

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

MAR 18 2010

ENTERED DIRECTOR'S JOURNAL

In the Matter Of:

Rumpke Sanitary Landfill, Inc
10795 Hughes Road
Cincinnati, OH 45251

Respondent

Director's Final Findings
and Orders

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

By: 

Date: 3/13/18

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Rumpke Sanitary Landfill, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency under Ohio Revised Code ("ORC") Sections 3704.03, 3734.02, 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 Chapters 3704. and 3734. and the rules promulgated thereunder. Whenever the terms listed below are used in these Orders or in any appendices, attached hereto or incorporated herein, the following definitions shall apply:

1. "Ohio EPA" shall mean the Ohio Environmental Protection Agency and its designated representatives.
2. "Response costs" shall mean all costs including, but not limited to, payroll costs, contractor costs (including the Hamilton County Department of Environmental Services), travel costs, direct costs, laboratory costs, the costs of reviewing or developing plans, reports, and other items pursuant to these Orders, verifying the

Work, or otherwise implementing or enforcing these Orders.

3. "Work" shall mean all activities Respondent is required to perform under these Orders.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

General Findings & Background

1. The Rumpke Sanitary Landfill ("Facility") is located at 10795 Hughes Road, Cincinnati, Hamilton County, Ohio.
2. Respondent is a "person" as that term is defined in ORC Sections 3734.01(G) and 3704.01(O) and in Ohio Administrative Code ("OAC") Rules 3745-27-01(P)(3) and 3745-15-01(V).
3. Respondent is the "owner" and the "operator" of the Facility as those terms are defined in OAC Rules 3745-27-01(O)(7) and 3745-27-01(O)(5), respectively, and is also the license holder for the Facility.
4. 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)(24).
5. The Facility includes several "air contaminant sources" as defined in OAC Rules 3745-31-01(I) and 3745-15-01(C) and (X) and "stationary sources" as defined in OAC Rule 3745-31-01(RRRRR). Those air contaminant sources are subject to the requirements of permit to install modification (PTI) #14-05824 and a Title V operating permit, both issued by the Director to Respondent pursuant to ORC Chapter 3704.
6. The numerous air sources also constitute a "facility" as defined in OAC Rule 3745-31-01(OO), a "major source" as defined in OAC Rule 3745-77-01(X), and a "major stationary source" as defined in OAC Rule 3745-31-01(LLL) and are subject to Title V permitting and the Prevention of Significant Deterioration/New Source Review ("PSD/NSR") regulations in Ohio Administrative Code (OAC) Chapters 3745-77 and 3745-31, respectively.
7. Among the numerous air sources at the Facility, the "municipal solid waste landfill equipped with an active gas collection and control system" is identified by Ohio EPA as emissions unit P902. Emissions unit P902 emits "air pollutants" or "air contaminants" as defined in OAC Rule 3745-15-01(C) including particulate matter, sulfur dioxide, carbon monoxide, non-methane organic compounds,

nitrogen oxides, methane, and other volatile organic compounds.

8. OAC Rule 3745-31-05(D) states, in part, that the Director of Ohio EPA may impose special terms and conditions in a permit to install as are appropriate or necessary to ensure compliance with applicable laws and to ensure adequate protection of the environment.
9. PTI #14-05824 and the Title V operating permit for the Facility identify applicable rules and requirements, which include the regulations at 40 CFR Part 60, Subpart WWW, New Source Performance Standards (NSPS) for Municipal Solid Waste Landfills. These NSPS standards include operational standards for gas collection and control systems.
10. Respondent uses a gas collection and control system to comply with the requirements of NSPS rule 40 CFR 60.752(b)(2)(ii). Pursuant to 40 CFR 60.753(c), Respondent is required to operate each interior wellhead in the collection system with a landfill gas temperature less than 55° C (131° F) and with either a nitrogen level less than 20 percent or an oxygen level less than 5 percent. 40 CFR 60.753(c) and the Title V operating permit also provide that Respondent may establish a higher operating temperature at a particular well if it can demonstrate that the elevated temperature does not cause fires or significantly inhibit anaerobic decomposition by killing methanogens.
11. The governing PTI #14-05824 and the Title V permit allowed Respondent to operate at a higher operating temperature, requiring Respondent to operate each interior wellhead in the gas collection system at a landfill gas temperature of less than 65° C (149° F). Going forward, allowing a higher operating temperature (i.e., above 55° C [131° F]) should be done on a well-by-well basis after the necessary showings have been made pursuant to 40 CFR 60.753(c).
12. Respondent is required to monitor the temperature at each interior wellhead monthly.
13. In 2009, Respondent implemented a program for the systematic pumping of liquid from designated wells at the north end of the Facility in an effort to increase the capture of landfill gas. A total of 30 wells were equipped with dewatering pumps and pumping began in May 2009. The pumping was conducted by GSF Energy, LLC (GSF), a company that has operated a landfill-gas-to-high-Btu-gas processing plant at the Facility since the mid-1980s.
14. On August 13, 2009, NSPS monitoring indicated that well W135 wellhead temperature was 156° F, exceeding Respondent's permitted temperature limit of 149° F. In accordance with NSPS requirements, GSF attempted to reduce the temperature but was unsuccessful. Respondent was not able to reduce the temperature within 15 calendar days. The temperature at this well has increased

and reached 204° F on December 10, 2009.

15. On August 20, 2009, Tedlar Bag samples were collected from wells W135, W124R2, DW2, W157R, and W128R. The samples were analyzed for carbon monoxide and hydrogen. The laboratory results were reported to Respondent on August 31, 2009 and the carbon monoxide result of 10,200 ppmv for well W135 led Respondent to suspect subsurface oxidation was occurring in the vicinity of wells W135 and W122R2.
16. On August 31, 2009, Respondent implemented the Facility's fire contingency plan and contacted Ohio EPA, Hamilton County Public Health, and Hamilton County Department of Environmental Services and self-reported the conditions at the Facility.

Actions Taken to Mitigate Conditions in the Affected Area of the Landfill

17. Since August 31, 2009, Respondent and GSF have been working with Ohio EPA, Hamilton County Public Health, Hamilton County Department of Environmental Services, the United States Environmental Protection Agency On-Scene Coordinator (USEPA-OSC), and Colerain Township Fire Department to create and implement an action plan and to monitor site conditions.
18. On September 1, 2009, well temperature monitoring indicated that well W122R2 had a wellhead temperature of 157° F, exceeding the permitted temperature limit of 149° F. The temperature at this well has increased and reached 198° F on December 10, 2009.
19. On September 1, 2009, Ohio EPA sent correspondence to Respondent indicating that criteria such as well temperature, the amounts of methane and oxygen present in landfill gas, the concentration of carbon monoxide in landfill gas, and the ratio of methane to carbon dioxide in the landfill gas were all relevant in evaluating the conditions at the Facility. This correspondence also indicated that it was Ohio EPA's opinion that the conditions at the Facility constitute a fire.
20. Beginning September 2, 2009, Respondent began daily monitoring of methane, nitrogen, oxygen, hydrogen, carbon dioxide, carbon monoxide, and wellhead temperature and pressure at wells in the northeast corner of the Facility. The affected area included leachate drain cleanout riser PH5ACO and wells DW1, DW2, W120R2, W121R2, W122R2, W123R2, W124R2, W125R2, W128R, W134R, W135, W136, W137R, W157R, W215, W216, and W219R. Monitoring data has been submitted to and reviewed with all involved agencies.
21. On September 3, 2009, Tedlar Bag samples were collected from fourteen wells located in the affected area of the Facility. The samples were analyzed for carbon dioxide, methane, nitrogen, oxygen, hydrogen, and carbon monoxide.

The laboratory results showed carbon monoxide concentrations above 1,000 ppmv for nine wells (DW2, W121R2, W122R2, W123R2, W124R2, W125R2, W134R, W135, and W215), landfill gas composed of less than 45 percent methane for ten wells (W121R2, W122R2, W123R2, W124R2, W125R2, W134R, W135, W136, W215, and W126), and a ratio of percent methane to percent carbon dioxide of less than one for eleven wells (DW2, W121R2, W122R2, W123R2, W124R2, W125R2, W134R, W135, W136, W215, and W216).

22. On September 15, 2009, Ohio EPA, Hamilton County Public Health, and Hamilton County Department of Environmental Services met with Respondent to discuss conditions at the Facility. Respondent discussed a proposed action plan including activities to monitor and mitigate conditions in the affected area. Respondent agreed to finalize a proposed action plan and submit it to Ohio EPA.
23. By letter dated September 17, 2009, Respondent submitted the following to Ohio EPA:
 - a. A summary of the following actions that had already been taken at the affected area of the Facility:
 - i. GSF reduced applied vacuums to all landfill gas wells in the affected area. Wells were tuned to allow passive flow into the gas collection system. All landfill gas collected from the north end of the landfill was directed to the utility flare located on the northwest corner of the landfill.
 - ii. GSF suspended the well pumping program, which GSF implemented in 2009 to pump water from designated wells at the north end of the Facility in an effort to increase the capture of landfill gas.
 - iii. Respondent placed a minimum of one foot of additional clay soil on 11.6 acres to ensure that the affected area was sealed to mitigate the potential for surface air intrusion. The affected area already had at least two feet of cover in place.
 - iv. Respondent began twice daily monitoring of eighteen data points including seventeen vertical wells and one leachate drain clean-out riser. The data points included the following: DW1, DW2, PH5ACO, W120R2, W121R2, W122R2, W123R2, W124R2, W125R2, W128R, W134R, W135, W136, W137R, W157R, W215, W216, and W219R. These data points were selected due to their proximity to wells W135 and W122R2 in order to delineate the limits of the elevated temperatures.

- b. A description of the principal analytical components of its action plan, as follows:
 - i. At each data point gas samples were obtained twice daily and analyzed via field gas chromatograph (GC) for five gases: methane, nitrogen, oxygen, hydrogen, and carbon dioxide. Samples were obtained for laboratory analysis of the above five gases beginning on September 3, 2009.
 - ii. Beginning on September 3, 2009, several samples were obtained for the laboratory analysis of carbon monoxide from fourteen of the eighteen data points (excluding W128R, W157R, W219R, and PH5ACO). Down-hole temperature measurements were attempted on a daily basis from the fourteen well locations.
- c. A proposal including the implementation of the following activities by Respondent for its modified action plan:
 - i. Adjust all impacted wells (W122R2 and W135), immediately adjacent wells (DW1, DW2, W121R2, W123R2, W124R2, W125R2, W128R, W136, W137R, W215, W216, and W219R), and leachate drain cleanout riser PH5ACO to a free flow gas setting and route gas from these wells to the utility flare.
 - ii. Manage impacted and adjacent wells to achieve a minimum controlled flow in order to mitigate the potential venting to the atmosphere.
 - iii. Monitor all impacted and adjacent wells once per day for a minimum of the following gases: methane, nitrogen, oxygen, hydrogen, carbon dioxide, and carbon monoxide. Shift to monitor gases twice per week based on a well-by-well evaluation.
 - iv. Collect tedlar/mylar bag gas samples from the impacted and adjacent wells and send the samples to a laboratory to confirm field testing of methane, nitrogen, hydrogen, carbon dioxide, and carbon monoxide on a weekly basis to ensure the accuracy of the data collected.
 - v. Obtain down-well temperatures from each impacted and adjacent wellhead until a total of ten readings have been obtained.
 - vi. Visually assess the surface area on a daily basis for evidence of slope movement or surface subsidence in the affected area of the Facility. The affected area will be surveyed weekly to detect any

surface settlement.

- vii. Inspect the affected area daily for any sign of abnormal activity or conditions such as smoke, odor, or soot deposits.
 - viii. Restart limited pumping of landfill leachate and gas condensate from within the gas extraction well on those wells where the water in the well is above or close to the section of the well that is screened. Pumping of liquids will cease if well temperatures exceed 149° F.
24. In a letter dated October 6, 2009, Respondent submitted for approval to Hamilton County Department of Environmental Services an alternative timeline for correcting temperature exceedances at the Facility in accordance with its Title V Permit Part III.A.III.2. Respondent claimed that expansion of the landfill gas collection system would potentially allow for air infiltration into the affected area, further exacerbating the elevated temperatures. Respondent's request for an alternative timeline did not propose specific measures for correcting elevated wellhead gas temperatures nor did it propose a date by which compliance with NSPS would be achieved.
 25. On October 16, 2009, Respondent completed installation of an eight-hundred-foot-long gas collection trench at the toe of the slope and applied vacuum to mitigate surface gas emissions.
 26. On October 19, 2009, Respondent observed a settlement crack at the top of the slope and additional surveying was initiated. On October 22, 2009, additional settlement data was gathered and indicated localized settlement between DW2, W135, W215 and W134R. On October 23, 2009, Respondent took measures to address settlement by filling settlement cracks with soil and regrading the surface. On October 26, 2009, Respondent installed horizontal displacement pins to monitor for lateral movement.
 27. On November 16, 2009, Respondent observed a settlement crack just above the gas collection trench. Respondent proposed to add pins on each side of the settlement crack to monitor lateral movement. In addition, lateral movement in the affected area of the Facility, particularly in the vicinity of well DW2 and near the toe of the slope, has been observed.
 28. Since Respondent began expanded surveying, settlement in the affected area at the Facility, particularly in the vicinity of well W135, has exceeded ten feet.
 29. On November 19, 2009, Respondent and GSF met with Ohio EPA, Hamilton County Public Health, Hamilton County Department of Environmental Services, and U.S. EPA to discuss the affected area and actions taken by Respondent.

Ohio EPA offered to assist Respondent in the development of an action plan designed to identify activities and time frames for Respondent to mitigate conditions in the affected area of the landfill. Since November 19, 2009, the parties have met on numerous occasions to finalize the action plan.

30. Since Respondent began expanded wellhead monitoring on September 1, 2009, at least the following wells have exhibited temperatures in excess of 149° F:

Well Location	Highest recorded wellhead temperature				
	9/2009	10/2009	11/2009	12/2009	1/2010
DW3	125.6° F	128.3° F	132.3° F	151° F	133° F
W122R2	196.4° F	191.8° F	197° F	198° F	200° F
W124R2	145° F	143.4° F	154° F	154° F	149° F
W125R2	140.7° F	153.4° F	158° F	160° F	156° F
W128R	140.7° F	130.8° F	151° F	160° F	130° F
W134R	151.9° F	160.4° F	169° F	171° F	161° F
W135	198.4° F	196.4° F	202° F	204° F	198° F
W136	138.5° F	138.5° F	146° F	159° F	171° F
W215	137.9° F	168.9° F	187° F	192° F	196° F
W221	146° F	105° F	142° F	156° F	121° F

31. Since Respondent began expanded wellhead monitoring on September 1, 2009, at least the following wells have exhibited carbon monoxide levels in excess of 1,000 ppmv:

Well Location	Highest carbon monoxide reading (ppmv)				
	9/2009	10/2009	11/2009	12/2009	1/2010
DW2	1,000	3,800	3,800	3,400	1,600
DW3	400	400	1,400	200	1,000
W121R2	9,300	7,900	7,500	6,500	5,900
W122R2	16,000	7,000	5,500	5,300	4,800
W123R2	11,000	8,800	7,600	6,900	10,900
W124R2	4,500	3,900	3,600	3,700	3,700
W125R2	9,000	1,700	2,100	2,200	2,200
W128R	0	700	700	1,100	0
W134R	6,700	4,600	4,700	4,100	5,100
W135	10,000	7,900	7,400	6,000	6,300
W136	9,600	3,400	4,600	3,000	3,800
W215	8,600	7,600	6,700	5,500	5,100
W216	4,130	2,600	2,600	1,300	1,800
W217R	3,700	2,500	2,100	1,800	1,500
W218	1,800	300	400	200	0
W219R	700	500	1,200	1,000	700
W221	0	0	0	1,200	1,800
GAT3	No data	No data	1,900	1,300	1,100

32. Since Respondent began expanded wellhead monitoring on September 1, 2009, the ratio of percent methane to percent carbon dioxide has been less than one for at least the following locations: DW1, DW2, DW3, PH5ACO, W120R2, W121R2, W122R2, W123R2, W124R2, W125R2, W128R, W133, W134R, W135, W136, W137R, W215, W216, W217R, W218, W219R, GAT1, GAT2, and GAT3.
33. On December 4, 2009, Ohio EPA requested that Respondent define the affected area and expand it to include wells W224, W117R, W148, W157R, W157A, W156, and WPH7B and all wells to the north. The affected area includes both affected wells and adjacent wells to monitor the extent of the conditions at the Facility.

New Source Performance Standards Findings

34. Because compliance with the NSPS rules is required by PTI #14-05824 and the Title V operating permit for this Facility (See Finding number 9), a violation of the NSPS requirements is a violation of PTI #14-05824 and the Title V operating permit for this Facility.
35. ORC Section 3704.05(C) prohibits any person from violating any terms or conditions of any air pollution control permit issued by the Director of Ohio EPA under ORC Chapter 3704. ORC Section 3704.05(J)(2) prohibits, in part, any person from violating any applicable requirement of a Title V permit or any permit condition, except for an emergency as defined in 40 CFR 70.6(g). OAC Rule 3745-77-02(A) provides that the owner or operator of a Title V source shall not operate that source, except in compliance with its Title V permit.
36. Pursuant to NSPS rule 40 CFR 60.755(a)(5), if the gas temperature at the wellhead exceeds the NSPS temperature (or alternative higher operating temperature), Respondent must initiate action to correct the exceedance within 5 calendar days. If correction of the exceedance cannot be achieved within 15 calendar days after the first measurement, the gas collection system shall be expanded to correct the exceedance within 120 days after the initial exceedance. Any attempted corrective measure shall not cause an exceedance of other operational or performance standards. Pursuant to 40 CFR 60.753, if corrective actions are taken as specified in 40 CFR 60.755, the temperature exceedance is not a violation of the operational requirements in 40 CFR 60.753.
37. If the gas collection system has not been expanded to correct the temperature exceedance within 120 days after the initial exceedances, that is a violation of 40 CFR 60.755 unless an alternative timeline has been approved. An alternative timeline has not been approved for any of the wells at the Facility. A higher operating temperature of 65° C (149° F) has currently been established in PTI

#14-05824 and the Title V operating permit (i.e., the permits currently allow Respondent to operate each interior wellhead in the collection system with a landfill gas temperature of less than 65° C (149° F).

38. In the months of September through January, Respondent has failed to correct wellhead temperature exceedances [i.e., temperatures not less than 65° C (149° F)] in at least wells W122R2, W135, and W215. Respondent's failure to correct these exceedances at each well within 120 days of the first exceedance is a violation of 40 CFR 60.755, and a violation of the terms and conditions of PTI #14-05824 and the Title V Permit, and ORC section 3704.05(C) and (J), and OAC Rule 3745-77-02(A).

Solid Waste Landfill Operational Requirements

39. OAC Rule 3745-27-19(B)(2) provides that the owner or operator shall conduct all operations at the Facility in strict compliance with its authorizing documents. As set forth in Finding number 38, above, Respondent is currently in violation of air PTI #14-05824 and its Title V Permit, which is a violation of this OAC Rule 3745-27-19(B)(2).
40. OAC Rule 3745-27-19(B)(5) requires the owner or operator to operate the facility in such a manner that operation does not violate any regulation adopted by the director pursuant to chapter 3704. of the Revised Code. Respondent is in violation of OAC Rule 3745-77-02(A) as described in Finding number 38, above, which is a violation of OAC Rule 3745-27-19(B)(5).
41. OAC Rule 3745-27-19(E)(10) requires that the owner or operator keep a daily log of operations, upon which corrective actions taken at the Facility are to be described. Granting a variance from this requirement that relieves Respondent from the obligation to include corrective actions in the daily log that are being conducted and reported on pursuant to the Action Plan referenced in Order number 1, below, will not create a nuisance or a hazard to public health or safety or the environment and is unlikely to result in a violation of other requirements of ORC Chapters 3704, 3714, 3734, or 6111, and any rules promulgated thereunder.
42. ORC Section 3734.02(A) authorizes the Director of Ohio EPA to grant a variance from the solid waste rules if the Director is satisfied that the construction and operation of the solid waste facility in the manner allowed by the variance and any terms or conditions imposed as part of the variance will not create a nuisance or a hazard to the public health or safety or the environment.
43. ORC Section 3734.13 authorizes the Director of Ohio EPA to issue orders requiring the abatement or prevention of a violation of any section of ORC

Chapter 3734, a rule adopted under that Chapter, or a term or condition of an authorizing document issued pursuant to that Chapter.

44. The Director issues these Orders to address the violations of ORC Chapters 3704 and 3734 and the Title V permit for the Facility. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their benefits to the people of the State to be derived from such compliance.

V. ORDERS

Respondent shall achieve compliance with its permits and ORC Chapters 3704 and 3734 and the rules promulgated thereunder in accordance with the following:

1. Upon the effective date of these Orders, Respondent shall comply with the attached Action Plan and any revisions made to the Action Plan pursuant to Section 4.0 of the Action Plan.
2. Notwithstanding any other provision of these Orders, if in the determination of the Director Respondent is unable to achieve the goals of the Action Plan or conditions at the Facility cause or threaten to cause a nuisance or an adverse impact to public health or safety or the environment, the Director may require alternative sampling frequencies, methods, and parameters, or require remedial actions to mitigate conditions at the Facility. Respondent shall implement the remedial actions and any alternative sampling frequencies, methods, and parameters in accordance with the terms and conditions of the Director's final action.
3. In accordance with ORC Section 3734.02, Respondent is hereby granted a variance from the requirement to include all corrective actions on the Facility's daily log of operations in accordance with OAC Rule 3745-27-19(E)(10). Respondent shall record on the daily log form only those corrective actions that are not being conducted and reported on pursuant to the Action Plan referenced in Order number 1, above.
4. Respondent's October 6, 2009 request for an alternative timeline (see Finding number 24) is disapproved.
5. Respondent shall report all exceedances of applicable parameters of the NSPS in the semi-annual report required by 40 CFR 60.757(f). [As this landfill is subject to the requirements of 40 CFR Part 63, Subpart AAAAA, "National Emission Standards for Hazardous Air Pollutants (NESHAP)," the NSPS report must be filed semi-annually and not annually. See 40 CFR 63.1980(a).] Respondent also shall report exceedances that are not corrected in the manner

prescribed by 40 CFR 60.755 and within the time frames allowed by that section, as deviations in the quarterly deviation report under Respondent's Title V permit. When an exceedance is caused by conditions meant to be addressed by the Action Plan, Respondent shall comply with the Action Plan as a means of addressing its deviation under the NSPS.

6. On and after the thirtieth day after the effective date of these Orders, if any gas recovery well at the Facility outside the affected area has a wellhead gas temperature below 55° C (131° F), the allowable maximum wellhead gas temperature for that well shall thereafter be less than 55° C (131° F), as specified in 40 CFR 60.753, and not the 65° C (149° F) allowed by Respondent's PTI #14-05824 and Title V Permit. A higher operating temperature may be allowed within a given well if Respondent makes the showings required by 40 CFR 60.753(c). Nothing in these Orders shall be construed to prevent Ohio EPA from lowering the maximum wellhead gas temperature to 55° C (131° F) in all gas recovery wells at the Facility, including those wells within the affected area, by further order or by permit modification or permit renewal.
7. Respondent shall pay the amount of ninety-eight thousand dollars (\$98,000) in settlement of Ohio EPA's claim for civil penalties for violations of ORC Section 3704.05(C) and OAC Rules 3745-77-02(A) and 3745-27-19(B)(5), which may be assessed pursuant to ORC Chapter 3704. Not later than thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by official check made payable to "Treasurer, State of Ohio" for seventy-eight thousand four hundred dollars (\$78,400). The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

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

8. In lieu of paying the remaining nineteen thousand six hundred dollars (\$19,600) of the civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of nineteen thousand six hundred dollars to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, state of Ohio" for \$19,600. The official check shall be submitted to Brenda Case, or her successor, together with a letter indentifying the Respondent and Fund 5CD0, to the above-stated address.
9. A copy of each of the above checks shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, at the following address:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049

10. Should Respondent fail to fund the SEP within the required time frame set forth in Order number 8, Respondent shall immediately pay to Ohio EPA \$19,600 of the civil penalty in accordance with the procedures in Order number 7.

VI. REVIEW OF SUBMITTALS

Ohio EPA may review any work plan, report, or other item required to be submitted pursuant to these Orders in accordance with this Section. Upon review, Ohio EPA may in its sole discretion: (a) approve the submission in whole or in part; (b) approve the submission upon specified conditions; (c) modify the submission; (d) disapprove the submission in whole or in part, notifying Respondent of deficiencies; or (e) any combination of the above. The results of Ohio EPA's review shall be in writing and provided to Respondent.

In the event of approval as is, approval upon condition, or approval as modified of any submission by the Ohio EPA, Respondent shall proceed to take any action required by the submission as approved, conditionally approved, or approved as modified by Ohio EPA.

In the event that Ohio EPA initially disapproves a submission, in whole or in part, and notifies Respondent in writing of the deficiencies, Respondent shall within 14 days, or such longer period of time as specified by Ohio EPA in writing, correct the deficiencies and submit the revised submission to Ohio EPA for approval. The revised submission shall incorporate all of the changes, additions, and/or deletions specified by Ohio EPA in its notice of disapproval. Revised submissions shall be accompanied by a letter indicating how and where each Ohio EPA comment was incorporated into the submission. Any other changes made to the submission by Respondent shall also be identified in the letter.

If Respondent fails to submit a revised submission incorporating all changes, additions, and/or deletions within 14 days, or such period of time as specified by Ohio EPA in writing, Respondent shall be considered in breach and/or violation of these Orders. If Respondent is in breach and/or violation of these Orders, Ohio EPA retains the right to terminate these Orders, perform any additional investigation, conduct any work to address conditions at the Facility, and/or enforce the terms of these Orders.

VII. REIMBURSEMENT OF COSTS

Ohio EPA has incurred, and continues to incur, Response costs in connection with this Facility. Ohio EPA may request that Respondent reimburse Ohio EPA for any

Response costs incurred by Ohio EPA or its contractors on or after the effective date of these Orders. Not later than thirty (30) days after receiving an accounting of Response costs incurred on or after the effective date of these Orders, Respondent shall remit payment for the full amount claimed. Respondent shall remit payment pursuant to this Section (Section VII) of the Orders by official check made payable to "Treasurer, State of Ohio" to Ohio EPA for the full amount claimed. 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 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.

VIII. 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 the 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."

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 or his duly authorized representative, if such a representative is responsible for the overall operation of the Facility.

IX. 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, Respondent's Facility.

X. 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 or the Facility.

Where any portion of the Work required by these Orders requires a permit or approval, Respondent shall timely submit applications and take all other actions necessary to obtain such permits or approvals. Except as expressly provided herein, these Orders are not, and shall not be construed to be, a permit, exemption, or variance issued pursuant to any statute or rule.

XI. INDEMNIFICATION

Respondent agrees to indemnify, save, and hold harmless Ohio EPA from any and all claims or causes of action arising from, or related to, any acts or omissions of Respondent and/or Ohio EPA, its officers, employees, agents, representatives, or assigns, arising from or related to the Facility and/or the Work required under these Orders. Ohio EPA agrees to provide notice to Respondent within 30 days after receipt of any claim which may be the subject of indemnity as provided in this Section, and to cooperate with Respondent in the defense of any such claim or action against Ohio EPA. Ohio EPA shall not be considered a party to and shall not be held liable under any contract entered into by Respondent in carrying out the activities pursuant to these Orders.

XII. ACCESS

Ohio EPA, Hamilton County Public Health, and Hamilton County Department of Environmental Services shall have access at all reasonable times, including during business hours, to the Facility and any other property to which access is required for the implementation of these Orders, to the extent access to the property is controlled by Respondent. Access under these Orders shall be for the purposes of conducting any activity related to these Orders including but not limited to the following:

- A. Monitoring the Work;
- B. Conducting sampling;
- C. Inspecting and copying records, operating logs, contracts, and/or other documents related to the implementation of these Orders;
- D. Conducting investigations and tests related to the implementation of these Orders; and
- E. Verifying any data and/or other information submitted to Ohio EPA.

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 its best efforts to secure from such persons access for Respondent and Ohio EPA as necessary to effectuate these Orders. Copies of all

access agreements obtained by Respondent shall be provided to Ohio EPA upon request. If any access required to implement these Orders is not obtained within 30 days after the effective date of these Orders, or within 30 days after the date Ohio EPA notifies Respondent in writing that additional access beyond that previously secured is necessary, Respondent shall promptly notify Ohio EPA in writing of the steps Respondent has taken to attempt to obtain access. Ohio EPA may, as it deems appropriate, assist Respondent in obtaining access.

Notwithstanding any provision of these Orders, the State of Ohio retains all of its access rights and authorities, including enforcement authorities related thereto, under any applicable statute or regulation.

XIII. 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.

XIV. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders other than those required by the Action Plan shall be addressed to:

Ohio Environmental Protection Agency
Southwest District Office
Division of Solid and Infectious Waste Management
Attn: District Chief
401 East Fifth Street
Dayton, Ohio 45402

and

Ohio Environmental Protection Agency
Central Office
Division of Solid and Infectious Waste Management
Attn: DSIWM CA&IS Supervisor
P.O. Box 1049
Columbus, Ohio 43216-1049

and/or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA, including Hamilton County Public Health and Hamilton County Department of Environmental Services.

XV. SAMPLING AND DOCUMENT AVAILABILITY

Unless otherwise agreed to by Ohio EPA, Respondent shall notify Ohio EPA not less than 15 days in advance of all sample collection activity. Upon request, Respondent shall allow split and/or duplicate samples to be taken by Ohio EPA or its designated contractor. Ohio EPA shall also have the right to take any additional samples it deems necessary. Upon request, Ohio EPA shall allow Respondent to take split and/or duplicate samples of any samples Ohio EPA takes as part of its oversight of Respondent's implementation of the Work required by these Orders.

Ohio EPA may request copies of all documentation required by these Orders including, but not limited to, odor logs and related documentation and sampling, tests, or other data, including raw data and original laboratory reports, generated by or on behalf of Respondent with respect to the Facility. Not later than seven (7) days after Respondent's receipt of a request by Ohio EPA, Respondent shall provide Ohio EPA with a copy of the documentation requested to Ohio EPA. An electronic copy shall also be provided in a format approved by Ohio EPA. Respondent may submit to Ohio EPA any interpretive reports and written explanations concerning the raw data and original laboratory reports. Such interpretive reports and written explanations shall not be submitted in lieu of original laboratory reports and raw data. Should Respondent subsequently discover an error in any report or raw data, Respondent shall promptly notify Ohio EPA of such discovery and provide the correct information.

Ohio EPA may subject any reports and data submitted to Ohio EPA pursuant to these Orders to evaluation and validation by a third party and may incur costs for such report and data evaluation and validation. Respondent shall reimburse Ohio EPA for all costs incurred for evaluation and validation of reports and data in accordance with Section VII of these Orders.

Respondent shall retain all documentation generated as a result of these Orders for a period of 5 years following the effective date of these Orders.

XVI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, defenses, privileges and causes of action, except as specifically waived in Section XVII of these Orders.

XVII. 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. 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. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

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.

Nothing in these Orders waives, nor acts as an accord and satisfaction of, the requirement to report as deviations in the Title V quarterly deviation report exceedances of applicable gas recovery well operating parameters as set forth in 40 CFR 60.753, that are not corrected in the manner prescribed by 40 CFR 60.755 and within the time frames allowed by that section. Nothing in these Orders relieves Respondent from its obligation to comply with applicable NSPS regulations. Nothing in these Orders waives the Ohio EPA's right to seek civil penalties or other remedies for such exceedances of those parameters or any other violations arising from or relating to conditions at the Facility.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of subsequent Orders in which the Director determines that due to the actual or potential effects of subsurface conditions at the Facility Respondent shall install an isolation break at the Facility to protect human health or safety or the environment or to abate a violation or any threatened violation of any section of R.C. Chapter 3734, a rule adopted thereunder, or a term or condition of Respondent's permit or license, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of those Orders either in law or equity.

XVIII. EFFECTIVE DATE

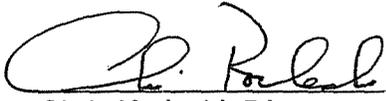
The effective date of the Orders is the date these Orders are entered into the Ohio EPA Director's Journal.

XIX. 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:

Rumpke Sanitary Landfill, Inc.


Signature

William J. Rumpke
Printed or Typed Name

PRESIDENT & CEO
Title