



A&WMA

THE AIR AND WASTE MANAGEMENT ASSOCIATION NEWSLETTER
NORTHERN OHIO CHAPTER

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From Old Landfill to Functional Redevelopment

As sprawl continues to swallow undeveloped green space on the outskirts of the nation's urban areas, some of the more daring developers and engineers are creating redevelopment opportunities at properties that have been devalued due to impacts from industrial, commercial, and landfill activities. These blighted sites are now commonly referred to as Brownfields.

This article will focus on the redevelopment of landfill sites. As cities in North America developed over the past centuries, our solid waste was deposited into dumps or landfills. Prior to the advent of the US Environmental Protection Agency in the early 1970s, these landfills were called dumps. The name came from the fact that the waste was typically dumped from the back of Dad's old pickup or the local garbage truck into a quarry, a ravine, or a stream valley. Once the area was filled, the sites were typically covered with soil and largely ignored. In the early 1970s, the US EPA enacted stricter regulations for disposal of the waste. These regulations prohibited the uncontrolled dumping of waste into the floodplains of quarries, ravines, or stream valleys, and required that the waste be deposited into engineered earthen structures (landfills) so as to encapsulate the waste and better control the gas and liquid byproducts of the waste. Over the past 20 years or so, the engineered landfills have incorporated a combination of earth and plastic materials, leachate collection systems, and often gas control systems to collect/control these byproducts of the waste and prevent them from impacting the environment.

With the development of our urban areas, municipal and corporate landfill owners search for new opportunities to turn these old landfills into development opportunities. Often, the only available large tracts of land in a municipality are the town dumps or the

landfills used by closed/abandoned industrial facilities to dispose of their waste byproducts. These landfill sites present a roadblock to development of the subject parcels and increase financial liabilities for the owners or developers in the way of ongoing monitoring, ongoing maintenance, and possible future environmental engineering, legal, and cleanup efforts. To promote redevelopment of the sites and reduce potential liability, municipalities, developers and industries are aggressively pursuing federal and state funding to assist in turning these liabilities into revenue and tax-generating facilities.

In Ohio, there are several hundred to thousands of abandoned dumps and closed landfills of varying size and composition. These sites may have been used to dump hazardous and non-hazardous industrial wastes, municipal sludges, construction and demolition debris (C&DD), agricultural wastes, and/or municipal solid waste (MSW). These sites may be potential sites for redevelopment. The Ohio Environmental Protection Agency requires that firms performing work in or on landfills receive authorization by receiving authorization in accordance with Ohio Administrative Code 3745-27-13, commonly called Rule 13.

End uses of landfill sites across the nation include indoor recreation facilities, residential development including single family and multifamily housing, greenhouses, wetlands, high rise commercial, golf courses, amphitheatres, regional malls, and big box retail centers.

NTH Consultants, Ltd., an infrastructure and environmental engineering consulting firm with offices in the Midwest and Mid-Atlantic regions, including Cleveland, Ohio, has participated in the design of several landfill redevelopment projects, including golf courses, all purpose trails, an indoor golf

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**SOUTHWEST AND
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PRESENT THE**

**All-Ohio
Spring 2006
Technical
Conference**

Thursday, May 4, 2006

9:30 am - 3:30 pm

The Vern Riffe Center

77 South High Street
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Special Guest Speakers

Joseph Koncelik, Ohio EPA Director
Peter Hess, A&WMA President

- Title V Permit Issues
- Speeding up the PTI Process
- Enforcement Lessons Learned
 - VAP
 - Clean Ohio
- All Appropriate Inquiry
 - RCRA

REGISTRATION FORM ENCLOSED!

From Old Landfill to Functional Redevelopment ... continued

dome, a sled hill, radio control airplane runways, and a large commercial development featured in the case study that follows.

Case Study: Allen Park Clay Mine Landfill - Fairlane Green

The Ford Allen Park Clay Mine Landfill is an industrial landfill located on approximately 200 acres in Allen Park, Michigan. Owned by Ford Motor Company, the site became operational in the 1950s for disposal of waste related to Ford's manufacturing facilities. With the exception of 20 acres, the site was closed and capped years ago. Ford Land, Ford's real estate division, envisioned creating an environmentally sensitive, one-million square foot development at the site. When completed, the site, named Fairlane Green, will include both retail space and a community recreational area. The project is expected to generate about 2,000 permanent jobs.

NTH Consultants, Ltd. was retained to provide regulatory, environmental and geotechnical engineering services for the project. The NTH Project Team identified

three major issues related to the reuse of this land. Each of the following issues was addressed in design and construction.

Reducing Post-Construction Settlement - Since the retail development was being built on a landfill, large amounts of fill were needed to protect the landfill cap and create an effective layout. Preloading the foundation soils and using geofoam to reduce the weight of the fill reduced settlement to levels that made construction with shallow foundations possible.

Maintaining Slope Stability - The placement of one million cubic yards of fill on top of a 40-ft high slope raised serious concerns about stability of the landfill slopes. A soil buttress was designed and constructed to maintain an acceptable factor of safety of 1.3. Because this factor of safety is lower than the normally accepted target of 1.5, a monitoring program was implemented during construction to assure the estimated factor of safety was adequate for this project.

Preventing Methane Gas Migration into the Buildings - Although the landfill was primarily filled with non-putrescible industrial waste, low concentrations of methane were detected at isolated locations across the site. To reduce the risk of methane migrating into the buildings, a gas collection system was

designed and installed below the floor slab of every building. Methane detection systems were installed in every building for additional protection.

Environmental and sustainable design considerations also went into the construction of the retail buildings. White reflecting roofs and high-efficiency heating and cooling equipment will reduce energy consumption. The building for Target, one of the anchor tenants, features more than 250 skylights that will allow for the conservation of energy when conditions provide enough sunlight to illuminate the sales floor. With the implementation of these features, Fairlane Green is applying for certification as a "green" site through the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Core and Shell pilot program for developers.

Patrick Nortz, C.P.G., P.E., VAP CP 291 and Ibraheem Alshunnar, P.E. of NTH Consultants, Ltd authored the above article. To learn more about NTH's landfill redevelopment capabilities, feel free to contact Mr. Nortz at NTH Consultants' Cleveland office at 216-344-4048 or email him at pnortz@NTHConsultants.com.

THE NEW PHASE I (AAI)

The Brownfield Revitalization Act of 2002 directed EPA to develop rules for conducting "All Appropriate Inquiry" (AAI), which you know as a Phase I. The latter term does not appear in the statute or the rule, and may disappear. The rule, published November 1, 2005, is effective November 1, 2006. ASTM has revised its standard to conform, but since the EPA rule is the only one with legal status, the longevity of the ASTM standard remains in doubt.

The statute and the rule provide three legal protections from Superfund liability. The 1986 Act protected an innocent landowner from liability for undiscovered contamination. The 2002 Act added a similar protection from contamination migrating onto the purchased property from contiguous properties. More importantly, the 2002 Act provided the same protection for purposeful buyers of contaminated property, provided they didn't cause the problem. The latter is a Bona Fide Prospective Purchaser (BFPP), and the law was amended to encourage Brownfield redevelopment. Moreover, the 2002 Act also provides eligibility for Brownfield

Development Grants.

The important fact here is that each requires that AAI be conducted prior to acquisition. Prior to 2002, AAI for the innocent landowner defense was left to the whim of the courts. The ASTM standard of 1996 became the de facto standard, although no court actually said that. The 2002 Act temporarily made ASTM the legal standard, but that status ends November 2006 when the new rule becomes effective.

The AAI rule dramatically changes the Phase I. It will be more expensive and many buyers will not like some of the requirements. Only an "Environmental Professional" (EP) may perform AAI. An EP must have a Baccalaureate in science or engineering and five full years of experience (PE's and PG's need only 3 years). The EP may supervise a non-EP for some tasks. This will drive up costs. In the rule preamble, EPA appeared pressured to accept any role for a non-EP, as in the proposed rule, and hinted that any errors resulting from work by an unsupervised non-EP may invalidate the liability protection.

David W. Marczely, Ph.D, J.D.
Sr. Environmental Scientist
Floyd Browne Group
dmarczely@floydbrowne.com

The biggest issue is the data gap requirement. The EP must render environmental conclusions, not just findings, as in the ASTM standard. But the EP must identify any data gaps and render an opinion as to how much the gaps may affect those conclusions. This will lengthen the time to do an AAI, since a quick AAI with various data gaps will surely be invalid for liability protection purposes. Moreover, in the case of the BFPP, the buyer must supply the EP with information such as the value of the property if not contaminated. If the EP does not get this information, he must comment on it as a data gap. Since a buyer likely will not want to disclose this information, the EP should carry good professional insurance.

A formal presentation on this topic will be presented at the Joint-Ohio AWMA Technical Conference to be held in Columbus on May 4. See details elsewhere in this newsletter.

*"He draweth out the thread of his verbosity finer than the staple of his argument."
— Shakespeare, "Love's Labor's Lost"*

Message from the Chairman by Louise Barton Environmental Doubletalk (Greenwashing)

I've always found it difficult to read complex regulatory language, legal documents, and most ingredient labels. Now I'm having trouble just listening to discussion, debates and dissertations on environmental issues.

I call it Environmental Doubletalk, or greenwashing. Used by both sides of almost every environmental issue, it sweeps a broad, vague brush over the users real issues in an effort to pacify the other side. If you watch the news, you've probably heard some of the phrases. Here are some you might hear from our elected representatives:

- "We should modernize regulations" or "update laws"
- "We need to simplify and streamline regulations" or "eliminate red tape"
- "We should clarify regulatory language"

On the surface, these sound great. Who wouldn't be in favor of reforming laws that are so outdated that they have become useless? Who wouldn't want to improve the way we protect the environment? However, in practice, what these usually mean is that "We

will try to change regulatory language to benefit our constituents and get us re-elected".

Greenwashed phrases usually obscure the intentions of the speaker. The regulators aren't the only ones using them, either. Here are some statements you might hear from the "environmentalist" side:

- "We need to look at the science associated with the problem."
- "We need to conduct further study of the problem."
- "We want to make decisions based on sound science."

Again, these statements sound reasonable, but in practical terms, you can probably substitute the following phrase with perfect accuracy: "We plan to do whatever we can, including funding more studies, to delay any strengthening of regulations in this area."

Another type of greenwashing is statistical manipulation. For example, consider the statement "The environment has gotten much cleaner in the last 30 years." That is a fact, at least in developed nations, but the implication

is that there is a constant positive trend and that things are just about to the point where they're "clean enough." But in some cases, most of the environmental progress of the last 30 years occurred early in the three-decade period. We should be asking about recent trends and actions. What have you done for me lately?

There is also something that might be called greenwashed insults. This is intended not only to show that the speaker clearly has the strongest understanding of environmental problems but also to cast doubt on the mental capacity or motives of anyone critical of their views:

- "Those opposed to this plan are guilty of 'old thinking'. We need 'new thinking' on environmental problems."
- "Criticism often comes from those who want to protect the status quo."
- "We should regulate based on science, not emotion."

I point these out to you to encourage a general attitude of suspicion towards language used to describe positions on the environment. Don't be greenwashed! Listen with a critical ear and do your own research on the topic!

Louise Barton is Sales and Marketing Director for Air Compliance testing in Cleveland, Ohio. She can be reached at louise@aircomp.com.



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Ohio EPA DAPC Rules Update

We all know that April 15 means we have better gotten our taxes filed or at least got an extension. But April 15 is also the date the Title V fee emission reports are due. This year, since April 15 falls on a Saturday, the deadline is extended to April 17. Also due this year are the Emission inventory summary and the Emissions Statement. All Title V facilities must file the first two, but only those facilities in the 33 8-hour ozone non-attainment counties must file the Emissions Statement. This applies if the emissions were 25 tons or greater of Volatile organic compounds or Oxides of Nitrogen for the reporting year. The Emission Statement also applies to Synthetic Minor Facilities. (Don't forget, these fees are also due by April 17) Methods of filing these reports are explained in the STARShip newsletter. This is electronically available at <http://www.epa.state.oh.us/dapc/starship/stari.nfo.html>

Just click on STARShip newsletter. Incidentally, STARShip is being redesigned. A contractor has been hired to take on the task.

It may be hard to believe, but a number of Title V facilities have permits which are reaching the end of the five year term. When you file your renewal, remember to incorporate your Compliance Assurance Monitoring plan in your application. This is a requirement of 40CFR part 64; so be sure to check the rule to see if it applies to your facility.

Did you know you PTI applications are now available in electronic format? Yes, you can now submit PTI applications by E-mail. Other electronic helps can be found at the Ohio EPA web page such as the permit wizard, which addresses permit issues for all environmental media, and the answer place, where a question can be submitted and the answer posted. Lots of information available at www.epa.state.oh.us

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Ohio EPA's Office of Compliance Assistance and Pollution Prevention (OCAPP) OCAPP Services and Accomplishments

Ohio EPA's Office of Compliance Assistance and Pollution Prevention (OCAPP) was created in 2004 through the merger of the agency's two existing small business assistance programs and the Office of Pollution Prevention. OCAPP is an independent office within Ohio EPA with a goal of providing information and resources to help businesses achieve compliance with environmental regulations. This includes a wide range of regulations from air and water pollution to waste management. Another primary goal of the office is to help its customers identify and implement pollution prevention (P2) measures that can save money, increase business performance and benefit the environment.

OCAPP provides a variety of free services, including assistance with permits, training seminars, on-site compliance and pollution prevention evaluations. In addition, OCAPP has a hotline for business owners with environmental questions at (800) 329-7518.

OCAPP has an extensive resource library with publications such as fact sheets and guidebooks that help explain Ohio's requirements in plain English. The office also produces a quarterly newsletter, Compliance and Prevention Quarterly, distributed to more than 6,000 businesses across the state. This newsletter serves as a way to keep companies up-to-date on compliance requirements, P2 opportunities and new resources. Over 40 new pollution-prevention (P2) related publications were developed in 2005, including fact sheets, technical assistance reports and P2 case studies. The office also compiled Ohio EPA's Guide to Environmental Permitting, a resource for businesses seeking more information on the Agency's various permitting requirements.

The office's Web site also contains a large number of tools and resources and has received positive feedback from U.S. EPA and others, as one of the more comprehensive sites to obtain P2 information. In 2005, the site received more than 770,000 hits from more than 157,000 external customers. OCAPP's Web site is at www.epa.state.oh.us/ocapp/ocapp.html.

The office has an active site-visit program. Staff conducted nearly 150 site visits in 2005

to help businesses with compliance and P2 issues. OCAPP staff also delivered more than 30 presentations and training sessions to help businesses understand regulatory requirements and reduce waste. The office was also part of the team to coordinate Ohio EPA's two recent full-day compliance assistance conferences, with 250 attendees at each event.

In addition to the services provided directly by OCAPP, the office participated in several other important compliance assistance related initiatives at the Agency during 2005.

Along with the Division of Air Pollution Control, OCAPP participated in Ohio EPA's Permit Process Efficiency Committee (PPEC) initiative for the past several years. The results of these efforts included the creation of several general air permits and in the expansion of permit-by-rule provisions for various business sectors in 2005. OCAPP recently assisted in developing fact sheets explaining the new permit-by-rule (PBR) options and is currently working on guidance for some of the small business sectors now eligible for the PBR.

The Ohio Mercury Reduction Group is coordinated by OCAPP with Ohio EPA's Division of Surface Water. This group shares information and helps coordinate mercury reduction efforts at Ohio EPA and with other state agencies and organizations. During 2005, the group collected and reviewed mercury data pertaining to Ohio, assisted with voluntary programs such as thermometer exchanges and helped coordinate mercury reduction activities throughout Ohio.

During 2005, OCAPP worked with several divisions to help develop the Permit Wizard, Ohio EPA's new interactive tool to help small and mid-sized businesses more easily identify permit, licensing and registration requirements that apply to their operations. The Permit Wizard is an easy-to-use tool that guides the user through a series of questions and, from the responses, develops customized feedback on the proper permits required for operation. The user can select from several environmental areas, such as waste, air, wastewater, storm water and wetlands and at the end of the session, the user is provided with a summary of requirements, along with links to written resources such as guidance

documents, fact sheets and forms. The Permit Wizard is designed to be used anonymously and the user is not required to submit any personal or company information. Permit Wizard can be accessed by clicking on the icon on Ohio EPA's main Web page at www.epa.state.oh.us.

OCAPP also assisted the agency in the development and launch of a new frequently asked questions Web tool known as the Answer Place. The Answer Place provides quick, easy access to information and allows users to pose questions directly to Agency staff. Once users arrive at the site, they can search the existing database for responses to questions, or pose question to Agency staff for a response. Ohio EPA is anticipating that the Answer Place will serve as a helpful tool for those looking for quick information or in getting pointed in the right direction. More than 7,000 people have visited the site to date. You can access the Answer Place by clicking on the icon on Ohio EPA's main Web page at www.epa.state.oh.us.

Additional information on OCAPP activities can be found on the OCAPP Web site at: www.epa.state.oh.us/ocapp/ or by calling our toll free hotline at (800) 329-7518.

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FROM THE EDITOR

The A&WMA Northern Ohio Chapter Newsletter is published semiannually for members of A&WMA. Pat Nortz, newsletter editor, may be contacted at (216) 344-4048, or pnortz@nthconsultants.com. Membership dues include subscriptions to the newsletter. For membership information go to our chapter web page at www.nocawma.org.



SOUTHWEST AND NORTHERN OHIO CHAPTERS
PRESENT THE
ALL OHIO ENVIRONMENTAL SEMINAR

Thursday, May 4, 2006

9:30 am - 3:30 pm

The Vern Riffe Center

77 South High Street, Columbus, Ohio 43215

Morning Session:

- Title V Permit Issues
- Speeding up the PTI Process
- Enforcement Lessons Learned

Afternoon Session:

- VAP
- Clean Ohio
- All Appropriate Inquiry
- RCRA

Session presentations by speakers from industry, consulting and government.

Special Guest Speakers:

Ohio EPA Director Joseph Koncelik

A&WMA President Peter Hess

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SOUTHWEST AND NORTHERN OHIO CHAPTERS

All-Ohio Spring 2006 Technical Conference

Thursday, May 4, 2006

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PROGRAM:

- 8:30 - 9:30 am On-site registration and breakfast buffet
- 9:30 - 9:40 am Welcome: *Gary Bramble*, SOC-AWMA Chair
Louise Barton, NOC-AWMA Chair
- 9:40 - 10:10 am **How to Receive a Timely Title V Permit Modification or Renewal, CAM Plan Requirements, and How to Avoid MACT**– *Andrew Hall*, Manager, Ohio EPA DAPC Permits
- 10:10 - 10:30 am **Industry Perspective on Permits and Enforcement** – *Frank Reed*, Attorney, Benesch, Friedlander, Coplan & Aronoff
- 10:30 - 10:40 am **Break.** *Please visit with our exhibitors!*
- 10:40 - 11:00 am **How to Receive a Timely Permit to Install** - *Mike Hopkins*, Assistant Chief, Ohio EPA DAPC Permits
- 11:00 - 11:20 am **Industry Perspective on Permits and Enforcement** – *J.D. Gibbs*, KERAMIDA Environmental
- 11:20 - 11:50 noon **Keynote Speaker** - *Joseph Koncelik*, Director, Ohio EPA
- 12:00 - 12:40 pm **Lunch!** Enjoy the delicious lunch buffet!
- 12:40 - 1:00 pm **Keynote Speaker** – *Peter Hess*, President, Air & Waste Management Association
- 1:00 - 1:30 pm **Voluntary Action Program** - *Amy Yersavich*, Ohio EPA
- 1:30 – 2:00 pm **Clean Ohio** – *John Magill*, Ohio Department of Development
- 2:00 – 2:15 pm **Break:** *“Seventh Inning Stretch!” Please visit with our exhibitors!*
- 2:15 – 3:00 pm **All Appropriate Inquiry** - *David W. Marczely Ph.D., J.D.*, Senior Environmental Scientist, Floyd Browne Group
- 3:00 – 3:30 pm **RCRA** - *Tom Kmiec, Mike Blumenthal*