevent a fire on the working face of the landfill, but should a fire occur, the soil layers and the lack of oxygen will virtually eliminate its spread. The Stump Dump Facility, Inc. was not properly covered monthly, as required. This resulted in a large volume of waste with oxygen available to support combustion. Had the waste been covered monthly as required, small anaerobic cells would have existed which would have significantly slowed or eliminated the ability of the fire to spread beyond the working face of the Facility.

**STATEMENT OF VIOLATIONS**

The above facts constitute a violation of the following:

1. Title 15A NC Admin Code Subchapter 13B Section .0566(1) require that:

Operational plans shall be approved and followed as specified for the facility.

The Stump Dump, Inc., Mr. Larry Boyette and Mrs. Kay Boyette violated this rule by not following the approved site plan. The documentation in the renewal application indicated they had exceeded the approved vertical contours, had filled outside of the horizontal limits of the approved plan, had filled wetlands, and had constructed unapproved side slope contours.

2. Title 15A NC Admin Code Subchapter 13B Section .0566(4) requires that:

Adequate soil cover shall be applied monthly, or when the active area reaches one acre in size, whichever occurs first.

The Stump Dump, Inc., Mr. Larry Boyette and Mrs. Kay Boyette violated this rule by allowing over one acre of waste to be exposed at the LCID Landfill on several occasions, including the

**COMPLIANCE ORDER WITH ADMINISTRATIVE PENALTY**

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days of the inspections conducted on December 31, 2001, May 29, 2003, July 16, 2003, April 28, 2006, and December 29, 2006.

3. Title 15A NC Admin Code Subchapter 13B Section .0566(5) provides that:

120 calendar days after completion of any phase of disposal operations, or upon revocation of a permit, the disposal area shall be covered with a minimum of one foot of suitable soil cover sloped to allow surface water runoff in a controlled manner. The Division may require further action in order to correct any condition which is or may become injurious to the public health, or a nuisance to the community.

The Stump Dump, Inc., Mr. Larry Boyette and Mrs. Kay Boyette violated this rule in that they did not place a minimum of one foot of soil cover sloped to allow surface water runoff in a controlled manner when Phase 2 was completed.

4. Title 15A NC Admin Code Subchapter 13B Section .0566(12) provides that:

Open burning of solid waste is prohibited.

The Stump Dump, Inc., Mr. Larry Boyette and Mrs. Kay Boyette violated this rule in that open burning of solid waste began at the facility located at 611 Loop Road, Clayton, Johnston County, North Carolina on February 27, 2007. By failing to properly manage the solid waste management facility and apply adequate daily cover, the facility was more susceptible to catching fire.

5. Title 15A NC Admin Code Subchapter 13B Section .0201(f) requires that:

All solid waste management facilities shall be operated in conformity with these Rules and in such a manner as to prevent the creation of a nuisance, insanitary conditions, or potential public health hazard.

The Stump Dump, Inc., Mr. Larry Boyette and Mrs. Kay Boyette violated this rule in that they improperly managed the facility that caught fire and created a nuisance and potential public health hazard.

**CONDITIONS FOR COMPLIANCE**

Based on the foregoing, you are hereby ordered to comply with 15A NCAC 13B by taking the following actions:

1. Immediately cease accepting waste at the facility. The facility may only receive clean soil for the sole purpose of covering waste.

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2. Within 30 days, all waste at the facility, including the waste located in the working face of the landfill, shall be adequately covered with soil. Immediately after the waste has been adequately covered with soil, implement erosion control measures by grading and seeding.
3. 120 calendar days has expired since the completion of Phase 2 which was inadequately covered with soil and not sloped to allow surface water runoff in a controlled manner, as required by 15A NCAC 13B .0566(5). Due to the proximity of neighboring houses and the continuing potential health hazard posed by the smoke from the landfill fire, the Division is requiring, in accordance with 15A NCAC 13B .0566(5), that the facility cease accepting all waste until the fire is completely extinguished and all waste is completely covered.

**PENALTY IMPOSED**

In addition to taking the actions specified above, The Stump Dump, Inc., Mr. Larry Boyette, and Mrs. Kay Boyette are hereby ordered to pay, jointly and severally, in accordance with N.C. General Statute 130A-22(a), a total administrative penalty of \$8,750.00, for violations of 15A NCAC 13B .0566(4) (\$4,750.00) and .0201(f) (\$4,000.00).

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. 13 B .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**

The Stump Dump, Inc., Mr. Larry Boyette, and Mrs. Kay Boyette have 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 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

**COMPLIANCE ORDER WITH ADMINISTRATIVE PENALTY**

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provide additional information, including any actions you have taken to correct the violation(s). If you desire an informal conference, please contact:

Mary Whaley  
Senior Environmental Specialist  
NC DENR – Division of Waste Management  
Solid Waste Section  
401 Oberlin Road, Suite 150  
1646 Mail Service Center  
Raleigh, NC 27699  
(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  
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:

The Stump Dump, Inc.,  
c/o Mrs. Kay M. Boyette, Registered Agent  
611 Loop Road  
Clayton, North Carolina 27520-6958

Mr. Larry Boyette and Mrs. Kay Boyette  
611 Loop Road  
Clayton, North Carolina 27520-6958

Dated this 13 day of April, 2007

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