



John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Craig W. Butler, Director

August 7, 2015

Lake County Commissioners  
105 Main Street  
Painesville, OH 44077

**Re: Lake County Solid Waste Facility  
DFFO  
Municipal Solid Waste Landfills  
Lake County  
MSWL018755**

**Subject:** Final Findings and Orders of the Director

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Lake County Commissioners.

Enclosed are invoices for the total penalty amount of \$24,198.40 required by the orders. The penalty payment(s) shall be made by official check(s) made payable to "Treasurer, State of Ohio."

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

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Dearth", is written over a faint, larger signature.

Brian Dearth, Administrative Officer 1  
Division of Materials & Waste Management

Enclosure

cc: Melinda Berry, DMWM, CO  
Kelly Jeter, DMWM, CO  
Janine Maney, Legal  
Stephen Feldmann, Legal  
Jim Kavalec, DAPC  
Mike Settles, PIC  
Clarissa Gereby, DMWM, NEDO  
Ed Fasko, DAPC, NEDO

OHIO E.P.A.

AUG - 7 2015

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter Of:

Lake County Commissioners  
105 Main Street  
Painesville, Ohio 44077

:  
:  
:

Director's Final Findings  
and Orders

Respondent

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Lake County Commissioners ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Sections 3734.13, 3704.03 and 3745.01.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Facility (as hereinafter defined) shall in any way alter Respondent's 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 3704 and 3734 and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

1. The Lake County Solid Waste Facility ("Facility") is located at 2039 Blasé-Nemeth Road, Painesville, Lake County, Ohio.

2. Respondent is the "owner" or the "operator" of the Facility as those terms are defined in Ohio Administrative Code ("OAC") Rule 3745-27-01(O)(7) and (O)(5), and as also defined in OAC Rule 3745-15-01, and is the license holder for the Facility.
3. Respondent is a "person" as that term is defined in ORC Section 3734.01(G) and in OAC Rule 3745-27-01(P)(3), and as also defined in OAC Rule 3745-15-01(V).

#### **Solid Waste PTI Related Findings**

4. The Facility is a "sanitary landfill facility" as that term is defined in OAC Rule 3745-27-01(S)(4) and is authorized to accept "solid waste" as that term is defined under ORC Section 3734.01(E) and OAC Rule 3745-27-01(S)(24).
5. On October 13, 1993, Ohio EPA issued permit-to-install ("PTI") No. 02-5646 to Respondent for the Facility.
6. OAC Rule 3745-27-19(B)(2) states in relevant part: "The owner or operator shall conduct all construction at a sanitary landfill facility in strict compliance with the applicable authorizing document, including [the] permit to install..."
7. On March 28, 2013, Respondent submitted its 2012 Annual Report to Ohio EPA for review. Respondent's 2012 annual report included a topographic map which depicted a 16,000 cubic yard area in Unit C4 phase 3 where the vertical limits of waste placement exceeded the limits of waste placement in the approved PTI.
8. On December 5, 2013, Respondent and Respondent's consultant met with Ohio EPA to compare updated topographic drawings of existing waste grades to the Facility's PTI No. 02-5646 authorized waste grades, and identified approximate locations in Unit C4 where waste had been placed without authorization.
9. On February 4, 2014, Respondent's consultant met with Ohio EPA and submitted topographic maps comparing the actual to the authorized vertical and horizontal limits of waste placement in C4 Phase 3, using a scale and contour consistent with the approved PTI. During that meeting, Respondent's consultant provided to Ohio EPA the results of soil test pits excavated in January of 2014 from locations on the north side of Unit C4 to determine where waste had been placed without authorization, and submitted final drawings and calculations depicting all apparent areas of C4 where waste exceeds the authorized elevations depicted in PTI No. 02-5646.
10. On April 1, 2014 Ohio EPA received Respondent's 2013 Annual Report, and in a letter dated June 16, 2014, Ohio EPA noted the following violation related to exceeding limits of waste placement authorized in PTI No. 02-5646 for Unit C4:

OAC Rule 3745-27-19(B)(2) for failure to conduct all construction at a sanitary landfill facility in strict compliance with the applicable authorizing document. Ohio EPA noted that Figure 3, "Topographic Map 2013 Contour Comparison," shows that current waste grades are exceeding the approved grades in two locations. A test pit investigation was conducted in January 2014 on the north side of Phases 1 and 2. Based upon the investigation, the owner/operator has delineated the limits of overfill. The waste overfill is estimated to be 2,500 cubic yards. Ohio EPA also requested additional calculations regarding available air space.

11. On July 19, 2014, Respondent sent a letter in response to Ohio EPA's June 16, 2014 request. In the July 19, 2014 letter, Respondent stated: "Figure 3 of the 2013 annual operational report includes the most recent topography, permitted refuse limits, and the estimated volume, maximum depth and average depth for the overfilled areas on the north side and south side of the Unit C4. Lake County performed a detailed field investigation of the north side overfill in January 2014. At that time the overfilled area on the north side of Unit C4 was estimated to contain 2,500 cubic yards of waste." Respondent also acknowledged the overfill area on the south side of Unit C4 estimated at 20,000 cubic yards.
12. Respondent's consultant sent a letter to Ohio EPA on October 23, 2014 documenting the relocation of the overfill waste from the north side of unit C4. On November 26, 2014 Ohio EPA sent a letter to Respondent which determined that the north side area of unit C4 is in substantial compliance with the approved top of waste limits of PTI No. 02-5646.
13. Respondent has failed to conduct all construction at the Facility in strict compliance with PTI No. 02-5646, as required by OAC Rule 3745-27-19(B)(2) by exceeding the authorized vertical limits of waste placement on the south side of unit C4 by approximately 20,000 cubic yards.

#### **GCCS Related Findings**

14. Lake County owns Lake County Solid Waste Facility located at 2039 Blasé-Nemeth Road, Painesville, Lake County, Ohio (Facility ID #0243111198). The Facility is classified as a major source as defined in Ohio Administrative Code ("OAC") Rule 3745-77-01(X) and an "air contaminant source," as defined in OAC Rule 3745-15-01(C) and (X). The Title V permit for this Facility (P0106180) was issued by Ohio EPA on October 26, 2011.
15. 40 CFR Part 60, Subpart WWW and the terms and conditions of Respondent's Title V permit require Respondent to install a Gas Collection and Control System (GCCS) in waste that has been in place for more than five years.

16. ORC § 3704.05(J)(2) prohibits any person from violating the terms and conditions of any Title V permit issued by the Director of Ohio EPA or any rule adopted by the Director of Ohio EPA pursuant to the Title V permit program. ORC § 3704.05(C) prohibits any person from violating the terms and conditions of any permit issued by the Director of Ohio EPA. ORC § 3704.05(G) prohibits any person from violating any order, rule, or determination of the director issued, adopted, or made under this chapter.
17. From April 2009 to July 1, 2013 and from March 2013 to March 11, 2015, Respondent failed to expand the GCCS into waste that had been in place for at least five years (sections of C4, Phase III and C4, Phase IV of the landfill), in violation of the terms and conditions of the Title V permit and ORC § 3704.05(C) and (J). By letter dated August 19, 2014, Ohio EPA notified Respondent of these violations.
18. On July 1, 2013, the GCCS for Phase III was installed. Similarly, by March 11, 2015, the GCCS for Phase IV was installed, but will need to be expanded over time as more waste is placed in Phase IV. The violations referenced in Finding No. 17 of these Orders therefore have been abated.

#### V. ORDERS

Respondent shall achieve compliance with ORC Chapters 3734 and 3704, and the regulations promulgated thereunder according to the following compliance schedule:

1. Respondent shall correct the existing placement of waste above the authorized limits of waste placement, by doing either of the following:
  - a. Not later than one year after the effective date of these Orders, unless upon Respondent's written request a written extension is obtained from Ohio EPA, submit and obtain approval for a modification to the existing PTI for a vertical expansion to the limits of waste placement, such that the actual vertical and horizontal limits of emplaced waste do not exceed the authorized vertical and horizontal limits of waste placement in unit C4 as modified; or,
  - b. Not later than eighteen months after the effective date of these Orders, unless upon Respondent's written request a written extension is obtained from Ohio EPA, remove and dispose all waste placed outside of the authorized limits of waste placement on the south side of unit C4, and either place such waste in a phase at the Facility that has not reached or exceeded the authorized limits of waste placement so long as such solid waste is placed in compliance with authorizing documents and OAC Chapter 3745-27, or dispose of such solid waste at another solid waste facility that is licensed and permitted and authorized to accept and dispose of such solid waste.

2. Not later than twenty months after the effective date of these Orders, unless upon Respondent's written request a written extension is obtained from Ohio EPA, Respondent shall submit a topographic map, with updated contour lines, that compares the actual vertical and horizontal limits of emplaced waste to the authorized vertical and horizontal limits of emplaced waste in Unit C4, and which demonstrates that the actual vertical and horizontal limits of emplaced waste in Unit C4 do not exceed the authorized vertical and horizontal limits of emplaced waste in Unit C4. Notwithstanding this Order, Respondent shall comply with the requirements specified in OAC Rule 3745-27-19(M)(1).
3. Respondent shall pay to Ohio EPA the amount of fourteen thousand two hundred forty-eight dollars (\$14,248.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 3734. in accordance with the following provisions:
  - a. Within thirty (30) days after the effective date of these Orders, Respondent shall pay the amount of eleven thousand, three hundred ninety eight dollars and forty cents (\$11,398.40) of the total amount which will be deposited into the environmental protection remediation fund established pursuant to ORC Section 3734.281. Payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for eleven thousand, three hundred ninety eight dollars and forty cents (\$11,398.40). Payment shall be made by official check made payable to "Treasurer, State of Ohio" for the stated amount. The official check shall be submitted to Ohio EPA, Lazarus Government Center, Office of Fiscal Administration, PO Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the Facility. A copy of the check shall be sent to Ohio EPA, Lazarus Government Center, Division of Materials and Waste Management, Supervisor, Administrative Processing Unit, PO Box 1049, Columbus, Ohio 43216-1049.
  - b. In lieu of paying the remaining two thousand eight hundred forty nine dollars and sixty cents (\$2,849.60) of the civil penalty identified in Order No. 3, Respondent shall fund a Supplemental Environmental Project (SEP) by making a contribution in the amount of two thousand eight hundred forty nine dollars and sixty cents (\$2,849.60) to the Cleveland Museum of Natural History Natural Areas Mentor Marsh Fund. Payment shall be made by official check made payable to "the Cleveland Museum of Natural History Natural Areas Operating Fund" for the stated amount. The official check shall be submitted to Cleveland Museum of Natural History, Attention: David Kriska, 1 Wade Oval Drive, University Circle, Cleveland, Ohio, 44106 - 1767, together with a letter identifying Respondent and the Facility. A copy of the check shall be sent to Ohio EPA, Lazarus Government Center, Division of Materials and Waste Management, Supervisor, Administrative Processing Unit, PO Box 1049, Columbus, Ohio 43216-1049.

- c. Should Respondent fail to fund the Cleveland Museum of Natural History Natural Areas Mentor Marsh Fund SEP in accordance with the provisions in Order No.3-b above, Respondent shall pay to Ohio EPA the full amount of the civil penalty in the amount of fourteen thousand two hundred forty-eight dollars (\$14,248.00) in accordance with the payment and submittal procedures in Order No. 3-a.
4. Respondent shall pay the amount of sixteen thousand dollars (\$16,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704, in accordance with the following provisions
  - a. Within thirty (30) days after the effective date of these Orders, Respondent shall pay the amount of twelve thousand eight hundred dollars (\$12,800.00) of the total amount. Payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for twelve thousand eight hundred dollars (\$12,800.00). The official check shall be submitted to Carol Butler or her successor at Ohio EPA, Lazarus Government Center, Office of Fiscal Administration, PO Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the Facility. A copy of the check shall be sent to Ohio EPA, Division of Air Pollution Control, PO Box 1049, Columbus, Ohio 43216-1049.
  - b. In lieu of paying the remaining three thousand two hundred dollars (\$3,200.00) of the civil penalty identified in Order No. 4, Respondent shall fund a Supplemental Environmental Project (SEP) by making a contribution in the amount of three thousand two hundred dollars (\$3,200.00) to the Cleveland Museum of Natural History Natural Areas Mentor Marsh Fund. Payment shall be made by official check made payable to "the Cleveland Museum of Natural History Natural Areas Operating Fund" for the stated amount. The official check shall be submitted to Cleveland Museum of Natural History, Attention: David Kriska, 1 Wade Oval Drive, University Circle, Cleveland, Ohio, 44106 - 1767, together with a letter identifying Respondent and the Facility. A copy of the check shall be sent to Ohio EPA, Division of Air Pollution Control, PO Box 1049, Columbus, Ohio 43216-1049.
  - c. Should Respondent fail to fund the Cleveland Museum of Natural History Natural Areas Mentor Marsh Fund SEP in accordance with the provisions in Order No. 4-b above, Respondent shall pay to Ohio EPA the full amount of the civil penalty in the amount of sixteen thousand dollars (\$16,000.00) in accordance with the payment and submittal procedures in Order No. 4-a.

## **VI. TERMINATION**

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

The certification shall contain the following attestation from Respondent: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent.

Respondent's obligations under these Orders for ORC Chapter 3704 shall terminate upon Ohio EPA's receipt of the official checks required by Section V. of these Orders.

## **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 operation of Respondent's Facility.

## **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 Respondent or the Facility.

## **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 Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Northeast District Office  
Division of Materials and Waste Management  
2110 East Aurora Road  
Twinsburg, Ohio 44087

Ohio Environmental Protection Agency  
Northeast District Office  
Ed Fasko, DAPC Manager  
2110 East Aurora Road  
Twinsburg, Ohio 44087

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

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

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

#### **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent 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 the 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.


**IT IS SO ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Craig W. Butler, Director.

**IT IS SO AGREED:**

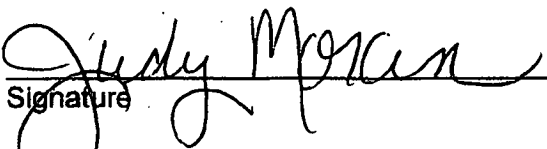
**Lake County Commissioners**

  
\_\_\_\_\_  
Signature

July 23, 2015  
Date

Daniel P. Troy  
Printed or Typed Name

President  
Title

  
\_\_\_\_\_  
Signature

July 23, 2015  
Date

Judy Moran  
Printed or Typed Name

Vice President  
Title

  
\_\_\_\_\_  
Signature

July 23, 2015  
Date

Kevin Malecek  
Printed or Typed Name

Commissioner  
Title

# Ohio EPA Invoice/Receipt

Date Printed: August 06, 2015

Revenue ID: 1047800

Please include this Revenue ID with all correspondence.

Place ID: 24397

Information: Lake County Solid Waste Facility \*  
2039 Blase Nemeth Rd  
Painesville, OH 44077-

Due Date: September 06, 2015

Amount Due: \$11,398.40

Effective Date: August 07, 2015

Revenue Description: DMWM-5410 Environmental Protection Remediation Fund Settlement

Program Name: Solid Waste Programs

Reason: Civil Penalty

For some Revenues, Interest and/or Penalties may be charged for late payment.

Next Interest Date (if applicable):

Next Penalty Date (if applicable):

Remittance Advice      Detach Here - Please Return This Portion With Your Payment

Place ID: 24397

Information: Lake County Solid Waste Facility \*  
2039 Blase Nemeth Rd  
Painesville, OH 44077-

Due Date: Sep 06, 2015

Amount Due: \$11,398.40

Secondary Type/Id: MSWLF / MSWL018755

Revenue Type: SI541

Amount Enclosed: \$ \_\_\_\_\_

Please write this number on your check. Revenue ID: 1047800  
Make check or money order payable to "Treasurer, State of Ohio"

Remit to: Ohio Environmental Protection Agency - OFA  
Department L-2711  
Columbus, OH 43260-2711

For Ohio EPA use only

Check ID: \_\_\_\_\_  
Check Date: \_\_\_\_\_  
Check Number: \_\_\_\_\_  
Check Amount: \$ \_\_\_\_\_

1139840      SI541      1047800

# Ohio EPA Invoice/Receipt

Date Printed: August 06, 2015

Revenue ID: 1047801

Please include this Revenue ID with all correspondence.

Place ID: 24397

Information: Lake County Solid Waste Facility \*  
2039 Blase Nemeth Rd  
Painesville, OH 44077-

Due Date: September 06, 2015

Amount Due: \$12,800.00

Effective Date: August 07, 2015

Revenue Description: DAPC- Findings and Orders  
Program Name: Air Pollution Programs  
Reason: Civil Penalty

For some Revenues, Interest and/or Penalties may be charged for late payment.

Next Interest Date (if applicable):

Next Penalty Date (if applicable):

Remittance Advice      Detach Here - Please Return This Portion With Your Payment

Place ID: 24397

Information: Lake County Solid Waste Facility \*  
2039 Blase Nemeth Rd  
Painesville, OH 44077-

Due Date: Sep 06, 2015

Amount Due: \$12,800.00

Secondary Type/Id: AIRFI / 0243111198

Revenue Type: FOAPC

Amount Enclosed: \$ \_\_\_\_\_

Please write this number on your check. Revenue ID: 1047801  
Make check or money order payable to "Treasurer, State of Ohio"

Remit to: Ohio Environmental Protection Agency - OFA  
Department L-2711  
Columbus, OH 43260-2711

For Ohio EPA use only

Check ID: \_\_\_\_\_  
Check Date: \_\_\_\_\_  
Check Number: \_\_\_\_\_  
Check Amount: \$ \_\_\_\_\_

1280000      FOAPC      1047801