



State of Ohio Environmental Protection Agency

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Columbus, OH 43216-1049

July 22, 2009

Lake County Commissioners
105 Main Street
Painesville, OH 44077

CERTIFIED MAIL

Director's Final Findings & Orders

Dear Sir or Madam:

Transmitted herewith are Final Findings & Orders of the Director concerning the matter indicated.

Sincerely,

Kimberly Reese
Systems Management Unit
Division of Solid & Infectious Waste Management

cc: Bruce McCoy, CO, DSIWM
Lynn Sowers, NEDO, DSIWM
Jeff Hurdley, CO, Legal

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

OHIO E.P.A.

JUL 22 2009

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY ENTERED DIRECTOR'S JOURNAL

In the Matter Of:

Lake County Commissioners
105 Main Street
Painesville, Ohio 44077

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:
:
:

Director's Final Findings
and Orders

Respondents

I certify this to be a true and accurate copy of the
official documents as filed in the records of the Ohio
Environmental Protection Agency.

PREAMBLE

It is agreed by the parties hereto as follows:

By: John Lassiter Date: 7-22-09

I. JURISDICTION

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

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Lake County Solid Waste Facility ("Facility") is located at 2039 Blasé Nemeth Road, Painesville, Lake County, Ohio.
2. Respondents are the "owner" and the "operator" of the Facility as those terms are defined in Ohio Administrative Code ("OAC") Rule 3745-27-01(O)(7) and (O)(5), respectively, and are the license holders for the Facility.

3. 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).
4. Respondents are a "person" as that term is defined in ORC Section 3734.01(G) and in OAC Rule 3745-27-01(P)(3).
5. On October 13, 1993, following the review of a Permit to Install ("PTI") application submitted by Respondents, Ohio EPA issued a PTI approval for a vertical and lateral expansion of the Facility. Page 10.1 of the PTI narrative indicated that a one foot sand drainage layer will be installed directly over the High Density Poly-Ethylene ("HDPE") 60 ml liner. Plan drawing 7H, Detail B of the PTI specifies that a sand drainage layer will be placed over the HDPE 60 ml liner on the side slopes of the Facility.
6. On July 16, 2004, Ohio EPA conducted an inspection of unit C4 at the Facility, and during that inspection Ohio EPA was informed that Respondents failed to install a one foot sand drainage layer directly over the HDPE 60 ml liner on a portion of Unit C4.
7. In correspondence dated August 11, 2004, Ohio EPA notified Respondents of the following:
 - a. ORC Rule 3734.11(B) for failure to comply with the terms of PTI 02-5646
 - b. OAC Rule 3745-27-19(B)(2) for failure to construct the Facility in strict compliance with PTI 02-5646 by failing to install a 1-foot sand drainage layer directly over the HDPE 60 mil liner.

OAC Rule 3745-27-19(B)(2) provides in relevant part "The owner or operator shall conduct all construction and operation at a sanitary landfill facility in strict compliance with the applicable authorizing document, including permit to install..."
8. Pursuant to correspondence dated October 20, 2004, Ohio EPA was notified by the Lake County Department of Utilities, Solid Waste Division that Respondents did not construct a one foot sand drainage layer directly over the HDPE 60 ml liner on the steep 3:1 side slopes on 5.56 acres of Unit C4.
9. Respondents did not obtain a modification from the PTI requirement to install a one foot sand drainage layer on the steep 3:1 side slopes on 5.56 acres of Unit C4.
10. In correspondence dated November 3, 2004, Respondents submitted an alteration request to PTI number 02-5646. The alteration request included a request to revise the text of section 10.1 of the PTI and drawing details "A" and "B" of sheet 7H to delete the geotextile between the recompacted clay and flexible membrane liner ("FML") and to use a geo-composite for the anti-uplift layer.

11. In the same correspondence, Respondents confirmed within the (11/04) revised narrative at 10.1 that the alteration plan, as with the PTI plan, requires that a one foot sand drainage blanket will directly overlie the HDPE 60 ml liner. The requirement that the one foot sand drainage blanket will directly overlie the HDPE 60 ml liner is also specified in the accompanying diagram of Detail B for the side slopes, which depicts the requirement that the one foot sand drainage blanket will directly overlie the HDPE 60 ml liner as set forth in the PTI and as carried forward in the November 2004 alteration plan.
12. On December 23, 2004 Ohio EPA approved the November 3, 2004 alteration request to delete the geo-textile between the recompacted clay and FML for the anti-uplift layer, and confirmed the PTI requirement to install the sand drainage layer over the HDPE 60 ml liner on the side slopes.
13. Respondents failed to conform with the Ohio Administrative Code rule requirements 3745-27-19(B)(2) to conduct all construction at the sanitary landfill in strict compliance with PTI 02-5646 or in strict compliance with the alteration approved on December 23, 2004 by failing to install a 1-foot sand drainage layer directly over the HDPE 60 ml liner on 5.56 acres of the side slopes of Unit C4.
14. Respondents failed to conform with the Ohio Administrative Rule requirements setting forth specifications in design and construction for a sanitary landfill under OAC Rule 3745-27-08 on 5.56 acres of the side slopes of Unit C4.
15. Respondents did not obtain an exemption pursuant to 3734.02(G) of the Ohio Revised Code from the requirement to conform to the Design and Specification requirements of OAC Rule 3745-27-08.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondents shall pay to Ohio EPA the amount of \$103,675.00 in settlement of Ohio EPA's claim for the economic benefit, 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, Respondents shall pay the amount of \$82,940.00 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 \$82,940.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondents and the Facility. A copy of the check shall

be sent to Ohio EPA, Division of Solid and Infectious Waste Management, Supervisor, Systems Management Unit, P.O. Box 1049, Columbus, Ohio 43216-1049.

- b. In lieu of paying the remaining \$20,735.00 identified in Order No. 1, Respondents shall fund a Supplemental Environmental Project (SEP) by making a contribution in the amount of \$20,735.00 to the Ohio EPA Clean Diesel School Bus Program. Respondents shall make payment within thirty (30) days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$20,735.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondents and the Facility. A copy of the check shall be sent to Ohio EPA, Division of Solid and Infectious Waste Management, Supervisor, Systems Management Unit, P.O. Box 1049, Columbus, Ohio 43216-1049 and to Ohio EPA, Division of Air Pollution Control, Assistant Chief, SIP Development and Enforcement, P.O. Box 1049, Columbus, Ohio 43216-1049.
- c. Should Respondents fail to fund the Diesel Bus SEP in accordance with Order No. 1-b above, Respondents shall pay Ohio EPA \$20,735.00 in accordance with the procedures in Order No. 1-a.

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 Enforcement Coordinator of Ohio EPA's Division of Solid and Infectious 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 the Respondents. For purposes of these Orders, a responsible official is a principal executive officer, the ranking elected official, or other duly authorized employee of the county.

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 Respondents' Facility.

Nothing in these Orders shall constitute or be construed as a release by Respondent from any claim, cause of action or demand in law or equity against any agent, person, firm, partnership or corporation not a named party to these Orders, for any liability arising from, or related to the design or 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 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 Respondents pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Solid and Infectious Waste Management
2110 East Aurora Road
Ashtabula, Ohio 4405-2450
Attn: Unit Supervisor, DSIWM

And to:

Lake County General Health District
33 Mill Street
Painesville, Ohio 44077
Attn: Health Commissioner

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

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondents 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, Respondents consent to the issuance of these Orders and agree 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

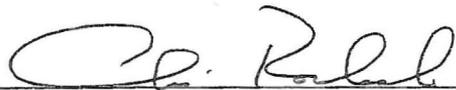
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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:

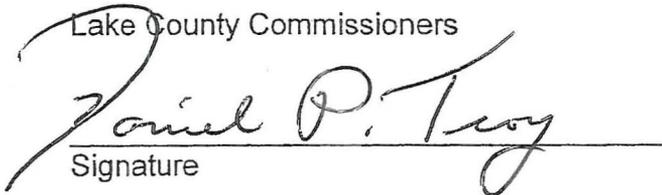
Ohio Environmental Protection Agency



Chris Korleski, Director

IT IS SO AGREED:

Lake County Commissioners



Signature

7/9/09
Date

DANIEL P. TROY

Printed or Typed Name

PRESIDENT, BOARD OF COMMISSIONERS
Title