



**CERTIFIED MAIL**

June 3, 2013

Apex Environmental, LLC  
P.O. Box 157  
Amsterdam, OH 43903

**Re: Director's Final Findings and Orders  
Apex Environmental, LLC**

Dear Sir or Madam:

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

If you have any questions, please contact Jeff Hurdley at (614) 644-3037.

Sincerely,

Georgia Prakes, Management Analyst  
Division of Materials & Waste Management

Enclosure

ec: Carl Mussenden, DMWM, CO  
Kelly Jeter, DMWM, CO  
Jeff Hurdley, Legal  
Dale Warner, DMWM, SEDO  
Rich Fox, DMWM, SEDO  
Jefferson County Health Department

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

JUN -3 2013

ENTERED DIRECTOR'S JOURNAL

In the Matter Of:

Apex Environmental, LLC  
P.O. Box 157  
Amsterdam, Ohio 43903

: Director's Final Findings  
: and Orders  
:

**Respondent**

**PREAMBLE**

It is agreed by the Parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Apex Environmental, 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 successors in interest liable under Ohio law. No change in ownership of the 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. Apex Sanitary Landfill ("Facility") is located at 11 County Road 78, Amsterdam, Jefferson County, Ohio.

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.

By: Donna Casper Date: 6-3-13

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 the license holder of the Facility.
3. Respondent is a "person" as that term is defined in ORC Section 3734.01(G) and in OAC Rule 3745-27-01(P)(3).
4. The Facility is a "sanitary landfill facility" as that term is defined in OAC Rule 3745-27-01(S)(4) and is authorized to accept and dispose of "solid waste" as that term is defined in ORC Section 3734.01(E) and OAC Rule 3745-27-01(S)(23).
5. On December 31, 2009, the Director approved Permit-to-install Number 06-08438 ("PTI") for the Facility.
6. ORC Section 3734.11 states in part that, "(A) No person shall violate any section of this chapter, any rule adopted under it, or any order issued under section 3734.13 of the Revised Code. (B) No person who holds a permit or license issued under this chapter shall violate any terms and conditions of the permit or license."
7. OAC Rule 3745-27-19(B)(2) states that, "The owner or operator shall conduct all operations at the sanitary landfill facility in strict compliance with the applicable authorizing document, including (the) permit to install...."
8. Pages C8-4 through C8-10 of the PTI detail Respondent's Odor Management Plan (the "Plan") for operations at the Facility. The Plan contains four sections: odor monitoring practices, best management practices for active waste disposal operations, major odor control systems, and landfill gas control and collection system. Respondent is required to implement the Plan to monitor and control odors emanating from the Facility.
9. On December 22, 2011, Apex Environmental, LLC received Director's Final Findings and Orders ("Orders") 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 ("2011 Orders").
10. Pursuant to Order No. 4 of the 2011 Orders, Respondent was required by February 1 and August 1 of every year following the issuance of the 2011 Orders to submit to Ohio EPA for review and concurrence a proposed plan for the expansion of the Facility landfill gas collection system in order to maximize the control of odors and the capture of landfill gas at the Facility. Respondent was further required to complete installation and commence operation of expanded landfill gas collection system components following Ohio EPA's written concurrence with a proposed plan. This Order No. 4 of the 2011 Orders remains in effect.

11. Pursuant to Order No. 6 of the 2011 Orders, the Respondent was required to submit to Ohio EPA a Report on Landfill Operations at Apex Landfill that would analyze correlations between waste types, waste acceptance methods, and information from Respondent's odor control logs, odor complaint data base, and all daily operating logs since January 1, 2010. The 2011 Orders required Respondent to propose revisions to the Facility operations and waste acceptance procedures in order to control the release of odors.
12. On April 3, 2012, Ohio EPA received a report titled "Report on Landfill Operations Apex Sanitary Landfill Pursuant to Order No. 6 Director's Final Finding and Orders Effective December 22, 2011".
13. On June 15, 2012, Ohio EPA sent a notice of deficiency that identified nine issues that needed to be addressed.
14. Ohio EPA received a revised report on August 30, 2012 and on October 9, 2012 that were marked as "DRAFT REPORT FOR DISCUSSION PURPOSES ONLY".
15. On October 19, 2012, Ohio EPA received a final revised Report. Within the Report Apex proposed ten operational modifications to be implemented or continued to further reduce odors from the Apex landfill.
16. Order No. 6 of the 2011 Orders further provided that, "Respondent shall implement revisions to Facility operations and Respondent's waste acceptance procedures in light of the information outlined in the report and as directed by Ohio EPA." In light of the information contained in Respondent's final revised Report and pursuant to the 2011 Orders, the Director has determined that Respondent should implement revisions to Facility operations and waste acceptance procedures as outlined in Section V of these Orders.

## V. ORDERS

Respondent shall perform the following measures:

1. Upon the effective date of these Orders,
  - A. Respondent shall minimize the size of the landfill working face to the greatest practical extent so that cover can be applied to portions of the working face immediately after Respondent ceases the disposal of waste in an area of the working face; and
  - B. Respondent shall place cover over areas of the working face immediately after ceasing waste disposal in such areas each day.

2. Upon the effective date of these Orders, Respondent shall screen soil material to be applied as a portion of the transitional cover as needed to maximize compaction and minimize potential gas pathways.
3. Upon the effective date of these Orders, Respondent shall not allow untarping of odorous waste containers in the rail yard.
4. Upon the effective date of these Orders, Respondent shall perform daily odor monitoring around the leachate storage tank and shall employ odor neutralizing equipment in the area when necessary.
5. Within thirty (30) days after the effective date of these Orders, Respondent shall submit to the Ohio EPA Southeast District Office a Sludge Management Plan. The Sludge Management Plan shall include, but not be limited to, a sludge odor characterization study on all sludge materials, develop criteria for acceptance of such sludge materials, and identify an implementation schedule for appropriate handling procedures of sludge materials accepted for disposal. Respondent shall implement the Sludge Management Plan following written concurrence by Ohio EPA.
6. Upon the effective date of these Orders, Respondent shall implement the following odor control measures as described in this paragraph or reported to Ohio EPA pursuant to this paragraph unless otherwise directed by Ohio EPA.
  - A. Respondent shall continue the use of an "odor complaint received" team ("Apex OCR Team") to perform regular monitoring of the surrounding community for odors and to respond to odor complaints.
  - B. Respondent shall continue the use of odor control logs, odor complaint response logs, the site's personnel communication system and documentation of communications regarding odors including frequent and direct communication between the Apex OCR Team and the operations personnel.
  - C. Within fourteen (14) days after the effective date of these Orders, Respondent shall:
    - i. Inform Ohio EPA of the roles and responsibilities of the Apex OCR Team and the number of people on the Apex OCR Team;
    - ii. Describe the methods the Apex OCR Team will use to determine odor concentration, intensity, character, frequency, and duration;

iii. Establish a 24-hour, 7 days per week odor complaint telephone hotline that is operated by a third-party.

(a) Upon receipt of any odor complaint, the third-party must record information including, but not limited to, the date & time, complainant name, location of the odor, and description of the odor, and notify by the Jefferson County General Health District and Ohio EPA Southeast District Office daily by electronic mail, and

(b) At the end of each month, the third-party must provide a report to the Jefferson County General Health District and Ohio EPA Southeast District Office that compiles all complaints received during the month period. The report must be submitted electronically to email addresses provided by the Jefferson County General Health District and Ohio EPA Southeast District Office.

7. Upon the effective date of these Orders, Respondent is authorized to operate under the current permit conditions for its authorized maximum daily waste receipts (AMDWR) contained in Permit-to-Install Number 06-08438 issued on December 31, 2009.

## 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 Chief of Ohio EPA's Division of Materials and 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: "Apex Environmental, LLC certifies that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by the Respondent to Ohio EPA and shall be signed by a responsible official of Respondent.

If the provisions of Section V of these Orders and Orders 4 and 5 of the Director's Final Findings and Orders that were issued on December 22, 2011 ("2011 Orders") are incorporated into Permit-to-install-Number 06-08438 ("PTI") for the Facility through an alteration to the Odor Management Plan of the PTI, which is effective and binding upon

Respondent, and Respondent is in compliance with all other provisions of these Orders and the 2011 Orders, then the Director would view such circumstances as grounds for termination of these Orders and the 2011 Orders and would terminate such Orders should Respondent request termination of these Orders and the 2011 Orders.

#### **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of 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.

#### **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  
Southeast District Office  
Division of Materials and Waste Management  
2195 Front Street  
Logan, Ohio 43138

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**

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.

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

## **XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**




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Scott J. Nally  
Director



IT IS SO AGREED:

Apex Environmental, LLC

  
Signature

5/28/13  
Date

Anthony Rizzo  
Printed or Typed Name

COO  
Title