

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 attached 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 #3 and 6 of Schedule B and either item #2 of Option I, Schedule A or item #3 of Option II, Schedule A.

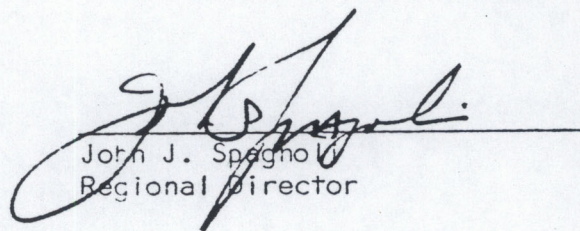
IX. The Department waives its right under 6 NYCRR Part 622.11(a) to use this stipulation in evidence to provide the basis for a finding of fact in any subsequent proceeding brought by the Department against the Respondent

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. Spagnoli  
Regional Director

S C H E D U L E A

Respondent shall on or before the following dates:

1. Cover all areas of uncovered or protruding waste and provide daily cover for all wastes including sludge and ash. Commence  
Immediately
  
2. Place intermediate and/or final cover on all areas requiring same in accordance with Part 360. Seed when weather permits. Commence  
Immediately
  
3. In accordance with Dennis V. Tobolski's February 19, 1985 letter to the Department and Robert J. Mitrey's March 1, 1985 reply, submit a plan for the liner requirements (I.A., I.B., of the February 19, 1985 letter), leachate collection and storage system (I.E., I.F., I.G. of the February 19, 1985 letter), and Department verification (I.C., I.D., of the February 19, 1985 letter) for that area of the landfill already lined. June 1, 1985
  
4. Complete removal of all leachate from both leachate ponds and dispose of same at a Department approved facility. Continue such removal and disposal as needed and complete the permanent leachate collection system in accordance with item #3 of this Schedule A. September 15, 1985

Respondent shall also comply with either Option I or Option II:

OPTION I. (Expansion into the Remaining Unlined Area)

1. Submit an approvable plan prepared or reviewed by a professional engineer and engineering reports for the expansion of the facility and an approvable construction timetable. Plan is to be based on Item II. of Dennis V. Tobolski's February 19, 1985 letter to the Department and Robert J. Mitrey's March 1, 1985 reply. August 1, 1985
  
2. Complete construction of the unlined portion of the expansion in accordance with the above timetable. August 1, 1986

OPTION II (Closure)

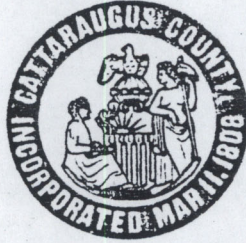
1. Advise the Department in writing if the site is to be permanently closed. September 1, 1985
2. Submit an approvable closure plan prepared or reviewed by a professional engineer. December 1, 1985
3. Complete final closure in accordance with the approved closure plan. September 1, 1986

S C H E D E B (Five-Points Landfill)

Respondent shall, on or before the following dates:

1. Cover all areas of uncovered or protruding waste. Commence Immediately
2. Forward to DEC an approvable Certification by Testing Lab that bottom of leachate pond has a permeability of  $10^{-7}$  cm/sec or less. May 1, 1985
3. Complete construction and begin operation of leachate collection system, with disposal of leachate to a DEC approved facility. June 1, 1985
4. Cover demolition debris/hardfill at least once every two weeks. Continuous
5. Submit mining permit application. June 1, 1985
6. Complete placement of intermediate and/or final cover with seeding on all areas requiring such in accordance with Part 360. 90 days after DEC approval of mining permit

# CATTARAUGUS COUNTY



## OFFICE OF THE COUNTY ATTORNEY

DENNIS V. TOBOLSKI  
County Attorney

NICHOLAS A. DiCERBO  
Assistant County Attorney

303 Court Street  
Little Valley, N.Y. 14755  
Phone (716) 938-9111 Ext. 391 or 392

February 19, 1985

Mr. Robert J. Mitrey, P.E.  
Associate Sanitary Engineer  
NYS Department of Environmental Conservation  
600 Delaware Avenue  
Buffalo, New York 14202-1073

Dear Mr. Mitrey:

A meeting of February 15 at the Farwell Landfill was held between yourself and Ms. McIntosh of the DEC, Mr. Johnson and Mr. Schiener of the Cattaraugus County DPW, Mr. Vanderhorst of Atlantic Testing and Mr. Dudden of Barton & Loguidice. Based on that meeting, we understand your position relative to expansion of the landfill to be as follows:

- I. For the area already lined, that area may be used for landfill providing that:
  - A. Permeabilities for the liner already in place are reverified;
  - B. Additional soil will be added and compacted to achieve a total of two feet of  $10^{-7}$  cm/sec liner.
    1. A written protocol for field testing and permeability verification will be developed and submitted to DEC before the additional liner material is placed.
    2. Additional borings will be required to verify that minimum required clearances over rock and ground-water are achieved. DEC will have prior approval over boring protocol. Borings will consist of two upgradient to rock, plus one at the intersection of the new and old areas, near Farwell Road. Additional monitoring wells should be placed to verify the existence of a water table on top of the shale. At least one upgradient and one downgradient well (if shale is found downgradient) should be furnished.
  - C. A horizontal and vertical control system shall be installed on a grid system to facilitate field location of the work.
  - D. DEC shall be provided adequate notice to witness installation of wells and liner.



Mr. Robert J. Mitrey, P.E.

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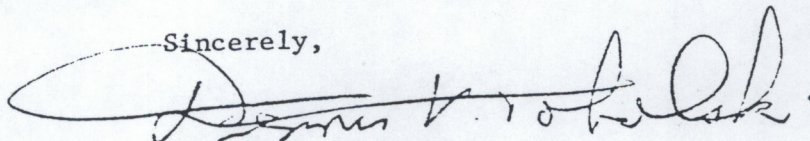
- ✓ E. Leachate from the proposed new area is to be separated from leachate from the old area. The new area leachate will go to the 12,000 gallon tank located north of the transfer station. The tank will have an overflow to the existing ponds. The tank will be made freeze proof. The leachate from the old area will go directly to the existing ponds. The ponds will be upgraded to a liner of two feet of  $10^{-7}$  cm/sec material, or a synthetic liner.
- ✓ F. Leachate collection laterals consisting of 4" rigid perforated PVC in a gravel blanket will be provided from the main leachate collection header of 100 foot intervals. They will extend the full distance up the floor of the liner. A blanket of two feet of incinerator ash should be provided over the liner.
- G. The leachate header as installed will be uncovered and perforated only in the presence of a DEC witness.

II. For that area which has not been lined:

- A. Before considering the use of that area, a hydrogeologic evaluation of the site should be done. The study would produce cross sections showing rock, water table(s), and general soil type. In addition, the hydrogeologic evaluation should discuss a revised groundwater monitoring plan for the entire site, a contingency plan in case of groundwater contamination, a groundwater sampling and quality assurance plan, condition inspection of the existing wells, and background groundwater quality evaluation.
- B. The hydrogeologic evaluation should, through pumping tests on wells, evaluate whether the expansion area is over or near a principal aquifer (10GPM or better yield). It is recognized that the expansion into the area not already lined will probably require a double liner consisting of the two feet of  $10^{-7}$  soil, plus an additional layer of stone or clean gravel, a 40 mil artificial liner, and another foot of stone or clean gravel. No firm decision on the nature of the liner will be made until after the hydrogeologic evaluation.

Please respond at your earliest opportunity if the foregoing discussion represents your office' understanding of the situation at Farwell. We are anxious to proceed with the necessary work.

Sincerely,



Dennis V. Tobolski

DVT:dsc



Henry G. Williams  
Commissioner

March 1, 1985

Mr. Dennis V. Tobolski, County Attorney  
Office of the County Attorney  
303 Court Street  
Little Valley, New York 14755

Dear Mr. Tobolski:

Farwell Landfill

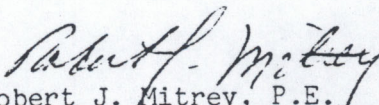
Regarding your letter of February 19, 1985 on the Farwell Landfill in the Town of Ischua, the following information is provided.

First, your letter accurately reflects the main items discussed at the February 15 meeting held at the landfill, which was attended by Mr. Johnson and Mr. Schiener of the Cattaraugus County Department of Public Works, Mr. Van der Horst of Atlantic Testing, Mr. Dudden of Barton & Loguidice, Ms. McIntosh of New York State Department of Environmental Conservation and the writer.

In addition, as stated in your letter, a written protocol for field testing and permeability verification for the 1½ acre liner is to be submitted to and approved by New York State Department of Environmental Conservation. Once this approval is granted, the modification to the liner may be undertaken. Upon completion of construction and verification that the liner, leachate collection system, etc., has been installed in accordance with approved plans, permission will be given to deposite solid waste into the new 1½ acre area.

I look forward to working with the county and their consultant in this project.

Very truly yours,

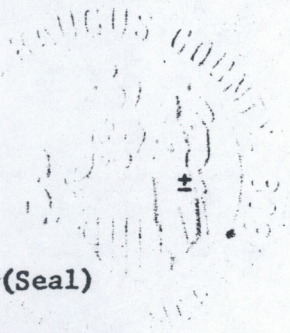
  
Robert J. Mitrey, P.E.  
Associate Sanitary Engineer

RJM:vas

cc: Mr. Spagnoli  
Mr. McMahon  
Mr. Burke  
Mr. Halgas  
Mr. Johnson  
Mr. Dudden

Consent by Respondent

Respondent hereby consents to the issuing and entering of the foregoing Order, waives its right to a hearing herein as provided by law, and agrees to be bound by the provisions, terms and conditions contained therein.



Respondent *James J. Snyder*  
By James J. Snyder

Title Chairman, Cattaraugus County Legislature

Date March 27, 1985

(Seal)

Corporate

State of New York )  
County of Cattaraugus ) ss.:

On this 27th day of March, 1985, before me personally came JAMES J. SNYDER to me known, who being by me duly sworn did depose and say that he resides at 60 North Main Street, Portville, New York that he is the Chairman of Cattaraugus Co. Legislature the corporation described in and which executed the foregoing instrument; and that he signed his name as authorized by said corporation.

*Dennis V. Tobolski*  
NOTARY PUBLIC

Dennis V. Tobolski  
Notary Public State of New York  
Qualified Cattaraugus County 4671458  
Commission Expires March 30, 1986

Individual

State of )  
County of ) ss.:

On this day of , 19 , before me came , to me known and known to me to be the individual described in and who executed the foregoing consent and he duly acknowledged to me that he executed the same.

\_\_\_\_\_  
NOTARY PUBLIC