



State of Ohio Environmental Protection Agency

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**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

IN THE MATTER OF

Hocking Environmental Company	:	Director's Final
P.O. Box 946	:	Findings and Orders
450 Gallagher Avenue	:	
Logan, Ohio 43138	:	

PREAMBLE

It is agreed by the parties ("Parties") hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Hocking Environmental Company ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3734.13 and 3745.01.

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 Respondent, or of the Facility owned by Respondent ("San Lan Landfill"), 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

The Director of Ohio EPA has determined the following findings:

1. Respondent is a "person" as that term is defined in Ohio Administrative Code ("OAC") Rule 3745-27-01(B)(27).
2. Respondent is an "owner" and an "operator" of a "sanitary landfill facility" as those terms are defined in OAC Rules 3745-27-01(B)(25), (24) and (C)(4) respectively.
3. The sanitary landfill facility is known as the San Lan Landfill (the "Facility") and is located at 12500 West County Road 18, Fostoria, Ohio, 44830 (Seneca County).

Construction

4. On December 6, 1999, the consulting firm Gannett Fleming ("Gannett") representing Respondent, submitted a certification report pursuant to OAC Rule 3745-27-19(D). Gannett submitted this report as a result of construction completed on the recompacted soil liner in Subphase 2B.
5. On June 25, 2001, Gannett submitted a second certification report pursuant to OAC Rule 3745-27-19(D). Gannett submitted this report as a result of construction completed on the cap system in Phase I, East Slope.
6. By letter dated August 20, 2001, Ohio EPA notified Respondent of the following:
 - A. The delineated limits of the certified recompacted clay barrier layer along the tie-in with future cap construction (north and south portions of the east slope of Phase 1 cap) shown on the record drawings are not acceptable since they were established based on survey points that do not document proper barrier layer thickness. Ohio EPA requested Respondent to revise the record drawings to properly delineate the certified limits of the recompacted clay barrier layer.
 - B. The record drawings submitted do not show the certified limits of emplaced waste as required by OAC Rule 3745-27-08(H)(3)(a)(v) along the eastern

limit of Phase 1. Ohio EPA requested Respondent to revise the record drawings to show the actual limits of emplaced waste along the eastern limit of Phase 1.

- C. Review of the survey data provided for the recompacted clay barrier layer indicates that the recompacted clay barrier layer was not constructed as required. The recompacted clay barrier layer was constructed in some areas as thin as ten inches. Ohio EPA requested Respondent to describe how it plans to attain compliance with OAC Rule 3745-27-08(C)(15)(a), OAC Rule 3745-27-19(C) and Permit-To-Install ("PTI") Number 03-6324 issued on March 1, 1994 (the "1994 PTI").
 - D. Review of the geomembrane layout and repair logs indicates apparent discrepancies. Ohio EPA requested Respondent to explain the discrepancies.
7. On October 3, 2002, the consulting firm Mark James Corp. ("MJC"), now representing Respondent, met with Ohio EPA to discuss issues not initially reported by Gannett in the construction certification report of Subphase 2B.
 8. By letter dated October 9, 2002, counsel for Respondent acknowledged there is a problem regarding the recompacted soil liner along the tie-in between Subphases 2A and 2B.
 9. On November 4, 2002, representatives of Respondent met at Ohio EPA to discuss the outstanding construction issues at the Facility.
 10. By letter dated December 26, 2002, Respondent's counsel acknowledged two outstanding issues that need to be addressed related to the cap system in Phase I, East Slope. Specifically, counsel indicated that Respondent needs to extend the cap system to the limits of waste placement and to place additional clay in areas to meet the eighteen inch thickness requirement.
 11. An email dated January 14, 2003 from Respondent's counsel to Dan Harris, Chief, DSIWM, states Respondent is "confident that clay liner exists in the non-certified area...(but) we are simply not in a position to certify the density and extent of that liner."
 12. OAC Rule 3745-27-19(H)(1) states, "The owner or operator shall construct the final cap system when a phase has reached approved final elevations of solid waste placement, as follows: By constructing a cap system over the entire phase in accordance with paragraph (C)(15) or (C)(16) of rule 3745-27-08 of the Administrative Code as specified in paragraph (G) of rule 3745-27-11... ."

13. OAC Rule 3745-27-19(C) states, "The owner or operator shall conduct all construction and operation at a sanitary landfill facility in strict compliance with the applicable authorizing document(s), including permit(s) to install, a plan approval, an operational report, an approved closure plan, an alteration(s) concurred with in writing by Ohio EPA, or a document(s) listed in paragraph (F)(1) of rule 3745-27-09 of the Administrative Code... ."
14. OAC Rules 3745-27-19(D)(1)(a) & (b) state in pertinent part, "(T)he owner or operator shall not accept waste in the phase until... a construction certification report for that phase... has been submitted to Ohio EPA...and the owner or operator has received written concurrence from the appropriate Ohio EPA district office... ."
15. By letter dated January 15, 2003, Ohio EPA notified Respondent of the following:
 - A. Respondent failed to construct a cap system over the entire area of solid waste placement for the east slope of Phase I, in violation of OAC Rule 3745-27-19(H)(1).
 - B. Respondent failed to construct the cap in accordance with the 1994 PTI, in violation of OAC Rule 3745-27-19(C).
 - C. Respondent failed to certify a portion of the liner system between Subphases 2A and 2B, and that Respondent did not receive written concurrence from Ohio EPA prior to waste placement over the uncertified area, in violation of OAC Rules 3745-27-19(D)(1)(a) & (b).
16. OAC Rule 3745-27-08(H)(1) states in pertinent part, "(T)he owner or operator shall include the results of testing performed, testing procedures...to certify compliance...."
17. By letter dated February 24, 2003, Ohio EPA notified Respondent that it did not submit the results of all testing performed on the cap system at the east slope of Phase I, in violation of OAC Rule 3745-27-08(H)(1).

Leachate Collection

18. On December 16, 1999, Gannett submitted a certification report, on behalf of Respondent, to Ohio EPA (the "1999 Certification Report").
19. During an October 3, 2002, conference call with Ohio EPA, MJC reported that Gannett falsely documented in the 1999 Certification report that a six inch collection line was installed in Subphase 2B. MJC indicated that a four inch line was installed,

and instead of using a coupler to connect the four inch line to the existing six inch line, the four inch line was inserted approximately five feet into the six inch line. Further, since a proper coupler was not used, the personnel packed clay around the unsatisfactory connection.

20. By letter dated October 9, 2002, counsel for Respondent documented that a four inch leachate collection pipe was installed contrary to the December 1999 certification report submitted by Gannett.
21. By letter dated November 11, 2002, counsel for Respondent submitted an alteration request to address the four inch leachate collection line.
22. On January 28, 2003, the Ohio EPA Northwest District Office concurred with the November 11, 2002 alteration request.

General Setback - 300' From Property Line

23. OAC Rule 3745-27-07(H)(4)(b) states in pertinent part the limits of solid waste placement of the sanitary landfill facility are not located within three hundred feet of the sanitary landfill facility's property line.
24. During a meeting on February 10, 2003, and by letter from MJC dated February 19, 2003, MJC reported that a new survey was conducted of the Facility property line. MJC concluded that the property line was not accurately depicted in application for the 1994 PTI; therefore, the set back provisions for the limits of solid waste were not attained. The west property line is actually three feet east of where it had been originally certified, leaving a property setback of 297 feet. The east property line is actually thirteen feet west of where it had been originally certified, leaving a property setback of 287 feet.

Ground Water Monitoring

25. OAC Rule 3745-27-10(C)(10) states, in pertinent part, "All ground water...sample analysis and statistical analysis results... shall be submitted to the director...not later than seventy-five days after sampling the well."
26. By letter dated October 18, 2001, Ohio EPA notified Respondent that the eight sets of data for samples collected between March 2, 1999 and May 27, 1999, had not been submitted to Ohio EPA, in violation of OAC Rule 3745-27-10(C)(10).
27. OAC Rule 3745-27-10(C)(1)(a) states, in pertinent part, "The following shall be included in the 'ground water detection monitoring plan'... A written sampling and analysis plan which documents the sampling and analysis procedures employed in

the 'ground water detection monitoring program'....”

28. OAC Rule 3745-27-19(E)(27)(c) states that the owner or operator shall comply with the ground water monitoring requirements of OAC Rule 3745-27-10.
29. By letter dated January 18, 2002, Ohio EPA notified Respondent that it failed to fill out the General Field Logsheet and the Purging and Sample Collection Logsheets and failed to provide this information on the chain of custody records as described in Respondent's ground water monitoring plan. Respondent is in violation of OAC Rule 3745-27-19(E)(27)(c) for not complying with the ground water monitoring requirements of OAC Rule 3745-27-10.

Explosive Gas Monitoring

30. On April 30, 1999, Ohio EPA approved the Respondent's explosive gas monitoring program (the "1999 EGMP").
31. Page Number 9 of the 1999 EGMP states that the plan will be implemented upon Ohio EPA approval.
32. OAC Rule 3745-27-09(F)(1)(g) states that an owner or operator may revise documents previously placed in the operating record by placing the revised document into the operating record. Further, an owner or operator may revise and implement the explosive gas monitoring plan required by OAC Rule 3745-27-09(J)(1)(l) without obtaining written concurrence from Ohio EPA.
33. By letter dated August 24, 2001, MJC revised the 1999 EGMP that included the installation of permanent gas monitoring probes and the elimination of temporary monitoring probes.
34. OAC Rule 3745-27-19(E)(27)(e) states, in pertinent part, "The owner or operator shall comply with... (t)he explosive gas monitoring and corrective measures requirements of rule 3745-27-12 of the Administrative Code... .”
35. By letters dated April 2, 2002 and November 1, 2002, Ohio EPA notified Respondent that when Respondent did not abandon all existing gas monitoring probes and did not install new probes, Respondent failed to implement its explosive gas monitoring plan, in violation of OAC Rule 3745-27-19(E)(27)(e).
36. By letter dated January 14, 2003, MJC submitted a second revised explosive gas monitoring plan. Included with this letter is a certification report that details the abandonment and new installation of explosive gas monitoring probes at the Facility.

37. Ohio EPA-NWDO is currently reviewing the January 14, 2003 documentation.

Operations

38. The Seneca County General Health District is a "health district," as that term is defined in OAC Rule 3745-27-01(B)(12), and is also approved to administer and enforce the solid and infectious waste regulations in the State of Ohio pursuant to OAC Rule 3745-37-08.
39. OAC Rule 3745-27-19(K)(1) states, in pertinent part, "If leachate is detected on the surface of the sanitary landfill facility, the owner or operator shall repair the outbreaks... ."
40. By letters dated October 26, 2001 and January 7, 2002, the Seneca County General Health District notified Respondent that it failed to correct leachate outbreaks, in violation of OAC Rule 3745-27-19(K)(1). Respondent later corrected these violations.
41. OAC Rule 3745-27-19(F) states, in pertinent part, "Daily cover shall be applied to all exposed solid waste by the end of the working day...."
42. By letters dated November 5, 2001 and January 7, 2002, the Seneca County General Health District notified Respondent that it failed to apply daily cover to exposed waste, in violation of OAC Rule 3745-27-19(F). Respondent later corrected these violations.
43. OAC Rule 3745-27-19(E)(5) states, "The owner or operator shall employ all reasonable measures to collect, properly contain, and dispose of scattered litter...."
44. By letter dated January 22, 2002, the Seneca County General Health District notified Respondent that there was excessive wind blown litter throughout the landfill, in violation of OAC Rule 3745-27-19(E)(5). Respondent later corrected this violation.

V. ORDERS

1. Within ninety (90) days after the effective date of these Orders, Respondent shall complete the following:
- A. Remove and relocate all solid waste in Phase 2 currently disposed within 300 feet of the property line.

- B. Re-fill the vacated airspace created by the relocation of solid waste with uncontaminated soil, construction and demolition debris, exempt waste or other material approved in writing by Ohio EPA.
2. Within ninety (90) days after the effective date of these Orders, Respondent shall prepare and submit a certification report which documents the relocation and re-filling activities specified in Order Number 1.
3. Within one hundred twenty (120) days after the effective date of these Orders, Respondent shall revise and submit to Ohio EPA plan sheets to replace all applicable plan sheets from the 1994 PTI. The revised plan sheets shall include accurate property limits and an appropriately revised limit of waste placement in compliance with OAC Rule 3745-27-07(H)(4)(b), and shall be submitted to Ohio EPA in quadruplicate.
4. By December 1, 2003, Respondent shall repair and reconstruct the Phase 1 East Slope cap to ensure that the cap system meets or exceeds the requirements of OAC Rule 3745-27-08(C)(15).
5. By February 1, 2004, Respondent shall submit to Ohio EPA-Northwest District Office capping certification report(s) documenting construction of the Phase 1 east, north and west slopes.
6. Within thirty (30) days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$72,040.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$72,040.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the San Lan Landfill and a copy of the check to shall be sent to Jeff Hurdley, Legal.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief 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 certification shall contain the following attestation: "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. For purposes of these Orders, a responsible official is a principal executive officer of at least the level of vice-president, or his duly authorized representative, if such representative is responsible for overall operation of the company.

VII. 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 operation of Respondent's Facility.

VIII. 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.

IX. 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.

X. 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
Attn: Supervisor, DSIWM
347 N. Dunbridge Road
Bowling Green, OH 43402

and to:

Seneca County General Health District
71 S. Washington Street
Suite B
Tiffin, Ohio 44883

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

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

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.

XIII. EFFECTIVE DATE

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

XIV. 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.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Christopher Jones
Director

Date

IT IS SO AGREED:

Hocking Environmental Company

Signature

Date

Printed or Typed Name

Title