

OHIO E.P.A.
DEC 22 2009

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter Of:

ENTERED DIRECTOR'S JOURNAL

Carbon Limestone Landfill, LLC¹ :
8100 South Stateline Road :
Lowellville, Ohio 44436 :

Director's Final Findings
and Orders

Respondent

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:

 Date: 12.22.09

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Carbon Limestone Landfill, LLC ("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 and 3745.01.

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 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 makes the following findings:

¹ Browning Ferris Industries of Ohio, Inc. ("BFIO") had owned and operated the Facility as hereinafter defined. BFIO was and Respondent is a wholly owned subsidiary of Allied Waste Industries, Inc. ("Allied"). On April 16, 2008, the Facility's assets were moved from BFIO to Respondent. On December 5, 2008, Republic Services, Inc. merged with Allied. However, Allied remains a separate, wholly owned entity within the new merged entity named Republic Services, Inc.

1. The Carbon Limestone Landfill ("Facility") is located at 8100 South Stateline Road, Lowellville, Mahoning County, Ohio.
2. Respondent is 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 is also the license holder for the Facility.
3. The Facility is a "sanitary landfill facility" as that term is defined under 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)(23).
4. Respondent is a "person" as that term is defined in ORC Section 3734.01(G) and in OAC Rule 3745-27-01(P)(3).

Hazardous Waste Acceptance from Astro Coatings, Inc.

5. ORC Section 3734.02(F) states: "No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter and rules adopted under it[.]"
6. According to OAC Rule 3745-27-19(E)(8)(c): "The owner or operator shall not accept for disposal or dispose of ... [(c) materials that are defined as hazardous wastes pursuant to rule 3745-51-03 of the Administrative Code] at a sanitary landfill facility."
7. Ohio EPA, Division of Hazardous Waste Management ("DHWM")-Northeast District Office ("NEDO") issued a Notice of Violation ("NOV") letter dated April 7, 2008 to Astro Coatings, Inc. ("Astro") for causing hazardous waste to be transported and disposed at a solid waste disposal facility instead of a permitted hazardous waste facility in violation of ORC Section 3734.02(F).
8. The Mahoning County District Board of Health ("MCDBH") issued a NOV letter dated May 2, 2008 to Respondent for illegal acceptance of hazardous waste from Astro at the Facility pursuant to MCDBH's April 23, 2008 inspection, based on receipt of Ohio EPA, DHWM-NEDO's NOV to Astro referenced in Finding No. 7.
9. Respondent ceased accepting waste from Astro on April 23, 2008.
10. In correspondence to MCDBH dated May 15, 2008 and in response to the MCDBH May 2, 2008 NOV letter, Michael Heher, on behalf of Respondent, stated that Astro notified Respondent on April 22, 2008 that Astro received Ohio EPA's NOV letter. Also, Heher acknowledged that on April 23, 2008, Respondent informed MCDBH's inspector that it was notified by Astro of such.

11. In an NOV letter to Respondent dated May 15, 2008, MCDBH reiterated the violation of ORC Section 3734.02(F) and OAC Rule 3745-27-19(E)(8)(c) for improper disposal of hazardous waste from Astro at the Facility. The MCDBH also requested that Respondent provide copies of Astro's waste profile and manifests concerning "suspect shipments of the paint waste related materials that were transported to the [Facility]."
12. In an NOV letter to Respondent dated June 17, 2008, MCDBH reiterated the violation of ORC Section 3734.02(F) and OAC Rule 3745-27-19(E)(8)(c) for improper disposal of hazardous waste from Astro at the Facility. The MCDBH repeated its request to Respondent for copies of Astro's waste profile and manifests concerning "suspect shipments of the paint waste related materials that were transported to the [Facility]."

The MCDBH also acknowledged therein receipt of Astro's waste profile from Respondent in correspondence dated June 2, 2008, but continued to request all disposal records since January 2006 for paint-related materials associated with Astro's waste profile or copies of all manifests for all waste received from Astro commencing in 2006.

13. In an NOV letter to Astro dated June 19, 2008, Ohio EPA, DHWM-NEDO reiterated the violation of ORC Section 3734.02(F) for causing hazardous waste to be transported to an unpermitted hazardous waste facility. In this NOV letter, DHWM-NEDO also requested that Astro submit a copy of its 2007 waste profile for paint waste related materials submitted to the Facility and shipping papers beginning in 2006 documenting the off-site disposal of paint waste related materials at the Facility.
14. In its July 10, 2008 NOV letter to Respondent, MCDBH repeated the violation of ORC Section 3734.02(F) and OAC Rule 3745-27-19(E)(8)(c) for improper disposal of hazardous waste from Astro at the Facility. In this NOV letter, the MCDBH again repeated its request to Respondent for copies of Astro's waste profile and manifests concerning "suspect shipments of the paint waste-related materials that were transported to the [Facility]."

The MCDBH also acknowledged therein receipt of Astro's waste profile in correspondence dated June 2, 2008, but continued to request all disposal records since January 2006 for paint-related materials associated with Astro's waste profile or copies of all manifests for all waste received from Astro commencing in 2006. It requested such manifests by July 11, 2008.

15. In correspondence on behalf of Astro dated July 18, 2008, Ohio EPA, DHWM-NEDO received copies of fifty-nine manifests documenting Astro's disposal of paint waste solids-overspray (waste profile No. L08Y115692 classified as F005

hazardous waste) into 30 yard roll-off boxes. The manifests document that the contents of the roll-off boxes were disposed of at the Facility between 2006 and 2008.

16. In an NOV letter to Respondent dated July 29, 2008, MCDBH repeated the violation of ORC Section 3734.02(F) and OAC Rule 3745-27-19(E)(8)(c) for improper disposal of hazardous waste from Astro at the Facility. MCDBH again repeated its request that Respondent provide copies of Astro's waste profile and manifests concerning "suspect shipments of the paint waste-related materials that were transported to the [Facility]."
17. The MCDBH repeated the violation of ORC Section 3734.02(F) and OAC Rule 3745-27-19(E)(8)(c) for improper disposal of hazardous waste from Astro at the Facility in its August 4, 2008 NOV letter issued to Respondent. In this NOV letter, the MCDBH repeated its request for Respondent to provide copies of Astro's waste profile and manifests concerning "suspect shipments of the paint waste related materials that were transported to the [Facility]" and acknowledged receipt of three Astro manifests from Respondent for January 10, 2007, February 20, 2008, and February 29, 2008.
18. In NOV letters to Respondent dated September 12, 2008, September 15, 2008, September 25, 2008, October 7, 2008, October 17, 2008, October 21, 2008, November 14, 2008, and November 17, 2008 MCDBH reiterated the violation of ORC Section 3734.02(F) and OAC Rule 3745-27-19(E)(8)(c) for improper disposal of hazardous waste from Astro at the Facility.
19. It is Ohio EPA's position that, to date, the hazardous waste accepted from Astro has not been removed from the Facility and violations of ORC Chapter 3734. and OAC Rule 3745-27-19 remain at the Facility.

Leachate Storage/Leachate Collection System Violations

20. OAC Rule 3745-27-19(E)(1)(c) requires the owner or operator to maintain the integrity of the engineered components of the sanitary landfill facility and repair any damage to or failure of the components.
21. OAC Rule 3745-27-19(J)(1) requires the owner or operator to divert surface water from areas where solid waste is being, or has been, deposited.
22. OAC Rule 3745-27-19(K)(4) requires the owner or operator to obtain authorization in writing from Ohio EPA to temporarily store leachate within the limits of waste placement.

23. On December 21, 2007, Ohio EPA, Division of Solid and Infectious Waste Management ("DSIWM")-NEDO and the MCDBH inspected the leachate collection, conveyance, and storage system at the Facility. Both Ohio EPA and MCDBH conducted the inspection because the MCDBH had previously observed a flashing alarm on the Phase III-A North Sump and the panel readout indicating that the leachate level at the sump was in excess of 108 inches.
24. During December 2007, there were several large rain events. Respondent had a newly opened solid waste cell with very little accumulation of waste to absorb the precipitation. On December 27, 2008, Respondent had an independent third-party contractor pull and inspect the leachate sumps to see if they were operating properly. Respondent also retained a third-party consultant which observed and documented the contractor's sump inspection.
25. On December 28, 2007, Ohio EPA, DSIWM-NEDO and the MCDBH again inspected the leachate collection, conveyance, and storage system at the Facility. During the inspection, John Schmidt of the DSIWM-NEDO observed a flashing alarm on the Phase III-A North Sump and the panel readout indicating that the leachate level at the sump was in excess of 70 inches. Peter Stear of Respondent explained to Schmidt during the inspection that a crack in the discharge line draining storm water from uncertified Phase III-A South cell was allowing water to drain into certified Cell III-A North and, thus, contributed to leachate production. The cracked discharge line had already been repaired on December 27, 2007, prior to the December 28, 2007 inspection.
26. Respondent collected leachate from the leachate sumps and hauled it to a publically-operated treatment works for disposal on November 27 through 30, 2007, December 20, 21, and 26 through 28 of 2007, January 2 through 4, and 14 through 16, 2008, and on September 16 through 19, 2008.
27. Respondent previously identified the "pinhole" leaks in the leachate collection tanks in its inspection logs and attempted to keep the level of leachate below the level of the pinholes. Respondent made several attempts to contact a third-party contractor, Landmarc Environmental Systems, LLC ("Landmarc"), to inspect and repair the leachate storage tanks. Respondent's first successful contact with Landmarc was made on January 1, 2008. Landmarc is the only company within the region that is certified to repair Respondent's leachate storage tanks. Respondent reported that no leachate had accumulated in the secondary containment area.
28. Landmarc inspected the leachate storage tanks on January 22, 2008 but could not conduct repairs.
29. In its February 19, 2008 NOV letter to Respondent, the MCDBH informed Respondent that several leaks had been observed by the MCDBH in both of the

- Facility's leachate collection tanks, and it strongly recommended that Respondent inspect the structural integrity of the leachate collection tanks and provide documentation to John Schmidt of Ohio EPA and to the MCDBH.
30. Landmarc issued a report of its January 22, 2008 inspection on February 19, 2008. Respondent then worked with Landmarc to schedule a time for the leachate storage tank repairs.
 31. In its February 20, 2008 NOV letter, Ohio EPA, DSIWM-NEDO cited Respondent for the following violations: OAC Rule 3745-27-19(E)(1)(c) for failure to maintain integrity of engineered components; OAC Rule 3745-27-19(J)(1) for failure to divert surface water from areas where solid waste is deposited, specifically, allowing surface water to drain from uncertified Phase III-A South cell into certified Phase III-A North; and OAC Rule 3745-27-19(K)(4) for failure to obtain written authorization from Ohio EPA prior to accumulation of leachate in excess of 12 inches above the liner system, *i.e.*, temporary storage of leachate, within the limits of waste placement.
 32. February 28, 2008, Respondent sought approval from Ohio EPA to allow temporary storage of leachate. Ohio EPA ultimately did not approve the request.
 33. In correspondence dated February 29, 2008, and in response to the February 20, 2008 NOV letter, Heher on behalf of Respondent stated: "The leachate storage tanks are structurally sound, however the 'pinhole' leaks need to be repaired The tanks could be filled to their maximum capacity but would leak leachate into the containment area. *** Concerning your comment about diverting surface water from areas where [*sic*] solid waste is being placed or has been deposited; we agree that should not happen and it certainly was not intentional. *** Finally, Carbon understands that the [*sic*] Ohio EPA will give permission to store leachate on a landfill cell baseliner system in excess of 12-inches thick of head provided that an official written request to the Agency is made. As Carbon awaits cell certification approval from the Ohio EPA ..., a letter requesting permission to store elevated leachate levels within the new cell will be submitted to Ohio EPA for your review[.]"

In this response, it is Ohio EPA's position that Respondent recognized the leachate storage tanks were in need of repair, that surface water had been discharged into areas where solid waste is/was placed or deposited, and implicitly acknowledged that temporary storage of leachate occurred without authorization from Ohio EPA.

34. In an NOV letter dated March 18, 2008, Ohio EPA again cited Respondent for violation of OAC Rule 3745-27-19(E)(1)(c) and requested additional information concerning Respondent's request for temporary leachate storage in accordance with OAC Rule 3745-27-19(K)(4). Ohio EPA also requested information

- concerning the compliance schedule for repair of the leachate storage tanks, design verification of leachate tank capacity to maintain a minimum of one foot of head on the liner during normal operations, and structural integrity of the leachate storage tanks.
35. In correspondence dated April 14, 2008, Civil Environmental Consultants, Inc. submitted documentation titled "Leachate Management System Evaluation," on behalf of Respondent, to John Schmidt and Katharina Snyder of Ohio EPA, DSIWM-NEDO.
 36. In its May 15, 2008 NOV letter, MCDBH stated that during its March 21, 2008 inspection, the MCDBH issued a NOV for violation of OAC Rule 3745-27-19(E)(1)(c) for failure by Respondent to maintain or repair any damage to or failure of engineered components (*i.e.*, the leachate storage tanks).
 37. In correspondence dated June 2, 2008, Heher, on behalf of Respondent, responded to MCDBH's May 15, 2008 NOV letter by stating Respondent believes the only remaining issue with regard to the leachate management system is the repair of the "pinholes" in the Facility's leachate storage tanks.
 38. In its June 17, July 10, July 29, August 4, September 12, September 15, September 25, October 7, October 17, November 14, and November 17, 2008, and April 22, April 28, May 1, May 6, May 8, June 4, June 10, June 11, and June 12, 2009 NOV letters, the MCDBH reiterated that Respondent's violation of OAC Rule 3745-27-19(E)(1)(c) remains ongoing, and summarizes the Findings above concerning correspondence and submittal of information on the Facility's leachate storage tanks at issue. The July 10, July 29, and August 4, 2008 NOV letters also read: "The facility has made repairs to both leachate collection tanks and will submit the engineering documentation to OEPA for concurrence."
 39. Landmarc repaired the leachate storage tanks during the week of June 23, 2008, and prepared a second inspection report dated July 8, 2008.
 40. MCDBH also recorded a separate violation of OAC 3745-27-19(E)(1)(c) in the July 10, July 29, and August 4, 2008 NOV letters regarding a broken leak detection port for the solidification basin. The July 29 and August 4, 2008 NOV letters note that the leak detection port was repaired on July 10, 2008. In a phone conversation Heher stated that a written response would be submitted to MCDBH with the following information: when the port was last inspected; where inspection records were kept; the frequency of inspections; who was responsible for the inspections; and supporting information as to why monthly inspections of the port ceased in 1996.

41. In its NOV letter to Respondent dated September 12, 2008, MCDBH stated that on August 6, 2008 "all requirements have been met regarding the leak detection port[.]"
42. In correspondence dated November 4, 2008, Heher, on behalf of Respondent, admitted that the Facility "[had] discovered a couple of leaks in our leachate storage tanks." Heher went on to state that "[he] did not believe that the simple fact that the leachate storage tanks have a leak constitutes a violation of OAC 3745-27-19(E)(1)(c) ." Heher asked Schmidt to "rethink [his] interpretation of this rule[.]"
43. In correspondence dated November 7, 2008, Heher submitted the July 8, 2008 report, and titled "Leachate Tank Inspection, Carbon Limestone Landfill, Lowellville, Ohio." In the report, Landmarc, on behalf of Respondent, documented the first repairs to the storage tanks and stated: "Landmarc recommends replacing Tank 2 within the next year and replacing Tank 1 within the next few years Landmarc [also] recommends replacing all leachate pipes within the containment area when replacing the tanks."
44. Landmarc made a second round of leachate storage tank repairs during November 19 through 25, 2008.
45. In correspondence dated November 26, 2008, Heher, on behalf of Respondent, stated that the repairs to the leachate storage tanks were completed and the violation abated.
46. In an NOV letter dated December 1, 2008, Ohio EPA, DSIWM-NEDO responded to Heher's November 4, 2008 letter and stated that the violation of OAC Rule 3745-27-19(E)(1)(c) for leachate storage tank leaks remains. Ohio EPA also requested information concerning the compliance schedule for repair of the leachate storage tanks, design verification of leachate tank capacity to maintain a minimum of one foot of head on the liner during normal operations, and structural integrity of the leachate storage tanks.
47. To date, Ohio EPA, DSIWM-NEDO has not received a report documenting the second round of repairs to the leachate storage tanks.

Ground Water Violations

48. Respondent is currently conducting ground water detection and assessment monitoring at the Facility pursuant to OAC Rule 3745-27-10 (eff. 2003).

49. On September 4, 2007, Ohio EPA received a document titled "August 31, 2007 Assessment Report," or the GWQA report for the Facility (hereinafter "the August 2007 GWQA Report").
50. After reviewing the August 2007 GWQA Report for compliance with OAC Rule 3745-27-10(E)(6) and (E)(7) (eff. 2003), Ohio EPA, DSIWM-NEDO notified Respondent in its NOV letter dated November 13, 2007 of the following violations identified by Ohio EPA in the August 2007 GWQA Report:
 - a.) OAC Rule 3745-27-10(E)(1) (eff. 2003) for failure to implement a GWQA plan capable of determining the concentration, rate, and extent of migration of waste-derived constituent(s) in the ground water upon determining a statistically significant increase over background;
 - b.) OAC Rule 3745-27-10(E)(6) (eff. 2003) for failure to determine the concentration, rate, and extent of migration of waste-derived constituent(s) in the ground water; and
 - c.) OAC Rule 3745-27-10(E)(7) (eff. 2003) for failure to make a determination according to paragraph (E)(6) of OAC Rule 3745-27-10 within the time frame specified in the submitted GWQA plan, and for failure to submit a complete GWQA report within fifteen days of making that determination.

Respondent submitted an incomplete GWQA report and did not adequately discuss the horizontal and vertical rate, extent and concentration of ground water contamination at wells MW-201A and MW-114BR at the Facility.

51. On May 21, 2007 and June 13, 2007, respectively, Ohio EPA received documents titled "Ground Water Quality Assessment Plan, Revision 6" and "Ground Water Quality Assessment Plan, Revision 6, Addendum 1." The Ground Water Quality Assessment Plan, Revision 6, Addendum 1 also included the current statistical analysis plan for the Facility. Both documents submitted by Respondent are hereinafter referred to as "the GWQA Plan, Revision 6, and GWQA Plan Addendum 1."
52. After reviewing the GWQA Plan, Revision 6, and GWQA Plan Addendum 1 for compliance with OAC Rules 3745-27-10(B), (C), and (E) (eff. 2003), Ohio EPA, DSIWM-NEDO notified Respondent in its NOV letter dated November 14, 2007 of the following violations identified by Ohio EPA in the GWQA Plan, Revision 6, and GWQA Plan Addendum 1:
 - a.) OAC Rule 3745-27-10(E)(1) (eff. 2003) for failure to implement a GWQA plan capable of determining the concentration, rate, and extent of

migration of waste-derived constituent(s) in the ground water upon determining a statistically significant increase over background;

- b.) OAC Rule 3745-27-10(E)(4) (eff. 2003) for failure to submit detailed descriptions of the following within the GWQA Plan: addition of wells AW-508AA, AW-513AA, AW-514AA, and MW-201A as ground water quality assessment monitoring wells; (e)(iv), criteria which will be utilized to determine if additional assessment activities are warranted; and (g), provisions for installing additional wells for determining the nature and extent of any release of waste-derived constituents in the ground water as well as (h), provisions for installing at least one additional monitoring well at the Facility boundary in the direction of downgradient ground water flow from the affected well and as many additional wells as necessary to meet (E)(6) of OAC Rule 3745-27-10;
 - c.) OAC Rule 3745-27-10(E)(5) (eff. 2003) for failure to conduct ground water assessment monitoring using the schedule, frequency, and/or parameters outlined in (E)(5); and
 - d.) OAC Rule 3745-27-10(E)(6) (eff. 2003) for failure to determine the concentration, rate, and extent of migration of waste-derived constituent(s) in the ground water.
53. On December 7, 2007, in response to the violations identified by Ohio EPA in Finding Nos. 50 and 52, Respondent submitted a GWQA Plan, Revision 7, which added former piezometers AW-508AA, AW-513AA, AE-514AA, and MW-201A into the assessment monitoring program as groundwater monitoring wells. This submittal also addressed the installation of six new downgradient assessment wells, and three piezometers, with the intent to complete the horizontal and vertical rate and extent determination. These wells and piezometers addressed in GWQA Plan, Revision 7, were installed in the Spring of 2008.
54. To date, Respondent has yet to complete a full determination of the horizontal and vertical rate, extent, and concentration of waste-derived constituents impacting the ground water at the Facility.

V. ORDERS

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

Hazardous Waste Violations

1. Not later than ninety (90) days after the effective date of these Orders, Respondent shall evaluate and revise the Facility's PCB and hazardous waste prevention and detection program, which is required by OAC Rule 3745-27-19(L), so as to prevent future occurrences of illegal hazardous waste acceptance at the Facility. At a minimum, the revisions to the PCB and hazardous waste prevention and detection program shall include the retention of all generator waste profiles at the Facility.
2. Not later than thirty (30) days from revising the Facility's PCB and hazardous waste prevention and detection program pursuant to Order No. 1, Respondent shall submit the Facility's revised PCB and hazardous waste prevention and detection program to Ohio EPA for comment. Within thirty (30) days after receipt of any of Ohio EPA's comments, Respondent shall address Ohio EPA's comments (by either accepting, amending or declining such) and place the revised document into the operating record.

Leachate Collection/Leachate Storage System Violations

3. Not later than January 30, 2010, Respondent shall submit a permit alteration request to Ohio EPA, DSIWM-NEDO for the replacement of the Facility's leachate storage tanks with one (1) leachate storage tank.
4. Respondent shall begin installation of the leachate storage tank within one hundred eighty (180) days from Ohio EPA's approval of the permit alteration request, according to the schedule in the permit alteration request. Assuming Ohio EPA's approval of the permit alteration request is obtained by April 1, 2010, Respondent shall complete installation of the leachate storage tank by December 31, 2010. If Ohio EPA's approval of the permit alteration request is obtained after April 1, 2010 but before August 1, 2010, Respondent shall complete installation of the leachate storage tank by July 31, 2011. If Ohio EPA's approval of the permit alteration request is obtained after August 1, 2010, Respondent shall complete installation of the leachate storage tank by November 1, 2011.

Ground Water Violations

5. Not later than thirty (30) days after the effective date of these Orders, Respondent shall submit a revised GWQA Plan that contains at a minimum discussion providing for the installation and sampling of additional assessment monitoring wells at the Facility, which shall include horizontal extent wells AW-517AA, MW-232A, MW-231B; vertical extent wells adjacent to MW-218A, AW-508AA, and MW-207A; and Facility boundary wells, including MW-23A, a northwest well adjacent to New Cowden Road located in the uppermost aquifer

system at the Facility, and two (2) southwest wells (one due south of MW-228B and the other due west of MW-228B) in the Middle Clarion. The revised GWQA Plan shall also contain an updated schedule of estimated implementation and contain a date for submitting an updated GWQA Report. Any off-site access necessary to perform work under this Order shall be addressed by Respondent in compliance with OAC Rule 3745-27-10(E)(6)(b) (eff. 2003).

6. Not later than two hundred and fifty (250) days after the effective date of these Orders, Respondent shall complete the installation and initial sampling of the additional assessment monitoring wells specified in Order No. 5.
7. Respondent shall notify Ohio EPA in writing at least seven (7) days prior to performance of the well installation and sampling required pursuant to Order No. 6.
8. Not later than two hundred eighty (280) days after the effective date of these Orders, Respondent shall submit a revised GWQA Plan that contains the details of the additional assessment monitoring wells installed pursuant to Order No. 6, and said plan shall incorporate such wells within the ground water assessment monitoring program and sampling schedule at the Facility.
9. Respondent shall notify Ohio EPA in writing within seven (7) days of receiving the sample results (which may include verification samples) if waste-derived constituents are found to have impacted ground water quality at any of the additional assessment monitoring wells installed pursuant to Order Nos. 6 and 8.
10. Not later than thirty (30) days after notifying Ohio EPA that the quality of ground water at any of the additional assessment monitoring wells installed pursuant to Order Nos. 6 and 8 has been impacted, Respondent shall submit a revised GWQA Plan containing an updated schedule of estimated implementation and the details for installing and sampling as many additional assessment wells as necessary for assessment at the Facility.
11. Respondent shall complete any needed additional assessment investigations in accordance with the schedule in the revised GWQA Plan and with OAC 3745-27-10(E) (eff. 2003).

Civil Penalty

12. Respondent shall pay to Ohio EPA the amount of \$73,846.00 in settlement of Ohio EPA's claims for civil penalties for violations of the State of Ohio's solid waste laws, 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, Respondent shall pay Ohio EPA the amount of \$59,076.80 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and which will be deposited into the environmental protection remediation fund established pursuant to ORC Section 3734.281. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$59,076.80. 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 Respondent and the Facility. A copy of the letter and check shall be sent to Ohio EPA, DSIWM, Supervisor, Systems Management Unit, P.O. Box 1049, Columbus, Ohio 43216-1049.
- b. In lieu of paying the remaining \$14,769.20 of the civil penalty, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of \$14,769.20 to the Ohio EPA Clean Diesel School Bus Program. Respondent shall make the 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 \$14,769.20. The official check shall be submitted to Brenda Case, or her successor, Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent. A copy of the check shall be submitted to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, Ohio EPA Division of Air Pollution Control, P.O. Box 1049, Columbus Ohio 43216-1049.
- c. Should Respondent fail to fully fund the SEP within the required time frame established in Order No. 12.b. of these Orders, Respondent shall pay to Ohio EPA the full amount of \$73,846.00 in accordance with the procedures in Order No. 12.a. of these Orders.

VI. 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 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 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."

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 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.

XIII. EFFECTIVE DATE

The effective date of the 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.

ORDERED AND AGREED:

Ohio Environmental Protection Agency



Chris Korleski
Director

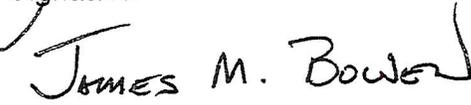
AGREED:

Carbon Limestone Landfill, LLC



Signature

12/14/09
Date



Printed or Typed Name



Title

