Exhibit 11

Email to NC DEQ GC and HWS Inspector (Sept. 19, 2017)
(copy of attachment to letter dated 27 Sept. 2017).

Ex. 11(a) – Email to NC DEQ GC and HWS Inspector (Sept. 19, 2017)

Ex. 11(b) – Immediate Action Notice of Violation issued to Loren Lanter
in connection with the facility issued EPA ID No. NCD070619663 (June 15, 2017)

Exhibit 11(a)

Email to NC DEQ GC and HWS Inspector (Sept. 19, 2017)
(copy of attachment to letter dated 27 Sept. 2017).

WASCO LLC

September 27, 2017

Mr. William "Bill" F. Lane
General Counsel
N.C. Dep't of Envtl. Quality
217 West Jones Street
1601 Mail Service Center
Raleigh, NC 27603

via FedEx, No. 7703 6398 6498

Mr. Jeff. Menzel
Hazardous Waste Section
N.C. Dep't of Envtl. Quality
217 West Jones Street
1646 Mail Service Center
Raleigh, NC 27699

via FedEx, No. 7703 6402 4767

Re Courtesy Mailing, Printed Copies of Emails Dated 19 September 2017

Dear Messrs. Lane and Menzel:

Attached are courtesy copies of the following emails (along with printed copies of some of the attachments to the emails) that I have recently sent to you:

- 19 September 2017, inclusive of hard copy printouts of the following attachments to the email:

  1) Dep't Exhibit E-2 (Doc. Ex. 308–09) ("Asheville Dyeing & Finishing" / "AD&F" = Winston Mills, Inc., ***not*** WASCO LLC);

  2) Asheville Dyeing & Finishing / Anvil Knitwear / Dyna-Diggr Facility Whitepaper (July 2017);

  3) 1-page graphic (various records demonstrating Department error in alleging WASCO LLC to be operator);

  4) 1-page graphic (State HW Program, Enabling Statute Overview (Article 9, Chapter 130A), Use and Definition of "Operator");

  5) 1-page graphic (Administrative Orders in lieu of Post-Closure Permit (Alternate Mechanisms) and Other Records from NCDEQ Public File (Laserfiche) or Produced by DEQ dated 18 July 2017);

4760 World Houston Parkway, Suite 100, Houston, TX 77032
(832) 300-5700 / fax: (832) 300-5768

6) ADF – EPA RCRAInfo & Envirofacts Reports (8.31.17 and 9.12.17) (**Dyna-Diggr** (Loren Lanter) is the **sole** current RCRA owner and **operator** of record for the AD&F facility, since 01 December 2007; no such RCRA classification as "post-closure operator") ;

7) email to Messrs. Menzel and Lane, dated 8 May 2017 (errors re Mr. Menzel's 2016 RCRA facility inspection of the AD&F facility);

8) email to Mr. Lane, dated 16 May 2017 (errors re Mr. Menzel's 2016 RCRA facility inspection of the AD&F facility); and

9) email to Mr. Lane, dated 15 September 2017 (which includes a copy of the letter to Mr. Lane, dated 9 March 2017, along with hard copy printouts of the attachments to that letter).

- 19 September 2017 (excerpted), which designates the public records request set forth in the first paragraph of the above-referenced email as "**PRR No. 2017-09-01**."

Have a good weekend.

Best wishes,

Rodney G. Huerter
VP & Senior Counsel

Attachments

Fwd: NCD070619663 / sh ville Dyeing & Finishing

1 message

Huerter, Rodney <rodney.huerter@veolia.com> Tue, Sep 19, 2017 at 5:40 PM
To: Jeff Menzel <jeff.menzel@ncdenr.gov>
Cc: "Lane, Bill F" <bill.lane@ncdenr.gov>, "Sullivan, Sean M." <sean.sullivan@troutmansanders.com>

Jeff:

Good afternoon to you, and thank you for your email. **First, I hereby request complete copies of all of the communications related to the subject documents, covering the period of 01 March 2017 (including communications related to your sending your email to me dated 08 May 2017) through to 19 September 2017 (including communications related to your sending the forwarded email, below).** The Department's response should include, without limitation, complete copies of all attachments to all responsive records, and native format copies of all draft revisions of each of the three documents that you attached to your email. Please inform me if the expense for the copies will exceed $30.00, and wait for my approval before incurring any such expense. Please exclude duplicate copies of records from your response. Please provide a reasonable estimate for when the Department will respond to this public records request under Chapter 132 of the North Carolina General Statutes.

Since you asked, and in all candor, I do have a concern that you do not have a complete and proper understanding of the relevant facts associated with this particular facility. As noted in my response email to you (copied, as is this email, to the Department's General Counsel) dated 08 May 2017, WASCO is not properly considered to be the current RCRA operator of the **Asheville Dyeing & Finishing / Anvil Knitwear / Dyna-Diggr facility (NCD 070619663). As per official EPA records that were attached to that email, Dyna-Diggr (Loren Lanter) is classified as the sole current owner and operator of the facility, dating back to 01 December 2007.** I am **not** properly a facility contact (that information is supposed to be pulled from the most recent RCRA Site Identification form, EPA Series 8700, and the two most recent forms identify Don Lee as the current contact . . . dating back to 01 December 2007). Oddly enough, although the Department has posted to the Laserfiche system a copy of your August 2016 report (*which you emailed on 08 May 2017 and which I noted to you and separately to the Department's General Counsel to be fraught with errors*), my response flagging those errors has still ***not*** been posted to that system. That appears to be something other than fair play and open government . . . you control what is posted (or withheld from being posted), and suppress valid challenges to what you have decided to post. You still have not corrected the errors in that circa 2016 document that you decided to email in May 2017, but did not post to Laserfiche until approximately one month later.

WASCO never treated, stored, nor disposed of any hazardous waste at the facility, and never directly caused any contamination at the facility. WASCO has never had a physical presence in the State of North Carolina, and the Department's counsel acknowledged in a judicial hearing that WASCO never owned the facility and never operated a business at the facility.

That noted:

- Your report dated 18 July 2017: **1)** incorrectly refers to me as the facility contact; **2)** indicates that the purpose of the inspection is to "Determine Compliance with Closure/Post Closure Plan," and states that "**AD&F is currently subject to the requirements listed in their Closure/Post Closure Plan, Revision 3, Dated March 31, 1992.**" You also acknowledge that "**AD&F's letter of credit is still in place.**" **WASCO (which is my client) is not "AD&F."** As your counsel has represented to the various tribunals in the litigation that you reference in your report (see attached DENR Ex. E-2), "Asheville Dyeing & Finishing" was a trade name of Winston Mills, Inc. Winston Mills sold that trade name (and numerous other assets) to Anvil Knitwear, Inc. in January 1995. **Bill, these statements in Mr. Menzel's report appear to directly counter representations that the Department's counsel signed and filed with the ALJ, Judge Collins, the State Court of Appeals, and also the State Supreme Court.**

  Additionally, on 22 December 2016, WASCO requested the Department to provide complete copies of all records, if any such records exist, that demonstrate: **1)** that the purported June 1999 amendment that purports to backdate a change of operational control from Winston Mills to Culligan Int'l Co. by approximately 4.5 years original Part A permit application dated October 1990 complied with the requirements of **40 CFR 270.72(a)(4) (PRR No. 2016-12-03); and 2)** that the Department complied with the requirements of **section 270.72(a)(4)** that act as a condition

Fwd: NCD070619663 Asheville Dyeing & Finishing

1 message

Huerter, Rodney <rodney.huerter@veolia.com> Tue, Sep 19, 2017 at 5:40 PM
To: Jeff Menzel <jeff.menzel@ncdenr.gov>
Cc: "Lane, Bill F" <bill.lane@ncdenr.gov>, "Sullivan, Sean M." <sean.sullivan@troutmansanders.com>

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precedent to the Department being able to relieve Winston Mills of the post-closure financial assurance requirement under the 1990 AOC cited in the July 2017 report, and also for documents that would demonstrate that the post-closure plan cited in the July 2017 report was ever transferred or attempted to be transferred from Winston Mills to any other entity, and that such other entity expressly accepted such transfer (**PRR No. 2016-12-04**). **The Department responded to PRR No. 2016-12-03, and acknowledged that it has no records that the purported Part A amendment (which is null and void on its face) ever complied with the change of operational control requirement set forth in section 270.72(a)(4)**. The Department, however, has **not** previously responded to PRR No. 2016-12-04, despite the fact that WASCO submitted it over 9 months ago. **It seems that we can now point to Mr. Menzel's language in the 2017 report as the Department's express acknowledgement that it has no documents that demonstrate that either the Department complied with the financial assurance requirements of section 270.72(a)(4) with respect to Winston Mills, and that it does not have any documents that demonstrate Winston Mills ever transferred (or attempted to transfer) "their Closure/Post Closure Plan," and no records that any other entity ever expressly accepted any transfer.**

Your reference to the former UST now being a landfill is incorrect and counter to EPA guidance (see attached Whitepaper)

- Your Immediate Action Notice of Violation dated 15 June 2017, which is issued to Loren Lanter in connection with "Brisco Inc." cites the definition of "owner or operator" in 40 CFR 124.2. But, you add quotation marks around each term, which are not present in the actual definition. **Significantly, the purpose and scope of 40 CFR Part 124 is expressly limited to "EPA procedures for issuing, modifying, revoking and reissuing, or terminating all RCRA, UIC, PSD and NPDES 'permits' (including 'sludge-only' permits issued pursuant to § 122.1(b)(2) of this chapter."** (40 CFR 124.1(a) (note that the EPA does use quotations around permit, and that the definition of "permit" in section 270.2 expressly **excludes "RCRA interim status** (subpart G of this part), or **any permit which has not been the subject of final agency action**, such as a draft permit or a proposed permit"). But the Department is not issuing, modifying, revoking, reissuing or terminating any RCRA permit here, so the definitions in section 124.2 have no significance or applicability. Still, kudos for recognizing Mr. Lanter's obligations in connection with the facility, and for staying on top of the mishandling of drums by Dyna-Diggr, or Brisco, Inc. (which is actually a trade name for Blue Ridge Industrial Support Company, which is also headquartered at 251 Buckeye Cove Rd, Swannanoa, and for which Mr. Lanter is also a director and officer, according to public records filed with the N.C. Secretary of State), or whatever entity is leasing from those entities or Loren Lanter (WASCO has no connection with any of those).

  The NOV also includes a determination that "Brisco, Inc." has conducted "storage and the disposal of solid/hazardous waste subject to applicable requirements of 40 CFR Part 261 through 265 and Part 270." **Bill, it is odd that the Department did not include the U.S. EPA in the distribution list of the NOV, but we note with approval that Ms. Woosley saw fit not to include WASCO in the distribution list.**

- Your RCRA Follow-Up Inspection Report dated 05 September 2017 identifies both Don Lee and Loren Lanter as being present during the inspection, and **correctly removes my name from the Facility Contact Section** (you are still deviating from the information included what WASCO understands to be the most recent RCRA Site Identification Form, but your substituting Loren Lanter for Donald Lee accurately identifies information from the most recent form). For the reasons noted above (i.e., my name is not included in the most recent RCRA Site Identification form, which identifies **Dyna-Diggr (Loren Lanter) as the sole current owner and operator of the facility dating back to 01 December 2007, and includes Donald Lee as the facility contact**), **there is no reason for the Department to include my name, or my client, in the "cc:" list.**

- I call your attention to each of the State administrative regulations you cite in the NOV and the September 2017 report: **N.C.G.S. 130A-294(c) is the authority for Rule Nos. 13A.0102, .0105, ".0106 through 0,110 and .0113."** That statute, which is the **Department's enabling statute for the State hazardous waste management program**, includes **six occurrences of the term "operator," which is defined in 130A-290(a)(21)** (see attached 1-page graphic). The Department's historic practice has been to make operator determinations on the basis of 130A-290(a)(21). Then, the Department attempted a change from 130A-290(a)(21) to a federal case that involved a question of liability under CERCA . . . but then quickly changed back to 130A-290(a)(21) until late 2016 and early 2017 (see other attached 1-page graphic). WASCO timely filed comments related to, among other errors, the Department's attempt to change from 130A-290(a)(21) to a combination of 40 CFR 2601.10 and 270.2, in connection with a facility where the Department had previously issued a determination using 130A-290(a)(21). In response, the Department reverted back to 130A-290(a)(21) (you can find documents related to this on the Laserfiche system for EPA ID No. NCD057451270). Now you are attempting to reference 40 CFR 124.2? See the information, above, that notes the erroneous nature of that attempt.

WASCO expressly reserves the right to modify or augment the comments included in this email. Additionally, WASCO has enacted a change of outside counsel, which has been communicated to the Department's outside counsel and the Department's General Counsel. Instead of copying Mr. Sowatzka in the future, please copy Mr. Sean Sullivan, whom I have copied on this response email.

Have a good evening.

Rodney

R. G. Huerter, Esq.

832-300-5719 (office)
Rodney.Huerter@veolia.com

---------- Forwarded message ---------
From: **Menzel, Jeff** <jeff.menzel@ncdenr.gov>
Date: Tue, Sep 19, 2017 at 2:22 PM
Subject: NCD070619663 Asheville Dyeing & Finishing
To: "asowatzka@kslaw.com" <asowatzka@kslaw.com>
Cc: "rodney.huerter@veolia.com" <rodney.huerter@veolia.com>

Good afternoon,

I am forwarding the most recent inspection reports for the NCD070619663 Asheville Dyeing & Finishing property.

Please let me know if there are any questions or concerns.

Regards,

Jeff

Jeff Menzel

Western Region Environmental Specialist

Hazardous Waste Section

Division of Waste Management

828 419 5034 office

919 270 1967 cell

Jeff.menzel@ncdenr.gov

PO Box 117

Black Mountain, NC 28711

Email correspondence to and from this address is subject to the

North Carolina Public Records Law and may be disclosed to third parties.

12 attachments

NCD070619663_Asheville Dyeing & Finishing_CSE_20170728_Menzel.pdf
755K

NCD070619663_Asheville Dyeing & Finishing_CEI_20160524_Menzel.pdf
342K

Brisco Inc IA NOV 2017-052 June 2017.pdf
373K

Corporate Mail - 2016 DEQ Inspection (5.8.17).pdf
540K

DENR Ex. E-2 - Winston Mills dba Asheville Dyeing & Finishing.pdf
553K

Corporate Mail - 2016 DEQ Inspection (5.16.17).pdf
2536K

North Carolina, Alt Mechs, Public Records plus (7.18.17) (Ledger).pdf
642K

NC HW Mgmt Program, Enabling Statute, Use & Definition of 'Operator'.pdf
441K

AD&F, Anvil Knitwear, Dyna-Diggr Facility Whitepaper (July 2017).pdf
208K

Corporate Mail - 2012-2017 Daikin Alt Mech (9.15.17).pdf
1880K

ADF - EPA RCRAInfo & Envirofacts Reports (8.31.17 and 9.12.17) (11 x 17).pdf
2289K

ADF--Timeline -- Records Demonstrating DEQ Error (9.13.17) (11 x 17).pdf
711K

Exhibit 11(b)

Immediate Action Notice of Violation issued to Loren Lanter
in connection with the facility issued EPA ID No. NCD070619663 (June 15, 2017)

Included as Exhibit 27(c)