



Environmental
Protection Agency

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

Butler Co.
Schlichter LF
Gen. Cov.

July 7, 2011

Henry L. Bowling
Old River Valley Place of Nature Foundation
125 Hermay Drive
Hamilton, Ohio 45013

Don Hershner
3653 Oxford Millville Road
Oxford, Ohio 45056-9038

**RE: Schlichter C&DD Facility, Butler County
Notice of Violation-Failure to Comply with Consent Orders & Inspection
Correspondence**

Dear Mr. Bowling and Mr. Hershner:

On June 20, 2011, Michael Harris and I, representing Ohio EPA's Southwest District Office (SWDO), conducted a comprehensive inspection of the Schlichter C&DD Landfill (Schlichter Landfill) located in Butler County. Accompanying us during the inspection were: Connie Livchak and Harry Smail representing the Ohio EPA's Closed Landfill and Orphaned Site Evaluation and Review (CLOSER) Team.

In 2010, Schlichter Landfill was evaluated and selected for a limited scope of work and activities to be completed and funded under the CLOSER program. Selection for the CLOSER program includes a comprehensive evaluation and scoring of the site using a hazard ranking system. Ohio EPA issued notice-to-proceed letters to the selected contractor RB Jergens dated August 24, 2010 and September 20, 2010, to commence site repair activities at the Schlichter Landfill. To date, the following activities have been performed: vegetation removal, waste consolidation, stabilization, erosion control, soil placement, seeding and ground water monitoring well repair.

Summary of Work Performed by RB Jergens as authorized by Ohio EPA

1. Ground water monitoring well MW-5 was properly abandoned.
2. Rusty outer well casings on wells MW-1, MW-2, MW-3, MW-4, and MW-6 were painted and individual well identification numbers were clearly labeled on the outer casings of all existing ground water monitoring wells.

3. The surface seal on monitoring well MW-4 was replaced and the area between MW-4 and MW-3 was re-graded to promote proper drainage around the wells.
4. On-site stockpiled soils from the northern perimeter of the pond were made available to Ohio EPA in accordance with Order No.10 by the Foundation and used as cover material along the debris disposal areas.
5. The municipal solid waste and C&DD disposal areas were graded, covered with approximately six (6) inches of on-site stockpiled soil, and seeded.

The purpose of the June 20, 2011 inspection was to determine compliance with applicable closure regulations, and the requirements set forth in the Agreed Order for Judgment (Order) between the State of Ohio "Ohio EPA" and Old River Valley Place of Nature Foundation "Foundation" the owner of the Schlichter Landfill filed in Butler County Court of Common Pleas dated March 9, 2007.

Site Observations/On-going compliance issues:

The following conditions continue to be in violation of Ohio's C&DD regulations and the Order dated March 9, 2007.

1. There were several areas of erosion on the eastern side of the C&DD slope and along the fly ash slope as inclement weather has continued to wash out existing soil and seed.
2. There was exposed debris along the western edge of the solid waste disposal area and several areas of erosion on the west slope of the solid waste disposal area.
3. The Director's Final Findings & Orders for the Old River Valley Place of Nature Foundation effective December 31, 2002 have not been satisfied and the ground water assessment monitoring has not been initiated.
4. Closure activities were not observed. As stated in previous correspondences, the Foundation has not completed final closure; therefore, several areas of erosion were observed along the top and along the slope in the southern part of the C&DD disposal area. The fly ash area continues to have erosion issues exposing the waste beneath it.
5. Ponding was observed along the top of the southern portion of the C&DD disposal area.

Please be aware that the work activities conducted by Ohio EPA do not relieve the responsibility of the Foundation as the owner/operator of the Schlichter Landfill. It is the Foundation's responsibility to continue maintenance, repair and abatement of all violations.

Summary of Noncompliance with Judgment Order of March 9, 2007

In accordance with the Agreed Order for Judgment (Order) between the State of Ohio "Ohio EPA" and Old River Valley Place of Nature Foundation "Foundation" filed in Butler County Court of Common Pleas on March 9, 2007, the Foundation is in violation of said Order as the following items have not been addressed within the specified timeline of the Order.

1. *Section III. Satisfaction of Lawsuit and Effect of Order, No.5 states in part: "Defendant Foundation admits liability with respect to Counts One through Four of Plaintiff's Complaint. Closure of Defendant Foundation's Landfill shall be performed in accordance with Ohio Adm.Code 3745-27-11".*

As of June 20, 2011, the Foundation has not performed closure of the facility in accordance with Ohio Administrative Code Rule 3745-27-11 as required by Order No. 5. The Foundation is in violation of Order No. 5 for failure to perform closure of the landfill.

2. *Section III. Satisfaction of Lawsuit and Effect of Order, No.7 states in part: "Within thirty (30) days after entry of the Order, Defendant Foundation agrees to forfeit to Plaintiff State of Ohio all non real estate assets including, but not limited to, cash, annuities, insurance policies, stock, stock options, stock funds, money market funds, and bank accounts of all types owned by Defendant Foundation".*

As of June 20, 2011, the Foundation has not forfeited to Plaintiff State of Ohio all non real estate assets including, but not limited to, cash, annuities, insurance policies, stock, stock options, stock funds, money market funds, and bank accounts of all types owned by the Foundation in violation of Order No. 7.

3. *Section III. Satisfaction of Lawsuit and Effect of Order, No.9 states in part: "Not later than April 30 of each year following entry of this Order, Defendant Foundation agrees to submit to Plaintiff State of Ohio income tax statements for the previous year, as well as a written inability-to-pay argument that specifically addresses financial reasons why injunctive relief cannot be performed and/or compliance costs cannot be paid. Plaintiff agrees to review the above documents submitted by Defendant Foundation to determine Defendant Foundation's inability to pay. The ability-to-pay analysis will take into*

consideration the estimated cost for closure and post-closure care at Defendant Foundation's Landfill.

As of June 20, 2011, the Foundation has failed to provide the additional income tax information that was noted on the income tax statements by the CPA to Plaintiff State of Ohio for years 2007 through 2010, as well as their written inability-to-pay argument that specifically addresses financial reasons why injunctive relief cannot be performed and/or compliance costs cannot be paid in violation of Order No. 9.

4. *Section III. Satisfaction of Lawsuit and Effect of Order, No.11 states in part: "Defendant Foundation is authorized to accept donations, in the form of monetary donations or donations in kind, not to exceed ten thousand dollars (\$10,000) annually. Donations shall only be used for security, maintenance, upkeep and/or closure of Defendant Foundation's Landfill in accordance with Ohio Adm.Code 3745-27-11... Defendant Foundation shall submit to Plaintiff annually, no later than April 30, a report of all receipts and expenditures from the previous year, to include a purpose of each expenditure".*

As of June 20, 2011, the Foundation has failed to provide a report to Plaintiff State of Ohio of all receipts and expenditures for years 2007 through 2010, to include a purpose of each expenditure for the Schlichter Landfill in violation of Order No. 11.

Work and maintenance activities performed by Ohio EPA and its contractor, as authorized by Section 3734.281 of the Ohio Revised Code, at Schlichter C&DD Landfill were conducted for the sole purpose of remediating conditions that posed a substantial threat to public health or safety or the environment. Attaining compliance with the requirements outlined in this letter shall not relieve you of your obligation to comply with applicable closure requirements, orders, judgments, and other legal obligations including, but not limited to, Chapters 3704, 3714, 3734, or 6111. of the Ohio Revised Code or the Federal Clean Water Act, Clean Air Act, Comprehensive Environmental Response, Compensation, and Liability Act, or Resource Conservation and Recovery Act for remediating conditions resulting from any release of contaminants to the environment.

Ohio EPA recommends mowing vegetation at the site to promote reseeding and prevent tree establishment on the cover. Tall weeds and grass impede visibility of the cover during inspections and make it difficult to determine the presence of erosion of cover material.

Schlichter Landfill, Butler County
Notice of Violation- 1st Semiannual Inspection 2011
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Abatement of the aforementioned violations is expected to begin immediately upon receipt of this letter. If you have any questions or need any additional information, please call me at (937) 285-6046.

Sincerely,



Maria Lammers, R.S.
Environmental Specialist II
Division of Materials and Waste Management

EC: Carl Mussenden, Ohio EPA, DMWM-CMEU
Connie Livchak, Ohio EPA, DMWM, Central Office
John Cayton, AGO

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