

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of:

Mr. James Rouch	:	<u>Director's Final Findings</u>
Ms. Carol Rouch	:	<u>and Orders</u>
10606 Township Road 57	:	
Roseville, Ohio 43777	:	

Respondents

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Mr. James Rouch and Ms. Carol Rouch ("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.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondents and heirs and successors in interest liable under Ohio law. No change in ownership relating to the Greenslopes 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 Chapter 3734. and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. The Greenslopes Landfill (the "Facility") is located on 10606 Township Road 57, in Roseville, Perry County, Ohio.
2. The Facility is a "sanitary landfill facility" as that term is defined under Ohio Administrative Code ("OAC") Rule 3745-27-01(C)(4).

3. Mr. Ivan Morris (now deceased) owned the Facility from 1970 to December of 1991.
4. The Perry County Health Department licensed the Facility to operate as a sanitary landfill facility from 1974 to 1983.
5. Mr. Morris ceased acceptance of waste at the Facility on September 1, 1983, and initiated closure activities at the Facility in accordance with paragraph (C) of OAC Rule 3745-27-10, as effective July 29, 1976.
6. On March 2, 1989, Mr. Morris submitted an explosive gas monitoring plan for the Facility in an attempt to comply with OAC Rule 3745-27-12.
7. OAC Rules 3745-27-12(A)(3)(a) and (b) provide in pertinent part 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
 - a. Ceased acceptance of waste prior to June 1, 1994, and after July 1, 1970, and
 - b. Is so situated that a residence or other occupied structure is located within one thousand feet horizontal distance from emplaced wastes,Shall submit an 'explosive gas monitoring plan' for the landfill or closed landfill to the Director for approval...."
8. Currently there are occupied structures located within one thousand feet of the Facility, some of which are as close as two hundred feet from the Facility.
9. In December of 1991, Respondents purchased the Facility.
10. In correspondence dated April 6, 1992, Ohio EPA notified Mr. Morris that the explosive gas monitoring plan he submitted was incomplete as submitted and required that the plan be resubmitted with the required changes within 30 days. Ohio EPA was unaware at the time of this letter that Mr. Morris had sold the Facility to Respondents. Neither Mr. Morris nor Respondents ever submitted a revised explosive gas monitoring plan to Ohio EPA for approval.
11. Respondents are the "owners" of the Facility as that term is defined in OAC Rule 3745-27-01(B)(25), and are "persons" as defined under ORC Section 3734.01(G) and OAC Rule 3745-27-01(B)(27).

12. The Perry County Health Department notified Respondents that they were in violation of OAC Rule 3745-27-12 and/or of the need to submit an explosive gas monitoring plan to Ohio EPA for approval in correspondence dated May 20, 1998, December 23, 1998, June 23, 1999, August 5, 1999, February 24, 2000, April 18, 2000, November 30, 2000, January 19, 2001, and August 27, 2001.
13. On August, 10, 1999, Respondents indicated that they intended to implement gas monitoring activities by September 2000.
14. Ohio EPA tested levels of methane gas in the area surrounding the Facility on October 21, 1999, and discovered methane gas levels above the lower explosive limit for methane on the eastern side of the road, which is located on the western side of the Facility.
15. On November 30, 2000, Ohio EPA conducted additional testing of explosive gas levels along the western perimeter of the Facility and discovered methane levels as high as 10% of the lower explosive limit for methane.
16. Ohio EPA notified Respondents that they were in violation of OAC Rule 3745-27-12 for failure to submit an explosive gas monitoring plan in correspondence dated December 21, 2000, August 16, 2001, and November 5, 2001.
17. On October 2, 2002, Ohio EPA sent an Invitation to Negotiate ("ITN") Director's Final Findings and Orders ("Orders") in the form of an administrative consent agreement to Respondents. Ohio EPA has attempted to negotiate mutually acceptable consensual Orders with Respondents, which they have failed to enter.

V. ORDERS

Respondents shall achieve compliance with ORC Chapter 3734. and the rules promulgated thereunder according to the following compliance schedule:

1. Within thirty (30) days after the effective date of these Orders Respondents shall submit to Ohio EPA for review and approval an Explosive Gas Monitoring Plan that complies with OAC Rule 3745-27-12.
2. Within 30 (thirty) days after receiving any written comments from Ohio EPA on the Explosive Gas Monitoring Plan, or on any revised Explosive Gas Monitoring Plan, Respondents shall submit to Ohio EPA for approval a revised Explosive Gas Monitoring Plan which incorporates Ohio EPA's comments. Ohio EPA may approve any document required to be submitted under these Orders with conditions and/or

modifications.

3. Respondents shall implement the Explosive Gas Monitoring Plan approved by Ohio EPA in accordance with the schedules contained therein and applicable law.

VI. TERMINATION

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 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.

VIII. 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

Perry County Health Department
Attn: David Foucart, R.S.
121 West Brown Street
P.O. Box 230
New Lexington, Ohio 43764

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

IX. 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 Respondents for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondents to perform additional activities pursuant to ORC Chapter 3734. or any other applicable law in the future. Nothing herein shall restrict the right of Respondents to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondents. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

X. EFFECTIVE DATE

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

IT IS SO ORDERED:

Ohio Environmental Protection Agency

Christopher Jones
Director

Date