

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
WASTE AND HAZARDOUS MATERIALS DIVISION

In the matter of the administrative proceedings against Richfield Equities, L.L.C., doing business at Cove Landfill, 4151 South McMillan Road, located in Section 22, T15N, R12E, Sheridan Township, Huron County, Michigan

WHMD Order No. 115-04-09

CONSENT ORDER

This proceeding results from allegations specified in the Enforcement Notice ("EN") and Notice of Violation ("NOV") issued on May 18, 2009, and Violation Notices ("VNs") issued on June 9, 2009, and June 22, 2009, by the Department of Environmental Quality ("DEQ"), Waste and Hazardous Materials Division ("WHMD") (Attachment 1). The DEQ alleges that Richfield Equities, L.L.C. ("Respondent"), doing business at Cove Landfill, 4151 South McMillan Road, Sheridan Township, Huron County, Michigan, is in violation of Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, Michigan Compiled Laws ("MCL") 324.101 *et seq.* ("NREPA"), and the administrative rules promulgated under Part 115. The Respondent and the DEQ agree to resolve the alleged violations set forth in the EN dated May 18, 2009, and the Second Enforcement Notice dated July 10, 2009, by entry of this Consent Order.

I. STIPULATIONS

The Respondent and the DEQ stipulate as follows:

- 1.1 Pursuant to its authority under Section 105 and Part 115, the DEQ promulgated administrative rules necessary to implement Part 115. These rules are set forth in the 2005 *Annual Administrative Code Supplement*, R 299.4101 *et seq.* ("Part 115 Rules").
- 1.2 Pursuant to the NREPA and Executive Order No. 1995-18, the Director of the DEQ ("Director") is the state official and the DEQ is the state agency charged with the

administration and enforcement of Part 115. This Consent Order is authorized under MCL 324.11519(2).

- 1.3 The Respondent is a "person" as defined by Section 301(g) of the NREPA.
- 1.4 The Respondent owns and/or operates a solid waste disposal area, which is a Type II sanitary landfill ("Disposal Area"), located 4151 South McMillan Road in Sheridan Township, Huron County, Michigan. The Respondent is a corporation authorized to do business in Michigan.
- 1.5 The Disposal Area occupies approximately 55.02 acres of land. The Disposal Area consists of seven (7) constructed cells, an office trailer, a maintenance garage, a recycling/public drop-off area, a bulk salvageable items storage area, and ancillary areas, including two surface water retention areas. Solid Waste Disposal Area Operating License No. 9130 was issued for the Disposal Area on December 9, 2005. Attachment 2 sets forth the approximate boundaries of these areas of the Disposal Area.
- 1.6 The Respondent maintains a Perpetual Care Fund ("PCF") for the Disposal Area as required by MCL 324.11525(1) with National City Bank. The account number is 56-M1-1047-00-4.
- 1.7 On or about March 31, 2009, the DEQ received documentation from National City Bank that a \$15,851.00 payment was made by the Respondent to the PCF on March 23, 2009. On April 27, 2009, the DEQ received documentation from the Respondent verifying that a \$40,000.00 payment was made by the Respondent to the PCF on April 24, 2009. The Respondent agrees to attribute the \$15,851.00 payment and the \$40,000.00 PCF payment to the \$137,753.99 balance due the PCF for the period ending September 30, 2008, resulting in a current outstanding balance of \$81,902.99 for this period.
- 1.8 In the first quarter and second quarters of the 2008/2009 fiscal year, running from October 1, 2008, through March 31, 2009, the Respondent accepted 87,434 and 60,992.8 cubic yards of waste, respectively, at the Disposal Area, for a total of

148,426.8 cubic yards. The result is that the Respondent owes \$37,106.70 to the PCF for waste volumes disposed of during the first and second quarters. On June 16, 2009, the DEQ received documentation from National City Bank that a \$15,248.21 payment was made by the Respondent to the PCF on May 21, 2009, and that a \$10,000.00 payment was made by the Respondent to the PCF on May 31, 2009. The Respondent agrees to attribute these payments, totaling \$25,248.21 to the \$37,106.70 balance due the PCF for the first and second quarters of the 2008/2009 fiscal year. The remaining balance due to the PCF for this time period is \$11,858.49.

- 1.9 The Respondent stipulates that the issuance and entry of this Consent Order is proper and acceptable. This Consent Order shall be considered a final order of the DEQ and shall become effective on the date it is signed by the Chief of the WHMD ("Division Chief"), designee of the Director, pursuant to Section 301(b) of the NREPA.
- 1.10 The Respondent agrees to fully and strictly comply with all provisions of Part 115, the Part 115 Rules, and all other applicable state and federal statutes.
- 1.11 The Respondent and the DEQ agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by the Respondent of the allegations contained in the NOV or that the law has been violated.

II. COMPLIANCE PROGRAM

In order to resolve the violations alleged in the ENs, the Respondent shall achieve and maintain compliance with the requirements specified below in accordance with the following schedule:

- 2.1 On and after the effective date of this Consent Order, the Respondent shall ensure that the PCF, established pursuant to MCL 324.11525(1), is fully funded for all solid waste disposed of in the Disposal Area pursuant to MCL 324.11525(2).
- 2.2 Within thirty (30) days of the effective date of this Consent Order, the Respondent shall make an \$11,858.49 deposit to the PCF for all waste received at the Disposal Area between October 1, 2008, and March 31, 2009.

- 2.3 On or before November 30, 2009, the Respondent shall submit to the DEQ documentation, acceptable to the DEQ, verifying the amount and date of deposits to the PCF and the records of the quantity of waste that are required to determine the adequacy of deposits into the PCF for the six- (6-) month period encompassing the third and fourth quarters of fiscal year 2008/2009. Thereafter, by April 30, 2010, and November 30, 2010, the Respondent shall submit this same information to the DEQ for the two, six- (6-) month periods that encompass the first and second quarters and third and fourth quarters of the 2009/2010 fiscal year. For each reporting period that the Respondent fails to submit PCF payment verification and waste volume receipt documentation, the reporting period shall be extended by one reporting period.
- 2.4 Within thirty (30) days of the effective date of this Consent Order, the Respondent shall submit a payment of \$8,190.30 to the Disposal Area PCF. Thereafter, on or before the first day of each month, for the next nine (9) months, Richfield shall submit a payment of \$8,190.30 to the Disposal Area PCF account to make the PCF whole through September 30, 2008. The cumulative payments shall equal the past due amount of \$81,902.99 referenced in Paragraph 1.7 and shall make the Disposal Area PCF account whole through September 30, 2008.
- 2.5 Within seven (7) calendar days of making each of the ten payments referenced in Paragraph 2.4, the Respondent shall submit documentation to the DEQ verifying the payment was made to the PCF.
- 2.6 On and after the effective date of this Consent Order, the Respondent shall notify the WHMD District Supervisor by no later than the close of the next business day following detection of any liner damage that requires repair and shall follow such notification with a written report within five (5) business days following detection of such damage. The written report shall include a detailed description of the damage, the cause or causes of the damage, and a detailed description of any action(s) taken or proposed to correct the damage. A copy of this compliance requirement shall be incorporated into the next operating license issued to the Respondent.
- 2.7 Within thirty (30) days of the effective date of this Consent Order, the Respondent shall submit to the DEQ, for review and approval, a certification of existing in-place waste

grades as of approximately April 2007 as compared to the approved Final Cover Plan prepared by Golder Associates and dated April 26, 2007.

- 2.8 Paragraph 2.18 of Consent Order No. 115-01-04 is incorporated into and enforceable under the terms of this Consent Order. The remainder of Consent Order No. 115-01-04 is superseded by this Consent Order.

III. DEQ APPROVAL OF SUBMITTALS

- 3.1 For any work plan, proposal, or other document, excluding applications for permits or licenses, that are required by this Consent Order to be submitted to the DEQ by the Respondent, the following process and terms of approval shall apply.
- 3.2 To be approved by the DEQ, any work plan, proposal, or other document required to be submitted by this Consent Order shall include all of the information required by the applicable statute and/or rule and all of the information required by the applicable paragraph(s) of this Consent Order.
- 3.3 The DEQ may approve, disapprove, or approve with specific modifications, the required work plan, proposal, or other document. Upon DEQ approval, or approval with modifications, of a work plan, proposal, or other document, such work plan, proposal, or other document shall be incorporated by reference into this Consent Order and shall be enforceable in accordance with the provisions of this Consent Order. Furthermore, the Respondent agrees, by entry of this Consent Order, that the DEQ-approved work plan, proposal, or other document shall become incorporated into the first operating license issued for the Disposal Area after entry of this Consent Order.
- 3.4 In the event the DEQ disapproves a work plan, proposal, or other document, it shall notify the Respondent, in writing, of the specific reasons for such disapproval. The Respondent shall submit, within thirty (30) days of receipt of such disapproval, a revised work plan, proposal, or other document that adequately addresses the reasons for the DEQ's disapproval.

- 3.5 In the event the DEQ approves with specific modifications, a work plan, proposal, or other document, it shall notify the Respondent, in writing, of the specific modifications required to be made to such work plan, proposal, or other document prior to its implementation and the specific reasons for such modifications. The DEQ may require the Respondent to submit, prior to implementation and within thirty (30) days of receipt of such approval with specific modifications, a revised work plan, proposal, or other document that adequately addresses such modifications.
- 3.6 A finding of approval or approval with modification of a submission shall not be construed to mean that the DEQ concurs with any of the conclusions, methods, or statements in the submission or warrants that the submission comports with law.
- 3.7 Failure by the Respondent to submit an approvable work plan, proposal, or other document within the applicable time period specified above shall subject the Respondent to the enforcement provisions of this Consent Order including, but not limited to, the stipulated penalty provisions commencing on the date the revised work plan, proposal, or other document was due and accumulating until an approvable work plan, proposal, or other document is submitted.
- 3.8 Any delays caused by the Respondent's failure to submit an approvable work plan, proposal, or other document when due shall in no way affect or alter the Respondent's responsibility to comply with any other deadline(s) specified in this Consent Order.
- 3.9 No informal advice, guidance, suggestions, or comments by staff of the DEQ regarding reports, work plans, proposals, plans, specifications, schedules, or any other writing submitted by the Respondent will be construed as relieving the Respondent of its obligation to obtain written approval of the DEQ if and when required by this Consent Order.

IV. MODIFICATIONS AND EXTENSIONS

- 4.1 At the request of the Respondent, a work plan, proposal, or other document approved or approved with specific modifications by the DEQ, with the exclusion of the specified

deadlines set forth in Section II, Compliance Program, of this Consent Order, may be modified by the WHMD, Storage Tank and Solid Waste Section Chief ("STSWs Chief").

- 4.2 The Respondent and the DEQ agree that the Division Chief may, but in no circumstances is obligated to, grant the Respondent an extension of the specified deadlines set forth in this Consent Order. Any extension shall be preceded by a timely written request, received by the DEQ no later than ten (10) business days prior to the pertinent deadline, which shall include:
- a. An identification of the specific deadline(s) of this Consent Order that will not be met.
 - b. A detailed description of what will prevent the Respondent from meeting the deadline(s).
 - c. A description of the measures the Respondent has taken and/or intends to take to meet the required deadline(s).
 - d. The length of the extension requested and the specific date(s) on which the obligation(s) will be met.
- 4.3 The Division Chief shall respond promptly to such requests and shall not unreasonably withhold approval for such requests.
- 4.4 Any extension of the specified deadlines or other modifications and amendments of this Consent Order shall require a formal written amendment of this Consent Order, shall be signed by the Respondent and the DEQ ("Parties"), shall have as their effective date the date on which they are signed by the Division Chief, and shall be incorporated into and become an enforceable part of this Consent Order.

V. REPORTING

- 5.1 The Respondent shall submit all items required in Section II, Compliance Program, to the STSWs Chief, WHMD, DEQ, P.O. Box 30241, Lansing, Michigan 48909-7741, unless specifically directed otherwise within this Consent Order. The cover letter with

each submittal shall identify the specific paragraph and requirement of this Consent Order that the submittal is intended to satisfy. If the address of the STSWS Chief changes, the Respondent will be notified and shall make all subsequent submittals to any new address of which they are notified.

- 5.2 The Respondent shall verbally report any violation(s) of the terms and conditions of this Consent Order to the STSWS Chief by no later than the close of the next business day following detection of such violation(s) and shall follow such notification with a written report within five (5) business days following detection of such violation(s). The written report shall include a detailed description of the violation(s), the precise cause or causes of the violation(s), a detailed description of any action(s) taken or proposed to correct the violation(s), and a schedule for the implementation of any proposed corrective action(s). The Respondent shall report any anticipated violation(s) of this Consent Order to the STSWS Chief in advance of the relevant deadlines, whenever possible.

VI. RETENTION OF RECORDS

- 6.1 Upon request by an authorized representative of the DEQ, the Respondent shall make available to the DEQ all records, plans, logs, and other documents required to be maintained under this Consent Order or pursuant to Part 115 and the Part 115 Rules. All such documents shall be retained at the Disposal Area for at least a period of three (3) years from the date of generation of the record unless a longer period of record retention is required by Part 115 and the Part 115 Rules.

VII. RIGHT OF ENTRY

- 7.1 The Respondent shall allow any authorized representative or contractor of the DEQ, upon presentation of proper credentials, to enter upon the premises of the Disposal Area at all reasonable times for the purpose of monitoring compliance with the provisions of this Consent Order. This paragraph in no way limits the authority of the DEQ to conduct tests and inspections pursuant to the NREPA and its rules or any other applicable statutory provision.

VIII. FINES, COSTS, AND PENALTIES

- 8.1 Within thirty (30) days of the effective date of this Consent Order, the Respondent shall pay the sum of \$26,400.00 to the State of Michigan in settlement of the DEQ's claim for civil fines arising from the violations alleged in the NOV.
- 8.2 Within thirty (30) days of the effective date of this Consent Order, the Respondent shall pay the sum of \$1,800.00 to the State of Michigan in settlement of the DEQ's claim for the costs of surveillance and enforcement arising from the violations alleged in the NOV.
- 8.3 For each failure to comply with the provisions of Section II, Compliance Program, of this Consent Order, the Respondent shall pay to the State of Michigan stipulated penalties in an amount of \$1,000.00 per violation per day for one (1) through seven (7) days of violation; \$1,500.00 per violation per day for eight (8) through fourteen (14) days of violation; and \$2,000.00 per violation per day for each day of violation thereafter. Stipulated penalties shall be paid within thirty (30) days after receiving a written demand made by the DEQ.
- 8.4 To ensure timely payment of any civil fines, penalties, and costs due under this Consent Order, the Respondent shall pay an interest penalty to the State of Michigan each time the Respondent fails to make a complete or timely payment. This interest penalty shall be based on the rate set forth at Section 6013(6) of the Revised Judicature Act, 1961 PA 236, as amended, MCL 600.6013(6), using the full increment of amount due as principal, and calculated from the due date for the payment until the delinquent payment is finally made in full.
- 8.5 The Respondent shall make all payments due under this Consent Order by certified or cashier's check made payable to the "State of Michigan" and mailed to the DEQ, Revenue Control Unit, P.O. Box 30657, Lansing, Michigan 48909-8157, or hand delivered to the DEQ, Revenue Control Unit, 5th Floor, South Tower, 525 West Allegan Street, Lansing, Michigan 48933. To ensure proper credit, all payments made pursuant to this Consent Order must include Payment Identification Number WHM 3032 on the front of the check and/or in the cover letter with the payment.

- 8.6 The Respondent agrees not to contest the legality of the civil fine or the costs of surveillance and enforcement paid pursuant to this section. The Respondent further agrees not to contest the legality of any stipulated penalties or interest penalties assessed pursuant to this section but reserves the right to dispute the factual basis upon which a demand by the DEQ for stipulated penalties or interest penalties is made.
- 8.7 Liability for or payment of stipulated penalties pursuant to this Consent Order shall not preclude the State of Michigan from seeking injunctive relief or other relief for the Respondent's failure to comply with the requirements of this Consent Order and/or any permit(s) or license(s) required to comply with this Consent Order.

IX. DISPUTE RESOLUTION

- 9.1 Unless otherwise provided in this Consent Order, the dispute resolution procedures of this section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Order and shall apply to all provisions of this Consent Order. However, the procedures set forth in this section shall not apply to actions by the State of Michigan to enforce obligations of the Respondent that have not been disputed in accordance with this section. Engagement of a dispute resolution between the Parties shall not be cause for the Respondent to delay the performance of any compliance requirements or response activity.
- 9.2 Any dispute that arises under this Consent Order shall in the first instance be the subject of informal negotiations between the Parties. The period of negotiations shall not exceed twenty (20) days from the date of written notice by any Party that a dispute has arisen, unless the time period for negotiations is modified by written agreement between the Parties. The dispute shall be considered to have arisen when one Party sends the other Party a written notice of dispute. If agreement cannot be reached on any issue within this twenty- (20-) day period, the DEQ shall provide a written statement of its decision to the Respondent and, in the absence of initiation of formal dispute resolution by the Respondent under Paragraph 9.3, the DEQ position, as outlined in its written statement of decision, shall be binding on the Parties.

- 9.3 If the Respondent and the DEQ cannot informally resolve a dispute under Paragraph 9.2, the Respondent may initiate formal dispute resolution by requesting a review of the disputed issues by the Division Chief. This written request must be filed with the Division Chief within fifteen (15) days of the Respondent's receipt of the DEQ's statement of decision that is issued at the conclusion of the informal dispute resolution procedure set forth in Paragraph 9.2. The Respondent's request shall state the issues in dispute; the relevant facts upon which the dispute is based; any factual data, analysis, or opinion supporting its position; and all supporting documentation upon which the Respondent bases its position. Within fourteen (14) days of the Division Chief's receipt of the Respondent's request for a review of disputed issues, the Division Chief will provide a written statement of decision to the Respondent, which will include a statement of his/her understanding of the issues in dispute; the relevant facts upon which the dispute is based; any factual data, analysis, or opinion supporting her/his position; and all supporting documentation relied upon by the Division Chief's review of the disputed issues. The Division Chief's review of the disputed issues may be extended by written agreement of the Parties.
- 9.4 The written statement of the Division Chief issued under Paragraph 9.3 shall be binding on the Parties unless, within fifteen (15) days after receipt of the DEQ's written statement of decision, the Respondent files a petition for judicial review in a court of competent jurisdiction that shall set forth a description of the matter in dispute, the efforts made by the Parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of this Consent Order. Nothing in this Consent Order affects the limitations on the timing of judicial review of the DEQ decision regarding the selection, extent, or adequacy of any response activity as provided for in Part 201, Environmental Remediation, of the NREPA.
- 9.5 An administrative record of the dispute shall be maintained by the DEQ. The administrative record shall include all of the information provided by the Respondent pursuant to Paragraph 9.3, as well as any other documents relied upon by the DEQ in making its final decision pursuant to Paragraph 9.3. Where appropriate, the DEQ shall allow submission of supplemental statements of position by the Parties to the dispute.

- 9.6 In proceeding on any dispute, the Respondent shall have the burden of demonstrating on the administrative record that the position of the DEQ is arbitrary and capricious or otherwise not in accordance with law. In proceedings on any dispute initiated by the Respondent, the Respondent shall bear the burden of persuasion on factual issues.
- 9.7 Notwithstanding the invocation of dispute resolution proceedings, stipulated penalties shall accrue from the first day of any failure or refusal to comply with any term or condition of this Consent Order, but payment shall be stayed pending resolution of the dispute. Stipulated penalties shall be paid within thirty (30) days after the resolution of the dispute. The Respondent shall pay that portion of a demand for payment of stipulated penalties that is not subject to dispute resolution procedures in accordance with and in the manner provided in Section VIII, Fines, Costs, and Penalties.

X. FORCE MAJEURE

- 10.1 The Respondent shall perform the requirements of this Consent Order within the time limits established herein unless performance is prevented or delayed by events that constitute a "Force Majeure." Any delay in the performance attributable to a "Force Majeure" shall not be deemed a violation of the Respondent's obligations under this Consent Order in accordance with this section.
- 10.2 For the purpose of this Consent Order, "Force Majeure" means an occurrence or nonoccurrence arising from causes not foreseeable, beyond the control of, and without the fault of the Respondent, such as: an Act of God, untimely review of permit applications or submissions by the DEQ or other applicable authority, and acts or omissions of third parties that could not have been avoided or overcome by the Respondent's diligence and that delay the performance of an obligation under this Consent Order. "Force Majeure" does not include, among other things, unanticipated or increased costs, changed financial circumstances, or failure to obtain a permit or license as a result of the Respondent's actions or omissions.
- 10.3 The Respondent shall notify the DEQ, by telephone, within forty-eight (48) hours of discovering any event that causes a delay in its compliance with any provision of this Consent Order. Verbal notice shall be followed by written notice within ten (10) calendar

days and shall describe, in detail, the anticipated length of delay, the precise cause or causes of delay, the measures taken by the Respondent to prevent or minimize the delay, and the timetable by which those measures shall be implemented. The Respondent shall adopt all reasonable measures to avoid or minimize any such delay.

10.4 Failure of the Respondent to comply with the notice requirements of Paragraph 10.3, above, shall render this section void and of no force and effect as to the particular incident involved. The DEQ may, at its sole discretion and in appropriate circumstances, waive the notice requirements of Paragraph 10.3.

10.5 If the Parties to this Consent Order agree that the delay or anticipated delay was beyond the control of the Respondent, this may be so stipulated and the parties to this Consent Order may agree upon an appropriate modification of this Consent Order. If the Parties to this Consent Order are unable to reach such agreement, the dispute shall be resolved in accordance with Section IX, Dispute Resolution, of this Consent Order. The burden of proving that any delay was beyond the reasonable control of the Respondent, and that all the requirements of this section have been met by the Respondent, is on the Respondent.

10.6 An extension of any given compliance date based upon a particular incident does not necessarily mean that the Respondent qualifies for an extension of a subsequent compliance date without providing proof regarding each incremental step or other requirement for which an extension is sought.

XI. GENERAL PROVISIONS

11.1 With respect to any violations not specifically addressed and resolved by this Consent Order, the DEQ reserves the right to pursue any other remedies to which it is entitled for any failure on the part of the Respondent to comply with the requirements of any state or federal law, including the NREPA and its rules.

11.2 Execution of the schedule contained in this Consent Order shall not be construed to waive, estop, or otherwise diminish the DEQ's right to seek or impose civil liability upon, and seek appropriate relief from, the Respondent for degradation of waters of the State

and the designated uses thereof arising out of the failure of the Respondent to achieve a proper cleanup pursuant to this Consent Order.

- 11.3 This Consent Order does not constitute a warranty or representation of any kind by the DEQ that the response activities performed in accordance with this Consent Order or DEQ-approved work plans will result in the achievement of the remedial criteria established by law, or that the response activities will ensure protection of public health, safety, or the environment.
- 11.4 This Consent Order in no way affects the Respondent's responsibility to comply with any other applicable local, state, or federal laws or regulations including, without limitation, any corrective action or similar requirements applicable to the Disposal Area pursuant to the NREPA and its rules.
- 11.5 Nothing in this Consent Order is or shall be considered to affect any liability the Respondent may have for natural resources damages caused by the Respondent's ownership and/or operation of the Disposal Area. The State of Michigan does not waive any rights to bring an appropriate action to recover such damages to the natural resources.
- 11.6 The Parties agree that the terms and conditions of this Consent Order will be enforceable in circuit court. The Parties further agree that the appropriate venue for the enforcement of this Consent Order shall be the Circuit Court for Huron County or Ingham County, State of Michigan, which courts shall also be appropriate for dispute resolution.
- 11.7 If any provision or authority of this Consent Order or the application of this Consent 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 Consent Order shall remain in force and shall not be affected thereby.
- 11.8 The provisions of this Consent Order shall be binding on the Respondent, the DEQ, and their successors and assigns. The Respondent shall give notice of this Consent Order to any prospective successor in interest prior to transfer of ownership of the Disposal

Area property or any portion thereof and shall notify the DEQ of such proposed sale or transfer.

XII. TERMINATION

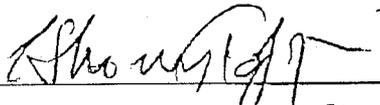
- 12.1 This Consent Order shall remain in full force and effect until expressly terminated by a written Notice of Termination issued by the Division Chief. The Respondent may request that the Division Chief issue a written Notice of Termination at any time after achieving full compliance with this Consent Order. Such a request shall consist of a written certification that the Respondent has fully complied with all of the requirements of this Consent Order and has made payment of any fines, penalties, and costs required under this Consent Order. Specifically, this certification shall include:
- a. The date of compliance with each provision of the compliance program in Section II of this Consent Order and the date any fines, penalties, or costs were paid;
 - b. a statement that all required information has been reported to the District Supervisor;
 - c. confirmation that all records required to be maintained pursuant to this Consent Order are being maintained at the Disposal Area; and
 - d. additional relevant information requested by the Division Chief.
- 12.2 The Division Chief shall issue a written Notice of Termination unless the DEQ determines that the Respondent has not submitted the certification required under this section, has failed to submit the information specifically requested by the Division Chief, or has failed to comply with, or complete, all of the requirements of this Consent Order.

XIII. SIGNATORIES

The undersigned CERTIFY they are fully authorized by the party they represent to enter into this Consent Order to comply by consent and to EXECUTE and LEGALLY BIND that party to it.

RICHFIELD EQUITIES, L.L.C.

DEPARTMENT OF ENVIRONMENTAL QUALITY

By: 
Name: C. THOMAS TOPPIN
Title: Secretary
Date: July 15, 2009

Steven E. Chester
Director

By: _____
George W. Bruchmann, Chief
Waste and Hazardous Materials
Division

Date: _____

APPROVED AS TO FORM:

Michael A. Cox
Attorney General

Kathleen L. Cavanaugh (P38006)
Assistant Attorney General
Environment, Natural Resources, and
Agriculture Division
Department of Attorney General
P.O. Box 30755
Lansing, Michigan 48933

Date: _____

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RICHFIELD EQUITIES, L.L.C.

DEPARTMENT OF ENVIRONMENTAL
QUALITY

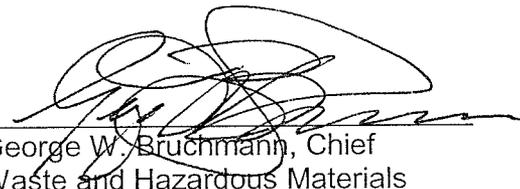
Steven E. Chester
Director

By: _____

Name: _____

Title: _____

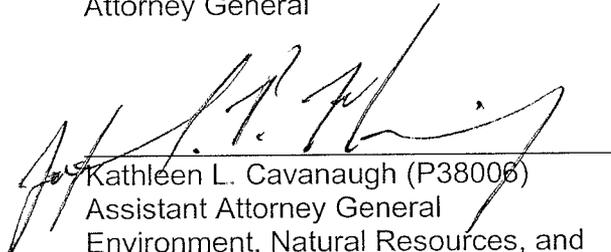
Date: _____

By: 
George W. Bruchmann, Chief
Waste and Hazardous Materials
Division

Date: 7/15/09

APPROVED AS TO FORM:

Michael A. Cox
Attorney General


Kathleen L. Cavanaugh (P38006)
Assistant Attorney General
Environment, Natural Resources, and
Agriculture Division
Department of Attorney General
P.O. Box 30755
Lansing, Michigan 48933

Date: 7/15/09



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
SAGINAW BAY DISTRICT OFFICE



STEVEN E. CHESTER
DIRECTOR

June 22, 2009

Ms. Christine Vandellen
Environmental Compliance Supervisor
Richfield Management - Cove Landfill
4151 South McMillan Road
Bad Axe, Michigan 48413

Dear Ms. Vandellen:

SUBJECT: Supplemental Violation Notice;
Cove Landfill of Bad Axe, Inc. (Facility ID Number 439983)

On June 09, 2009, staff of the Department of Environmental Quality (DEQ), Waste and Hazardous Materials Division (WHMD), Saginaw Bay District Office issued a Violation Notice regarding a hole in the certified liner over Cell D. After further review and internal discussions about the incident, the DEQ has determined that the construction certification, titled "North Slope-Cell D Granular Drainage Layer Installation Certification", was not submitted in compliance with the requirements of Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. **The certification was submitted in violation of the following:**

1. **R 299.4921 (1) which states**, "The construction quality assurance officer shall certify that a landfill was constructed in accordance with the CQA plan, these rules, and engineering plans approved by the department. All of the following construction records shall accompany the certification of a new unit or the lateral extension of an existing unit: (d) Flexible membrane liner records, as specified in R 299.4918."
2. **R 299.4921 (3) which states**, "A daily activity log shall be completed by the on-site construction supervisor for each day of construction. A daily activity log shall include all of the following information. (f) Documentation of all repairs made on the liner system."

The certification submitted did not include the required testing data for the repair seam. As it turned out, there could be no data because the repair was not done. The failure to do the repair and the testing is also a violation of the approved CQA Plan, "Cove Sanitary Landfill Construction Quality Assurance Manual", and the following sections of Appendix B.

Section 5.3, which states, "Any portion of the geomembrane or geomembrane seam showing a flaw, or having a destructive or non-destructive test in non-compliance shall be repaired."

Section 5.4, which states, "Every repair shall be non-destructively tested".

Please be reminded that the construction certification submitted on June 1, 2009, has not been approved and the facility may not dispose of waste in any portion of the area certified in the document "North Slope-Cell D Granular Drainage Layer Installation Certification". An addendum to the certification was submitted on June 11, 2009, and is currently under review.

As stated in the June 9, 2009, Violation Notice, DEQ staff also observed during the inspection that Richfield had placed waste in an area (North Slope of Cell D) that has been certified, but is not yet approved by the DEQ to receive waste. This is a violation of 11512 (2). Richfield did agree to remove the waste during the inspection. However, this is not the first time that DEQ staff has observed this activity. DEQ staff also observed this violation of 11512 (2) on June 29, 2007, and June 11, 2008. These violations were communicated to Richfield by Violation Notice dated July 11, 2007, and June 27, 2008 respectively, but Richfield failed to manage its operations to prevent the violation from reoccurring.

This matter has been referred to the WHMD Enforcement Section for escalated enforcement. This Violation Notice does not preclude nor limit the DEQ's ability to initiate an enforcement action, under state or federal law, as deemed appropriate.

I have attached a copy of the June 9, 2009, Violation Notice for your reference. If you have any questions, please feel free to contact me.

Sincerely,



Thomas Fox
Environmental Engineer
Waste and Hazardous Materials Division
Saginaw Bay District Office
989-894-6292

Enclosure

cc: Mr. Bernie Rumbold, Richfield Management, LLC
Mr. Tom Toppin, Richfield Management, LLC
Mr. John Walker, Richfield Management, LLC
Mr. Lonnie Lee, DEQ
Mr. John Craig, DEQ
Ms. Carrie Hardigan, DEQ
Mr. Terry Walkington, DEQ



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
SAGINAW BAY DISTRICT OFFICE



STEVEN E. CHESTER
DIRECTOR

June 9, 2009

Mr. Peter Miletich
Environmental Compliance Supervisor
Richfield Management - Cove Landfill
4151 South McMillan Road
Bad Axe, Michigan 48413

Dear Mr. Miletich:

SUBJECT: Notice of Violation and Landfill Inspection;
Cove Landfill of Bad Axe, Inc. (Facility ID Number 439983)

On June 01, 2009, staff of the Department of Environmental Quality (DEQ), Waste and Hazardous Materials Division (WHMD), Saginaw Bay District Office, received a construction certification titled, "North Slope-Cell D Granular Drainage Layer Installation Certification". While reviewing the certification, no testing data was found to support a repair made to the liner. This issue was raised in a phone conversation and it was agreed that you would uncover the repair and test it. On June 5, 2009, MDEQ conducted an inspection of the Cove Landfill of Bad Axe (Facility) located at 4151 South McMillan Road, Sheridan Township, Huron County. The purpose of the inspection was to witness the test and evaluate compliance of the facility with the requirements of Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended and the approved plans for the facility. **At the time of the inspection, the facility was in violation of the following:**

1. **324.11512(2) which states in part,** "... a person shall not conduct, manage, maintain, or operate a disposal area contrary to an approved solid waste management plan, or contrary to a permit, license, or final order issued under this part."

In accordance with the Facility's current operating license number 9130, issued December 9, 2005, **license condition 11 states,** "The licensee shall repair any portion of the certified liner or leachate collection system that is found to be deficient or damaged during the term of this license unless determined otherwise by the MDEQ. **License condition 12 states,** "The licensee shall have repairs to any portion of the certified liner or leachate collection system recertified by a registered professional engineer in accordance with R 299.4921 of Part 115 Rules and approved by the MDEQ before receiving waste in that portion of the certified liner or leachate collection system."

At the time of the inspection, staff observed that the hole in the liner had not actually been repaired, yet, it was documented in the construction certification that it had been done. Staff also observed several cubic yards of waste placed in an area (North slope of Cell D) that has been certified but has not been approved by the DEQ to receive waste.

June 9, 2009

Please submit any reasoning or justification to this office regarding the above violations and the actions taken to address the violations by June 23, 2009. The DEQ will evaluate the response, determine the Facility's compliance status, and notify you of this determination.

This letter of warning does not preclude nor limit the DEQ's ability to initiate any other enforcement action, under state or federal law, as deemed appropriate.
If you have any questions, please feel free to contact me

Sincerely,



Thomas Fox
Environmental Engineer
Waste and Hazardous Materials Division
Saginaw Bay District Office
989-894-6292

Enclosure

cc: Mr. John Walker, Richfield Management, LLC
Mr. Bernie Rumbold, Richfield Management, LLC
Mr. Tom Toppin, Richfield Management, LLC
Mr. Lonnie Lee, MDEQ
Mr. Terry Walkington, MDEQ
Ms. Carrie Hardigan, MDEQ



STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



JENNIFER M. GRANHOLM
GOVERNOR

STEVEN E. CHESTER
DIRECTOR

CERTIFIED MAIL

ENFORCEMENT NOTICE

In the matter of.

Mr. Bernhard Rumbold
Richfield Equities, L.L.C.
322 North Old Woodward Avenue
Birmingham, Michigan 48009

Dear Mr. Rumbold:

SUBJECT: Cove Landfill Perpetual Care Fund; Site ID No. 439983

This Enforcement Notice is to advise you of the commencement of escalated enforcement action against Richfield Equities, L.L.C. (Richfield), associated with the Perpetual Care Fund (PCF) established for Cove Landfill, located at 4151 South McMillan Road, Bad Axe, Michigan. This is in response to formal communications by the Department of Environmental Quality (DEQ), Waste and Hazardous Materials Division (WHMD), dated May 19, 2006, July 23, 2007, and September 26, 2007 and numerous verbal discussions between the DEQ and representatives of Richfield regarding deficiencies in the PCF for Cove Landfill. In these letters, Richfield was cited for violations of Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, Michigan Compiled Laws (MCL) 324.11501 *et seq.*

Specifically, the WHMD has determined that from 2004 through September 30, 2008, Richfield failed to make timely and adequate payments to its PCF as required by MCL 324.11525(2). The details of this determination are set forth in the attached Notice of Violation. As a result, the PCF for Cove Landfill was underfunded by \$137,753.99. In light of the nature of these violations, the WHMD has concluded that the violations are significant and require formal resolution. The WHMD acknowledges receipt of your call to this office on April 23, 2009, and your letter dated April 24, 2009, in which you agree ". . . there is a perpetual care fund balance owing as at September 30, 2008 in the amount of \$140,000.00 (approx)" and that contained documentation of Richfield's \$40,000 payment to the PCF made on April 24, 2009. However, this does not negate Richfield's failure to make timely and adequate payments for the last five years and the fact that the PCF is still underfunded by a significant amount. Therefore, pursuant to its authority under MCL 324.11519(2), the DEQ proposes entry of the attached Consent Order as an appropriate and expeditious means of resolving the alleged violations.

You are offered an opportunity to confer with the WHMD, located in Constitution Hall, Atrium North, 525 West Allegan Street, Lansing, Michigan. The purpose of such a conference is to: (1) provide you with an opportunity to discuss formal resolution of the referenced violations through entry of an administrative consent order and (2) present factual information relevant to the violations. You may also submit a written response at any time prior to, during, or in lieu of a conference. The written response should state whether you are requesting a conference or if the submittal is being made in lieu of a conference. In either case, please respond to

Ms. Carrie Hardigan, Enforcement Section, WHMD, DEQ, at 517-335-4667 or via e-mail at hardiganc@michigan.gov, no later than ten business days after receipt of this Enforcement Notice to advise the DEQ of your intentions and to make any necessary conference arrangements.

Be advised that failure to respond to this Enforcement Notice as requested and failure to timely and adequately resolve the violations referenced herein may result in further enforcement proceedings including, but not limited to, referral of the matter to the Department of Attorney General for commencement of civil litigation. Be further advised that this Enforcement Notice does not preclude or limit the DEQ's ability to initiate any other enforcement action under state or federal law as appropriate.

STATE OF MICHIGAN
 DEPARTMENT OF ENVIRONMENTAL QUALITY

By: John Craig
 John Craig, Chief
 Enforcement Section
 Waste and Hazardous Materials Division

Date: 5-18-09

Attachments

- cc: Mr. Lonnie Lee, DEQ
- Mr. Steven Sliver, DEQ
- Mr. Terry Walkington, DEQ
- Ms. Carrie Hardigan, DEQ

U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only, No Insurance Coverage)		SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
OFFICIAL U		<input checked="" type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. <input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature <input checked="" type="checkbox"/> <u>James Pent</u> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
Postage \$		1. Article Addressed to: Mr. Bernhard Rumbold Richfield Equities, L.L.C. 322 North Old Woodward Avenue Birmingham, Michigan 48009		B. Received by (Printed Name) _____ C. Date of Delivery <u>5-21-09</u>	
Certified Fee				D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
Return Receipt Fee (Endorsement Required)				3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
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City, State, ZIP+4					
		PS Form 3811 February 2004		Domestic Return Receipt	

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
WASTE AND HAZARDOUS MATERIALS DIVISION

In the matter of the administrative
proceedings against Richfield Equities, L.L.C.,
doing business at Cove Landfill,
4151 South McMillan Road,
located in Section 22, T15N, R12E,
Sheridan Township, Huron County, Michigan

NOTICE OF VIOLATION

You are hereby notified that staff of the Department of Environmental Quality ("DEQ"), Waste and Hazardous Materials Division ("WHMD"), has sufficient information to believe that Richfield Equities, L.L.C. ("Respondent"), has violated the requirements of Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, Michigan Compiled Laws ("MCL") 324.101 *et seq.* ("NREPA"), and the administrative rules promulgated under Part 115.

Regulatory Background

1. Pursuant to its authority under MCL 324.105 and Part 115, the DEQ promulgated administrative rules necessary to implement Part 115. These rules are set forth in the *2005 Annual Administrative Code Supplement*, R 299.4101 *et seq.* ("Part 115 Rules").
2. Pursuant to the NREPA and Executive Order No. 1995-18, the Director of the DEQ is the state official and the DEQ is the state agency charged with the administration and enforcement of Part 115.

Factual Statements

3. The Respondent is a "person" as defined by MCL 324.301(g).
4. The Respondent owns and/or operates a solid waste disposal area that is a Type II sanitary landfill ("Disposal Area") located at 4151 South McMillan Road in Section 22 of Sheridan Township, Huron County, Michigan, known as Cove Landfill. The Respondent is a Michigan limited liability company.
5. The Respondent purchased the Disposal Area on January 16, 2004.
6. The Respondent maintains a Perpetual Care Fund ("PCF") for the Disposal Area as required by MCL 324.11525(1) with National City Bank. The account number is 56-M1-1047-00-4.
7. The Disposal Area occupies approximately 55.02 acres of land. The Disposal Area consists of seven (7) constructed cells, an office trailer, a maintenance garage, a recycling/public drop-off area, a bulk salvageable items storage area, and ancillary areas, including two surface water retention areas. Solid Waste Disposal Area Operating License No. 9130 was issued to the Respondent for the Disposal Area on December 9, 2005.

Violations

8. MCL 324.11525(1) states in pertinent part: "The owner or operator of a landfill shall establish and maintain a perpetual care fund for a period of 30 years after the final closure of the landfill as specified in this section."
9. MCL 324.11525(2) states in pertinent part: "Except as otherwise provided in this section, the owner or operator of a landfill shall deposit into his or her perpetual care fund 75 cents for each ton or portion of a ton or 25 cents for each cubic

yard or portion of a cubic yard of solid waste that is disposed of in the landfill after June 17, 1990. The deposits shall be made not less than semiannually until the fund reaches the maximum required fund amount.”

10. The Respondent purchased the Disposal Area on January 16, 2004. By letters dated May 19, 2006, July 23, 2007, and September 26, 2007 (attached), the DEQ formally notified the Respondent that, based on information contained in the annual solid waste receipt reports submitted by the Respondent and based on Disposal Area PCF account statements, it had failed to make timely and adequate payments to the Disposal Area PCF since it purchased Cove Landfill on January 16, 2004. The Respondent formally responded to the May 19, 2006, and July 23, 2007, letters but failed to demonstrate that it had made timely and adequate payments to the Disposal Area PCF pursuant to MCL 324.11525(2) since January 16, 2004.

11. Based on information provided by the Respondent and the custodian of the PCF through October 31, 2008, the DEQ has analyzed the payments due for waste disposed of at the Disposal Area for fiscal years 2004 through 2008 and deposits made to the Disposal Area PCF by the Respondent from October 1, 2003, through September 30, 2008. The following table is a summary of this analysis:

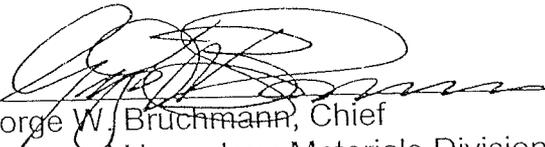
Fiscal Year	Waste Volume Disposed (cu. yd.)	Deposits Due (cu. yd x \$.25/cu. yd.)	Deposits Made	Balance Due
2004	77,151	\$19,287.75	\$19,287.77	-\$0.02
2005	171,646	\$42,911.50	\$8,852.48	\$34,059.02
2006	240,506	\$60,126.50	\$17,066.01	\$43,060.49
2007	375,108	\$93,777.00	\$48,994.00	\$44,783.00
2008	417,894	\$104,473.50	\$88,622.00	\$15,851.50
Total	1,281,952	\$320,576.25	\$182,822.26	\$137,753.99

12. Beginning in 2004 and through September 30, 2008, the Respondent underfunded the Disposal Area PCF by \$137,753.99. Even after repeated contact with the DEQ regarding the PCF deficiencies beginning in May 2006, the Respondent failed to make timely and adequate PCF payments in 2006, 2007, and 2008 and, to date, has made no effort to make the PCF whole. Therefore, the Respondent is in violation of MCL 324.11525.

Conclusion

The DEQ has sufficient information to believe that the Respondent has violated Part 115 and the Part 115 Rules. A person who violates Part 115 or the Part 115 Rules is subject to state or federal civil and criminal sanctions. Accordingly, a failure on the part of the Respondent to timely and adequately respond to the violations cited herein may result in the commencement of judicial proceedings against the Respondent.

DEPARTMENT OF ENVIRONMENTAL QUALITY

By: 
George W. Bruchmann, Chief
Waste and Hazardous Materials Division

Date: 5/18/09



STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



JENNIFER M. GRANHOLM
GOVERNOR

STEVEN E. CHESTER
DIRECTOR

May 19, 2006

Mr. Fred Hambleton
Richfield Equities, LLC
4151 South McMillan Road
Bad Axe, Michigan 48413-9587

Dear Mr. Hambleton:

SUBJECT: Perpetual Care Fund (PCF); Solid Waste Surcharge; And Annual Solid Waste Receipt Report (Annual Report); Richfield Equities, LLC (RE); Waste Data System Number 439983

The Department of Environmental Quality (DEQ), Waste and Hazardous Materials Division (WHMD), has evaluated the following information for the subject facility:

1. The PCF account balance as of fiscal year 2005 – 2006, as required by Section 11525 of Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Part 115). The PCF account balance should be reflective of the amount of solid waste disposed of in the landfill after June 17, 1990.
2. Solid waste surcharge payments as required by Section 11525a of Part 115. The solid waste surcharge payment is related to the amount of solid waste disposed of in the landfill and the first payments into the solid waste surcharge program began in January 2004.
3. The Annual Report information from 1996 to the present. The Annual Report, which is required under Section 11507a of Part 115, documents the amounts, types, and origins of solid waste disposed during the fiscal year, and are reviewed by the WHMD to ensure that the landfill is complying with the applicable county solid waste management plans (county plans).

The purpose of this evaluation is to ensure that all of the above information as supplied by the landfill is consistent and that the respective statutory requirements are being met.

The results of this evaluation are described further in this letter. Please respond in writing to this evaluation by June 16, 2006, indicating RE's agreement or reasons for disagreement with the evaluation results, and, where there is agreement on identified problem areas, explain what RE will do to address them. RE may submit documentation in support of its position regarding the evaluation. All available information will be used by the DEQ to reevaluate the compliance status of RE with the requirements addressed in this letter.

PCF Account Balance

RE is required to make payments into its PCF, Account Number 1-1047-00-4, at \$0.25 per cubic yard of solid waste disposed, until the PCF maximum amount, as adjusted for inflation July 1 of each year, is reached. The attached worksheet was developed to evaluate the required and

actual PCF fund balances based on the waste volumes from the Annual Reports. Based on this evaluation, the PCF is underfunded by an amount of at least \$147,301.00.

Please note that the worksheet may be missing data for the period 1990 through 1995 because the Annual Reports were not required to be submitted until 1996. By providing the missing data, RE can help ensure a more accurate evaluation of the PCF.

Solid Waste Surcharge Payments

RE is required to make quarterly solid waste surcharge payments of \$0.07 per cubic yard of solid waste disposed for the period. An evaluation of the Annual Reports and solid waste surcharge payments shows that RE has made appropriate solid waste surcharge payments for 2004 and 2005.

County Plans

Sections 11513 and 11538(6) of Part 115 prohibit a disposal area in Michigan from accepting solid waste generated in a Michigan county other than the county where the disposal area is located, unless acceptance of that waste is explicitly authorized in the approved county solid waste management plan (county plan) of both the county where the waste is generated and the county where the disposal occurs. In addition, many county plans impose additional conditions or limitations on the acceptance of solid waste from other Michigan counties.

The Annual Report for the reporting period of October 1, 2004, through September 30, 2005, indicates that RE did not accept any unauthorized solid waste during this reporting period.

If you have any questions regarding the PCF and solid waste surcharge information, please contact Ms. Wanda Williams, Storage Tank and Solid Waste Section (STSWS), WHMD, at 517-335-4034, or e-mail williaw1@michigan.gov. If you have any questions regarding the Annual Report and county plan information, please contact Ms. Christina Miller, STSWS, WHMD, at 517-373-4741, or e-mail millerc1@michigan.gov.

Sincerely,



Steven R. Sliver, Chief
Storage Tank and Solid Waste Section
Waste and Hazardous Materials Division
517-373-1976

Enclosure

cc: Mr. Terry Walkington, DEQ-Saginaw Bay
Ms. Wanda Williams, DEQ
Ms. Christina Miller, DEQ
Facility File

PCF Fund Balance Worksheet

Richfield Equities, LLC (aka Cove) Landfill
WDS Number 439983

Fiscal Year	Waste Volume, cubic yards	Calculated Maximum Payment (cubic yards x \$0.25)*	Calculated Maximum Balance**	Statutory Maximum Balance @ June of Fiscal Year	Actual Balance @ End of Fiscal Year	Underfunded Amount***
1990						
1991						
1992						
1993						
1994						
1995						
1996	87,133	\$21,783	\$21,783	\$1,156,000	\$12,376	\$9,407
1997	120,750	\$30,188	\$51,971	\$1,189,524	\$30,205	\$21,766
1998	119,829	\$29,957	\$81,928	\$1,222,830	\$58,244	\$23,684
1999	180,832	\$45,208	\$127,136	\$1,239,950	\$89,671	\$37,465
2000	197,835	\$49,459	\$176,595	\$1,291,000	\$107,848	\$68,747
2001	560,709	\$140,177	\$316,772	\$1,308,000	\$151,144	\$165,628
2002	355,558	\$88,890	\$405,662	\$1,325,000	\$364,933	\$40,729
2003	303,634	\$75,909	\$481,570	\$1,380,650	\$364,164	\$117,406
2004	77,151	\$19,288	\$500,858	\$1,409,000	\$379,363	\$121,495
2005	171,646	\$42,912	\$543,769	\$1,566,000	\$396,468	\$147,301

* Before consideration of the statutory maximum required balance.

** Before consideration of the statutory maximum required balance. The first amount in this column is calculated by adding the Calculated Maximum Payment to the Actual Balance @ End of Fiscal Year for the previous fiscal year. Subsequent amounts are calculated by adding the Calculated Maximum Payment to the Calculated Maximum Balance for the previous fiscal year. If there is no Actual Balance @ End of Fiscal Year prior to 1996, and the Calculated Maximum Balance does not exceed the Statutory Maximum Balance @ June of Fiscal Year, then this amount and the underfunded amount may be lower than required.

*** Underfunded amount is the Calculated Maximum Balance minus the Actual Balance @ End of FY, unless the Calculated Maximum Balance is greater than the Statutory Maximum Balance @ June of Fiscal Year, then the Underfunded Amount is the Statutory Maximum Balance @ June of Fiscal Year minus the Actual Balance @ End of Fiscal Year.

This worksheet is intended to evaluate perpetual care funds required under MCL 324.11525 using data submitted by the landfill and the financial institution for the perpetual care fund. While perpetual care fund requirements became effective in 1990, waste volume data was not required to be submitted until 1996. Therefore, calculations in the worksheet begin with the first available data on waste volumes, and may not reflect required payments and balances for prior periods.

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

STORAGE TANK and SOLID WASTE SECTION
WASTE AND HAZARDOUS MATERIALS DIVISION

FAX

Today's Date: 8/25/06

Contact Person: David Ax

Company/Division: Rickfield

Telephone Number: 248-634-8276

Fax Number: 248-634-3301

Sender: Woods

Section/Unit: Storage Tank and Hazardous Waste Section
Department of Environmental Quality
Waste and Hazardous Materials Division
P.O. Box 30241
Lansing, MI 48909-7741

E-Mail: WilliamW1@Michigan.gov
Telephone: 517-335-4034
Fax: 517-335-2245

Comments: Re: Cove Landfill

Number of Pages (includes cover sheet) 4

Please call if you do not receive a fax with the above number of pages or if there are any discrepancies that need to be addressed

Thank you.



STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



JENNIFER M. GRANHOLM
GOVERNOR

STEVEN E. CHESTER
DIRECTOR

July 23, 2007

Mr. David C. Ax, Environmental Compliance Officer
Richfield Landfill, Inc
P.O. Box 182
Holly, Michigan 48442

Dear Mr. Ax:

SUBJECT: Richfield Equities (RE) aka Cove Landfill – Perpetual Care Fund (PCF) Deposits;
Waste Data System Number 439983

The Department of Environmental Quality (DEQ) is in receipt of your September 11, 2006, response regarding the initial PCF Reconciliation letter the DEQ sent to your attention on May 19, 2006.

PCF Deposits

The DEQ has researched historical data as related to the purchase of the RE facility. RE purchased the Cove Landfill on January 16, 2004, and at that time, the PCF balance in the amount of \$364,164.00 was satisfactory in accordance with a consent order entered between the DEQ and RE on January 16, 2007. Therefore, RE should have made accurate PCF deposits commensurate with the waste volume reported on the annual solid waste receipt report from January 16, 2004, through the present.

RE failed to make adequate PCF Deposits in 2005 and 2006 as explained further in this letter, and as summarized in the following table:

PCF Deposit Summary					
Fiscal Year	Annual Solid Waste Receipt Report Waste Volume as Reported in cubic yards (cy) By RE ¹	Calculated Maximum Payment \$0.25 per Cubic Yard ²	Actual Deposit Reported by National City Bank	Date of Deposit as Reported by National City Bank	Deficient Deposit Amount
2003	Not Applicable (NA)	NA	NA	NA	NA
2004	77,151 cubic yards (78,117 cy)	\$19,288.00	19,287.77	November 10, 2004	-0-
2005	171,646 (170,679 cy)	\$42,912	\$4,852.48	August 23, 2005	\$38,059.52
2006	240,506 (174,572)	\$60,127	\$17,066.01	May 8, 2006	\$43,060.99
Grand Total of Deficient Deposit					\$81,120.51

¹ Note: Bold Print are the volumes RE reported on the Solid Waste Surcharge report

² Sum of PCF Deposits, to be made at least semi annually, due by September 30 of the fiscal year

September 30, 2004

The Solid Waste Receipt Report you provided shows that from October 1, 2003, through September 30, 2004, RE reported 77,151 cubic yards of waste. The National City Bank account statement reflects that on November 10, 2004, RE made a deposit of \$19,287.77 bringing the PCF balance to \$382,614.96. While this payment should have been made by September 30, 2004, it covers the required deposit amount for fiscal year 2004. Per Section 11525 (7) of Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Part 115) the custodian of a PCF shall annually make an accounting to the department within 30 days following the close of the state fiscal year. Therefore, by each October 30, the custodian of your PCF account should forward a bank statement showing the PCF balance reflecting deposits as of September 30.

Fiscal Year 2005

The solid waste receipt report provided by RE shows that from October 1, 2004, through September 30, 2005, RE took in 171,646 cubic yards of waste. Besides the aforementioned deposit, which was actually for waste disposed in FY 2004, the only other deposit posted to the account during fiscal year 2005, was \$8,852.48 on August 23, 2005. During this time, the PCF deposit amount commensurate with the waste reported should have been \$42,912. Again, the bank records are not showing that RE made adequate deposits commensurate with the waste volume RE reported on the solid waste receipt report for waste received October 1, 2004, through September 30, 2005.

Fiscal Year 2006

The Solid Waste Receipt Report provided by RE shows that from October 1, 2005, through September 30, 2006, RE took in 240,506 cubic yards of waste. The only deposit posted to the account during fiscal year 2006, was \$17,066.01 on May 8, 2006. During this time the PCF deposit amount commensurate with the waste reported should have been \$60,127. Again, the bank records are not showing that RE made adequate deposits commensurate with the waste volume RE reported on the solid waste receipt report for waste received October 1, 2005, through September 30, 2006.

Solid Waste Surcharge Payments

RE is required to make quarterly solid waste surcharge payments of \$.07 per cubic yard of solid waste disposed for the period. An evaluation of the Annual Solid Waste Receipt Reports and Solid Waste Surcharge Payment Worksheets (see table above) shows that RE reported different waste volumes for purposes of the Annual Report than was reported by RE on the solid waste surcharge calculation worksheets for Fiscal Years 2004, 2005, and 2006.

Also, note that while RE did submit surcharge payments for the 4th quarter of 2005 and 2006, RE failed to submit the accompanying solid waste surcharge worksheets substantiating the surcharge payments. Please submit the 4th quarter solid waste Surcharge Calculation Worksheets for 2005 and 2006. RE must resolve the discrepancies between the different waste volumes reported on the Annual Solid Waste Receipt Reports and the Solid Waste Surcharge Payment Worksheets. The required PCF deposit amounts and surcharge payments require adjustment based on the corrected waste quantities.

In conclusion, based on an evaluation of the PCF deposits made since RE took ownership of the landfill in 2004, and of the solid waste surcharge payments and annual work receipt reports during that time, the PCF is underfunded by approximately \$81,120.51. Further, that amount may change based upon corrected waste volumes determined when the discrepancies between the annual report and quarterly surcharge payment volumes are resolved. To complete this reconciliation effort, please provide all of the following by August 17, 2007:

- Proof of a \$81,120.51 deposit (or corrected amount, based upon consistent annual report and surcharge volumes) into the PCF account
- Corrected waste volumes for the Annual Solid Waste Receipt Reports and the Solid Waste Surcharge Calculation Worksheets
- Solid waste surcharge calculation worksheet for the 4th quarter of FY 2005 for waste received from July 1, 2005 - September 30, 2005
- Solid waste surcharge calculation worksheet for the 4th quarter of FY 2006 for waste received from July 1, 2006 - September 30, 2006
- Proof of current 2007 fiscal year deposits, so that the September 30, 2007, PCF statement reflects deposits commensurate with the amount of waste accepted for disposal for the period October 1, 2006 - September 30, 2007.

The failure to make adequate deposits commensurate with the waste volumes RE is reporting is a violation of Part 115. The DEQ will continue to monitor RE's payments into the PCF as well as the solid waste surcharge for accuracy.

If you have any questions please contact Ms. Wanda Williams, Storage Tank and Solid Waste Section (STSWS), WHMD, at 517-335-4034.

Sincerely,



Steven R. Sliver, Chief
Storage Tank and Solid Waste Section
Waste and Hazardous Materials Division
517-373-1976

Enclosures

cc: Ms. Susan Johnson, Richfield
Mr. Bernard Rumbold, Richfield
Mr. John Walker, Richfield
Mr. John Craig, DEQ
Mr. Terry Walkington, DEQ - Saginaw
Mr. Carrie Hardigan, DEQ
Mr. Wanda Currington, DEQ

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

STORAGE TANK and SOLID WASTE SECTION
WASTE AND HAZARDOUS MATERIALS DIVISION

FAX

Today's Date: 1/1
Contact Person: Fred Hambleton
Company/Division: Richfield Equities/COVE
Telephone Number: 248-255-2951 (cell)
Fax Number: 810-667-4090

Sender: Wanda Cummings
Section/Unit: Storage Tank and Hazardous Waste Section
Department of Environmental Quality
Waste and Hazardous Materials Division
P.O. Box 30241
Lansing, MI 48909-7741

E-Mail _____
Telephone: 517-335-4034
Fax: 517-335-2245

Comments: Attached are 3 pages related to the PCF
understanding for COVE. Please contact
Steven Dinn after Thursday I will be out
of the office until 9/4/07. I understand you will
review this letter as David Ax is no longer w/ the compe.

Number of Pages (includes cover sheet) 4

Please call if you do not receive a fax with the above number of pages or if there are any discrepancies that need to be addressed.

Thank you.



STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



JENNIFER M. GRANHOLM
GOVERNOR

STEVEN E. CHESTER
DIRECTOR

September 26, 2007

Mr. Fred Hambleton and Mr. Bernard Rumbold
Richfield Equities, LLC
322 Old North Woodward
Birmingham, Michigan 48009

Dear Messrs Hambleton and Rumbold:

SUBJECT: Letter of Warning
Perpetual Care Fund Deposits for Cove Landfill of Bad Axe, Inc. (Cove Landfill);
Waste Data System Number 439983

The Department of Environmental Quality (DEQ) has reviewed and compared waste quantity records submitted by the Cove Landfill with the account statements for the Perpetual Care Fund (PCF) maintained for the Cove Landfill by National City Bank. Based on this review, the DEQ has determined that the PCF is significantly under funded.

MCL 324 11525 states in pertinent part.

- (2) Except as otherwise provided in this section, the owner or operator of a landfill shall deposit into his or her perpetual care fund 75 cents for each ton or portion of a ton or 25 cents for each cubic yard or portion of a cubic yard of solid waste that is disposed of in the landfill after June 17, 1990. The deposits shall be made no less than semiannually until the fund reaches the maximum required fund amount.
- (7) ...The custodian of a perpetual care fund shall annually make an accounting to the department within 30 days following the close of the state fiscal year.

Richfield Equities, LLC assumed full responsibility for making timely and adequate payments to the Cove Landfill PCF when it purchased the Cove Landfill on January 16, 2004. The DEQ has evaluated and compared the information contained in the annual solid waste receipt reports for 2004, 2005, and 2006 with the Cove Landfill PCF account statements. Based on this information, the DEQ notes the following about the waste quantities accepted for disposal and the amounts owed and paid to the PCF:

Fiscal Year	Waste Volume Accepted (cubic yards)	PCF Payments Due Each Year (cyds x \$.25/cyd)	Payments Made to PCF in Fiscal Year	Balance Due (payments due minus payments made)
2004	77,151	\$19,287.75	\$19,287.77 ^a	(\$.02)
2005	171,646	\$42,912.50	\$8,852.48 ^b	\$34,060.02
2006	240,506	\$60,126.50	\$17,066.01 ^c	\$43,060.49
Totals (2004 – 2006)	489,303	\$122,326.75	\$45,206.26	\$77,120.49

- a payment made November 10, 2004
- b payment made August 23, 2005
- c payment made May 8, 2006

Based on the above, Richfield Equities, LLC has not made the appropriate payments to the PCF to cover all waste accepted for disposal at the Cove Landfill for 2005 and 2006. Therefore, the Cove Landfill is in violation of MCL 324.11525(2). To resolve this violation, within 30 days of receipt of this letter, Richfield Equities, LLC must submit documentation to the DEQ that it has made a payment of \$77,120.49 to the Cove Landfill PCF account. This will make the PCF account whole through September 30, 2006. In addition, within 30 days of receipt of this letter, the DEQ requests that Richfield Equities, LLC submit documentation of PCF payments made to date in fiscal year 2007 and a copy of the procedure(s) that will be used to ensure that future payments to the Cove Landfill PCF will be made in accordance with MCL 324.11525(2).

MCL 324.11525a states in pertinent part:

- (6) Beginning January 1, 2004, and until October 1, 2007, the owner or operator of a landfill shall pay a surcharge as follows:
 - (a) Except as provided in subdivision (b), 7 cents for each cubic yard or portion of a cubic yard of solid waste or municipal solid waste incinerator ash that is disposed of in the landfill during the previous quarter of the state fiscal year.
- (7) The owner or operator of a landfill or municipal solid waste incinerator shall pay the surcharge under subsection (6)(a) within 30 days after the end of each quarter of the state fiscal year. The owner or operator of a type III landfill that is a captive facility shall pay the surcharge under subsection (6)(b) by January 31 of each year.

The DEQ has evaluated the waste quantities reported in the annual solid waste receipt reports and the solid waste surcharge worksheets submitted for the Cove Landfill for fiscal years 2004, 2005, and 2006. In each year there is a discrepancy between the quantities of waste reported in the two documents. Therefore, within 30 days of receipt of this letter, Richfield Equities, LLC must submit:

1. A detailed description of how Richfield Equities, LLC came to submit conflicting waste quantity information to the DEQ for fiscal years 2004, 2005, and 2006;
2. A detailed description of how Richfield Equities, LLC proposes to reconcile the conflicting information submitted previously to the DEQ, including corrected waste quantities for the annual solid waste receipt reports and the solid waste surcharge worksheets; and
3. Documentation to show that Richfield Equities, LLC has implemented internal procedures to prevent future reporting discrepancies between the waste quantities reported on the annual solid waste receipt reports and the solid waste surcharge worksheets.

If Richfield Equities, LLC continues to dispute the violations alleged in this Letter of Warning (LOW) and/or the total amount owed to the Cove Landfill PCF through September 30, 2006, it must submit a formal response to the DEQ within 15 days of receipt of this LOW along with documentation to support its claim(s) that sufficient and timely payments were made to the PCF. Alternatively, within 15 days of receipt of this LOW, Richfield Equities, LLC may request a face to face meeting with DEQ staff to discuss resolution of the alleged violation. If Richfield Equities, LLC fails to make a timely response to this LOW, fails to submit sufficient documentation to show that the DEQ has erred in its evaluation of the facts, or refuses to resolve the alleged violation to the satisfaction of the DEQ, the DEQ is prepared to pursue all available enforcement options to ensure that the Cove Landfill returns to compliance with MCL 324.11525.

This LOW does not preclude, nor limit, the DEQ's ability to initiate any other enforcement action under state or federal law, as deemed appropriate

If you have any questions regarding this LOW or wish to schedule a meeting with the DEQ, please contact Ms. Wanda Williams, at 517-335-4034, or you may contact me.

Sincerely,



Steven R. Sliver, Chief
Storage Tank and Solid Waste Section
Waste and Hazardous Materials Division
517-373-1976

cc: Ms. Susan Johnson, Butzel Long
Mr. Lonnie Lee, DEQ
Mr. John Craig, DEQ
Mr. Terry Walkington, DEQ
Ms. Carrie Hardigan, DEQ
Ms. Wanda Williams-Currington, DEQ

