



State of Ohio Environmental Protection Agency

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February 21, 2007

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

**RE: Ohio EPA's Analysis of and Recommendation on Countywide
Landfill's pending 2007 License Application.**

Dear Bill:

I am writing to provide you with both Ohio EPA's perspective on current compliance issues at the Countywide facility and our recommendation as to the action to be taken on the facility's pending operating license application. I am also writing to share with you my thoughts regarding how to address the ongoing nuisance and other violations which have been of such concern to local communities and neighboring citizens.

First, however, I must apologize for the several-week delay in getting this analysis and recommendation to you. I became director of Ohio EPA on February 1, 2007, and I advised my staff that I wanted to be involved in the Countywide recommendation process. That is why I requested three additional weeks to get fully briefed on this matter, and I very much appreciate the patience shown by you and your staff.

**A. Our Evaluation of the Current Compliance Status at Countywide and
Our Recommendation as to the Pending License Application**

As you know, Ohio Revised Code (ORC) Sections 3734.07(A), 3734.44, and Ohio Administrative Code Rule (OAC) 3745-37-03 provide criteria that the Stark County Health Department, as the licensing authority, must consider before issuing an operating license to an applicant. One criterion is that the facility needs to be in substantial compliance or on a legally enforceable schedule to attain compliance with ORC Chapter 3734 and the rules adopted under it.

Ohio EPA has now had several months to evaluate the remedial measures taken by Countywide thus far to address nuisance odors in response

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

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to my predecessor's September 6, 2006 Final Findings and Orders. Since that date, Ohio EPA believes that there has been some reduction in the frequency and intensity of nuisance odors from the facility. Nevertheless, we conclude that there are still, and will continue to be, occasions when odors emitted by the facility are at levels that Ohio EPA considers unacceptable and in violation of Ohio's air nuisance provisions found in OAC Rule 3745-15-07 and Ohio's solid waste nuisance provisions found in OAC Rules 3745-27-19(B)(3) and 3745-27-19(B)(5).

As we have previously stated, we believe that the underlying cause of these nuisance odors is an ongoing subsurface thermal event. We would characterize that event as an exothermic oxidation of aluminum waste materials buried within portions of the landfill and the related rapid thermal decomposition of solid waste resulting in significant amounts of carbon monoxide. In our view, this process constitutes a continuing fire within the affected portion of the landfill, (albeit not the type of "fire" which typically comes to mind when one thinks of surface "fires", *i.e.*, generating flames, heavy smoke, etc.). Consequently, the facility's failure to immediately extinguish or otherwise control the subsurface fire conditions is a violation of OAC Rule 3745-27-19(E)(3)(a). Until Countywide successfully eliminates the underlying fire, it is our belief and concern that unacceptable nuisance odors will continue to occur.

We also believe that the high temperatures within the landfill are violations of the Clean Air Act's New Source Performance Standards (NSPS) for landfills (as found in 40 CFR 60.750 *et. seq.* and in the requirements of the Title V operating permit for the landfill). Again, this violation relates directly to the subsurface fire at the impacted portion of the landfill, and we emphasize that the elimination of this fire is essential to ultimately eliminating this ongoing violation.

For the above reasons, I conclude that the Countywide facility is not currently in substantial compliance with the provisions of ORC Chapter 3734 and other applicable environmental laws. I therefore recommend that the Stark County Health Department proceed with a proposed denial of the facility's pending application for its annual operating license. I do not make this recommendation lightly, because if such a denial were to be finalized following proper due process proceedings, the entire facility, and not just the portion where the fire is occurring and related nuisance odors are being generated, would be shutdown.

B. A Proposal for Using Findings and Orders to Return the Countywide Facility to Compliance

Although I cannot support or recommend the issuance of an operating license for Countywide at this time, I must also acknowledge my concern that

even a post-hearing final denial of the Countywide operating license, by itself, will not necessarily address or prevent nuisance odors from recurring at the facility. After much reflection, I am convinced that Ohio EPA's primary objective should be the extinguishment of the subsurface fire and the elimination of the resultant nuisance odors that have unfairly and unreasonably prevented citizens from experiencing the quiet and peaceful enjoyment of their homes and communities. Therefore, I propose that Ohio EPA attempt to address this matter with Findings and Orders, which would, among other things, take into account Mr. Thalhamer's evaluation, and focus the facility on the task of aggressively eliminating the fire and the consequent nuisance odors

My staff and I are already contemplating the content of any such Findings and Orders, and, at a minimum, we believe such findings and orders would need to:

(1) Prohibit, any further disposal operations in cell numbers 1-7 until after rigorous demonstrations regarding the safety and stability of the facility have been made. From Ohio EPA's perspective the long term future of these areas (in terms of future waste disposal) should be addressed after completion of a successful remedy and may necessitate a modification of the facility's permit.

(2) Require the submission of certain data to assist Ohio EPA in better characterizing current conditions at the landfill, including:

The physical integrity of all engineered components;

Slope stability and other potential settlement issues

Ambient air quality; and

Odor emissions.

(3) Require Countywide's prompt development of remedial options that meet certain performance standards designed to address the elimination of the subsurface fire and that would also provide for long term maintenance and monitoring of the impacted area.

(4) Require Countywide's prompt implementation of the remedial option selected by Ohio EPA.

(5) Require maintenance and enhancement of the interim odor control system installed pursuant to the September 2006 Findings and Orders.

(6) Require an increase in financial assurance.

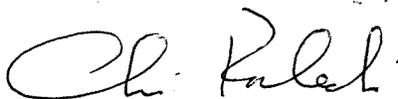
(7) Require the payment of an appropriate civil penalty.

If the company were to agree to a resolution via this approach, then Ohio EPA would consider the company to be under a legally enforceable schedule to attain compliance.

While this letter reflects our considered analysis and recommendation regarding the pending operating license application, I would be happy to further discuss this issue with you or your staff to whatever extent you may require. I am also very interested in any comments you may have on our proposal to use Findings & Orders to extinguish the fire and address the nuisance odors from the facility.

I thank you for your cooperation, and if you have any questions, or would like to discuss this evaluation and recommendation in more detail, please call me at (614) 644-2782.

Sincerely,



Chris Korleski
Director

cc: Ed Gortner, DSIWM-CO
Bill Skowronski, Chief, NEDO