



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
LANSING



PHILLIP D. ROOS
DIRECTOR

June 14, 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: 3rd Violation Notice and Demand for Stipulated Penalties; Consent Judgment No. 2020-0593-CE, Arbor Hills Landfill, Inc., 10690 West Six Mile Road, Salem Township, Michigan; Waste Data System Number 475946

On October 10, 2023, October 25, 2023, and November 3, 2023, the Department of Environment, Great Lakes, and Energy (EGLE), Materials Management Division (MMD) issued Violation Notices (VNs) 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 VNs, 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, the MMD cited Arbor Hills for violation of R 299.4433(1)(c) based on inspections conducted on October 5, 2023, October 6, 2023, October 20, 2023, and November 2, 2023.

MMD staff issued the VNs consistent with Paragraph 5.17.B of Consent Judgment No. 2020-0593-CE (CJ) between EGLE and Arbor Hills that was entered on March 7, 2022, through the 30th Judicial Circuit Court. The provisions of Paragraph 5.17 set forth, among other things, the procedures that Arbor Hills must follow if EGLE issues a VN for violation of R 299.4433(1)(c) or R 336.1901. EGLE alleges that Arbor Hills did not follow the procedures required in the CJ, as further discussed below.

Arbor Hills responded to the October 25, 2023, VN, with a letter dated October 28, 2023, stating the use of odor mitigating fans would be implemented (remedial action), as needed, as waste filling progresses in Cell 6 and during and prior to daily cover removal. During the MMD inspections on November 1 and 2, 2023, when nuisance odors were documented, the odor mitigating fans identified were not in use.

MMD staff conducted a follow-up inspection on December 7, 2023, during which MMD staff again verified the presence of nuisance odors. During the December 7, 2023, inspection, waste filling was occurring in Cell 6, and the odor mitigating fans were not

operating. The verification of nuisance odors on November 1 and 2, 2023, and December 7, 2023, indicates the odor mitigating fans were needed. The failure to use fans as the remedial action identified in Arbor Hills' October 28, 2023, response was in violation of Paragraph 5.17.D. Further, the failure of Arbor Hills to implement its proposed odor mitigation solution indicates the October 25, 2023, VN had not been resolved, and resulted in a 2nd VN, dated January 10, 2024.

MMD staff conducted an odor inspection on June 7, 2024, during which MMD staff again verified the presence of nuisance odors during waste filling in Cell 6. During part of the inspection, the odor mitigating fans were operating, and during part of the inspections, the odor mitigating fans were not operating. The failure to use the odor mitigating fans as the remedial action identified in Arbor Hills' October 28, 2023, response is in violation of Paragraph 5.17.D. During the inspection while the odor mitigating fans were operating, nuisance odors were present immediately downwind from the odor mitigating fans. The identification of nuisance odors immediately downwind from the odor mitigating fans indicates use of the odor mitigating fans as proposed in Arbor Hills' October 28, 2023, response is inadequate at controlling odors upwind from the fans. In addition, while the odor mitigating fans were operating, nuisance odors were also present along Napier Road to the north and south of the odor mitigating fans, indicating the use of odor mitigating fans in a fixed location is inadequate at controlling odors from areas of the landfill that are not directly upwind from the fans.

The verification of nuisance odors on June 7, 2024, indicates the odor mitigating fans were needed. The failure to use fans as the remedial action identified in Arbor Hills' October 28, 2023, response is in violation of Paragraph 5.17.D. The verification of odors from areas upwind and crosswind of the odor mitigating fans indicates the odor mitigating fans are inadequate at controlling odors and indicates the October 25, 2023, VN has not been resolved, and has resulted in this 3rd VN.

Paragraph 5.17.D of the CJ states:

AHL shall within such 72-hour period commence such remedial actions identified in AHL's report to EGLE to address such underlying conditions and will expeditiously pursue completion of such remedial actions in accordance with the plan submitted to EGLE.

Paragraph 13.4 of the CJ states, in part, that stipulated penalties shall accrue per day of violation of each of the requirements identified in Paragraph 5.17(C) through (E) in the amount of \$750 per day for days 1 through 5 of noncompliance. By this letter and in accordance with Paragraph 13.8 of the CJ, EGLE demands a payment of stipulated penalties in the amount of \$750 due to violation of the CJ on June 7, 2024.

In accordance with Paragraphs 13.10 and 13.11 of the CJ, Arbor Hills shall pay the stipulated penalties within thirty (30) days of receipt of this Demand, and payment shall

be made in the form of a certified check or cashier's check and made payable to the "State of Michigan."

Payment shall be sent to:

Michigan Department of Environment, Great Lakes, and Energy
Accounting Services Division, Cashier's Office
P.O. Box 30657
Lansing, MI 48909-8157

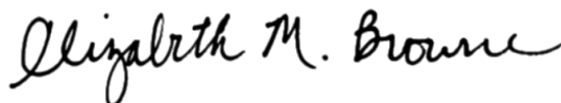
To ensure proper credit, the check shall reference *Michigan Department of Environment, Great Lakes, and Energy v Arbor Hills Landfill, Inc.*, and Payment Identification Number "MUL40006S".

Pursuant to paragraph 5.17(B) of Consent Judgement No. 2020-0593-CE, dated March 7, 2023, (CJ), EGLE is notifying the Landfill of this odor violation. This Notice triggers a requirement for the Landfill, pursuant to paragraph 5.17(C) of the CJ, to immediately commence an investigation into the cause of this violation. Within 72 hours of receipt of this Notice, the Landfill shall submit to EGLE a report documenting the findings of its investigation and any evidence collected. If this investigation identifies site condition(s) that caused the violation, the Landfill shall also include a remediation plan to address those site condition(s), including process or procedure changes and capital expenditures, and the time frame necessary to implement these remedial actions. The inconsistent use of the odor mitigating fans while nuisance odors are present, and the documentation of nuisance odors while the odor mitigating fans are operating indicates this remedial action is inadequate to prevent nuisance odors. The Landfill must develop a remedial action that prevents nuisance odors at and beyond the property line.

This Violation Notice does not preclude nor limit EGLE's ability to initiate enforcement action, under state or federal law, as deemed appropriate. EGLE appreciates your attention to this violation.

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

Sincerely,



Elizabeth M. Browne, Director
Materials Management Division
517-242-2746

Enclosures

Dave Seegert
June 14, 2024
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cc/enc: Philip L. Comella, Taft Law
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