

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of Violations of New
York State Environmental Conservation Law
Articles 17, 19, and 27, Parts 200, 201, 257,
360 and 750 of
Title 6 of the Official Compilation of Codes,
Rules and Regulations of the State of New
York, and permits issued thereunder,

ORDER ON CONSENT

Case No. R8-2018-0507-144

by

County of Ontario,

New England Waste Services of N.Y., Inc.,

and

Casella Waste Services of Ontario, LLC,

Respondents.

WHEREAS:

JURISDICTION

1. The New York State Department of Environmental Conservation ("Department") is an executive agency of the State of New York with jurisdiction over the environmental policy and programs of the State set forth in the New York State Environmental Conservation Law ("ECL"), and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York ("6 NYCRR"), including:
 - a. the construction and operation of solid waste management facilities in the State of New York, and for enforcement of any permit the Department issues thereunder pursuant to Title 7 of ECL Article 27 and the regulations promulgated thereunder at 6 NYCRR Part 360 ("Part 360");
 - b. conservation and control of its air resources, pursuant to ECL Article 19 and the rules and regulations promulgated thereunder at 6 NYCRR Part 257; and
 - c. the control and prevention of water pollution; for enforcement of the regulations promulgated under ECL Article 17 at 6 NYCRR Part 700 et seq.,

including Part 750; and for enforcement of any State Pollutant Discharge Elimination System ("SPDES") permit the Department issues thereunder.

2. Pursuant to ECL §3-0301, the Department is charged with the responsibility and authority to promote and coordinate the management of water, land, fish, wildlife and air resources of New York State to assure their protection, enhancement, provisions, allocation and balanced utilization.
3. Pursuant to ECL Article 71, the Department is authorized to impose penalties and other appropriate sanctions for any violations of Articles 17, 19, and 27 of the ECL, and the regulations promulgated and permits issued thereunder.

PARTIES

4. The County of Ontario ("Respondent County") is a municipality in the State of New York, and a person as defined in ECL §1-0303(18), ECL 17-0105(1), ECL 19-0107(1), and 6 NYCRR 360-1.2(b)(117).
5. Respondents New England Waste Services of N. Y., Inc. (NEWSNY) and Casella Waste Services of Ontario, LLC, a NEWSNY assignee, are the present operators of the Landfill under a long term lease agreement with Ontario County, and are jointly and severally liable with Respondent County for the aforesaid violations and for compliance with this Order. Hereinafter, all three Respondents shall be together known as "Respondents".

PERMITS

6. Pursuant to its authority under Title 7 of ECL Article 27 and Part 360, the Department issued Ontario County a solid waste management permit (DEC Permit Number 8-3244-00004/00001) ("Part 360 Permit") authorizing construction and operation of the Ontario County Landfill ("Landfill"), DEC Facility Number 35S11, which is Respondent County's mixed solid waste landfill located at 1879 Route 5&20 in the Town of Seneca, County of Ontario, State of New York. The Permit has been in full force and effect at all times mentioned herein.
7. Pursuant to its authority under Article 17, Titles 7 and 8, and Article 70 of the ECL, the Department issued SPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activities, No. GP-0-12-001 ("GP-0-12-001"), effective at all times mentioned herein prior to March 1, 2018, and its replacement, SPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activities, No. GP-17-004 ("GP-17-004"), effective at all times mentioned herein on and after March 1, 2018. The Landfill has been covered by and subject to each of these permits, respectively, under SPDES Identification Number NYR00C382, during their respective effective periods at all times mentioned herein.

8. Pursuant to its authority under ECL Article 19 and Part 201, the Department issued Respondent County an Article 19 Air Pollution Control Title V Permit, Permit ID No. 8-3244-00004/00007, Facility DEC ID No. 8324400004, effective December 2, 2014 and a December 1, 2019 expiration date (Title V Permit). A Renewal Application for the Title V Permit was submitted to the Department by Respondent County on May 31, 2019 providing for extension of the Title V Permit, as of December 2, 2019, pursuant to the State Administrative Procedures Act §401(2).

VIOLATIONS

9. Respondents violated Part 360, the Part 360 Permit, ECL 17-0501, 6 NYCRR 703.2, GP-0-12-001, and GP-17-004 at the Landfill, as is detailed in the Department Notices of Violation (NOVs) listed in **Exhibit A** under “DMM NOVs” and hereby incorporated in their entirety into this Order on Consent (Order), including the following violations:
 - a. the Landfill failed to construct stormwater swales, vegetate slopes, properly grade slopes, and maintain stormwater ponds on April 4, 2017 and November 2, 2017;
 - b. solid waste was released into the environment on January 6, 2018 and April 4, 2018;
 - c. the Landfill had inadequate daily cover from February 26, 2018 through March 1, 2018;
 - d. leachate was observed leaving the lined footprint of the Landfill on fourteen days between April 14, 2017 and April 1, 2022;
 - e. the Landfill’s leachate lagoons did not have adequate freeboard on five occasions between October 20, 2021 and November 3, 2021; and
 - f. the Landfill failed to install LFG infrastructure per its O&M plan, odor control plan, and DEC approved engineering approvals. Laterals were not installed: on the floor of stage IX-C2 (one of four), at 860-foot elevation (two of four), at 890-foot elevation (three of four), and at 920-foot elevation (two of four).
10. Respondents violated ECL Sections 17-0803, 6 NYCRR 750-2.1(e), and GP-0-12-001 as follows:
 - a. between January 2015 and December 2021, the Landfill reported 18 violations of effluent limits on its DMRs and had 9 failures to report sampling results of a required parameter. These included 1 exceedance of a toxic parameter, 17 exceedances of non-toxic parameters, 2 failures to report a toxic parameter, and 7 failures to report non-toxic parameters. These violations are further detailed in **Exhibit B** - Summary of Effluent Limit

Exceedances which is attached hereto and hereby incorporated into this Order; and

- b. on August 10, 2018, Department staff identified 2 instances of substantial failure to implement required best management practices (BMPs) and 8 instances of non-substantial failures to implement required BMPs.
11. Respondents violated Parts 200.6, 257.1.4(a), 257-5.3, prior Part 257-10, and the Title V Permit, as is detailed in Exhibit A under "Air NOVs" and hereby incorporated in their entirety into this Order, when the Landfill exceeded the one-hour ambient air quality standard of 0.010 parts per million, as measured by the Jerome meter, for hydrogen sulfide on:
- a. July 12, 2019;
 - b. 41 occasions between September 15, 2019 and January 5, 2020;
 - c. 48 occasions between January 5, 2020 and March 22, 2020; and
 - d. 135 occasions between March 26, 2020 and March 13, 2022.

AGREEMENT TO ENTER ORDER

12. Respondents, through their representatives where one was appointed, and the Department have conferred and have agreed to execute this Order in settlement of Respondents' civil liability for the violations described herein. This Order resolves all violations known to the Department through the effective date of this Order.

WAIVER

13. Respondents affirmatively waive the right to a hearing in this matter, consent to the issuance of this Order without further notice, and agree to be bound by the provisions, terms and conditions of this Order.

NOW, being duly advised and having considered this matter, IT IS ORDERED THAT:

- I. PENALTY. Relative to and in settlement of the violations described in this Order, Respondents are hereby assessed, jointly and severally, a civil penalty in the amount of \$500,000. Of this total penalty amount,
 - a. \$250,000 is to be paid by Respondents, jointly and severally, by certified check to the City of Geneva (City), within 15 days of the effective date of the Order, to be used by the City to complete an environmental benefit project (EBP). The EBP to be completed by the City is a capital

improvement to the City's Marsh Creek Waste Water Treatment Plant, specifically, the addition of a biofiltration system.

Respondents may not use the EBP funds to reduce their tax liability.

- b. \$220,000 is a payable penalty, for which Respondents are jointly and severally liable, that must be paid at the time the signed and notarized Order is submitted to the Department, by electronic payment at <http://www.dec.ny.gov/about/61016.html#On-Line>, or by check made payable to the order of the "New York State Department of Environmental Conservation" with the case number of this Order on Consent written in the memo section of the check, which shall be sent together with the enclosed invoice to:

New York State Department of Environmental Conservation
Division of Management and Budget Services
625 Broadway, 10th Floor
Albany, NY 12233-4900

The Order on Consent shall be sent to:

New York State Department of Environmental Conservation
Office of General Counsel, Region 8
6274 East Avon-Lima Road
Avon, NY 14414
Attention: Dusty Renee Tinsley, Esq.

Any submissions other than those addressed by this paragraph shall be made as directed in paragraph IV., "Communications", below.

- c. Relative to and in settlement of the violations described in this Order, and to aid in ensuring Respondents' compliance with the terms and conditions of this Order, Respondents are hereby assessed, jointly and severally, an additional civil penalty in the amount of \$30,000. This is in addition to the penalties otherwise assessed pursuant to the terms of this Order and shall be suspended and not payable provided Respondents fully and in a timely fashion comply with all the deadlines and requirements of this Order. If Respondents fail in any respect to comply with this Order, the full amount of this suspended penalty will become due and payable within fifteen (15) days following receipt by Respondents of a written notice of noncompliance and demand by the Department in accordance with Order paragraph III, "Communications", at III, below.

- II. COMPLIANCE ACTION. Respondents must implement all compliance actions set forth in the attached compliance actions schedule, attached as "Schedule A", by the deadlines indicated therein. Schedule A is hereby incorporated into and

made an enforceable part of this Order. Should representatives of the Department and Respondents have good faith differences of opinion about the sufficiency or interpretation of submissions pursuant to Schedule A, Respondents and the Department shall use best efforts to resolve any differences cooperatively. The Department anticipates a return to compliance upon the completion of the requirements in Schedule A, and ongoing continued compliance under all applicable environmental laws and regulations.

III. COMMUNICATIONS.

- a. This paragraph does not apply to payment of the penalty assessed at paragraph I, "Penalty", above, or to submission of the Order on Consent, which are instead addressed at the aforesaid paragraph I.
- b. All written communications required by this Order shall be transmitted by United States Postal Service, by private courier service, by hand delivery, or by electronic mail.
- c. Communication from Respondents shall be sent to:

Mackenzie Osypian
New York State Department of Environmental Conservation
Division of Materials Management, Region 8
6274 East Avon-Lima Road
Avon, NY 14414
mackenzie.osypian@dec.ny.gov

Michele A. Kharroubi
New York State Department of Environmental Conservation
Division of Air Resources, Region 8
6274 East Avon-Lima Road
Avon, NY 14414
michele.kharroubi@dec.ny.gov

Luke W. Scannell
New York State Department of Environmental Conservation
Division of Water, Region 8
6274 East Avon-Lima Road
Avon, NY 14414
luke.scannell@dec.ny.gov

Dusty Renee Tinsley, Esq.
New York State Department of Environmental Conservation
Office of General Counsel, Region 8
6274 East Avon-Lima Road
Avon, NY 14414

dusty.tinsley@dec.ny.gov

Two hard copies (unbound) of any plan, report, manual, or similar document is required, as well as an electronic copy.

- d. Communication from the Department to Respondents, **including any demand for payment of the suspended penalty**, shall be sent to:

Thomas S. West
The West Firm, PLLC
677 Broadway, 8th Floor
Albany, New York 12207
twest@westfirmlaw.com

Jeffrey C. Stravino
Hodgson Russ LLP
140 Pearl Street, Suite 100
Buffalo, NY 14202
jstravino@hodgsonruss.com

Shelley E. Sayward
SVP & General Counsel
25 Greens Hill Lane, Rutland, VT 05701
p. 802-772-2215 • c. 802-345-2597
e. shelley.sayward@casella.com • w. casella.com

- IV. STANDARD PROVISIONS. Respondents must further comply with the Standard Provisions attached to this Order, which constitute material and integral terms and conditions of this Order and are hereby incorporated into this Order by reference.

Date: 10/13/2022
Avon, New York

BASIL B. SEGGOS, Commissioner
New York State Department of
Environmental Conservation

By: 
Timothy P. Walsh, MPA, PE
Regional Director

CONSENT BY RESPONDENT

[R8-2018-0507-144]

Respondent, **County of Ontario**, hereby consents to the issuance of the foregoing order without further notice, waives its right to a hearing herein, and agrees to be bound by the terms, provisions, and conditions contained herein.

County of Ontario

By [Signature]:

Christopher P. DeBolt

Name [Print]:

Christopher P. DeBolt

Title:

County Administrator

Date:

9/21/22

Email:

Christopher.DeBolt@ontariocounty.ny.gov

Acknowledgment

STATE OF NEW YORK)

COUNTY OF Ontario) ss:

On the 21st day of September, in the year 2022, before me, the undersigned, personally appeared Christopher P. DeBolt, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Cynthia R. Abraszek
Notary Public

CYNTHIA R. ABRASZEK
Notary Public, State of New York
Ontario County Reg. 01#AB6346115
Commission Expires 08/08/2024

If you are unable to secure notarization, you must sign the statement below.

In signing this document, I acknowledge under penalty of perjury that I understand the contents and purpose of this document; the signature above is my own and I signed willingly. I have also submitted state-issued identification verifying my identity. I am aware that any false statement made herein is punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York.

Signature

Printed name

INVESTMENT STATEMENT

FOR THE YEAR ENDING

December 31, 1968

Account No. 123456789
Name of Client: J. Edgar Hoover
Address: 400 ...
City: Washington, D.C.
State: D.C.
Zip: 20535

Investment Statement for the year ending December 31, 1968. The total value of the account is \$100,000.00. The account has earned a total of \$5,000.00 in interest and dividends during the year. The account is currently invested in a diversified portfolio of stocks and bonds.

CYNTHIA R. ABRASZK
Notary Public, State of New York
Ontario County Reg. 014A0234818
Commission Expires 08/08/71

This statement is prepared for your information only and does not constitute an offer of any securities. The investment performance of the account is subject to market conditions and the performance of the underlying investments. Please consult your investment advisor for more information.

CONSENT BY RESPONDENT

[R8-2018-0507-144]

Respondent, **New England Waste Services of N.Y., Inc.**, hereby consents to the issuance of the foregoing order without further notice, waives its right to a hearing herein, and agrees to be bound by the terms, provisions, and conditions contained herein.

New England Waste Services of N.Y., Inc.

By [Signature]: Edmond R. Coletta

Name [Print]: Edmond R. Coletta

Title: VP

Date: 9/27/22

Email: ned.coletta@case11a.com

Acknowledgment

VERMONT
STATE OF NEW YORK

COUNTY OF RUTLAND) ss:

On the 27th day of September, in the year 2022, before me, the undersigned, personally appeared Edmond R. Coletta, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Shelley E. Raymond
Notary Public

If you are unable to secure notarization, you must sign the statement below.

In signing this document, I acknowledge under penalty of perjury that I understand the contents and purpose of this document; the signature above is my own and I signed willingly. I have also submitted state-issued identification verifying my identity. I am aware that any false statement made herein is punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York.

Signature

Printed name

CONSENT BY RESPONDENT

[R8-2018-0507-144]

Respondent, **Casella Waste Services of Ontario, LLC**, hereby consents to the issuance of the foregoing order without further notice, waives its right to a hearing herein, and agrees to be bound by the terms, provisions, and conditions contained herein.

Casella Waste Services of Ontario, LLC

By [Signature]:

Edmond R. Colella

Name [Print]:

Edmond R. Colella

Title:

VP

Date:

9/27/22

Email:

ned.colella@casella.com

Acknowledgment

VERMONT
STATE OF NEW YORK)
COUNTY OF RUTLAND) ss:

On the 27th day of September, in the year 2022, before me, the undersigned, personally appeared Edmond R. Colella, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Shelley E. Jayne
Notary Public

If you are unable to secure notarization, you must sign the statement below.

In signing this document, I acknowledge under penalty of perjury that I understand the contents and purpose of this document; the signature above is my own and I signed willingly. I have also submitted state-issued identification verifying my identity. I am aware that any false statement made herein is punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York.

Signature

Printed name

Exhibit A

**Order Summary of Notices of Violation
Ontario County Landfill
DEC administrative enforcement case number R8-2018-0507-144**

DMM NOVs dated:

September 6, 2017
January 19, 2018
March 26, 2018
April 16, 2018
September 11, 2018
October 9, 2018
February 12, 2019
September 1, 2021
October 22, 2021
November 2, 2021
November 18, 2021
January 6, 2022
February 28, 2022
March 23, 2022

Air NOVs dated:

July 18, 2019
January 17, 2020
April 10, 2020
March 22, 2022

DOW NOVs dated:

August 24, 2018
May 4, 2022

EXHIBIT B

ORDER SUMMARY OF NUMERIC EFFLUENT LIMIT EXCEEDANCES

Ontario County Landfill

DEC administrative enforcement case number R8-20180507-144

YEAR	OUTFALL	PARAMETER EXCEEDED	SPDES LIMIT (mg/L)	DMR REPORTED RESULT (mg/L)
2015	001	Total Suspended Solids	88	165
2015	001	Benzoic Acids	0.12	Failed to Report
2015	001	p-Cresol	0.025	Failed to Report
2015	001	Zinc, Total	0.2	0.21
2015	002	BOD, 5-Day	140	Failed to Report
2015	002	Total Nitrogen	6	Failed to Report
2015	002	pH	Jun 9	Failed to Report
2015	002	Total Phenolics	0.026	Failed to Report
2015	002	Total Suspended Solids	88	Failed to Report
2015	002	Terpineol	0.033	Failed to Report
2015	002	Zinc, Total	0.2	Failed to Report
2015	008	Total Suspended Solids	88	148
2015	009	Total Suspended Solids	88	124
2016	001	Total Suspended Solids	88	178
2016	002	Total Suspended Solids	88	298
2016	009	Total Suspended Solids	88	177
2017	001	Total Suspended Solids	88	105
2017	009	Total Suspended Solids	88	560
2017	009	Total Nitrogen	6	7.22
June 2019	001A	Total Suspended Solids	88	110
June 2019	006A	Total Suspended Solids	88	158
June 2019	009A	Total Suspended Solids	88	900
Dec 2019	009A	Total Suspended Solids	88	556
June 2021	007A	Total Suspended Solids	88	1040
Dec 2021	001A	Total Suspended Solids	88	729
Dec 2021	007A	Total Suspended Solids	88	1480
Dec 2021	009A	Total Suspended Solids	88	2820

ORDER SCHEDULE A

Ontario County Landfill

DEC administrative enforcement case number R8-2018-0507-144

1. All submissions required by this Schedule A must be to the Department in the manner indicated by Paragraph III ("Communications") of the Order.
2. This Schedule A imposes requirements and deadlines in addition to those of the SPDES permit; it is not to be construed to nullify any SPDES permit requirement, or to extend any SPDES permit timeframe; provided, however, the deadlines herein supersede any inconsistent deadlines imposed by items A, B, C and D on page three of the Department's Notice of Violation dated August 24, 2018 related to the SPDES permit.
3. Within 60 days from the effective date of the Order, and annually thereafter, Respondents must remove the sediment from any existing storm water ditches, check dams, culverts, swales, and forebays of the landfill storm water infrastructure system for Phase III of the landfill that contain sediment in an amount that impairs the design capacity of the structure. Respondents must remove enough sediment to ensure that design capacity is completely restored.
4. Within 60 days from the effective date of the Order, Respondents must repair all existing storm water ditch berms and Landfill anchor trench berms of the Phase III Landfill, including any necessary reconstruction and stabilization of these berms.
5. Within 60 days from the effective date of the Order, and annually thereafter, Respondents must repair all the washed-out areas and eroded sections of the storm water swales on all side slopes of Phase III of the Landfill, and must establish vegetative cover on these berms.
6. Respondents hereby each consent to and waive any right each Respondent might have to object to the Department's enforcement as requirements under the solid waste management Permit ~~of~~ the addendums to the O&M Manual submitted and approved by DEC under this Order. *or DC*
7. Within 60 days from the effective date of the Order, Respondents must update the O&M Manual for the Landfill to include the following language: "Commencing immediately, Permittee must increase the monitoring of all the landfill gas (LFG) collectors located in Phase III of the Landfill - not only those currently subject to 40 CFR 63 Subpart AAAA monitoring - from one time every month to a minimum of two times every month with at least ten days between each such event, for at least the following parameters: pressure, temperature, and oxygen content. Permittee must keep a log listing the date of the reading taken at each LFG collector, the reading taken for each of the fore-mentioned parameters, and any corrective action taken as a result of a reading, including corrective action required under 40 CFR 63 Subpart AAAA. Permittee must continue such LFG collector monitoring until the Department

provides written approval to return to monthly monitoring. This LFG collector monitoring is in addition to the monthly monitoring required by 40 CFR 63 Subpart AAAAA for LFG collectors subject to that Rule.”

8. Within 60 days from the effective date of the Order, Respondents must submit an updated leachate storage evaluation which includes, but is not limited to: a timeline for the submittal of the storage tank design, the anticipated installation date, a construction completion date of April 28, 2023, and submittal of a complete construction certification report to the Department no later than 15 days after the date of construction completion.
9. Within 60 days from the effective date of the Order, Respondents must submit, for Department review and approval, a written addendum to the O&M Manual for the Landfill adding the following language: “Horizontal gas collectors will be installed in the waste mass at a horizontal spacing of not more than 100 feet and a vertical spacing of not more than 20 feet.”
10. Between September 1, 2022 and December 31, 2022, Respondents must complete a 2022 cleaning and inspection of the leachate lagoons.
11. Within 60 days from the effective date of the Order, Respondents must complete the treatment of leachate impacted stormwater contained in stormwater retention pond 1A, stormwater retention pond 1B, and 8A temp pond. If treatment cannot be completed successfully, Respondent must remove the impacted liquids for offsite disposal no later than December 31, 2022.
12. Within 60 days from the effective date of the Order, Respondents must submit to the Department for review and approval, a report documenting the treatment of the stormwater retention pond 1A and stormwater retention pond 1B verifying that they are no longer impacted by leachate.
13. Within 60 days from the effective date of the Order, Respondents must establish vegetative cover on all outside slopes and disposal areas that have not received waste within the last six months. Vegetative cover must be maintained at 80% coverage, at the Department’s discretion. Any time vegetative cover falls below 80%, Respondents must undertake reseeding to obtain 80% vegetative cover.
14. Respondents must conduct monthly checks of all areas of the Landfill cover that are not yet subject to the requirements under 40 CFR 63 Subpart AAAAA. Corrective action measures must commence within five days of discovery of the violation with corrective action being completed within 30 days of discovery. Respondents must maintain a log on-site, and provide for Department inspection, detailing when checks are conducted, who conducted the checks, what was observed during the checks, and any corrective actions taken during or following checks. Respondents must submit to Department staff a summary report of the monthly checks to the Department semiannually.

15. Respondents must conduct checks of all gas collectors in Stage 9C until such time that these gas collectors become subject to 40 CFR 63 Subpart AAAA and any new gas collectors installed in areas not applicable to 40 CFR 63 Subpart AAAA twice a month, with at least 10 days between each monitoring event, to confirm negative pressure. If a collector is found to be under positive pressure, Respondents must take action to correct the exceedance within 5 days of the exceedance. Respondents must keep monthly inspection records on site, and provide them for Department staff inspection upon request, including the following information: when checks are conducted, who conducted the checks, what was observed during the checks, and any corrective actions made during or following checks. Respondents must submit a summary report of collectors no longer functioning and collectors requiring corrective action to the Department semiannually.
16. Respondents must conduct quarterly surface scans of Stages 8A, 9C and newer areas being filled (other than the working face or dangerous slopes/conditions) until such time that these areas become subject to the surface scan requirements in 40 CFR 63 Subpart AAAA. Respondents must document corrective actions of any readings over 200 ppm methane and maintain records of all corrective actions taken resulting from readings over 200 ppm methane. These records must be available for Department inspection upon request. Respondents must rescan any areas where corrective actions were taken as a result of the previous months scan the following month to confirm that the corrective actions taken were successful. Respondents must maintain documentation of rescans and confirmation of whether prior corrective actions were or were not successful. If prior corrective actions were not successful, Respondents must take further corrective action until a rescan demonstrates that corrective action was successful.
17. Annually, between the months of April and October when there is no snow cover, Respondents must evaluate the areas of the Landfill without final cap for potential fugitive emissions not already addressed via the compliance monitoring conducted per 40 CFR 63.1958. The annual evaluation shall include an assessment of all available monitoring data collected under emissions monitoring programs and methodologies as required by state and federal regulation, or as otherwise required by the Department under Respondents' corresponding permits and this consent order. Additional emissions monitoring shall be used to supplement the available data as necessary. Additional monitoring may include but is not limited to; supplemental SEM following EPA Method 21 monitoring methodology, utilization of alternative emissions detection technology such as drones, aircraft, satellite, or fixed on-site detection equipment, or other technologies available and approved by the Department. Prior to the implementation and use of any additional monitoring methodology, the Respondents shall submit a proposal to the Department for its review and approval. The annual evaluation, including any additional monitoring, shall be submitted to the Department no later than 60 days after the date of completion. The annual evaluation shall also include proposed recommendations for improving emissions controls such as operational changes, expansion of the gas collection system, or other engineering corrective actions.

18. Respondents must continue with the Acrulog continuous ambient air monitoring according to the facility's Hydrogen Sulfide Sampling and Monitoring Plan until at least October 31, 2023. Based on a review of the monitoring results, the Department will determine whether continuation of Acrulog continuous ambient air monitoring is necessary. If so, Department staff will notify the facility of the necessary continued air monitoring and any parameters for the same, including duration.
19. Respondents must continue with the Jerome monitoring according to the facility's Hydrogen Sulfide Sampling and Monitoring Plan. Respondent may submit a request, for Department staff approval, to cease ongoing Jerome monitoring once there are 4 consecutive weeks of no H₂S exceedances with both the Jerome and Acrulog data at the Landfill.
20. Respondents must continue with improvements to the dewatering and gas collections systems including rebalancing the wellfield and prioritizing productive dewatering pumps. If a new gas collector needs to be dewatered a pump must be installed within 120 days of the gas collector being installed. Respondents must maintain pump supplies on-hand to prevent dewatering delays due to supply chain issues. ~~On or before~~ ^{PET} Within 60 days from the effective date of the Order, Respondents must update the O&M Manual to address the dewatering system to include: a statement that the OCLF dewatering system must remain in operation; that Respondents must notify the Department within 24-hours of any significant disruption to the dewatering system resulting in the system being down for more than 24-hours; and that Respondents must provide an update on any disruption causing the system to be down for more than 24 hours in writing and within 7 days to the Department.

Standard Provisions

Access. For the purpose of monitoring or determining compliance with this Order, employees and agents of the Department shall be provided access to any facility, site, or records owned, operated, controlled or maintained by Respondent, in order to inspect and/or perform such tests as the Department may deem appropriate, to copy such records, or to perform any other lawful duty or responsibility.

Binding Effect. The provisions, terms, and conditions of this Order shall be deemed to bind Respondent, its heirs, its employees, servants, agents, successors and assigns, and all persons, firms, and corporations acting subordinate thereto.

Communications. Except as otherwise specified in this Order, any reports, submissions, and notices herein required shall be made to the Regional Director of the Region 8 office of the Department, located at 6274 East Avon-Lima Road, Avon, New York 14414.

Default of Payment. The penalty assessed in the Order on Consent constitutes a debt owed to the State of New York. Failure to pay the assessed penalty, or any part thereof, in accordance with the schedule contained in the Order on Consent, may result in referral to the New York State Attorney General for collection of the entire amount owed (including the assessment of interest, and a charge to cover the cost of collecting the debt), or referral to the New York State Department of Taxation and Finance, which may offset by the penalty amount any tax refund or other monies that may be owed to you by the State of New York. Any suspended and/or stipulated penalty provided for in this Order on Consent will constitute a debt owed to the State of New York when and if such penalty becomes due.

Effective Period of this Order and Termination. This Order shall take effect when it is signed by the Commissioner of the Department or the Commissioner's designee, and shall expire when all the requirements imposed by the Order are completed to the Department's satisfaction.

Entirety of Order. The provisions of this Order constitute the complete and entire Order issued to the Respondent, concerning resolution of the violations identified in this Order. Terms, conditions, understandings or agreements purporting to modify or vary any term hereof shall not be binding unless made in writing and subscribed by the party to be bound, pursuant to the "Modifications" provision. No informal oral or written advice, guidance, suggestion or comment by the Department regarding any report, proposal, plan, specification, schedule, comment or statement made or submitted by the Respondent shall be construed as relieving the Respondent of his/her obligations to obtain such formal approvals as may be required by this Order.

Failure, Default, and Violation of Order. The failure of Respondent to comply with any provision of this Order shall constitute a default and a failure to perform an obligation under this Order and shall be deemed to be a violation of both this Order and the ECL. In addition, Respondent's failure to comply fully and in timely fashion with any provision, term, or condition of this Order shall constitute a default and a failure to perform an obligation under this Order and under the ECL and shall constitute sufficient grounds for revocation of any permit, license, certification, or approval issued to the Respondent by the Department.

Force Majeure. If Respondent cannot comply with a deadline or requirement of this Order on Consent, because of natural disaster, war, terrorist attack, strike, riot, judicial injunction, or other, similar unforeseeable event which was not caused by the negligence or willful misconduct of Respondent and which could not have been avoided by the Respondent through the exercise of due care, Respondent shall apply in writing to the Department within a reasonable time after obtaining knowledge of such fact and request an extension or modification of the deadline or requirement. Respondent shall include in such application the measures taken by Respondent to prevent and/or minimize any delays. Failure to give such notice constitutes a waiver of any claim that a delay is not subject to penalties. Respondent shall have the burden of proving that an event is a defense to a claim of non-compliance with this Order on Consent pursuant to this subparagraph.

Indemnification. Respondent shall indemnify and hold the Department, the State of New York, and their representatives, employees, agents and contractors harmless for all claims, suits, actions, damages and costs of every nature and description arising out of resulting from the fulfillment or attempted fulfillment of this Order by the Respondent, its employees, servants, agents, successors (including successors in title) and assigns.

Modifications. No change in this Order shall be made or become effective except as specifically set forth by written order of the Commissioner, being made either upon written application of Respondent, or upon the Commissioner's own findings after notice and opportunity to be heard have been given to Respondent. Respondent shall have the burden of proving entitlement to any modification requested pursuant to this Standard Provision or the "Force Majeure" provision, *supra*. Respondent's requests for modification shall not be unreasonably denied by the Department, which may impose such additional conditions upon Respondent as the Department deems appropriate.

Multiple Respondents. If more than one Respondent is a signatory to this Order, use of the term "Respondent" in these Standard Provisions shall be deemed to refer to each Respondent identified in the Order.

Not a Permit or Permit Modification. This Order on Consent is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. Unless otherwise allowed by statute or regulation, Respondent is responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits. Respondent's compliance with this Order on Consent shall be no defense to any action commenced pursuant to any laws, regulations, or permits, except as set forth herein.

Reservation of Rights. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting any right of the Department to seek natural resource damages from Respondent or others; or to directly perform, to engage others to perform on its behalf, or to direct others including Respondent to perform, any additional measures that are authorized by law to protect human health, safety or the environment, including the summary abatement powers of the Department, either at common law or as granted pursuant to statute or regulation.

Scope of Settlement and Violations Addressed. This Order shall be in full settlement of all claims for civil and administrative penalties that have been or could be asserted by the Department against Respondent, their trustees, officers, employees, successors and assigns for the above-referenced violations. This Order shall not be construed as being in settlement of events regarding which the Department lacks knowledge or which occur after the effective date of this Order.

Service. If Respondent is represented by an attorney with respect to the execution of this Order, service of a duly executed copy of this Order upon Respondent's attorney by ordinary mail shall be deemed good and sufficient service.