



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

CERTIFIED MAIL

October 19, 2012

Tunnell Hill Reclamation, LLC
2500 TWP Road, 205 Rte. 2
New Lexington, OH 43764

Re: Director's Final Findings & Orders

Dear Sir or Madam:

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

Enclosed are invoices for the total penalty payment of \$24,249.00 required by these Orders.

Sincerely,

Georgia Frakes, Management Analyst
Division of Materials and Waste Management

Enclosure: Director's Final Findings and Orders
Invoice

cc: Kelly Jeter, DMWM, CO
Bruce McCoy, DMWM, CO
Janine Maney, Legal
Jeff Hurdley, Legal
Rich Fox, DMWM, SEDO
Erika Jackson, DMWM, SEDO
Kristopher Weiss, PIC

file

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
OCT 19 2012

ENTERED DIRECTOR'S JOURNAL

In the Matter Of:

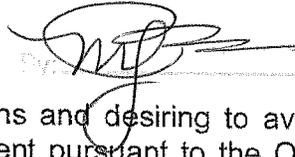
Tunnell Hill Reclamation LLC
2500 TWP. Road, 205 Rte. 2
New Lexington, Ohio 43764

Director's Final Findings

and Orders to be a true and accurate copy of the
official documents as filed in the records of the Ohio
Environmental Protection Agency.

Respondent

PREAMBLE



Date: 10/19/2012

The Parties having engaged in settlement discussions and desiring to avoid litigating disputed claims, have reached a settlement agreement pursuant to the Ohio Revised Code ("ORC") 3745.01 to resolve said claims through these Findings and Orders.

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Tunnell Hill Reclamation 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

All of the findings necessary for the issuance of these Orders pursuant to ORC Sections 3734.13 and 3745.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any matter of law or fact. The Director of Ohio EPA has determined the following findings:

1. Tunnell Hill Reclamation Landfill ("Facility") is located at 2500 Twp. Rd., 205 Rte. 2, Perry County, Ohio.
2. Respondent is the "owner" or "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 Respondent 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 August 8, 2006, the Director approved Permit-to-install Number 06-07741 ("PTI") for the Facility. On September 1, 2011, the Director issued a Vertical and Horizontal Permit-to-Install Number 06-08443 ("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...."

Odors

8. OAC Rule 3745-27-19(B)(3) states that, "The owner or operator shall operate the facility in such a manner that noise, dust, and odors are strictly controlled so as not to cause a nuisance or a health hazard." (emphasis added).
9. From December of 2011 to September of 2012, Ohio EPA and the Perry County Health Department (Health Department) have collectively received over 75 complaints from nearby residents regarding odors emanating from the landfill.
10. When evaluating offsite landfill odors, Ohio EPA uses an odor intensity scale to assist in evaluating the severity of odors. Odors are rated based on a numerical scale from 0 to 4. The descriptions for each level are outlined below:
 - a. Level 0 - Odor Not Detectable;
 - b. Level 1 - Odor present in the air, which activates the sense of smell and the characteristics may or may not be distinguishable and/or definite, but not objectionable in short durations. This is characterized by occasional "whiffs" of odor, but is not persistent;
 - c. Level 2- Odor present in the air, which easily activates the sense of smell, is very distinct and clearly distinguishable, tends to be objectionable and/or irritating, and is persistent in the community;

- d. Level 3 - Odor present in the air, which is objectionable and causes a person to attempt to avoid it completely;
- e. Level 4 - Odor present in the air, which is so strong that it is overpowering and intolerable for any length of time;

Odors of an intensity 2 or above, which are caused by the landfill and are detected beyond the facility boundary, indicate that the operator is failing to strictly control odors.

- 11. During odor surveillance conducted by Ohio EPA in areas surrounding the Facility on December 14, 2011; January 3, 2012; January 9, 2012; January 17, 2012; January 25, 2012; January 26, 2012; February 1, 2012; February 2, 2012; February 8, 2012; February 9, 2012; February 15, 2012; February 22, 2012; February 24, 2012; March 1, 2012; March 7, 2012; March 19, 2012; April 10, 2012; June 12, 2012; July 31, 2012; and, August 31, 2012, Ohio EPA observed violations of **OAC Rule 3745-27-19(B)(3)**. Ohio EPA documented these violations in Notice of Violation letters ("NOVs") to Respondent dated December 22, 2011; January 9, 2012; January 13, 2012; January 25, 2012; January 30, 2012; February 7, 2012; February 9, 2012; February 13, 2012; February 27, 2012; March 2, 2012; March 13, 2012; March 26, 2012; April 11, 2012; June 18, 2012; August 3, 2012; and, September 4, 2012. The odors observed ranged from a level 2 to a level 3 on Ohio EPA's odor intensity scale.
- 12. During odor surveillance conducted by the Health Department on January 3, 2012; January 11, 2012; January 16, 2012; January 31, 2012; February 16, 2012; February 29, 2012; March 14, 2012; April 5, 2012; May 14, 2012; May 29, 2012; July 27, 2012; July 30, 2012; and, September 18, 2012 the Health Department observed violations of **OAC Rule 3745-27-19(B)(3)**. The Health Department documented these violations in NOVs to Respondent dated January 9, 2012; January 19, 2012; January 26, 2012; February 8, 2012; February 21, 2012; March 1, 2012; March 15, 2012; April 9, 2012; May 15, 2012; June 8, 2012; August 2, 2012; and, September 25, 2012. The odors observed were documented as a level 2 on Ohio EPA's odor intensity scale.
- 13. Respondent has taken the following actions to address the odors occurring at the Facility:
 - a. Placement of a 6-mil plastic membrane along the length of the liner tie-in;
 - b. Introduction of a product called OrganiSol OSB to the cleanouts on the east and slopes of the Facility;
 - c. Two additional employees are performing surface monitoring and direct application of odor control materials on "hotspots" utilizing four gallon back sprayers;

- d. Placement of additional cover;
 - e. Application of Rusmar 904, an encapsulating foam over the tie-in areas;
 - f. Use of a Benzaco Waterless Odor Control units; and
 - g. Installation of interim passive flare systems.
14. The Director has determined that additional actions are required to adequately address the Odors emanating from the Facility.

V. ORDERS

The Director hereby issues the following Orders:

1. Upon the effective date of these Orders, Respondent shall maintain and operate the existing temporary passive landfill gas collection system ("PLGS") connected to a minimum of two solar flares until an active landfill gas collection system is operational at the Facility.
2. Not later than ninety (90) days after the effective date of these Orders, Respondent shall prepare and submit for Ohio EPA approval a plan for the installation of an active landfill gas collection system at the Facility. The plan for the installation of the active gas collection system shall provide for the following:
 - a. Installation of an active gas collection system, including the following components:
 - i. Initially, Respondent will install a blower/open flare skid and a line of vertical wells along the southern slope – these will act as primary collectors under vacuum. Respondent will keep connections to the leachate risers in case the risers start building any pressure.
 - ii. Respondent will also incorporate a series of horizontal laterals in the active area to give early control over odors generated in this part of the fill. All headers/laterals will be interim – allowing for the use of smaller piping for the first few years while the balance of the fill area is developed.
 - iii. Respondent will then begin implementation of a permanent header/lateral system as the Landfill footprint progresses.
 - b. Collection of landfill gas from all leachate cleanout pipes and leachate sump side riser pipes;
 - c. Implementation of monthly surface emissions monitoring to evaluate the effectiveness of the landfill gas collection and control system except as prohibited by dangerous conditions;

- d. Installation of flexible membrane liner rain flaps at the temporary phase separation berm of the liner system;
 - e. If Ohio EPA determines that the plan for the installation of an active landfill gas collection system is deficient, Ohio EPA may approve the plan with conditions or modifications or may send Respondent a notice of deficiency indicating where the plan is deficient. Upon receipt of a notice of deficiency, Respondent shall revise the plan to correct all identified deficiencies and shall submit the revised plan to Ohio EPA for approval not later than thirty (30) days after receipt of the notice of deficiency.
3. Not later than sixty (60) days after the effective date of these Orders Respondent shall prepare and submit for Ohio EPA approval a plan for detection and response to hydrogen sulfide and other odors at the Facility. The plan for detection and response to hydrogen sulfide and other odors shall, at a minimum, provide for following:
- a. Periodic inspections of the Facility to detect the presence of hydrogen sulfide or other gases that cause an offensive odor or pose a threat to public health or safety or the environment;
 - b. A description of the measures to be implemented if hydrogen sulfide or other gases that cause an offensive odor or pose a threat to public health or safety or the environment are present at the facility;
 - c. The creation of a log upon which Respondent shall record the following: the date of inspection; a description of the location at which hydrogen sulfide or other gases that cause an offensive odor or pose a threat to public health or safety or the environment was detected; and a description of the measures implemented to eliminate the presence of hydrogen sulfide or other gases that cause an offensive odor or pose a threat to public health or safety or the environment. The hydrogen sulfide inspection log shall be maintained at the Facility and provided to Ohio EPA and the Health Department upon request;
 - d. Respondent shall submit on June 1, 2013, and annually thereafter on June 1st, an evaluation of the effectiveness of the active Gas Collection System (hereinafter "June 1st annual evaluation"). If the active gas collection system installed in accordance with these Orders fails to control odors, or if the active gas collection system's design fails to perform as intended or is otherwise ineffective, or if the gas collection system no longer provides proper coverage over the filled waste areas, Respondent shall submit a Gas Collection Expansion Plan (hereinafter "Gas Collection Expansion Plan") to Ohio EPA for review and concurrence with the June 1st annual evaluation. Any Gas Collection Expansion Plan submitted in accordance with these Orders for the expansion of the Facility's landfill gas collection and control system shall be designed to maximize the control and capture of hydrogen sulfide and other

landfill gases at the Facility. No later than 90 days after receipt of Ohio EPA's written concurrence with the Gas Collection Expansion Plan, Respondent shall complete installation and commence operation of the expanded landfill gas collection system components.

- e. If Ohio EPA determines that the plan for detection and response to hydrogen sulfide and other odors is deficient, upon receipt of a notice of deficiency, Respondent shall revise the plan to correct all identified deficiencies and shall submit the revised plan to Ohio EPA for approval not later than thirty (30) days after receipt of the notice of deficiency.
4. Upon Ohio EPA's approval of the plan for detection and response to hydrogen sulfide and other odors Respondent shall implement the plan and shall take all actions necessary to eliminate the presence of hydrogen sulfide or other gases that pose a nuisance, cause an offensive odor, or pose a threat to public health or safety or the environment at the Facility.
 5. Respondent shall pay to Ohio EPA the amount of twenty-four thousand, two hundred forty-nine dollars (\$24,249.00) in settlement of Ohio EPA's claim for civil penalties, 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 the amount of nineteen thousand, three hundred ninety-nine dollars (\$19,399.00) of the total amount which will be deposited into the environmental protection remediation fund established pursuant to ORC Section 3734.281. Payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for nineteen thousand, three hundred ninety-nine dollars (\$19,399.00). 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 check shall be sent to Ohio EPA, Division of Materials and Waste Management, Supervisor, Systems Management Unit, P.O. Box 1049, Columbus, Ohio 43216-1049.
 - b. In lieu of paying the remaining four thousand eight hundred fifty dollars (\$4,850.00) of the civil penalty identified in Order No. 5-a above, Respondent shall fund a Supplemental Environmental Project (SEP) by making a contribution in the amount of four thousand eight hundred fifty dollars (\$4,850.00) to the Ohio EPA Clean Diesel School Bus Program. Respondent shall make 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 four thousand eight hundred fifty dollars (\$4,850.00). 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 Respondent and the Facility. A copy of the check shall be sent to Ohio EPA,

Division of Materials and Waste Management, Supervisor, Systems Management Unit, P.O. Box 1049, Columbus, Ohio 43216-1049 and to Ohio EPA, Division of Air Pollution Control, Assistant Chief, SIP Development and Enforcement, P.O. Box 1049, Columbus, Ohio 43216-1049.

- c. Should Respondent fail to fund the Diesel Bus SEP in accordance with the provisions in Order No. 5-b above, Respondent shall pay to Ohio EPA the full amount of the civil penalty of twenty-four thousand, two hundred forty-nine dollars (\$24,249.00) in accordance with the payment and submittal procedures in Order No. 5-a.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when the 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: "Tunnell Hill Reclamation 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 the Respondent.

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, or Respondent's 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
Southeast District Office
Division of Materials and Waste Management
Attn: Solid Waste Supervisor
2195 Front Street
Logan, Ohio 43138

And

Perry County Health Department
Attn: Health Commissioner
212 South Main Street
P.O. Box 230
New Lexington, Ohio 43764

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

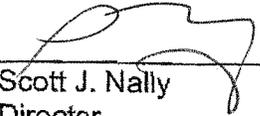
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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:

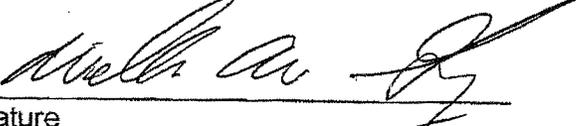
Ohio Environmental Protection Agency



Scott J. Nally
Director

IT IS SO AGREED:

Tunnell Hill Reclamation, LLC



Signature

10/16/12
Date

William W. Gay
Printed or Typed Name

Chief Executive Officer
Title

Ohio EPA Invoice/Receipt

Date Printed: October 19, 2012

Revenue ID: 898193

Please include this Revenue ID with all correspondence.

Place ID: 272650

Information: Tunnell Hill Reclamation Landfill
2500 T R 205 Rte 2
New Lexington, OH 43764-

Due Date:

Amount Due:

Effective Date: October 19, 2012

Revenue Description: DSIWM- Findings and Orders/Consent Orders

Program Name: Solid Waste Programs

Reason: Civil Penalty Remediation Fund

For some Revenues, Interest and/or Penalties may be charged for late payment.

Next Interest Date (if applicable):

Next Penalty Date (if applicable):

Remittance Advice

Detach Here - Please Return This Portion With Your Payment

Place ID: 272650

Information: Tunnell Hill Reclamation Landfill
2500 T R 205 Rte 2
New Lexington, OH 43764-

Due Date:

Amount Due:

Secondary Type/Id: /

Revenue Type: DSIFO

Amount Enclosed: \$ _____

Please write this number on your check. Revenue ID: 898193

Make check or money order payable to "Treasurer, State of Ohio"

**Remit to: Ohio Environmental Protection Agency - OFA
Department L-2711
Columbus, OH 43260-2711**

For Ohio EPA use only

Check ID: _____

Check Date: _____

Check Number: _____

Check Amount: \$ _____

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Ohio EPA Invoice/Receipt

Date Printed: October 19, 2012

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Please include this Revenue ID with all correspondence.

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2500 T R 205 Rte 2
New Lexington, OH 43764-

Due Date:

Amount Due:

Effective Date: October 19, 2012

Revenue Description: DSIWM- Findings and Orders/Consent Orders

Program Name: Solid Waste Programs

Reason: Civil Penalty Clean Diesel School Bus Fund

For some Revenues, Interest and/or Penalties may be charged for late payment.

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Next Penalty Date (if applicable):

Remittance Advice

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Place ID: 272650

Information: Tunnell Hill Reclamation Landfill
2500 T R 205 Rte 2
New Lexington, OH 43764-

Due Date:

Amount Due:

Secondary Type/Id: /

Revenue Type: DSIFO

Amount Enclosed: \$ _____

Please write this number on your check. Revenue ID: 898194
Make check or money order payable to "Treasurer, State of Ohio"

Remit to: Ohio Environmental Protection Agency - OFA
Department L-2711
Columbus, OH 43260-2711

For Ohio EPA use only

Check ID: _____

Check Date: _____

Check Number: _____

Check Amount: \$ _____

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