



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

June 18, 2014

William M. Hester
ICAN
1049 S. Eastern Blvd.
Fayetteville, NC 28306

Re: Comments on Renewal Application
River City Transfer Station
Cumberland County, North Carolina
Permit No. 2611T-TRANSFER
Doc ID No. 21299

Dear Mr. Hester:

Since issuing comments to you on March 19, 2013, for your application received February 26, 2013, [DIN18588], you re-submitted a revised application for the above referenced facility on November 18, 2013, [DIN21204], a marked-up copy of your permit on April 11, 2014 and submitted payment for the application on April 15, 2014.

Below are comments on your November 18, 2013, submittal. Your timely response to the following comments is needed to continue the permitting process.

Compliance Status

You need to be aware that N.C. General Statute §130A-294-(b2)(2) will have direct bearing on the outcome of the permitting process due to the number of adverse factors relating to your management of wastes. The Statute reads, in part, as follows:

- (b2) The Department shall require an applicant for a permit or a permit holder under this Article to satisfy the Department that the applicant or permit holder, and any parent, subsidiary, or other affiliate of the applicant, permit holder, or parent, including any joint venturer with a direct or indirect interest in the applicant, permit holder, or parent:
 - (2) Has substantially complied with the requirements applicable to any activity in which the applicant or permit holder, or a parent, subsidiary, or other affiliate of the applicant, permit holder, or parent, or a joint venturer with a direct or indirect interest in the applicant has previously engaged and has been in substantial compliance with federal and state laws, regulations, and rules for the protection of the environment as provided in G.S. §130A-295.3.

[\[http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_130A/GS_130A-294.html\]](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_130A/GS_130A-294.html)

N.C. General Statute §130A-295.3 reads, in part, as follows:

- (b) The Department shall conduct an environmental compliance review of each applicant for a new permit, permit renewal, and permit amendment under this Article. The environmental compliance review shall evaluate the environmental compliance history of the applicant for a period of five years prior to the date of the application and may cover a longer period at the discretion of the Department. The environmental compliance review of an applicant may include consideration of the environmental compliance history of the parents, subsidiaries, or other affiliates of an applicant or parent that is a business entity, including any business entity or joint venturer with a direct or indirect interest in the applicant, and other facilities owned or operated by any of them. The Department shall determine the scope of the review of the environmental compliance history of the applicant, parents, subsidiaries, or other affiliates of the applicant or parent, including any business entity or joint venturer with a direct or indirect interest in the applicant, and of other facilities owned or operated by any of them. An applicant for a permit shall provide environmental compliance history information for each facility, business entity, joint venture, or other undertaking in which any of the persons listed in this subsection is or has been an owner, operator, officer, director, manager, member, or partner, or in which any of the persons listed in this subsection has had a direct or indirect interest as requested by the Department.
- (c) The Department shall determine the extent to which the applicant, or a parent, subsidiary, or other affiliate of the applicant or parent, or a joint venturer with a direct or indirect interest in the applicant, has substantially complied with the requirements applicable to any activity in which any of these entities previously engaged, and has substantially complied with federal and State laws, regulations, and rules for the protection of the environment. The Department may deny an application for a permit if the applicant has a history of significant or repeated violations of statutes, rules, orders, or permit terms or conditions for the protection of the environment or for the conservation of natural resources as evidenced by civil penalty assessments, administrative or judicial compliance orders, or criminal penalties.
- (d) A permit holder shall notify the Department of any significant change in its environmental compliance history or other information required by G.S. 130-295.2(g). The Department may reevaluate the environmental compliance history of a permit holder and may modify or revoke a permit or require issuance of a new permit. (2007-550, s. 6(a).)

http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_130A/GS_130A-295.3.html

The following are comments related to your application submittals.

1. General Observation: Several significant inconsistencies occur in the message, application and attached notes in your email of November 18, 2013 [DIN21204].
 - a. Your message requests a 150 ton per day limit, your application requests 100 tons per day and your Notes request a variable tonnage per day.
 - b. Your Notes contains a request to change the name due to an ownership change, but your application requests a permit in the existing name. The name River City is used on the title page and commonly used through-out the application.
 - c. Your Notes request disposal at any permitted North Carolina or South Carolina landfill, but your application stipulates Cumberland, Robeson and Sampson County landfills.
 - d. In emails to our office, you indicate your desire to include MSW in your waste stream, but your application is only for C&D waste materials.
2. Notes No. 1: You indicate that an ownership change has occurred. You will need to provide an updated organizational chart and questionnaire. Following submittal of the organizational chart and questionnaire, a corrected application is necessary.
3. Notes Nos. 2, 3 and 4: You are allowed to expand the facility only through the submittal of an application to modify your permit to the Division, which is subject to the review and approval process. Expanding your tipping pad and increasing your daily tonnage warrants a modified permit. General site maintenance such as placing bollards does not.
4. Note No. 5: Please list the North Carolina landfills with their permit numbers that you wish to use in your proposed operation plan. You may use any appropriately permitted South Carolina landfill you choose, but you will need to maintain records and forward the North Carolina Tipping Fees to the NC Department of Revenue.
5. Section 2.1 Waste Categories: As stated in the March 19, 2013, comments letter, you include materials that are not by definition eligible for disposal in a C&D landfill. Non-putrescible source-separated recyclable materials that [i] do not cause a nuisance or adverse health effects or [ii] are not regulated by statute can be managed by you. However, be aware that wastes [or those materials that do not meet market specifications] derived from those materials cannot be mixed with C&D wastes for disposal in a C&D landfill under the statutes and North Carolina Solid Waste Management Rules.

In essence, you may accept source-separated recoverable/recyclable materials in a manner that is completely segregated from the C&D waste processing operations. The waste remainder [or 'overs'] of what is not recoverable from the source-separated stream is a MSW waste and is not eligible for disposal in a C&D landfill. Mixing C&D wastes with the source-separated 'overs' will create a MSW waste that is also not eligible for disposal at a C&D landfill. However, you must detail how you will segregate the waste streams in your proposed Operation Plan.

6. Section 2.2 Prohibited Wastes: Please correct name of the department to North Carolina Department of Environment and Natural Resources [NC-DENR]. You use the acronym 'NCDEHNR' and include the 'Health' in the department title. This correction needs to be made at other locations in the application.

Also, please change the word 'guidelines' in the first line to Solid Waste Management Rules.

7. Section 2.2: Please review the italicized sentence on the 6th line, which appears to be a draft question to the writer instead of part of the operation plan.
8. Section 3.6 Handling and Storage of Recyclables or Recovered Materials: Unless you intend to dispose of all waste 'overs' resulting from your sorting process into an MSW landfill, you will need to provide details in this section that describe how you will keep the source-separated waste 'overs' separate from the C&D waste 'overs' from the time of delivery, storage and transfer.
9. You did not include a new facility drawing with the revised application. Should you intend to manage source-separated materials segregated from the C&D operations, you will need to provide a revised facility drawing.

If you have questions about the permit conditions or questions regarding the above comments, please contact me at 919-707-8252.

Sincerely,

Geoffrey H. Little, Environmental Engineer II
Division of Waste Management, NC-DENR

c: Michael Scott, DWM Andrew Hammonds, DWM
Ed Mussler, DWM Jason Watkins, DWM
Terry Townsend, Assistant Attorney General