

4. Respondent River Valley Compost is the "operator" or the "owner" of the Facility as those terms are defined in OAC Rule 3745-500-02(O)(6) and (O)(7).
5. Each Respondent is a person as that term is defined in ORC Section 3734.01(G) and in OAC Rule 3745-500-02(P)(3).

Daily Logs

6. OAC Rule 3745-27-45(A)(3), *eff.* July 1, 2004 states in pertinent part that the "Owner or Operator of a composting facility shall have a copy of all applicable authorizing documents available for inspection by Ohio EPA [***] during normal operating hours."
7. During inspections conducted on May 24, 2011, June 8, 2011, June 22, 2011, August 11, 2011, November 1, 2011, and January 27, 2012, Ohio EPA observed violations of OAC Rule 3745-27-45(A)(3), *eff.* July 1, 2004. Ohio EPA documented these violations in correspondence to Respondents dated May 26, 2011, June 16, 2011, July 1, 2011, August 18, 2011, November 8, 2011, and February 2, 2012 respectively.
8. OAC Rule 3745-27-45(K), *eff.* July 1, 2004 provides in pertinent part: "The owner or operator shall inspect the facility, maintain a daily log, and if applicable, establish a tracking system [***]."
9. During inspections conducted on May 24, 2011, June 8, 2011, and June 22, 2011, Ohio EPA observed violations of OAC Rule 3745-27-45(K), *eff.* July 1, 2004. Ohio EPA documented these inspections in NOVs to Respondents dated May 26, 2011, June 16, 2011, and July 1, 2011 respectively, noting that the only daily logs available during those inspections were for dates in June and July 2010, and January and February 2011.
 - During the May 24, 2011 inspection Respondents failed to produce daily logs for the dates between August 2010 and December 2010, and between March 2011 and May 24, 2011;
 - During the June 8, 2011 inspection Respondents failed to produce daily logs for the aforementioned dates and for the dates between May 24 2011 and June 8, 2011; and,
 - During the June 22, 2011 inspection Respondents failed to produce daily logs for the aforementioned dates and for the dates between June 8 and June 22, 2011.
10. OAC Rule 3745-560-215(A) provides: "Record retention and availability. The owner or operator shall do the following:

- (1) Maintain records specified in this rule for a period of at least three years.
 - (2) Have records available for inspection by the approved board of health or Ohio EPA during normal operating hours.
 - (3) Upon request, submit records to Ohio EPA or the approved board of health."
11. OAC Rule 3745-27-45(K)(3), *eff.* July 1, 2004 requires that the owner or operator of a composting facility shall record specific information listed in rule regarding the facility operations in the daily log. OAC Rule 3745-560-04 requires that the owner or operator of a composting facility shall record specific information listed in rule regarding the facility operations in the daily log.
 12. During inspections conducted on November 1, 2011, Ohio EPA observed violations of OAC Rule 3745-27-45(K)(3), *eff.* July 1, 2004. Ohio EPA documented in correspondence to Respondents dated November 8, 2011 that although daily logs were observed, the required information is not being recorded in violation of OAC Rule 3745-27-45(K)(3).

Odor Control and Compost Facility Operations

13. OAC Rule 3745-27-45(L), *eff.* July 1, 2004 provides in pertinent part: "The owner or operator who accepts type D feedstocks for composting shall operate the facility in such a manner that: [***] (3) The type D feedstock shall be incorporated into the composting process in a timely manner to prevent nuisances including, but not limited to, odor, vectors, and litter."
14. In accordance with Respondents' registration, OAC Rule 3745-560-02(C)(2) and OAC Rule 3745-27-40, *eff.* July 1, 2004, the Facility has accepted source-separated vegetables, fruits, and animal wastes.
15. During inspections conducted on April 21, 2011, May 24, 2011, and June 8, 2011, Ohio EPA identified violations of OAC Rule 3745-27-45(L)(3), *eff.* July 1, 2004. Ohio EPA documented these odor control violations in correspondence to Respondents dated April 29, 2011, May 26, 2011, and June 16, 2011.
16. OAC Rule 3745-560-210(H) provides in relevant part: "Operational control. The owner or operator shall operate the composting facility in such a manner that does the following: (1) Controls noise, dust, and odors so as not to cause a nuisance or a health hazard."
17. OAC Rule 3745-560-210(P) provides in part: "Food scraps management. An owner or operator who accepts food scraps shall do the following:

- (1) Incorporate the food scraps into the composting process or combine with bulking agents in a manner to prevent nuisances including but not limited to odor, vectors, and litter no later than the end of operating hours, as specified in the license application, on the date of receipt.
- (2) Maintain a stockpile of biofilter material to provide at a minimum a six inch cover to piles containing food scraps and apply a biofilter cover consisting of at a minimum six inches on the piles if odors, dust, or vectors are present or upon written request by Ohio EPA or the approved board of health."
18. OAC Rule 3745-27-45(A)(4)(a), *eff.* July 1, 2004 states "the owner or operator shall not accept any prohibited material at the facility."
19. During inspections conducted on April 21, 2011 and May 24, 2011, Ohio EPA observed violations of OAC Rule 3745-27-45(A)(4)(a), *eff.* July 1, 2004. Ohio EPA documented these inspections in NOVs to Respondents dated April 29, 2011 and May 26, 2011 respectively.
20. OAC Rule 3745-27-45(A)(5), *eff.* July 1, 2004 states "the owner or operator shall properly manage any containers used to transport authorized materials to a composting facility that do not meet the definition of biodegradable containers as defined in rule 3745-27-01 of the Administrative Code."
21. During inspections conducted on April 21, 2011, May 24, 2011, July 21, 2011, August 11, 2011, September 7, 2011 and January 27, 2012, Ohio EPA observed violations of OAC Rule 3745-27-45(A)(5), *eff.* July 1, 2004. Ohio EPA documented the violations from these inspections in NOVs to Respondents dated April 29, 2011, May 26, 2011, July 28, 2011, August 18, 2011, September 13, 2011, and February 2, 2012 respectively.
22. OAC Rule 3745-27-45(C)(1)(d), *eff.* July 1, 2004 states in pertinent part that the owner or operator of a composting facility shall conduct daily operations at the composting facility in such a manner that "all reasonable measures are employed to collect, properly contain, and dispose of scattered litter, including the use of portable wind screens and frequent inspection of the facility."
23. During inspections conducted on April 21, 2011, May 24, 2011, August 11, 2011, September 7, 2011 and January 27, 2012, Ohio EPA observed violations of OAC Rule 3745-27-45(C)(1)(d), *eff.* July 1, 2004. Ohio EPA documented these inspections in NOVs to Respondents dated April 29, 2011, May 26, 2011, August 18, 2011, September 13, 2011, and February 2, 2012 respectively.

Leachate Management

24. OAC Rule 3745-27-45(G), *eff.* July 1, 2004 states in pertinent part: "The owner or operator of a composting facility shall control surface water runoff and run-on, prevent ponding and erosion, and minimize the impact to surface and ground waters. For the purpose of this rule runoff includes precipitation that has fallen onto the composting facility and has not come in contact with any compost products, or solid wastes including feedstocks, bulking agents, or additives. At a minimum, the owner or operator shall do the following: [***] (2) Divert surface water from the materials placement areas. The land surface of the waste handling, composting, compost curing, and cured compost areas of the facility shall be greater than or equal to one per cent in slope and less than or equal to six per cent in slope so as to direct surface water to collection points or otherwise control the surface water drainage to minimize erosion."
25. During inspections conducted on April 21, 2011, May 24, 2011, July 21, 2011, August 11, 2011, September 7, 2011, November 1, 2011, and January 27, 2012, Ohio EPA observed leachate accumulation on the property in violation of OAC Rule 3745-27-45(G)(2) *eff.* July 1, 2004. Ohio EPA documented the violations observed during these inspections in NOVs to Respondents dated April 29, 2011, May 26, 2011, July 28, 2011, August 18, 2011, September 13, 2011, November 8, 2011, and February 2, 2012 respectively.
26. OAC Rule 3745-27-45(H)(3)(b), *eff.* July 1, 2004 states the owner or operator of a class I, II, III or IV composting facility shall "take action to minimize the production of leachate and control, or eliminate, ponding of leachate and the conditions that contribute to the discharge of leachate from the facility."
27. During inspections conducted on April 21, 2011, May 24, 2011, July 21, 2011, August 11, 2011, September 7, 2011, November 1, 2011, and January 27, 2012, Ohio EPA observed violations of OAC Rule 3745-27-45(H)(3)(b), *eff.* July 1, 2004. Ohio EPA documented the violations observed during these inspections in NOVs to Respondents dated April 29, 2011, May 26, 2011, July 28, 2011, August 18, 2011, September 13, 2011, November 8, 2011, and February 2, 2012 respectively.
28. OAC Rule 3745-560-210(N) provides: "Leachate management. The owner or operator shall do the following:
 - (1) Take action to minimize the production of leachate.
 - (2) Eliminate ponding of leachate and the conditions that contribute to the discharge of leachate from the composting facility.

- (3) Collect and contain leachate within the boundary of the composting facility and prevent leachate from discharging to waters of the state. Leachate may be collected and contained for reintroduction into the composting process.
- (4) If applicable, maintain any structures or mechanisms used for the collection or containment of leachate to prevent blockage, clogging, leakage, or breakage that may impede proper collection or containment of leachate."
29. OAC Rule 3745-560-210(P) provides in part: "Food scraps management. An owner or operator who accepts food scraps shall do the following: (3) Control free liquid from the incoming food scraps using a berm consisting of compost, bulking agents, or other absorbent material placed around the area where the incoming material is handled and mixed."
30. In consideration of Respondent's standing as a small business with presumed limited financial resources, its good faith effort to comply in this matter, the benefits of prompt compliance to the public, efficiency in Ohio EPA resources, and other factors as justice may require, and upon consideration of the entire record, this ESA is an appropriate mechanism to resolve the noncompliance detailed in these Findings.

III. ORDERS

The Director hereby issues the following Orders:

1. Within sixty (60) days from the date of the receipt by Respondents of the Director's letter inviting Respondents to sign this ESA, Respondents shall remove all mixed solid waste and unauthorized feedstocks from the Facility and dispose of the mixed solid waste and unauthorized feedstocks at a solid waste disposal facility that is a licensed sanitary landfill. Respondents shall provide OEPA, SEDO with copies of disposal receipts for solid wastes removed from the facility and disposed at a licensed sanitary landfill.
2. Within sixty (60) days from the date of the receipt by Respondents of the Director's letter inviting Respondents to sign this ESA, Respondents shall install a soil berm on the low side of the facility capable of preventing leachate from leaving the site.
3. Within sixty (60) days from the date of the receipt by Respondents of the Director's letter inviting Respondents to sign this ESA, Respondents shall either contain leachate and properly manage it on-site in accordance with applicable operational requirements for Class II composting facilities, or collect accumulated leachate from the Facility and dispose of the accumulated leachate at an approved wastewater treatment facility.

4. On or before August 31, 2012, Respondents shall pay to the Ohio EPA the amount of two thousand dollars (\$2000.00) in settlement of the Ohio EPA's claim for civil penalties, which may be assessed pursuant to Chapter 3734.13 of the Ohio Revised Code. Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" for the full amount, and shall be deposited in the Environmental Remediation Fund established pursuant to Ohio Revised Code 3734.281. Payment shall be mailed to the following address: Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondents and the location of the noncompliance detailed in the Findings of this ESA.

A photocopy of the check shall be sent to Ohio EPA at the address listed below:

Ohio Environmental Protection Agency
Division of Materials and Waste Management
P.O. Box 1049, Columbus, Ohio 43216-1049
Attn: Supervisor, Processing/Records Management Unit

IV. TERMINATION

Respondents' obligations under this ESA shall terminate upon Ohio EPA's confirmation that Respondents have complied with Orders 1 through 4, and both Ohio EPA's entry of this ESA in the Ohio EPA Director's journal and Ohio EPA's receipt of the civil penalty payment required by this ESA.

V. NOTICE

All documents required to be submitted by Respondents pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Southeast District Office,
Division of Materials and Waste Management
Attn: Unit Supervisor, DMWM
2195 Front Street
Logan, Ohio 43138

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

VI. RESERVATION OF RIGHTS AND WAIVER

Ohio EPA and Respondents each reserve all rights, privileges and causes of action, except as specifically waived herein.

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 this ESA, Respondents consent to the issuance of this ESA and agree to comply with this ESA. Compliance with this ESA shall be a full accord and satisfaction of Respondents' liability for the violations specifically cited herein.

Respondents hereby waive the right to appeal the issuance, terms and conditions, and service of this ESA, and Respondents hereby waive any and all rights Respondents may have to seek administrative or judicial review of this ESA either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondents agree that if this ESA is appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondents retain the right to intervene and participate in such appeal. In such an event, Respondents shall comply with this ESA notwithstanding such appeal and intervention unless this ESA is stayed, vacated, or modified.

VII. EFFECTIVE DATE

The effective date of this ESA is the date this ESA is entered into the Ohio EPA Director's journal.

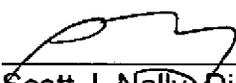
RECEIVED
2012 AUG 28 AM 9:27
DEPA / OFA
DIVISION FISH & WILDLIFE SECTION

VIII. SIGNATORY AUTHORITY

Each undersigned representative or party to this ESA certifies that he or she is fully authorized to enter into this ESA and to legally bind such party to this ESA.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



Scott J. Nally, Director

9/6/12
Date

IT IS SO AGREED:

River Valley Compost



Signature
Stanley Kaldor

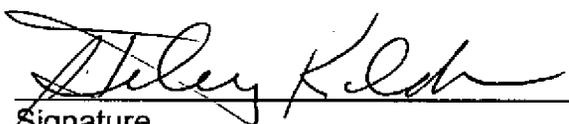
Name Typed
Owner

Title

8/24/12
Date

IT IS SO AGREED:

Stanley Kaldor



Signature
Stanley Kaldor

Name Typed

8/24/12
Date