



State of Ohio Environmental Protection Agency

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April 11, 2008

Summit C&D Disposal, Inc.
3525 Broadway Ave., NE
Louisville, Ohio 44641

Re: Unilateral Director's Final Findings & Orders

Dear Sir or Madam:

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

You are hereby notified that this action of the Director of Environmental Protection (Director) is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. It must be filed with the Appeals Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00 which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed at the following address:

Environmental Review Appeals Commission
309 South Fourth Street, Room 222
Columbus, Ohio 43215

Sincerely,

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

Enclosure: Unilateral Director's Final Findings and Orders

cc: Pam Allen, CO, DSIWM
Lynn Sowers, DSIWM, NEDO
Robin Nichols, DSIWM, Legal

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



BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

APR 11 2008

ENTERED DIRECTOR'S JOURNAL

In the Matter Of:

Summit C&D Disposal, Inc.
3525 Broadway Ave., NE
Louisville, Ohio 44641

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Director's Final Findings
and Orders

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.

Respondent

By: *[Signature]* Date: 4-11-08

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Summit C&D Disposal, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") § 3714.12.

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 3714. and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. The Summit C&D Disposal, Inc., construction and demolition debris disposal facility ("Facility") is located at 1947 Wadsworth Road, in Norton, Summit County, Ohio.
2. The Facility is a "construction and demolition debris facility" as defined under Ohio Administrative Code ("OAC") Rule 3745-400-01(G).



3. Respondent is the "owner" and/or "operator" of the Facility as those terms are defined in OAC Rule 3745-400-01(E) and (I), respectively, and is a "person" as defined under ORC Section 3714.01(H) and OAC Rule 3745-400-01(D).
4. OAC Rule 3745-400-10(A)(1) requires that the owner or operator have a groundwater monitoring system that "include[s] a sufficient number of background and downgradient monitoring wells, installed at appropriate locations and depths, to yield groundwater samples from the first continuous significant zone of saturation underlying the facility."
5. OAC Rule 3745-400-11(B)(1) states "The owner or operator shall conduct all operations at the facility in strict compliance with the license, any orders, and other authorizing documents issued in accordance with Chapter 3714. of the Revised Code."
6. Effective September 30, 1996, OAC Rule 3745-400-11(P)(1) required that the owner or operator of a construction and demolition debris facility "operate the leachate collection system to maintain no more than one foot of head anywhere on the liner system, with the exception of the sump area(s).]" Subsequently, OAC Rule 3745-400-11(P)(1) was expanded to its currently effective form (effective August 31, 2002), which states, "The owner or operator shall operate the leachate collection system to maintain no more than one foot of head anywhere on the *in situ* and/or added geologic material or constructed liner, with the exception of the sump area(s)."
7. OAC Rule 3745-400-11(Q)(1) states, "The owner or operator shall divert surface and groundwater from the active and inactive licensed disposal areas of the facility by nonmechanical means. The owner or operator shall not divert surface water under, over, or through disposal areas of a facility."
8. OAC Rule 3745-400-11(Q)(3) states, "If ponding or erosion occurs in active or inactive licensed disposal areas, the owner or operator shall correct the conditions causing the ponding or erosion."
9. The Facility received its initial license from the Summit County Health Department on September 23, 1997. Because of the potential for leachate from the Facility to impact wetlands on the west side of the Facility and Copley Run on the east, the Summit County Health Department attached conditions to the license that required Respondent to build a perimeter berm around the Facility to control leachate. Pursuant to condition 5b of the 1997 license, Respondent was required to install the perimeter berm and all inner temporary berms for the active licensed disposal area within 45 days of the issuance of the license and install perimeter and temporary berms for all future construction prior to placing waste



in subsequent phases. Condition 5c further required that Respondent provide written notice of compliance with condition 5b within 15 days of the deadline it imposed. Notice regarding completion of the perimeter berm was required to be supplied on or about November 22 1997. To date, Respondent has not provided adequate information to substantiate that the perimeter berm has been completed on the south portion of the Facility.

10. On September 9, 1999, Summit County Health Department conducted an inspection of the Facility and observed the following violations:
 - a. OAC Rule 3745-400-11(F)(4)(b)(effective 9-30-96) for failure to confine the working face to the smallest practical area;
 - b. OAC Rule 3745-400-11(Q)(1)(effective 9-30-96) for failure to properly divert surface water from the Facility.
11. In correspondence dated September 13, 1999, Summit County General Health District requested that Respondent properly abandon an artesian well and a buried well that were found during initial site investigations and provide the well abandonment forms to the Summit County Health Department. To date, the well abandonment forms have not been received.
12. On September 25, 2000, the Summit County Health Department and Ohio EPA conducted an inspection of the Facility. During the inspection Ohio EPA noticed that sedimentation pond #2 on the east side of the Facility, which discharges into a stream, was darker than usual. The Summit County Health Department and Ohio EPA requested that a sample be collected and analyzed for all parameters listed in OAC Rule 3745-400-10. On December 18, 2000, Ohio EPA received the results of the sample collected from sedimentation pond #2 that showed elevated levels of several constituents indicating that pollutants were being discharged to waters of the State from the sedimentation pond. Based on these results, Summit County Health Department notified Respondent in correspondence dated December 29, 2000, of the following violations:
 - a. OAC Rule 3745-400-11(E)(1)(effective 9-30-96) for failure to maintain the integrity of engineered components. Specifically, Respondent failed to maintain an earthen berm on the eastern edge of the Facility;
 - b. OAC Rule 3745-400-11(O)(1), (2), and (3)(effective 9-30-96) for failure to contain, manage and dispose of leachate properly, and failure to repair leachate outbreaks;



- c. OAC Rule 3745-400-11(Q)(1) and (2)(effective 9-30-96) for failure to divert surface water from active and inactive licensed disposal areas of the Facility and failure to provide adequate drainage systems.

Additionally, in correspondence dated February 27, 2001, Ohio EPA notified Respondent that it was in violation of OAC Rule 3745-400-11(O) and ORC Section 6111.04 for discharging pollutants into waters of the state.

13. Following the September 25, 2000, inspection, the City of Norton¹ transferred its authority to inspect the Facility and issue the annual operating license from Summit County Health Department to the Barberton Health District ("BHD").
14. The BHD conducted an inspection of the Facility on February 2, 2001, and observed the following violations:
 - a. OAC Rule 3745-400-11(F)(3)(effective 9-30-96) for acceptance of solid waste;
 - b. OAC Rule 3745-400-11(F)(4)(a)(effective 9-30-96) for failure to have a designated unloading zone;
 - c. OAC Rule 3745-400-11(F)(4)(b)(effective 9-30-96) for failure to confine the unloading and handling of debris to the smallest practical area;
 - d. OAC Rule 3745-400-11(F)(4)(c)(effective 9-30-96) for allowing cliffing of debris to occur;
 - e. OAC Rule 3745-400-11(G)(effective 9-30-96) for failure to have adequate equipment available to operate the Facility at all times.

Respondent was notified of these violations by correspondence dated February 7, 2001. Additionally the BHD noted that violations of OAC Rules 3745-400-11(E)(1); 3745-400-11(O)(1), (2), and (3); 3745-400-11(Q)(1) remained in effect and it was the BHD's understanding that the facility's engineering staff were preparing a recommendation of how to correct those violations.

15. On February 22, 2001, the BHD issued the 2001 operating license to the Facility. That license contained a number of conditions, including the following:

¹ The Facility is located within the jurisdiction of the City of Norton. The City of Norton originally was under contract with the Summit County Health Department to administer the C&DD program in its behalf, but later transferred the contract to the Barberton Health District in September of 2000.



- a. Respondent shall prevent leachate migration from the Facility by reconstructing the eastern clay berm adjacent to sedimentation pond #002 to prevent leachate from leaving the Facility;
 - b. Respondent shall drain and backfill sedimentation pond #002 after the reconstruction of the eastern berm is complete;
 - c. Respondent shall design and implement a leachate management system, including leachate collection components, in order to reduce the hydrostatic head buildup of leachate within the landfill to eliminate pressure on the engineered clay berm.
16. On March 12, 2001, Ohio EPA received a copy of a report titled "*Response to Ohio EPA letter dated February 27, 2001, regarding sediment pond 001.*" In the report Respondent's consultant indicated the following:
- a. The sedimentation pond in question (#002) on the eastern side of the Facility is actually referred to as sediment retention basin #001 on the construction plan drawings for the Facility. Sediment retention basin #002 is located on the western side of the Facility;
 - b. Leachate was believed to have discharged into sediment retention basin #001 through a breach in the earthen berm along the eastern side of the Facility;
 - c. The earthen berm has since been reconstructed to prevent leachate runoff from migrating to the pond in accordance with item 6a of the terms and conditions of the 2001 operating license;
 - d. The leachate remaining in sediment retention basin # 001 will be pumped into the working face of the landfill and sediment retention basin #001 will be backfilled to address item 6c of the terms and conditions of the 2001 operating license.

BHD conducted inspections of the Facility on April 4, 2001, and April 5, 2001, to inspect the side walls of sediment retention basin #001 as the pond was pumped down to see if there was any leachate actively entering the pond. A large leachate outbreak was observed on April 5, 2001, flowing into sediment retention basin #001. Flow measurements of this leachate outbreak indicated that leachate was flowing at a rate of approximately 1 gallon per minute. Subsequently in correspondence dated April 6, 2001, BHD notified Respondent it remained in violation of ORC Section 6111.04 and OAC Rule 3745-400-11(O)(effective 9-30-



- 96) for discharging leachate into waters of the state. BHD further informed Respondent that it must immediately cease pumping leachate from sediment retention basin #001 onto the landfill surface. All leachate within the pond must instead be collected and sent to a licensed waste water treatment facility.
17. BHD received a report entitled "Proposed Leachate Management System for Summit C&D Landfill Inc., 1947 Wadsworth Road, Norton Ohio 44203" and dated June 26, 2001. This report indicates that the Hydrologic Evaluation of Landfill Performance (HELP) model was used to estimate the leachate generation of the Facility. Based on that model, it was concluded that "the Summit C&D Landfill is expected to generate approximately 8,680 cubic feet (64,900 gallons) of leachate per year."
18. On January 24, 2002 the BHD issued the 2002 annual operational license to Respondent. The license contained, in part, the following conditions;
- a. A leachate management system shall be constructed and installed in accordance with Report No. 119988-0601-P088 dated June 26, 2001;
 - b. Leachate collection wells shall be monitored for leachate height as frequently as necessary to ensure hydrostatic head within the landfill is maintained to as low a level as is practical;
 - c. Operational components of the leachate management system for Phases 2, 3, and 4 shall be completed, installed, and fully operational within 90 days following the completion of the eastern containment trench/barrier, and berm;
 - d. The containment trench/barrier, and berm shall be constructed and installed in accordance with Report # 119988-0501-P079 dated May 2, 2001;
 - e. Construction of the containment trench barrier and berm components for Phases 2 and 3 shall be completed within 90 days of the issuance of the 2002 annual license.
19. BHD conducted an inspection of the Facility on February 19, 2002, and observed a violation of OAC Rule 3745-400-11(F)(3)(effective 9-30-96) for acceptance of solid waste. This violation was noted on the construction and demolition debris ("C&DD") facility inspection checklist and a copy of the checklist was provided to Respondent.



20. In correspondence dated May 8, 2002, BHD granted Respondent an extension until August 31, 2002, to install the containment trench/barrier, and berm due to unforeseen construction difficulties.
21. BHD conducted an inspection of the Facility on August 26, 2002, and observed a violation of OAC Rule 3745-400-11(F)(3)(effective 9-30-96) for acceptance of solid waste. This violation was noted on the C&DD facility inspection checklist and a copy of the checklist was provided to Respondent.
22. BHD conducted an inspection of the Facility on February 21, 2003 and observed the following violations:
 - a. OAC Rule 3745-400-11(F)(4)(b)[sic]² for failure to confine the unloading zone and compact it to the smallest practical volume;
 - b. OAC Rule 3745-400-11(F)(3)(c) for failure to compact waste in the working face to the smallest practical volume;
 - c. OAC Rule 3745-400-11(F)(3)(d) for failure to prevent cliffing of waste.

These violations were noted on the C&DD facility inspection checklist and a copy of the checklist was provided to Respondent.

23. On March 31, 2003, Ohio EPA received a complaint from a neighbor of the Facility alleging that waste was not being covered, odors were prevalent, and waste was slumping at the bottom of the Facility. The complainant also expressed concerns regarding well water. Ohio EPA forwarded this complaint to BHD for investigation.
24. On April 3, 2003, Ohio EPA received an additional complaint from the Facility's neighbor alleging that the east slope of the landfill had exposed C&DD, odors were prevalent, and that C&DD and possibly leachate had entered into the creek that borders the Facility and the complainant's property. The complainant also expressed concern that the landfill is contaminating her well. Ohio EPA forwarded this complaint to BHD for investigation.
25. BHD conducted an inspection of the Facility on May 1, 2003, and observed the following violations:

² This rule was amended effective August 31, 2002, and this rule requirement regarding compaction of waste was relocated to Paragraph (F)(3)(c) of OAC Rule 3745-400-11. The NOV, however incorrectly referenced the paragraph where the requirement was located in the former version of the rule: OAC Rule 3745-400-11(F)(4)(b) (as effective September 30, 1996)



- a. OAC Rule 3745-400-11(B)(16)[sic³] for creating a nuisance and a health hazard. Specifically BHD noted that the entire eastern face of Phase 2 of the Facility was exposed and causing an extreme amount of dust;
- b. OAC Rule 3745-400-11(H) for failure to operate the Facility in a manner as to prevent fires. Specifically, BHD noted that the exposed waste at the eastern face of the Facility is creating a fire hazard.

These violations were noted on the C&DD facility inspection checklist and a copy of the checklist was provided to Respondent.

26. On June 5, 2003, BHD was notified by Respondent's consultant that the newly constructed eastside containment barrier system along Copley Run had failed. BHD inspected the Facility on June 6, 2003, and observed that several hundred feet of the containment barrier system had failed and affected clay and peat materials had slumped into Copley Run. In correspondence dated June 18, 2003, BHD informed Respondent this failure was a violation of OAC Rule 3745-400-11(E) for failure to maintain the integrity of engineered components. Additionally BHD provided Respondent with a list of emergency measures that had to be conducted to address the failure of the containment barrier system, which included the following:

- a. Cessation of waste placement on the eastern slopes of Phases 1 and 2;
- b. Covering all exposed waste on the eastern slopes of Phases 1 and 2 with soil;
- c. Collection and off-site disposal of all leachate from the affected areas;
- d. Determination of the cause of the failure of the containment barrier system, together with the elimination or control of that cause so as to prevent any future occurrence;
- e. Submittal of plans to BHD that address the cause and correction of the failure.

³ The rule was amended effective August 31, 2002, and this rule requirement regarding creation of a nuisance or health hazard was relocated to paragraph (B)(15) of OAC Rule 3745-400-11. The NOV, however, incorrectly referenced the paragraph where the requirement was located in the former version of the rule: OAC Rule 3745-400-11(B)(16) (as effective September 30, 1996).



27. BHD received a copy of a report dated August 14, 2003, titled "*Slope Stability Analysis and Recommendations to Stabilize a Section of Earth Dike along Toe of Summit C&D Disposal Landfill, Next to Copley Run, Norton, Summit County, Ohio.*" The report contained in part, the following information and recommendations:
- a. The earth containment dike for Phases 1 and 2 constructed around the east side of the Facility was intended to extend to and be supported on the clayey soil layer. However, the containment dike was actually built on a 39 foot layer of peat which allowed the containment dike to settle and eventually slump into Copley Run;
 - b. Respondent's consultant attested that they believed the peat layer near Copley Run is thicker than the average thickness in the landfill area and that the consultant assumed that the peat underlying the Facility was removed during construction of the disposal areas and that the disposal areas are supported on the clay layer. However, the consultant stated that if there is a peat layer under and within the toe of the landfill it will eventually become unstable;
 - c. Because of the potential stability issues it was recommended that additional soil borings be conducted to determine the subsurface conditions and confirm the removal of the peat layer under the eastern toe of the Facility;
 - d. Additionally, Respondent's consultant proposed that the containment dike system be stabilized by excavating the underlying peat adjacent to the clay dike and filling the excavation with a broken concrete fill. The clay dike could then be repaired. Both the clay dike and the broken concrete fill would extend to and be supported on the clay layer⁴.
28. BHD conducted an inspection of the Facility on September 10, 2003 and observed the following violations:
- a. OAC Rule 3745-400-11(E)(1) for failure to maintain and repair engineered components, specifically the engineered leachate containment system. BHD noted that Respondent was working to address the violation but was still in the planning stage;

⁴ BHD did not approve Respondent's plans for the stabilization of the containment system on the grounds that building the concrete support on the outside of the containment system would essentially require placing the broken concrete into Copley Run.



- b. OAC Rules 3745-400-11(O)(1), (2), and (3) for failure to contain, manage, and repair leachate outbreaks. BHD noted that there was an extreme amount of leachate ponding in the area near the failed containment system and informed Respondent that all leachate must be collected and sent offsite for disposal.

BHD recorded these violations and observations on the C&DD facility inspection checklist and provided a copy of the checklist to Respondent.

29. BHD conducted a follow up inspection of the Facility on September 15, 2003, and noted that the violations of OAC Rules 3745-400-11(O)(1), (2), and (3) had been corrected, but the violation of OAC Rule 3745-400-11(E)(1) for failure to maintain and repair engineered components was ongoing. BHD recorded this violation and its observations in the C&DD facility inspection checklist and provided a copy of the checklist to Respondent.
30. On November 3, 2003, Ohio EPA received a complaint alleging that a pond of leachate on the east side of the Facility was creating odors, and that it was overflowing into the adjacent creek when it rained. Ohio EPA forwarded this complaint to BHD for investigation.
31. BHD conducted an inspection of the Facility on November 20, 2003, to investigate the allegations made in the November 3, 2003, complaint. At the time of the investigation no odors were detected and no leachate was observed entering into the adjacent stream. BHD did note that there appeared to be evidence of previous leachate breaches over low lying areas of the temporary leachate containment berm.
32. On December 1, 2003, Ohio EPA received a complaint alleging that the Facility was not controlling blowing litter, not applying weekly cover, and that the leachate pond was creating bad odors including a rotten egg smell. Ohio EPA received an additional complaint regarding the Facility's lack of weekly cover on December 12, 2003. Both complaints were forwarded to BHD for investigation.
33. BHD conducted an inspection of the Facility on December 12, 2003, and observed the following violations:
 - a. OAC Rule 3745-400-11(B)(16)[sic⁵] for creating a nuisance, BHD specifically noted that the leachate in the temporary sediment containment

⁵ The rule was amended effective August 31, 2002, and this rule requirement regarding creation of a nuisance or health hazard was relocated to paragraph (B)(15) of OAC Rule 3745-400-11. The NOV, however, incorrectly referenced the paragraph where the requirement was located in the former version of the rule: OAC Rule 3745-400-11(B)(16) (as effective September 30, 1996).



pond is creating extreme odor problems and informed Respondent that leachate must be monitored and removed for treatment consistently;

- b. OAC Rule 3745-400-11(E)(1) for failure to maintain and repair engineered components, specifically the failed containment system;
- c. OAC Rule 3745-400-11(H)(1) for failure to apply weekly cover;
- d. OAC Rule 3745-400-11(L) for failure to control scattered litter.

BHD recorded these violations on the C&DD facility inspection checklist and provided a copy of the checklist to Respondent.

34. BHD and Ohio EPA conducted an inspection of the Facility on December 16, 2003, and observed the following violations:

- a. OAC Rule 3745-400-11(B)(16)[sic⁶] for creating a nuisance and a health hazard. BHD noted that the leachate collecting on the east side of the Facility near the failed containment system was continuing to cause extreme odor problems. BHD further noted that at the time of the inspection the Facility manager indicated that the leachate generation in this area is of an exceptionally large volume. The BHD inspector noted that this was an accurate statement as he had observed that even after periods of prolonged pumping, the leachate levels would rebound in as little as 24 hours. The BHD inspector informed the Facility manager that the leachate problems in this area must be addressed;
- b. OAC Rule 3745-400-11(E)(1) for failure to maintain and repair engineered components, specifically the failed containment system;
- c. OAC Rule 3745-400-11(H)[sic⁷] for failure to apply weekly cover to all combustible debris;
- d. OAC Rule 3745-400-11(L) for failure to control scattered litter;

⁶ The rule was amended effective August 31, 2002, and this rule requirement regarding creation of a nuisance or health hazard was relocated to paragraph (B)(15) of OAC Rule 3745-400-11. The NOV, however, incorrectly referenced the paragraph where the requirement was located in the former version of the rule: OAC Rule 3745-400-11(B)(16) (as effective September 30, 1996).

⁷ The rule was amended effective August 31, 2002, and this rule requirement regarding fire prevention was reorganized such that the provision regarding weekly cover was relocated to paragraph (H)(1) of OAC Rule 3745-400-11. The NOV, however, incorrectly referenced the paragraph where the requirement was located in the former version of the rule: OAC Rule 3745-400-11(H) (as effective September 30, 1996).



- e. OAC Rule 3745-400-11(Q)(3) for failure to correct the conditions causing ponding.

BHD recorded these violations on the C&DD facility inspection checklist and provided a copy of the checklist to Respondent. Additionally these violations were outlined in written correspondence from BHD dated March 16, 2004.

- 35. On January 5, 2004, Ohio EPA received a complaint alleging that the leachate contaminated sedimentation pond located at the east side of the Facility was overflowing into Copley Run and creating strong odors. Ohio EPA forwarded this complaint to BHD for investigation.
- 36. On January 29, 2004, BHD issued the 2004 annual operating license to the Facility with numerous terms and conditions. The terms and conditions included, but are not limited to, the following:
 - a. Within 120 days, Respondent shall submit a work plan to BHD with a revised proposal to stabilize the failed leachate containment system that includes keying into the appropriate clay beneath the Facility to prevent any lateral migration of leachate from the Facility;
 - b. A hydro-geologic study shall be done to determine the extent of potential artesian conditions existing at the eastern slope of the Facility and to determine the methodology to divert groundwater from the active and inactive disposal areas;
 - c. The leachate contaminated sedimentation pond on the east side of the Facility shall be removed within 90 days;
 - d. Until such time as the newly constructed containment system is installed, the existing berm portion of the system shall be augmented to ensure that flood water from Copley Run does not enter the Facility;
 - e. Further expansion of the ALDA by excavation of soil overburden or soil structure within newly developed disposal cells is prohibited until the hydro-geologic study is completed.
- 37. On February 20, 2004, Ohio EPA received a complaint that there was a strong odor coming from the leachate pond on the east side of the Facility. Ohio EPA forwarded this complaint to BHD for investigation.
- 38. On February 20, 2004, Ohio EPA received copies of invoices and manifests indicating the amount of leachate removed from the Facility between January 7,



2004, and February 19, 2004. According to the information contained in the invoices and manifests, not less than 217,500 gallons of leachate were removed from the Facility during that time.

39. BHD and Ohio EPA conducted an inspection of the Facility on February 20, 2004, and detected no odors in the area of ponding leachate at the time of the inspection. However BHD and Ohio EPA did observe the following violations:
- a. OAC Rule 3745-400-11(B)(16)[sic⁸] for creating a nuisance and a health hazard;
 - b. OAC Rule 3745-400-11(E)(1) for failure to maintain and repair engineered components, specifically the failed containment system;
 - c. OAC Rule 3745-400-11(H)[sic⁹] for failure to apply weekly cover to all combustible debris;
 - d. OAC Rule 3745-400-11(L) for failure to control scattered litter;
 - e. OAC Rule 3745-400-11(Q)(3) for failure to correct the conditions causing ponding.
40. BHD received a copy of a report dated March 30, 2004, titled "*Hydrogeologic Study to Determine Extent of Potential Artesian and Hydrostatic Uplift Conditions at the Summit C&D Disposal, Inc.*" The report contained in part the following information and recommendations:
- a. The purpose of the report was to determine the extent of hydrostatic uplift artesian conditions that may exist beneath the Facility which may be contributing to increasing infiltration of groundwater and subsequent leachate generation, and to determine the minimum thickness of clay/silt confining layer that can be safely excavated during Facility construction and not cause hydrostatic uplift and artesian conditions;
 - b. Based on data reviewed from soil borings, monitoring well installation, and test pits conducted at the Facility it appears that in the area of future

⁸ The rule was amended effective August 31, 2002, and this rule requirement regarding creation of a nuisance or health hazard was relocated to paragraph (B)(15) of OAC Rule 3745-400-11. The NOV, however, incorrectly referenced the paragraph where the requirement was located in the former version of the rule: OAC Rule 3745-400-11(B)(16) (as effective September 30, 1996).

⁹ The rule was amended effective August 31, 2002, and this rule requirement regarding fire prevention was reorganized such that the provision regarding weekly cover was relocated to paragraph (H)(1) of OAC Rule 3745-400-11. The NOV, however, incorrectly referenced the paragraph where the requirement was located in the former version of the rule: OAC Rule 3745-400-11(H) (as effective September 30, 1996).



Facility expansion, excavation may occur only to depths ranging from 2 to 5.5 feet. It was noted that at these depths the bottom of the excavation will be close to the potentiometric surface of groundwater and if over excavation occurs or a sand seam connected with the upper most aquifer system is encountered, hydrostatic uplift and groundwater infiltration could occur;

- c. In regard to the existing disposal area of Phases 1 through 4, the depths of the previous excavations were not known therefore the presence of artesian conditions for these Phases could not be determined. The report did note that if the confining layer had been excavated 8 or 9 feet deep then it is likely that groundwater artesian conditions may have developed and led to the generation of leachate.

41. BHD conducted an inspection of the Facility on April 19, 2004, and observed the following violations:

- a. OAC Rule 3745-400-11(E)(1) for failure to maintain and repair engineered components; specifically, the failed containment system;
- b. OAC Rule 3745-400-11(G) for failure to have adequate equipment available. Specifically, BHD noted that there were large areas along the western/southwestern slopes that needed cover, yet there were no vehicles on site to transport cover material. In addition, it was observed that there was no dozer available to spread cover materials over the large areas.
- c. OAC Rule 3745-400-11(H)[sic]¹⁰ for failure to operate the facility in so as to prevent fires. Specifically, BHD noted that there were extensive violations of the weekly cover requirement. The entire southwestern slope, all the way to the toe of waste placement, had no cover. In addition, the eastern side of the facility had areas where waste had been excavated and remained uncovered;
- d. OAC Rule 3745-400-11(L) for failure to control scattered litter;

¹⁰ The rule was amended effective August 31, 2002, and this rule requirement regarding fire prevention was reorganized such that the provision regarding weekly cover was relocated to paragraph (H)(1) of OAC Rule 3745-400-11. The NOV, however, incorrectly referenced the paragraph where the requirement was located in the former version of the rule: OAC Rule 3745-400-11(H) (as effective September 30, 1996).



- e. OAC Rule 3745-400-11(O)(1) and (3) for failing to contain leachate and repair leachate outbreaks. Specifically, BHD observed approximately six leachate outbreaks on the western slopes near the toe of waste placement that had resulted in leachate ponding in that area;
- f. OAC Rule 3745-400-11(Q)(3) for failure to correct the conditions causing ponding or erosion;

These violations were noted on the C&DD facility inspection checklist and a copy of the checklist was provided to Respondent.

42. BHD conducted an inspection of the Facility on April 22, 2004, and noted the following violations:
- a. OAC Rule 3745-400-11(E)(1) for failure to maintain and repair engineered components;
 - b. OAC Rule 3745-400-11(G) for failure to have adequate operating equipment available;
 - c. OAC Rule 3745-400-11(H)[sic]¹¹ for failure to operate the Facility so as to prevent fires. BHD noted that extensive cover violations continue to exist at the facility; specifically part of Phase 1, all of Phase 4, and portions of the eastern side of the facility are not adequately covered with noncombustible material.

These violations were noted on the C&DD facility inspection checklist and a copy of the checklist was provided to Respondent.

43. BHD received a copy of a report from Respondent's consultant dated May 25, 2004, titled "*Hydrogeologic Study to Investigate Potential Artesian Conditions at the Summit C&D Disposal, Inc. Landfill.*" The report contained the following information and recommendations:
- a. The purpose of the report was to present findings from the subsurface investigations performed to complete the required hydrogeologic study.

¹¹ The rule was amended effective August 31, 2002, and this rule requirement regarding fire prevention was reorganized such that the provision regarding weekly cover was relocated to paragraph (H)(1) of OAC Rule 3745-400-11. The NOV, however, incorrectly referenced the paragraph where the requirement was located in the former version of the rule: OAC Rule 3745-400-11(H) (as effective September 30, 1996).



- b. In the previous report regarding the first phase of the investigation, it was noted that depth of previous excavations in Phases 1 through 4 of the Facility were unknown. These depths were determined through soil borings in this portion of the hydrogeologic study.
 - c. It was determined that the base of previous excavations (i.e. base of C&DD disposal) ranged from 6 to 40 feet deep.
 - d. In Phases 2 and 3, the base of excavations are below both the groundwater and leachate potentiometric surfaces.
 - e. The report concluded that based on information gained in the hydrogeologic study, it appears that groundwater artesian conditions may have developed due to the depth of excavation and may be contributing to leachate generation. However the report further concluded that if artesian groundwater conditions are occurring and contributing to leachate generation, it is unlikely that contamination of the aquifer would result.
44. BHD conducted an inspection of the Facility on July 27, 2004. In correspondence dated August 9, 2004, BHD notified Respondent of the following violations:
- a. OAC Rule 3745-400-11(E)(1) for failure to repair and maintain the engineered components of the Facility, specifically the failed leachate containment system;
 - b. OAC Rule 3745-400-11(Q)(2) for failure to properly grade the western slope of Phase 4 to provide drainage systems to insure minimal infiltration of water through cover material and to prevent erosion of cover material.

Additionally, BHD recognized Respondent's need for expansion of waste placement in Phase 5A and informed Respondent that any further construction in new cells must include a containment trench/barrier system that ties into the clay underlying the Facility and is designed to prevent migration of leachate from the newly developed cell.

45. BHD conducted an inspection of the Facility on November 30, 2004. In correspondence dated December 10, 2004, BHD notified Respondent of the following violations:
- a. OAC Rule 3745-400-11(E)(1) for failure to repair and maintain the engineered components of the Facility, specifically the failed containment system;



- b. OAC Rule 3745-400-11(H)(1) for failure to cover all exposed waste on a weekly basis;
 - c. OAC Rule 3745-400-11(Q)(3) for failure to correct the conditions causing ponding in regard to the large leachate pond that has reappeared on the eastern side of the Facility. It was also noted that this recurrence was a violation of the Facility' 2004 license.
46. BHD received a copy of report No. 130214-1204-299 from Respondent's consultant dated December 21, 2004, titled "*Sheet Pile Design and Slope Stability Analysis to Stabilize a Section of Landfill along Toe next to Copley Run Creek, Norton, Summit County, Ohio.*" The report contained a revised recommendation for stabilizing the 220 foot long section of the failed earth containment dike along the east side of the Facility. The revised method included installing a 441 foot long sheet pile wall installed along the center of the clay trench to stabilize the landfill.
47. BHD received a copy of report No. 130214-0105-018 dated January 25, 2005, titled "*Recommended Construction Schedule Relative to the Proposed 2005 License Terms and Conditions for Summit C&D Disposal, Inc.*" The report contained the following proposed schedule:
- a. Construction of the sheet pile wall along Copley Run will be completed no later than August 30, 2005;
 - b. The leachate management system will be completed no later than November 30, 2005;
 - c. Within 90 days of completion of the sheet pile wall, but no later than November 30, 2005, the earthen berm will be reconstructed and rock riprap will be installed to prevent erosion from Copley Run.
48. On February 9, 2005, BHD issued the 2005 Annual Operating License to Respondent that contained, in part, the following terms and conditions:
- a. The large pond of leachate next to Copley Run on the eastern side of the Facility shall be removed immediately and permanently;
 - b. The sheet pile wall indented to stabilize the failed leachate containment system shall be installed in accordance with report No. 130214-1201-299 dated December 21, 2004;



- c. A leachate management system shall be constructed which extends to all active landfill disposal areas ("ALDA") within the Facility. The leachate system will include monitoring and pumping of leachate extraction wells to ensure that hydrostatic head within the Facility is maintained to as low a level as is practical (1-3 feet) to protect the engineered components of the Facility and the underlying aquifer. All collected leachate shall be disposed of offsite at an approved disposal facility;
 - d. Representative samples of leachate and water samples of Copley Run shall be collected at least quarterly and tested in accordance with paragraph OAC Rule 3745-400-10(C);
 - e. Erosion control structures shall be installed in accordance with report No. 124681-0202-039 dated February 15, 2002;
 - f. The ALDA may be expanded into Phase 5A provided an engineered containment system is installed in accordance with report No. 124681-1002-253 dated October 10, 2002;
 - g. The practice of excavating existing clay layers from areas of future expansion shall be discontinued and clay excavation prior to waste placement in Phase 5A shall be prohibited.
49. BHD conducted an inspection of the Facility on January 31, 2005, and in correspondence dated February 16, 2005, notified Respondent of the following violations:
- a. OAC Rule 3745-400-11(E)(1) for failure to maintain and repair engineered components, specifically the failed leachate containment system;
 - b. OAC Rule 3745-400-11(H)(1) for failure to cover all exposed waste on a weekly basis;
 - c. OAC Rule 3745-400-11(F)(2) for acceptance and disposal of solid waste;
 - d. OAC Rule 3745-400-11(F)(2)[sic¹²] for failure to control scattered litter;
 - e. OAC Rule 3745-400-11(Q)(3) for failing to correct the conditions causing ponding and erosion.

¹² Although the written explanation provided to Respondent as part of the inspection checklist correctly cites the location of this requirement as OAC Rule 3745-11(L), the NOV subsequently mailed to the Facility incorrectly referenced it as OAC Rule 3745-400-11(F)(2).



50. BHD conducted an inspection of the Facility on May 31, 2005. In correspondence dated June 29, 2005, BHD notified Respondent of the following violations:
- a. OAC Rule 3745-400-11(E)(1) for failure to maintain and repair engineered components, specifically the failed leachate containment system;
 - b. OAC Rule 3745-400-11(Q)(1) and (3) for failure to direct surface water from the Facility and failure to correct the conditions causing ponding. Both violations were cited in response to the large pond of leachate on the eastern portion of the Facility. In addition, it was noted that the violation of OAC 3745-400-11(Q)(3) was also a violation of the terms and conditions of the Facility license;
 - c. OAC Rule 3745-400-11(H)(1) for failure to cover all exposed debris weekly;
 - d. OAC Rule 3745-400(O)(1)[sic¹³] for failure to contain several leachate outbreaks occurring on the east and west slopes of the Facility;
 - e. OAC Rule 3745-400-11(F)(3)(b) for failure to mark the limits of the unloading zone with at least two markers.
51. BHD received a copy of report No. 133778-0705-215 dated July 27, 2005, titled "2005 Annual Groundwater Quality Report & Second Quarterly Copley Run Monitoring Event for Summit C&D Disposal, 1947 Wadsworth Road Norton, Ohio." The report indicated that based on a review of analytical results from the 2005, sampling event, Respondent's consultant believed that the quality of groundwater in the first significant zone of saturation and the quality of water in Copley Run does not appear to be influenced by leachate.
52. BHD conducted an inspection of the Facility on September 21, 2005. In correspondence dated October 12, 2005, BHD notified Respondent of the following violations:
- a. OAC Rule 3745-400-11(E)(1) for failure to maintain and repair engineered components, specifically the failed containment system. However BHD did note that it observed full scale remedial construction activity during the inspection, including the installation of the interlocking steel sheet pile containment wall intended to address the failed containment system;

¹³ Although the Inspection Checklist and accompanying written explanation correctly cite the location of this requirement as OAC Rule 3745-400-11(O)(1), the NOV incorrectly lists its location as OAC Rule 3745-400(O)(1).



- b. OAC Rule 3745-400-11(F)(3)(a) for failure to keep the unloading zone separate from the working face.
- 53. BHD conducted an inspection of the Facility on December 29, 2005. In correspondence dated January 24, 2006, BHD notified Respondent of the following violations:
 - a. OAC Rule 3745-400-11(H)(1) for failure to cover all exposed debris weekly;
 - b. OAC Rule 3745-400-11(Q)(1) for failure to divert surface water from the Facility by non mechanical means. Specifically, the newly constructed cell for Phase 5A does not have appropriate surface water flow containment in place to keep surface water from coming into contact with C&DD and ultimately migrating off the Facility.
- 54. On December 30, 2005, BHD issued the 2006 annual operating license for the Facility that contained in part, the following terms and conditions:
 - a. The leachate management system/ leachate extraction wells shall be installed as depicted in figure 5-5A of the revised leachate management plan submitted with the 2006 license application;
 - b. A dedicated leachate pump system will be installed within leachate extraction wells LW-4 and LW-5 that operates continuously during working hours. The pump system will be connected to a 10,000 gallon storage tank equipped with an overflow protection device;
 - c. Leachate extraction from wells LW-1, LW-2, LW-3, and LW-6 shall be based on the level of leachate in the well. When leachate depth in any of these wells exceeds four feet, a portable pump shall be used to remove the leachate from the wells to a tanker truck;
 - d. Leachate may be applied to the ALDA for control of fugitive dust, however no leachate may be applied when dust is not a problem or if weather is adverse, and all remaining leachate extracted from the wells must be hauled offsite for disposal;
 - e. Representative samples of leachate and of Copley Run shall be taken quarterly and tested in accordance with OAC Rule 3745-400-10.



55. BHD conducted an inspection of the Facility on February 23, 2006. In correspondence dated March 7, 2006, BHD notified Respondent of the following violations:
- a. OAC Rule 3745-400-11-(E)(1) for failure to maintain and repair engineered components, specifically leachate extraction well LW-6 had settled and needs to be repaired;
 - b. OAC Rule 3745-400-11(H)(1) for failure to cover all debris on a weekly basis;
 - c. OAC Rule 3745-400-11(L) for failure to control scattered litter;
 - d. OAC Rules 3745-400-11(O)(1)-(3) for failure to contain, manage, and repair leachate outbreaks.
56. BHD conducted an inspection of the Facility on April 17, 2006. In correspondence dated May 3, 2006, BHD notified Respondent of the following violations:
- a. OAC Rule 3745-400-11(E)(1) for failure to maintain and repair engineered components. BHD noted that the soil berm portion of the containment system, which had been repaired in 2005, had begun to collapse again on the side facing the Facility and had yet to be repaired;
 - b. OAC Rule 3745-400-11(L) for failure to control scattered litter;
 - c. OAC Rule 3745-400-11(B)(15) for causing a nuisance by continuously failing to control scattered litter;
 - d. OAC Rule 3745-400-11(H)(1) for failure to cover all exposed debris weekly;

Additionally the BHD inspector noted in the Notice of Violation ("NOV") that he had been informed by both the Facility manager and Respondent's consultant that leachate extraction well LW-4 had been lost, presumably destroyed by landfill construction activities. Respondent was informed that this well would need to be replaced with a new well that would function as part of the active leachate extraction system along with well LW-5.

57. BHD conducted an inspection of the Facility on August 31, 2006. In correspondence dated October 11, 2006, BHD notified Respondent of the following violations:



- a. OAC Rule 3745-400-11(B)(15) for creating a nuisance and a health hazard. BHD noted that during the inspection several active "vent" areas of hydrogen sulfide gas were arising from the surface of buried waste. It was further noted that the "vent" areas were very noticeable and exhibited a grey discolored area of soil with extremely strong hydrogen sulfide odors emanating from the vents
- b. OAC Rule 3745-400-11(E)(1) for failure to maintain and repair all engineered components. Specifically, leachate extraction well LW-4 had yet to be replaced. Additionally, the leachate containment berm in the newly constructed cell of Phase 5A had been breached and a large portion of the berm was missing near the toe of waste placement;
- c. OAC Rule 3745-400-11(G) for failure to have adequate equipment available for operations. Specifically, a large amount of C&DD had accumulated on the top of the western side of the Facility and had been untouched for several weeks because of equipment malfunctions. Additionally, leachate had ceased to be removed from the Facility as required by the 2006 operating license because no tanker truck was available to haul the leachate offsite for disposal;
- d. OAC Rule 3745-400-11(H)(1) for failure to cover all exposed debris on a weekly basis;
- e. OAC Rule 3745-400-11(P)(3) for failure to manage and dispose of leachate in accordance with applicable regulations. BHD indicated that this violation was cited because Respondent was not complying with the 2006 license terms and conditions applicable to leachate management. BHD further outlined several examples including the following:
 - i. Condition No. 6(a) of the 2006 license required that leachate be pumped on a consistent basis to maintain hydrostatic head within the Facility to as low a level as practical (1-3 feet). Review of leachate extraction well measurements showed substantial levels of leachate (up to 15 feet), primarily in wells LW-4 and LW-5. Further review of the records showed that for a period of seven weeks, no pumping of the leachate extraction wells occurred at all, and the leachate system for the Facility was essentially non-operational;



- ii. Condition No. 6(c) required that all collected leachate not being used for the purpose of dust control must be disposed off site at an approved disposal facility. However beginning on April 18, 2006, and continuing for a period of three months, no leachate was hauled off site for disposal. Instead the leachate was disbursed solely within the confines of the Facility, presumably for dust control, throughout all kinds of weather including rain and storm events;
- f. OAC Rule 3745-400-11(Q)(1) for failure to divert surface and groundwater from the Facility by non-mechanical means. BHD further stated that extremely high levels of leachate were in evidence at the Facility (near ground level in some cases) and Respondent must demonstrate compliance with this rule.

Additionally BHD indicated that the violations regarding scattered litter and failure to repair and maintain engineered components cited following the previous inspection had been addressed. A permanent litter fence was installed on the eastern boundary of the Facility and the failed leachate containment berm in Phase 5A had been reconstructed.

58. On October 5, 2006, Ohio EPA received copies of invoices indicating the amount of leachate removed from the Facility from December 2005 through April 2006. According to the information contained in the invoices, not less than 629,900 gallons of leachate were removed from the Facility during that time.
59. Ohio EPA conducted an inspection of the Facility on October 5, 2006. In correspondence dated October 30, 2006, Ohio EPA notified Respondent of the following violations:
- a. OAC Rule 3745-400-11(O) for failure to contain, manage, and repair leachate outbreaks. Specifically, several black leachate seeps were observed on the east slope and leachate was observed pooling in the perimeter haul road and north of the leachate collection tank;
 - b. OAC Rule 3745-400-11(Q)(1) for failure to divert surface water and/or groundwater from the active and inactive disposal areas of the Facility by non-mechanical means. Specifically it was noted that the volume and persistent generation of leachate at the east slope and hydrogen sulfide gas indicates that surface and/or groundwater is entering the Facility and flowing through the Cⅅ



- c. OAC Rule 3745-400-11(P)(1) for failure to maintain no more than one foot of head anywhere on the in situ clay layer;
 - d. OAC Rule 3745-400-11(H)(1) for failure to cover all exposed C&DD on a weekly basis;
 - e. OAC Rule 3745-400-11(Q)(2) for failure to provide drainage systems that insure minimal infiltration of water through the cover material and cap system;
 - f. OAC Rule 3745-400-11(Q)(3) for failure to correct the conditions causing ponding.
60. In response to the October 30, 2006, NOV, Ohio EPA received correspondence from Respondent's attorney dated December 18, 2006, indicating, in part, the following:
- a. All leachate outbreaks identified in the October 10, 2006, NOV have been repaired;
 - b. Respondent disagrees that it is in violation of OAC Rule 3745-400-11(Q)(1) as surface water is prevented from running onto the Facility through the use of a soil berm surrounding the Facility. Additionally, Respondent disagrees that there is any factual basis to suggest that groundwater is saturating the Cⅅ
 - c. Respondent disagrees that it is in violation of OAC Rule 3745-400-11(P)(1) for failure to maintain no more than one foot of head anywhere on the in situ clay layer, as it attested that it is exempt from OAC Rule 3745-400-07(F)(5)(c) governing the design and construction of a leachate collection system¹⁴;
 - d. Additional soil cover has been added to the south, east, and west slopes to cover exposed debris;
 - e. The Facility is in the process of redirecting water runoff from the side slopes of the Facility to eliminate ponding of surface water along the perimeter road and address the violations of OAC Rule 3745-400-11(Q)(2) and (3).

¹⁴ Although Paragraph (C)(2) of OAC Rule 3745-400-07 exempts certain portions of a C&DD facility from the design requirements contained in Paragraph (F)(5)(c) of that rule, Respondent was required by the 2002, 2003, 2005, 2006 and 2007 annual operating licenses issued by the health department to install a leachate collection system capable of reducing the hydrostatic pressure within the Facility.



61. On November 17, 2006, Ohio EPA received a complaint alleging that the Facility was generating a rotten egg odor and that the odor had caused the complainant eye irritation and breathing problems. Ohio EPA forwarded this complaint to BHD for investigation.
62. BHD conducted an inspection of the Facility on November 14, 2006. In correspondence dated December 1, 2006, BHD notified Respondent of the following violations:
 - a. OAC Rule 3745-400-11(O)(1) and (3) for failure to contain leachate and repair leachate outbreaks. Specifically, several leachate outbreaks were observed along the toe of the eastern slope of the Facility. Additionally, BHD noted in the NOV that the continuous appearance of leachate outbreaks in this area coupled with extremely high elevations of leachate within this area suggest that the current leachate removal processes designed to relieve leachate head pressures are inadequate;
 - b. OAC Rule 3745-400-11(Q)(3) for failure to correct the conditions causing ponding;
 - c. OAC Rule 3745-400-11(Q)(1) for failure to divert surface and/or groundwater from the Facility by non-mechanical means;
 - d. OAC Rule 3745-400-11(Q)(2) for failure to provide drainage systems to ensure minimal infiltration of water through the cover material and cap system.
63. On December 5, 2006, Ohio EPA received a complaint regarding the following issues:
 - a. The complainant alleged that the Facility was producing hydrogen sulfide gas and that his spouse needed to use breathing treatments due to the hydrogen sulfide gas;
 - b. The complainant alleged that odors were emanating from the Facility, especially when leachate was being pumped. The complainant further attested that he had seen leachate conveyed to the top of the Facility by a blue hose then sprayed over the top of the Facility.
 - c. The complainant stated that he was worried that the Facility was contaminating his water well;



- d. The complainant further provided information regarding an artesian well that is located under the east side of the Facility.

Ohio EPA forwarded this complaint to BHD for investigation.

- 64. On or about December 8, 2006, Ohio EPA received copies of invoices indicating the amount of leachate removed from the Facility August, October, and November, 2006. According to the information contained in the invoices, not less than 375,500 gallons of leachate were removed from the Facility during that time.
- 65. On December 12, 2006, Ohio EPA received an additional complaint regarding continuing odor problems at the Facility. Ohio EPA forwarded the complaint to BHD for investigation.
- 66. Ohio EPA conducted an inspection of the Facility on December 19, 2006. In correspondence dated January 11, 2007, Ohio EPA notified Respondent of the following violations:
 - a. OAC 3745-400-11(Q)(1) for failure to divert groundwater from the Facility by non-mechanical means.
 - b. OAC 3745-400-11(Q)(2), and (3) for failure to grade the Facility and provide drainage systems to insure minimal infiltration through the cover material/cap system and for failure to correct the conditions causing ponding respectively. Specifically, it was noted by Ohio EPA that ponded water and leachate were present between the landfill and the perimeter berm on the east, north, and west sides of the Facility;
 - c. OAC 3745-400-11(P)(1) for failure to maintain no more than one foot of head anywhere on the in situ clay layer.
- 67. On January 31, 2007, BHD issued the 2007 annual operating license to Respondent that contained, in part, the following terms and conditions:
 - a. Respondent shall limit the amount of C&DD exposed at any time to one half acre;
 - b. Respondent shall not allow dirt, mud, or dust to be emitted from the Facility onto public access roads outside the Facility;



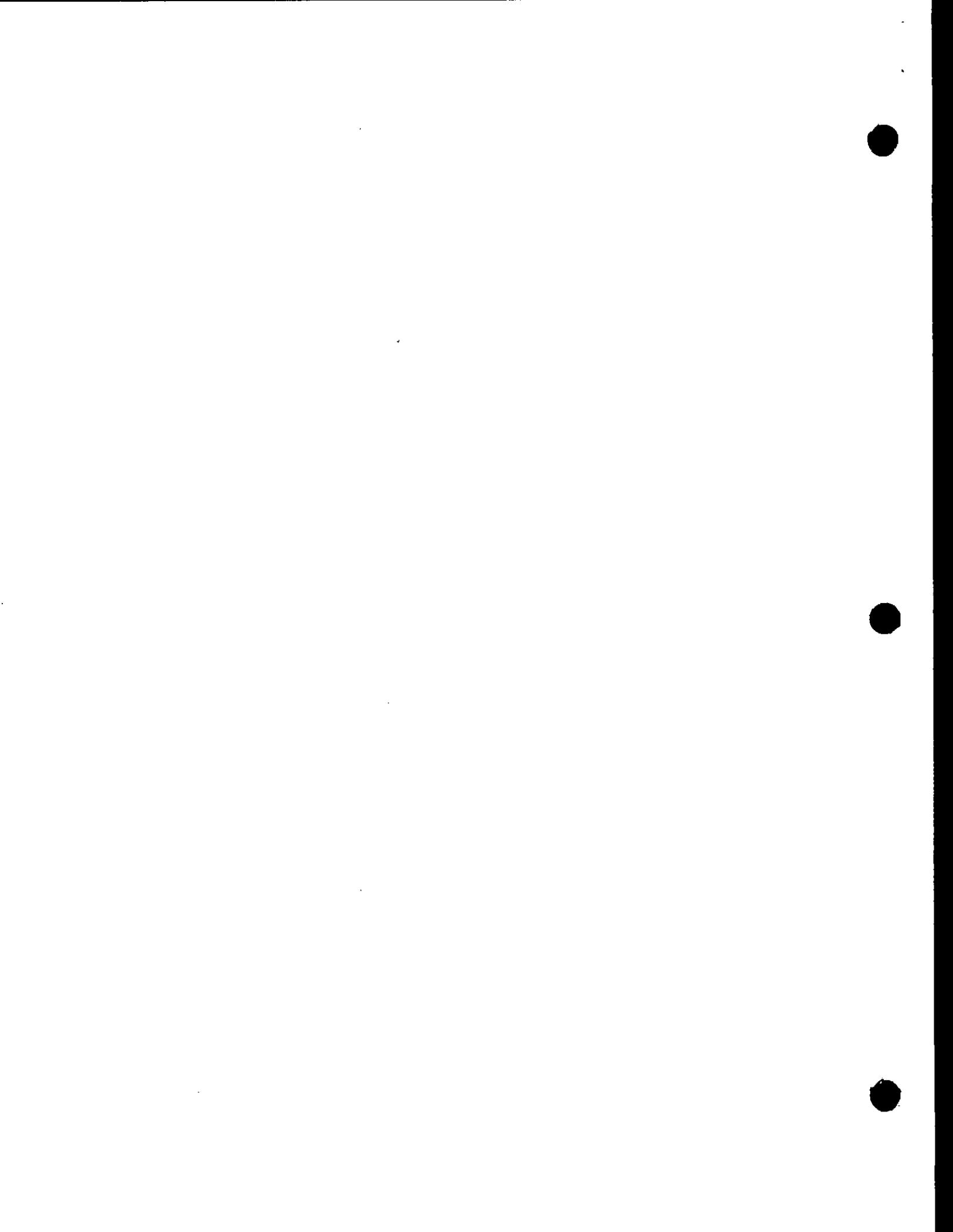
- c. Respondent shall adopt best management practices ("BMP") to limit all nuisance level emissions of hydrogen sulfide gas from the Facility. The BMP shall include the methodologies published and recommended by USEPA Region 5;
 - d. Respondent shall monitor groundwater quality in the upper peat layer;
 - e. Respondent shall conduct a hydro-geologic study to determine with certainty, if groundwater is entering the Facility and to what degree the groundwater infiltration is occurring;
 - f. Respondent shall add leachate extraction wells as necessary to ensure not more than one foot of leachate is present over the in situ liner;
 - g. Respondent shall perform weekly leachate monitoring and maintain a weekly disposal log;
 - h. Respondent shall add an additional ten thousand gallon leachate storage tank to the Facility;
 - i. Respondent shall cease using collected leachate for dust control;
 - j. Respondent shall connect the leachate collection pumps to the electric service for the Facility to ensure a constant, dependable power supply.
68. On February 18, 2007, Ohio EPA received a complaint alleging that on February 16, 17, and 18, the hydrogen sulfide odors generated by the Facility were very strong. Additionally the complainant stated he was concerned about the long term potential for a landfill fire and groundwater contamination. Ohio EPA forwarded this complaint to BHD for investigation.
69. On February 22, 2007, Ohio EPA received a complaint alleging that on the evening of February 21, 2007, hydrogen sulfide odors were very strong. Ohio EPA conducted monitoring for hydrogen sulfide at the Facility on February 23, 2007 between 5:40 pm and 6:40pm. During this time the Ohio EPA inspectors were not able to detect hydrogen sulfide odors through olfactory senses. However, Jerome Meter readings taken at this time revealed that between .001 parts per million ("ppm") and .003 ppm of hydrogen sulfide gas was present in the air surrounding the Facility.



70. On February 25, 2007, Ohio EPA received an additional complaint stating that hydrogen sulfide odors were extremely strong and that the odor could be detected along Wadsworth Road. Ohio EPA forwarded this complaint to BHD for investigation.
71. On February 26, 2007, Respondent filed an appeal of the 2007 license with the Environmental Review Appeals Commission on the grounds that several terms and conditions imposed by BHD, including those listed in Finding 67, above, are unreasonable and unlawful because the conditions are more stringent than the requirements set forth in ORC Chapter 3714 and OAC Chapter 3745-400.
72. BHD conducted an inspection on the Facility on February 28, 2007. In correspondence dated March 12, 2007, BHD notified Respondent it was in violation of OAC Rule 3745-400-11(Q)(3) for failure to correct the conditions causing ponding. Specifically, BHD noted that ponding was continuing to occur along the toe of the eastern slope of the Facility, especially around leachate extraction wells #4 and #5. Additionally BHD informed Respondent that very strong hydrogen sulfide odors had been detected at the Facility and that Respondent should continue to actively suppress the production of hydrogen sulfide.
73. On March 23, 2007, Ohio EPA and BHD conducted an inspection of the Facility. In correspondence dated April 17, 2007, Ohio EPA notified Respondent of the following violations:
 - a. OAC Rule 3745-400-11(Q)(1) for failure to divert surface and/or groundwater from the Facility by non mechanical means;
 - b. OAC Rule 3745-400-11(Q)(2), and (3) for failure to grade the Facility and provide drainage systems to insure minimal infiltration through the cover material/cap system and for failure to correct the conditions causing ponding respectively. Specifically, Ohio EPA noted that ponded water and leachate were observed between the landfill and the perimeter berm on the east side of the Facility and along the base of the Facility on the southwest and northwest corners;
 - c. OAC Rule 3745-400-11(P)(1) for failure to maintain no more than one foot of head on the in situ liner;
 - d. ORC Section 6111.04(A) and OAC Rule 3745-400-11(B)(16) for causing pollution to enter waters of the state. Specifically, Ohio EPA observed surface water contaminated with sediments entering into Copley Run and into the wetland west of the Facility.



74. BHD conducted a re-inspection of the Facility on March 30, 2007, to determine what actions Respondent had taken to address the violations noted above. At the time of the inspection, the violations of OAC Rule 3745-400-11(B)(16) and OAC Rule 3745-400-11(Q)(3) had been corrected. This was noted on the C&DD facility inspection checklist and a copy of the checklist was provided to Respondent. Additionally, the inspection checklist conveyed BHD's observation that hydrogen sulfide odors were very strong and that several active "vent" areas had been discovered along the former ponded areas and the access road near leachate extraction well #6.
75. BHD and Ohio EPA conducted inspections of the Facility on August 28 and 29, 2007. In correspondence dated September 25, 2007, BHD notified Respondent of the following violations:
- a. OAC Rule 3745-400-11(B)(9) for failure to keep daily logs containing all information prescribed by the Director. Specifically, the forms used by Respondent did not contain a column for the vehicle identification number;
 - b. OAC Rule 3745-400-11(B)(16) for causing pollution to enter waters of the state. Specifically, sediment laden water was observed overtopping the silt fence/hay bail structure by Copley Run. Additionally, evidence was observed on the east side of the Facility by Phase 5A that indicated someone had been pumping ponded water and leachate from along the toe of the eastern slope of the Facility and near the leachate collection tank toward the surface drainage structure to Copley Run;
 - c. OAC Rule 3745-400-11(Q)(4) for failure to correct the conditions causing silting. Specifically, it was noted that silt from the main soil stockpile at the Facility had breached the silt fence and caused the fence to collapse;
 - d. OAC Rule 3745-400-11(Q)(3) for failure to correct the conditions causing ponding. Specifically, ponding was observed on both the eastern and western sides of the facility;
 - e. OAC Rule 3745-400-11(H)(1) for failure to cover all exposed C&DD on a weekly basis. At the time of the inspection it was observed that approximately three to four acres of debris were uncovered;
 - f. OAC Rule 3745-400-11(O)(1), (2), and (3) for failure to contain, manage, and repair leachate outbreaks. Approximately three to four dozen outbreaks were observed along the toe of the east and east sides of the facility;



- g. OAC Rule 3745-400-11(P)(3) for failure to manage and dispose of all leachate in compliance with all applicable regulation. Specifically, condition No. 5 of the 2007 operating license required the use of quick disconnect coupler on the leachate collection tank to prevent leachate spilling. However, during the inspection, leachate was observed to be leaking through the mounted connection hose and causing leachate to pond around the storage tank.

In addition to the violations cited above, the September 25, 2007, NOV conveyed to Respondent that on the August 28 and 29 inspections, areas of the Facility along the southeast and western slopes of waste placement contained extremely strong hydrogen sulfide odors. These odors were so severe that inspectors from BHD and Ohio EPA were forced to evacuate the immediate area as the odors were unbearable and caused the BHD inspector to feel ill. BHD further informed Respondent that should this hydrogen sulfide migrate outside of the facility boundary it would be considered a public health nuisance and that Respondent should take aggressive measures to eliminate the production of hydrogen sulfide gas at the Facility.

76. BHD and Ohio EPA conducted an inspection of the Facility on October 24, 2007. In correspondence dated November 8, 2007, BHD notified Respondent of the following violations:
 - a. OAC Rule 3745-400-11(B)(1) for failure to conduct all operations at the facility in strict compliance with the license and other authorizing documents. Specifically, Respondent installed a leachate collection system element without prior authorization from BHD and without submitting any construction design plans. BHD noted that the leachate collection system as described by the construction equipment operator, consisted of a 1,300 – 1,400 foot long, unlined subsurface trench filled with gravel intended to intercept leachate near the eastern slope of the Facility.
 - b. OAC Rule 3745-400-11(B)(16) for causing water pollution. Specifically, sediment laden water was observed to have breached the silt fence next to the main soil stockpile for the Facility and run into Copley Run Creek.
 - c. OAC Rule 3745-400-11(P)(3) for failure to manage and dispose of all leachate in accordance with all applicable regulations. Specifically, leachate head pressure is not being maintained at one to three feet as required by the annual operating license. Review of leachate management records for the year 2007 shows that current static leachate levels in wells

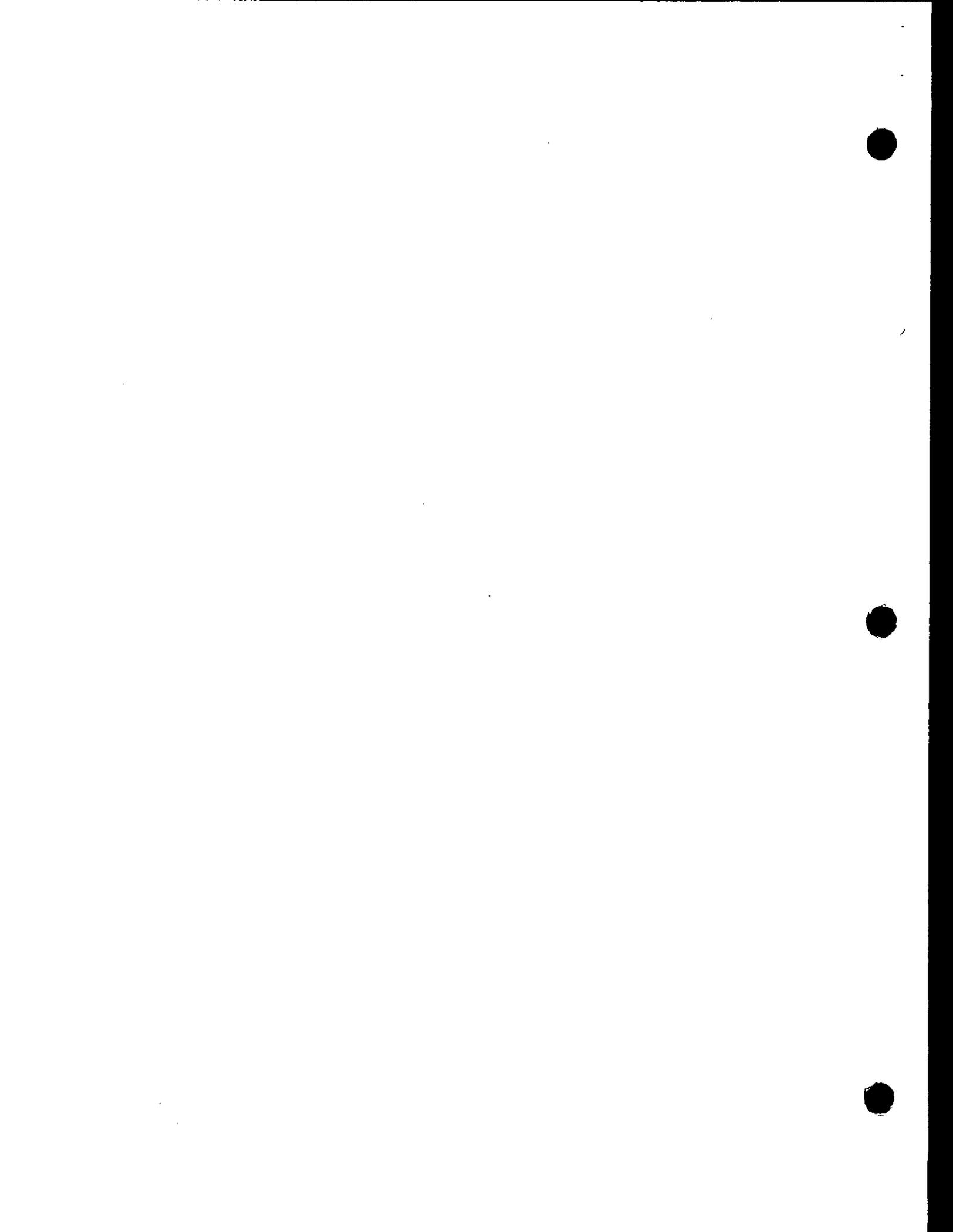


LW-4 (now LW-4R) and LW-5 are only one to two feet below ground level respectively, resulting in leachate column head pressure of 15-25 feet. Additionally, it appears that the leachate level in the eastern portion of the Facility has actually increased by two feet in 2007.

77. On February 6, 2008, Ohio EPA and BHD conducted an inspection of the Facility. In correspondence dated February 25, 2008, Ohio EPA notified Respondent of the following violations:
- a. OAC Rule 3745-400-11(Q)(2) and (3) for failure to grade the Facility and provide drainage systems to insure minimal infiltration through the cover material/cap system and for failure to correct the conditions causing ponding respectively. Specifically, Ohio EPA noted that ponded water containing sediments was observed between the landfill and the perimeter berm on the east side of the Facility;
 - b. OAC Rule 3745-400-11(Q)(1) for failure to divert surface and/or groundwater from the Facility by non mechanical means;
 - c. OAC Rule 3745-400-11(P)(1) for failure to maintain no more than one foot of head on the in situ liner.

It was also noted that hydrogen sulfide odors were detected at the southeast side of the Facility. In addition, sediments were observed in the ponded water contained in the drainage ditch south of the Facility, and there is no sediment pond to trap sediments. As such, Ohio EPA noted that it is unclear how effective the current sediment controls are in the area. Ohio EPA further noted that a significant amount of soil cover on the east slope is not vegetated or mulched. Finally, Ohio EPA observed that there is no constructed containment berm around either the east or west leachate tank.

78. On March 7, 2008, Ohio EPA received a response to its February 25, 2008 NOV from Respondent's consultant which indicated the following:
- a. The water observed along the east side of the Facility was a temporary result of recent rainfall;
 - b. Respondent's consultant disagrees that the facility is in violation of 3745-400-11(Q)(1);



- c. Respondent's consultant feels that an exemption to the design and construction rule (OAC Rule 3745-400-07) also exempts the Facility with compliance with the operational requirements contained in OAC Rule 3745-400-11(P)(1).

The response also provides that on February 4, 5, and 6, 2008, a total of 65,000 gallons of surface water were removed from the facility as a result of the recent storm events.

79. On March 11, 2008, Ohio EPA received documentation from BHD indicating that from January 2, 2008, to February 18, 2008 approximately 440,000 gallons of leachate were removed from the Facility. This total does not appear to include the 65,000 gallons of surface water removed as described in Finding No. 78, above.
80. The documented frequency of leachate outbreaks occurring at the Facility, taken together with the volume of leachate being removed from the Facility and the rate at which the leachate levels in the leachate wells recovers when pumping has ceased, necessitates a further evaluation of groundwater quality is necessary.
81. Based on information provided by Respondent and Respondent's Consultant¹⁵, Ohio EPA has determined that the Facility contains approximately twenty-three million (23,000,000) gallons of leachate.

V. ORDERS

Respondent shall achieve compliance with ORC Chapter 3714. and the rules promulgated thereunder according to the following compliance schedule:

Hydro-geological Study & Plan to Divert Groundwater by Non-mechanical Means

1. Respondent shall ~~conduct a hydro-geological study~~ to determine whether groundwater occurring in geologic units less than 30 feet below ground surface is entering the Facility. At a minimum, the study shall consist of a sufficient number of borings and piezometers to determine the extent of and the direction of groundwater flow in the peat, silt, and sand units adjacent to and underlying the Facility. The study shall be documented in a report. The report shall contain groundwater potentiometric maps, geologic cross sections, boring logs,

¹⁵ see Bowser Morner reports No.130214-0504-118, dated May 25, 2004, 130214-0604-143, dated June 25, 2004, 130214-0304-080, dated March 30, 2004, 127934-0803-196, dated August 22, 2003, and 127934-0803-199, dated August 14, 2003.



piezometer construction logs, survey data, and narrative sections describing all the drilling, sampling, measurement, and analysis activities that were conducted to determine the extent of and the direction of groundwater flow in the peat, silt, and sand units.

2. Not later than ninety (90) days after the effective date of these Orders, Respondent shall ~~submit to Ohio EPA the hydro-geological study report~~ required by Order No. 1, above, for review and approval. If Ohio EPA determines that the study is deficient, Ohio EPA may approve the study with conditions or modifications or may send Respondent a notice of deficiency indicating where the study is deficient. Respondent shall correct all identified deficiencies and shall include all corrections in a revised hydro-geological study report, which shall be submitted to Ohio EPA for approval not later than sixty (60) days after receipt of the notice of deficiency.
3. If Ohio EPA determines that the approved hydro-geological study report indicates that groundwater is entering the Facility, Ohio EPA shall so notify Respondent in writing. Not later than sixty (60) days after receipt of notice that the hydro-geological study report indicates that groundwater is entering the Facility, Respondent shall prepare and submit to Ohio EPA a detailed plan to divert the groundwater from the Facility by non-mechanical means.
4. If Ohio EPA determines that the plan to divert groundwater from the Facility by non-mechanical means is deficient, Ohio EPA may approve the plan to divert groundwater from the Facility by non-mechanical means with conditions or modifications or may send Respondent a notice of deficiency indicating where the plan is deficient. Upon receipt of a notice of deficiency, Respondent shall revise the plan to correct all identified deficiencies and shall submit the revised plan to Ohio EPA for approval not later than thirty (30) days after receipt of the notice of deficiency.
5. ~~Upon Ohio EPA's approval of the plan to divert groundwater by non-mechanical means, Respondent shall implement the plan~~ including any conditions or modifications made by Ohio EPA. In accordance with the approved schedule contained within Respondent's plan, but not to exceed three hundred sixty-five (365) days after Ohio EPA's approval of the plan to divert groundwater from the Facility by non-mechanical means, Respondent shall complete all actions outlined in the approved plan.

Leachate Management



6. Not later than ninety (90) days after the effective date of these Orders, Respondent shall submit a plan to upgrade the leachate extraction system to Ohio EPA for review and approval. This plan shall ensure that the operation of the leachate extraction system will reduce leachate levels within the Facility such that no more than one foot of leachate will be present on the in-situ geologic material underlying the emplaced C&DD. The plan shall provide for the installation of an additional permanent leachate storage tank with secondary containment. Upgrades may include, but are not limited to: full time operation of the leachate extraction system (all wells and collection trench sump), installing additional leachate extraction wells and/or collection trenches with sumps, provisions and schedules for monitoring the leachate levels within the facility, and provisions and schedules for inspecting and maintaining the leachate extraction system and all its components.
7. Respondent's plan to upgrade the leachate extraction system shall be reviewed by Ohio EPA. If Ohio EPA determines that the plan to upgrade the leachate extraction system is deficient, Ohio EPA may approve the plan with conditions or modifications or may send Respondent a notice of deficiency indicating where the plan is deficient. Upon receipt of a notice of deficiency, Respondent shall revise the plan to correct all identified deficiencies and shall submit the revised plan to Ohio EPA for approval not later than sixty (60) days after receipt of the notice of deficiency.
8. Upon Ohio EPA's approval of the plan to upgrade the leachate extraction system, Respondent shall implement the plan, including any conditions or modifications made by Ohio EPA. In accordance with the approved schedule contained within Respondent's plan, but not to exceed one hundred eighty (180) days after Ohio EPA's approval of the plan to upgrade the leachate extraction system, Respondent shall complete all actions outlined in the approved plan.
9. Respondent shall dispose of all leachate collected at a permitted wastewater treatment facility. Respondent shall not, under any circumstances, use leachate for dust control or re-circulate the leachate into the Facility.
10. Upon the effective date of these Orders, Respondent shall maintain leachate management records that include, at a minimum, the following information: static leachate levels in the leachate extraction wells prior to and after pumping, the dates upon which pumping occurs, quantity of leachate pumped, quantity of leachate sent for disposal, the date the leachate was sent, and the name of the permitted wastewater treatment facility that accepted the leachate.
11. By the fifth business day of each month, Respondent shall submit to Ohio EPA a copy of the previous month's leachate management records described in Order



10, above. The first submission shall be due not later than May 7, 2008 and Respondent shall continue to submit the leachate management records on a monthly basis.

Groundwater Monitoring

12. Not later than one hundred eighty (180) days after Ohio EPA's approval of the hydro-geological study report described in Orders 1 and 2, above, Respondent shall submit a groundwater monitoring well system plan for Ohio EPA review and approval that contains the details for installing and sampling additional groundwater monitoring wells to accurately determine the quality of groundwater in the first continuous significant zone of saturation and in the shallow groundwater of the peat, silt, and sand units in accordance with OAC Rule 3745-400-10 as effective August 31, 2002. At a minimum the groundwater monitoring well system plan shall include the following:
 - a. Installation of four (4) additional down gradient monitoring wells, equally spaced, to monitor the groundwater quality in the first continuous significant zone of saturation, typically a silty sand or sand and gravel, along the one thousand two hundred sixty (1,260) liner feet of down gradient Facility boundary that is not currently monitored by the two down gradient monitoring wells, MW-1R and MW-4;
 - b. Installation of a sufficient number of up gradient and down gradient monitoring wells to monitor the shallow groundwater quality in the peat, silt, and sand units. The location of these monitoring wells shall be based on the hydro-geological study report approved by Ohio EPA, and shall consist of at least one up gradient well and a sufficient number of down gradient wells that will result in an accurate determination of groundwater quality in these units.
13. Respondent's groundwater monitoring well system plan shall be reviewed by Ohio EPA. If Ohio EPA determines that the groundwater monitoring well system plan is deficient, Ohio EPA may approve the plan with conditions or modifications or may send Respondent a notice of deficiency indicating where the plan is deficient. Upon receipt of a notice of deficiency, Respondent shall revise the plan to correct all identified deficiencies and shall submit the revised plan to Ohio EPA for approval not later than thirty (30) days after receipt of the notice of deficiency.
14. Upon Ohio EPA's approval of the groundwater monitoring well system plan, Respondent shall implement the plan in accordance with the schedule contained within Respondent's approved groundwater monitoring well system plan, but not



to exceed one hundred twenty (120) days after approval of the plan, Respondent shall complete the installation of the additional groundwater monitoring wells required by the groundwater monitoring well system plan and implement groundwater sampling in accordance with OAC Rule 3745-400-10, as effective August 31, 2002.

15. Not later than forty-five (45) days after each sampling event, Respondent shall submit the results of each sampling event to Ohio EPA.
16. Ohio EPA may order the Respondent to conduct a groundwater assessment to determine the concentration of possible contaminants, and their extent and rate of migration within the groundwater if Ohio EPA determines that the Facility may be affecting groundwater quality.

Surface Water Management & Erosion Control

17. Not later than sixty (60) days after the effective date of these Orders, Respondent shall submit to Ohio EPA a surface water management/erosion control plan that addresses the ongoing ponding and erosion problems at the Facility. The plan shall, at a minimum, contain the following:
 - a. provisions and a schedule for grading the facility to eliminate ponding of water along the eastern portion of the Facility;
 - b. provisions and a schedule for mulching and/or seeding all exposed soils in areas where work has ceased to prevent erosion and sediment run-off;
 - c. provisions and a schedule for using silt fencing and straw bale dikes to prevent sediment erosion, while the vegetation takes hold in the mulched and seeded areas;
 - d. upgrades to the existing storm water control structures to ensure that sediment laden water is not discharged from the Facility;
 - e. provisions and a schedule for inspecting and maintaining all erosion and sediment control structures utilized on site.
18. Respondent's surface water management/erosion control plan shall be reviewed by Ohio EPA. If Ohio EPA determines that the surface water management/erosion control plan is deficient, Ohio EPA may approve the plan with conditions or modifications or may send Respondent a notice of deficiency indicating where the plan is deficient. Upon receipt of a notice of deficiency, Respondent shall revise the plan to correct all identified deficiencies and shall



submit the revised plan to Ohio EPA for approval not later than thirty (30) days after receipt of the notice of deficiency.

19. Upon Ohio EPA's approval of the surface water management/erosion control plan, Respondent shall implement the plan. In accordance with the approved schedule contained within Respondent's plan, but not to exceed two hundred ten (210) days after the effective date of these Orders, Respondent shall complete all actions outlined in the approved plan.

Hydrogen Sulfide & Other Odors

20. Not later than sixty (60) days after the effective date of these Orders, Respondent shall prepare and submit to Ohio EPA a plan for detection and response to hydrogen sulfide and other odors at the Facility. The plan for detection and response to hydrogen sulfide and other odors shall, at a minimum, provide for following:
 - a. Periodic inspections of the Facility to detect the presence of hydrogen sulfide or other gases that pose a nuisance, cause an offensive odor, or pose a threat to public health or safety or the environment;
 - b. A description of the measures to be implemented if hydrogen sulfide or other gases that pose a nuisance, cause an offensive odor, or pose a threat to public health or safety or the environment are present at the facility;
 - c. The creation of a log upon which Respondent shall record the following: the date of inspection; a description of the location at which hydrogen sulfide or other gases that pose a nuisance, cause an offensive odor, or pose a threat to public health or safety or the environment was detected; and a description of the measures implemented to eliminate the presence of hydrogen sulfide or other gases that pose a nuisance, cause an offensive odor, or pose a threat to public health or safety or the environment. The hydrogen sulfide inspection log shall be maintained at the Facility and provided to Ohio EPA and the Barberton Health District upon request.
21. Respondent's plan for detection and response to hydrogen sulfide and other odors shall be reviewed by Ohio EPA. If Ohio EPA determines that the plan for detection and response to hydrogen sulfide and other odors is deficient, Ohio EPA may approve the plan with conditions or modifications or may send Respondent a notice of deficiency indicating where the plan is deficient. Upon receipt of a notice of deficiency, Respondent shall revise the plan to correct all



identified deficiencies and shall submit the revised plan to Ohio EPA for approval not later than thirty (30) days after receipt of the notice of deficiency.

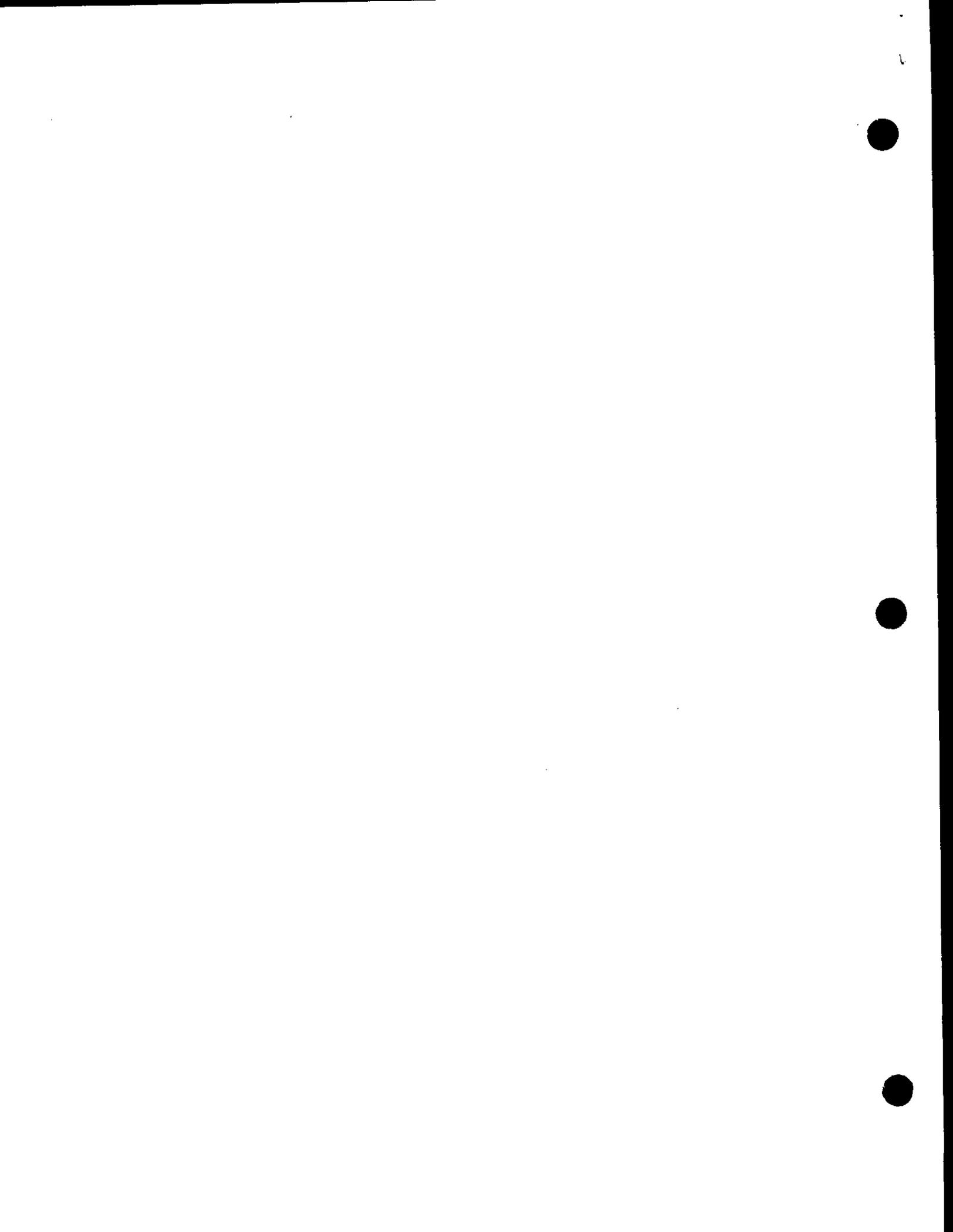
22. Upon Ohio EPA's approval of the plan for detection and response to hydrogen sulfide and other odors Respondent shall implement the plan and shall take all actions necessary to eliminate the presence of hydrogen sulfide or other gases that pose a nuisance, cause an offensive odor, or pose a threat to public health or safety or the environment at the Facility.

Other

23. Not later than sixty (60) days after the effective date of these Orders, Respondent shall submit to Ohio EPA information to substantiate that the permanent perimeter berm has been completed on the southern portion of the Facility.
24. Not later than thirty (30) days after the effective date of these Orders, Respondent shall submit to Ohio EPA documentation indicating whether the artesian well present at the Facility has been properly abandoned. If the well has been properly abandoned, this documentation shall include the well abandonment forms.
25. Upon the effective date of these Orders, Respondent shall limit the amount of exposed C&DD at the Facility at any time to no more than one acre.
26. In light of the amount of leachate that exists in the Facility (see Finding No. 81, above), not later than sixty (60) days after the effective date of these Orders Respondent shall increase the amount of the financial assurance required by OAC Rule 3745-400-13 by an amount which ensures that closure can be conducted in a manner that:
 - a. Minimizes further maintenance at the Facility, and
 - b. Minimizes the formation and release of leachate to the air, soil, surface water, and ground water; and
 - c. Is protective of human health and the environment.

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 Property.

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 Respondent's Property.

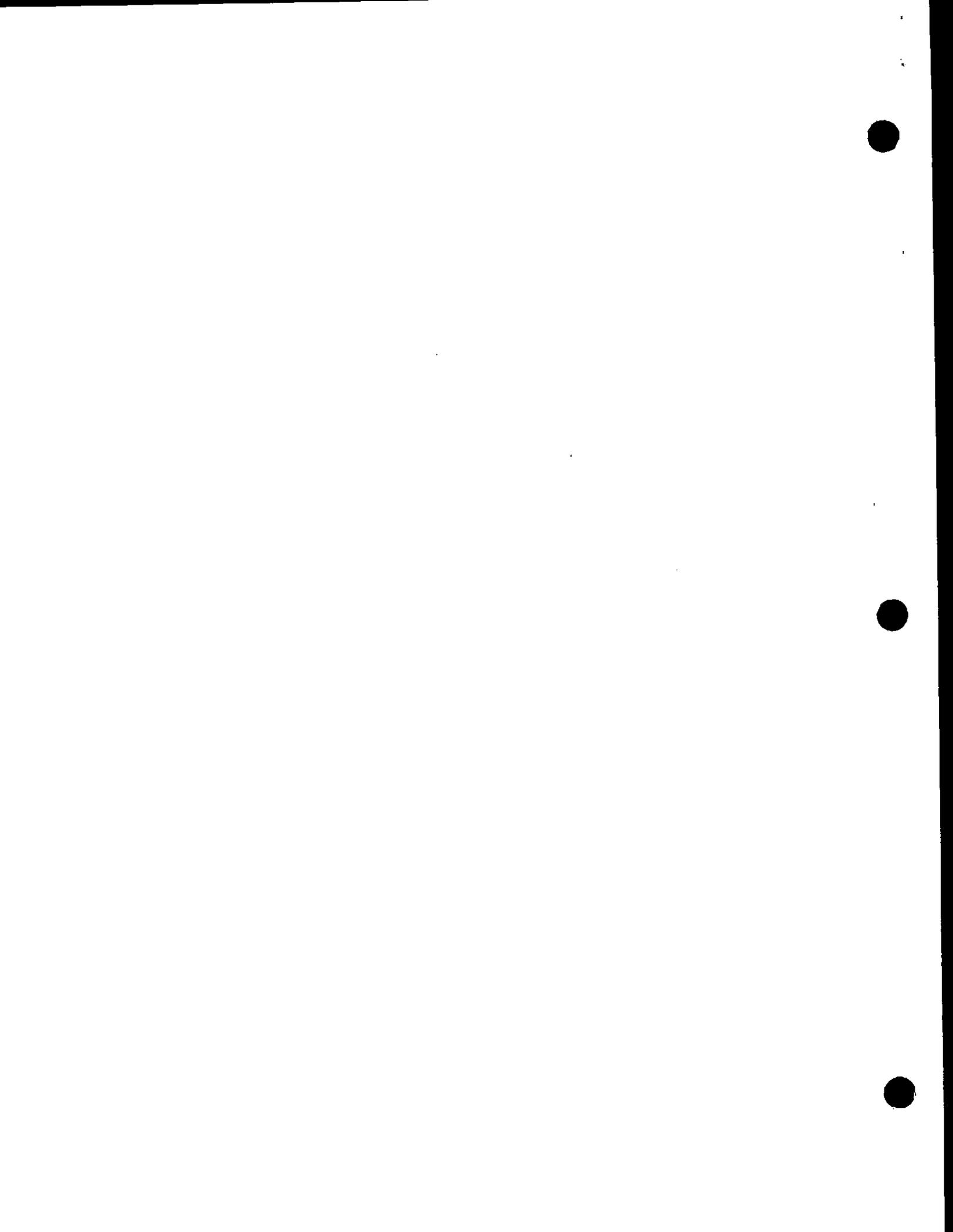
VIII. OTHER APPLICABLE LAWS

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. NOTICE

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

Ohio Environmental Protection Agency
Northeast District Office
Division of Solid and Infectious Waste Management
2110 East Aurora Road
Twinsburg, Ohio 4087
Attn: Unit Supervisor, DSIWM



and to:

Barberton Health Department
571 West Tuscarawas Ave.
Barberton, Ohio 44203
Attn: Health Commissioner

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

X. 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 3714., 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.

XI. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

IT IS SO ORDERED:

Ohio Environmental Protection Agency



