BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
JUN -7 2010
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Envirosafe Services of Ohio, Inc.
876 Otter Creek Road
Oregon, Ohio 43616

Respondent

Director's Final Findings and Orders

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.

By: _____ Date: 6-7-10

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Envirosafe Services of Ohio, Inc. (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 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

All of the findings necessary for the issuance of these Orders pursuant to ORC §§

3734.13 and 3745.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any matter of law or fact. The Director of Ohio EPA has determined the following findings:

1. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).

2. On December 29, 2005 Respondent was issued Hazardous Waste Facility Installation and Operation Renewal Permit No. 03-48-0092, as modified by Ohio EPA (Permit), and operates a commercial hazardous waste storage, treatment and disposal facility located at 876 Otter Creek Road, Oregon, Lucas County, Ohio 43616 (Facility).

3. At the Facility, Respondent operates Cell M, the only active landfill at the Facility. Cell M is approximately 25 acres at ground surface and extends approximately 45 feet below grade and is permitted for a maximum height of 120 feet above grade with a total capacity of approximately 3.247 million cubic yards. Cell M is divided into sub-cells known as M1, M2, M3, M4, M5 and M6. The bottom of Cell M has a double liner system consisting of recompacted clay, geomembrane liners, and primary and secondary leachate collection systems. Liquids collected at the bottom of Cell M drain to collection sumps located in each sub-cell. Liquids are pumped from the sumps through sideslope riser pipes and transported to a Leachate Storage Tank Building by tanker truck or a double walled force main pipe.

4. At the Facility, Respondent generates "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Respondent is a large quantity generator of hazardous waste and has been assigned EPA ID number OHD045243706. The hazardous wastes generated by Respondent at the Facility include: multi-source landfill leachate, and associated sludge (F039, K061); debris, personal protective equipment, floor dust, baghouse dust and lab samples (F001-F009, F011, F012, F019, F035, F039, K061, K062, K071); Respondent is a small quantity handler of universal waste and generates used oil.

5. On March 6, and 9, 2007, Ohio EPA reviewed Cell M leachate reports for November and December of 2006, and January of 2007, with the corresponding Leachate Storage Tank Inventory Logs. As a result of this review, Ohio EPA determined that Respondent, *inter alia*, failed to operate the pumps in the affected sumps in sub-cells M3, M4 and M5 as outlined in Permit Condition J.3(a) for extended periods of time between November 1, 2006, and January 31, 2007, in violation of OAC rule 3745-57-03(A)(2).

6. Ohio EPA notified Respondent of the violation referenced in Finding No. 5. by letter dated April 20, 2007.

7. Respondent provided information in response to this violation in letters dated May 3 and July 19, 2007.

8. Ohio EPA notified Respondent that the violation in Finding No. 5. was abated in a letter dated August 30, 2007.

9. Ohio EPA conducted a compliance evaluation inspection at the Facility from May 29, 2007, through June 5, 2007. As a result of this inspection, Ohio EPA determined that Respondent had, *inter alia;*

   a. Failed to label a rail car as stated in Permit Conditions C.6(h) and C.8(e), in violation of OAC rule 3745-270-50(A)(2)(a);

   b. Failed to ensure that waste piles did not exceed the sidewall wall height as outlined in Permit Condition F.5(a)(ii), in violation of OAC rule 3745-205-101(C)(1)(b);

   c. Failed to properly complete the inbound and outbound rail car inspection forms MF-16(a) and (b), in violation of OAC rules 3745-54-15(D) and 3745-54-73(B)(2);

   d. Failed to inspect the Stabilization Containment Building (SCB) entrance aprons as outlined in Permit Condition F.5(a)(iii)(a), and failed to maintain and accurately complete the inspection logs for one or more doors to the SCB as stated in Permit Condition F.5(a)(iii)(b), in violation of OAC rule 3745-205-101(C);

   e. Failed to maintain the cover of Cell M in accordance with the specifications in Section D of the permit application and Permit Condition J.2(a), in violation of OAC rule 3745-57-03;

   f. Failed to follow the surface water management plan for the entire Facility as stated in Permit Condition L.3, in violation of OAC rule 3745-57-03(H); and

   g. Failed to label all containers of used oil with the words "used oil," in violation of OAC rule 3745-279-22(C)(1).

10. Respondent was notified of the violations in Finding No. 9. in a letter dated October 5, 2007.

11. Ohio EPA received the Respondent's responses to the violations referenced in Finding No. 99. on November 15, and December 5, 2007.

12. By letter dated December 13, 2007, Ohio EPA notified Respondent that the violations referenced in Finding No. 9. were abated.

13. On March 29, 2006, Respondent submitted a clean version of the permit application as a Class 1A permit modification to Ohio EPA as required by Permit Condition A.27(c) of the Permit issued to Respondent by Ohio EPA on December 29, 2005.

14. Upon review of the permit application referenced in Finding No. 13., Ohio EPA determined that the permit application submitted was incomplete, and Respondent was in violation of Permit Condition A.27(c).

15. Ohio EPA notified Respondent of the violation referenced in Finding No. 14. by letters dated May 9, 2006, June 6, 2007, (which also included a notice of violation of Permit Condition K.9) and September 6, 2007.

16. Respondent submitted revised documents on March 17, 2008, in response to the violations referenced in Finding Nos. 14. and 15. of these Orders. By letter dated June 11, 2008, Ohio EPA notified Respondent that the documents were approved on May 8, 2008, and that the violations referenced in Finding Nos. 14. and 15. have been abated.

17. By letter dated July 9, 2007, Respondent submitted a written report notifying Ohio EPA of an instance of noncompliance with the Facility's Permit.

18. Based upon the review of the report referenced in Finding No.17., Ohio EPA determined that Respondent had, *inter alia*:

    a. Failed to report the exceedance of leakage rates in the Response Action Plan (RAP) for the SCB or the failure to remove liquids from the sumps within 30 days of the time Respondent became aware of the exceedance, in violation of ORC § 3734.11(B);

    b. Failed to inspect the liquid collection and removal system on a weekly basis in violation of OAC rules 3745-54-15(A)(1), (B)(1) and (D);

c. Failed to implement the SCB RAP and notify the Director of Ohio EPA that the RAP required implementation as stated in Permit Condition B.22(f), and failed to record and maintain in the operating record the volume of liquids removed from each sump as stated in Permit Condition B.22(g), in violation of OAC rule 3745-54-73(B)(6);

d. Failed to maintain and operate the primary liquid collection and removal system for the SCB as stated in Permit Condition F.5(e), in violation of OAC rule 3745-205-101(B)(2);

e. Failed to inspect and record in the operating record at least once every seven days, data gathered from monitoring equipment and leak detection equipment in and around the SCB to detect signs of hazardous waste releases as stated in Permit Condition F.6(a), in violation of OAC rule 3745-205-101(C)(4);

f. Failed to follow and implement all provisions of the approved RAP for the SCB as stated in Permit Condition F.6(b), in violation of OAC rule 3745-205-101(C)(3); and

g. Failed to inspect or record inspections of the liquid collection system for the SCB as stated in Permit Condition F.7, in violation of OAC rule 3745-54-15.

19. Respondent was notified of the violations referenced in Finding No. 18. by letter dated August 30, 2007.

20. Respondent submitted responses to the violations referenced in Finding No. 18. by letters dated September 14 and September 25, 2007.

21. Ohio EPA notified Respondent that the violations referenced in Finding No. 18. were abated by letter dated March 20, 2008.

22. On October 18, 2007, Ohio EPA conducted a routine daily inspection at the Facility. As a result of this inspection, Ohio EPA has determined that Respondent had, *inter alia*, failed to inspect the items on the Leachate Storage Building Tank inspection form MF-03(a) before completing and signing the inspection form, in violation of Permit Condition B.5(a), and OAC rule 3745-54-15(B)(1).

23. Respondent was notified of the violation referenced in Finding No. 22, and its abatement, by letter dated November 14, 2007.

24. Ohio EPA conducted a compliance evaluation inspection at the Facility on November 27, 28, and 29, 2007. As a result of this inspection, Ohio EPA determined that Respondent had, *inter alia,* failed to properly inspect and clean the containment pad at SCB doors #121 and #122 after receiving shipments of hazardous waste, in violation of Permit Condition F.5(a)(iii)(a) and OAC rule 3745-205-101(C). Respondent removed the waste from the containment pad when Ohio EPA notified them of it on November 27, 2007.

25. Respondent was notified of the violation referenced in Finding No. 24., and its abatement, by letter dated February 6, 2008.

26. On February 4, 2008, Ohio EPA received from Respondent a Notice of Return to Infiltration Rate Below the Indicator Leakage Rate (ILR) (this leakage rate serves as an early warning mechanism for the amount of liquids entering the secondary liner system of the Containment Building). Upon review of this notice, Ohio EPA determined that Respondent had, *inter alia,* failed to notify USEPA and Ohio EPA in writing that the liquid level in CBS-1 had not returned to a level below the ILR within 14 days of the November 27, 2007, exceedance, and failed to modify the response actions to be more effective in reducing the liquid levels in sump CBS-1, in violation of Permit Condition F.6(b) and OAC rule 3745-205-101(C)(3).

27. Ohio EPA notified Respondent of the violation referenced in Finding No. 26. by letter dated February 8, 2008. Based on documentation and correspondences with Respondent, Ohio EPA conditionally abated this violation by letter dated March 28, 2008, with the requirement that Respondent perform a dye-test study to determine the source of infiltration into sump CBS-1.

28. Subsequent to a routine daily inspection conducted February 8, 2008, Ohio EPA reviewed the F039 Leachate Storage Tank Inventory Control Logs for dates January 28, 2008, through February 10, 2008; and the Daily Field Record for Leachate Levels for dates February 6, 2008, through February 10, 2008, completed by Respondent. Review of these documents has resulted in the determination that Respondent is in violation of Permit Condition J.3(a) and OAC rule 3745-57-03(A)(2) because Respondent failed to operate the pumps in the primary leachate collection system (PLCS) sumps in sub-cells M2, M3, M4, M5 and M6 as outlined in the Permit. Ohio EPA observed on February 8, 2008, that Respondent shut down the pumps.

29. Ohio EPA notified Respondent of the violation referenced in Finding No. 28. by letter dated March 20, 2008.

30. On March 11, 2008, Ohio EPA conducted an inspection of the Cell M primary and secondary leachate levels at the M6 sub-cell at the Facility. As a result of this inspection, Ohio EPA determined that Respondent had, *inter alia*, failed to operate the pump in the PLCS in sub-cell M6 in violation of Permit Condition J.3(a) and OAC rule 3745-57-03(A)(2).

31. Respondent was notified of the violation referenced in Finding No. 30. by letter dated March 20, 2008.

32. On April 10, 2008, Ohio EPA conducted an inspection of the Cell M primary and secondary leachate levels at the M4 sub-cell at the Facility. As a result of this inspection, Ohio EPA determined that Respondent had, *inter alia*, failed to operate the pump in the PLCS in sub-cell M4 in violation of Permit Condition J.3(a) and OAC rule 3745-57-03(A)(2).

33. Respondent was notified of the violation referenced in Finding No. 32., and its abatement, by letter dated April 25, 2008.

34. On April 17, 2008, Ohio EPA received and reviewed Respondent's Cell M Leachate Report for March 2008. As a result of this review, Ohio EPA has determined that Respondent had, *inter alia*, failed to properly manage the on-site leachate storage capacity, and failed to operate the pumps in the PLCS sumps in sub-cells M2, M3, M4, M5, and M6 as outlined in the Permit, in violation of Permit Condition J.3(a), and OAC rule 3745-57-03(A)(2).

35. Respondent was notified of the violations referenced in Finding No. 34., and their abatement, by letter dated May 16, 2008.

36. By letter dated May 16, 2008, Ohio EPA notified Respondent that in regards to the inspection referenced in Finding No. 30., Respondent is also in violation of Permit Condition A.9, ORC § 3734.11, and Permit Condition J.2(p) and OAC rule 3745-57-03 for failure to properly maintain and operate the components of the PLCS at sub-cell M6 from September 2007 through March 2008, and allowing the leachate level in the primary sump to reach at least 129 inches over the floor of the sump.

37. By letter dated March 28, 2008, Ohio EPA requested spreadsheets and inspections forms related to the Waterline Trench Monitoring Program covering April 1, 2006 through April 2008. Respondent submitted documentation on April 29 and 30, 2008. Review of this documentation showed that it was not complete, and Ohio EPA requested the field logs for this time period.

38. On May 7, 2008, Respondent provided the logs requested in Finding No. 37. of these Orders.

39. Upon review of all of the submitted documentation, Ohio EPA has determined that Respondent had, *inter alia:*

    a. Failed to employ effective management practices, appropriately implement existing written standard operating procedures, accurately record and report to Ohio EPA and Toledo Division of Environmental Services, the conditions in the monitoring and dewatering trenches, and provide adequate staff training and oversight to ensure compliance with Permit Condition A.9 and ORC § 3734.11;

    b. Failed to retain records of all monitoring information for a period of at least three years from the date of the measurement, in violation of Permit Conditions A.14(a), A.28(a)(vi), B.5(b) and OAC rules 3745-50-58(J), 3745-54-73(B)(5) and 3745-54-15(D);

    c. Failed to report to the Director all instances of noncompliance within thirty days of the time Respondent is aware of such noncompliance, in violation of Permit Condition A.22 and ORC § 3734.11(B);

    d. Failed to follow the inspection schedule in Section F of the Permit, requiring one inspection in every seven day period, in violation of Permit Conditions B.5 and G.4(a)(v) and OAC rule 3745-54-15(B)(1); and

    e. Failed to keep the liquid levels in the dewatering trenches below the bottom of the adjacent waterline, in violation of Permit Condition G.3(b).

40. Respondent was notified of the violations referenced in Finding No. 39. by letter dated June 24, 2008.

41. On March 23, 2009, Respondent submitted a report summarizing the results of the SCB Dye Testing for the CBS-1 area. This test was inconclusive.

42. By letter dated May 29, 2009, Respondent submitted a Permit Modification to add the Cell M Transducer Certification Report to the Permit application.

43. By letter dated June 1, 2009, Respondent submitted a Permit Modification to revise the Response Action Plan (RAP) for the Containment Building.

44. By letter dated July 17, 2009, Ohio EPA accepted and approved the Permit Modification referenced in Finding No. 43. of these Orders.

45. By letter dated August 20, 2009, Ohio EPA accepted and approved the Permit Modification request referenced in Finding No. 42. of these Orders.

46. By letter dated December 18, 2009, Respondent submitted a Permit Modification to revise Module G of the Permit and Part B Appendix F.11 (Form WL-100).

47. By letter dated February 1, 2010, Ohio EPA approved the Permit Modification request referenced in Finding No. 46. of these Orders.

48. By letter dated March 2, 2010, Respondent submitted an inspection and maintenance schedule for the PLCS/SLCS transducers to ensure that they are maintained in good working condition, and a Permit Modification to revise Module J of the Permit to clarify the monitoring, operation, maintenance, record keeping and reporting requirements for the primary and secondary leachate collection systems (PLCS and SLCS) of Cell M.

49. By electronic mail dated March 30, 2010, Ohio EPA provided Respondent with comments on the documents referenced in Finding No. 48. of these Orders.

50. By letter dated April 21, 2010, Ohio EPA approved the Permit Modification to revise Module J of the Permit as referenced in Finding No. 48. of these Orders. Approval of this Permit Modification abates the violations referenced in Finding Nos. 28., 30., and 36. of these Orders.

V. ORDERS

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated there under according to the following compliance schedule:

1. Within 60 days of the effective date of these Orders, Respondent shall submit a detailed testing plan including a schedule to conduct leak-testing with an inert gas as a follow-up to the inconclusive test referenced in Finding No. 41. of these Orders. Within 60 days of the conclusion of the test, Respondent shall submit a report indicating the results of the test, determination of a source of the infiltration, or, if a source has not been determined, the additional investigation(s) that will be performed.

2. Within 90 days of the effective date of these Orders, Respondent shall submit documentation showing that training for staff involved in the measurement and removal of liquids from the waterline trench sumps, completion of form WL-100, and the "City of Toledo Raw Waterline Monitoring Trench Water Elevation Report" was conducted, to ensure competency in the new standard operating procedures (so that these documents represent the actual conditions observed at the time inspections are conducted).

   Ohio EPA's approval of the documentation requested in this Order will abate the violations referenced in Finding No. 39. of these Orders.

3. Respondent shall pay Ohio EPA the amount of $180,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734 pursuant to the following schedule:

   a. Within 30 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $40,000.00;

   b. Within 120 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $20,000.00;

   c. Within 210 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $20,000.00;

   d. Within 300 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $20,000.00;

   e. Within 390 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $20,000.00;

   f. Within 480 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $20,000.00;

   g. Within 570 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $20,000.00; and

   h. Within 660 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $20,000.00.

   Respondent shall make each payment by tendering an official check made payable

to "Treasurer, State of Ohio." The official checks 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 Facility. A copy of each check shall be submitted in accordance with Section X. of these Orders.

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 Hazardous 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 [e.g., corporate officer] who is in charge of a principal 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 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 Hazardous Waste Management
347 N. Dunbridge Road
Bowling Green, Ohio 43402
Attn: DHWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section

For deliveries to the building:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
50 West Town Street
Columbus, Ohio 43215
Attn: Manager, Compliance Assurance Section

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

Chris Korleski
Director

June 7, 2010
Date

IT IS SO AGREED:

Envirosafe Services of Ohio, ~~LLC~~ Inc.

Signature

5/18/10
Date

Douglas E Roberts
Printed or Typed Name

President
Title