

OHIO E.P.A.
OCT 14 2003
ENTERED DIRECTOR'S JOURNAL

Issuance Date: OCT 14 2003
Effective Date: OCT 14 2003

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the matter of:

Village of Shreve : Director's Final
150 West McConkey Street : Findings and Orders
Shreve, OH 44676 :

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are hereby issued to The Village of Shreve (Village) pursuant to the authority vested in the Director of Environmental Protection (Director) under Ohio Revised Code (ORC) Sections 3734.02 and 3745.01.

II. PARTIES

These Orders shall apply to, and be binding upon, the Village and its successors in interest liable under Ohio law. No changes in ownership relating to the Facility, as defined herein, shall, in any way, alter the Village's responsibilities under these Orders. The Village's obligations under these Orders may only be altered by the written approval of the Director.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in ORC Chapter 3734 and the regulations promulgated thereunder. Unless otherwise stated, all citations of the Ohio Administrative Code (OAC) shall refer to regulations currently effective.

IV. ACTION

Pursuant to ORC Section 3734.02 and OAC Rule 3745-27-12, the Director hereby makes the following findings and issues the following orders.

V. FINDINGS

1. The Village is the current owner and was a former operator and licensee of the Shreve Village Landfill (Facility), located on the west side of Saunders Road

Notified this to be a true and correct copy of the
official record of the Ohio Environmental Protection Agency
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(Twp. Road 408), south of Porter Road in Clinton Township, Wayne County, Ohio. The Facility is a "sanitary landfill facility" as that term is defined in paragraph (S)(4) of OAC Rule 3745-27-01.

2. The Village operated the Facility prior to July 1, 1968, until December 31, 1980. The Village began closure activities in 1981 in accordance with OAC Chapter 3745-27, as effective on July 29, 1976. The closure activities were completed on June 10, 1985.
3. Pursuant to paragraph (A) of OAC Rule 3745-27-12, as effective on March 17, 1988, an owner or operator of a previously licensed facility that ceased accepting waste between 1970 and 1994 must submit an explosive gas monitoring plan to the Director for approval if occupied structures are located within 1,000 feet of **emplaced** waste. The rule also specified that the plan must be submitted by February 1, 1989.
4. There are occupied structures located within 1,000 feet of **emplaced** waste.
5. On January 19, 1989, Ohio EPA notified the Village of its obligations to submit an explosive gas monitoring plan no later than February 1, 1989.
6. On June 12, 1989, Ohio EPA amended OAC Rule 3745-27-12. Paragraph (A) of the amended rule still required an owner or operator of a landfill that ceased waste acceptance between 1970 and 1994 to submit an **explosive gas** monitoring plan to the Director for approval if occupied structures are located within 1,000 feet of **emplaced** waste. The amended rule still specified that the plan **must be submitted by February 1, 1989**.
7. On August 17, 1989, Kozak Consultants, Inc. (Kozak), acting on behalf of the Village, submitted a document titled *Evaluation of Closed Shreve Landfill for Explosive Gas*. The document requested an exemption, pursuant to paragraph (G) of ORC Section 3734.02, from the requirement to submit an explosive gas monitoring plan as required by **OAC Rule 3745-27-12**, as effective on June 12, 1989. This exemption request was based on information demonstrating that explosive gas was not migrating toward structures found approximately 400 feet northwest, north, and northeast of the limits of waste placement. Ohio EPA did not grant the request.
8. On June 1, 1994, Ohio EPA amended OAC Rule 3745-27-12. Paragraph (A) of the amended rule still required an owner or operator or subsequent owner, lessee, or other person who has control of the land on which a closed sanitary

landfill is located, that ceased waste acceptance between 1970 and 1994, to submit an explosive gas monitoring plan to the Director for approval if occupied structures are located within 1,000 feet of **emplaced** waste. The amended rule still specified that the plan must be submitted by February 1, 1989.

9. On April 30, 2003, Ohio EPA notified the Village of its obligation to submit an explosive gas monitoring plan pursuant to paragraph (A) of OAC Rule 3745-27-12, as effective on June 1, 1994.
10. On June 25, 2003, Kozak, submitted a document titled *Evaluation of Closed Shreve Landfill for Explosive Gas, June 24, 2003*, responding to Ohio EPA's notification as described in Finding Number 9, above. The document also requested an exemption from the requirement to submit an explosive **gas** monitoring plan as required by paragraph (A) of OAC Rule 3745-27-12, as effective on June 1, 1994. This exemption request is based on the following:
 - a. Based on a 2003 survey of occupied structures in the vicinity of the Facility, the closest structures are over 500 feet from the limits of waste placement. Migration pathways such as utility lines are located 600 to 800 feet from the limits of waste placement. The limits of waste placement and **structures** are separated by valleys with base elevations below the depth of waste.
 - b. The volume of waste disposed is small, estimated at approximately 11,000 cubic yards. The Village verified with former employees that a portion of the materials that were deposited were putrescible materials consisting of yard waste and leaves. The majority of materials that were deposited consisted of white goods and other non-putrescible materials.
 - c. A series of punch bar tests that extended into the 'limits **of** waste placement on June 6 and 7, 1989, showed a maximum explosive gas generation rate within the landfill of 0.08 percent methane, well below the explosive **gas** threshold limit of 1.25 percent **methane** specified in paragraph (l)(3) of OAC Rule 3745-27-12, as effective on June 12, 1989.
 - d. Observations during, and immediately following, warm weather rain events were made in May and June 2003 by Kozak staff for air bubbles or other indications of explosive gas reaching the surface of the landfill. No evidence of gas migration was noted, and punch bar tests showed two locations within the landfill at trace levels (0.04 and 0.035 percent

methane), and 29 samples below a detection level of 0.01 percent methane.

- e. Waste acceptance at the landfill ceased more than 20 years ago. the minimum duration for explosive gas monitoring specified in OAC Rule 3745-27-12, as effective on June 12, 1989.
 - f. **A** series of punch-bar tests that extended into the limits of waste placement in 2003 showed a maximum explosive gas generation rate within the landfill of 0.04 percent methane within the landfill, well below the explosive gas threshold level of 100 percent of the lower explosive limit (5.0 percent methane) at the facility boundary.
11. On August 15,2003, Ohio EPA amended **OAC** Rule 3745-27-12. The amended rule still applies to an owner or operator of a landfill that ceased waste acceptance between 1970 and 1994 if **occupied** structures are **located** within 1,000 feet of **emplaced** waste.
 12. Based on the information described in Finding Number 10, above, the Facility is not generating explosive gas at levels that are likely to adversely affect public health or safety or the environment. Furthermore, because the levels of explosive gas generation are so low within the limits of waste placement, and because of natural and man-made features of the site, the potential for any gas to migrate to the current occupied structures within 1.000 feet is very low.
 13. Paragraph (G) of **ORC** Section 3734.02 provides that the Director may, by order, exempt any person generating, storing, treating, disposing of, or transporting solid wastes in such quantities or under such circumstances that, in the determination of the Director, are unlikely to adversely affect the public health or safety or the environment from any requirement to obtain a permit or license or comply with other requirements of ORC Chapter 3734.
 14. **Because any explosive gas generated within the** Facility's waste mass is at levels well below the lower threshold level established by rule, and because the likelihood of any gas migrating to occupied structures within 1,000 feet is very low, granting an exemption from the requirement to submit an explosive gas monitoring plan is unlikely to adversely affect the public health or safety or the environment.

VI. ORDERS

1. Pursuant to paragraph **(G)** of **ORC** Section 3734.02, the Village is hereby exempted from the requirement to submit for approval and implement an explosive gas monitoring plan as required by ORC Section 3734.041 and OAC Rule 3745-27-12, provided the Village complies with the following orders.
2. The Director may revoke these Orders for any reason, including but not limited to, a determination that explosive gas formation and migration threaten public health or safety or the environment.
3. The Village shall submit an explosive gas monitoring plan no later than 30 days following the construction of an occupied structure within 1,000 feet of the limits of waste placement in a location that is not separated by a natural or man-made features as described in Finding Number 10a, above.
4. Nothing in these Orders shall be construed to authorize any waiver from the requirements of any other applicable federal or state laws or regulations. These Orders shall not be interpreted to release the Village from responsibility under ORC Chapters 3704, 3714, 3734, or 6111; under the Federal Clean Water Act, the Resource Conservation and Recovery Act, or the Comprehensive Environmental Response, Compensation, and Liability Act; or from other applicable requirements for remedying conditions resulting from any release of contaminants to the environment.

VII. 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 Village.

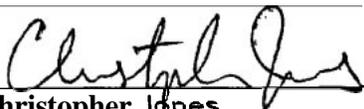
VIII. RESERVATION OF RIGHTS

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 seeking penalties against the Village for noncompliance with these Orders.

Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require the Village to perform additional activities pursuant to ORC

- Chapter 3734 or any other applicable law in the future. Nothing herein shall restrict the right of the Village to raise any administrative, legal, or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of the Village. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to **seek** relief for violations at the Facility.

IT IS SO ORDERED:



Christopher Jones
Director

