

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

IN THE MATTER OF)	Case No. 3579
)	
CITY OF HOLDREGE, NEBRASKA)	
)	CONSENT ORDER
PRAIRIE HILL MUNICIPAL SOLID)	
WASTE LANDFILL)	
)	
FID# 62745)	
)	
RESPONDENT.)	

I. INTRODUCTION

1. The Nebraska Department of Environment and Energy (NDEE or Department) and the City of Holdrege, NE (Respondent) voluntarily enter into this Consent Order. The Consent Order establishes a schedule for Respondent to comply with the Nebraska Environmental Protection Act (NEPA), Neb. Rev. Stat. §§ 81-1501 to 81-1532; the Integrated Solid Waste Management Act (ISWMA), Neb. Rev. Stat. §§ 13-2001 to 13-2043; and Neb. Admin. Code, Title 132, *Integrated Solid Waste Management Regulations* (Title 132).

II. JURISDICTION

2. NDEE is the agency of the State of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. § 1-1504(1), of exercising exclusive general supervision, administration, and enforcement of NEPA, ISWMA, permits issued under such acts, and all rules and regulations promulgated by the Nebraska Environmental Quality Council (EQC) under such acts, including Title 132.

3. In signing this Consent Order, Respondent agrees to undertake all actions required by this Consent Order. Respondent agrees not to contest the jurisdictional allegations referenced herein in any action to enforce this Consent Order. Respondent waives its right to further hearing as



provided in Neb. Rev. Stat. § 81-1507 and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901 *et seq.* for the violations alleged herein.

III. PARTIES

4. Respondent City of Holdrege, NE is an incorporated city of the first class as defined in Neb. Rev. Stat. § 16-101 and a "person" as defined in Neb. Rev. Stat. § 81-1502(10).

5. The parties to this Consent Order are NDEE and Respondent City of Holdrege, NE. This Consent Order is binding on the Respondent, and all successors and assigns.

IV. FINDINGS OF FACT

6. Respondent owns and operates a municipal solid waste landfill (MSWLF) located at 506 13th St in Holdrege, NE that has been issued NDEE solid waste management permit number NE0120783 (Permit), most recently reissued by NDEE on August 16, 2021, for a five (5) year permit term.

7. As a condition of issuance, Respondent's "Permit consists of the conditions contained herein, including those in any attachments, any applicable law, including the Nebraska Environmental Protection Act and the Integrated Solid Waste Management Act, and applicable regulations contained in Title 132 – Integrated Solid Waste Management Regulations." Permit NE0120783, page 1 of 3.

8. As a condition of issuance, Respondent's Permit also requires that "[t]his solid waste management facility must be operated in accordance with all provisions of the Permittee's Application, which is hereby adopted and incorporated herein by reference." *Id.*

9. Pursuant to its authority in Neb. Rev. Stat. §§ 13-2034 and 81-1505(3)(d), the EQC has adopted various rules in Title 132 which regulate landfill operations so that the disposal of

municipal solid waste does not cause land, air, or water pollution, as defined in Neb. Rev. Stat. § 81-1502.

10. Under Title 132 regulations, Respondent must, among other requirements:

- a. divert surface water courses and run-off from the solid waste disposal area by devices such as trenches, conduits, and proper grading to minimize infiltration and promote rapid surface water run-off without excessive erosion, as required by Title 132, Chapter 3, 003.04E3;
- b. control and collect windblown litter, as required by Title 132, Chapter 3, 004.03 and 004.17A;
- c. conduct and record a minimum number of random load inspections, as required by Title 132, Chapter 3, 004.06;
- d. cover waste at the end of each operating day with six (6) inches of earthen material or an approved alternative daily cover, as required by Title 132, Chapter 3, 004.17B1 and B2;
- e. deposit solid waste in the smallest practical area, also referred to as the "working face" of the active disposal area of the landfill, as required by Title 132, Chapter 3, 004.17D;
- f. operate the leachate collection system according to the "Operations Plan" in the approved MSWLF permit application, as required by Title 132, Chapter 3, 004.17D4;
- g. cover any area where wastes will not be disposed for a period of one hundred eighty (180) days or longer with the required daily cover material and an

additional twelve (12) inches of intermediate cover, as required by Title 132, Chapter 3, 004.13.

11. In addition to the above regulatory requirements of Title 132, the terms and conditions of Respondent's Permit and incorporated application further require Respondent to:

- a. conduct and document leachate collection system and force main maintenance on an annual frequency, as required by Part 2.16 of the "Operations Plan" in the approved MSWLF permit application;
- b. deposit solid waste in the smallest practical area or "working face", which is typically and approximately 50' x 75', as required by Part 2.1 of the "Operations Plan" in the approved MSWLF permit application.

12. During an inspection of Respondent's MSWLF conducted on February 11, 2022, NDEE observed ponded water in a trench approximately 30' wide and 100' long within the active disposal area in violation of Title 132, Chapter 3, 003.04E3.

13. During inspections of Respondent's MSWLF conducted on April 30, 2019; April 27, 2021; September 9, 2021; and February 11, 2022; NDEE observed significant amounts of uncontrolled and uncollected windblown litter in violation of Title 132, Chapter 3, 004.03 and 004.17A.

14. During an inspection of Respondent's MSWLF conducted on February 11, 2022, NDEE observed that Respondent had not conducted and recorded a minimum number of random load inspections in violation of Title 132, Chapter 3, 004.06.

15. During inspections of Respondent's MSWLF conducted on April 30, 2019; April 27, 2021; September 9, 2021; and February 11, 2022; NDEE observed large areas of the active

disposal area and working face without adequate daily cover in violation of Title 132, Chapter 3, 004.17B1 and B2.

16. During inspections of Respondent's MSWLF conducted on April 27, 2021; September 9, 2021; and February 11, 2022; NDEE observed areas of waste deposition in the active disposal area of the landfill that were well in excess of the smallest practical area in violation of Title 132, Chapter 3, 004.17D and well in excess of 50' x 75' as required by Respondent's Permit.

17. During an inspection of Respondent's MSWLF conducted on February 11, 2022, NDEE observed that Respondent was not conducting and documenting annual maintenance on the leachate collection system and force main as required by Title 132, Chapter 3, 004.17D4 and Respondent's Permit.

18. During inspections of Respondent's MSWLF conducted on April 27, 2021; September 9, 2021; and February 11, 2022; NDEE observed areas outside of the working face estimated to be at least 2-4 acres in size that required intermediate cover, but were without intermediate cover in violation of Title 132, Chapter 3, 004.13.

19. On April 27, 2022, three (3) NDEE staff met with Respondent's staff and representatives at Holdrege Prairie Landfill to both inspect Respondent's operational practices and provide compliance assistance pursuant to Neb. Rev. Stat. § 81-1510. The three NDEE staff present during the meeting consisted of the compliance inspector assigned to the facility, the professional engineer (P.E.) assigned to the facility, and the acting Waste Compliance Section Supervisor. The inspection and compliance assistance visit further documented the violations alleged herein and provided Respondent with specific recommendations for achieving compliance.

20. Given the violations alleged herein, many of which are ongoing or recurrent, the NDEE Director is authorized under Neb. Rev. Stat. §§ 81-1504(25) and 81-1507(1) to require and enforce compliance schedules when a violation of NEPA, ISWMA, or Title 132 has occurred.

21. Neb. Rev. Stat. § 81-1504(11) further authorizes the NDEE Director to require modification of agency permits "under such conditions as the director may prescribe and consistent with the standards, rules, and regulations adopted by the council, (a) to prevent, control, or abate pollution, (b) for the discharge of wastes into the air, land, or waters of the state, and (c) for the installation, modification, or operation of disposal systems or any parts thereof".

V. COMPLIANCE ORDER

22. December 1, 2022, Respondent agrees to submit an application for minor modification of solid waste management permit number NE0120783, pursuant to Title 132, Chapter 2, 010.04M, that amends the Operations Plan in the current approved MSWLF permit application in the following areas:

- a. Adds detail, specificity, and procedures to be used for depositing solid waste in the smallest practical area, which in total may not exceed 7500 square feet, including, but not limited to: making weekly measurements of the size of the working face; documenting these measurements in the operating record on a weekly basis; documenting an explanation of the causes for the working face to exceed 7500 square feet; and describing those efforts Respondent is making to reduce the size of the working face to the smallest practical area;
- b. Adds detail, specificity, and procedures to be used for maintaining compliance with daily and intermediate cover requirements including, but not limited to: listing all approved alternate daily covers currently in use, the start & end dates for each

individual cover's demonstration period, and the date of NDEE approval; making weekly notes of those sub-areas of the solid waste disposal area which are covered by daily, intermediate, or final cover; making and documenting multiple measurements of cover depth in daily and intermediate cover areas; and describing the application pattern, depth, and the maximum effective duration in days for all alternate daily covers used;

- c. Adds detail, specificity, and procedures to be used for maintaining compliance with run-on & run-off requirements; for preventing the occurrence of ponded water in the active disposal area; for removing ponded water in the active disposal area when it does occur within 14 days; and documenting the location, length, and width of any ponded water and actions taken to reduce the volume of ponded water in the operating record on a weekly basis;
- d. Adds detail, specificity, and procedures to be used for controlling and collecting windblown litter; making weekly notes of the location of litter fences, any litter observed beyond the facility boundary, any daily litter collection activities; and recording litter control and collection activities in the operating record on a weekly basis;
- e. Adds detail, specificity, and procedures to be used to ensure a minimum number of random load inspections are conducted and recorded in the operating record on a weekly basis; and
- f. Adds detail, specificity, and procedures to be used to conduct and document leachate collection system and force main maintenance on an annual frequency. In one of the twelve (12) Monthly Compliance Reports required by this paragraph, Respondent

agrees to document that it has conducted leachate collection system and force main maintenance during that month and provide description of any issues or problems encountered during maintenance and any required repairs or other corrective actions taken by Respondent to return these systems to full performance.

23. Upon NDEE review and approval of the application for minor modification of Permit NE0120783 required by paragraph 22, Respondent agrees to immediately implement the amendments to Respondent's Operations Plan in the approved MSWLF permit application.

24. By the 10th day of the month following NDEE's approval of Respondent's application for minor modification required by paragraph 22, and for the next eleven months thereafter, Respondent agrees to submit a "Monthly Compliance Report" summarizing Respondent's ongoing progress implementing the detailed and specific procedures to be used for maintaining consistent compliance with the regulations identified herein. At a minimum, the Monthly Compliance Report shall contain the new information required by paragraph 22 to be added to the operating record on a weekly basis. Prior to submittal to NDEE, the Monthly Compliance Report is to be signed by the following individuals: the solid waste consulting engineer for the City of Holdrege, the Holdrege Prairie Landfill Foreman, and the City of Holdrege Municipal Services Director.

25. Submissions to the Department under this Order shall refer to FID #62745 and shall be sent to:

Michael Behrens, P.E., CHMM
Waste Permits Section
Nebraska Department of Environment and Energy
P.O. Box 98922
Lincoln, NE 68509-8922

VI. SATISFACTION AND COMPLIANCE WITH OTHER LAWS

26. Respondent shall perform all actions required by this Consent Order in accordance with all applicable local, state, and federal laws, regulations and permits.

VII. RESERVATION OF RIGHTS

27. Nothing in this Consent Order shall be construed to limit the power and authority of the NDEE to take or order any action necessary to protect public health, welfare, or the environment or to enforce any provision of NEPA, ISWMA, and any rules, regulations, orders, or permits issued pursuant to NEPA or ISWMA.

VIII. TERMINATION

28. After submittal of twelve (12) complete Monthly Compliance Reports, Respondent will be notified by NDEE in writing that the compliance schedule contained herein has been completed and that the present administrative case is closed. Any missed, incomplete, or inaccurate monthly reports will not be counted toward the total of twelve (12) unless any deficiencies identified by NDEE are corrected by Respondent within fourteen (14) days of receiving notice of the deficiency from NDEE.

IX. NEGATION OF AGENCY RELATIONSHIP

29. Nothing in this Consent Order shall be construed to create, either expressly, or by implication, the relationship of agency between NDEE and Respondent.

X. AMENDMENT

30. This Consent Order may be modified and amended in writing by mutual agreement of NDEE and Respondent.

XI. EFFECTIVE DATE

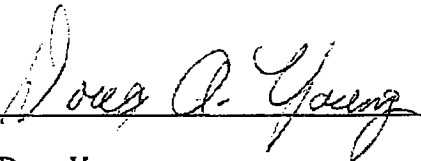
31. This Consent Order shall become effective on the date it is signed by the NDEE Director or his designee.

XII. SEVERABILITY

32. If any provision or authority of this Order or the application of this Order to any party or circumstances is held by any judicial or administrative authority to be invalid, the application of such provisions to other parties or circumstances and the remainder of the Order shall remain in force and shall not be affected thereby.

XIII. SIGNATURES

33. For Respondent City of Holdrege, NE:

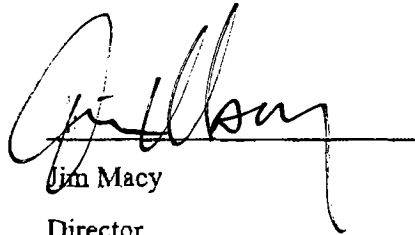


Mayor Doug Young

Date: 10-27-2022

34. For NDEE:

IT IS SO ORDERED and agreed this 31st day of October, 2022.



Jim Macy

Director

NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY