

OHIO E.P.A.

NOV 23 2010

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**



In the Matter Of:

Richland County Regional Solid Waste :
Management Authority :
1125 National Parkway :
Mansfield, Ohio 44906 :

Director's Final Findings
and Orders

Respondent

I certify this to be a true and accurate copy of the
official documents as filed in the records of the Ohio
Environmental Protection Agency.

PREAMBLE

It is agreed by the parties hereto as follows:

By: *[Signature]* Date: 11-23-10

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Richland County Regional Solid Waste Management Authority ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§§§ 3734.13, 3734.20, 3745.01, and 6111.03.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent or of the Facility (as hereinafter defined) shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3734. and the rules promulgated thereunder.

IV. FINDINGS

1. The Richland County Landfill is a closed municipal solid waste landfill located at 536 Cairns Road, Richland County, Mansfield, Ohio (the "Facility"). The Facility is a "sanitary landfill facility" as that term is defined pursuant to Ohio Administrative

Code ("OAC") Rule 3745-27-01(S)(4).

2. Richland County or the Richland County Commissioners ("Richland") operated the Facility from March 1970 until its closure in March 1993.
3. On May 4, 1995, via resolution the Richland County Regional Solid Waste Management Authority ("Respondent") was formed to manage the Richland County Solid Waste Management District ("District"). Pursuant to said resolution and to a transfer agreement dated May 4, 1995, between Richland and the District, the District acquired the Facility. Respondent as successor in interest to the District operates and conducts post-closure care activities at the Facility.
4. Respondent is a "person" as that term is defined in ORC § 3734.01(G) and in OAC Rule 3745-27-01(P)(3).
5. All findings necessary for the issuance of these Orders pursuant to ORC §§§ 3734.13, 3734.20, and 6111.03 have been made by Ohio EPA and are outlined below. The Director of Ohio EPA has made the following findings:
 - a. On March 4, 1970, the Ohio Department of Health approved Richland's detailed plans for the Facility. In 1970, Richland began operating the Facility.
 - b. On January 5, 1982, Richland was issued a Hazardous Waste Facility Board Permit Number 03-70-0313 for hazardous waste disposal cells A and B for the Facility.
 - c. On June 14, 1985, Ohio EPA issued a permit to install (PTI Number 03-2022) to Richland to operate the Facility. Disposal of hazardous waste at the Facility ceased on August 14, 1984. Cells A and B were certified closed in September 1986.
 - d. On May 31, 1988, Richland ceased disposal of solid waste at the Facility. On March 5, 1993, Richland submitted a report pursuant to OAC Rule 3745-27-11(L)(3), certifying solid waste closure at the Facility.
 - e. On October 29, 1990, Ohio EPA approved Richland's explosive gas monitoring plan for the Facility with conditions pursuant to OAC Rule 3745-27-12.
 - f. On June 25, 1992, Ohio EPA issued Director's Final Findings and Orders to Richland, requiring Richland to install a passive and/or active gas extraction system at the Facility to abate or minimize explosive gas

migration off-site pursuant to OAC Rule 3745-27-12. On May 10, 1996, Richland entered into consensual Director's Final Findings and Orders, rescinding Orders 2-7 of the June 25, 1992 Director's Final Findings and Orders, eliminating the active gas extraction system requirement at the Facility.

- g. On August 26, 1997, Respondent entered into Director's Final Findings and Orders, requiring Respondent to comply with ground water monitoring rules for solid waste facilities OAC Rule 3745-27-10 in lieu of complying with ground water monitoring requirements within OAC Chapter 3745-54.
- h. In correspondence stamped August 11, 1999, Ohio EPA approved Respondent's ground water Corrective Measures Plan with conditions.
- i. On July 11, 2002, Ohio EPA issued Director's Final Findings and Orders to Respondent, requiring Respondent to abate or minimize the formation and migration of explosive gas at the Facility, including submission and implementation of a remediation plan pursuant to OAC Rule 3745-27-12.
- j. On October 18, 2002, Respondent submitted an explosive gas remediation plan for the Facility in response to the July 11, 2002 Director's Final Findings and Orders Order Number 3. Pursuant to this plan, Respondent installed additional passive vents to the explosive gas system and an active gas extraction system in 2002 through 2004.
- k. In September of 2006, Respondent expanded its active gas extraction system at the Facility with installation of five ("5") new active extraction wells and conversion of eleven ("11") passive vents to active wells. The current active gas extraction system currently consists of thirty-two ("32") active wells.
- l. From April 3, 2002 through July 9, 2003, Ohio EPA cited Respondent in notices of violation ("NOVs") for violations of explosive gas migration abatement or minimization requirements under OAC Rule 3745-27-12 and/or of the July 11, 2002 Director's Final Findings and Orders.
- m. It is Ohio EPA's position that explosive gas exceedances of the lower explosive limit continue to occur at the Facility's boundary in violation of OAC Rule 3745-27-12. Pursuant to OAC Rule 3745-27-12(l), the Director has determined that explosive gas formation and migration at the Facility threaten human health, safety, or the environment.

- n. From June 17, 1999 through May 17, 2005, Ohio EPA cited Respondent in NOV's for violations of ground water monitoring requirements in OAC Rule 3745-27-10 and/or of the August 11, 1999 Corrective Measures Plan approval.
 - o. In correspondence to Ohio EPA from 2006 through 2008 from Respondent, ground water contamination constituents were detected in ground water at the Facility, including but not limited to trichloroethylene, cis-1,2-dichloroethylene, and kepone.
 - p. Conditions at the Facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination within the meaning of ORC § 3734.20(B).
6. Based upon the information available to the Director as set forth in these Findings, the Director has determined that the work required by these Orders is in the nature of interim measures only. Such interim measures are designed to address the explosive gas and ground water conditions at the Facility.
7. Given conditions at the Facility and based upon the violations as alleged herein, the Director has determined that the work required by these Orders should be performed by Respondent. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

INTERIM LEACHATE EXTRACTION

1. Upon the effective date of these Orders, Respondent shall continue to pump and haul leachate offsite for disposal in accordance with all applicable laws and authorizations from the five ("5") existing leachate extraction manholes at the Facility, unless otherwise approved by Ohio EPA in writing. Respondent shall at a minimum maintain the current pumping rate and frequency and maintain current leachate removal rates at the five ("5") existing leachate extraction locations.
2. By no later than December 31, 2010, Respondent shall design, install, and commence operation of an interim automated leachate extraction system at the Facility. The interim automated leachate extraction system shall have a

minimum of three ("3") existing leachate extraction wells or vents, which shall be fitted with submersible pumps, pump floats, hosing, and electrical service and controls to enable the automated pumping of leachate. If a leachate storage tank is used by Respondent as part or all of the interim leachate extraction system, the leachate storage tank shall be emptied on a schedule that will allow the interim leachate extraction system to continue automated operation without interruption. At a minimum, the three ("3") leachate extraction wells or vents shall be designed, installed, and operated in accordance with the following:

- a. The extraction pumps shall be set as close as possible to the base of waste and automated such that the extraction pumps do not cycle off until leachate is within one foot of the base of the Facility's extraction well or vent.
 - b. The pump-on level shall be established at a setting that will maintain a leachate level within the well below the average static leachate level in the well or vent.
 - c. The location of the three ("3") or more existing leachate extraction wells or vents to be fitted with submersible pumps, pump floats, hosing, and electrical service and controls shall be determined by Respondent based on information gained during Respondent's leachate study conducted pursuant to the September 24, 2009 Director's Final Findings and Orders.
 - d. Any extraction pump that does not cycle on for a period of seven ("7") days shall be relocated at the Facility into an extraction point with available leachate. The relocation of any such extraction pump and associated construction activities shall be completed within thirty ("30") days from the extraction pump's failure to cycle within the seven ("7")-day period, unless otherwise provided by Ohio EPA in writing. A report documenting such changes to the leachate extraction system shall be prepared and submitted to Ohio EPA in accordance with Order 3 or no later than thirty ("30") days after construction completion, whichever occurs later.
3. No later than January 31, 2011, Respondent shall prepare and submit a report with "as-built" drawings and supporting data for the interim automated leachate extraction system to Ohio EPA, NWDO that certifies compliance with Order 2.

SITE INVESTIGATIVE ACTIVITIES

4. No later than thirty ("30") days after the effective date of these Orders, Respondent shall commence an evaluation of the following at the Facility:

- a. Update the existing topographical survey to obtain current topographic information for the landfill and adjacent areas to support site investigation activities; and
 - b. Complete a geophysical investigation within and near the landfill limits of waste placement. The geophysical survey will be completed through the use of non-intrusive geophysical techniques (i.e. electromagnetic and/or resistivity) to produce profile lines in areas of concern and/or interest to assist with verifying the existing site conceptual model of trench depths and orientation, and also provide data that will assist in understanding of moisture level and waste characteristics within the trenches investigated; and
 - c. Conduct an intrusive subsurface exploration using a drill rig, geoprobe drill rig and/or hand augers in areas of concern and/or interest to validate the existing site conceptual model, ground truth the results from the geophysical survey, and to gather data necessary to evaluate site characteristics relative to potential site remedial activities (i.e. cap characteristics and thickness, depth of fill, physical characteristics of fill materials, moisture levels, etc.).
5. No later than February 28, 2011, Respondent shall submit a report to Ohio EPA, NWDO for review detailing the evaluation performed pursuant to Order 4.

GROUND WATER CORRECTIVE MEASURES PLAN

6. No later than June 30, 2011, Respondent shall propose revisions to its Corrective Measures Plan ("Plan"), which shall be in compliance with OAC Rule 3745-27-10, effective June 1, 1994, that shall include corrective measures in addition to those currently approved for the Facility. Ohio EPA may review and approve the proposed revisions in accordance with the provisions of Section VI, Review of Submittals, of these Orders. The Plan shall evaluate all practicable remediation procedures which are available for remediating any contamination that currently exists at the Facility pursuant to OAC Rules 3745-27-10(F)(2) and (3). This evaluation shall analyze and document the effectiveness of the proposed corrective measures in reducing the concentrations of constituents released to ground water from the Facility to the concentration levels calculated in accordance with OAC Rule 3745-27-10(F)(7).

The revised Plan shall further contain a specific date for submitting an updated Semi-Annual Ground Water Quality Detection, Assessment, and Corrective Measures Report ("Report") for the Facility to Ohio EPA, NWDO for review.

VI. REVIEW OF SUBMITTALS

Ohio EPA may review any plan, report, or other item required to be submitted pursuant to these Orders in accordance with this Section. Upon review, Ohio EPA may in its sole discretion: (a) approve the submission in whole or in part; (b) approve the submission upon specified conditions; (c) modify the submission; (d) disapprove the submission in whole or in part, notifying Respondent of deficiencies; or (e) any combination of (a) through (d). The results of Ohio EPA's review shall be in writing and provided to Respondent.

In the event of approval as is, approval upon condition, or approval as modified of any submission by the Ohio EPA, Respondent shall proceed to take any action required by the submission as approved, conditionally approved, or approved as modified by Ohio EPA.

Within thirty ("30") days of receipt of a Notice of Deficiency ("NOD") from Ohio EPA, Respondent shall correct the deficiencies and submit the revised submission to any applicable part or plan to Ohio EPA-NWDO for approval. The revised submission shall incorporate all of the changes, additions, and/or deletions specified by Ohio EPA in its NOD. Revised submissions shall be accompanied by a letter indicating how and where each of Ohio EPA's comments was incorporated into the submission. Any other changes made to the submission by Respondent shall also be identified in the letter.

If Respondent fails to submit a revised submission incorporating all changes, additions, and/or deletions within thirty ("30") days, Respondent shall be considered in violation of these Orders. If Respondent is in violation of these Orders, Ohio EPA retains the right to terminate these Orders, perform any additional investigation, conduct any work to address conditions at the Facility, and/or enforce the terms of these Orders.

VII. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondent have performed all obligations under these Orders and the Enforcement Coordinator of Ohio EPA's Division of Solid and Infectious Waste Management acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

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

The certifications shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent.

VIII. 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, the Facility.

IX. 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.

X. 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.

XI. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
Division of Solid and Infectious Waste Management
347 North Dunbridge Road
Bowling Green, Ohio 43402
Attn: Unit Supervisor, DSIWM

and to:

Richland County Health Department
555 Lexington Avenue
Mansfield, Ohio 44907
Attn: Health Commissioner

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XII. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, causes of action and defenses thereto, except as specifically waive in Section XIII of these Orders.

Ohio EPA specifically reserves the right to seek legal and/or equitable relief to enforce the terms and conditions of these Orders, including penalties against Respondent for noncompliance with these Orders.

Respondent specifically reserves any and all rights it may have to raise and assert any factual, legal, equitable, or other defense in any action brought by Ohio EPA to enforce the terms and conditions of these Orders and any other action brought or threatened by Ohio EPA.

Ohio EPA specifically reserves the right to terminate these Orders and/or perform all or any portion of the work required under these Orders or any other measures in the event that the requirements of these Orders are not wholly complied with within the time frames required by these Orders.

Ohio EPA specifically reserves the right to take any action, including but not limited to, any enforcement action, or action to recover costs pursuant to any available legal authority as a result of past, present, or future violations of state or federal laws or regulations or the common law, and/or as a result of events or conditions arising from, or related to, the Facility.

XIII. WAIVER

Respondent disputes the Findings, including their completeness. Respondent enters into these Orders without any admission of fact, violation, or liability, and only to address disputed claims on an interim basis. Respondent consents to the issuance of these Orders and agrees to comply with these Orders.

Respondent expressly waives any and all claims and defenses of res judicata, collateral estoppel, issue preclusion, or other claims and defenses based upon any contention that the actions taken or claims raised by Ohio EPA or the State of Ohio in a subsequent proceeding were or should have been raised, brought, or resolved in these Orders.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders only, 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.

XIV. EFFECTIVE DATE

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

XV. 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:

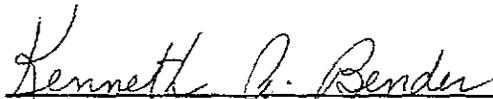
Ohio Environmental Protection Agency



Director

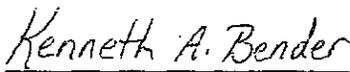
AGREED:

Richland County Regional Solid Waste Management Authority



Signature

11-05-2010
Date



Printed or Typed Name

EXECUTIVE DIRECTOR

Title