

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED

G-2 2004

OHIO E.P.A.

In the Matter of:

Bath Township
Board of Township Trustees
2880 Ada Road
Lima, Ohio 45801

Director's Final Findings
and Orders

DIRECTOR'S JOURNAL

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Board of Township Trustees ("Respondent"), Bath Township, Allen County, Ohio, pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Chapter 3734., ORC §§ 6111.03, 3745.01, and 3745.08, and Ohio Administrative Code Chapter 3745-27.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in Respondent or the ownership of the landfill or site 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 Chapters 3734. and 6111., and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

- 1 The Ohio EPA received verified complaint No. VC0201W02, filed by Matthew Gossard ("complainant"), on January 11, 2002, alleging that the inactive Terminal Services/Sandusky Road Landfill ("landfill"), located on the southwest corner of Sandusky and Thayer Roads, Section 23, Bath Township, ("site"), was not properly maintained, in that complainant observed leachate seeping out of the ground at the landfill and running directly into waters of the state.

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.

John Jackson 8-2-04

2. The landfill and site are owned by Respondent.
3. An unnamed tributary of the Ottawa River flows through the site.
4. The unnamed tributary of the Ottawa River is defined as waters of the state by ORC § 6111.01.
5. Pursuant to ORC § 3745.08, upon receipt of a verified complaint, the Director shall cause a prompt investigation to be conducted such as is reasonably necessary to determine whether a violation, as alleged, has occurred, is occurring, or will occur.
6. On February 21, 2002, Ohio EPA conducted an inspection of the site and observed leachate outbreaks and exposed waste on the side slopes of the unnamed tributary. Leachate was observed flowing toward, but not into, the unnamed tributary.
7. On April 1, 2002, Ohio EPA conducted an inspection at the site and observed several leachate outbreaks, with one outbreak appearing to enter the unnamed tributary.
8. On April 25, 2002, Ohio EPA sampled the unnamed tributary in an area upstream of the site and downstream of an area where leachate was flowing toward the unnamed tributary. The sampling results showed that pollutants were entering the unnamed tributary. A copy of the sampling results are attached to this document and incorporated by referenced into these Orders as if fully written herein.
9. ORC § 6111.04 provides that no person shall cause pollution or place or cause to be place waste in a location in which such waste cause pollution of any waters of the state unless the person holds a valid, unexpired permit, a renewal of a permit, or if the person's application for renewal of such a permit is pending.
10. Respondent does not hold a National Pollutant Discharge Elimination System permit ("NPDES permit") for the discharge of pollutants from the landfill to waters of the state.
11. The discharge of pollutants to waters of the state without a NPDES permit is a violation of ORC §§ 6111.04 and 6111.07.
12. ORC § 3745.08 requires that the verified complaint investigation include a discussion of the complaint with the alleged violator.
13. On April 28, 2003 and March 26, 2004, Ohio EPA meet with representatives of Respondent to discuss the complaint and seek resolution of the violations described herein.

14. In a letter dated June 26, 2003, Respondent proposed a schedule for site improvement activities at the landfill.
15. In a letter dated January 5, 1989, Ohio EPA informed Respondent that they must submit by February 1, 1989, an explosive gas monitoring plan in accordance with OAC Rule 3745-27-12.
16. Respondent submitted an explosive gas monitoring plan to Ohio EPA on January 20, 1989, February 29, 1996, October 29, 2001, and July 9, 2002. After each submittal, Ohio EPA notified Respondent that the plan was deficient and required revision. To date Respondent has not submitted an approvable explosive gas monitoring plan to Ohio EPA.
17. ORC § 3745.08 provides that if upon completion of the investigation, the Director determines that a violation, as alleged, has occurred, is occurring, or will occur, he may enter such order as may be necessary.
18. ORC § 3745.08 provides that if the Director enters an order pursuant to ORC § 3745.08(B) without having commenced a hearing, the Director or his delegate, prior to entry of the order, shall provide an opportunity to the complainant and the alleged violator to attend a conference with the Director or his delegate concerning the alleged violation.
19. The opportunity to attend the conference referred to in Finding No. 18 has been provided to the complainant and Respondent.
20. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
21. 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 its 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

1. Within thirty (30) days after the effective date of these Orders, Respondent shall submit for Ohio EPA review and approval, a leachate outbreak repair plan which shall include at a minimum, a repair schedule for all outbreaks that are observed at the landfill, a method to contain all leachate while repairing the outbreak, and procedures to stabilize the area to prevent erosion. Within forty-five (45) days after

receiving comments from Ohio EPA, Respondent shall revise and resubmit the plan to Ohio EPA for approval. Ohio EPA may approve the plan with conditions and/or modify the plan and approve it as modified. Respondent shall implement the plan upon approval by Ohio EPA.

2. Within thirty (30) days after the effective date of these Orders, and then monthly thereafter until the implementation of Order No. 8, Respondent shall inspect the landfill to detect any leachate outbreaks. Outbreaks noted during these inspections shall be repaired in accordance with the leachate outbreak repair plan approved in accordance with Order No. 1. Respondent shall notify Ohio EPA, Northwest District Office, DSIWM, at least forty-eight (48) hours prior to each inspection.
3. Inspection reports documenting the date of the inspection, number and location of leachate outbreaks, and the date that the repair was made shall be submitted to Ohio EPA and the Allen County Health Department by the 15th day of the month following the inspection until the implementation of Order No. 8.
4. Within ninety (90) days after the effective date of these Orders, Respondent shall provide for Ohio EPA review and approval: (a) a topographic map that delineates all areas of waste placement at the landfill and shows current landfill topography, and (b) a conceptual design approach to abate and eliminate the unauthorized discharge of pollutants from the landfill. The topographic information shall be supplied by aerial photography or ground survey points on a grid with not greater than 100' spacing. The topographic information shall include the property lines, the facility perimeter, any grade breaks and drainage swales. The map should show areas where the existing landfill cover is inadequate and where improvements are necessary to provide adequate surface water drainage that would contribute to the prevention of leachate outbreaks. Within forty-five (45) days after receiving comments from Ohio EPA on the topographic map and/or conceptual design approach, Respondent shall revise and resubmit the topographic map and/or conceptual design approach to Ohio EPA for approval. Ohio EPA may approve the topographic map and/or conceptual design approach with conditions and/or modify the topographic map and/or conceptual design approach, and approve as modified.
5. Within one hundred twenty (120) days after Ohio EPA approves the conceptual design approach submitted in accordance with Order No. 4, Respondent shall submit a surface water management plan, that details how Respondent will abate and eliminate the unauthorized discharge of pollutants from the landfill. Said plan shall include at a minimum:
 - a. the information specified in OAC Rule 3745-27-13(E)
 - b. a schedule that outlines the construction, completion and implementation of the surface water management plan;

- c. surface water drainage details and final topographic contours;
- d. a QA/QC plan detailing construction specifications for the surface water management enhancements;
- e. an erosion control plan;
- f. a plan detailing how the site will be maintained to ensure that the site enhancements continue to function; and
- g. contingency plans to address any failure of proposed components.

Within forty-five (45) days after receiving comments from Ohio EPA on the surface water management plan, Respondent shall revise and resubmit the surface water management plan to Ohio EPA for approval. Ohio EPA may approve the surface water management plan with conditions and/or modify it and approve the plan as modified.

- 6. Within ninety (90) days after the effective date of these Orders, Respondent shall submit a revised explosive gas monitoring plan to Ohio EPA, Northwest District Office, DSIWM. The revised plan shall address all outstanding deficiencies and violations outlined in the Notice of Deficiency dated February 19, 2003. Ohio EPA may approve the plan with conditions and/or modify it and approve the plan as modified. Respondent shall implement the explosive gas monitoring plan upon approval by Ohio EPA.
- 7. Within sixty (60) days after the surface water management enhancement activities are completed, Respondent shall submit a certification report, that includes all test results and as-built drawings prepared by a professional engineer registered in the state of Ohio, certifying that the activities specified in these Orders have been completed in accordance with the QA/QC plan submitted in accordance with Order No. 5.d.
- 8. Respondent shall conduct post-construction monitoring at the landfill to ensure the enhanced surface water management system is functioning in accordance with the approved plans. Beginning upon completion of construction activities, and continuing monthly for a period of five (5) years and quarterly thereafter, the effectiveness of the enhanced cap shall be determined by the absence of leachate outbreaks on the surface. Any leachate outbreaks observed during inspections shall be repaired in accordance with the leachate outbreak repair plan approved in accordance with Order No. 1. A post-construction inspection report shall be submitted to Ohio EPA and the Allen County Health Department by the 15th of the month following the inspection. The report shall document the date of the inspection, number and location of leachate outbreaks, and the date that the repair

was made. Upon the twentieth (20th) anniversary of the effective date of these Orders, Respondent may submit a written request to the Director for authorization to terminate the inspections.

9. If leachate outbreaks are observed during ten percent (10%) of the inspections completed by Respondent, Ohio EPA, or the Allen County Health Department in any three consecutive years or a violation of ORC Chapter 6111. is observed at the site during the monitoring specified in Order No. 8, Respondent shall implement the contingency plan submitted in accordance with Order No. 5.g.
10. Unless otherwise specified herein, Respondent shall submit all documents or notifications required by these Orders to be submitted to Ohio EPA, to the following addresses:

Ohio Environmental Protection Agency
Northwest District Office
347 North Dunbridge Road
Bowling Green, Ohio 43402
ATTN: DSW Enforcement Group Leader.

and

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

- 11 Respondent shall submit all documents required by these Orders to be submitted to the Allen County Health Department to the following address:

Allen County Health Department
P.O. Box 1503
405 E. Market Street
Lima, Ohio 45802-4525

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 Ohio EPA's Division of Surface Water 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 corporate officer who is in charge of a principle business function of Respondent.

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 the 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. RESERVATION OF RIGHTS

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

XI. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek civil or administrative penalties against Respondent for violations specifically cited in these Orders, which right Ohio EPA does not waive, 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.

XII. EFFECTIVE DATE

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

XIII. 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 AGREED:
Board of Township Trustees
Bath Township**



Signature

6-29-04

Date

MICHAEL D. MEEKS

Printed or Typed Name

TRUSTEE

Title

William F. Degea
Signature

June 29, 2004
Date

William F. Degea
Printed or Typed Name

Trustee
Title

Roy A. Hallenbacher
Signature

June 29, 2004
Date

Roy A. Hallenbacher
Printed or Typed Name

Trustee
Title

**IT IS SO ORDERED AND AGREED:
Ohio Environmental Protection Agency**

Christopher Jones
Christopher Jones
Director

7-30-04
Date

Laboratory Inorganic Analysis Data Report

24-May-02

RECEIVED

JUN 04 2002

Sample 46568

Date Received 04/26/2002 8:16 AM

Matrix SW

Collected by KUENZLI, BRENT

Begin

End

Sample Type COMPLAINT

OHIO E.P.A.
M.W.D.O.

Date Collected

04/25/2002 9:50 AM

Station ID

Program NWDO-DSW

Customer ID BAK0425

Client DSW_C

Location Unnamed Trib to Ottawa R @ Sandusky Rd Landfill

Analysis	Parameter	Storet	Result	Units	Date	Qualifier
BOD-5	BOD5	P310	9.3	mg/L	04/26/2002	
Conductivity	Conductivity	P95	1770	umhos/cm	05/02/2002	
pH	pH	P403	8.02	s.u.	04/26/2002	
Solids_Diss	Total Dissolved Solids	P70300	1030	mg/L	04/26/2002	
TOC	TOC	P680	19	mg/L	05/13/2002	
Arsenic_(WAT)	Arsenic	P1002	2.4	ug/L	05/09/2002	
Cadmium_(WAT)	Cadmium	P1027	<0.20	ug/L	05/09/2002	
ICP_(WAT)	Aluminum	P1105	<200	ug/L	04/29/2002	
ICP_(WAT)	Barium	P1007	124	ug/L	04/29/2002	
ICP_(WAT)	Calcium	P916	152	mg/L	04/29/2002	
ICP_(WAT)	Chromium	P1034	<30	ug/L	04/29/2002	
ICP_(WAT)	Copper	P1042	10	ug/L	04/29/2002	
ICP_(WAT)	Hardness, Total	P900	602	mg/L	04/29/2002	
ICP_(WAT)	Iron	P1045	269	ug/L	04/29/2002	
ICP_(WAT)	Magnesium	P927	54	mg/L	04/29/2002	
ICP_(WAT)	Manganese	P1055	350	ug/L	04/29/2002	
ICP_(WAT)	Nickel	P1067	<40	ug/L	04/29/2002	
ICP_(WAT)	Potassium	P937	22	mg/L	04/29/2002	
ICP_(WAT)	Sodium	P929	134	mg/L	04/29/2002	
ICP_(WAT)	Strontium	P1082	670	ug/L	04/29/2002	
ICP_(WAT)	Zinc	P1092	<10	ug/L	04/29/2002	
Lead_(WAT)	Lead	P1051	<2.0	ug/L	05/09/2002	
COD	COD	P340	52	mg/L	05/20/2002	
NO3-NH3	Ammonia	P610	6.65	mg/L	05/03/2002	
NO3-NH3	Nitrate+nitrite	P630	6.22	mg/L	05/03/2002	

Field Comments

Lab Comments

QC Comments

Approved By

SR

On

5-24-02

Definition Of Qualifiers is attached when required

*Upstream
Nitrate Sample*

Laboratory Inorganic Analysis Data Report

24-May-02

May 04 2002

Sample 46669

Date Received 04/26/2002 8:16 AM Matrix SW Collected by KUENZLI, BRENT
 Begin End Sample Type COMPLAINT
 Date Collected 04/25/2002 9:30 AM Station ID
 Program NWDO-DSW Customer ID BAK0425
 Client DSW_C
 Location Unnamed Trlb to Ottawa R @ Sandusky Rd

Analysis	Parameter	Storet	Result	Units	Date	Qualifier
BOD-5	BOD5	P310	<2.0	mg/L	04/26/2002	
Conductivity	Conductivity		1760	umhos/cm	05/02/2002	
pH	pH		7.94	s.u.	04/26/2002	
Solids_Diss	Total Dissolved Solids		1070	mg/L	04/26/2002	
TOC	TOC		4.9	mg/L	05/13/2002	
Arsenic_(WAT)			2.1	ug/L	05/09/2002	
Cadmium_(WAT)			<0.20	ug/L	05/09/2002	
ICP_(WAT)			217	ug/L	04/29/2002	
ICP_(WAT)			39	ug/L	04/29/2002	
ICP_(WAT)			133	mg/L	04/29/2002	
ICP_(WAT)			<30	ug/L	04/29/2002	
ICP_(WAT)	Copper		<10	ug/L	04/29/2002	
ICP_(WAT)	Hardness, Total		542	mg/L	04/29/2002	
ICP_(WAT)	Iron		430	ug/L	04/29/2002	
ICP_(WAT)	Magnesium		51	mg/L	04/29/2002	
ICP_(WAT)	Manganese		143	ug/L	04/29/2002	
ICP_(WAT)	Nickel		<40	ug/L	04/29/2002	
ICP_(WAT)	Potassium		4	mg/L	04/29/2002	
ICP_(WAT)			169	mg/L	04/29/2002	
ICP_(WAT)			780	ug/L	04/29/2002	
ICP_(WAT)			<10	ug/L	04/29/2002	
Lead_(WAT)			<2.0	ug/L	05/09/2002	
COD			25	mg/L	05/20/2002	
NO3-NH3			0.474	mg/L	05/03/2002	
NO3-NH3			4.99	mg/L	05/03/2002	

Field Comments

Lab Comments

QC Comments

Approved By SR On 5-24-02

Definition Of Qualifiers is attached when required