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May 27, 2010

Penn-Ohio Coal Co.
Dba Kimble Sanitary Landfill
3596 State Route 39, NW
Dover, OH 44622

CERTIFIED MAIL

Director's Final Findings & Orders

Dear Sir or Madam:

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

Sincerely,

Kimberly Reese

Kimberly Reese
Systems Management Unit
Division of Solid & Infectious Waste Management

cc: Kelly Jeter, CO, DSIWM
Jeff Hurdley, Legal, OEPA
Steve Rine, SEDO, DSIWM

OHIO E.P.A.

MAY 27 2010

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter Of:

Penn-Ohio Coal Co. dba Kimble Sanitary Landfill 3596 State Route 39, NW Dover, Ohio 44622	: : : :	Director's Final Findings and Orders

Respondent

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: [signature] Date: 5/27/2010

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Penn-Ohio Coal Co. dba Kimble Sanitary Landfill ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3734.13 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and its assigns and successors in interest liable under Ohio law. No change in ownership of the Respondent or of the Facility, as hereinafter defined, owned by Respondent 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. The Respondent is both the owner and operator of Kimble Sanitary Landfill, a sanitary landfill disposal facility located at 3596 State Route 39, NW, Dover, Ohio 44622 (the "Facility").

2. The Facility is a "sanitary landfill facility" as defined pursuant to Ohio Administrative Code ("OAC") Rule 3745-27-01(S)(4) and is authorized to accept "solid waste" as that term is defined under ORC Section 3734.01(E) and OAC Rule 3745-27-01(S)(24).

3. 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 also the license holder for the Facility.

4. On May 11, 1999, Respondent was granted an approval with conditions by Ohio EPA to utilize Amoco 2006 and Synthetic Industries 300ST as Alternate Daily Cover ("ADC") in lieu of daily soil cover.

5. On April 28, 2000, Respondent submitted an alteration to PTI No. 06-4554, requesting approval to recirculate leachate at the Facility. Ohio EPA conditionally approved the leachate recirculation plan on July 13, 2000.

6. On January 10, 2005, Respondent entered into a consensual agreement with Ohio EPA to resolve groundwater and operational violations at the Facility.

7. On January 27, 2005, the Tuscarawas County Health Department ("TCHD") conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
    b. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.

    These violations were documented in a Notice of Violation letter ("NOV") from TCHD to Respondent dated February 1, 2005.

8. On February 11, 2005, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
    b. OAC Rule 3745-27-19(G) for failure to apply sufficient intermediate cover.

    These violations were documented in an NOV from the TCHD to Respondent dated February 18, 2005.

9. On February 17, 2005, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
    b. OAC Rule 3745-27-19(E)(2)(a) for failure to maintain access roads.
    c. OAC Rule 3745-27-19(E)(9) for failure to collect, contain and dispose of scattered litter.
    d. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.
    e. OAC Rule 3745-27-19(G) for failure to apply sufficient intermediate cover.
    f. OAC Rule 3745-27-19(J)(3) for failure to correct ponding.
    g. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

    These violations were documented in an NOV from the TCHD to Respondent dated February 23, 2005.

10. On March 11, 2005, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
    b. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate

    These violations were documented in an NOV from the TCHD to Respondent dated March 28, 2005.

11. On March 29, 2005, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
    b. OAC Rule 3745-27-19(E)(2)(a) for failure to maintain access roads.
    c. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.
    d. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

    These violations were documented in an NOV from the TCHD to Respondent dated March 30, 2005.

12. On April 5, 2005, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
    b. OAC Rule 3745-27-19(E)(7)(c) for failure to confine the unloading zone to the smallest area practical.
    c. OAC Rule 3745-27-19(E)(7)(f)(i) for failure to ensure bulky materials could be compacted or otherwise managed as to ensure the proper placement of daily cover.
    d. OAC Rule 3745-27-19(E)(7)(f)(ii) for failure to employ adequate dust control.
    e. OAC Rule 3745-27-19(E)(9) for failure to collect, contain and dispose of scattered litter.
    f. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.
    g. OAC Rule 3745-27-19(G) for failure to apply sufficient intermediate cover.
    h. OAC Rule 3745-27-19(J)(1) for failure to divert surface water from where solid waste is being or has been deposited.
    i. OAC Rule 3745-27-19(J)(3) for failure to correct erosion.
    j. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

    These violations were documented in an NOV from the TCHD to Respondent dated April 12, 2005.

13. On April 8, 2005, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
    b. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.
    c. OAC Rule 3745-27-19(J)(3) for failure to correct erosion.
    d. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

    These violations were documented in an NOV from the TCHD to Respondent dated April 12, 2005.

14. On April 5, 2005, the Ohio EPA conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(B)(2) for failure to conduct all operations in strict compliance with approved PTI.

b. OAC Rule 3745-27-19(B)(3) for failure to strictly control dust.
c. OAC Rule 3745-27-19(E)(7)(c) for failure to confine the unloading zone to the smallest area practical.
d. OAC Rule 3745-27-19(E)(7)(e) for failure to ensure all waste is deposited at the working face and compacted in no more than a two-foot lift.
e. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.
f. OAC Rule 3745-27-19(J)(3) for failure to correct ponding and erosion.
g. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

These violations were documented in an NOV from Ohio EPA to Respondent dated April 20, 2005.

15. On April 27 and May 4, 2005, the TCHD conducted an inspection of the Facility and observed the following violations:

a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
b. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

These violations were documented in an NOV from TCHD to Respondent dated May 17, 2005.

16. On May 4, 2005, the Ohio EPA conducted an inspection of the Facility and observed the following violation:

a. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate

This violation was documented in an NOV from Ohio EPA to Respondent dated May 5, 2005.

17. On July 14, 2005, the TCHD conducted an inspection of the Facility and observed the following violation:

a. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

This violation was documented in an NOV from TCHD to Respondent dated July 20, 2005.

18. On September 1 and September 14, 2005, the TCHD conducted separate inspections of the Facility and observed the following violations on September 1:

    a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
    b. OAC Rule 3745-27-19(E)(2)(a) for failure to maintain access roads.
    c. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

    These violations were documented in an NOV from the TCHD to Respondent dated September 26, 2005.

19. On September 26, 2005, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
    b. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.

    These violations were documented in an NOV from TCHD to Respondent dated October 6, 2005.

20. On October 5 and October 6, 2005, the TCHD conducted separate inspections of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
    b. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate (October 5 inspection only).

    These violations were documented in an NOV from TCHD to Respondent dated October 11, 2005.

21. On November 29, 2005, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
    b. OAC Rule 3745-27-19(E)(2)(a) for failure to maintain access roads.
    c. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

d. OAC Rule 3745-27-19(E)(9)[1] for failure to collect, contain and dispose of scattered litter.

These violations were documented in an NOV from the TCHD to Respondent dated December 2, 2005.

22. On June 13, 2006, the TCHD conducted an inspection of the Facility and observed the following violations:

a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
b. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.
c. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

These violations were documented in an NOV from the TCHD to Respondent dated June 21, 2006.

23. On June 28, 2006, the TCHD conducted an inspection of the Facility and observed the following violations:

a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
b. OAC Rule 3745-27-19(J)(1) for failure to divert surface water from where solid waste is being or has been deposited.
c. OAC Rule 3745-27-19(J)(3) for failure to correct ponding.
d. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

These violations were documented in an NOV from the TCHD to Respondent dated July 3, 2006.

24. On July 11, 2006, the TCHD conducted an inspection of the Facility and observed the following violations:

a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
b. OAC Rule 3745-27-19(E)(9) for failure to collect, contain and dispose of scattered litter.
c. OAC Rule 3745-27-19(G) for failure to apply sufficient intermediate cover.

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[1] Mis-cited as a violation of OAC Rule 3745-27-19(E)(8)(i)

d. OAC Rule 3745-27-19(J)(1) for failure to divert surface water from where solid waste is being or has been deposited.
e. OAC Rule 3745-27-19(J)(3) for failure to correct ponding and erosion.
f. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

These violations were documented in an NOV from the TCHD to Respondent dated July 17, 2006.

25. On July 25, 2006, the TCHD conducted an inspection of the Facility and observed the following violations:

a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
b. OAC Rule 3745-27-19(J)(1) for failure to divert surface water from where solid waste is being or has been deposited.
c. OAC Rule 3745-27-19(J)(3) for failure to correct ponding and erosion.
d. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

These violations were documented in an NOV from the TCHD to Respondent dated July 27, 2006.

26. On August 9, 2006, the TCHD conducted an inspection of the Facility and observed the following violations:

a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
b. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.

These violations were documented in an NOV from the TCHD to Respondent dated August 22, 2006.

27. On September 11, 2006, the TCHD conducted an inspection of the Facility and observed the following violations:

a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
b. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.
c. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

These violations were documented in an NOV from the TCHD to Respondent dated September 14, 2006.

28. On September 20, 2006, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
    b. OAC Rule 3745-27-19(E)(9) for failure to collect, contain and dispose of scattered litter.
    c. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.
    d. OAC Rule 3745-27-19(K)(3) for failure to inspect leachate management system after initial lift of waste.

    These violations were documented in an NOV from the TCHD to Respondent dated September 25, 2006.

29. On September 22, 2006, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
    b. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.

    These violations were documented in an NOV from the TCHD to Respondent dated September 25, 2006.

30. On September 26, 2006, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
    b. OAC Rule 3745-27-19(E)(9) for failure to collect, contain and dispose of scattered litter.
    c. OAC Rule 3745-27-19(G)[2] for failure to apply sufficient intermediate cover.
    d. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

    These violations were documented in an NOV from the TCHD to Respondent dated September 28, 2006.

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[2] Mis-cited as a violation of OAC Rule 3745-27-19(E)(9).

31. On October 3, 2006, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
    b. OAC Rule 3745-27-19(E)(3)(b) for failure to ensure presence of operable, adequate equipment at all times.
    c. OAC Rule 3745-27-19(E)(9) for failure to collect, contain and dispose of scattered litter.

    d. OAC Rule 3745-27-19(G)[3] for failure to apply sufficient intermediate cover.
    e. OAC Rule 3745-27-19(J)(3) for failure to correct ponding.
    f. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

    These violations were documented in an NOV from the TCHD to Respondent dated October 13, 2006.

32. On October 10, 2006, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
    b. OAC Rule 3745-27-19(E)(9) for failure to collect, contain and dispose of scattered litter.
    c. OAC Rule 3745-27-19(G)[4] for failure to apply sufficient intermediate cover.

    These violations were documented in an NOV from the TCHD to Respondent dated October 16, 2006.

33. On October 17, 2006, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(E)(1)(c) for methane leaking through the final cover.
    b. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.
    c. OAC Rule 3745-27-19(J)(1) for failure to divert surface water from where solid waste is being or has been deposited.

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[3] Mis-cited as a violation of OAC Rule 3745-27-19(E)(9).

[4] Mis-cited as a violation of OAC Rule 3745-27-19(E)(9).

d. OAC Rule 3745-27-19(E)(9) for failure to collect, contain and dispose of scattered litter.

These violations were documented in an NOV from the TCHD to Respondent dated October 31, 2006.

34. On November 7 and 8, 2006, the TCHD conducted inspections of the Facility and observed the following violation:

a. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

This violation was documented in an NOV from the TCHD to Respondent dated November 13, 2006.

35. On December 14, 2006, the TCHD conducted an inspection of the Facility and observed the following violation:

a. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

This violation was documented in an NOV from the TCHD to Respondent dated January 3, 2007.

36. On December 21, 2006, the TCHD conducted inspection of the Facility and observed the following violations:

a. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.
OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

These violations were documented in an NOV from the TCHD to Respondent dated January 3, 2007.

37. On January 18, 2007, the TCHD conducted inspection of the Facility and observed the following violations:

a. OAC Rule 3745-27-10(C)(7)(c) for failure to provide a ground water sampling background data base.
b. OAC Rule 3745-27-10(D)(a)(ii)(*a*)[*sic*] for failure to provide and analyze the minimum number of ground water samples required.
c. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.

d. OAC Rule 3745-27-19(J)(3)[5] for failure to correct ponding.
e. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

These violations were documented in an NOV from the TCHD to Respondent dated January 22, 2007.

38. On January 23 and January 24, 2007, the TCHD conducted separate inspections of the Facility and observed the following violations:

a. OAC Rule 3745-27-10(C)(7)(c) for failure to provide a ground water sampling background data base.
b. OAC Rule 3745-27-10(D)(a)(ii)(*a*)[sic] for failure to provide and analyze the minimum number of ground water samples required.
c. OAC Rule 3745-27-19(J)(3)[6] for failure to correct ponding.
d. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

These violations were documented in an NOV from the TCHD to Respondent dated February 2, 2007.

39. On February 1, 2007, the TCHD conducted inspection of the Facility and observed the following violations:

a. OAC Rule 3745-27-10(C)(7)(c) for failure to provide a ground water sampling background data base.
b. OAC Rule 3745-27-10(D)(a)(ii)(*a*)[*sic*] for failure to provide and analyze the minimum number of ground water samples required.
c. OAC Rule 3745-27-19(J)(3)[7] for failure to correct ponding.
d. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

These violations were documented in an NOV from the TCHD to Respondent dated February 7, 2007.

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[5] Mis-cited as a violation of OAC Rule 3745-27-19(K)(3).

[6] Mis-cited as a violation of OAC Rule 3745-27-19(K)(3).

[7] Mis-cited as a violation of OAC Rule 3745-27-19(K)(3).

40. On February 27, 2007, the TCHD conducted inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-10(C)(7)(c) for failure to provide a ground water sampling background data base.
    b. OAC Rule 3745-27-10(D)(a)(ii)(*a*)[*sic*] for failure to provide and analyze the minimum number of ground water samples required.
    c. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

    These violations were documented in an NOV from the TCHD to Respondent dated February 28, 2007.

41. On March 8, 2007, the TCHD conducted inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-10(C)(7)(c) for failure to provide a ground water sampling background data base.
    b. OAC Rule 3745-27-10(D)(a)(ii)(*a*)[*sic*] for failure to provide and analyze the minimum number of ground water samples required.
    c. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.
    d. OAC Rule 3745-27-19(K)(3) for failure to inspect leachate management system after initial lift of waste.

    These violations were documented in an NOV from the TCHD to Respondent dated March 15, 2007.

42. On March 20, 2007, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-10(C)(7)(c) for failure to provide a ground water sampling background data base.
    b. OAC Rule 3745-27-10(D)(a)(ii)(*a*)[*sic*] for failure to provide and analyze the minimum number of ground water samples required.
    c. OAC Rule 3745-27-19(E)(9) for failure to collect, contain and dispose of scattered litter.
    d. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.
    e. OAC Rule 3745-27-19(J)(3) for failure to correct ponding.
    f. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.
    g. OAC Rule 3745-27-19(K)(3) for failure to inspect leachate management system after initial lift of waste.

These violations were documented in an NOV from the TCHD to Respondent dated March 21, 2007.

43. On March 21, 2007, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-10(C)(7)(c) for failure to provide a ground water sampling background data base.
    b. OAC Rule 3745-27-10(D)(5)(a)(*ii*)(*a*) for failure to provide and analyze the minimum number of ground water samples required.
    c. OAC Rule 3745-27-19(E)(9) for failure to collect, contain and dispose of scattered litter.
    d. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.
    e. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.
    f. OAC Rule 3745-27-19(K)(3) for failure to inspect leachate management system after initial lift of waste.

    These violations were documented in an NOV from the TCHD to Respondent dated March 21, 2007.

44. On April 10, 2007, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-10(C)(7)(c) for failure to provide a ground water sampling background data base.
    b. OAC Rule 3745-27-10(D)(a)(ii)(*a*)[*sic*] for failure to provide and analyze the minimum number of ground water samples required.
    c. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

    These violations were documented in an NOV from the TCHD to Respondent dated April 16, 2007.

45. On April 23, 2007, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-10(C)(7)(c) for failure to provide a ground water sampling background data base.
    b. OAC Rule 3745-27-10(D)(a)(ii)(*a*)[*sic*] for failure to provide and analyze the minimum number of ground water samples required.
    c. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.

d. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

These violations were documented in an NOV from the TCHD to Respondent dated April 27, 2007.

46. On May 3, 2007, the TCHD conducted an inspection of the Facility and observed the following violations:

a. OAC Rule 3745-27-10(C)(7)(c) for failure to provide a ground water sampling background data base.
b. OAC Rule 3745-27-10(D)(5)(ii)(*a*)[*sic*] for failure to provide and analyze the minimum number of ground water samples required.
c. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.
d. OAC Rule 3745-27-19(J)(3) for failure to correct ponding or erosion.
e. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

These violations were documented in an NOV from the TCHD to Respondent dated May 4, 2007.

47. On June 13, 2007, the TCHD conducted an inspection of the Facility and observed the following violations:

a. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.
b. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

These violations were documented in an NOV from the TCHD to Respondent dated June 21, 2007.

48. On June 14, 2007, the TCHD conducted an inspection of the Facility and observed the following violation:

a. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.

This violation was documented in an NOV from the TCHD to Respondent dated June 21, 2007.

49. On August 21, 2007, the TCHD conducted an inspection of the Facility and observed the following violation:

    OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

    This violation was documented in an NOV from the TCHD to Respondent dated August 23, 2007.

50. On November 27, 2007, the TCHD conducted an inspection of the Facility and observed the following violation:

    a. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

    This violation was documented in an NOV from TCHD to Respondent dated December 4, 2007.

51. On January 8, 2008, the TCHD conducted an inspection of the Facility and observed the following violation:

    a. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.

    This violation was documented in an NOV from TCHD to Respondent dated January 18, 2008.

52. On January 29, 2008, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(E)(9) for failure to collect, contain and dispose of scattered litter.
    b. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.
    c. OAC Rule 3745-27-19(J)(3) for failure to correct ponding or erosion.
    d. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

    These violations were documented in an NOV from TCHD to Respondent dated January 31, 2008.

53. On March 13, 2008, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(B)(3) for failure to strictly control odor.
    b. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

    These violations were documented in an NOV from the TCHD to Respondent dated March 15, 2008.

54. On April 3, 2008, the Ohio EPA conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(K)(1)(a) for failure to properly manage leachate.
    b. OAC Rule 3745-27-19(K)(1)(c) for failure minimize, control, or eliminate the conditions which contribute to leachate production.

    These violations were documented in an NOV from Ohio EPA to Respondent dated April 11, 2008.

55. On April 3, 2008, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(B)(3) for failure to strictly control odor.
    b. OAC Rule 3745-27-19(E)(9) for failure to collect, contain and dispose of scattered litter.
    c. OAC Rule 3745-27-19(E)(11) for failure to inspect the Facility at least daily for ponding, erosion, and leachate outbreaks.
    d. OAC Rule 3745-27-19(J)(1) for failure to divert surface water from where solid waste is being or has been deposited.
    e. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.
    f. OAC Rule 3745-27-19(K)(5) for failure to treat and dispose of collected leachate off-site of the Facility.

    These violations were documented in an NOV from TCHD to Respondent dated April 11, 2008.

56. On April 4, 2008, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(B)(3) for failure to strictly control odor.
    b. OAC Rule 3745-27-19(E)(9) for failure to collect, contain and dispose of scattered litter.

    These violations were documented in an NOV from TCHD to Respondent dated April 11, 2008.

57. On April 5, 2008, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(B)(3) for failure to strictly control odor.
    b. OAC Rule 3745-27-19(E)(9) for failure to collect, contain and dispose of scattered litter.

    These violations were documented in an NOV from TCHD to Respondent dated April 11, 2008.

58. On April 8, 2008, the Ohio EPA conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(K)(1)(a) for failure to properly manage leachate.
    b. OAC Rule 3745-27-19(K)(1)(c) for failure minimize, control, or eliminate the conditions which contribute to leachate production.

    These violations were documented in an NOV from Ohio EPA to Respondent dated April 18, 2008.

59. On April 8, 2008, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(B)(3) for failure to strictly control odor.
    b. OAC Rule 3745-27-19(E)(9) for failure to collect, contain and dispose of scattered litter.
    c. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

    These violations were documented in an NOV from TCHD to Respondent dated April 11, 2008.

60. On May 20, 2008, the TCHD conducted an inspection of the Facility and observed the following violation:

    a. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

    This violation was documented in an NOV from the TCHD to Respondent dated May 29, 2008.

61. On July 2, 2008, the TCHD conducted an inspection of the Facility and observed the following violation:

    a. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

    This violation was documented in an NOV from the TCHD to Respondent dated July 15, 2008.

62. On July 15, 2008, the Ohio EPA conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(K)(1)(a) for failure to properly manage leachate.
    b. OAC Rule 3745-27-19(K)(1)(c) for failure minimize, control, or eliminate the conditions which contribute to leachate production.

    These violations were documented in an NOV from Ohio EPA to Respondent dated August 7, 2008.

63. On July 15, 2008, the TCHD conducted an inspection of the Facility and observed the following violation:

    a. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

    This violation was documented in an NOV from the TCHD to Respondent dated July 18, 2008.

64. On July 31, 2008, the Ohio EPA conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(K)(1)(a) for failure to properly manage leachate.

b. OAC Rule 3745-27-19(K)(1)(c) for failure minimize, control, or eliminate the conditions which contribute to leachate production.

These violations were documented in an NOV from Ohio EPA to Respondent dated August 7, 2008.

65. On August 5, 2008, the Ohio EPA conducted an inspection of the Facility and observed the following violations:

a. OAC Rule 3745-27-19(K)(1)(a) for failure to properly manage leachate.
b. OAC Rule 3745-27-19(K)(1)(c) for failure minimize, control, or eliminate the conditions which contribute to leachate production.

These violations were documented in an NOV from Ohio EPA to Respondent dated August 7, 2008.

66. On August 5 and 6, 2008, the TCHD conducted an inspection of the Facility and observed the following violation on August 5:

a. OAC Rule 3745-27-19(G) for failure to apply sufficient intermediate cover.
b. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

These violations were documented in an NOV from the TCHD to Respondent dated August 7, 2008.

67. On September 9, 2008, the TCHD conducted an inspection of the Facility and observed the following violation:

a. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.

This violation was documented in an NOV from the TCHD to Respondent dated September 19, 2008.

68. On October 28, 2008, the TCHD conducted an inspection of the Facility and observed the following violation:

a. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.

This violation was documented in an NOV from the TCHD to Respondent dated November 3, 2008.

69. On November 4, 2008, the TCHD conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(E)(c) [*sic*] for failure to maintain the integrity of engineered components of the Facility.
    b. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.

    These violations were documented in an NOV from the TCHD to Respondent dated November 12, 2008.

70. On December 11, 2008, the Ohio EPA conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.
    b. OAC Rule 3745-27-19(K)(1)(a) for failure to properly manage leachate.
    c. OAC Rule 3745-27-19(K)(1)(c) for failure minimize, control, or eliminate the conditions which contribute to leachate production.

    These violations were documented in an NOV from Ohio EPA to Respondent dated December 31, 2008.

71. On December 11, 2008, the TCHD conducted an inspection of the Facility and observed the following violation:

    a. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

    This violation was documented in an NOV from the TCHD to Respondent dated December 17, 2008.

72. On December 23, 2008, the Ohio EPA conducted an inspection of the Facility and observed the following violations:

    a. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.
    b. OAC Rule 3745-27-19(K)(1)(a) for failure to properly manage leachate.
    c. OAC Rule 3745-27-19(K)(1)(c) for failure minimize, control, or eliminate the conditions which contribute to leachate production.

    These violations were documented in an NOV from Ohio EPA to Respondent dated December 31, 2008.

73. On December 23, 2008, the TCHD conducted an inspection of the Facility and observed the following violations:

a. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.
b. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

These violations were documented in an NOV from the TCHD to Respondent dated January 7, 2009.

74. On December 30, 2008, the Ohio EPA conducted an inspection of the Facility and observed the following violations:

a. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.
b. OAC Rule 3745-27-19(K)(1)(a) for failure to properly manage leachate.
c. OAC Rule 3745-27-19(K)(1)(c) for failure minimize, control, or eliminate the conditions which contribute to leachate production.

The violations observed were documented in an NOV from Ohio EPA to Respondent dated January 16, 2009.

75. On January 22 and 27, 2009, the Ohio EPA conducted an inspection of the Facility and observed the following violations on January 22:

a. OAC Rule 3745-27-19(K)(1)(a) for failure to properly manage leachate.
b. OAC Rule 3745-27-19(K)(1)(c) for failure minimize, control, or eliminate the conditions which contribute to leachate production.

The violations observed were documented in an NOV from Ohio EPA to Respondent dated February 2, 2009.

76. On February 11, 2009, the Ohio EPA and the TCHD conducted a joint inspection and observed the following violations:

a. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.
b. OAC Rule 3745-27-19(F) for failure to apply sufficient daily cover.

The violations observed were documented in an NOV from the TCHD to Respondent dated February 18, 2009.

77. On March 3, 2009, the Ohio EPA and the TCHD conducted a joint inspection and observed the following violation:

a. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

The violation observed was documented in an NOV from the TCHD to Respondent dated March 5, 2009.

78. On March 24, 2009, the Ohio EPA and the TCHD conducted a joint inspection and observed the following violation:

a. OAC Rule 3745-27-19(K)(1) for failure to repair leachate outbreaks and collect, manage, and dispose of the leachate.

The violation observed was documented in an NOV from the TCHD to Respondent dated March 27, 2009.

79. Beginning in April 2009, Respondent replaced its landfill supervisor and made other operational changes in order to improve operations at the Facility.

V. ORDERS

Respondent shall achieve compliance with ORC Chapter 3734. and the rules promulgated thereunder according to the following compliance schedule:

1. On the effective date of these Orders, Respondent shall alter its leachate recirculation practices as follows:

a. Leachate recirculation may only occur directly to the waste mass within the Facility's active working face. Leachate recirculation shall only occur by truck equipped withsprayequipment that can apply the leachate evenly. At all times that leachate is being recirculated, an employee of Kimble Sanitary Landfill shall operate and oversee the spray equipment. No other methods of recirculation, including leachate being pumped to a temporary tank and then distributed by hose, the use of percolation sumps, or the use of horizontal distribution trenches, may occur at the Facility. Leachate shall not be surface applied to cover soils or allowed to runoff from the active working face and shall not be applied during periods of high winds in order to prevent direct contact with personnel or equipment.

b. If at any time leachate outbreaks occur, Kimble Sanitary Landfill shall cease leachate recirculation until compliance with OAC Rule 3745-27-19(K) has been achieved.

c. Recirculated leachate shall be contained within the active working face being utilized for leachate recirculation through the use of soil berms, inward gradients, or other techniques. Recirculated leachate shall not be applied within 60 feet of any outside slope.

d. Leachate recirculation is not to occur during adverse weather conditions.

e. Leachate recirculation is to only occur under the direct supervision of site personnel. Leachate recirculation equipment must be supervised at all times leachate is being applied to waste.

f. Leachate recirculation shall not exceed 10 gallons per ton of trash accepted for disposal during the previous working day.

g. Excess leachate not recirculated shall be disposed off-site at a permitted wastewater treatment facility.

h. Kimble Sanitary Landfill shall maintain a leachate recirculation and disposal log. This log will be used to record the volume of leachate recirculated or hauled off-site for disposal. The log will be kept updated on a daily basis and will be available for on-site inspection by Ohio EPA or the health district.

Not later than seven (7) days after the effective date of these Orders, Respondent shall amend the recirculation plan as described in paragraphs a through h of Order number 1, above, and shall insert the amended plan into its operating record. The amended leachate recirculation plan shall supersede any previously approved recirculation plan or authorization.

2. On the effective date of these Orders Respondent shall alter its use of alternative daily cover as follows:

a. No more than 45,000 square feet of alternate daily cover may be utilized at anytime.

Not later than seven (7) days after the effective date of these Orders, Respondent shall amend its alternate daily cover plan as described in paragraph a of Order number 2, above, and shall insert the amended plan into its operating record. The amended alternative daily cover plan shall supersede any previously approved alternate daily cover plan or authorization.

3. Respondent may, at any time, request a change in the location of leachate recirculation, an increase in the amount of leachate permitted to be circulated, or a change in the amount or form of alternate daily cover that may be utilized at the Facility. The director may consider such a request.

4. Not later than seven (7) days after the effective date of these Orders, Respondent shall provide training to all employees that are involved in the daily operations of the Facility. The training shall provide procedures to be used at the Facility to maintain compliance with all provisions of OAC Rule 3745-27-19 and shall include a specific discussion and demonstration of proper procedures for the application of daily cover and proper procedures for leachate management. Any subsequent personnel hired shall also receive this training within seven (7) days of their hiring. The Respondent shall continue with annual retraining of employees involved in the daily operations of the Facility for a minimum of five years after the effective date of these Orders.

5. Within thirty (30) days after compliance with Order No. 4, Respondent shall provide documentation to Ohio EPA certifying that all persons designated in Order No. 4 have received the training required by Order No. 4. The documentation shall be signed by a responsible official of the Respondent.

6. Not later than fourteen (14) days after the effective date of these Orders, Respondent shall begin taking photographs of each application of cover required by OAC Rule 3745-27-19(F). Photographs shall be taken both before the application of cover and immediately after the application of cover. Respondent shall continue to take photographs to document the application of adequate cover for a minimum of two (2) years after the effective date of these Orders.

7. All photographs required by Order No. 6 shall be maintained at the Facility and be made available to Ohio EPA and the Tuscarawas County Health Department upon request. The photographs shall be marked with the date and time that the photograph was taken along with the name of the photographer, the direction the picture was taken, and a description of the general area in which the photograph was taken.

8. Respondent shall pay to Ohio EPA the amount of fifty-four thousand, six hundred twenty-nine dollars ($54,629.00) 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 forty-three thousand seven hundred three dollars and twenty cents ($43,703.20) of the total amount, which will be deposited

into the environmental 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 forty-three thousand seven hundred three dollars and twenty cents ($43,703.20). 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 Solid and Infectious Waste Management, Supervisor, Systems Management Unit, P.O. Box 1049, Columbus, Ohio 43216-1049.

b. In lieu of paying the remaining ten thousand, nine hundred twenty-five dollars and eighty cents ($10,925.80) of the civil penalty identified in Order No. 8-a above, Respondent shall fund a Supplemental Environmental Project (SEP) by making a contribution in the amount of ten thousand, nine hundred twenty-five dollars and eighty cents ($10,925.80) 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" ten thousand, nine hundred twenty-five dollars and eighty cents ($10,925.80). 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 Solid and Infectious 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 Order No. 8-b above, Respondent shall pay Ohio EPA ten thousand, nine hundred twenty-five dollars and eighty cents ($10,925.80) of the civil penalty in accordance with the procedures in Order No. 8-a.

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 Solid and Infectious 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: "I certify that the information contained in or accompanying this certification is true, accurate, and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is a principal executive officer of at least the level of vice president or his duly authorized representative, if such a representative is responsible for the overall operation of the Facility.

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 the 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-DSIWM
2195 Front Street
Logan, Ohio 43138
Attn: Unit Supervisor, DSIWM

and to:

Tuscarawas County Health Department
897 East Iron Avenue

P.O. Box 443
Dover, Ohio 44622-0443
Attn: Health Commissioner

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapters 3734., 6111. or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in 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

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski , Director

IT IS SO AGREED:

Penn-Ohio Coal Co.
Dba Kimble Sanitary Landfill

Keith B Kimble
Name

Signature

5-14-10
Date