



State of Ohio Environmental Protection Agency

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March 28, 2007

Mr. William Franks  
Health Commissioner  
Stark County Health Department  
3951 Convenience Circle, N.W.  
Canton, Ohio 44718-2660

**RE: Countywide Landfill**

Dear Bill:

On February 21, 2007, I wrote you a letter regarding the pending 2007 license application for the Countywide landfill. In that letter, I discussed Ohio EPA's evaluation of the current compliance status at Countywide, my recommendation as to the pending license application, and my proposed plan to try to address the ongoing compliance issues (especially the nuisance odors) at the landfill. The purpose of this letter is to update you regarding the status of the matters I discussed in my February 21, 2007, letter.

**A. Summary of Ohio EPA's February 21, 2007 Letter.**

In my letter, I briefly discussed the statutory and regulatory criteria that the Stark County Health Department, as the licensing authority, must consider before issuing a license. As I pointed out, one criterion found in Ohio Revised Code (ORC) Section 3734.44(D) is that in order for a license to be renewed, the facility must be "*in substantial compliance with, or on a legally enforceable schedule that will result in compliance with, environmental laws in this state and other jurisdictions.*"

As you know, Countywide is in violation of several solid waste and air pollution control laws. Several violations stem from an exothermic oxidation of aluminum waste buried within the landfill and the related rapid thermal decomposition of solid waste, which we have characterized as a fire within the landfill. This subsurface fire has led to the generation of strong and foul nuisance odors.

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

Because of the violations detailed in my February 21 letter, I concluded that Countywide was not in substantial compliance with Ohio law, nor subject to an enforceable schedule to attain compliance with Ohio law. I advised you that, under such circumstances, a renewal of the annual operating license could not be lawfully issued. As a result, I recommended that the Stark County Health Department propose to deny the facility's pending license application in accordance with appropriate due process requirements.

Because of my concern with the ongoing nuisance odor, and my desire to continue to try to achieve an abatement of such odors, my earlier letter also included a proposal whereby Ohio EPA would pursue Director's Findings and Orders with Countywide to try to resolve the fire and nuisance odors at the landfill. My thought was that to the extent Countywide was willing to enter into Orders to address the conditions at the landfill, the difficult and challenging work necessary to investigate and remediate the fire at the landfill would proceed without potential delays associated with litigation. I detailed a rough framework for those Orders in my letter, and also made clear that if such Findings and Orders could be negotiated, Countywide **would** then be on a "legally enforceable schedule to attain compliance" with applicable law.

## **B. Status of Director's Findings and Orders.**

On February 27, 2007, my staff sent proposed Director's Findings and Orders addressing conditions at the landfill to Countywide for review and consideration. Given my desire that any negotiations proceed expeditiously, my staff informed Countywide of my intention to complete discussions on any such Orders, successfully or otherwise, within thirty days.

I am now able to inform you that Countywide and Ohio EPA have entered into Findings and Orders requiring the performance of the work Ohio EPA believes necessary to extinguish the fire and control nuisance odors at the landfill. A copy of the Orders, which I signed today, is attached for your convenience.

The Orders require Countywide to perform a number of tasks. Some of the major items of work required under the Orders include the following:

- In response to specific issues you raised regarding the content of any negotiated Orders, the Orders, as you requested, require Countywide to cap and close the 88.2-acre area of the facility after the fire has been put out in order to ensure site stability. Countywide will need to submit updated engineering detail plans, specifications, and other information to modify the facility's permit to accomplish this and will be required to forfeit at least 15,500,000 cubic yards of permitted airspace at the facility;
- The Orders require Countywide to determine whether any engineered components in the area of the facility where the fire has been occurring have been damaged;

- The Orders require Countywide to collect comprehensive data (subject to Ohio EPA's oversight) and investigate the nature and extent of the fire at the facility and identify and evaluate potential remedies for extinguishing the fire. After Countywide has performed this necessary work, I will select one or more of the identified remedies and require Countywide to employ such remedy to extinguish the fire. Countywide has agreed to waive its rights to appeal the selection of the measures chosen to extinguish the fire and has agreed to implement the selected measures;
- Because of the unique nature of the fire occurring at the landfill and the time it may take to determine the necessary and appropriate measures to extinguish the fire, the Orders require Countywide to **quickly** perform additional work to control nuisance odors and landfill gas emissions prior to the implementation of the remedy or remedies selected to put the fire out. It is believed that once the fire has been put out, the nuisance odors associated with the rapid thermal decomposition of solid waste at the landfill will abate;
- The Orders require Countywide to provide Ohio EPA with access to the landfill and advanced notice of data collection activities. The Orders also require Countywide to reimburse Ohio EPA for any costs incurred by Ohio EPA to hire experts or other contractors to assist with implementation of the Orders. In fact, Ohio EPA has already contracted with 2 independent experts to assist us in our review of Countywide's mandated activities and proposals;
- The Orders require Countywide to pay over \$1,000,000.00 in fines and other financial relief as a result of conditions at the landfill, including the payment of \$250,000 into a community benefit fund, which will ultimately be used (in a manner yet to be determined) to provide some degree of recompense to the impacted communities.

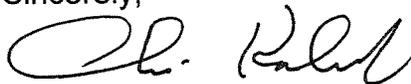
It is my hope and expectation that the Orders which were signed by Countywide on March 26, 2007, will result in **finally** arriving at a solution to address the fire and related nuisance odors that have plagued area residents for so long.

I must emphasize our belief that, as a legal matter, the Orders we have negotiated with Countywide constitute "a legally enforceable schedule to attain compliance" with applicable law. Therefore, the sole legal basis on which I based my February 21 recommendation for a proposed denial is now moot. Although Ohio EPA's issuance of these Orders has addressed the specific provisions of concern that I identified in my February 21, 2007, letter, all criteria required by ORC Sections 3734.44(A) and 3734.44(D), and OAC Rule 3745-37-03 also need to be considered by the licensing authority before taking an action on the 2007 license.

I appreciate the difficult decision the Stark County Health Department must make in this matter. Whatever the Health Department decides, please know that Ohio EPA will closely monitor and enforce the Orders we have just negotiated, and will continue our focus on our primary objective, i.e., the elimination of the nuisance odors through the extinguishment of the fire at the facility.

I wanted to provide you with this information for your consideration in determining how to act upon the pending license application for 2007. If I can do anything further to assist you in this matter, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Korleski". The signature is fluid and cursive, with the first name "Chris" being more prominent than the last name "Korleski".

Chris Korleski, Director  
Ohio EPA