



April 26, 2023

Ms. Michelle Luplow  
Environmental Quality Analyst  
Michigan Department of Environment, Great Lakes, and Energy  
Air Quality Division  
Lansing District Office  
Constitution Hall, First Floor South  
525 W. Allegan  
Lansing, Michigan 48933

Re: Response to Notice of Violation, dated April 5, 2023  
In the Matter of Brent Run Landfill, Montrose, Michigan

Dear Ms. Luplow:

This letter constitutes Brent Run Landfill, Inc.'s (Brent Run) response to the Notice of Violation (NOV) issued by Michigan Department of Environment, Great Lakes, and Energy (EGLE) Air Quality Division (AQD) to the Brent Run Landfill, Montrose, Michigan (the facility), dated April 5, 2023 (See Attachment 1).

EGLE alleges that Brent Run violated 40 CFR §§ 63.1981(e)(1), and 63.1981(e)(2) by failing to submit a revised gas collection and control system (GCCS) design plan 90-days prior to areas where waste-placement operations have expanded that are not covered by the previously approved design plan, and for failure to submit a revised design plan which is not consistent with the 2004 design plan.

For the following reasons, Brent Run does not believe a violation of the applicable rules occurred.

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**EGLE – Air Quality Division**

***Background***

Brent Run submitted its initial design plan in accordance with Subpart WWW on May 14, 2004, which was approved by the AQD/Waste and Hazardous Materials Division (WHMD) On February 13, 2006. In 2013, Brent Run received a permit modification to expand the landfill both laterally and vertically. This expansion, as set forth in the NOV, consisted of Cells 11-15. Commencement of construction on the expansion occurred in June 2014.

Waste was first placed in the expansion area on November 1, 2016. Cells 11 and 12 currently contain waste and an active GCCS, while Cells 14-15 do not contain waste (See Attachment 2). An active GCCS was first required in Cell 11A (eastern part of Cell 11) as of October 31, 2021, when the waste placed reached five years of age. Brent Run installed the GCCS in Cell 11A in May 2018, more than three (3) years earlier than required under the regulations.

***Requirement to Submit a Revised Design Plan***

The NOV alleges that Brent Run failed to submit a revised design plan to the Department at least 90 days before expanding operations to an area not covered by the prior design plan in accordance with 40 C.F.R. § 63.1981(e). Given the overlapping federal regulations applicable to landfill gas systems and the multiple effective dates, it is not entirely clear whether this provision applies to Brent Run and, if it does, when the revised design should have been submitted, if at all.

40 C.F.R. § 63.1981(e) states that the requirement to submit a revised design plan applies to an owner or operator “who has already been required to submit a revised design plan under paragraph (d) of this section [.]” But under the introductory paragraph to Section 63.1981, a landfill’s submission of an initial design plan under Subpart WWW constitutes compliance with Section 63.1981(d). Therefore, Brent Run was not required to submit a design plan under Section 63.1981(d). Even if such a landfill is nevertheless still subject to Section 63.1981(e), the amendment to Subpart AAAA did not become effective until March 26, 2020 (85 Fed. Reg. 17,244 (2020)), and the provision itself states “***beginning no later than September 27, 2021*** the owner or operator must submit a revised design plan ... at least 90 days before expanding operations to an area not covered by the previously approved design plan.” See 40 C.F.R. § 63.1981(e).

The requirement to submit a “revised design plan” was not expressly required under federal law until promulgation of Subpart XXX in August 2016. 79 Fed. Reg. 41796, 41819 (July 17, 2014)(“currently subpart WWW does not directly specify when a design plan should be updated and submitted to the Administrator for approval); 81 Fed. Reg. 59331 (Aug. 29, 2016). But Subpart XXX did not apply to Brent Run because it commenced construction on the modification to the landfill prior to July 17, 2014, which instead subjects Brent Run to Subpart OOO. See 40 C.F.R. § 62.16711(a)(1).

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Brent Run could not have strictly complied with 40 C.F.R. § 62.1981(e) *because it had already expanded operations to an area not covered by the previously approved design plan*. Importantly, the rule gives no direction to a landfill in this predicament. The same is true for Section 62.1981(e)(2), which requires a revised design plan “prior to installing or expanding the gas collection system in a way that is not consistent with the design plan that was submitted to the Administrator according to paragraph (d) of this section.” By the time this rule became effective, Brent Run had already begun expanding the gas collection system.

Regardless of the applicability of these rules, however, following the 2013 expansion, Brent Run has continued to install GCCS improvements in accordance with the 2004 GCCS design plan, the 2013 solid waste permit, and applicable regulations. Brent Run installed the GCCS in Cells 1-10 in accordance with the specifications of §§ 60.759 and the 2004 design plan. While the GCCS plan provides guidelines for individual well placement and spacing, it also specifies that these guidelines may be subject to adjustments based on field conditions. The placement of wells and header piping in the 2004 design plan was based on a projection of the landfill at final grade, which did not necessarily reflect intermediate stages of waste placement or account for later developments in site conditions. Any adjustments to the original design were made by a certified professional engineer prior to each construction event based on site conditions at the time of installation, including depth of waste, to maintain sufficient collection density and control surface emissions.

Since 2004, EGLE has approved several renewals of the facility’s Title V Renewal Applications, which covers the GCCS collection and combustion system. EGLE has also conducted multiple inspections of the Brent Run facility since receiving expansion approval. The most recent inspections occurred in 2018, 2021 and 2022. During these inspections Brent Run provided detailed facility information, as built GCCS drawings and discussed in detail facility and gas system operations. EGLE did not raise any concerns or issues about GCCS operations in either the original landfill footprint or the expansion area during any of these inspections.

***Meeting with EPA on April 19th***

Brent Run representatives met with United States Environmental Protection Agency (USEPA) personnel on April 19, 2023, to discuss the same issue in the context of Subpart OOO. During the meeting, Nathan Frank, Supervisor, Air Enforcement and Compliance Assurance Section, Region V noted that the GCCS design plan required by Subpart OOO is administered by USEPA and Subpart AAAA is administered by Michigan EGLE. Mr. Frank recommended that Brent Run submit a revised design plan to both agencies for review, which Brent Run intends to do.

The NOV requests submittal of a revised GCCS design plan to resolve the alleged violations. **Brent Run will submit an updated GCCS design plan covering all expansion areas within 60 days of this response letter.** Brent Run is interested in continuing to work with the Department to resolve all alleged violations. If you have any

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questions about the responses, please contact me at (810) 444-0811 or  
Timothy.Church@gflenv.com.

Sincerely,

**Brent Run Landfill, Inc.**



Timothy Church  
General Manager

Enclosure: Attachment 1 – EGLE Letter Dated April 5, 2023  
Attachment 2 - 2021 GCCS Construction Record

cc: Joseph Santangelo, Tami Craig, Anthony Pelletier, John Collins – GFL  
Environmental  
Annette Switzer, Christopher Ethridge, Brad Myot, Jenine Camilleri, Bob Byrnes,  
Gary Schwerin – EGLE  
Khaled Mahmood, Matt Boudreau – Tetra Tech

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## **Attachment 1**



GRETCHEN WHITMER  
GOVERNOR

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



DANIEL EICHINGER  
ACTING DIRECTOR

April 5, 2023

VIA EMAIL

Tim Church, General Manager  
Brent Run Landfill  
8335 West Vienna Road  
Montrose, Michigan 48457

SRN: N5987, Genesee County

Dear Tim Church:

**VIOLATION NOTICE**

On December 16, 2022, the Department of Environment, Great Lakes, and Energy (EGLE), Air Quality Division (AQD), conducted an inspection of Brent Run Landfill (BRL) located at 8335 West Vienna Road, Montrose, Michigan. The purpose of this inspection was to determine BRL's compliance with the requirements of the federal Clean Air Act; Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451); the Air Pollution Control Rules; the conditions of Renewable Operating Permit (ROP) number MI-ROP-N5987-2015a; and the MACT Subparts A and AAAA.

During review of records, staff observed the following:

<b>Process Description</b>	<b>Rule/Permit Condition Violated</b>	<b>Comments</b>
EULANDFILL	40 CFR Part 63.1981(e)(1)	BRL failed to submit a revised design plan to the Department for approval at least 90 days before expanding operations to an area not covered by the previously approved design plan under 63.1981(d).
EULANDFILL	40 CFR Part 63.1981(e)(2)	BRL failed to submit a revised design plan to the Department for approval prior to installing or expanding the gas collection system in a way that is not consistent with the 2004 design plan that was submitted to the AQD under 63.1981(d)

EULANDFILL is subject to the federal National Emission Standards for Hazardous Air Pollutants (NESHAP) for Municipal Solid Waste (MSW) Landfills. These standards are found in 40 CFR Part 63, Subpart AAAAA. Section 63.1930(a) of the NESHAP Subpart AAAAA provides that before September 28, 2021, MSW landfills subject to the NESHAP Subpart AAAAA must meet the requirements of the New Source Performance Standards (NSPS) Subpart WWW. Section 63.1930(b) of the NESHAP Subpart AAAAA provides that beginning no later than September 27, 2021, MSW landfills subject to the NESHAP Subpart AAAAA must meet the requirements of Subpart AAAAA.

The NSPS section 60.759(a) and NESHAP section 63.1962(a) provide that each MSW landfill owner or operator shall site active collection wells, horizontal collectors, surface collectors or other extraction devices at a sufficient density throughout all gas-producing areas using the applicable procedures in 60.759(a)(1), 63.1962(a)(1).

The NSPS section 60.759(a)(1) and 63.1962(a)(1) also provide that a professional engineer shall certify that the collection devices within the interior along the perimeters achieve comprehensive control of surface gas emissions.

The NESHAP section 63.1981(e)(1) provides that each MSW landfill owner or operator shall submit a revised design plan at least 90 days before expanding operations to an area not covered by the previously approved design plan (2004 GCCS design plan).

The NESHAP section 63.1981(e)(2) provides that each MSW landfill owner or operator shall submit a revised design plan prior to installing or expanding the gas collection system in a way that is not consistent with the approved design plan (2004 GCCS design plan).

Per the timeline provided by EGLE's Materials Management Division (MMD), a landfill expansion has been granted since the 2004 GCCS Design Plan was submitted and approved by AQD/MMD:

- 1997 Permit – BRL's original permit which included Cells 1 through 10.
- 2013 permit – This was a lateral and vertical expansion. Lateral expansion was 51.7 acres to the south, and vertical expansion was 47 acres. Cells 12, 13, 15, 11A and 11B were permitted (expansion to the south), and there was vertical expansion of the existing footprint. The permit included Cells 11 through 15, however, only Cell 11 and portions of Cell 12 have been constructed.

Based on a comparison of the 2004 GCCS design plan and the 2021 GCCS construction map, it does not appear that Cells 11A, 11B, 12, 13, and 15 were included in the approved 2004 GCCS design plan.

Additionally, comparing the 2004 GCCS design plan with the 2021 GCCS construction map, the well placement and density of wells in Cells 4, 5A, 5B, 6A, 6B, 6C, 7A, 7B, 8, 9, 10 NE, 10 NW, and 10S are greater than, and in most cases located at positions within the landfill

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Brent Run Landfill  
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that are markedly different than, the well placement and density of wells in the 2004 GCCS design plan.

By failing to submit a revised design plan for areas where waste-placement operations have expanded that are not covered by the previously approved design plan, and for failure to submit a revised design plan to ensure that all well placement is conducted according to a professional engineer-approved design plan, BRL is in violation of 40 CFR 63.1981(e)(1) and 40 CFR 63.1981(e)(2).

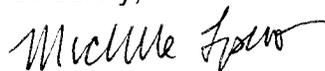
Please initiate actions necessary to correct the cited violations and submit a written response to this Violation Notice by April 26, 2023, (which coincides with 21 calendar days from the date of this letter). The written response should include: the dates the violations occurred; an explanation of the causes and duration of the violations; whether the violations are ongoing; a summary of the actions that have been taken and are proposed to be taken to correct the violations and the dates by which these actions will take place; and what steps are being taken to prevent a reoccurrence. Please also include a proposed date by which BRL will be able to submit an updated GCCS design plan to the AQD.

Please submit the written response to EGLE, AQD, Lansing District Office, Constitution Hall, First Floor South, 525 W. Allegan, Lansing, Michigan 48933 and submit a copy to Ms. Jenine Camilleri, Enforcement Unit Supervisor at EGLE, AQD, P.O. Box 30260, Lansing, Michigan 48909-7760.

If Brent Run Landfill believes the above observations or statements are inaccurate or do not constitute violations of the applicable legal requirements cited, please provide appropriate factual information to explain your position.

Thank you for your attention to resolving the violations cited above and for the cooperation that was extended to me during my inspection of Brent Run Landfill. If you have any questions regarding the violations or the actions necessary to bring this facility into compliance, please contact me at the number listed below.

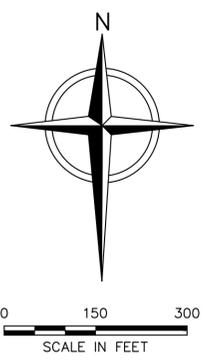
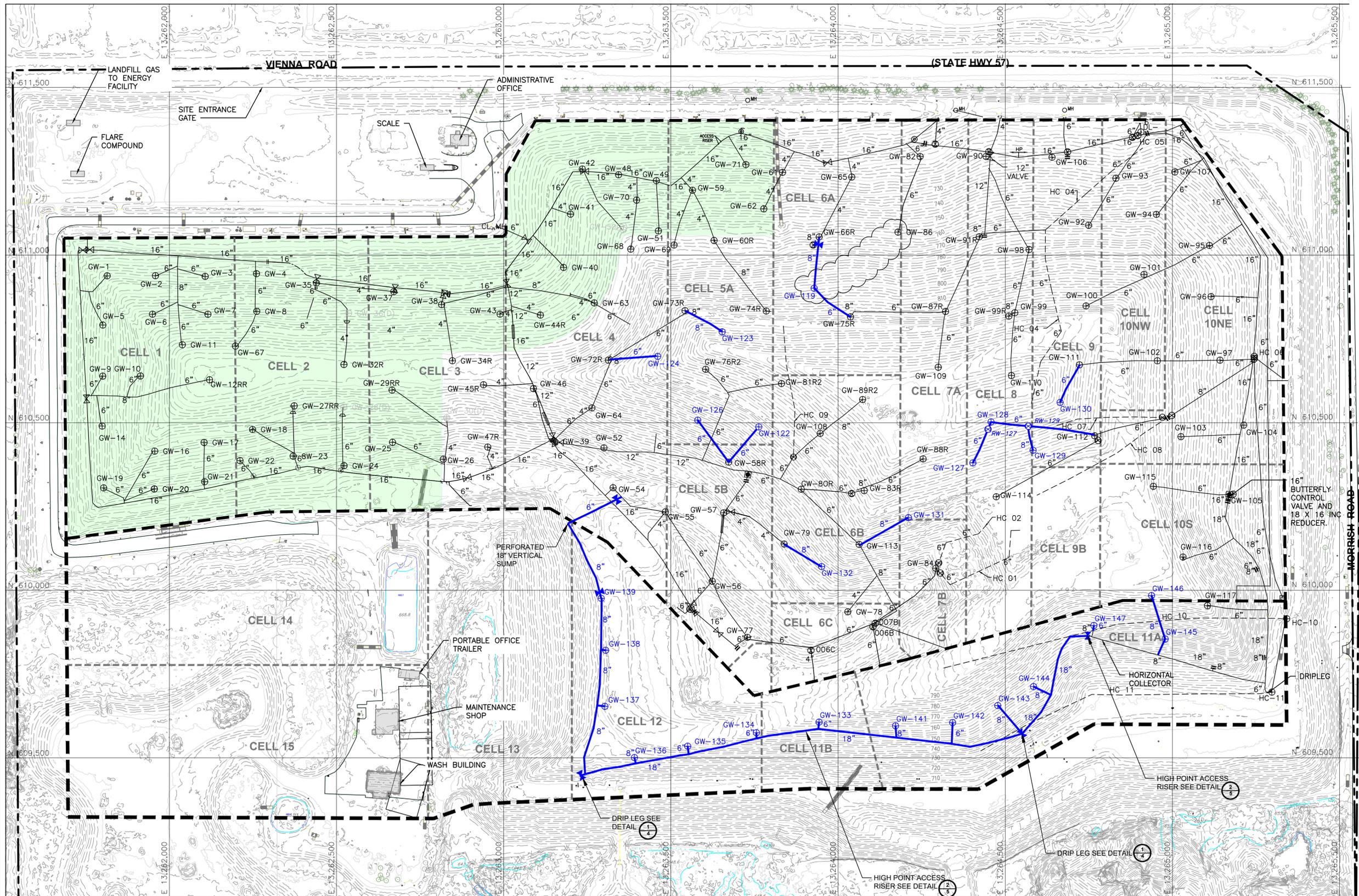
Sincerely,



Michelle Luplow  
Environmental Quality Analyst  
Air Quality Division  
517-294-9294

cc: Annette Switzer, EGLE  
Christopher Ethridge, EGLE  
Brad Myott, EGLE  
Jenine Camilleri, EGLE  
Bob Byrnes, EGLE  
Gary Schwerin, EGLE

## **Attachment 2**



- LEGEND**
- PROPERTY BOUNDARY
  - CELL BOUNDARY
  - SOLID WASTE BOUNDARY
  - EXPANSION AREA SOLID WASTE BOUNDARY
  - FINAL COVER AREA
  - 680 TOPO 10' CONTOUR
  - TOPO 2' CONTOUR
  - ⊕ GW-44R EXISTING WELL REDRILLS
  - ⊕ GW-65 EXISTING WELLS
  - ⊕ GW-30(D) EXISTING DECOMMISSIONED WELLS
  - == 2020 AS-BUILT 8" BLIND FLANGE AND BUTTERFLY CONTROL VALVE
  - RECORD LFG LATERAL
  - ⊕ GW-117 RECORD WELLS
  - ⊕ RECORD VALVE
  - ⊕ RW-127 RECORD REMOTE WELLHEAD

- NOTES:**
- AERIAL TOPOGRAPHIC MAP PROVIDED BY THE ROWE PROFESSIONAL SERVICES COMPANY. DATE OF PHOTOGRAPHY: 06/05/2021.
  - FEATURES, CONTOURS, AND ELEVATIONS OF THESE BASE MAPS ARE APPROXIMATE INDICATIONS OF CURRENT CONDITIONS.



REV	DATE	DESCRIPTION	OWN BY	DES BY	CHK BY	APP BY

DATE OF ISSUE: 12/19/22  
 DRAWN BY: JTH  
 DESIGNED BY: CDA  
 CHECKED BY: JEB  
 APPROVED BY: JEB



BRENT RUN, INC.  
 BRENT RUN LANDFILL  
 MONTROSE TWP., GENESEE COUNTY, MICHIGAN

**GCCS 2021 CONSTRUCTION  
 GCCS 2021 RECORD PLAN**

**RECORD**

SHEET NO.  
**2**

PROJECT NO.  
 4211620