

OHIO E.P.A.

OCT 31 2011

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BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Waste Management of Ohio, Inc.:
P.O. Box 13506:
Dayton, OH 45413
Respondent

Director's Final Findings
and Orders

Facility:

Seriff Road Landfill
1136 Seriff Road
Lima, OH 45805

PREAMBLE

It is hereby agreed by and among the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are hereby issued to Waste Management of Ohio, Inc. (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Sections 3734.02(G), 3734.13 and 3745.01 of the Ohio Revised Code (ORC).

II. PARTIES BOUND

These Orders shall apply to and be binding upon the Respondent, its assigns, and successors in interest. No changes in ownership relating to the Seriff Road Landfill will in any way alter the Respondent's responsibilities under these Orders. Respondent shall provide a copy of these Orders to all contractors, subcontractors, laboratories and consultants retained as appropriate. Respondent shall ensure that all contractors, subcontractors, laboratories and consultants retained comply with the provisions contained herein. Respondent's obligations under these Orders may be altered only by written approval of the Director of Ohio EPA.

III. DEFINITIONS

Unless otherwise expressly stated herein, all terms in these Orders have the same meaning

as used in ORC Chapter 3734 and the rules promulgated there under.

IV. FINDINGS OF FACT

The Director of Ohio EPA makes the following findings:

1. Respondent is the owner and operator of the Seriff Road Landfill Facility, located at 1136 Seriff Road, Lima, Allen County, Ohio (Facility), which is identified in Deed Record Volume 581, Page 409, in the Allen County Recorder's Official Records.
2. The Facility is a "sanitary landfill facility" as defined in Ohio Administrative Code (OAC) Rule 3745-27-01(T) effective July 29, 1976.
3. The Facility began accepting waste for disposal as the City of Lima Dump in the 1940's. Terminal Service company of Cincinnati (TSCC) operated the site as a landfill from 1963 until it went bankrupt in 1976 (a bank retained ownership). Plan approval for operation of the landfill was issued to TSCC on November 20, 1969, by the Ohio Department of Health. Astro Disposal Company a successor to TSCC operated the site for the bank for two months in 1976. The site was inactive from May of 1976 until SCA reopened the site in July 1984. Ohio Waste Systems, Inc. (OWS) a division of WMNA acquired the landfill in 1984 as part of the SCA acquisition. OWS operated the site until its closure.
4. Pursuant to OAC Rule 3745-27-10(A)(2), as that rule was effective on July 29, 1976, the Facility was deemed closed on December 31, 1986. Closure activities included installation of an in-waste active landfill gas control system. Except for ground water and explosive gas monitoring, post-closure care activities for the facility ended on December 31, 1989.
5. Respondent was notified by a letter from Ohio EPA on December 21, 1988, that the Facility was impacting the ground water beneath the site.
6. Respondent was notified by letter from Ohio EPA dated December 6, 1989, that the monitoring period, pursuant to OAC 3745-27-10(H)(3), as effective on July 29, 1976, was being extended beyond the three year period established by OAC Rule 3745-27-10(G), as effective on July 29, 1976.
7. An out-of-waste landfill gas control system was installed at the Facility in 1990. The system was comprised of seven active landfill gas control wells.
8. In September 1990, Respondent collected ground-water samples from wells at 10 residences on Seriff Road and Springview Drive. Analytical results from the residential samples were submitted to Ohio EPA on December 26, 1990.
9. In a letter to Respondent dated February 19, 1991, Ohio EPA concurred that the sampling results indicated that the ground-water quality of residential wells downgradient of the facility had not been affected by the facility.

10. A contaminant migration assessment report, dated February 1992, was submitted to Ohio EPA which documented the rate, extent, and concentration of contamination in the ground water. According to the Respondent's report, the contaminated ground water extended approximately 75 feet east of the site, beneath residential properties, and the ground water flow rate was calculated to be 40 feet per year toward the northeast.
11. On June 30, 1993, Director's Final Findings and Orders (June 30, 1993, Orders) were issued, ordering Respondent to submit a corrective measures study (CMS) within 180 days of the effective date of the orders due to the Director's determination that the Facility was impacting the underlying ground water. The June 30, 1993, Orders also required Respondent to achieve compliance with OAC Rule 3745-27-10, as the rule was effective March 1, 1990. Pursuant to the Director's June 30, 1993 Final Findings and Orders, Respondent submitted a CMS to Ohio EPA on December 23, 1993.
12. In October 1996, the seven out-of-waste gas control wells and nine in-waste landfill gas extraction wells were decommissioned. Nine new in-waste gas extraction wells were installed.
13. The final version (Revision 2) of the CMS was received by Ohio EPA on July 16, 1997. On March 20, 1998, Ohio EPA approved the CMS, which included the requirement to continue compliance monitoring with the following conditions set forth on page one of the Director's approval letter:
 - a. "The owner/operator shall perform an Appendix II sampling event for all affected and upgradient wells in the ground water monitoring network. If any Appendix II parameters are detected from this event at any downgradient wells at concentrations greater than those at upgradient wells, the owner/operator shall re-implement ground water assessment monitoring activities in accordance with OAC 3745-27-10(E) for the well(s) of concern. If no Appendix II parameters are detected from this event at any downgradient wells at concentrations greater than those at upgradient wells, the owner/operator shall continue to perform the semi-annual and annual sampling events for the parameters noted in Revision 2 of the CMS."
 - b. "The owner/operator shall perform compliance monitoring in accordance with the parameter list and schedule in Revision 2 of the CMS (dated July 1997). If the concentration levels shown on Table 6 of Revision 2 of the CMS are exceeded in two consecutive confirmed events, an Appendix II sampling shall be performed at that well. If a confirmed MCL or health-based risk is determined in two successive sampling events, then the ground-water conditions shall be reevaluated to determine if a specific remedial procedure(s) shall be implemented."
14. Respondent requested and Ohio EPA terminated the June 30, 1993, Orders as documented in correspondence from Ohio EPA to Respondent dated July 17, 1998.
15. In 1993, Respondent provided connections to the municipal water supply at

- 13 residences on Seriff Road and Springview Drive downgradient of the Facility. Wells at eight of the residences were decommissioned in 1998. Two of the eight residences had two wells on their respective properties so 10 residential wells were decommissioned in 1998. A "Residential Well Sealing Report" dated December 1998 was submitted to Ohio EPA by Respondent. One additional residential well was decommissioned in 1999. A Residential Well Abandonment Report was submitted to OEPA by the Respondent in November 1999.
16. In August and September 1999, five unused monitoring wells and two piezometers at the Facility were decommissioned. Decommissioning procedures were documented by the Respondent in the "Piezometer and Monitoring Well Decommissioning Report" (Eagon & Associates, Inc., February 2, 2000). Respondent represents that the residential well at 795 Seriff Road also was decommissioned in 2001.
17. A revision to the CMS to revise Proposed Concentration Levels was submitted by Respondent and approved by Ohio EPA on February 2, 2001.
18. The maximum contaminant level (MCL) for barium was exceeded at monitoring well SRD-04 during the October 16, 2001 semi-annual sampling event (4.4mg/L) and confirmed during the December 17, 2001 resampling event (3.6 mg/L). This represented the first sampling event during which an MCL was exceeded at the Facility.
19. The MCL for barium was again exceeded at monitoring well SRD-04 during the April 10, 2002, semi-annual sampling event (3.2 mg/L) and confirmed during the May 23, 2002, resampling event (4.4 mg/L). This represented the second successive sampling event during which an MCL was exceeded at the Facility.
20. Pursuant to the CMS, Respondent submitted a re-evaluation of the corrective measures to Ohio EPA on August 30, 2002.
21. In a letter dated December 6, 2002, Ohio EPA notified Respondent of Ohio EPA's determination that the barium concentration increases at SRD-04 indicated a new leachate release.
22. In January to March 2003, Respondent performed an investigation of the extent of elevated barium levels downgradient of SRD-04 including installation of two new monitoring wells, completion of six Geoprobe borings, and collection and analysis of 19 ground-water samples from the Geoprobe borings and four ground-water samples from monitoring wells. A "Barium Investigation" report documenting the Respondent's sampling activities and results of the investigation was submitted by Respondent to Ohio EPA on May 5, 2003.
23. In May and June 2003, 10 passive gas vents were installed between the landfill and Seriff Road. Installation of the gas vents was documented by Respondent in a "Gas Vent Installation" report dated August 6, 2003.

24. On June 11, 2003, Director's Final Findings and Orders (June 11, 2003, Orders) were issued in accordance with OAC Rule 3745-27-10(F)(4), as effective on March 1, 1990. The June 11, 2003, Orders required Respondent to complete interim measures including verifying the status of residential well use, collecting samples from identified residential wells downgradient of the contamination (pending well owner permission) and notifying the well owners of the contamination and the results of the sampling. The June 11, 2003, Orders addressed Ohio EPA's ongoing concerns regarding the continued detections of barium above MCLs in monitoring well SRD-04 and the resulting threat to human health or the environment due to the potential off-site migration of barium contamination and the identification of downgradient groundwater wells in proximity of the Facility. Pursuant to the Director's Final Findings and Orders, Respondent submitted a report (Residential Water Use and Water Quality, Eagon & Associates, Inc., August 25, 2003) documenting the results of residential water use investigations and water-quality analyses and demonstrating compliance with the June 11, 2003 Orders.
25. Respondent requested and Ohio EPA terminated the June 11, 2003, Orders as documented in correspondence from Ohio EPA to Respondent dated July 28, 2004.
26. In July and August 2004, Respondent performed additional field investigations of the extent of elevated barium levels downgradient of SRD-04. This investigation included completion of five Geoprobe borings; three on site and two off-site east of Sheriff Road. The results of the Respondent's investigations were documented in a "2004 Addendum to Barium Investigation" report submitted to Ohio EPA in October 2004.
27. In September 2004, two passive gas vents were installed between the landfill and Sheriff Road.
28. Respondent submitted a revised CMS to Ohio EPA for approval on December 21, 2004, pursuant to OAC Rule 3745-27-10, as effective March 1, 1990.
29. An observed gradual increasing trend for ammonia at MW-101, screened in the lower sand zone was documented in a letter from Ohio EPA to Respondent dated December 22, 2004.
30. Ohio EPA notified Respondent in a letter dated January 27, 2005, that Respondent had been in violation of OAC Rule 3745-27-10(F)(1)(c), as effective March 1, 1990, for twenty-five (25) months, for failing to revise the corrective measures program at the site in a manner that will control the source of the release of contaminants.
31. Respondent submitted a proposed revision to the CMS to Ohio EPA in March 2005.
32. Respondent met with Ohio EPA in April 2006 to discuss water quality at the Facility, the regulatory status of the Facility, and the proposed CMS revision.

33. OAC Rule 3745-27-10, as effective March 1, 1990, was subsequently amended on June 1, 1994.
34. Thereafter, OAC Rule 3745-27-10, as effective June 1, 1994, was subsequently amended on August 15, 2003.
35. Ohio EPA and Respondent desire to continue regulating compliance at the Facility in accordance with OAC Rule 3745-27-10, as effective March 1, 1990, in light of the previously issued June 30, 1993 Orders, the June 11, 2003 Orders, and the existing CMS, all of which were issued under the 1990 ground water monitoring regulations.
36. A copy of OAC Rule 3745-27-10, as effective March 1, 1990, is attached to this order as Exhibit A and incorporated as if fully written.
37. Ohio EPA has determined that compliance with OAC Rule 3745-27-10, as effective March 1, 1990, is protective of human health and safety and the environment, and appropriate for continued use at this Facility.
38. Respondent represents that the residential well at 3355 Springview Drive was decommissioned when the residence was demolished by Allen County as part of the Eastown Road Extension project.
39. In June 2003, Eagon & Associates investigated water use at residences within 1000 feet downgradient of the Landfill. A survey to determine the status of the residential wells was performed in October 2010. The residential well at 1145 Seriff Road is still in place and is not in use. The property owner will not grant respondent access to abandon the well. The residence is connected to the municipal water supply. The residential well at 3438 Springview Drive was abandoned in September 2011.
40. Respondent has prepared a revised corrective measures study dated October 2011 ("October 2011 CMS") including ground water monitoring pursuant to OAC 3745-27-10, effective March 1, 1990. The October 2011 CMS is attached to these Orders as Exhibit B. Table 1 of the October 2011 CMS includes the results of October 2010 survey of the residential water wells located within 1000 feet downgradient of the Landfill.
41. In June, 2009 Respondent installed three (3) passive gas vents in close proximity to ground water monitoring well SRD-04 pursuant to the plans and specifications provided for in the October 2011 CMS.
42. On January 8, 2010, Respondent submitted to Ohio EPA and to the Allen County Health Department a certification report regarding the installation of the three (3) passive gas vents pursuant to the October 2011 CMS.
43. Respondent initiated the annual sampling of all the off-site downgradient wells within 1000 feet of the facility in October 2010.

44. Pursuant to ORC Section 3745.02(G), Ohio EPA has determined that granting Respondent an exemption from the ground water monitoring procedures as required in OAC Rule 3745-27-10, as effective August 15, 2003, and allowing the Facility to continue ground water monitoring procedures in accordance with OAC Rule 3745-27-10, as effective March 1, 1990, and the October 2011 CMS (Exhibit B) is unlikely to adversely affect the public health or safety or the environment.

V. ORDERS

The Director hereby issues the following Orders:

1. Pursuant to ORC Section 3745.02(G), an exemption is granted to the Respondent from the requirements of OAC Rule 3745-27-10, as effective August 15, 2003 for the Facility.
2. The revised Corrective Measures Study dated October, 2011 ("October 2011 CMS") and submitted to Ohio EPA by Respondent is attached as Exhibit B to these Findings and Orders and is hereby approved. Respondent shall continue to implement the approved October 2011 CMS pursuant to these Orders.
3. Respondent shall comply with the requirements of OAC Rule 3745-27-10, as effective March 1, 1990, and the approved October 2011 CMS for the Facility. A complete copy of OAC Rule 3745-27-10, as effective March 1, 1990, is attached as Exhibit A and incorporated herein as if fully written. No other provision of the Ohio Solid Waste regulations effective March 1, 1990 applies to the facility.
4. Respondent shall measure the success of the approved October 2011 CMS identified in Order No. 2 on a semi-annual basis beginning on the third anniversary of the date of these Orders.
5. Any proposed revisions to the October 2011 CMS attached as Exhibit B shall be submitted to Ohio EPA, NWDO for review and approval. Ohio EPA may approve the proposed revisions to the October 2011 CMS or may send Respondent a notice of deficiency indicating where the proposed revisions to the October 2011 CMS are deficient. Upon receipt of a notice of deficiency to the proposed revisions to the October 2011 CMS, Respondent may further revise the October 2011 CMS to address all identified deficiencies and resubmit the revised October 2011 CMS to Ohio EPA for approval.
6. Unless otherwise specified herein, Respondent shall submit all documents or notifications required by these Orders to be submitted to Ohio EPA, to the following address:

Ohio Environmental Protection Agency
Northwest District Office
347 North Dunbridge Road
Bowling Green, Ohio 43402
ATTN: DMWM Inspector Supervisor

7. Unless otherwise specified herein, Respondent shall submit all documents or notifications required by these Orders to be submitted to the Allen County Health Department, to the following address:

Allen County Health Department
PO Box 1503
219 East Market Street
Lima, Ohio 45802-1503
ATTN: Environmental Health Director

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of the Enforcement Coordinator for Ohio EPA's Division of Materials and Waste Management that all obligations under these Orders have been performed and the Ohio EPA approves the certification in writing. Satisfaction of the Ohio EPA is achieved once Respondent has demonstrated on a semiannual basis for a period of five years that the designated PCL's have not been exceeded per OAC 3745-27-10(F)(8), effective March 1, 1990.

The certification shall contain the following attestation from Respondent: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent.

VI. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, Respondent or the Facility unless specifically identified.

VII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent or the Facility.

Nothing in these Orders shall be construed to authorize any waiver from the requirements of applicable state solid waste laws or regulations. This authorization shall not be interpreted to release Respondent or others from responsibility under ORC Chapters 3704, 3714, 3734, or 6111; under the Federal Clean Water Act, the Resource Conservation and Recovery Act, the Toxic Substances Control Act, or the Comprehensive Environmental Response, Compensation, and Liability Act; or from other applicable requirements for remedying conditions resulting from any release of contaminants from the facility to the environment.

VIII. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

IX. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 3734. or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

X. WAIVER

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

XI. EFFECTIVE DATE

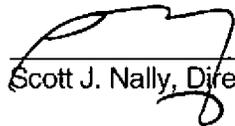
The effective date of the Orders is the date these Orders are entered into the Ohio EPA Director's Journal.

XII. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

ORDERED AND AGREED:

Ohio Environmental Protection Agency



Scott J. Nally, Director

AGREED:

Waste Management of Ohio, Inc.



Signature

20 OCT 2011
Date

James Foensey
Printed or Typed Name

Area Director - LSNMG
Title