

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of:

Meigs County Commissioners : Director's Final Findings
Meigs County Courthouse : and Orders
Pomeroy, Ohio 45769 :

Respondents

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Meigs County Commissioners ("Respondents") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Sections 3734.13, 3745.01 and 6111.03.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondents and successors in interest liable under Ohio law. No change in ownership relating to the Meigs County Landfill ("Facility" as hereinafter defined) shall in any way alter Respondents' obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as

defined in ORC Chapters 3734. and 6111., and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. The Meigs County Landfill (the "Facility") is located on Salisbury Township Road 207, Meigs County, Ohio.
2. Respondents are the "owners" and "operators" of the Facility as those terms are defined in Ohio Administrative Code ("OAC") Rule 3745-27-01(B)(25) and (24), respectively, and are "persons" as defined under ORC Section 3734.01(G) and OAC Rule 3745-27-01(B)(27).
3. The Facility is a "sanitary landfill facility" as that term is defined under OAC Rule 3745-27-01(C)(4).
4. The Facility was licensed to operate as a sanitary landfill facility until December 31, 1987.
5. In correspondence dated April 13, 1988, the Meigs County Health Department ordered that the Facility be closed in accordance with OAC Rule 3745-27-10, as effective July 29, 1976, within 30 days of receipt of said correspondence.
6. The Facility ceased acceptance of waste on May 12, 1988.
7. Respondents began, but did not complete, closure activities at the Facility in accordance with paragraph (C) of OAC Rule 3745-27-10, as effective July 29, 1976, prior to April 1, 1990.
8. After April 1, 1990, Respondents conducted supplemental closure activities by applying additional cover material and seeding the Facility. In 1995, Ohio EPA concurred that the cover material met the requirements of paragraph (C)(1) of OAC Rule 3745-27-10, as effective July 29, 1976.
9. Following closure of the Facility, the Meigs County Health Department and Ohio EPA have noted three major problems continuing to occur at the Facility - the failure to file a plat and deed notation for the Facility, the growth of trees on the Facility cap system and the increasing occurrence of leachate outbreaks at the Facility.

10. The Meigs County Health Department informed Respondents of the need to file a plat of the unit(s) of the Facility in correspondence dated September 16, 1991, and August 6, 1996. This correspondence was sent to Respondents following inspections conducted by the Meigs County Health Department on the following dates: September 11, 1991, and April 3, 1996.
11. Ohio EPA informed Respondents of the need to file a plat of the unit(s) of the Facility in correspondence dated June 24, 1997, June 23, 1999, January 9, 2001, February 28, 2001, October 22, 2001, January 24, 2002, June 6, 2002, and July 17, 2003, following inspections of the Facility conducted by Ohio EPA on June 16, 1997, June 9, 1999, December 4, 2000, September 14, 2001, January 15, 2002, May 29, 2002, and July 11, 2003.
12. As a result of trees growing on the Facility cap system, the Meigs County Health Department informed Respondents of the need to remove such vegetation in correspondence dated May 23, 1997, November 19, 1997, June 12, 1998, February 2, 1999, June 16, 1999, September 16, 1999, December 18, 2000, March 9, 2001, and September 10, 2001. This correspondence was sent to Respondents following inspections of the Facility conducted by the Meigs County Health Department on the following dates: May 5, 1997, October 20, 1997, May 29, 1998, January 26, 1999, June 9, 1999, September 10, 1999, October 18, 2000, February 26, 2001, and September 7, 2001.
13. As a result of trees growing on the Facility cap system, Ohio EPA informed Respondents of the need to remove such vegetation in correspondence dated June 24, 1997, June 23, 1999, January 9, 2001, February 28, 2001, October 22, 2001, January 24, 2002, June 6, 2002, and July 17, 2003. Ohio EPA noted the presence of trees on the Facility cap system in inspections of the Facility conducted by Ohio EPA on June 16, 1997, June 9, 1999, December 4, 2000, September 14, 2001, January 15, 2002, May 29, 2002, and July 11, 2003.
14. In correspondence dated March 27, 1989, October 18, 1990, April 6, 1992, June 9, 1992, November 25, 1992, March 29, 1993, June 7, 1993, September 24, 1993, January 3, 1994, February 22, 1994, May 17, 1994, August 16, 1994, November 9, 1994, February 13, 1995, June 5, 1995, November 16, 1995, April 6, 1996, May 23, 1997, November 19, 1997, June 12, 1998, February 2, 1999, June 16, 1999, September 16, 1999, December 18, 2000, March 9, 2001, and September 10, 2001, the Meigs County Health Department informed Respondents that leachate from the Facility was discharging through drainage pipes and/or leachate seeps into waters of the state. The Health Department's correspondence followed inspections of the Facility by the Health Department on the following dates: March 15, 1989, October 18,

1990, March 19, 1992, June 9, 1992, November 20, 1992, March 11, 1993, May 28, 1993, September 16, 1993, December 13, 1993, February 15, 1994, May 10, 1994, August 9, 1994, November 2, 1994, February 8, 1995, May 30, 1995, October 23, 1995, April 3, 1996, May 7, 1997, October 20, 1997, May 29, 1998, January 26, 1999, June 9, 1999, September 10, 1999, October 18, 2000, February 26, 2001, and September 7, 2001.

15. In correspondence dated June 24, 1997, June 23, 1999, January 9, 2001, February 28, 2001, October 22, 2001, January 24, 2002, June 6, 2002, and July 17, 2003, Ohio EPA informed Respondents that leachate from the Facility was discharging through drainage pipes and/or leachate seeps into waters of the state. Ohio EPA's correspondence followed inspections of the Facility conducted by Ohio EPA on June 16, 1997, June 9, 1999, December 4, 2000, September 14, 2001, January 15, 2002, May 29, 2002, and July 11, 2003.
16. Respondents acknowledged the need to file a plat for the Facility in correspondence sent to Ohio EPA on July 3, 1997.
17. Respondents acknowledged the need to remove trees from the Facility cap system in correspondence sent to Ohio EPA on July 3, 1997.
18. Respondents acknowledged the need to prevent leachate outbreaks from occurring at the Facility in correspondence sent to the Meigs County Health Department on April 25, 1991, and to Ohio EPA on July 3, 1997.
19. OAC Rule 3745-27-11(H) provides that an owner or operator must file with the local board of health, the county recorder and the Director of Ohio EPA, a plat of the unit(s) of a sanitary landfill and information describing the acreage, exact location, depth, volume, and nature of the solid waste deposited in the landfill unit(s). In addition, an owner or operator is required to record a notation on the deed to the sanitary landfill facility property, or on some other instrument normally examined during a title search, that will in perpetuity notify any potential purchaser of the property that the land has been used as a sanitary landfill. Respondents have violated this rule as a result of the failure to file a plat with the requisite information with the Director of Ohio EPA and the failure to record a deed notation regarding the Facility.
20. OAC Rule 3745-27-14(A)(2) provides that post closure care activities include maintaining the integrity and effectiveness of the cap system, including making repairs to prevent leachate outbreaks. Respondents have violated this rule as a result of failure to prevent trees from growing on the Facility cap system and failure to prevent leachate outbreaks from occurring.

21. Analysis of samples of the Facility leachate collected by Respondents in September of 1995, revealed that the Facility leachate contained arsenic, chlorobenzene, 1,4-dichlorobenzene, ethyl benzene, xylenes, acetone and other pollutants.
22. Analysis of samples of the Facility leachate collected by Ohio EPA in May of 2000, revealed that the Facility leachate contained sodium, chloride, ammonia, barium, total nitrogen, potassium, zinc, biological oxygen demand, and chemical oxygen demand at levels similar to other closed landfills of approximate age. In addition, analysis of the leachate revealed the presence of strontium, diethylphthalate and other pollutants.
23. ORC Section 6111.04 provides that no person shall cause pollution or place or cause to be placed any sewage, industrial waste, or other wastes in a location where they cause pollution to waters of the state without a valid, unexpired permit issued by the Director pursuant to ORC Chapter 6111.
24. Respondents are "persons" as defined under ORC Section 6111.01(I).
25. Leachate from the Facility is an "industrial waste" or "other waste" as defined under ORC Sections 6111.01(C) or (D), respectively.
26. Respondents have discharged leachate from the Facility to an unnamed tributary of Thomas Fork Creek through drainage pipes and leachate seeps in violation of ORC Section 6111.04 from at least March 15, 1989, continuing periodically and increasing in quantity up until the present.
27. Thomas Fork Creek and unnamed tributaries to Thomas Fork Creek constitute "waters of the state" as defined by ORC Section 6111.01(H).
28. Respondents do not possess a valid, unexpired permit to discharge leachate from the Facility to an unnamed tributary of Thomas Fork Creek.
29. Discharged leachate from the Facility to an unnamed tributary of Thomas Fork Creek through drainage pipes and leachate seeps has resulted in the violation of OAC Rule 3745-1-04. Specifically, OAC Rule 3745-1-04 (C) states that all surface waters of the state shall be free from materials entering the waters as a result of human activity producing color, odor or other conditions in such a degree as to create a nuisance. Respondents were notified of the violation of OAC Rule 3745-1-04(C) in correspondence dated July 17, 2003.
30. These Orders do not constitute authorization or approval of the construction of any

physical structure or facilities, or the modification of any existing treatment works or system, that is subject to the plan approval and Permit to Install ("PTI") requirements of ORC Sections 6111.44 to 6111.46 and OAC Chapter 3745-31.

31. The Director has given consideration to and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and their relation to the benefits to the people of the state to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

V. ORDERS

Respondents shall achieve compliance with Chapters 3734. and 6111. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

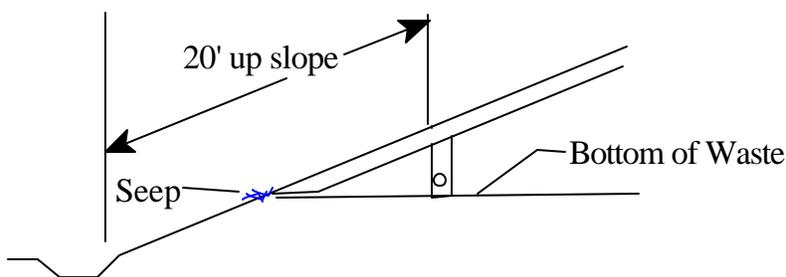
1. Within thirty (30) days after the effective date of these Orders, Respondents shall file with the Meigs County Board of Health, the Meigs County Recorder and the Director of Ohio EPA a plat of the unit(s) of the Facility and information describing the acreage, exact location, depth, volume, and nature of the solid waste deposited in the unit(s) of the Facility.
2. Within thirty (30) days after the effective date of these Orders, Respondents shall record a notation on the deed to the Facility property, or on some other instrument which is normally examined during title search, that will in perpetuity notify any potential purchaser of the Facility property that the land has been used as a sanitary landfill facility. The notation shall include information describing the acreage, exact location, depth, volume, and nature of solid waste deposited in the unit(s) of the Facility.
3. Within thirty (30) days after the effective date of these Orders, and then monthly thereafter until completion of Order No. 7 of these Orders to Ohio EPA's satisfaction, Respondents shall inspect the Facility and place soil on any leachate outbreaks encountered in sufficient quantities as to minimize such outbreaks from occurring and take all necessary interim measures to prevent pollutants from discharging to waters of the state. Respondents shall notify Ohio EPA at least forty-eight (48) hours prior to each inspection.
4. Within thirty (30) days after the effective date of these Orders Respondents shall cut down and remove all trees and shrubs from the Facility cap system, shall mow the Facility cap system, shall place sufficient soil on the Facility cap system to establish at least a two percent grade to drain and to prevent ponding on the Facility cap system,

and shall seed the Facility cap system in a sufficient manner to establish dense grass vegetation and to prevent erosion from occurring.

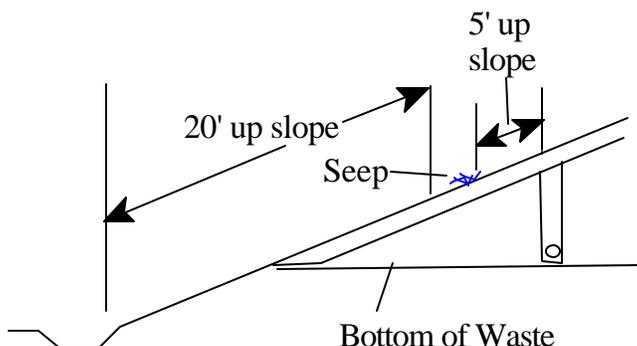
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5. Within one year after the effective date of these Orders, Respondents shall submit to Ohio EPA for approval a complete application for a PTI and approvable detail plans for a leachate collection system for the Facility pursuant to ORC Chapter 6111, and the rules promulgated thereunder. The leachate collection system shall be designed to collect leachate from all leachate seeps associated with the Facility and be designed as follows:

- A. The leachate collection system shall extend along the entire northwestern edge of the waste disposal area adjacent to the unnamed tributary to Thomas Fork Creek. The system shall include an underground network of leachate collection pipes and a leachate storage tank(s). The collection pipes shall be placed in a trench no less than three feet deep or to the bottom of waste, whichever is deeper. The trench shall be placed at least twenty feet up slope of the unnamed tributary to Thomas Fork Creek or five feet up slope of the leachate seep, whichever is higher (see below).
- B. The collection pipes shall be embedded within non-carbonate granular material that exhibits a minimum permeability of one times ten to the minus 2 centimeters per second (1×10^{-2} cm sec) and wrapped with a six ounce non-woven geotextile. The granular material shall extend to within two feet of the surface and the remainder of the trench shall be filled with low permeable soil compacted in six inch lifts. The leachate pipes shall convey all leachate to an onsite treatment system, which has been approved by Ohio EPA.



or



6. Within ninety (90) days after approval by Ohio EPA of the plans submitted in accordance with Order No. 5 of these Orders, Respondents shall initiate construction of the leachate collection system for the Facility. The performance of construction activities shall be supervised by a registered professional engineer in the state of Ohio. During construction of the leachate collection system, Respondents shall employ appropriate temporary measures to prevent any discharge of leachate to waters of the state from occurring and will properly dispose of all collected leachate at a permitted treatment facility.
7. Respondents shall complete construction of the leachate collection system as soon as possible, but no later than two years after the effective date of these Orders.
8. Within thirty (30) days after the completion of construction of the leachate collection system, Respondents shall submit a certification report, that includes as-built drawings, prepared by a registered professional engineer in the state of Ohio, certifying that the construction of the leachate collection system has been completed in accordance with the specifications in these Orders.
9. Following the completion of construction of the leachate collection system in accordance with these Orders, Respondents shall collect all leachate seeps and shall ensure that all leachate is contained by the leachate collection system. Respondents shall regularly convey the collected leachate to an onsite treatment facility, which has been approved by Ohio EPA. Respondents shall not allow any unauthorized discharge of leachate to waters of the state.
10. Following the completion of construction of the leachate collection system in accordance with these Orders, and continuing monthly for a period of twenty-four (24) months, Respondents shall conduct post-construction monitoring at the Facility and shall take all measures necessary to ensure that the leachate collection system and Facility cap system are functioning properly and are eliminating the occurrence of leachate outbreaks and the unauthorized discharge of pollutants to waters of the state. During this twenty-four (24) month period, Respondents shall submit monthly to Ohio EPA a detailed written summary of the results of such monitoring and a description of all follow-up activities undertaken pursuant to this Order.
11. Following the completion of construction of the leachate collection system in accordance with these Orders, and continuing for a period of thirty (30) years, Respondents shall conduct post-closure care activities in accordance with OAC Rule 3745-27-14.
12. Within thirty (30) days after the effective date of these Orders, Respondents shall

provide Ohio EPA with the following information in order to assess Respondents' current financial condition:

- A. Respondents' most recent five years audited comprehensive annual financial reports including sewer, water and/or landfill fund statements (unaudited reports are acceptable if audited reports do not exist), current sewer, water and solid waste rates charged to customers and each rate schedule's effective date, number of residential and nonresidential customers, and wastewater, drinking water and solid waste flow by source (i.e. percent residential, commercial, industrial, etc.).

VI. TERMINATION AND SATISFACTION

Respondents' obligations under these Orders shall terminate when the Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondents have 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 Respondents of the obligations that have not been performed, in which case Respondents shall have an opportunity to address any such deficiencies and seek termination as described above.

This 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 Respondents to Ohio EPA and shall be signed by Respondents.

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 Respondents' 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 the Respondents.

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.

Respondents may request a modification to these Orders for an extension of time for the performance of the work required under Section V, paragraphs 5 through 11 of these Orders on account of a financial inability to perform the required tasks. In the event that Respondents request an extension of time on this basis, Respondents shall provide Ohio EPA with the following information:

1. Documentation demonstrating a good faith effort by Respondents to pursue financing to perform the required work, including but not limited to, documentation evidencing that Respondents applied for and pursued financing under Ohio EPA's Division of Environmental & Financial Assistance program; and
2. Documentation demonstrating Respondents' financial inability to perform the required work including but not limited to documentation detailing the estimated costs of the work, Respondents' most recent five years audited comprehensive annual financial reports including sewer, water and/or landfill fund statements (unaudited reports are acceptable if audited reports do not exist), current sewer, water and solid waste rates charged to customers and each rate schedule's effective date, number of residential and nonresidential customers, and wastewater, drinking water and solid waste flow by source (i.e. percent residential, commercial, industrial, etc.).

X. NOTICE

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

Ohio Environmental Protection Agency
Southeast District Office
Division of Solid and Infectious Waste Management
Attn: Steve Rine, Supervisor, DSIWM
2195 Front Street
Logan, Ohio 43138-9031

and

Meigs County Health Department

Attn: Keith Little, Director of Environmental Health
P.O. Box 631
Pomeroy, Ohio 45769

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

XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to seek civil or administrative penalties against Respondents for violations specifically cited in these Orders. Ohio EPA and Respondents each reserve all other rights, privileges and causes of action, except as specifically waived in Section XII. Waiver, of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, Respondents consent to the issuance of these Orders and agree to comply with these Orders. Except for the right to seek civil or administrative penalties against Respondents for violations specifically cited in these Orders, and the right to bring any claim or cause of action against Respondents to the extent Ohio EPA does not approve of an onsite treatment system for leachate to be collected from the Facility, which rights Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondents' liability for the violations specifically cited herein.

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

Notwithstanding the preceding, Ohio EPA and Respondents agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondents retain the right to intervene and participate in such appeal. In such an event, Respondents 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 the terms and conditions of these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Christopher Jones
Director

COPY

Date

IT IS SO AGREED:

Meigs County Commissioners (Respondents)

Meigs County Commissioner

Title

Meigs County Commissioner

Title

Meigs County Commissioner

Title

COPY

Date

Date

Date