



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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August 6, 2020

Mr. Jerry Cifor
President
Green Ridge Recycling and Disposal LLC
12230 Deergrove Road
Midlothian, Virginia 23112

**Subject: Green Ridge Recycling and Disposal Facility, LLC
Notice of Intent – Completeness Review 3**

Dear Mr. Cifor:

The Virginia Department of Environmental Quality (DEQ) Piedmont Regional Office (PRO) appreciated the opportunity to speak with you over the telephone on July 17, 2020 to discuss the Notice of Intent (NOI) for the Green Ridge Recycling and Disposal Facility, LLC (Green Ridge) dated January 17, 2020.

As you recall, on March 20, 2020 DEQ submitted a NOI – Completeness Review 1 to Green Ridge, which outlined certain deficiencies in Green Ridge’s disclosure statements. On April 16, 2020, Green Ridge provided DEQ with a response letter, which was prepared by Draper Aden Associates.

On July 1, 2020, DEQ submitted a NOI — Completeness Review 2 to Green Ridge, which reiterated that Green Ridge’s NOI contained certain deficiencies under Virginia’s Solid Waste Management Regulations (VSWMR). Thus, Green Ridge’s NOI remains *administratively incomplete*.

On July 17, 2020, representatives from DEQ and Green Ridge spoke over the telephone to discuss DEQ’s NOI – Completeness Review 2. During that phone call, Green Ridge requested additional guidance from DEQ. The purpose of this letter is to provide that requested guidance.

- 1.) **Disclosure Statement, NOI Appendix NOI-II**: During the July 17 telephone call, Green Ridge raised two general questions: (1) who should be identified as “key personnel,” and (2) what information are “key personnel” required to disclose. Additional guidance regarding both of these issues is described below.

a. **Key Personnel**

“No application for a new solid waste management facility permit . . . shall be deemed complete unless it is accompanied by DEQ Form DISC-01 and 02 (Disclosure Statement) for **all key personnel.**” 9 VAC 20-81-450.B.2 (emphasis added).

Under § 10.1-1400 of the Code of Virginia, “key personnel” is defined as:

The applicant itself and any person employed by the applicant in a managerial capacity or empowered to make discretionary decisions, with respect to the solid waste or hazardous waste operations of the applicant in Virginia, but shall not include employees exclusively engaged in the physical or mechanical collection, transportation, treatment, storage, or disposal of solid or hazardous waste and such other employees as the Director may designate by regulation. If the applicant has not previously conducted solid waste or hazardous waste operations in Virginia, the term also includes any officer, director, partner of the applicant, or any holder of five percent or more of the equity or debt of the applicant. If any holder of five percent or more of the equity or debt of the applicant or of any key personnel is not a natural person, the term includes all key personnel of that entity, provided that where such entity is a chartered lending institution or a reporting company under the Federal Securities Exchange Act of 1934, the term does not include key personnel of such entity.

Thus, Green Ridge must provide disclosure statements for the following entities:

- (1) Green Ridge itself;
- (2) Green Ridge’s managers;
- (3) Any Green Ridge employees who are empowered to make discretionary decisions regarding waste operations in Virginia (but not employees exclusively engaged in the physical or mechanical collection, transportation, treatment, storage, or disposal of solid or hazardous waste);
- (4) Green Ridge’s officers, directors, or partners;
- (5) Any individual or corporation who holds five percent or more of Green Ridge’s equity or debt; and

- (6) All of the key personnel of any corporation which holds five percent or more of Green Ridge’s equity or debt, unless that corporation is a reporting company under the Federal Securities Exchange Act of 1934.¹

According to the information provided by Green Ridge, the following entities hold—either directly or indirectly—at least five percent of Green Ridge’s equity: County Waste of Virginia LLC; CWV Holdco, Inc.; GFL Holdco, LLC; GFL Environmental Holdings, Inc.; and GFL Environmental, Inc. (collectively the “Parent Corporations”).

As the Parent Corporations each hold at least five percent of Green Ridge’s equity, they are all “key personnel” as defined by § 10.1-1400 of the Code of Virginia and 9 VAC 20-81-10. Therefore, Green Ridge’s application cannot be considered administratively complete until it submits DEQ Form DISC-02 for each of the Parent Corporations. Id.; Va. Code §10.1-1408.1(B)(2); 9 VAC 20-81-450.B.2.

Furthermore, it appears that neither County Waste of Virginia, LLC; CWV Holdco, Inc.; GFL Holdco, LLC; nor GFL Environmental Holdings, Inc. is a chartered lending institution or a reporting company under the Federal Securities Exchange Act of 1934. Therefore, these corporations’ key personnel are all Green Ridge’s key personnel too. 9 VAC 20-81-10 (“If any holder of five percent or more of the equity or debt of the applicant or of any key personnel is not a natural person, the term includes all key personnel of that entity.”).

Thus, Green Ridge must provide disclosure statements for the following entities:

- (1) The managers for County Waste of Virginia, LLC; CWV Holdco, Inc.; GFL Holdco, LLC; and GFL Environmental Holdings, Inc.;
- (2) Any persons employed by County Waste of Virginia, LLC; CWV Holdco, Inc.; GFL Holdco, LLC; and GFL Environmental Holdings, Inc., who are empowered to make discretionary decisions regarding waste operations **in Virginia** (but not employees exclusively engaged in the physical or mechanical collection, transportation, treatment, storage, or disposal of solid or hazardous waste);
- (3) If County Waste of Virginia, LLC; CWV Holdco, Inc.; GFL Holdco, LLC; or GFL Environmental Holdings, Inc. has never previously conducted solid or hazardous waste management operations in Virginia, then the term key personnel also includes: (1) each corporation’s officers, directors, and

¹ It appears that Green Ridge is not a reporting company under the Federal Securities Exchange Act of 1934. Therefore, its own key personnel are not excluded from disclosure. 9 VAC 20-81-10.

Likewise, it appears that Green Ridge is not exempt from disclosure requirements simply because one of its parent corporations may be a reporting company under the Federal Securities Exchange Act of 1934. Under Virginia law, “a subsidiary is separate and distinct from its parent corporation.” Richfood, Inc. v. Jennings, 255 Va. 588, 593 (1998).

partners, and (2) any holder of five percent or more of the corporation's equity or debt.

Green Ridge's application cannot be considered administratively complete until it submits DEQ Form DISC-02 for each of its parent corporations' key personnel.

b. Disclosure Requirements

During the July 17 phone call, representatives from Green Ridge asked specific questions about what information key employees are required to provide in their disclosure statements.

Under § 10.1-1400 of the Code of Virginia, a "Disclosure Statement" must include the following information:

1. The full name and business address of all key personnel;
2. The full name and business address of any entity, other than a natural person, that collects, transports, treats, stores, or disposes of solid waste or hazardous waste in which any key personnel holds an equity interest of five percent or more;
3. A description of the business experience of all key personnel listed in the disclosure statement;
4. A listing of all permits or licenses required for the collection, transportation, treatment, storage, or disposal of solid waste or hazardous waste issued to or held by any key personnel within the past 10 years;
5. A listing and explanation of any notices of violation, prosecutions, administrative orders (whether by consent or otherwise), license or permit suspensions or revocations or enforcement action of any sort by any state, federal, or local authority, within the past 10 years, which are pending or have concluded with a finding of violation or entry of a consent agreement, regarding an allegation of civil or criminal violation of any law, regulation or requirement relating to the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste by any key personnel.
6. A listing of all agencies outside the Commonwealth which have regulatory responsibility over the applicant or have issued any environmental permit or license to the application within the past 10 years in connection with the applicant's collection,

transportation, treatment, storage, or disposal of solid waste or hazardous waste;

7. Any other information about the applicant and the key personnel that the Director may require that reasonably relates to the qualifications and ability of the key personnel or the applicant to lawfully and competently operate a solid waste management facility in Virginia; and
8. The full name and business address of any member of the local governing body planning commission in which the solid waste management facility is located or proposed to be located, who holds an equity interest in the facility.

See also 9 VAC 20-81-10 (defining “disclosure statement” as “a sworn statement or affirmation as required by § 10.1-1400 of the Code of Virginia (see DEQ Form DISC-01 and 02 (Disclosure Statement))”).

Furthermore, DISC-02 requires each key personnel to list and explain:

any findings or allegations of civil or criminal violation of any law, regulation, or requirement related to the collection, transportation, treatment, storage, or disposal of solid waste (pending or concluded, by the above named [key personnel] or by any facility at which the person was key personnel); any license or permit suspensions in any state, and convictions of any crimes specified in §10.1-1400 definition of “Disclosure Statement”, item 5.

DISC-02 (bold emphasis added; underline emphasis in original). Please note, key personnel are required to list and explain any findings or allegations of violations related to solid waste management by any facility at which the person was key personnel, **during the time when that person acted as key personnel for that facility.**

By way of example, during our phone call, you mentioned that Mr. Greg Yorston may need to be listed as one of Green Ridge’s key personnel. You explained that, within the last ten years, Mr. Yorston has been key personnel for several different waste management companies, not directly related to Green Ridge.

Under the VSWMR, Mr. Yorston would be required to list and explain all findings and allegations of violations committed by these waste management companies during the period of time that he was key personnel. Any findings or allegations of violations which occurred **before** or **after** Mr. Yorston was key personnel do not need to be disclosed.

- 2.) **Previously Submitted Disclosure Statements: Potentially Incomplete Disclosure Statements:** In DEQ’s Notice of Intent – Completeness Review Letter 2, DEQ raised

concerns that Green Ridge may have omitted information regarding two of its previously identified key personnel: Scott T. Earl and County Waste of Virginia, LLC.

Specifically, DEQ had received information that, in February 2010, Mr. Earl and County Waste paid \$1 million dollars in damages to the New York Attorney General's Office, to resolve allegations that County Waste understated the amount of waste it disposed and neglected to meet the requirements of its New York's environmental permit.

During the July 17 phone call, representatives from Green Ridge explained that the subject of the February 2010 environmental settlement in New York was County Waste of New York, LLC, not County Waste of Virginia, LLC. Green Ridge further represented that County Waste of New York, LLC is not one of Green Ridge's key personnel. Therefore, Green Ridge had no obligation to disclose this settlement with respect to County Waste of New York, LLC.

Furthermore, during the July 17 phone call, representatives from Green Ridge acknowledged that it was obligated to disclose the February 2010 environmental settlement with respect to Mr. Scott T. Earl. Nevertheless, Green Ridge explained that, due to restructuring within the Parent Corporations, Mr. Scott T. Earl will no longer be employed by Green Ridge and will no longer be one of its key employees.

This letter should not be considered a legal opinion or a case decision as defined by the Administrative Process Act, Code of Virginia § 2.2-4000 *et seq.* It is merely an attempt to ensure that DEQ may review all information required under the VSWMR. If you believe any part of this letter is in error or have any questions regarding this matter, please contact Dean Starook of my staff at (804) 527-5049, or by e-mail at dean.starook@deq.virginia.gov.

Sincerely,

Shawn Weimer
Land Protection Manager

c: Lynn Klappich, Draper Aden Associates
Kathryn Perszyk, DEQ-CO
Kyle Winter, DEQ-PRO