



Minnesota Pollution Control Agency

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October 6, 2014

SW-57

CERTIFIED MAIL NO. 7007 3020 0000 0965 8476
RETURN RECEIPT REQUESTED

Mr. Michael McGowan
R.B. McGowan Company, Inc.
7205 Fleetwood Drive
Edina, MN 55439

RE: Administrative Order

Dear Mr. McGowan:

The enclosed Administrative Order (Order) is being issued by the Minnesota Pollution Control Agency (MPCA) to R. B. McGowan Company, Inc. (Regulated Party).

The Order requires the Regulated Party to return to compliance by completing the specified actions listed in the Order by specified dates.

The Order is a final decision of the MPCA. Any person aggrieved by any final decision for which judicial review is not provided in Minn. Stat. ch. 14 may obtain judicial review thereof before the Minnesota Court of Appeals, pursuant to Minn. Stat. §§ 14.63 to 14.69.

Please contact Cory Boeck at 507-344-5253, if you have any questions regarding this Order.

CB:czh

Enclosure

cc: Daniel Schleck, Halleland Habicht PA (w/enclosure)
Ann Cohen, Attorney General's Office (w/enclosure)
Kathleen Winters, MPCA General Counsel (w/enclosure)
Heidi Kroening, MPCA (w/enclosure)
Cory Boeck, MPCA (w/enclosure)
Enforcement Data Coordinator, MPCA - Enforcement Database Tracking #14835 (w/enclosure)
Ralph Pribble, MPCA (w/enclosure)

STATE OF MINNESOTA
Minnesota Pollution Control Agency

In the Matter of:
R.B. McGowan Company, Inc.

ADMINISTRATIVE ORDER

This Administrative Order (Order) is issued by the Minnesota Pollution Control Agency (MPCA) to R.B. McGowan Company, Inc. (Regulated Party) pursuant to Minn. Stat. § 116.07, subd. 9 (2012).

FINDINGS OF FACTS

1. On June 4, 2012, the MPCA issued an Administrative Order (2012 Order) to the Regulated Party that required the Regulated Party to: (1) sample groundwater-monitoring wells at the facility for all required parameters and provide analysis of results; (2) evaluate gas probes to determine functionality; (3) replace inadequate or dysfunctional gas probes; (4) sample gas probes and provide analysis of results; and (5) prepare and submit a comprehensive Annual Report to be submitted on February 1, 2013. Pursuant to Minn. R. 7035.2655, subp. 1, the 2012 Order required the post-closure period to be extended for another 10 years. The MPCA incorporates the findings of fact and conclusions of law in the 2012 Order into this Administrative Order (2014 Order).
2. The MPCA issued the 2012 Order because the Regulated Party had not complied with its Post-closure Plan, which was approved by the MPCA in February 1991.
3. The Regulated Party did not appeal the 2012 Order, and has complied with the requirements.
4. Although the Regulated Party confirmed that the gas probes were functional, as required by the 2012 Order, to date, the gas probes have not detected any significant methane gas being emitted from the landfill. Because solid waste landfills generate methane gas for many decades, the absence of detectable levels of methane from gas-monitoring probes located in close proximity to the waste footprint raises a question as to whether the methane being generated by the Freeway Landfill (Landfill) is migrating.
5. In 2005, the MPCA detected methane in borings placed throughout waste near the U.S. Salt facility that is located to the north of the Landfill.
6. The MPCA has also concluded that the Landfill's groundwater-monitoring well network should be expanded to determine whether there is groundwater contamination on the side of the Landfill nearest the Minnesota River. Although not presently the direction of groundwater flow due to pumping in the Kraemer Quarry, if the quarry pumping is not effective or if the quarry pumping ceases, groundwater contamination in this area has the potential to enter the Minnesota River. Based on information available to the MPCA as the result of prior investigations, the MPCA has reason to believe that there is waste buried in

the area that did not receive final cover at the landfill. As a result, additional information is needed about this portion of the landfill site to enable adequate contingency action planning.

7. On February 24, 2014, the MPCA requested that the Regulated Party amend its Post-closure Plan for the Freeway Landfill within 60 days to include the changes needed to better monitor gas and groundwater contamination.
8. Although the Regulated Party initially indicated that it intended to comply with this request, the Regulated Party has, to date, failed to submit Post-closure Plan modifications as requested by the MPCA, and continues to seek delays.
9. The Regulated Party has argued that it does not need to monitor groundwater because groundwater is controlled by Kraemer Quarry's pumping, but the Regulated Party has not formalized any arrangement with Kraemer Quarry or others, such as the City of Burnsville, that would result in the continuation of that pumping after the other uses that result in the pumping are no longer in place.
10. On June 24, 2014, the MPCA mailed the Regulated Party a draft administrative order requiring the Regulated Party to update its Post-closure Plan to provide for additional gas and groundwater monitoring, and to take certain other actions necessary to ensure that the Regulated Party is able to complete its post-closure responsibilities.
11. On July 10, 2014, the Regulated Party requested a contested case hearing. However, on August 15, 2014, the Regulated Party notified the MPCA by letter that it is willing to install the groundwater monitoring wells and gas probes as requested by the MPCA, which were the contested aspects of the proposed Administrative Order.
12. By correspondence dated September 18, 2014, the MPCA confirmed that it approved the Regulated Party's plan to move ahead with the installation of gas probes and monitoring wells, and would make arrangement to resolve an access issue involving one of the gas probes.

CONCLUSIONS

1. Pursuant to Minn. R. 7035.2655, subp. 1, item B, the MPCA can re-evaluate and require a Regulated Party to modify its Post-closure Plan based on gas- and groundwater-monitoring results and other pertinent information.
2. In 2005, waste boring conducted by the MPCA identified that the Landfill was generating significant amounts of methane gas. However, no detections of methane gas have been reported from the Landfill's gas-monitoring network. It is therefore reasonable to conclude that additional gas probes are needed, in particular, in areas where the migration of landfill gas would create a threat of explosions in structures.

3. Due to the future potential that contaminated water may migrate to the Minnesota River and exceed surface water discharge limits, additional groundwater-monitoring wells are needed at the Freeway Landfill. This information will be used to update the contingency action plan groundwater remedy, if required.
4. Because it is unknown when the Kraemer Quarry (Kraemer) will cease pumping, thereby resulting in a change in groundwater flow, the Regulated Party needs to make arrangements to be notified, at a minimum, of three years before pumping ceases to adequately prepare for the change in groundwater flow, or the Regulated Party needs to formalize an arrangement whereby the pumping will continue after Kraemer's operations cease.
5. The Regulated Party's 1991 Post-closure Plan needs to be updated to reflect current groundwater remediation techniques and costs.
6. The Regulated Party has withdrawn its objections to the MPCA's proposed Administrative Order, and therefore its contested case hearing request is moot.

ORDER

NOW, THEREFORE, IT IS ORDERED:

1. Within 30 days of the Effective Date of this Order, the Regulated Party shall amend the February 1991 Landfill Post-closure Plan to include installation of six new gas-monitoring probes (see attached Figure 1 for probe locations). The probes should thereafter be monitored quarterly for the same gas parameters contained in the Post-closure Plan.
2. Within 30 days of the Effective Date of this Order, the Regulated Party shall amend the February 1991 Landfill Post-closure Plan to include installation of three additional groundwater-monitoring wells along the northern boundary of the site (see attached Figure 2 for monitoring well locations) and thereafter to monitor those wells in the same manner as the existing wells.
 - The wells shall be installed in compliance with Minn. R. ch. 4725, Wells and Borings, constructed using 10-foot, 10-slot, stainless steel screens, and be screened across the water table with two feet of the screens above the water table. After the wells are installed, the Regulated Party shall collect a minimum of two rounds of groundwater samples, in accordance with the MPCA Closed Landfill Program, Sampling Protocol for Monitoring Wells, October 10, 2008, document (attached). Analyses must include volatile organic compounds (Method 8260B) and metals (Method 200.8) as well as the physical parameters of elevation, temperature, and conductance. The Regulated Party must collect quarterly groundwater elevation data from these wells as part of the long-term facility groundwater monitoring.

3. By October 31, 2014, the Regulated Party shall submit documentation, including well logs, to the MPCA that six gas probes and three groundwater-monitoring wells have been constructed and are fully functional.
4. The Regulated Party shall contact the MPCA at least five working days prior to commencing well and probe installation and all future sampling events to enable the MPCA to observe well and probe installation and to collect split or contemporaneous samples.
5. By November 14, 2014, the Regulated Party shall conduct fall sampling events on all probes and wells at the facility.
6. Within 30 days of the Effective Date of this Order, the Regulated Party shall provide a signed agreement with Kraemer Quarry, indicating that the Regulated Party will be notified three years before groundwater pumping ceases, or that Kraemer Quarry will keep pumping upon the request of the Regulated Party, or will allow the Regulated Party to operate the pumps. The Regulated Party must provide evidence that the approved agreement is acceptable to the City of Burnsville.
7. Within 30 days of the Effective Date of this Order, the Regulated Party shall amend the February 1991 Landfill Post-closure Plan, including contingency action plans and estimated costs, to include current groundwater remediation techniques and costs.
8. Following approval of the amended Post-closure Plan by the MPCA, the Regulated Party shall implement the amended Plan by installing the required gas probes and wells, and sampling those probes and wells according to the Post-closure Plan schedule and this Order.

RESERVATION OF AUTHORITY

Nothing in this Order shall prevent the MPCA from taking action to enforce the requirements of this Order, or from requiring additional action by the Regulated Party if necessary to ensure compliance with MPCA rules and statutes. In addition, the issuance of this Order is not an exclusive action or remedy by the MPCA, and it does not limit in any way the MPCA's authority to bring an enforcement action against or to seek and collect penalties from the Regulated Party. This Order is issued to require immediate action to correct violations, and it does not limit or preclude any other action, including the issuance of further orders, pursuit of injunctive or other relief, or commencement of enforcement actions and collection of penalties.

This Order is effective upon the date that it is signed by the MPCA Commissioner or designee.

IT IS SO ORDERED.

**STATE OF MINNESOTA
POLLUTION CONTROL AGENCY**

Signed by David Benke

David J. Benke
Division Director
Resource Management & Assistance Division

Dated: October 6, 2014

Figure 1



● Proposed Gas Probe Locations

Figure 2

