

OHIO E.P.A.

JUN 25 2001

ENTERED DIRECTOR'S JOURNAL

Issuance Date: JUN 25 2001

Effective Date: JUN 25 2001

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of:

City of Fairborn  
44 West Hebble Avenue  
Fairborn, Ohio 45324

Director's Final  
Finding and Orders

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are hereby issued to the City of Fairborn (City) pursuant to the authority vested in the Director of Environmental Protection (Director) pursuant to Ohio Administrative Code (OAC) Rules 374527-12(O)-and (P).

**II. PARTIES**

These Orders shall apply to and be binding upon the City and its officers, directors, agents, servants, employees, assigns and successors in interest.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in Ohio Revised Code (ORC) Chapter 3734 and the regulations promulgated thereunder.

**IV. FINDINGS OF FACT**

The Director has determined the following findings of fact:

1. The City is the owner and operator of the closed Fairborn Landfill (Facility) located in the southwest quadrant of the intersection of Beaver Valley Road and Interstate 675 in Greene County, Ohio. The Facility is a solid waste disposal facility as that term is defined in OAC Rule 3745-27-01 (C)(1) and a sanitary landfill facility as that term is defined in OAC Rule 3745-27-01(C)(4).
2. On December 31, 1988, the Facility ceased accepting waste.

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: Zona J. Clement Date: 6-25-01

3. By written correspondence dated January 13, 1989, the City was first informed by the Ohio Environmental Protection Agency (Ohio EPA) of its requirements to submit an explosive gas monitoring plan for the Facility.
4. On February 1, 1989, an explosive gas monitoring plan (EGMP) was submitted by the City for the Facility, pursuant to OAC Rule 3745-27-12 (A)(3).
5. On August 13, 1992, Ohio EPA received the first gas monitoring report from the City. The methane levels at two of the monitoring probes exceeded the lower explosive limit (LEL) for methane. To date, the methane levels in these two probes and several other monitoring wells continue to exceed the LEL.
6. On July 31, 1995, Ohio EPA sent a notice of deficiency to the City in reference to the EGMP submittal.
7. On March 25, 1996, the City submitted a revised EGMP for the Facility.
8. On April 23, 1996, Ohio EPA sent a notice of deficiency to the City in reference to the revised EGMP submittal.
9. By correspondence received by Ohio EPA on December 12, 1996, the City proposed installing additional explosive gas monitoring probes at the Facility. Ohio EPA commented on the proposal by letter dated December 19, 1996.
10. By letters dated September 30, 1997, and June 10, 1998, Ohio EPA requested updates on the status of the EGMP.
11. By letter dated September 28, 1999, Ohio EPA requested that the EGMP be submitted within 30 days.
12. By letter dated October 21, 1999, the City stated that it had received verbal agreement to install three of the four explosive gas monitoring probes off the Facility property.
13. By correspondence dated November 17, 1999, and January 29, 2001, the City was notified that it was in violation of OAC Rule 3745-27-12(A)(3) for not submitting an approvable EGMP. In addition, the correspondence stated that the City was to immediately take appropriate action to abate explosive gas migration.
14. By correspondence dated December 14, 1999, the City stated that a consultant was retained to complete the EGMP.

15. On June 6, 2000, the City notified Ohio EPA that two explosive gas monitoring probes were installed, and the City was making an effort to complete the plan.
16. During a telephone conversation on February 16, 2001, the City stated that a consultant was preparing a revised EGMP, and they are investigating alternatives for mitigating the existing gas migration.
17. On June 1, 2001, the City submitted an EGMP which included an explosive gas remediation plan.
18. OAC Rule 3745-27-12(A)(3) requires that 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 ceased acceptance of waste prior to June 1, 1994, and after July 1, 1970, and is so situated that a residence or other occupied structure is located within 1,000 feet horizontal distance from emplaced wastes, shall submit an explosive gas monitoring plan for the landfill or closed landfill to the director for approval.
19. Based on site inspections and submitted documentation, 26 occupied structures exist within 1,000 feet from the limits of waste placement.
20. OAC Rule 3745-27-12(O) states that upon the director's finding that explosive gas formation and migration threaten human health or safety or the environment, he may order the owner or operator to perform such measures to abate or minimize the formation and migration of explosive gas.
21. OAC Rule 3745-27-12(P) states that the director may require the installation of additional temporary or permanent monitors or abandonment of permanent monitors as necessary to monitor explosive gas pathways or eliminate the potential contamination of ground water.
22. Pursuant to OAC Rule 3745-27-12(O), the director has determined that explosive gas formation and migration constitutes a threat to human health, safety, and the environment, and the immediate abatement of the explosive gas formation and migration is required.

## **V. ORDERS**

1. Pursuant to OAC Rules 3745-27-12(O) and (P), the City shall abate or minimize the formation and migration of explosive gas at the Facility such that the threat to human health, safety, or the environment no longer exists. At a minimum, the City shall perform such measures as specified in Orders Number 2 through 15, below.

The City shall perform the measures until released from the obligations pursuant to Section VI of these Orders.

2. Pursuant to OAC Rule 3745-27-12(F)(4)(b), within seven days after the effective date of these Orders, the City shall notify the appropriate local public safety authorities of the explosive gas migration occurring at the Facility. The City shall provide Ohio EPA a copy of each letter mailed pursuant to this order.
3. Within 30 days after the effective date of these Orders, the City shall submit any necessary revisions to the EGMP, specified in Finding Number 17 above, for approval pursuant to OAC Rule 3745-27-1 2(A)(3).
4. Within 45 days after the effective date of these Orders, the City shall submit and implement a remediation plan that will abate explosive gas migration so that explosive gas does not exceed the LEL at the property line and does not threaten human health or safety or the environment. The City shall notify Ohio EPA and the Greene County Combined Health District, in writing, of the date that any remediation plan pursuant to these Orders is implemented. The remediation plan shall include, at a minimum, all of the following:
  - a. A presentation and discussion of all explosive gas migration pathways identified pursuant to OAC Rule 3745-27-1 2(D)(2)(c)(iv); and
  - b. All pathways identified through investigations performed by the City or by any other person; and
  - c. A detailed presentation, with construction drawings where applicable, of how explosive gas migration will be abated or minimized for each pathway.

The detailed discussion shall also include an analysis of the potential hazard associated with each pathway as determined by each pathway's beginning and ending point, the monitoring activity performed or to be performed on each pathway or potential migration pathway, and any specific justifications used for not monitoring or performing investigations on any pathway or potential migration pathway. This plan is to be incorporated into the EGMP.

5. Within 30 days after the effective date of these Orders, the City shall offer the installation of gas detection alarms in all structures within 1,000 feet of the limits of waste placement until such time that the gas remediation proves effective.

6. If, after 90 days of implementation of the remediation activities, explosive gas levels at the Facility have not declined below the LEL, then the City shall take additional measures to abate the explosive gas problem.
7. All explosive gas monitoring probes at the Facility, installed before and after the effective date of these Orders, shall be monitored daily upon on the effective date of these Orders. The monitoring shall continue until these Orders terminate in accordance with Section VI, at which point the City shall implement the approved EGMP.
8. If an explosive gas monitoring probe, that is required to be monitored daily, records an initial and sustained explosive gas reading of zero percent by volume for 30 consecutive days, that explosive gas monitoring probe may be monitored monthly for 12 months, at which point the City shall implement the approved EGMP as applicable to that monitoring probe.
9. The City shall monitor all parameters identified in OAC Rule 3745-27-12(I)(3) for each monitoring event pursuant to these Orders or the approved EGMP until these Orders terminate in accordance with Section VI, at which point the City shall continue to implement the approved EGMP.
10. The City shall submit all explosive gas monitoring data on a monthly basis. The data shall be submitted to Ohio EPA and the Greene County Combined Health District no later than the 15th calendar day of each following month.
11. Pursuant to OAC Rule 3745-27-12(E)(3), if the water level in any explosive gas monitoring probe is within the probe's screened interval for any monitoring event pursuant to these Orders or the approved EGMP, that probe shall be deemed inadequate for proper detection of the migration of explosive gas. Any affected probe(s) shall be de-watered within 48 hours so that the water level is below the screened interval, or the City shall install additional monitoring probes to monitor the same explosive gas migration pathway pursuant to OAC Rule 3745-27-12(P). Installation of any such additional probe(s) shall be completed within 30 days of being deemed inadequate, unless an extension is granted by Ohio EPA.
12. Not later than 60 days after implementing the remediation plan required by Order Number 4, above, the City shall submit to Ohio EPA a report which shall include, at a minimum, all of the following:
  - a. A description of the measures performed to abate or minimize the formation and migration of explosive gas at the facility; and

- b. A summary of the results of explosive gas monitoring for each permanent or temporary probe or monitoring location, including a discussion of any trend(s) noted based on review of the monitoring data; and
  - c. For each explosive gas monitoring location measured, a graphical presentation of the explosive gas levels measured in each monitoring location during the period from the effective date of these Orders to submittal of the report.
13. The City is required to obtain all necessary authorizations or permits from the local air agency.
14. Pursuant to OAC Rules 3745-27-12(O) and (P), the Director may, based upon the information submitted in the report, order the City to implement additional measures, including submittal of an additional explosive gas remediation plan, in order to abate or minimize the formation and migration of explosive gas at the Facility.

## **VI. TERMINATION**

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

Notarized certifications shall be signed by a responsible official of the City. The certification shall make the following attestation: "I certify that to the best of my knowledge the information contained in or accompanying this certification is true, accurate and complete."

For purposes of these Orders, a responsible official is an representative from the City of Fairborn or their authorized designee.

## **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 signatory to these Orders for any liability arising out of or relating 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. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability of Ohio EPA's right to enforce any other statutes or regulations applicable to the Facility. Ohio EPA reserves all rights and privileges except as specified herein.

### **IX. NOTICE**

All documents demonstrating compliance with these Orders and all other documents required pursuant to these Orders shall be submitted to the following addresses:

Ohio Environmental Protection Agency  
Southwest District Office  
401 East Fifth Street  
Dayton, Ohio 45402-2911  
Attn: Unit Supervisor, DSIWM

Ohio Environmental Protection Agency  
DSIWM-Central Office  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attn: Unit Supervisor, DSIWM, CMEU

Greene County Combined Health District  
P.O. Box 250  
Xenia, OH 45385  
Attn: Debbie Leopold, Environmental Director

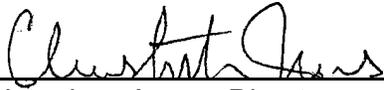
### **X. RESERVATION OF RIGHTS**

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including penalties against the City for non-compliance with these Orders.

Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require the City to perform additional activities pursuant to ORC Chapters 3734 and 6111 'or any other applicable law in the future. Nothing herein shall restrict the right of the City to raise any administrative, legal or equitable claim or defense with respect to

such further actions which Ohio EPA may seek to require the City. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

**IT IS SO ORDERED:**



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Christopher Jones, Director  
Ohio Environmental Protection Agency