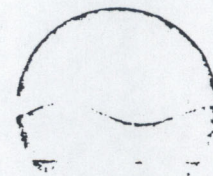


New York State Department of Environmental Conservation  
600 Delaware Ave., Buffalo, NY 14202-1073  
716/817-4552



Henry G. Williams  
Commissioner

April 27, 1987

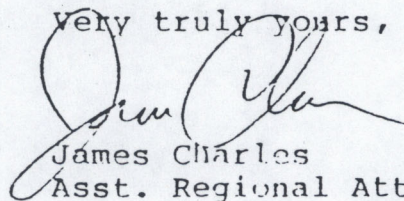
Mr. Dennis V. Tobolski  
County Attorney  
303 Court Street  
Little Valley, NY 14755

Dear Mr. Tobolski:

Order on Consent  
File No. 84-106

Pursuant to discussions between County and Department personnel, the enclosed revisions to the above Order were agreed to. Please have these documents signed by the County Chairman on or before April 30, 1987 and return them to my attention by no later than May 11, 1987.

Very truly yours,

  
James Charles  
Asst. Regional Attorney

JC:ib

Enclosure

cc: Mr. R. Mitrey  
attn: Mr. K. Hintz

STATE OF NEW YORK : DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of Alleged Violations of Part 360 of Title 6 of the  
Official Compilation of Codes, Rules and Regulations of the State of  
New York, Environmental Conservation Law Section 27-0703 by

ORDER  
ON  
CONSENT

CATTARAUGUS COUNTY REFUSE DEPARTMENT  
289 Center Street  
Salamanca, New York 14779

FILE  
NO. 84-106

(Cattaraugus County)

9-1210

Respondent

WHEREAS:

1. The duly promulgated Article 27 of the New York State Environmental Conservation Law (hereinafter cited as Article 27) established the powers of the Department of Environmental Conservation to regulate the use of land for the purpose of refuse disposal and for the operation and maintenance of refuse disposal areas; and Article 27 permits the establishment of Part 360 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (hereinafter cited as Part 360.)

2. The Respondent maintains and/or operates refuse disposal areas and/or permits to use for refuse disposal of land owned and/or controlled by the Respondent; to wit: premises situated on Toad Hollow Road, Mansfield, New York (Five-Points Landfill) and Farwell Road, Ischua, New York (Farwell Landfill).

3. Such refuse disposal area is subject to Article 27 and Part 360.

4. Respondent as a result of inspections on July 2, 1984 at both landfills while neither admitting nor denying the allegations, is allegedly in violation of Part 360, to wit: with respect to the Farwell site, the following significant violations, Section 360.8(b)-allowing ponding of water and providing inadequate cover vegetation and the following less

significant violations, Section 360.8(a)-allowing the blowing of paper and litter; and with respect to the Five-Points site, Section 360.8(b)-allowing uncovered and protruding wastes.

5. Respondent does not concede the authority of the Department of Environmental Conservation (hereinafter referred to as the Department) to impose standards other than those currently in effect as stated in Part 360 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR), without following the procedures for regulatory amendment or modification set forth in the NYCRR.

6. Respondent has affirmatively waived its right to a hearing on these matters as provided by law and has consented to the issuing and entering of this Order and has agreed to be bound by the provisions, terms and conditions contained herein and Schedules A and B annexed hereto, and made a part hereof.

NOW, having considered the matter and being duly advised, it is ORDERED:

I. THAT the Respondent and Department shall be bound as hereinafter provided.

II. THAT in respect of the alleged violations there is hereby imposed upon Respondent a civil penalty in the amount of Ten Thousand Dollars (\$10,000.00) which shall be suspended on the condition that Respondent comply with the terms of Schedules A and B.

III. THAT the Department will not commence any further action of penalties for any violations so long as the Respondent continues operation of its site in conformity with Part 360 and the ECL and commences and fully completes the remedial program in accordance with the provisions, terms and conditions of this Order including Schedules A and B annexed hereto, and incorporated

herein.

IV. THAT all submissions required herein shall be made to the Regional Solid Waste Engineer - Division of Solid Waste, Department of Environmental Conservation, 600 Delaware Avenue, Buffalo, New York 14202-1073.

V. THAT duly authorized representatives of the State of New York shall be permitted access to any premises wherein a refuse disposal area is wholly or partially controlled, operated, maintained, permitted, allowed or condoned by the Respondent for the purpose of inspecting such refuse disposal areas, performing any tests, taking samples or otherwise determining compliance with the ECL and any rules promulgated thereunder.

VI. THAT in those instances in which the Respondent desires that any of the provisions, terms or conditions of this Order be changed, it shall make written application, setting forth the ground for the relief sought, to the Regional Director.

THAT any change in this Order shall not be made or become effective except as specifically set forth by written Order of the Regional Director, such written Order being made either upon written application of the Respondent or upon the Regional Director's own findings after an opportunity to be heard has been given to Respondent or pursuant to the summary abatement provisions of the Environmental Conservation Law.

VII. THAT the provisions, terms and conditions of this Order shall be deemed to bind the Respondent, and its employees, successors and assigns.

VIII. THAT the terms of this Order shall expire upon the completion of items #7 of Schedule B and either item #2 of Option I, Schedule A or item #2 of Option II, Schedule A.

IX. The Department waives its right under 6 NYCRR Part 622.11(a) to use this stipulation in evidence to provide the basis for a finding of fact in any subsequent proceeding brought by the Department against the Respondent

herein.

IV. THAT all submissions required herein shall be made to the Regional Solid Waste Engineer - Division of Solid Waste, Department of Environmental Conservation, 600 Delaware Avenue, Buffalo, New York 14202-1073.

V. THAT duly authorized representatives of the State of New York shall be permitted access to any premises wherein a refuse disposal area is wholly or partially controlled, operated, maintained, permitted, allowed or condoned by the Respondent for the purpose of inspecting such refuse disposal areas, performing any tests, taking samples or otherwise determining compliance with the ECL and any rules promulgated thereunder.

VI. THAT in those instances in which the Respondent desires that any of the provisions, terms or conditions of this Order be changed, it shall make written application, setting forth the ground for the relief sought, to the Regional Director.

THAT any change in this Order shall not be made or become effective except as specifically set forth by written Order of the Regional Director, such written Order being made either upon written application of the Respondent or upon the Regional Director's own findings after an opportunity to be heard has been given to Respondent or pursuant to the summary abatement provisions of the Environmental Conservation Law.

VII. THAT the provisions, terms and conditions of this Order shall be deemed to bind the Respondent, and its employees, successors and assigns.

VIII. THAT the terms of this Order shall expire upon the completion of items #3 and 5 of Schedule B and either item #2 of Option I, Schedule A or item #3 of Option II, Schedule A.

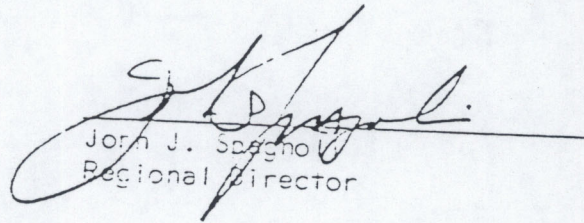
IX. The Department waives its right under 6 NYCRR Part 622.11(a) to use this stipulation in evidence to provide the basis for a finding of fact in any subsequent proceeding brought by the Department against the Respondent

involving the same or similar violations. The Department does not waive its right to use this Order/Stipulation as evidence in the event the terms of this Order/Stipulation and its attached Schedules A and B are violated.

X. The civil liabilities which may be imposed pursuant to any violations of this Order shall not apply to those violations which are caused by an act of God, war, strike, riot, catastrophe or other condition as to which negligence or willful misconduct on the part of the Respondent is not the proximate cause.

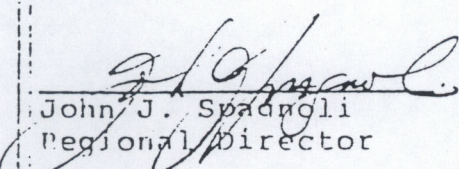
DATED: Buffalo, New York  
April 1, 1985

HENRY G. WILLIAMS, Commissioner  
New York State Department of  
Environmental Conservation

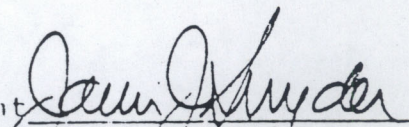
  
John J. Spagno  
Regional Director

CONSENT BY RESPONDENT

Respondent hereby consents to this Order on Consent's (No. RA-106) revision of Schedules A & B dated April 20, 1987.

  
John J. Spagnoli  
Regional Director

Dated: June 11, 1987

Respondent   
By: James A. Snyder  
Title: Chairman  
Date: 6/5/87

SCHEDULE A (Farwell Landfill Closure) [Revised 4/20/87]

Respondent shall on or before the following dates:

1. Submit an approvable closure plan for Phase I, II, and III a prepared and signed by a professional engineer. July 1, 1987
2. Complete the approved program for leachate storage and containment. October 15, 1987
3. Complete final closure in accordance with the approved closure plan. September 1, 1988
4. Submit to the Department certification for item #3's completion. October 1, 1988
5. Dispose of leachate at a Department approved facility. Continuously



SCHEDULE B (Five-Points Landfill Closure) [Revised 4/20/87]

Respondent shall on or before the following dates in accordance with the approved closure plan dated July 1986 and including all revisions as of April 20, 1987:

1. Install the required groundwater monitoring wells. October 15, 1987
2. Construct the groundwater cutoff trench. October 15, 1987
3. Cap one-half of Phase II area. October 15, 1987
4. Construct the expanded collection system. October 15, 1987
5. Submit to the Department certification for item #3's completion. November 1, 1987
6. Complete final closure. September 1, 1988
7. Submit to the Department certification for item #6's completion. October 1, 1988
8. Dispose of leachate at a Department approved facility. Continuously