Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE
4949-A Cox Road, Glen Allen, Virginia 23060
(804) 527-5020 FAX (804) 698-4178
www.deq.virginia.gov

Andrew R. Wheeler
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4000

James Golden
Regional Director

January 26, 2022

Green Ridge Recycling and Disposal Facility, LLC
Attn: Jerry Cifor
12230 Deergrove Road
Midlothian, VA 23112

VIA EMAIL: jerry.cifor@myfairpoint.net
Return Receipt Requested

RE: Joint Permit Application Number 20-1619
Green Ridge Recycling and Disposal Facility, Cumberland County, Virginia
Additional Information Request Letter

Dear Mr. Cifor:

The Virginia Department of Environmental Quality (DEQ) received your application for the above-referenced project on September 2, 2020 and additional information materials received on May 7, 2021 and January 11, 2022. DEQ finds that your project qualifies for authorization under the Virginia Water Protection (VWP) Permit in accordance with 9 VAC 25-210-10 et seq; however, the following information is required to complete your application under the VWP Permit Program.

1. In accordance with 9 VAC 25-210-80 B 1.g, please provide the following information to clarify alternative selection criteria:

   Please provide additional information for how the project selected the 45 mile radius with I-64 and I-95.

   Please provide the estimated surface water impact for the alternatives based on the concept layouts presented in Appendix 5 “Figures – Preliminary Layout- Previous Submittal.”

   Please describe the onsite measures used to avoid or minimize impacts associated with the Miller Lane relocation which now results in surface water impacts that were not previously identified.

Additionally, there is a note on the impact drawing for impact EW.3 that further avoidance and minimization is being evaluated. Please elaborate on the evaluation ongoing for this area.

2. It appears that the project has added new impact areas (RR.5 and RR.6) and has inconsistently reported some impact areas (EW.3). Additionally, Table 1.3 reports a different total impact than what is presented in other parts of the submittal. In accordance with 9 VAC 25-210-80 B 1.h, please confirm the project impacts and ensure the application accurately and consistently reports the proposed surface water impacts. Please update and provide the narrative description of all the proposed impacts to include any added impact areas.

   Please ensure that all names and impact information match impact drawings and compensatory mitigation plans.

3. In accordance with 9 VAC 25-210-80 B.1.h (1) & (2), please identify wetland impacts according to their Cowardin classification (i.e., emergent, scrub-shrub, or forested); and **for each classification, the individual impacts quantified in square feet to the nearest whole number, cumulatively summed in square feet, and then the sum converted to acres and rounded to two decimal places** using commonly accepted arithmetic principles of rounding.

   Individual stream impacts (i) quantified by length in linear feet to the nearest whole number and by average width in feet to the nearest whole number; (ii) quantified in square feet to the nearest whole number; and (iii) when compensatory mitigation is required, the impacts identified according to the assessed type using the Unified Stream Methodology.

   The project appears to have grouped separate stream bed segments into one impact area (1.3, 2.2, 3.2, 5.2, 9.1). Please separate each distinct stream bed segment with a unique impact identifier and update the corresponding USM forms to reflect the updated impact areas. Please complete a separate USM form for each distinct stream bed segment.

4. In accordance with 9 VAC 25-210-80 B 1.h, please provide a short narrative for each area where the potential for secondary impacts was evaluated. In this narrative, please include whether or not a secondary impact is expected, how the project reached that conclusion including the summarized data to support that conclusion, and if a secondary impact has been identified, describe the secondary impact and how the project determined the extent of the secondary impact. For the secondary impacts that are identified, please also provide a justification for the need of the impact, how the project avoided and/or minimized the impact, and provide a compensatory mitigation plan for these impacts.

   How do the borrow areas impact the drainage areas that support the residual resources? Have all secondary impacts associated with the borrow areas been accounted for by the project? Where will the sediment basins associated with the borrow areas discharge?

5. The surface waters associated with RR.5 and RR.6 do not appear to be included on the project jurisdictional determination for the project. In accordance with 9 VAC 25-210-80 B 1.h(4), please provide a copy of the approved jurisdictional determination when available, or when unavailable, (i) the preliminary jurisdictional determination from the U.S. Army Corps of Engineers (USACE), U.S. Department of Agriculture Natural Resources Conservation Service (NRCS), or DEQ or (ii) other correspondence from the USACE, NRCS, or DEQ indicating approval of the boundary of applicable jurisdictional surface waters, **including wetlands data sheets** if applicable.

6. Please separate each distinct stream bed segment with a unique impact identifier and update the corresponding USM forms to reflect the updated impact areas.

   Additionally, it doesn't appear that the project has depicted outlet protection for the landfill sediment basins and does not show the outfalls for the borrow area basins.

   In accordance with 9 VAC 25-210-80 B.1.i, please ensure that plan view drawings are updated based on comments made above.
   Please ensure that all proposed contours are shown.
   Please ensure the limits of proposed surface water impacts are clearly depicted.
   Please ensure the location of all existing and **proposed infrastructure is shown**, including **stormwater infrastructure, road culverts, and borrow areas (including and inlet or outlet protection, where required).**
   Please ensure the entire project area is shown on the map.

7. In accordance with 9 VAC 25-210-80 B.1.j, please provide cross-sectional and profile drawing or drawings. Cross-sectional drawing or drawings of **each proposed impact area** (including the separate stream bed segments that are requested above) includes at a minimum a graphic scale, existing structures, existing and proposed elevations, limits of surface water areas, ebb and flood or direction of flow (if applicable), ordinary high water mark in nontidal areas, tidal wetland boundary, mean low water and mean high water lines in tidal areas, impact limits, and location of all existing and **proposed structures**. Profile drawing or drawings with this information may be required on a case-by-case basis to demonstrate minimization of impacts. **Any application that proposes piping or culverting stream flows shall provide a longitudinal profile of the pipe or culvert position and stream bed thalweg, or shall provide spot elevations of the stream thalweg at the beginning and end of the pipe or culvert, extending to a minimum of 10 feet beyond the limits of the proposed impact.**

   Please just provide the cross sectional drawings and longitudinal drawings for the proposed impacts and please label them with the same unique impact identifiers used on the plan view drawings. It is not necessary to provide cross sectional drawings for areas of the project that are not proposed surface water impacts.

8. In accordance with 9 VAC 25-210-80 B.1.m, please provide more information to justify the assigned USM scores and update the forms to reflect the unique stream bed segments.

DEQ would like to visit the project site to review the USM scores. Please provide your or your agents availability for this visit with the updated forms.

Please provide a compensatory mitigation plan for the proposed wetland impacts.

9. The provided RIBITS ledger indicates that there are enough credits available to service the project. If the provided information is not accurate, please update your response and include updated documentation. If enough credits are available, please provide the following information described in 9 VAC 25-210-116 B.1 which is as follows: "An analysis shall be required to justify that permittee-responsible compensatory mitigation is ecologically and environmentally preferable to the purchase of mitigation bank credits or in-lieu fee program credits, if such credits are available in sufficient quantity for the project at the projected time of need. The analysis shall address the ability of the permittee-responsible compensatory mitigation sites to replace lost wetland acreage and functions or lost stream functions and water quality benefits. The analysis comparing the impacted and compensation sites may use a method that assesses water quality or habitat metrics, such as that required by 9VAC25-210-80 C, or a method that assesses such criteria as water quality benefits, distance from impacts, hydrologic source and regime, watershed, vegetation type, soils, constructability, timing of compensation versus impact, property acquisition, and cost."

   If credits are not available, the next option for compensatory mitigation in the hierarchy is permittee-responsible compensation using a watershed approach. Please demonstrate how the proposed Boxwood PRM is using a "watershed approach" as defined in 9 VAC 25-210-10.

   In accordance with 9 VAC 25-210-80 B.1.m, please provide a more detailed narrative describing how the new permittee responsible mitigation (PRM) site achieves no net loss of stream functions and water quality benefits. Your response indicates the proposed Boxwood PRM site is superior to the Martin PRM site that was originally proposed. What makes the Boxwood site superior to the Martin site?

10. If the project would like to pursue the PRM site and can satisfactorily provide the information requested above, in accordance with 9 VAC 25-210-80 B.1.m (2) & (3), please ensure the plan includes the following (this item was included in a previous request, however it does not appear that the items in **bold** were included):

    (2) If permittee-responsible compensation is proposed for stream impacts, a conceptual stream compensatory mitigation plan shall be submitted in order for an application to be deemed complete and shall include at a minimum (i) the goals and objectives in terms of water quality benefits and replacement of stream functions; (ii) a detailed location map **including the latitude and longitude to the nearest second and the fourth order subbasin, as defined by the hydrologic unit boundaries of the National Watershed Boundary Dataset, at the center of the site;** (iii) a description of the surrounding land use; **(iv) the proposed stream segment restoration locations including plan view and cross-section drawings**; **(v) the stream deficiencies that need to be addressed**; (vi)

data obtained from a DEQ-approved, stream impact assessment methodology such as the Unified Stream Methodology; **(vii) the proposed restoration measures to be employed including channel measurements, proposed design flows, types of instream structures, and conceptual planting scheme; (viii) reference stream data, if available**; (ix) inclusion of buffer areas; **(x) schedule for restoration activities**; and (xi) measures for the control of undesirable species.

(3) For any permittee-responsible compensatory mitigation, the conceptual compensatory mitigation plan shall also include a draft of the intended protective mechanism or mechanisms, in accordance with 9VAC25-210-116 B 2, such as, but not limited to, **a conservation easement (This is DEQ's preference)** held by a third party in accordance with the Virginia Conservation Easement Act (§ 10.1-1009 et seq. of the Code of Virginia) or the Virginia Open-Space Land Act (§ 10.1-1700 et seq. of the Code of Virginia), a duly recorded declaration of restrictive covenants, or other protective instrument. The draft intended protective mechanism shall contain the information in subdivisions (a), (b), and (c) of this subdivision B 1 m (3) or in lieu thereof shall describe the intended protective mechanism or mechanisms that contain or contains the information required as follows:

(a) A provision for access to the site;
(b) The following minimum restrictions: no ditching, land clearing, or discharge of dredge or fill material, and no activity in the area designated as compensatory mitigation area with the exception of maintenance; corrective action measures; or DEQ-approved activities described in the approved final compensatory mitigation plan or long-term management plan; and
(c) A long-term management plan that identifies a long-term steward and adequate financial assurances for long-term management in accordance with the current standard for mitigation banks and in-lieu fee program sites, except that financial assurances will not be necessary for permittee-responsible compensation provided by government agencies on government property. If approved by DEQ, permittee-responsible compensation on government property and long-term protection may be provided through federal facility management plans, integrated natural resources management plans, or other alternate management plans submitted by a government agency or public authority.

Please explain why the project is proposing to use a deed restriction instead of a conservation easement for the proposed Boxwood PRM site.

Please identify any existing areas that have a land protective instrument within the proposed Boxwood PRM site.

Please complete the attached Property Owners Access Agreement form for the proposed Boxwood PRM site.

Please provide the USM crediting forms for the reaches where restoration and enhancement are proposed.

Please provide a map that depicts the proposed buffer segments so that they can be compared to the associated USM crediting form.

Please recheck the USM crediting forms to ensure the project is excluding any area and associated credit that was generated for the existing TMDL project. Have any credits been generated by enhancing wetlands onsite? If so, please identify where.

Please update the performance standard section for invasive species management. Please list the species that will be treated and include the DCR Invasiveness Ranking. Please provide one or more maps of the invasive species inventory that correlates to the proposed buffer sections.

Has the proposed Boxwood PRM project been withdrawn from IRT review?

What is the status of the TMDL project? Could any corrective action items or maintenance items required for the TMDL project impact the proposed Boxwood PRM project? If so, how will the project mitigate those impacts?

It doesn't appear that the project is proposing to enhance or restore any of the streams or buffers associated with the Green Ridge preservation and the proposed activity is strictly preservation which is last on the mitigation hierarchy. The project identified the proposed Green Ridge preservation area as an area that was originally proposed for impact, but ultimately avoided the surface water impacts in this area. Please provide more information to justify the inclusion of the Green Ridge preservation as part of the compensatory mitigation plan. Please include information that demonstrates how the project expects to protect the long term fidelity of these proposed preservation areas despite their proximity to the proposed project. Please include any information that demonstrates any unique or noteworthy components of these areas.

Please provide enough information in order for DEQ to verify the amount of proposed credits that are to be generated by the conceptual mitigation plan. This will include more detail where and how structures will be implemented, clearly defining buffer sections and adding labels so that data sheets, tables, and plans can be easily cross-referenced. DEQ would like to set up a site visit to proposed mitigation site once more information is provided.

DEQ would like to request a site visit to the proposed Boxwood PRM site. Please let me know you or your agent's availability for this visit.

11. In accordance with 9 VAC 25-210-80 B 1.n, please provide a jurisdiction determination for the entire proposed PRM project area.

12. In accordance with 9 VAC 25-210-80 B 1.p, a permit application fee is required to complete the application. Once the proposed impact information has been determined, DEQ will notify you of the fee amount.

The 120-calendar day processing period for authorization of the VWP Individual Permit will not commence until you provide the above requested information. Please submit the information to my attention by March 14, 2022 so that DEQ can continue to process your application. Please be advised that upon receipt of the requested information, additional information may still be required for DEQ to reach a permit decision.

Please contact me by phone at (804) 904-9874 or by email at justin.brown@deq.virginia.gov if you have any questions or concerns regarding this request. Thank you for your cooperation in this matter.

Respectfully,

Justin Brown, PWD
VWP Permit Writer

Enclosure: Property Owner Access Agreement Form

cc: Brent Johnson, KBJW – VIA EMAIL
Steven Vanderploeg, U.S. Army Corps of Engineers – VIA EMAIL