

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of:

American Landfill, Inc.	:	<u>Director's Final Findings</u>
7916 Chapel Street SE	:	<u>and Orders</u>
Waynesburg, Ohio 44688	:	

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to American Landfill, Inc. ("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 has determined the following findings:

1. American Landfill ("Facility") is located at 7916 Chapel Street SE, Waynesburg, Stark 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)(24).
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).
5. In accordance with OAC Rule 3745-27-19(B)(1), "[t]he owner or operator shall conduct all operations at a sanitary landfill facility in strict compliance with the terms and conditions of the solid waste disposal license issued for the facility in accordance with Chapter 3745-37 of the Administrative Code."
6. In accordance with OAC Rule 3745-27-19(B)(2), "[t]he owner or operator shall conduct all construction and operation at a sanitary landfill facility in strict compliance with the applicable authorizing document(s), including permit(s) to install, a plan approval, an operational report, an approved closure plan, an alteration(s) concurred with in writing by Ohio EPA, or any authorizing final document(s) listed in paragraph (I) of rule 3745-27-09 of the Administrative Code...".
7. In accordance with OAC Rule 3745-27-19(E)(8)(c), the owner or operator shall not accept for disposal or dispose of "[m]aterials that are defined as hazardous wastes pursuant to rule 3745-51-03 of the Administrative Code" at a sanitary landfill facility.
8. In accordance with OAC Rule 3745-27-19(L), "...the owner or operator shall implement a written program at the sanitary landfill facility with procedures that are sufficient to detect and prevent the disposal of regulated hazardous wastes as defined in rule 3745-51-03 of the Administrative Code and polychlorinated biphenyls (PCB) wastes as defined in 40 CFR Part 761, July 1, 2003. The owner or operator shall place the "PCB and hazardous waste prevention and detection program," inspection records, generator certifications, waste screening information, and notifications required by this rule into the operating record in accordance with rule 3745-27-09 of the Administrative Code."
9. On March 24, 2006, the Facility accepted approximately 15 tons of process sludge waste ("Sludge Waste") from General Environmental Management, LLC. ("GEM"). The Sludge Waste was transported to the Facility by Kuhnle Brothers Inc. ("Kuhnle") of Newbury, Ohio.

10. The Sludge Waste contained between 2.0-3.54 mg/L of benzene which is above the regulatory limit of 0.5 mg/L. Therefore, the Sludge Waste accepted by the Facility is considered a D018 characteristic hazardous waste.
11. GEM contacted Respondent on March 27, 2006, to inform Respondent that hazardous waste had been shipped to the Facility for disposal.
12. Ohio EPA received correspondence dated April 5, 2006, from Respondent informing Ohio EPA of its acceptance of the hazardous Sludge Waste. Respondent further informed Ohio EPA of the following:
 - A. That the Sludge Waste was inadvertently shipped to the Facility by GEM & Kuhnle. Respondent included an incident report from GEM dated March 24, 2006, and a letter from Kuhnle to GEM dated March 30, 2006, explaining the events that led to the disposal of hazardous waste in the Facility.
 - B. On March 31, 2006, Respondent received results from laboratory tests conducted by GEM to characterize the waste. The results indicated that the Sludge Waste exceeded the regulatory limit for Benzene;
 - C. Respondent has ceased acceptance of waste from GEM;
 - D. Prior to resuming service to GEM, Respondent intended to engage a RCRA trained professional to preform a GEM facility review to evaluate waste handling procedures, including completion of appropriate paperwork; and
 - E. Respondent indicated that it would require GEM's attendance at Waste Management's customer education program on April 12, 2006.
13. In correspondence dated May 19, 2006, Ohio EPA sent a Notice of Violation to Respondent notifying it of the following violations:
 - A. OAC Rule 3745-27-19(B)(1) for failure to conduct all operations at a sanitary landfill facility in strict compliance with the terms and conditions of the Facility's solid waste disposal license;
 - B. OAC Rule 3745-27-19(B)(2) for failure to conduct all construction and operation at a sanitary landfill facility in strict compliance with the applicable authorizing documents;
 - C. OAC Rule 3745-27-19(E)(8)(c) for acceptance of hazardous waste for disposal; and

- D. OAC Rule 3745-27-19(L) for failure to implement a written program at the sanitary landfill facility with procedures that are sufficient to detect and prevent the disposal of regulated hazardous wastes.
14. To date, the hazardous waste has not been removed and violations of ORC Chapter 3734. and OAC Rule 3745-27-19 remain. Further, Respondent has indicated that it is not able to locate and remove the hazardous waste.

V. ORDERS

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

1. Within thirty (30) days after the effective date of these Orders, Respondent shall evaluate and revise, as necessary, 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.
2. Within forty-five (45) days after the effective date of these Orders, Respondent shall submit the Facility's revised PCB and hazardous waste prevention and detection program to Ohio EPA for comment, and within fourteen days after receipt of any of Ohio EPA's comments, Respondent shall address Ohio EPA's comments and place the revised document into the operating record.
3. Within thirty (30) days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of two thousand four hundred twenty-five dollars (\$2,425.00) 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 two thousand four hundred twenty-five dollars (\$2,425.00). 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 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.

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."

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.

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, 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 Respondent 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 Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Solid and Infectious Waste Management
Attn: Unit Supervisor, DSIWM
2110 East Aurora Road
Twinsburg, Ohio 44087

and

Stark County Health Department
3951 Convenience Circle, N.W.
Canton, Ohio 44718

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

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent 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, 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.

IT IS SO ORDERED AND AGREED:

Joseph P. Koncelik, Director

IT IS SO AGREED:

American Landfill Inc.

Signature

Date

Title

COPY