



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
JACKSON DISTRICT OFFICE



PHILLIP D. ROOS
DIRECTOR

August 22, 2024

VIA E-MAIL

David Seegert, General Manager
Arbor Hills Landfill, Inc
10690 West Six Mile Road
Salem Township, Michigan 48168

Dear David Seegert:

SUBJECT: Reply to "Response to MMD June 14, 2024 Violation Notice"; Consent Judgment No. 2020-0593-CE, Arbor Hills Landfill, Inc, 10690 West Six Mile Road, Salem Township, Michigan; Waste Data System Number 475946

On June 14, 2024, the Department of Environment, Great Lakes, and Energy (EGLE), Materials Management Division (MMD) issued a Violation Notice (VN) to Arbor Hills Landfill, Inc (Arbor Hills) for the Arbor Hills Landfill (Landfill) located at 10690 West Six Mile Road, Salem Township, Michigan. In the VN Arbor Hills was cited for failure to comply with the administrative rules promulgated pursuant to Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, Michigan Compiled Laws 324.11501 *et seq.* Specifically, MMD cited Arbor Hills for violation of R 299.4433(1)(c) and Paragraph 5.17.D of Consent Judgment No. 2020-0593-CE (CJ), based on an inspection conducted on June 7, 2024.

On June 17, 2024, Arbor Hills provided a response to the VN (Response) and requested a meeting with EGLE to discuss improvements in communication regarding several concerns identified by Arbor Hills. On August 1, 2024, Gary Schwerin, Brett Coulter, and Richelle Ozoga from EGLE, MMD (MMD Staff) met with Dave Seegert, Tami Craig, and John Collins from the Landfill (AHL Staff), at the Jackson District office. The following is a summary of the August 1, 2024, meeting and a reply to the Response.

The Response suggested Paragraph 5.17 of the CJ intended to develop a procedure outside of the normal VN procedures for addressing odor violations, and requested a discussion on how EGLE can return to that intent. Paragraph 5.17 of the CJ states the intention of the paragraph is to assist in the investigation and identification of conditions at the landfill leading to odors and provide Arbor Hills with the opportunity to address these conditions timely and effectively. MMD staff pointed out that there was no intention in Paragraph 5.17 to develop a procedure outside of the VN procedure. All the actions required by Paragraph 5.17 to be taken by Arbor Hills at the Landfill occur following receipt of a nuisance odor VN issued by EGLE. In an earlier meeting, MMD

staff and Landfill staff agreed that MMD staff, while on-site, will call Dave Seegert when a nuisance odor is detected. That agreement was intended to provide an opportunity for MMD staff and Landfill staff to experience the same odor and to allow Landfill staff to act immediately to address the odor, rather than wait several days for a VN to be issued. During the June 7, 2024, inspection, MMD staff called Dave Seegert after a nuisance odor condition was determined.

The Response questioned the intensity of the odor and suggested that the VN was issued due to the “mere sensation of an odor”. MMD staff have conducted multiple odor inspections around the Landfill, and Landfill staff acknowledged during the meeting that MMD staff have completed inspections following odor complaints that did not result in VNs. Landfill staff also acknowledged that MMD staff have called to report odors that were present, but did not rise to the nuisance level, so Landfill staff could address the underlying cause before the odor intensity increased to a nuisance level. The role of MMD staff is to impartially conduct odor surveys and cite nuisance odor violations when warranted. MMD staff evaluate every landfill odor detected, assessing the intensity and duration to determine if the odor is a nuisance. When nuisance odors are detected a violation notice may be issued and when odors are detected that are near, but below, the intensity of a nuisance, Landfill staff are called and advised.

The Response suggested that the waste entering the Landfill has an odor, therefore the Landfill is not responsible for the odors coming from the Landfill. EGLE disagrees with this statement. The concentration of many small waste loads, placed in a concentrated location and waiting to be covered, results in an increase in odor intensity. When Landfill operations are inadequate, or are not adjusted to address changing weather conditions, nuisance odors are generated. When nuisance odors are generated, and Arbor Hills is the source, then EGLE may issue a VN. There are numerous landfills located in the state, operating under similar weather conditions, that do not create nuisance odors. Landfill staff are encouraged to contact staff from different landfills to get ideas for additional odor mitigating/minimizing actions that can be taken.

The Response requested clarification for the basis of the VN. The VN was issued as a violation of Paragraph 5.17 D of the CJ. In the Landfill’s October 28, 2023, response to a VN issued October 25, 2023, the Landfill stated, “Arbor Hills will implement use odor mitigating fans as waste filling progresses in Cell 6, as needed.” The odor mitigating fans were shut off **after** MMD staff notified Landfill staff of the identification of a nuisance odor. The existence of a nuisance odor, especially one which Landfill staff were made aware of, indicates the odor mitigating fans were needed and should have been operating. The identification of nuisance odors crosswind to the odor mitigating fans verify that the fans are inadequate at controlling odors when the fans not directly downwind from the active face. Additionally, the identification of nuisance odors directly downwind from the odor mitigating fans while in use, indicates the odor mitigating fans, as currently operated, do not adequately mitigate nuisance odors. Arbor Hills must

develop an odor control plan that prevents all nuisance odors, regardless of wind direction.

The last concern raised in the Response was that the VN did not describe the type of odor detected by EGLE staff or the time of day the inspection was conducted. This information was not included in the VN because EGLE staff, during the inspection, called and informed Landfill staff of the on-going nuisance odor, discussed the type of odor, and identified the location the odor was being detected. Landfill staff had this information while the nuisance odor was occurring so immediate action could be taken by Landfill staff to address the odors. In addition, Paragraph 5.17(B) of the CJ only requires the VN to “include reasonable detail to permit AHL to identify the date of the alleged violation.”

The Response identified the root cause of the odors to be “hot weather and the normal odors caused by residential garbage.” The analysis failed to identify the concentration of wastes in a small area and the elapsed time between unloading the waste and covering the waste as the cause of the odors increasing in intensity and causing a nuisance. The analysis also failed to address the ineffectual use of the odor mitigating fans or suggest alternative options for controlling odors. The Response did not include a remediation plan to address the site conditions that caused the odor violation, as required by Paragraph 5.17(C) of the CJ.

Pursuant to Paragraph 5.17(C) of the CJ, the Landfill must provide a remediation plan within 72 hours of receiving this Reply that includes substantive changes to site operations to prevent an increase in intensity of waste odors which create a nuisance, as well as the failure of the odor mitigating fans to mitigate the odors generated in Cell 6.

David Seegert
August 22, 2024
Page 4

If you have any questions, please contact Gary Schwerin, District Supervisor, at SchwerinG@Michigan.gov; 301 E. Louis Glick Highway, Jackson, Michigan 49201; or by phone at 586-243-2641.

Sincerely,



Gary Schwerin, District Supervisor
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586-243-2641

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