



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

December 12, 2016

Mt. Eaton Reclamation, Inc.
P.O. Box 256
Mount Eaton, Ohio 44659

Hope Enterprise, LTD
P.O. Box 256
Mount Eaton, Ohio 44659

Norton Environmental Company
6055 Rockside Woods Blvd.
Suite 105
Independence, Ohio 44131

**Re: Mount Eaton Reclamation, Inc.
Director's Final Findings and Orders (DFFO)
DFFO
Municipal Solid Waste Landfills
Wayne County
MSWL018846**

**Subject: Mt. Eaton Landfill
Director's Final Findings & Orders**

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Mount Eaton Landfill.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Dearth".

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

ec: Robin Nichols, Legal
Teri Finfrock, Legal
Carl Mussenden, DMWM, CO
Kelly Jeter, DMWM, CO
John Hujar, DMWM, NEDO
Katharina Snyder, DMWM, NEDO

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OHIO EPA

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BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

LEGAL OFFICE

In the Matter Of:

Mt. Eaton Reclamation, Inc.	:	<u>Director's Final Findings</u>
P.O. Box 256	:	<u>and Orders</u>
Mount Eaton, Ohio 44659	:	
	:	
Hope Enterprise, LTD	:	
P.O. Box 256	:	
Mount Eaton, Ohio 44659	:	
	:	
Norton Environmental Company	:	
6055 Rockside Woods Blvd. Suite 105	:	
Independence, Ohio 44131	:	

Respondents

PREAMBLE

The parties having engaged in settlement discussions and desiring to avoid litigating disputed claims, have reached an agreement pursuant to Ohio Revised Code ("ORC") 3745.01 to resolve said claims through these Director's Final Findings and Orders ("Orders").

I. JURISDICTION

These Orders are issued to Mt. Eaton Reclamation, Inc., Hope Enterprise, LTD and Norton Environmental Company ("Respondents") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under ORC 3734.13 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondents and successors in interest liable under Ohio law. No change in ownership of the Facility 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 Chapter 3734 and the rules promulgated thereunder

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. The Mt. Eaton Landfill ("Facility") is located in Wayne County at 8544 Southwest Lebanon Road, Navarre, OH.
2. Respondent Mt. Eaton Reclamation, Inc. and Respondent Hope Enterprise, LTD are the "owners" of the Facility as that term is defined in Ohio Administrative Code ("OAC") Rule 3745-27-01(O)(7).
3. Respondent Mt. Eaton Reclamation, Inc. and Respondent Hope Enterprise, LTD, as the owners of the real property upon which the Facility is located, have granted Respondent Norton Environmental Company ("NEC") the right and license to enter upon the real property, with such equipment as Respondent NEC deems necessary, to perform all needed post-closure care activities.
4. Respondent NEC is an "operator" as that term is defined in OAC Rule 3745-27-01(O)(5).
5. The Facility is a "sanitary landfill facility" as that term is defined under OAC Rule 3745-27-01(S)(4) and was authorized to accept "solid waste" as that term is defined under ORC Section 3734.01(E) and OAC Rule 3745-27-01(S)(23).
6. The Respondents are each a person as that term is defined in ORC Section 3734.01(G) and in OAC Rule 3745-27-01(P)(3).
7. Final closure activities were completed in accordance with OAC Rule 3745-27-11 on March 16, 2011.
8. The Respondents are required to comply with Ohio's sanitary landfill facilities post-closure care regulations in accordance with OAC Rule 3745-27-14.
9. A mine spoil berm, which was not constructed by Respondent NEC, is located at the toe of the southern portion of the Facility providing structural support to the Facility's waste mass and cap system.
10. By electronic mail dated March 18, 2015, Respondent NEC notified Ohio EPA that a several hundred foot section of the mine spoil berm in the southern portion of the Facility slid away from the rest of the berm.
11. Ohio EPA conducted site visits of the Facility and observed the slide on April 2, 2015, May 8, 2015, June 29, 2015, July 29, 2015, and September 15, 2015. Surface cracks parallel to the slide have also been observed by Ohio EPA. These cracks vary in length and width, and continue to expand to the point where additional mine spoil slides away causing further damage to the structural integrity of the Facility's berm.

12. OAC Rule 3745-27-14(A) states, in pertinent part, "Post-closure care activities for a sanitary landfill facility shall include...(m)aintaining the integrity and effectiveness of the cap system, including making repairs to the cap system as necessary to correct the effects of settling, dead vegetation, subsidence, ponding, erosion, leachate outbreaks, or other events, and preventing run-on and runoff from eroding or otherwise damaging the cap system."
13. The buttressing force and stability of the berm to itself, the waste mass, and the cap system is compromised as a result of the slide. Continued damage to the berm has resulted in failure of a portion of the cap system. This failure could cause exposure of emplaced waste leading to leachate outbreaks, emanation of off-site odors, and increased air intrusion to the waste mass which could increase the risk of a subsurface fire event within the waste.
14. OAC 3745-27-10(B)(1)(b) states that "The ground water monitoring system, for detection monitoring, assessment monitoring, or corrective measures, shall consist of a sufficient number of wells, installed at appropriate locations and depths, to yield ground water samples from both the uppermost aquifer system and any significant zones of saturation that exist above the uppermost aquifer system that do the following: Represent the quality of the ground water passing directly downgradient of the limits of solid waste placement."
15. By electronic mail dated May 14, 2015, Respondents' ground water consultant (Eagon & Associates, Inc.) notified Ohio EPA that ground water wells MW-19 and MW-19(D) were damaged by the southern berm slope failure and cannot be sampled.
16. Between March 2015 and October 2015, Respondent NEC and Freeman Mullet, the president of both Respondent Mt. Eaton Reclamation, Inc. and Respondent Hope Enterprise, LTD, maintained open dialog with Ohio EPA discussing measures to repair the slide.
17. On July 31, 2015, Ohio EPA received a geotechnical memorandum from Respondent Mt. Eaton Reclamation dated July 28, 2015, discussing options to address conditions at the Facility.
18. By letter dated October 2, 2015, Ohio EPA cited Respondents for failing to maintain a sufficient number of wells at the Facility, in violation of OAC 3745-27-10(B)(1)(b).
19. On March 30 and April 8, 2016, Ohio EPA conducted an inspection of the Facility and observed that the berm has eroded to such an extent that the integrity of the cap system has been compromised, in violation of OAC 3745-27-14(A).
20. ORC Section 3734.041(C) provides that "explosive gases shall be considered to endanger human health or safety or the environment if concentrations of methane

generated by the landfill in landfill structures, excluding gas control or recovery system components, exceed twenty-five per cent of the lower explosive limit or if concentrations of methane generated by the landfill at the landfill boundary exceed the lower explosive limit.”

21. OAC Rules 3745-27-12(E)(5)(a)(i) and (ii) requires the following explosive gas threshold limits:(i) One hundred per cent of the lower explosive limit (5% CH₄ v/v) at or within the facility boundary. (ii) Twenty-five per cent of the lower explosive limit (1.25% CH₄ v/v) in structures.
22. Since at least March 23, 2005 gas measurements from Gas Monitoring Probe P-2 at the Facility indicated explosive gas was present at concentrations in excess of the lower explosive limit. Respondents have conducted additional punch bar monitoring of explosive gas concentrations at locations PB-2.2, PB-2.2E5, PB-2.2W5, PB-2.2W10, PB-A, PB-B, PB-C, and PB-D, which sometimes indicates the presence of gas in excess of the lower explosive limit.
23. There are three occupied structures within two hundred (200) feet of Gas Monitoring Probe P-2; however, each of those structures is equipped with an alarm that is designed to sound before methane concentrations reach explosive levels.
24. Ohio EPA and Respondents have been working cooperatively to address the explosive gas concentrations at the Facility. On May 3, 2016, consultants for Respondents provided to Ohio EPA a proposal for mitigating explosive gas conditions at the Facility, which includes the installation of a trench to intercept and vent explosive gas before it reaches the buildings. On November 1, 2016, Respondent NEC provided additional details to Ohio EPA's Northeast District Office regarding the design and construction of the interceptor trench.
25. ORC Section 3734.13(A) states, “The director of environmental protection may issue, modify, suspend, or revoke enforcement orders in accordance with Chapter 3745. of the Revised Code to a holder of a registration certificate, permit, or license issued by the director or a board of health under this chapter, or to another person, directing the holder or person to abate a violation, or to prevent any threatened violation, of any section of this chapter other than sections 3734.90 to 3734.9013 of the Revised Code, a rule adopted thereunder, or a term or condition of a permit, license, or variance issued thereunder within a specified, reasonable time.”

V. ORDERS

Respondents shall achieve compliance with ORC Chapter 3734 and the rules promulgated thereunder according to the following compliance schedule:

1. Not later than December 10, 2016, Respondents shall repair the berm to such an extent that the berm provides adequate structural stability to the Facility.

2. Not later than January 1, 2017, Respondents shall install a replacement well in approximately the same area for MW-19 and repair MW-19D, to ensure compliance with OAC Rule 3745-27-10.
3. Not later than January 1, 2017, Respondents shall submit to Ohio EPA an as-built drawing(s) that accurately reflects the repaired berm and a narrative that describes how the berm was repaired.
4. Not later than fourteen (14) days after the effective date of these Orders, Respondents shall submit to Ohio EPA a report, prepared by a qualified professional, detailing the steps Respondents will implement to ensure the safety of individuals inside the structures located within 200 feet of Gas Probe P-2. The plan shall ensure the safety of individuals in the structures and shall be implemented, at a minimum, from the date submittal of the plan is required under these Orders until contingency monitoring is no longer required either by these Orders or the explosive gas monitoring plan approved for the Facility.
5. Not later than thirty (30) days after the effective date of these Orders, Respondents shall implement measures to address explosive gas levels at the Facility, which may include installation of a trench as proposed by Respondent and reflected in Finding Number 24.
6. Upon the effective date of these Orders, Respondents shall monitor explosive gas levels at locations PB-2.2, PB-2.2E5, PB-2.2W5, PB-2.2W10, PB-A, PB-B, PB-C, and PB-D not less than twice per week. Respondents shall submit the results of the explosive gas monitoring weekly to Ohio EPA's Northeast District Office in accordance with Section XI of these Orders. Upon reaching six consecutive weeks of gas monitoring that indicates no exceedances of the standards set forth in Order Number 6, below, Respondents may resume explosive gas monitoring in accordance with the approved gas monitoring plan for the Facility.
7. If, ninety (90) days after the effective date of these Orders, explosive gas monitoring at the Facility demonstrates that explosive gas concentrations of methane at the boundary of the Facility or in Gas Monitoring Probe P-2 or punchbar locations PB-2.2, PB-2.2E5, PB-2.2W5, PB-2.2W10, PB-A, PB-B, PB-C, or PB-D exceed the lower explosive limit as identified in Finding number 21 above, then not later than one hundred twenty (120) days after the effective date of these Orders Respondents shall submit to Ohio EPA and implement a plan describing additional measures that will be taken to address the explosive gas exceedances at the Facility.
8. Not later than sixty (60) days after returning to explosive gas monitoring in accordance with the approved gas monitoring plan pursuant to Order Number 6, above, Respondents shall evaluate the approved gas plan for the Facility and submit to Ohio EPA any revisions necessary for the plan to comply with OAC Rule 3745-27-12.

VI. CIVIL PENALTY

If Respondents fail to timely perform an obligation set forth in paragraphs 1, 2, or 3 of Section V of these Orders, Respondents shall pay to Ohio EPA the amount of ten thousand dollars (\$10,000.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 3734. Payment to Ohio EPA shall be made by official check made payable to "Treasurer, State of Ohio" for ten thousand dollars (\$10,000.00). The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent to the following address:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049.

VII. TERMINATION

Respondents' obligations under these Orders shall terminate when 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 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 Respondents of the obligations that have not been performed, in which case Respondents shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "The Respondents 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 a responsible official 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.

VIII. 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 Respondents' Facility.

IX. 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 the Respondents.

X. 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.

XI. NOTICE

All documents required to be submitted by Respondents 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

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

XII. RESERVATION OF RIGHTS

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

XIII. 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 that occurred on or before the effective date of these Orders and are specifically cited in these Orders, Respondents consent 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 Respondents' liability for the violations specifically cited herein.

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

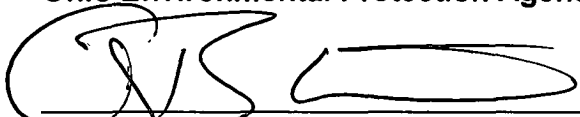
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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.

IT IS SO ORDERED AND AGREED:

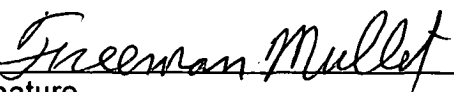
Ohio Environmental Protection Agency



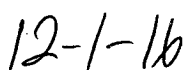
Craig W. Butler
Director

IT IS SO AGREED:

Mt. Eaton Reclamation, Inc.

By: 

Signature



Date

Freeman Mullet, President

Hope Enterprise, LTD

By: Freeman Mullet
Signature

12-1-16
Date

Freeman Mullet, Member

Norton Environmental Company

By: Joseph A. Balog
Signature

12-01-16
Date

Joseph A. Balog, President