

W. Thomas Lavender, Jr.
Member
Admitted in SC

July 8, 2019

RECEIVED

JUL 10 2019

Clerk, Board of Health
and Environmental Control

19-RFR-24

HAND DELIVERY

Ms. Lisa Lucas Longshore, Clerk
South Carolina Board of Health and Environmental Control
2600 Bull Street
Columbia, South Carolina 29201

Re: Able Contracting, Inc.
Cease Accepting Material Letter dated July 3, 2019
Construction and Demolition Debris Recycling Facility
Jasper County

Dear Ms. Longshore:

We represent Able Contracting, Inc. ("Able") in the matters related to the operation of its construction and demolition debris recycling facility in Jasper County ("Able Recycling Facility"). Pursuant to S.C. CODE ANN. § 44-1-60, Able requests the DHEC Board's final review of the staff decision directing Able to cease accepting construction and demolition debris material at the Able Recycling Facility as set forth in the above-referenced letter dated July 3, 2019 ("July 3, 2019 Letter"). A copy of the July 3, 2019 Letter is attached hereto as Appendix A. Our firm's check in the amount of \$100 for the filing fee is also enclosed.

Able requests the Board's review of the July 3, 2019 Letter on the following grounds:

- 1) The July 3, 2019 Letter fails to cite to any statutory authority for its direction to Able to cease accepting material at the Able Recycling Facility;
- 2) The July 3, 2019 Letter inaccurately refers to "a lingering fire" at the Able Recycling Facility. While a section of a recyclable material pile at the Facility has experienced prolonged smoldering as a result of a lightening strike, the smoldering area is being actively and effectively managed with on-site

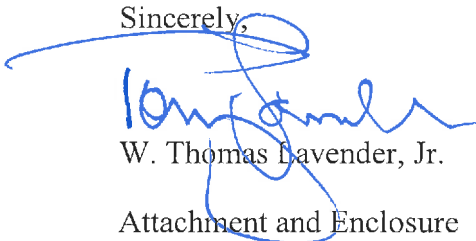
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equipment. Both the Jasper County Fire Marshall and Department personnel have observed the Facility's management measures on multiple occasions and have acknowledged that the area is being properly managed to address the smoldering condition;

- 3) Able's right to conduct its business is "property" within due process clauses of the United States and South Carolina Constitutions and therefore the Department cannot deny Able that right without due process of law; and
- 4) The July 3, 2019 Letter fails to state a basis on which Able can be denied the right to continue the operation of the Able Recycling Facility.

Thank you for your assistance in this matter. If additional information or documentation is needed, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "W. Thomas Lavender, Jr.", is written over the word "Sincerely," and the name "W. Thomas Lavender, Jr." below it.

W. Thomas Lavender, Jr.

Attachment and Enclosure

cc: Able Contracting, Inc.

ATTACHMENT A



CERTIFIED MAIL 9214 8969 0099 9790 1415 2542 52

July 3, 2019

Able Contracting, Inc.
Attn: Chandler Lloyd
472 Schinger Avenue
Ridgeland, SC 29936

RE: Cease Accepting Material Letter
Able Contracting C&D Processing Facility
Permit # PROC-00041 (proposed)
Jasper County

Dear Mr. Lloyd:

Due to a lingering fire at the Able Contracting C&D Processing Facility located at 472 Schinger Avenue, Ridgeland SC, the Department is requiring that the facility immediately stop accepting any new incoming material. Further, the Department is requesting that firefighting efforts continue until the fire is completely extinguished. Able Contracting should submit to the Department by July 10, 2019, a plan for approval which details the efforts to be taken to extinguish the fire and the procedures to be utilized to ensure the fire is extinguished both internally in the pile and externally. No material can be received at the facility until the fire is completely extinguished and this condition is verified by Department personnel.

Thank you for your prompt attention to this matter. If you have any questions, please contact Marty Lindler at (803) 898-0456 or lindlema@dhec.sc.gov.

Sincerely,

Van Keisler, Director
Division of Compliance and Enforcement
Bureau of Land and Waste Management

ec: Marty Lindler, Manager; Jessica Price – SW Compliance
Juli Blalock – Mining and Solid Waste Management
Etta Williams Linen – Assistant General Counsel
Reahnita Tuten – Lowcountry EA Office, Beaufort
Chandler Lloyd – ablecontracting29936@gmail.com
Joan Hartley, Esq. – jhartley@nexsenpruet.com
Bureau File #23319