



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

August 3, 2018

Central Ohio Community
Improvement Corporation
845 Parsons Ave.
Columbus, OH 43206

**Re: Bedford I Landfill
Director's Final Findings and Orders (DFFO)
DFFO
Municipal Solid Waste Landfills
Franklin County
MSWL019006**

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 Bedford I Landfill.

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

Sincerely,

A handwritten signature in black ink that reads "Greg Nichols". The signature is written in a cursive style with a large, prominent "G" and "N".

Greg Nichols, Administrative Processing Unit
Division of Materials & Waste Management

Enclosure

ec: Kelly Jeter, DMWM, CO
Alison Shockley, DMWM, CO, DMWM, CO
Bruce McCoy, DMWM, CO
Holly Hillyer, DMWM, CO
Phil Farnlacher, DMWM, CDO
Allan Hurt, DMWM, CDO
Constance Livchak, DMWM, CDO
Andrea Smoktonowicz, Legal

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of:

| | | |
|--|---|----------------------------------|
| Central Ohio Community Improvement Corporation | : | <u>Director's Final Findings</u> |
| 845 Parsons Avenue | : | <u>and Orders</u> |
| Columbus, Ohio 43206 | : | |

Ohio EPA AUG 3 '18
Entered Directors Journal

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Central Ohio Community Improvement Corporation ("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, 3734.041, 3745.01, and Ohio Administrative Code ("OAC") Rule 3745-27-12(I).

II. PARTIES BOUND

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

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is the current owner of the closed Bedford I Landfill located at 1161 Claycraft Road, Gahanna, Franklin County, Ohio ("Facility"). Respondent is obligated under Ohio Administrative Code Rule 3745-27-12 to perform landfill explosive gas migration monitoring.
2. The Facility is a "solidwaste disposal facility" as that term is defined in OAC Rule

3745-27-01(S)(24) and "sanitary landfill facility" as that term is defined in OAC Rule 3745-27-01(S)(4) and used in ORC Section 3734.041.

3. On December 14, 2005, Respondent signed Director's Final Findings and Orders indicating that it would comply with OAC Rule 3745-27-12 and perform explosive gas monitoring in accordance with the explosive gas monitoring plan approved by Ohio EPA on April 26, 1991, as modified by Section 5 of the Final Closure/Post-Closure Care Plan (2003).
4. On November 6, 2007, Respondent submitted the closure certification report for the Facility to Ohio EPA, which Ohio EPA concurred with on June 10, 2008.
5. On July 8, 2009, Respondent transferred 5.271 acres of land from the original +/- 81.7-acre property that made up the Facility, to the Value Recovery Group II, LLC ("VRG"), as recorded in Franklin County Recorder's Office, Instrument Number 200907080099978. The new 5.271-acre tract was later subdivided into various new parcels, one of which being a new 1.0-acre tract and another being a 0.3-acre tract (collectively, the "JKR Property"). The two new parcels, both part of the original landfill Facility, were transferred from VRG to JK&R Property Enterprise, LLC ("JKR") on November 22, 2017, as recorded in the Franklin County Recorder's Office, Instrument Number 201711220165640.
6. In early 2018, JKR started construction on a new building, located on the JKR Property at 851 Science Blvd., Gahanna, Ohio ("JKR Building"). The northwestern corner of the JKR Building is located on the JKR Property within approximately three feet of the Respondent's current property boundary and within five feet of the landfill cap area.
7. On May 8, 2018, work crews at the JKR Building noticed what appeared to be gas bubbles in some of the standing storm water after a rain event. This prompted the owner of the JKR Building to contact Respondent who then directed Respondent's consultant to perform additional explosive gas monitoring around the building. This additional testing, along with additional testing conducted by Ohio EPA, confirmed the presence of methane gas at or above the lower explosive limit (LEL) of 5% methane on JKR's property, which was part of the original landfill Facility.
8. On May 11, 2018, Ohio EPA discussed the elevated explosive gas reading with JKR. JKR has represented that the construction of the JKR Building has since been altered and has been constructed with a sub-slab vapor barrier and gas mitigation system, and Ohio EPA field verified the installation.
9. On May 29, 2018, Respondent's consultant installed three (3) new gas monitoring probes ("MP") along the eastern edge of the Respondent's current property boundary to monitor potential gas migration near the JKR Building. The new monitoring probes are designated MP-44, MP-45 and MP-46.

10. Specifically, methane gas readings obtained from the new probes, as recently as June 19, 2018, have shown methane gas concentrations above 5.0% methane in gas monitoring probe MP-44, located near the southwest corner of the JKR Building in several shallow punch bar probe locations adjacent to MP-46. Additionally, shallow punch bar readings obtained by Ohio EPA staff, as recently as June 18, 2018, have found greater than 5.0% methane concentrations near MP-46, located near the northwest corner of the JKR Building.
11. Near monitoring probes MP-33, MP-34, and MP-42, there is a clubhouse owned and operated by the Golf Depot, located at 789 Science Blvd. There have been elevated readings of methane near the clubhouse, as recently as June 19, 2018. The clubhouse is equipped with an explosive gas alarm and, to Respondent's best knowledge, a sub-slab vapor barrier.
12. At the southeastern boundary of the Facility, there have been exceedances above 5.0% methane at monitoring probe MP-4, as recently as June 19, 2018.
13. On June 19, 2018, Ohio EPA and Respondent met to discuss the explosive gas exceedances and potential solutions to abate or minimize the migration beyond the current Facility property boundary.
14. It is Respondent's position that LEL exceedances of explosive gas at the Facility property boundary are highly variable.
15. Per OAC Rule 3745-27-12(I), upon the Director's finding that explosive gas formation and migration threaten human health, safety or the environment, he may order the person identified in the rule to perform such measures to abate or minimize the formation or migration of explosive gas.
16. Based upon the explosive gas monitoring results obtained by Ohio EPA and Respondent, the Director hereby finds that explosive gas formation and migration at the Facility does threaten human health, safety or the environment.

V. ORDERS

Respondent shall achieve compliance with ORC Chapters 3734, and the rules promulgated thereunder, including OAC Rule 3745-27-12, as effective 2008, according to the following compliance schedule:

1. Upon agreement between Respondent and JKR, Respondent shall reimburse JKR within a reasonable time for the costs of installation and calibration of explosive gas alarm(s) in the JKR Building.

Upon the effective date of these Orders, Respondent shall also notify the property owner(s) and make reasonable efforts to install explosive gas alarm(s) in any future buildings that meet the definition of an occupied structure, as that term is

defined in OAC Rule 3745-27-12, which are constructed within 200 feet of the limits of waste placement. Upon notification, and with access granted, Respondent shall take immediate additional action within a building if any explosive gas alarm within that building shows a detection of 25% LEL, or 1.25% methane by volume. Unless an emergency situation exists, Respondent shall notify Ohio EPA and the local fire department promptly beforehand if it has to take immediate action and what action(s) it plans to take.

With authorization from the property owner, Respondent shall have the explosive gas alarms calibrated/tested in accordance with the schedule contained in the manual provided by the alarm manufacturer. If no such schedule is provided, then the calibration/testing must be done annually. Respondent shall submit the results of the calibration/testing of the explosive gas alarms to Ohio EPA, and the building occupants, within 15 days following the calibration/testing event.

2. Not later than fourteen (14) days after the effective date of these Orders, Respondent shall notify Ohio EPA of construction on any other of the subdivided parcels originating from the 5.271 acres of land from the Facility property sold to the VRG, as recorded in Franklin County Recorder's Office, Instrument Number 200907080099978, and within fourteen (14) days of when it discovers any future buildings are to be constructed.
3. Not later than thirty (30) days after the effective date of these Orders, Respondent shall install automatic alarms at the flare and blower that will notify Respondent immediately whether either has been turned off. Respondent shall notify Ohio EPA promptly if it receives any such notification.
4. Not later than forty-five (45) days after the effective date of these Orders, Respondent shall submit to Ohio EPA for written approval a remediation plan, including design structures, diagrams, and an implementation schedule, to reduce the level of explosive gas ("Gas Reduction Plan") at:
 - a. Respondent's current property boundary on the east side of the Facility as indicated in the attached map (Attachment I), especially at or near MP-44;
 - b. the southeastern boundary of Respondent's property at or near MP-4; and
 - c. the clubhouse area owned and operated by the Golf Depot, located at 789 Science Blvd. near MP-33 and MP-42.

The measures shall be implemented, and the explosive gas levels reduced to below 5.0% methane by volume at Respondent's property boundary, in accordance with the Ohio EPA-approved Gas Reduction Plan. Measures within the Gas Reduction Plan may include, but are not limited to, additional extraction well(s), expansion of the explosive gas extraction network, installation of a gas cutoff trench/venting system and/or a second blower house.

5. If Ohio EPA determines that the Gas Reduction Plan to reduce the level of

explosive gas as noted in Order No. 4 above is deficient, Ohio EPA may approve the Gas Reduction Plan with conditions or modifications or may send Respondent a notice of deficiency indicating where the plan is deficient. Upon receipt of a notice of deficiency, Respondent shall revise the plan to correct all identified deficiencies and shall submit the revised Gas Reduction Plan to Ohio EPA for written approval not later than fourteen (14) days after receipt of the notice of deficiency. Upon Ohio EPA's approval of the plan, Respondent shall implement the Gas Reduction Plan, including any conditions or modifications made by Ohio EPA.

6. Respondent shall provide Ohio EPA with weekly written progress reports of work required under the approved Gas Reduction Plan referenced in Orders No. 4 and 5. Respondent shall also provide notice to Ohio EPA not less than seven (7) days prior to commencement of construction activities under the approved Gas Reduction Plan in case Ohio EPA desires to be present during construction.
7. Not later than sixty (60) days after commencement of implementation of the approved Gas Reduction Plan, as referenced in Orders No. 4 and 5, Respondent shall revise and submit a revised Explosive Gas Monitoring Plan to Ohio EPA for review and approval.

Ohio EPA may approve the revised Explosive Gas Monitoring Plan with conditions or modifications or may send Respondent a notice of deficiency indicating where the plan is deficient. Upon receipt of a notice of deficiency, Respondent shall revise the plan to correct all identified deficiencies and shall submit the revised explosive gas monitoring plan to Ohio EPA for approval not later than fourteen (14) days after receipt of the notice of deficiency. Upon Ohio EPA's approval of the plan, Respondent shall implement the revised Explosive Gas Monitoring Plan, including any conditions or modifications made by Ohio EPA.

8. Not later than thirty (30) days after completing implementation of the approved Gas Reduction Plan, Respondent shall submit to Ohio EPA for concurrence a written certification report demonstrating that construction was completed in accordance with the Gas Reduction Plan approved by Ohio EPA. Respondent shall also submit to Ohio EPA as-built drawings of any new or updated mitigation structures or systems.
9. For any future buildings that meet the definition of an occupied structure, as that term is defined in OAC Rule 3745-27-12, that are constructed within 1000 feet of the limits of waste placement, Respondent shall evaluate and install additional explosive gas monitoring probes in such locations and in such numbers that explosive gas migration through the unconsolidated stratigraphic unit or fractured bedrock pathway towards the structure will be detected.

If exceedances above 5.0% methane are detected, Respondent shall evaluate the effectiveness of its revised, approved Gas Reduction Plan in reducing explosive

gas levels below the LEL and submit to Ohio EPA, upon Ohio EPA's request, a new Gas Reduction Plan within thirty (30) days. Upon Ohio EPA's approval of the new Gas Reduction Plan, Respondent shall implement the approved new Gas Reduction Plan, including any conditions or modifications made by Ohio EPA, in accordance with the approved schedule therein.

VI. ACCESS

To the extent that the Facility or any other property to which access is required for the implementation of these Orders is owned or controlled by persons other than Respondent, Respondent shall use reasonable efforts to secure from such persons access for Respondent and Ohio EPA as necessary to effectuate these Orders. If any access required to implement these Orders is not obtained within thirty (30) days after the date Ohio EPA notifies Respondent in writing that additional access is necessary, Respondent shall promptly notify Ohio EPA and Ohio EPA may, as it deems appropriate, assist Respondent in obtaining access.

VII. 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 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 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: "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. For purposes of these Orders, a responsible official is a principal executive officer of at least the level of vice-president.

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 Respondent's 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 Respondent.

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 Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Central District Office
Division of Materials and Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Supervisor, DMWM

and to:

Franklin County Public Health
280 East Broad Street
Columbus, Ohio 43215
Attn: Jennifer Frazier, Solid & Infectious Waste Program

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

XII. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all 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 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.

XIV. EFFECTIVE DATE

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

XV. 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:

Central Ohio Community Improvement Corporation



Signature

7/27/18
Date



Printed or Typed Name



Title

Attachment I



June 2018
 Explosive Gas Monitoring Report
 Former Beauford Landfill Property
**Property Layout with Landfill
 Gas Monitoring Locations**
 788 Science Boulevard
 Gahanna, Franklin County, Ohio

Figure 2

DISCLAIMER
 Hull & Associates, Inc. ("Hull") has furnished this map to the company identified in the title block (Client) for its sole and exclusive use as a preliminary planning and screening tool and field verification is necessary to confirm these data. This map is reproduced from geospatial information compiled from third-party sources which may change over time. Hull is not responsible for the accuracy and may not be accurate to mapping, surveying or engineering standards. Hull is not responsible for the accuracy, timeliness, completeness or any other information or spatial location depicted on this map. This map is provided for informational purposes only and does not constitute the implied warranties of merchantability or fitness for a particular purpose. In no event will Hull, its owners, officers, employees or agents, be liable for damages of any kind arising out of the use of this map by Client or any other party.

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Note:
 Methane Probe location MP-35 and Punch Bar locations PB-2, PB-6, PB-17, PB-20 through PB-23 were not sampled during March 2018 Event.