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BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

Mr. Anthony Asher
Aurora Road Investments, L.L.C.
29100 Aurora Road, Suite 310
Solon, OH 44139

Director's Final
Findings and Orders

These Director's Final Findings and Orders (Orders) are hereby issued to Aurora Road Investments, L.L.C. pursuant to the authority vested in the Director of Environmental Protection (director) pursuant to Paragraphs 3745-27-12(O) and (P) of the Ohio Administrative Code (OAC).

These Orders shall apply to and be binding upon the Owner of the Matousek Landfill (Facility) and its officers, directors, agents, servants, employees, assigns and successors in interest.

FINDINGS

1. Aurora Road Investments, L.L.C., (Owner) holds title to the property known as the Matousek Landfill (Facility) located in Garfield Heights, Ohio. The Owner acquired the property from Mildred Matousek on December 5, 1997 (see deed number 9712648, page 26, Cuyahoga County Recorder's Office). The Matousek family operated the Facility as a solid waste disposal landfill from about 1966 through 1970. The Facility is approximately 40 acres in size.
2. The Facility is a "facility" as defined in ORC Section 3734.01 (N) and a "solid waste disposal facility" as defined in OAC 3745-27-01(C)(11).
3. Properties adjacent to the Facility on the eastern border include the Andover Club Apartments and the Valley Glen Condominiums.
4. **By** letter dated April 1, 1988, the Garfield Heights Fire Department requested technical assistance from the Ohio Environmental Protection Agency (Ohio EPA), Northeast District Office (NEDO) concerning the potential off-site migration of explosive gas.

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

By [Signature] A. L. 2/5/02

5. On April 12, 13, 14, 15, 17, and 19, 1988, the Garfield Heights Fire Department and Ohio EPA conducted inspections of the Facility and documented that explosive levels of combustible gas were migrating from the Facility.
6. During the first day of inspection, the migration of explosive gas was found to constitute an emergency and a health hazard by the Garfield Heights Fire Department, and immediate removal of the gas was required to protect the public health and safety and the environment. Consequently, on April 12, 1988, evacuation orders were issued by the Garfield Heights Fire Department for certain basement units of the Andover Club Apartments.
7. On April 22, 1988, *Director's Final Findings and Orders* were issued by Ohio EPA to Mildred Matousek. The orders outlined steps to be taken by Mildred Matousek to control off-site migration of explosive gas. Passive vent wells were installed along the eastern side of the Facility immediately abutting the Andover Club Apartments which had been evacuated.
8. In July and August 1988, a control system consisting of 44 extraction wells at 28 locations, a header line, and a blower station were constructed along the eastern perimeter of the Facility by the United States Environmental Protection Agency (U.S. EPA) to prevent further off-site migration of explosive gas to adjacent structures. This action was taken pursuant to an emergency action under Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA).
9. On August 24, 1988, the control system was completed and turned on. Because high levels of explosive gas continued to be detected in the monitoring wells, an extraction trench was installed off-site and into the back driveways of the Andover Club Apartments and the Valley Glen Condominiums. With the installation of the additional trench, explosive gas levels in the monitoring wells fell below detection or considerably below the lower explosive limit.
10. In September 1990, a permanent blower system was installed. It replaced the temporary blower system that was installed in August 1988, when the extraction system first began operating. The permanent system includes two blowers, a control panel, piping, valving, and flare arrestors.
11. OAC 3745-27-12(A)(3), as effective June 1, 1994, states:

"The owner or operator, subsequent owner, lessee, or other person who has control of the land on which the closed landfill is located, of any previously licensed closed landfill, that

- a. Ceased acceptance of waste prior to June 1, 1994, and after July 1, 1970, and
- b. Is so situated that a residence or other occupied structure is located within one thousand feet horizontal distance from emplaced wastes,

Shall submit an explosive gas monitoring plan for the landfill or closed landfill to the director for approval in accordance with the schedule in paragraph (A)(4) of this rule."

12. OAC 3745-27-12(K)(3), as effective June 1, 1994, requires that for each permanent and temporary monitor, the explosive gas threshold limit is either:
 - a. One hundred percent of the lower explosive limit (5% explosive gas by volume for methane) at the facility boundary; or
 - b. Twenty five percent of the lower explosive limit (1.25% explosive gas by volume for methane) in structures within the facility's boundary.
13. OAC 3745-27-12(O), as effective June 1, 1994, requires that upon the director's finding that explosive gas formation and migration threaten human health, safety, or the environment, he may order the Owner to perform such measures to abate or minimize the formation or migration of explosive gas.
14. OAC 3745-27-12(P), as effective June 1, 1994, states:

"The director may require the installation of additional temporary or permanent monitors or abandonment of permanent monitors as necessary to monitor the explosive gas pathways or eliminate the potential contamination of ground water."
15. In February 1992, Ohio EPA assumed operation and maintenance responsibilities for the explosive gas extraction system. Current monitoring activities performed monthly include methane monitoring of on-site gas extraction wells along the western header extraction line and off-site punch bar sampling in the apartment garages and soils immediately adjacent to the eastern boundary of the Facility.

16. Operation and maintenance manuals for the existing gas control system are attached as part of these Orders.
17. Operation and maintenance of the system is necessary to protect the public health, safety, or the environment by preventing the migration of explosive gas which was determined to constitute an emergency and health hazard by the director in the April 22, 1988, *Director's Final Findings and Orders*.
18. Pursuant to OAC 3745-27-12(O) the director has determined that the formation and migration of explosive gas from the Facility is hereby found to constitute a threat to human health, safety or the environment, and operation and maintenance of the existing system and the immediate abatement of the explosive gas formation or migration is required.

ORDERS

1. Pursuant to OAC 3745-27-12(O), the Owner shall abate or minimize the formation and migration of explosive gas at the Facility. At a minimum, the Owner shall perform such measures as specified in these Orders until released from the obligations pursuant to the termination section of these Orders.
2. As soon as practical, but no later than 30 days after the effective date of these Orders, the Owner shall assume operation, maintenance, and monitoring activities for the existing gas extraction system in accordance with the attached *Operation and Maintenance Manual, Scope of Work, Work Plan, and Health and Safety Plan*. Operation and maintenance activities and explosive gas monitoring results shall be reported to Ohio EPA, NEDO on a monthly basis.
3. As soon as practical, but not later than 90 days after the effective date of these Orders, the Owner shall submit to Ohio EPA, NEDO an explosive gas monitoring plan as required by OAC Rule 3745-27-12. Upon receiving the plan or any revisions to the plan, should Ohio EPA find the plan to be deficient, a *Notice of Deficiency* (NOD) will be sent to the Owner. The Owner shall revise the plan in response to Ohio EPA's NOD(s) and, within 30 days of receipt of the NOD(s), submit a revised plan to Ohio EPA for review.
4. Pursuant to OAC 3745-27-12(O) and (P), the director may, based upon the information submitted in the plan, order the Owner to implement additional measures in order to abate or minimize the formation and migration of explosive gas

at the Facility. Additional measures may include, but are not limited to, submittal of an additional explosive gas remediation plan.

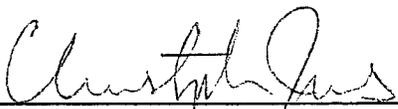
5. If explosive gas monitoring results submitted to Ohio EPA, NEDO are satisfactory to Ohio EPA, and the explosive gas extraction system minimizes gas migration such that human health, safety and the environment are not threatened, then Ohio EPA agrees to terminate these Orders in accordance with Section VI. The Owner must continue to monitor the Facility for explosive gas in accordance with OAC Rule 3745-27-12.

TERMINATION

These Orders shall terminate when the Owner demonstrates and certifies, in writing, that explosive gas formation and migration at the Facility have been abated or minimized such that the director has determined that the threat to human health, safety or the environment no longer exists, and the Owner has received written concurrence of such certification from Ohio EPA.

Certification shall be signed by a responsible official of the Owner. The certification shall make the following attestation: "I certify that the informatibn contained in, or accompanying, this certification is true, accurate and complete."

IT IS SO ORDERED BY:



Christopher Jones, Director
Ohio Environmental Protection Agency