



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

February 8, 2018

Morgan County Commissioners
19 East Main Street
McConnelsville, OH 43756

**Re: Morgan County Commissioners
Director's Final Findings and Orders (DFFO)
DFFO
Municipal Solid Waste Landfills
Morgan County
MSWL020110**

Subject: Morgan County 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 Morgan County Landfill.

If you have any questions, please contact Troy Harter 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

Enclosure

ec: Troy Harter, Legal
Teri Finfrock, Legal
Kelly Jeter, DMWM, CO
Bruce McCoy, DMWM, CO
Joe Goicochea DMWM, SEDO
Erika Jackson, DMWM SEDO

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of:

Morgan County Commissioners : Amended Director's Final Findings
19 East Main Street : and Orders
McConnelsville, OH 43756 :

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

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

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondents. 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. Respondents are the Lessees and original applicants for the plan approval of the Morgan County Landfill ("Facility") located on Route 60, McConnelsville, Ohio in Morgan County. Respondents leased the land owned at the time by F.E. (Gene) and Eileen Haines for the purpose of establishing and operating a solid waste disposal facility.
2. The Facility was in operation from about 1971 to September 1, 1988, at which time it was declared closed by letter dated June 30, 1988, pursuant to OAC Rule 3745-27-10(A)(1) as that rule was effective July 29, 1976.

3. Following cessation of waste acceptance at the Facility, Respondents failed to properly close the Facility in violation of the State's environmental laws and regulations.
4. Subsequently, Respondents entered into negotiations with Ohio EPA and agreed to a compliance schedule to address the violations. This compliance schedule was memorialized in Director's Final Findings and Orders issued on February 13, 1995 ("1995 DFF&Os") which required Respondents to, among other things, delineate waste placement and install a final cap in compliance with OAC 3745-27-10 as effective July 29, 1976, conduct post closure care at the Facility for 30 years following the installation of the final cap, and submit and follow plans for groundwater and explosive gas monitoring as those plans were approved by Ohio EPA. Additionally, Respondents were required to complete \$31,500.00 worth of Supplemental Environmental Projects by providing in-kind services directed toward the cleanup of known open dump sites within Morgan County.
5. Respondents completed capping of the Facility and began the post-closure care period on May 13, 1997.
6. On July 12, 1999, Ohio EPA received a verified complaint pursuant to ORC Section 3745.08, which alleged surface water and groundwater violations at the Facility as well as specific violations of the 1995 DFF&Os. Ohio EPA conducted an investigation and ultimately found that Respondents were in violation of a number of requirements of the 1995 DFF&Os and the rules regarding post-closure care of the Facility. With regard to the groundwater violations alleged in the verified complaint, Ohio EPA found Respondents were in compliance with OAC Rule 3745-27-10 and were following groundwater assessment procedures contained in that rule.
7. Subsequently Unilateral Director's Final Findings and Orders were issued on May 22, 2002 ("2002 DFF&Os"), which required Respondents, in part, to collect and dispose of leachate; repair eroded areas of final cap; seed all areas of the Facility where vegetation was sparse or non-existent; and complete the Supplemental Environmental Projects required by the 1995 DFF&Os.
8. Initially, Respondents' progress towards compliance with the 2002 DFF&Os was slow due to financial constraints. However, in recent years under the guidance of the current county commissioners, Respondents have made significant progress at the Facility by addressing eroded areas of the cap, establishing a dense vegetative cover, and continuing to maintain the cover system through mowing, tree removal, and erosion repair as necessary. In 2015, Respondents spent approximately \$10,000.00 in cap maintenance alone at the Facility. Additionally, Respondents have continued to comply with the with OAC Rule 3745-27-10 and groundwater assessment procedures contained in that rule and have expended \$31,534.46 to complete the Supplemental Environmental Projects required by the 1995 DFF&Os.

9. Respondents have addressed continued cap maintenance at the Facility by submitting an operation and maintenance plan (O&M Plan) for long-term care of the cap system. The O&M Plan includes guidelines for mowing, tree removal, general cap maintenance and inspections.
10. With regard to leachate management at the Facility, there currently exists an intermittent leachate seep located within the northern disposal area (in the vicinity of MW-5), which discharges into the upper pond. This pond then discharges to an unnamed tributary of Bell Run. Although efforts have been made to repair the leachate seep in the past to prevent leachate from discharging from the Facility, Respondents remained in violation of the 2002 DFF&Os, which specifically required that leachate be collected and disposed at a permitted treatment facility and did not provide flexibility for Respondents to address the leachate in another manner that was protective of human health and the environment.
11. On May 30, 2017, Respondents met with Ohio EPA and discussed alternate methods of addressing the intermittent leachate seep and the possibility of amending the previous Orders to allow for alternate leachate control methods.
12. Ohio EPA conducted a headwater habitat evaluation to determine the quality of the habitat to support aquatic life both upstream and downstream of the Facility and to evaluate the impact of the intermittent leachate discharge. The results of the evaluation indicate that both the upstream and downstream locations can support a diverse aquatic community.
12. The Director has found that amending the 2002 DFF&Os to allow Respondents to address the leachate discharge through inspections and repair of the leachate seeps is protective of human health and the environment.
14. Accordingly, these amended Orders are intended to revise and amend the 1995 and 2002 DFF&Os.

V. ORDERS

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

1. The May 22, 2002 DFF&Os are hereby modified as outlined in Orders No. 2 and No. 3 below. In the event there is a conflict between the 2002 DFF&Os and these Orders, Respondents shall follow the Orders as amended herein. To the extent not otherwise specifically amended herein, the terms and conditions of the 1995 and 2002 DFF&Os shall be incorporated herein and shall remain in full force and effect.

2. Order No. 2 of the 2002 DFF&Os requiring Respondents to install a leachate collection system that collects leachate from all leachate seeps associated with the northern disposal area of the Facility is amended and superseded by Order No. 3 below.
3. Immediately upon the effective date of these Orders and continuing throughout the remainder of the post closure care period for the Facility, Respondents shall maintain the cap system at the facility as follows:
 - a. Respondents shall conduct quarterly inspections of the Facility to evaluate the integrity and effectiveness of the cap system. Respondents shall, at a minimum, inspect the Facility for evidence of leachate outbreaks, settling, dead vegetation, subsidence, ponding and erosion and shall make all repairs necessary to correct the effects of leachate outbreaks, settling, dead vegetation, subsidence, ponding, erosion as follows:
 - i. If leachate outbreaks or evidence of leachate outbreaks are identified, Respondents shall notify Ohio EPA Southeast District Office not later than twenty-four (24) hours after observing the leachate outbreaks and shall complete all necessary repairs needed to correct the leachate outbreaks not later than seven (7) days following the quarterly inspection.
 - ii. If settling, dead vegetation, subsidence, ponding or erosion are identified, Respondents shall complete all necessary repairs needed as soon as practical. In the event that the repairs cannot be completed within fifteen (15) days of the quarterly inspection, Respondents shall submit a schedule for the repairs in the quarterly report required by Order No. 3(c) below.
 - b. Respondents shall mow the Facility at least once per growing season (April-September). Additional mowing shall occur if necessary to prevent trees and brush from becoming established on the cap system.
 - c. Not later than fifteen (15) days after each quarterly inspection, Respondents shall submit a written summary of the quarterly inspection to Ohio EPA Southeast District Office documenting the results of the inspection, any repairs made to the cap system, and a schedule of any actions to be taken to repair the cap system. The report shall also identify the dates of any mowing that has occurred at the Facility during the previous quarter and any mowing's scheduled for the following quarter.

VI. 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: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondents to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is the chief administrative officer of the Respondent.

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 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 Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Southeast District Office
Division of Materials and Waste Management

2195 Front Street
Logan, Ohio 43138
Attn: Supervisor, Division of Materials and Waste Management

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 V 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 Respondents' liability for the violations specifically cited herein.

Respondents hereby waives 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:

Morgan County Commissioners



Adam Shriver, Commissioner

1-2-18

Date



Tim Van Horn, Commissioner

1-2-18

Date



Mike Reed, Commissioner

1-2-18

Date