



**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor  
**Laurie A. Stevenson**, Director

December 24, 2020

Kingfisher Development, LLC  
2275 Cassens Drive, Suite 118  
Fenton, MO 63026

Hamerkop Development, LLC  
2275 Cassens Drive, Suite 118  
Fenton, MO 63026

Commercial Liability Partners, LLC  
2275 Cassens Drive, Suite 118  
Fenton, MO 63026

**Re: J.M. Stuart Electric Generating Station  
Director's Final Findings and Orders (DFFO)  
DFFO  
NPDES  
Adams County  
0IB00049**

**Re: Carter Hollow  
Director's Final Findings and Orders (DFFO)  
DFFO  
Residual Solid Waste Landfills  
Adams County  
RSWL019994**

**Subject: Director's Final Findings and Orders**

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for **J.M. Stuart Electric Generating Station**.

You are hereby notified that this action of the Director of Ohio EPA (Director) is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00 made payable to "Treasurer, State of Ohio." The Commission, in its discretion, may reduce the fee if by affidavit it is demonstrated that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission  
30 E. Broad St., 4<sup>th</sup> Floor  
Columbus, Ohio 43215

If you have any questions, please contact Teri Finrock at (614) 644-3037.

Sincerely,

*Jeri Main*

Jeri Main  
Division of Materials & Waste Management

cc: Teri Finrock, DMWM, Legal  
Troy Harter, DMWM, Legal  
Alison Shockley, DMWW, CO  
Michelle Ackenhausen, DMWM, SWDO  
Bruce McCoy, DMWM, CO

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of:

Kingfisher Development, LLC	:	<u>Director's</u>
2275 Cassens Drive, Suite 118	:	<u>Final Findings and Orders</u>
Fenton, MO 63026	:	
	:	
Hamerkop Development, LLC	:	
2275 Cassens Drive, Suite 118	:	
Fenton, MO 63026	:	
	:	
Commercial Liability Partners, LLC	:	
2275 Cassens Drive, Suite 118	:	
Fenton, MO 63026	:	

**Respondents**

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Orders are issued to Kingfisher Development, LLC ("Respondent Kingfisher"), Hamerkop Development, LLC ("Respondent Hamerkop"), and Respondent Commercial Liability Partners, LLC ("Respondent CLP") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Sections 3734.13, 6111.03 and 3745.01.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon the Respondents and successors in interest liable under Ohio law. No change in the composition of Respondents or ownership of the Facilities as hereinafter defined shall in any way alter Respondents' obligations under these Orders.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapters 3734 and 6111 and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

1. Respondents Kingfisher and Hamerkop are active foreign limited liability companies doing business in Ohio with a shared mailing address of 2275 Cassens Drive, Suite 118, Fenton, MO 63026.
2. Respondent CLP is a foreign limited liability company with a mailing address of 2275 Cassens Drive, Suite 118, Fenton, MO 63026, that has been contracted to remediate the J. M. Stuart Electric Generating Station ("Stuart Facility").
3. Each Respondent is a "person" as that term is defined in ORC Sections 3734.01(G) and 6111.01(I), and in OAC Rule 3745-500-02(P)(4).

#### **Stuart Facility**

4. Respondent Hamerkop owns the former Stuart Facility which is located adjacent to the Ohio River at 745 U.S. Route 52, Manchester, Adams County, Ohio. The Stuart Facility is over 2,000 acres and had previously operated as a 4-unit coal fired steam electric power plant until June 2018. The Facility was purchased by Respondent Kingfisher in December 2019 and subsequently transferred to Respondent Hamerkop in June 2020. An aerial view of the Stuart Facility is attached hereto and marked as Attachment A.
5. The Stuart Facility is the site of the following coal combustion residuals (CCR) disposal and treatment units and other material storage areas:
  - a. A series of surface impoundments identified as Ponds 3A, 5, 6, 7, 7A, and 10 that had been previously filled with CCR consisting of fly ash, bottom ash, and fly ash sluice water ("Stuart Facility CCR surface impoundments or Ponds 3A, 5, 6, 7, 7A, and 10", – collectively, "Stuart Ponds").
  - b. Two landfills identified as Landfills 9 and 11 where CCR consisting of fly ash, bottom ash, and boiler slag, generated from the coal firing operations had been previously disposed ("Landfills 9 and 11").
  - c. A nearly 230,000 cubic yard pile of gypsum generated as a byproduct from use of a Flue Gas Desulfurization ("FGD") system utilized at the coal-fired electric generating station ("Stuart Facility gypsum byproduct");
  - d. A storage area which is the location of a three-foot thick layer of unusable remnants from clean coal that was stockpiled prior to use as fuel for the power station ("Stuart Facility coal stockpile remnants").
6. The Stuart Facility holds National Pollutant Discharge Elimination System

("NPDES") permit, No. 0IB00049\*ND, which was effective February 1, 2013 and expired January 31, 2018. A renewal of the permit is pending. The permit authorizes discharges of wastewater and storm water from the Stuart Facility to Buzzard's Creek, Little Three Mile Creek, unnamed tributaries to Elk Run, and the Ohio River, all of which are "waters of the state" as defined in ORC Section 6111.01(H).

7. Respondents conduct groundwater monitoring for Pond 10 and Landfills 9 and 11 in accordance with existing Ohio EPA-approved groundwater monitoring programs. Groundwater monitoring is also conducted for all CCR disposal and treatment units under the federal CCR Rules for the CCR Units.

### **Carter Hollow Facility**

8. Respondent Hamerkop owns the Carter Hollow Class III Residual Waste Landfill ("Carter Hollow Facility") a licensed residual waste landfill located on the same property as the Stuart Facility. Respondent Hamerkop acquired the Carter Hollow Facility as part of the same series of transactions through which Respondent Hamerkop acquired the Stuart Facility. The Carter Hollow Facility includes approximately 70,000 cubic yards of gypsum byproduct that had been used as a frost protection layer and in the construction of a berm within the facility. ("Carter Hollow Facility gypsum byproduct") An aerial view of the Carter Hollow Facility is attached hereto and marked as Attachment B.
9. The financial assurance for the Carter Hollow Facility, as required by OAC Chapter 3745-27, is currently provided with a letter of credit established by U.S. Bank National Association at the request of AES Ohio Generation, LLC, the entity that owned the Stuart and Carter Hollow Facilities prior to Respondent Kingfisher's purchase, which occurred as described in Findings Nos. 4 and 8. By letter dated October 23, 2020, Ohio EPA received notice that this letter of credit will expire on March 18, 2021.
10. Respondent Hamerkop is the holder of the 2021 license for the Carter Hollow Facility.
11. Respondents conduct groundwater monitoring at the Carter Hollow Facility in accordance with an existing Ohio EPA-approved groundwater monitoring program and under the federal CCR Rules.
12. In February 2020, Respondent Kingfisher provided to Ohio EPA a general proposal for closure of CCR units and development at the Stuart Facility. Respondents intend to conduct closure of the Stuart Ponds by removing and relocating CCR from the Stuart Ponds to Landfills 9 and 11. Respondents intend to relocate the Stuart Facility gypsum byproduct and coal stockpile remnants to Landfill 9.

13. Attachment C presents Respondents' Stuart Closure Project Schedule ("Project Schedule") for the anticipated closure tasks listed therein that are required for removal and dewatering of all CCR material from the Stuart Ponds, closure of Landfill 9, closure of Landfill 11, and closure of the Carter Hollow Facility. The Project Schedule includes the major project submittals, construction activities, and Ohio EPA approval steps.
14. Under Respondent Kingfisher's proposal, Respondent CLP will conduct closure of the CCR units and undertake the development projects at the Stuart Facility. Respondent Kingfisher will be responsible for compliance with any permits to be issued, both related to the closure of the CCR units and development and post-closure care of the Stuart Facility.

#### **Solid Waste Statutory and Regulatory Issues**

15. OAC Rule 3745-27-05(A) provides an exclusive list of methods by which solid waste can be lawfully disposed in the state of Ohio, including disposal at a sanitary landfill facility licensed in accordance with ORC Chapter 3734.
16. ORC Section 3734.01(E) and OAC Rule 3745-27-01 exempt "nontoxic fly ash and bottom ash, including at least ash that results from the combustion of coal" from the definition of "solid wastes."
17. The gypsum byproduct and coal stockpile remnants are not exempted from the definition of "solid wastes," and as such must be disposed in accordance with OAC Rule 3745-27-05(A).
18. The disposal site (Landfill 9) identified by Respondent Kingfisher in its closure and development proposal for the Stuart Facility's gypsum byproduct and coal stockpile remnants is not a facility that is authorized by OAC Rule 3745-27-05(A) for disposal of solid waste.
19. ORC Section 3734.02(G) states in part "[t]he director, by order, may exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes . . . in such quantities or under such circumstances that, in the determination of the director, are unlikely to adversely affect the public health or safety or the environment from any requirement to obtain a registration certificate, permit, or license or comply with the manifest system or other requirements of this chapter."
20. Pursuant to ORC Section 3734.02(G), the Director has determined that exempting Respondents from the requirements to dispose of the Stuart Facility gypsum byproduct and coal stockpile remnants in accordance with OAC 3745-27-05(A) is unlikely to adversely affect public health or safety or the environment, provided Respondents adhere to the conditions specified in **Section V. Orders**.

### **Surface Water Statutory and Regulatory Issues**

21. Pursuant to ORC Section 6111.04(A), no person shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes without a valid, unexpired permit.
22. Pursuant to ORC Section 6111.04(C), no person to whom a permit has been issued shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes in excess of the permissive discharges specified under an existing permit.
23. OAC 3745-38-02 provides that no person may discharge any pollutant or cause, permit, or allow a discharge of any pollutant from a point source without either applying for and obtaining an Ohio NPDES individual permit in accordance with requirements of OAC Chapter 3745-33, complying with the indirect discharge permit program pursuant to OAC Chapter 3745-36 or obtaining authorization to discharge under an Ohio NPDES general permit in accordance with requirements of OAC Chapter 3745-38. Pursuant to OAC 3745-33-04, individual NPDES permit renewal applications must be submitted at least one hundred and eighty days prior to expiration of the permit.
24. ORC Section 6111.03(J)(1) authorizes the Director to set terms and conditions of the permit. That section further provides that any permit terms and conditions set by the Director shall be designed to achieve and maintain full compliance with mandatory requirements of the Federal Water Pollution Control Act that are imposed by regulation of the Administrator of the United States Environmental Protection Agency. Pursuant to Section 402(p) of the federal act, the Administrator of U.S. EPA imposed by regulation requirements to regulate storm water discharges.
25. NPDES permit, No. 01B00049\*ND, includes provisions for managing storm water on the Stuart Facility. Those provisions include a requirement to develop a Storm Water Pollution Prevention Plan ("SWPPP") for the Stuart Facility and to update the SWPPP when changes to the Facility are planned or occur.
26. Fly ash, bottom ash, boiler slag, coal stockpile remnants, and gypsum byproduct are "industrial wastes" or "other wastes" as defined in ORC Section 6111.01(C) and (D).
27. Pursuant to ORC Section 6111.07(A), no person shall violate or fail to perform any duty imposed by ORC Sections 6111.01 to 6111.08 or violate any order, rule, or term or condition of a permit issued or adopted by the Director of Ohio EPA pursuant to those sections. Each day of violation is a separate offense.



28. These Orders do not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing treatment works or sewer system. Any such construction or modification is subject to the plan approval and permit to install requirements of ORC Sections 6111.44 and 6111.45 and OAC Rule 3745-42.
29. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
30. The Director has given consideration to, and based her determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

## **V. ORDERS**

Except as otherwise expressly provided herein, Respondents shall comply with all applicable requirements of ORC Chapters 3734 and 6111.

### **Solid Waste Orders**

#### **Stuart Facility**

1. Respondents are hereby exempted from the requirement to dispose of the Stuart Station gypsum byproduct and coal stockpile remnants as required by OAC Rule 3745-27-05(A)(1), subject to the following conditions:
  - a. By no later than 7/15/22, Respondents shall complete disposal of the Stuart Facility coal stockpile remnants into Landfill 9.
  - b. By no later than 2/19/23, Respondents shall complete disposal of the Stuart Facility gypsum byproduct into Landfill 9.
  - c. The Stuart Facility gypsum byproduct and coal stockpile remnants shall not be disposed into Landfill 11 or at any other location, or on any other timeline unless otherwise authorized in writing by the Director.

#### **Carter Hollow Facility**

2. Respondents are hereby exempted from the requirement to dispose of the Carter Hollow Facility gypsum byproduct as required by OAC Rule 3745-27-05(A)(1), subject to the following conditions:



- a. This exemption shall terminate upon the occurrence of either of the following, whichever occurs first:
  - i. Respondent Hamerkop transfers ownership of the Carter Hollow Facility to a third party that is not a respondent named in these Orders. Termination shall occur on the date that the title is acquired by a transferee that is not a respondent named in these Orders.
  - ii. Respondent Hamerkop completes closure and capping of Landfill 9 in accordance with these Orders. Termination shall occur on the date that closure of Landfill 9 is complete.
- b. Respondent Hamerkop shall do one of the following:
  - i. Legally dispose of the Carter Hollow Facility gypsum byproduct into Landfill 9. Respondent Hamerkop shall do the following:
    1. Notify Ohio EPA not later than 72 hours prior to commencing removal of the gypsum byproduct from the Carter Hollow Facility;
    2. Not later than July 2, 2021, dispose of all gypsum byproduct into Landfill 9;
    3. Execute and fund a financial assurance instrument for the Carter Hollow Facility in accordance with Chapter 3734 of the Revised Code and the rules adopted thereunder no later than February 18, 2021, unless Ohio EPA receives notification that the existing letter of credit has been extended. This financial assurance shall be maintained until Respondent Hamerkop certifies that all solid waste has been removed from the Carter Hollow Facility. The original of the financial assurance instrument shall be submitted to Ohio EPA in accordance with OAC Chapter 3745-27;
    4. Provide biweekly electronic communications to Ohio EPA Southeast District Office detailing the progress of the disposal activities, including the volume of gypsum byproduct disposed in Landfill 9 and the estimated volume of gypsum byproduct remaining in the Carter Hollow Facility;

5. No later than July 31, 2021, submit a request to Ohio EPA to terminate the Carter Hollow Facility Permit to Install, which shall include certification that all solid waste has been removed from the facility and site conditions are protective of human health, safety, and the environment.
  - ii. Establish financial assurance for closure of the licensed Carter Hollow Facility. By no later than February 18, 2021, Respondent Hamerkop shall execute and fund a financial assurance instrument for the Carter Hollow Facility in an amount not less than the current closure cost estimate and meeting the requirements of Chapter 3734 of the Revised Code and the rules adopted thereunder. The original of the financial assurance instrument shall be submitted to Ohio EPA in accordance with OAC Chapter 3745-27.
- c. The Carter Hollow Facility gypsum byproduct shall not be disposed into Landfill 11 or at any other location, or on any other timeline unless otherwise authorized in writing by the Director.
3. The Director may revoke the exemptions specified in Order Nos. 1 and 2 upon determining that Respondents have failed to comply with the conditions specified in Section V. of these Orders or that the activities performed pursuant to these Orders threaten or adversely affect public health or safety or the environment.

### **Surface Water Orders**

4. Within ninety (90) days after the effective date of these Orders, Respondents shall submit to Ohio EPA, in accordance with Section X. of these Orders, updated plans for a ground water monitoring program for Landfill 9 and updated plans for a ground water monitoring program for Landfill 11 for approval by the Director. Both plans for the ground water monitoring programs shall include the following:
  - a. The monitoring wells to be included in the ground water monitoring program for each landfill. The number and location of monitoring wells shall comply with OAC Rule 3745-27-10(B). The monitoring well systems shall be able to characterize any contamination that has been released from Landfill 9 and Landfill 11. This shall include all locations with constituent concentrations above a trigger level determined as set forth below.
  - b. The constituents for which ground water samples will be analyzed and the proposed concentration level for each constituent, which shall act as a ground water trigger level. The ground water trigger levels shall be established using the criteria described in OAC Rule 3745-27-10(F)(7). At a minimum the constituents to be analyzed from the collected ground water

samples shall include the following: Antimony, Arsenic, Barium, Beryllium, Boron, Cadmium, Calcium, Chloride, Chromium, Cobalt, Fluoride, Lead, Lithium, Mercury, Molybdenum, pH, Selenium, Sulphate, Thallium, Total Dissolved Solids, and Radium 226 and 228 combined.

- c. A sampling and analysis plan in accordance with OAC Rule 3745-27-10(C)(1) and (2).
  - d. A description of the statistical method to be used in evaluating the ground water analytical data. The statistical method shall be selected from those statistical methods contained in OAC Rule 3745-27-10(C)(6) and shall meet all criteria listed in OAC Rule 3745-27-10(C)(6) and (C)(7).
  - e. The semi-annual sampling of all monitoring wells and background wells for all constituents. The frequency of sampling shall be consistent with the statistical method used to analyze the data. Ground water elevations shall be measured in each well during any sampling event in accordance with OAC Rule 3745-27-10(C)(3). At least one ground water sample from each well in the monitoring system per sampling event shall be field analyzed for parameters pH, temperature, specific conductance and turbidity.
  - f. Provisions for determining, at least semi-annually, if there has been a statistically significant increase above the trigger levels for those constituents specified under paragraph (a) of this order. This determination shall be consistent with the criteria stated in OAC Rule 3745-27-10(C)(7).
  - g. Provisions for submitting all analytical and statistical data to Ohio EPA in accordance with OAC Rule 3745-27-10(C)(10).
- 5. The Director may require additional monitoring wells and sampling if needed to determine the concentration and extent of any contamination released by the unit.
  - 6. The Director may require additional source control or ground water corrective action to protect human health, human safety or the environment.
  - 7. Upon the Director's approval of the updated plans for the ground water monitoring program for Landfill 9 and/or the ground water monitoring program for Landfill 11, Respondents shall implement the plans. Prior to approval of the updated plans, Respondents will continue to conduct groundwater monitoring in accordance with the on-going program requirements.
  - 8. By no later than October 30, 2025, Respondents shall complete the removal of fly ash and bottom ash from Ponds 3A, 5, 6, 7, 7A, and 10, dewater it, and dispose of it in Landfill 9 or Landfill 11.

9. Respondents are hereby authorized to dispose of coal stockpile remnants and gypsum byproduct in Landfill 9. Respondents shall not dispose of any coal stockpile remnants or gypsum byproduct in Landfill 11.
10. Respondents shall not dispose of any materials in Landfills 9 or 11 except as specifically authorized in these Orders.
11. Prior to beginning the removal and dewatering of fly ash and bottom ash from the ponds, and disposal of the fly ash, bottom ash, the coal stockpile remnants, and the gypsum byproduct in Landfill 9 or fly ash and bottom ash in Landfill 11 as specified in these Orders, Respondents shall update the SWPPP for the Stuart Facility to incorporate best management practices for the planned activities. Respondents shall submit the updated SWPPP to Ohio EPA for review in accordance with Section X. of these Orders.
12. Respondents shall submit to Ohio EPA in accordance with Section X. of these Orders and within the following time frames, complete and approvable permit to install ("PTI") applications, detailed plans, and schedules for the removal and dewatering of all CCR material from the Stuart Ponds. The PTI applications shall include a procedure for demonstrating clean closure of each pond.
  - a. Within sixty (60) days after the effective date of these Orders, for Ponds 3A and 10;
  - b. Within three hundred sixty-five (365) days after the effective date of these Orders, for Ponds 5, 6, 7 and 7A;
13. Within ninety (90) days after the effective date of these Orders, Respondents shall submit to Ohio EPA for approval by the Director, in accordance with Section X. of these Orders, an updated plan for a ground water monitoring program for the Stuart Ponds (an individual or a multi-unit approach) which shall include the monitoring wells to be included in the ground water monitoring program. The number, construction, and location of the monitoring wells shall comply with OAC Rule 3745-27-10(B). The monitoring well system shall be able to characterize any contamination that has been released from the Stuart Ponds. This shall include all locations with constituent concentrations above a trigger level determined as set forth in Orders Nos. 4.b-g. The plan shall include all other requirements in Orders Nos. 4.b-g.
14. Within thirty (30) days of receipt of notification from Ohio EPA, Respondents shall provide Ohio EPA, in accordance with Section X. of these Orders, with a response addressing any comments or deficiencies and/or submitting any additional information with regard to the PTI applications, detailed plans and

schedules, the plans for the ground water monitoring programs, and other submittals required by these Orders.

15. Respondents shall implement the plan for the ground water monitoring program for the Stuart Ponds upon the Director's approval and shall complete the removal of all CCR material from the Stuart Ponds and clean closure of the Stuart Ponds in accordance with the approved PTIs and schedules.
16. Respondents shall notify Ohio EPA, in accordance with Section X. of these Orders within seven (7) days of completion of clean closure of each pond in accordance with the approved PTI.
17. Upon written request from the Respondents, the Director may allow cessation of ground water monitoring, or other appropriate ground water monitoring program changes, in relation to the Stuart Ponds if Respondents are able to demonstrate no exceedances of the ground water trigger levels occur within ground water monitoring wells sampled in accordance with the approved ground water monitoring plan for two consecutive sampling events.
18. Respondents shall submit to Ohio EPA in accordance with Section X. of these Orders and within the following time frames, complete and approvable PTI applications, detailed plans, and schedules for closure of Landfill 9 and Landfill 11, including but not limited to a cover system for each landfill, and a written post-closure plan for each landfill.
  - a. Within twenty-four (24) months after the effective date of these Orders for closure of Landfill 9;
  - b. Within eighteen (18) months after the effective date of these Orders for closure of Landfill 11.
19. Respondents shall complete closure and undertake post-closure care of Landfill 9 and Landfill 11 in accordance with the approved PTIs and schedules and post-closure plans.
20. If any requirement of these Orders conflicts with the Project Schedule, Respondents shall comply with the requirement in the Orders.
21. If Respondents are unable to meet a date in the Project Schedule or Orders, Respondents shall submit a written request for concurrence with an extension of any completion date specified in the Project Schedule or the Orders to Ohio EPA, in accordance with Section X. of these Orders, and shall include with the request an explanation of why an extension is necessary. The request for extension shall be submitted at least thirty (30) days prior to the specified completion date.

22. Respondents shall update the Project Schedule on an annual basis and submit the updated Project Schedule to Ohio EPA for approval in accordance with Section X.
23. Respondents shall take measures to control fugitive dust and other air emissions that may result from activities authorized by these Orders.
24. Respondents shall comply with applicable requirements in the federal CCR rules, 40 C.F.R. 257.50-257.107, when implementing these Orders. If there is a conflict between a requirement in these Orders and requirements of the federal CCR rules that cannot be reconciled, Respondents shall notify Ohio EPA of the conflict in writing, in accordance with Section X. of these Orders, to obtain resolution of the conflict. These Orders may be modified in accordance with Section IX. of these Orders if necessary to resolve differences with the federal CCR rules.

## **VI. TERMINATION**

Respondents' obligations under these Orders shall terminate when the Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondents have performed all obligations under these Orders and the Chief of Ohio EPA's Division of Materials and Waste Management and the Chief of the Division of Surface Water acknowledge, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondents of the obligations that have not been performed, in which case the Respondents shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "Kingfisher Development LLC, Hamerkop Development, LLC, and Commercial Liability Partners, LLC, certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by the Respondents to Ohio EPA and shall be signed by responsible officials of the Respondents. For purposes of these Orders, a responsible official is the principal executive officer, the ranking elected official, or other duly authorized employee.

## **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the Stuart or Carter Hollow Facilities, or from any claim, cause of action or demand in law or equity against Respondents for any liability arising from or related to the Stuart or Carter Hollow Facilities not specifically addressed in these Orders.

### **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondents.

### **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

### **X. NOTICE**

All documents required to be submitted by Respondents pursuant to Orders Nos. 1 through 3 shall be addressed to:

Ohio Environmental Protection Agency  
Southeast District Office  
Division of Materials and Waste Management  
2195 Front Street  
Logan, Ohio 44087

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

All documents required to be submitted by Respondents pursuant to Orders Nos. 4 through 24 shall be addressed to:

Ohio Environmental Protection Agency  
Southeast District Office  
Division of Surface Water  
Attn: NPDES Permit Supervisor  
2195 Front Street  
Logan, Ohio 44087

and to:

Ohio Environmental Protection Agency  
Division of Surface Water  
Attn: Manager, Biosolids, Pretreatment, and PTI  
50 West Town Street, suite 700  
Columbus, Ohio 43215



or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

#### **XI. RESERVATION OF RIGHTS**

Ohio EPA and Respondents each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

#### **XII. WAIVER**

Respondents consent to the issuance of these Orders and agree to comply with these Orders. Respondents hereby waive the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondents hereby waive any and all rights Respondents may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondents agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondents retain the right to intervene and participate in such appeal. In such an event, Respondents shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

#### **XIII. EFFECTIVE DATE**

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

#### **XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders. The parties acknowledge and agree that this Order may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, "electronic signature" shall include faxed versions of an original signature or electronically scanned and transmitted versions (e.g., via pdf) of an original signature.

**IT IS SO ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**



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Laurie A. Stevenson  
Director

12/24/2020

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Date

**IT IS SO AGREED:**

**Kingfisher Development, LLC**


  
\_\_\_\_\_  
Signature

December 23, 2020  
Date

Dennis Bennett  
Printed or Typed Name

General Counsel  
Title

**Hamerkop Development, LLC**

  
\_\_\_\_\_  
Signature

December 23, 2020  
Date

Ronald Froh  
Printed or Typed Name

President and CEO  
Title

**Commercial Liability Partners, LLC**

  
\_\_\_\_\_  
Signature

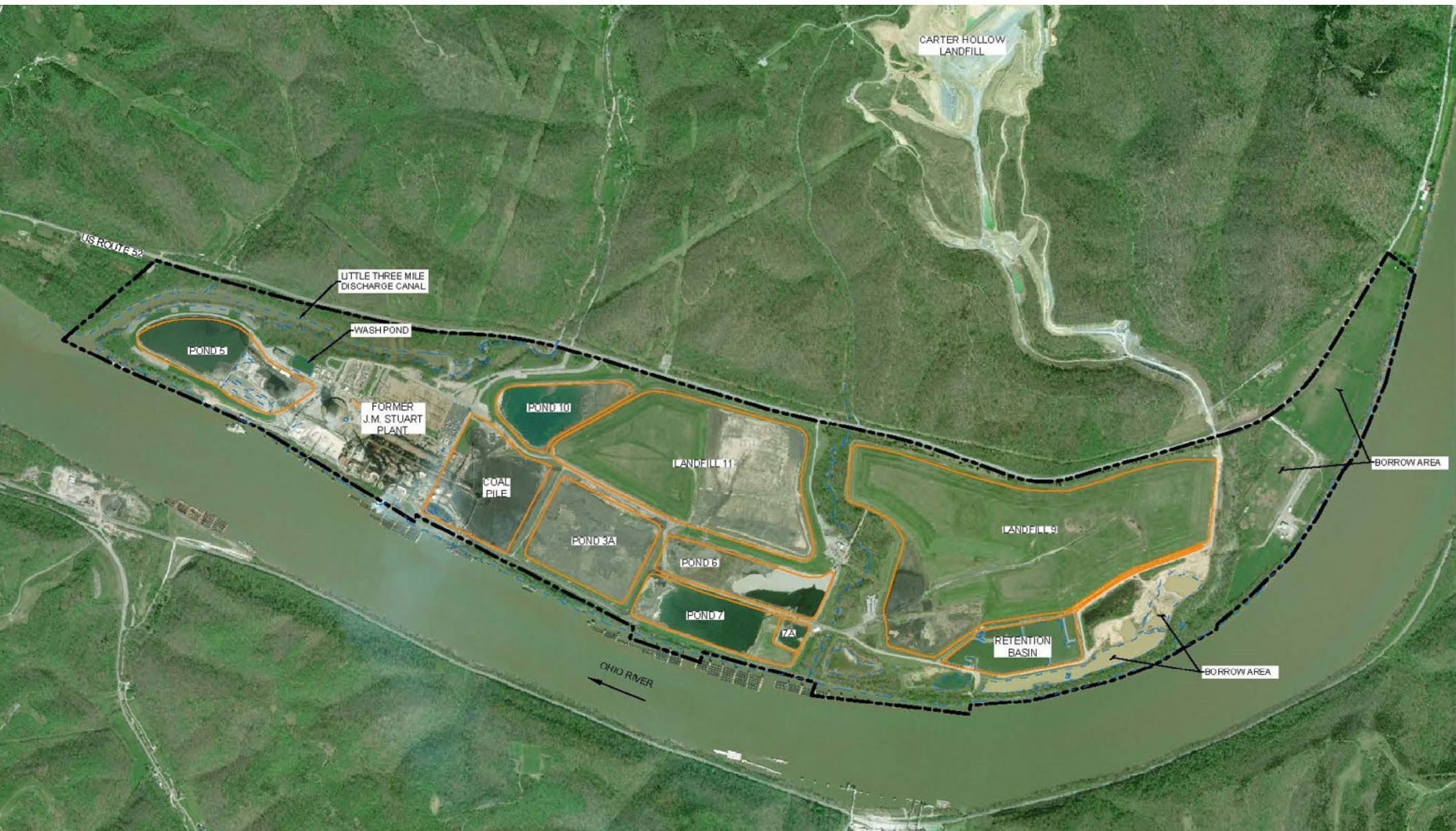
December 23, 2020  
Date

Ronald Froh  
Printed or Typed Name

President and CEO  
Title

## **Attachment A**





## **Attachment B**





CARTER HOLLOW  
LANDFILL

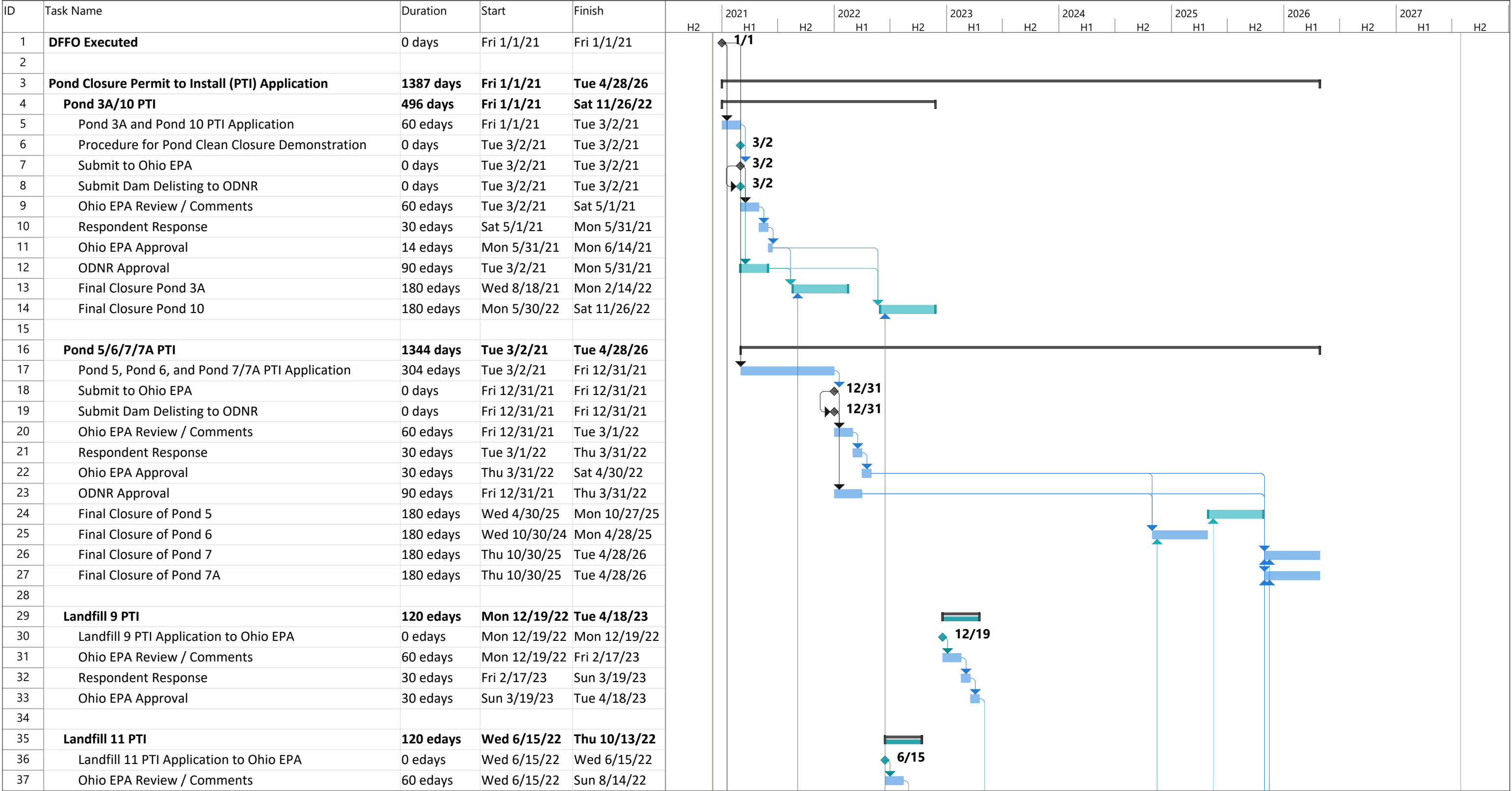
CURRENTLY  
COMPLETED PHASE 1  
(APPROX.)

LANDFILL BOUNDARY  
(APPROX.)



## **Attachment C**

EXHIBIT 1  
PROJECT SCHEDULE  
Version 1 - 12/02/2020



Project: Exhibit 1 - Project Schedule rev  
Date: Wed 12/2/20

Task

Milestone

◆

Summary

Project Summary

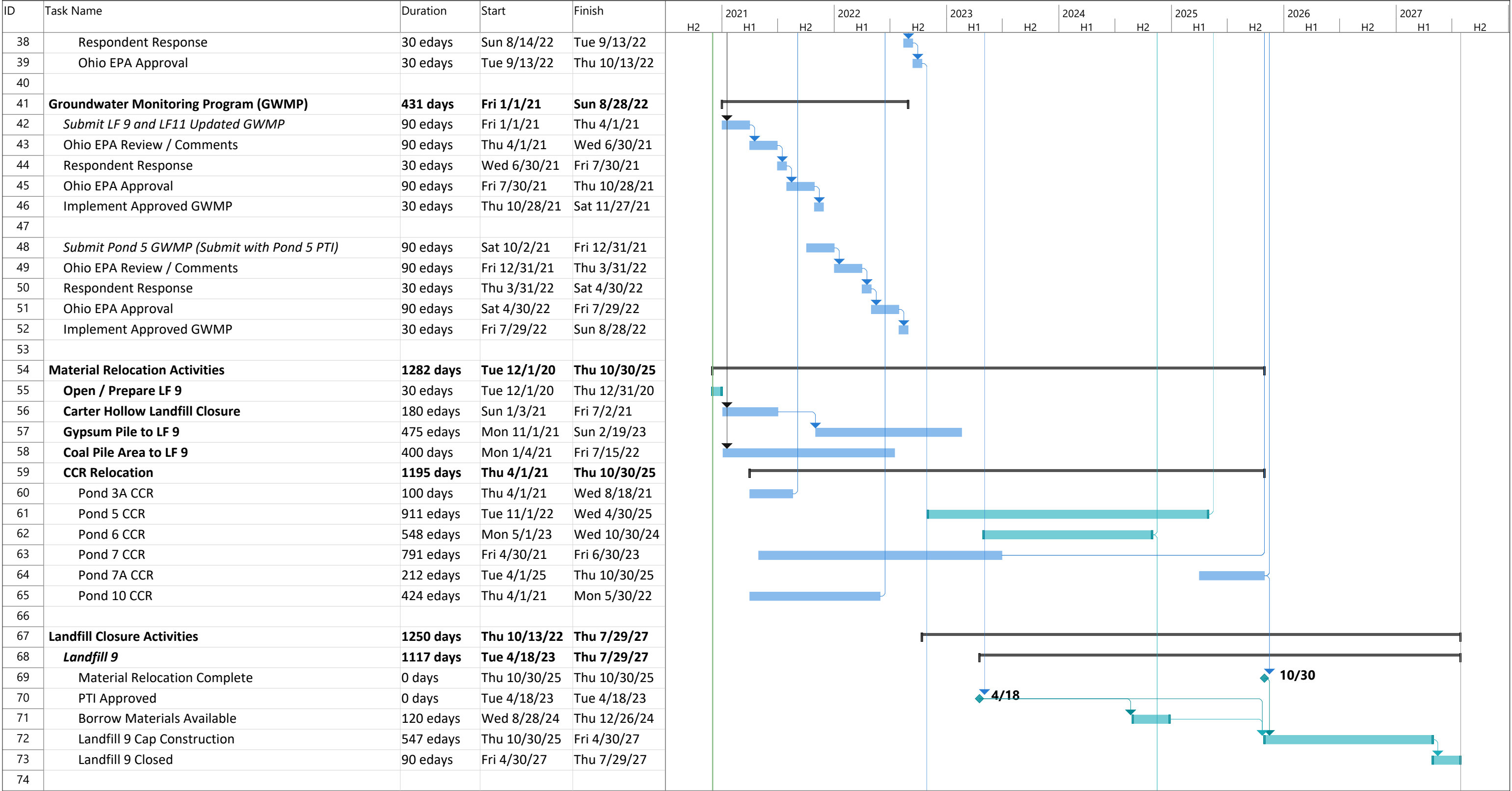
Manual Task

Duration-only

Manual Summary Rollup

Manual Summary

EXHIBIT 1  
PROJECT SCHEDULE  
Version 1 - 12/02/2020



Project: Exhibit 1 - Project Schedule rev  
Date: Wed 12/2/20

Task

Milestone

◆

Summary

Project Summary

Manual Task

Duration-only

Manual Summary Rollup

Manual Summary

EXHIBIT 1  
PROJECT SCHEDULE  
Version 1 - 12/02/2020

ID	Task Name	Duration	Start	Finish	H2	2021 H1	H2	2022 H1	H2	2023 H1	H2	2024 H1	H2	2025 H1	H2	2026 H1	H2	2027 H1	H2
75	<b>Landfill 11</b>	<b>1094 days</b>	<b>Thu 10/13/22</b>	<b>Wed 12/23/26</b>															
76	Material Relocation Complete	0 days	Wed 10/30/24	Wed 10/30/24															
77	PTI Approved	0 days	Thu 10/13/22	Thu 10/13/22															
78	Borrow Materials Available	120 edays	Wed 8/28/24	Thu 12/26/24															
79	Landfill 11 Cap Construction	547 edays	Thu 12/26/24	Fri 6/26/26															
80	Landfill 11 Closed	180 edays	Fri 6/26/26	Wed 12/23/26															



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