



Environmental  
Protection Agency

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

**CERTIFIED MAIL**

October 24, 2011

Mr. Phil Stegman  
Service Director, Village of St. Bernard  
110 Washington Avenue  
St. Bernard, Ohio 45217

Re: **2<sup>nd</sup> Notice of Violation** of Director's Final Findings Order, September 16, 2009  
Village of St. Bernard Landfill, Hamilton County, Ohio

Dear Mr. Stegman:

On September 16, 2009, the Director of the Ohio Environmental Protection Agency ("Ohio EPA") issued Director's Final Findings and Orders ("Orders") consensually entered into with the Village of St. Bernard ("Village") to abate to minimize the formation and migration of explosive gas at the St. Bernard Landfill ("Facility") located east of Interstate 75 and south of Bank Avenue in St. Bernard, Hamilton County, Ohio.

**Violation of Order 21**

Order 21 of the Orders states "...in accordance with OAC Rules 3745-27-12(D) and (E), as effective 2008, Respondent shall submit a revised EGMP to Ohio EPA, SWDO for approval...".

On March 31, 2011, Ohio EPA, Division of Materials and Waste Management ("DMWM"), Southwest District Office ("SWDO") received a document titled "Village of St. Bernard Landfill, Revised Explosive Gas Management Plan, CEC Project No. 100-194", dated March 31, 2011 for the Facility. Final revisions for the EGMP were received on April 15, 2011. This document was submitted by Civil & Environmental Consultants, Inc. ("CEC") on behalf of the Village. This submission requests to alter the October 4, 1991 approved EGMP. This alteration request was reviewed pursuant to Ohio Administrative Code (OAC) Rule 3745-27-12 (effective October 30, 2008). Following review of the March 31, 2011 document and final revisions received April 15, 2011, Ohio EPA sent the Village a Notice of Deficiency ("NOD") on May 18, 2011 outlining noted deficiencies in the submission. On June 17, 2011, Ohio EPA, DMWM, SWDO received a revised EGMP dated June 17, 2011 for the Facility. However, this revised EGMP is also deficient unable to be approved.

At this time, the EGMP as submitted is not approvable by Ohio EPA. Ohio EPA is aware

of the challenges faced by the Village, Therefore in an attempt to be flexible to these challenges, Ohio EPA is willing to allow the Village to one last attempt to submit an approvable EGMP. Please be aware that if an EGMP is resubmitted and is also not approvable by Ohio EPA because it is also deficient, Ohio EPA reserves its rights within Order 22 of the DFFOs and may approve the revised Plan with certain conditions established by Ohio EPA and the Village will be required to implement the approved revised Plan with those conditions.

This will be the last opportunity for the Village to provide an approvable EGMP.

Because the Village has to date failed to submit an approvable EGMP, and until a revised approvable EGMP is submitted, the Village **is and continues to be in violation of Order 21** of the Orders.

### **Violation of Order 16**

Order 16 of the Orders states: "...Respondent shall submit to Ohio EPA a report detailing the results of the plan. The report shall include documentation of remedial measures performed to abate or minimize explosive gas levels at the Facility Property Boundary, documentation of conversion of the active gas extraction system condensate collection to provide continuous automated removal of liquid from the system, all related plan drawings, and associated narratives..."

Order 14 of the Orders states: "Not later than sixty (60) days after Ohio EPA written approval, Respondent shall implement the approved remediation plan."

Order 13 of the Orders states: "...Respondent shall submit to Ohio EPA for written approval a remediation plan detailing how Respondent will remedy explosive gas migration at the Facility Property Boundary."

The Village submitted a Plan to Ohio EPA on June 10, 2010, and Ohio EPA approved the Plan on September 9, 2010. The approved Plan provided for, at a minimum:

- a. Proposed remedial measures designed to abate or minimize explosive gas levels at the Facility Property Boundary such that levels are maintained below the LEL [or lower explosive limit] (5% methane in air by volume); and b. Conversion of the Facility's current active gas extraction system condensate collection to provide continuous automated removal of liquid from the system so as to prevent excessive condensate from impacting the effectiveness of the current active explosive gas extraction system." The Plan was approved for implementation on September 9, 2010.

As stated by the Village, commencement of the Plan was initiated on November 1, 2010. On February 7, 2011, Ohio EPA received a document titled "Bank Avenue Landfill – Remedial Action Plan, Implementation Update, CEC Project NO. 100-194"

which was an update report on the implementation process of the Plan. On March 8, 2011, Ohio EPA completed review of the submitted report detailing the results of the remediation plan, and sent correspondence to the Village outlining the various deficiencies noted in the report as well as requesting additional information regarding those deficiencies.

On April 12, 2011, Ohio EPA received a supplement to the report titled: "Village of St. Bernard Landfill, Revised Explosive Gas Management Plan, CEC Project No. 100-194". This document was submitted as additional information regarding the completion of the explosive gas extraction trench installation. Ohio EPA reviewed this document and noted that the deficiencies noted in the March 8, 2011, correspondence were still present in this revised document. On May 26, 2011 Ohio EPA sent the Village a **second NOD** for the same deficiencies noted in the previous NOD. On May 26, 2011, Ohio EPA received a third document again outlining the completion of the implementation of the Plan, which still contained the same deficiencies noted in the March 8 and May 26 NODs.

On August 23, 2011, Ohio EPA sent the Village of St. Bernard a **third NOD** since the Village had not responded to either of the two prior NOD's issued. To date, the Village has not replied nor re-submitted a revised Remediation Plan addressing the deficiencies noted in the March 8, May 26, or August 23, 2011 NOD's.

Because the Village has, to date, failed to submit a revised Remediation Plan addressing the deficiencies noted in the March 8, May 26, or August 23, 2011 NOD's, and until a revised Remediation Plan addressing these deficiencies is submitted, the Village **is and continues to be in violation of Order 16** of the Orders. Consequently, the remediation plan has not been implemented as approved by Ohio EPA on September 9, 2010.

Additionally, since the Ohio EPA is unable to confirm that the Remediation Plan has been implemented in accordance with the Director's approval, the Village is also **in violation of the September 9, 2010 Director's approved Remediation Plan.**

### **Violation of Order 18**

Order 18 of the Orders states: "If the report submitted pursuant to Order 17 does not show Respondent has abated or minimized the formation and migration of explosive gas from the Facility such that exceedances of the LEL at the Facility Property Boundary continue to occur, then, not later than sixty (60) days after the report was submitted, Respondent shall submit to Ohio EPA for written approval a revised remediation plan for implementation of additional remedial measures."

Order 17 of the Orders states: "...a second report shall be submitted to Ohio EPA, SWDO, which shall include four (4) consecutive months of weekly results from all

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Service Director, Village of St. Bernard  
October 24, 2011  
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explosive gas monitoring probes and extraction wells that exceed the LEL for methane at the Facility Property Boundary."

The Plan was approved for implementation on September 9, 2010 for installation of an explosive gas extraction trench. As stated by the Village, commencement of the Plan was initiated on November 1, 2010. On April 12, 2011, Ohio EPA received a report titled: "Village of St. Bernard Landfill, Revised Explosive Gas Management Plan, CEC Project No. 100-194". This document was submitted regarding the completion of the explosive gas extraction trench installation and included the four consecutive months of monitoring results. As indicated by the April 12, 2011 report, the Facility continues to experience exceedances of the LEL in explosive gas monitoring probes at the Facility Property Boundary. These exceedances have continued to be documented in the weekly and monthly explosive gas monitoring reports. Thus the Village is required to submit to Ohio EPA a revised remediation plan for implementation of additional remedial measure to abate or minimized the formation and migration of explosive gas from the Facility. The revised remediation plan was to be submitted to Ohio EPA within sixty (60) days from the date of the April 12, 2011 report, which would have made the revised remediation plan to have been submitted to Ohio EPA, DMWM, SWDO on June 12, 2011. To date the Village has not submitted a revised remediation plan to Ohio EPA. Therefore, the Village **continues to be in violation of Order 18** of the Orders because the Village has failed to submit is revised remediation plan for Ohio EPA written approval.

Please be advised that to date the Village has not responded to the first Notice of Violation (NOV) dated September 16, 2011, issued for these same violations of the DFFOs and therefore the Village continues to be in violation for these same violations as of the date of this correspondence. A copy of the September 16, 2011 NOV has been included for your convenience.

**Please provide a written response within fourteen (14) days upon receipt of this correspondence to Ohio EPA, DMWM, SWDO with all required documentation and information to remedy these on-going violations. In addition, please know that protracted failure to comply with the Orders will result in escalated enforcement.**

Should you have any questions or concerns, please do not hesitate to contact me at (937) 285-6072.

Sincerely,



Holly H. Hillyer  
Environmental Specialist  
Division of Materials and Waste Management

EC: Tim Ingram, Hamilton County Public Health



State of Ohio Environmental Protection Agency

**Southwest District Office**

401 E. Fifth St.  
Dayton, Ohio 45402

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www.epa.state.oh.us

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

**CERTIFIED MAIL**

September 16, 2011

Mr. William Burkhardt  
Mayor, Village of St. Bernard  
110 Washington Avenue  
St. Bernard, Ohio 45217

**Re: Notice of Violations** of Director's Final Findings Order, September 16, 2009  
Village of St. Bernard Landfill, Hamilton County, Ohio

Dear Mayor Burkhardt:

On September 16, 2009, the Director of the Ohio Environmental Protection Agency ("Ohio EPA") issued Director's Final Findings and Orders ("Orders") consensually entered into with the Village of St. Bernard ("Village") to abate to minimize the formation and migration of explosive gas at the St. Bernard Landfill ("Facility") located east of Interstate 75 and south of Bank Avenue in St. Bernard, Hamilton County, Ohio.

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Order 21 of the Orders states "...in accordance with OAC Rules 3745-27-12(D) and (E), as effective 2008, Respondent shall submit a revised EGMP to Ohio EPA, SWDO for approval...".

On March 31, 2011, Ohio EPA, Division of Materials and Waste Management ("DMWM"), Southwest District Office ("SWDO") received a document titled "Village of St. Bernard Landfill, Revised Explosive Gas Management Plan, CEC Project No. 100-194", dated March 31, 2011 for the Facility. Final revisions for the EGMP were received on April 15, 2011. This document was submitted by Civil & Environmental Consultants, Inc. ("CEC") on behalf of the Village. This submission requests to alter the October 4, 1991 approved EGMP. This alteration request was reviewed pursuant to Ohio Administrative Code (OAC) Rule 3745-27-12 (effective October 30, 2008). Following review of the March 31, 2011 document and final revisions received April 15, 2011, Ohio EPA sent the Village a Notice of Deficiency ("NOD") on May 18, 2011 outlining noted deficiencies in the submission. On June 17, 2011, Ohio EPA, DMWM, SWDO received a revised EGMP dated June 17, 2011 for the Facility. However, this revised EGMP is also deficient unable to be approved.

William Burkhardt  
September 16, 2011  
Page 2

Therefore, the Village is in **violation** of Order 21 of the Orders because the Village has failed to address all the deficiencies noted in the May 18, 2011 NOD and thus this is the second submitted EGMP that is not approvable pursuant to Order 21.

A copy of the May 18, 2011 NOD is attached for your convenience and review.

### **Violation of Order 16**

Order 16 of the Orders states: "...Respondent shall submit to Ohio EPA a report detailing the results of the plan. The report shall include documentation of remedial measures performed to abate or minimize explosive gas levels at the Facility Property Boundary, documentation of conversion of the active gas extraction system condensate collection to provide continuous automated removal of liquid from the system, all related plan drawings, and associated narratives..."

Order 14 of the Orders states: "Not later than sixty (60) days after Ohio EPA written approval, Respondent shall implement the approved remediation plan."

Order 13 of the Orders states: "...Respondent shall submit to Ohio EPA for written approval a remediation plan detailing how Respondent will remedy explosive gas migration at the Facility Property Boundary."

The Village submitted a Plan to Ohio EPA on June 10, 2010, and Ohio EPA approved the Plan on September 9, 2010. The approved Plan provided for at a minimum: a. Proposed remedial measures designed to abate or minimize explosive gas levels at the Facility Property Boundary such that levels are maintained below the LEL [or lower explosive limit] (5% methane in air by volume); and b. Conversion of the Facility's current active gas extraction system condensate collection to provide continuous automated removal of liquid from the system so as to prevent excessive condensate from impacting the effectiveness of the current active explosive gas extraction system." The Plan was approved for implementation on September 9, 2010. As stated by the Village, commencement of the Plan was initiated on November 1, 2010. On February 7, 2011, Ohio EPA received a document titled "Bank Avenue Landfill – Remedial Action Plan, Implementation Update, CEC Project NO. 100-194" which was an update report on the implementation process of the Plan. On March 8, 2011, Ohio EPA completed review of the submitted report detailing the results of the remediation plan, and sent correspondence to the Village outlining the various deficiencies noted in the report as well as requesting additional information regarding those deficiencies.

William Burkhardt  
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On August 23, 2011, Ohio EPA sent the Village of St. Bernard a **third NOD** since the Village had not responded to either of the two prior NODs issued. To date, the Village has not replied nor re-submitted a revised Remediation Plan addressing the deficiencies noted in the March 8, May 26, or August 23, 2011 NODs.

Therefore, the Village is in **violation** of Order 16 of the Orders because the Village has failed to respond to three NODs and thus the remediation plan has not been implemented as approved by Ohio EPA on September 9, 2010.

Copies of the March 8, May 26, and August 23, 2011 NODs are attached for your convenience and review.

### **Violation of Order 18**

Order 18 of the Orders states: "If the report submitted pursuant to Order 17 does not show Respondent has abated or minimized the formation and migration of explosive gas from the Facility such that exceedances of the LEL at the Facility Property Boundary continue to occur, then, not later than sixty (60) days after the report was submitted, Respondent shall submit to Ohio EPA for written approval a revised remediation plan for implementation of additional remedial measures."

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Therefore, the Village is in **violation** of Order 18 of the Orders because the Village has failed to submit is revised remediation plan for Ohio EPA written approval.

Please contact me at your earliest convenience to discuss when you intend to fully comply with the violations outlined above including a date for submittal of all information and documentation to Ohio EPA. In addition, please know that protracted failure to comply with the Orders will result in escalated enforcement.

Should you have any questions or concerns, please do not hesitate to contact me at (937) 285-6072.

Sincerely,



Holly H. Hillyer  
Environmental Specialist  
Division of Materials and Waste Management

Ec: Tim Ingram, Hamilton County Public Health

HH/ca



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Holly H. Hillyer  
Environmental Specialist  
Division of Materials and Waste Management

EC: Tim Ingram, Hamilton County Public Health

HH/ca

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- Print your name and address on the reverse so that we can return the card to you.
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1. Article Addressed to:

MR PHIL STEGMAN, SERVICE DIRECTOR  
 VILLAGE OF ST BERNARD  
 110 WASHINGTON AVENUE  
 ST BERNARD, OH 45217

 2. Article Number  
 (Transfer from service label)

7006 2760 0003 0781 1370

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 x Heidi Culbertson  Agent  
 Addressee

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Heidi Culbertson

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Holly Hillyer  
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- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "*Restricted Delivery*".
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