



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

OHIO E.P.A.

AUG 20 2015

ENTERED DIRECTOR'S JOURNAL

AUGUST 20, 2015

Mike Heher
Division Manager
Carbon Limestone Landfill LLC
8100 South Stateline Road
Lowellville, OH 44436

**Re: Carbon Limestone Landfill, LLC
Non-Permit Related Variance
Approval
Municipal Solid Waste Landfills
Mahoning County
MSWL018781**

**Subject: Carbon Limestone Landfill, LLC
Ohio Administrative Code (OAC) Rule 3745-27-03(C) Approval**

Dear Mr. Heher:

On July 8, 2015, the Ohio Environmental Protection Agency (Ohio EPA), Division of Materials and Waste Management (DMWM), Northeast District Office (NEDO) received a document titled "*Application for OAC 3745-27-03(C)(i), (sic), Variance from Semiannual Sampling Requirements of OAC 3745-27-10(E)(5)(a) for MW-209B, MW-10, MW-229A, SW-21, and Miller Road Outfall for 2015 First Semiannual Event,*" dated July 8, 2015, for Carbon Limestone Landfill, LLC. (Facility) located in Mahoning County. Carbon Limestone Landfill, LLC (CLL), a subsidiary of Republic Services, Inc., requested the director's approval of this variance for relief from the semiannual sampling frequency requirement for specific monitoring locations at the Facility. The Facility's ground water monitoring programs are regulated by the Solid and Infectious Waste Regulations (OAC Rule 3745-27-10), as effective August 15, 2003.

Pursuant to OAC Rule 3745-27-03(C)(1), any person may apply for a variance from any provision of Chapter 3745-27 of the Administrative Code except for any rule adopted under division (M) of section 3734.02 or section 3734.021 of the Revised Code.

The request for the variance pertains to the semiannual sampling of ground water quality assessment monitoring wells for all parameters in Appendix I as required by OAC Rule 3745-27-10(E)(5)(b)(i). Specifically, CLL requested a variance from the requirement to conduct semiannual sampling at three assessment ground water monitoring well locations: MW-209B; MW-10; and MW-229A, and two surface water sampling locations: SW-21 and the Miller Road Outfall. CLL was unable to conduct the first semiannual sampling event of 2015 because of high water conditions. The variance request is only for the first semiannual sampling event of 2015 and CLL proposes to resume all regular and routine sampling required by OAC Rule 3745-27-10(E)(5)(b)(i) beginning with the second semiannual sampling event of 2015 prior to the end of the year.

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CLL's request is due to abnormally high rainfall during the months of May and June this year and construction activities in the Western Passive Drainage System (PDS) that required the deactivation of the Southwest Pond pump station resulting in the southern portion of the Western PDS becoming filled with water well beyond normal operating levels. This flooding caused assessment monitoring wells MW-209B, MW-10, MW-229A and surface water sampling location SW-21 to be completely submerged. As such, these sampling locations could not be sampled in May or June of this year with the rest of the ground water monitoring system as is customary. Further, because the Southwest Pond pumping station was deactivated, CLL was unable to sample the Miller Road Outfall location. It is anticipated that the southern portion of the Western PDS will remain filled with water until the Western PDS is completed sometime in the fall of 2015.

Ohio EPA has reviewed the variance request to ensure compliance with the requirements of this rule, and in particular, the requirements of OAC Rule 3745-27-03(C)(5). According to OAC Rule 3745-27-03(C)(5), the applicant must demonstrate to the Director's satisfaction that operation of the solid waste facility in the manner approved by the variance and any terms or conditions imposed as part of the variance will not create a nuisance or a hazard to public health or safety or the environment and is unlikely to result in a violation of any other requirements of Chapters 3704, 3714, 3734, and 6111 of the Revised Code and any rules adopted thereunder.

CLL provided a sufficient amount of information in support of its request for approval of the variance, including:

- Groundwater data demonstrating that MW-209B, MW-10, and MW-229A have been sampled a minimum of 12 times for the Appendix I list of parameters contained in OAC 3745-27-10;
- According to the time series plots, there has been only minor variation in the results;
- Surface water sampling data demonstrating SW-21 and the Miller Road Outfall have been sampled a minimum of eight times for the VOCs listed in Appendix I of OAC Rule 3745-27-10.

Based upon this accumulation of historic sampling data for these five locations, CLL contends that missing the first semiannual sampling event of 2015 at these same five locations will not negatively affect or alter the characterization of water quality at these locations. As a result, CLL believes that granting this variance will not create a nuisance or a hazard to public health or safety or the environment and is unlikely to result in a violation of any other requirements of Chapters 3704, 3714, 3734, and 6111 of the Revised Code and any rules adopted thereunder.

Ohio EPA has reviewed the applicable information and concurs with the justification included in the July 8, 2015 request. Therefore, pursuant to OAC Rule 3745-27-03(C),

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CLL is hereby granted a variance from the semiannual sampling frequency required by OAC Rule 3745-27-10(E)(5)(b)(i) in order to forgo the first sampling event of calendar year 2015 at three assessment groundwater monitoring well locations: MW-209B; MW-10; and MW-229A, and two surface water sampling locations: SW-21 and the Miller Road Outfall. The approval for this variance pertains only to the first semiannual sampling event of 2015 and expires on December 31, 2015 or upon completion of the second semiannual sampling event of 2015, whichever occurs first.

You are hereby notified that this action of the Director of Environmental Protection (Director) is final and may be appealed to the Environmental Review Appeals Commission pursuant to Ohio Revised Code Section 3745.04. 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
77 South High St., 17th Floor
Columbus, Ohio 43215

If you have any questions concerning this action, please contact Clarissa Gereby, DMWM, NEDO at (330) 963-1224.

Sincerely,



Craig W. Butler
Director

CWB:CG:cla

cc: Lynn Sowers, Ohio EPA, NEDO, DMWM
Dave Fetchko, Mahoning County Health Department