

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

DEC 30 2004

OHIO E.P.A.

In the Matter of:

A&L Salvage, LLC :  
11225 State Route 45 :  
P.O. Box 333 :  
Lisbon, OH 44432 :

Director's Final Findings  
and Orders

Respondent

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to A&L Salvage, LLC, a Delaware limited liability company licensed to do business in Ohio ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3734.13, 3714.12 and 3745.01.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent and its successors in interest liable under Ohio law. No change in ownership of Respondent or of the Facility (as hereinafter defined) 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 3714. and the rules promulgated thereunder.

Whenever the terms listed below are used in these Orders or in any appendices, attached hereto and incorporated herein, the following definitions shall apply:

- a. "Facility" shall mean that portion of the construction and demolition debris landfill located at 11225 State Route 45, Lisbon, Ohio, designated as the "Active Licensed Disposal Area" in the map attached to these Orders as Appendix A , which is incorporated herein. The Facility is the "Active Licensed Disposal Area" as designated on the plan sheet submitted with the 2005 license application entitled "Revised Active Licensed Disposal Area," which is dated January 2, 2004.

#### IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is the owner and operator of a construction and demolition debris landfill located at 11225 State Route 45, Lisbon, Ohio.
2. The Facility was formerly owned by A&L Salvage, Inc., an Ohio corporation. In April 2003, A&L Salvage, LLC merged with A&L Salvage, Inc. By the terms of this merger, A&L Salvage, Inc. was "merged out of existence" and A&L Salvage, LLC is the surviving entity.
3. Pursuant to Ohio Administrative Code ("OAC") Rule 3745-400-01(F), "construction and demolition debris" ("C&DD") is defined in pertinent part as *"those materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure, including, without limitation, houses, buildings, industrial or commercial facilities, or roadways. 'Construction and demolition debris' does not include materials identified or listed as solid wastes, infectious wastes, or hazardous wastes pursuant to Chapter 3734. of the Revised Code and rules adopted under it...."*
4. Pursuant to OAC Rule 3745-27-01(S)(24) [formerly OAC Rule 3745-27-01(B)(43)] "solid waste" is defined as *"such unwanted residual solid or semisolid material, including, but not limited to, garbage, scrap tires, combustible and noncombustible material, street dirt, and debris, as results from industrial, commercial, agricultural, and community operations, excluding earth or material from construction, mining, or demolition operations, or other waste materials of the type that normally would be included in demolition debris...."*
5. Pursuant to OAC Rule 3745-27-01(O)(4) [formerly 3745-27-01(B)(23)(a)], "open dumping" means *"[t]he deposition of solid wastes... into waters of the state, and also*

*means the final deposition of solid wastes on or into the ground at any place other than a solid waste facility operated in accordance with Chapter 3734. of the Revised Code, and Chapters 3745-27...and 3745-37 of the Administrative Code."*

6. Pursuant to OAC Rule 3745-400-01(TT), "working face" means *"that portion of a construction and demolition debris disposal facility where construction and demolition debris is placed for final deposition."*
7. Pursuant to OAC Rule 3745-400-01(X)(1), "active licensed disposal areas" ("ALDA") means *"all areas within the limits of construction and demolition debris placement designated by the owner or operator in a license application for debris placement during the licensure period."*
8. The Columbiana County Health District was on the Director's list of health districts authorized to administer and enforce the solid and infectious waste program and the C&DD program within its jurisdiction, in accordance with ORC Section 3734.08, until the Director removed the health district from the list on April 15, 2004.
9. On October 5, 2000, the Columbiana County Health District issued an initial C&DD operating license to Respondent.
10. By letter to Ohio EPA dated December 20, 2000, Respondent requested authorization for the beneficial use and for the temporary storage of shredded scrap tires for utilization in the Facility's leachate collection system.
11. On June 1, 2001, Ohio EPA issued Director's Final Findings & Orders to Respondent, approving the beneficial use of scrap tire shreds in the leachate collection system at its C&DD landfill.
12. On March 13, 2002, Ohio EPA conducted a partial inspection of the Facility. The purpose of the inspection was to determine compliance with OAC Chapters 3745-400 and 3745-27. By letter dated April 9, 2002, Ohio EPA notified Respondent that it was in violation of the following requirements of rule and law (as effective September 30, 1996):
  - a. OAC Rule 3745-400-11(F)(1): Solid wastes and infectious waste/biohazard bags were disposed of at the working face of the Facility.
  - b. OAC Rule 3745-400-11(F)(2): Red infectious waste/biohazard bags were disposed of at the Facility.
  - c. OAC Rule 3745-400-11(F)(3): Solid wastes and red infectious waste/biohazard bags were disposed of at the working face of the Facility.

- d. OAC Rule 3745-400-11(F)(4)(a): The Respondent failed to utilize a clearly designated unloading zone which was separate from the working face to unload incoming loads of debris and remove all prohibited waste.
  - e. OAC Rule 3745-400-11(L): Scattered litter was observed on the ground outside of the disposal cell.
  - f. OAC Rule 3745-400-11(B)(1): The Respondent failed to conduct operations at the Facility in strict compliance with the requirements of this rule.
  - g. OAC Rule 3745-400-11(B)(2): The Respondent failed to conduct operations at the Facility in strict compliance with the license.
  - h. ORC Section 3734.03: Solid and infectious wastes were disposed of and open dumped at the working face of the Facility.
  - i. OAC Rule 3745-27-05(C): Solid wastes and untreated infectious wastes were disposed of and open dumped at the working face of the Facility.
13. On May 1, 2002, representatives of Ohio EPA met with representatives of Respondent and a representative of the Columbiana County Health District to discuss the violations cited in Ohio EPA's April 9, 2002 NOV letter, and the actions that needed to be taken to resolve the violations. Respondent presented its plan on how to return to compliance.
14. On May 9, 2002, Ohio EPA and the Columbiana County Health District conducted a partial inspection of the Facility. The purpose of the inspection was to determine compliance with OAC Chapters 3745-400 and 3745-27. By letter dated June 3, 2002, Ohio EPA notified Respondent that it was in violation of the following requirements of rule and law (as effective September 30, 1996):
- a. OAC Rule 3745-400-11(F)(1) with regard to Respondent's disposal of solid and infectious waste at the working face of the Facility.
  - b. OAC Rule 3745-400-11(F)(3) with regard to Respondent's disposal of solid and infectious waste at the working face of the Facility.
  - c. OAC Rule 3745-400-11(F)(4)(a) with regard to the Respondent's failure to utilize a clearly designated unloading zone.
  - d. OAC Rule 3745-400-11(B)(1) with regard to Respondent's failure to conduct all operations at the Facility in strict compliance with the requirements of this rule.
  - e. OAC Rule 3745-400-11(B)(2) with regard to Respondent's failure to conduct all operations at the Facility in strict compliance with the license.
  - f. ORC Section 3734.03 with regard to Respondent's disposal of solid waste at the working face of the Facility.
  - g. OAC Rule 3745-27-05(C) with regard to Respondent's disposal of solid waste at the working face of the Facility.

15. By letter dated June 17, 2002, the Columbiana County Health District notified Respondent that during the May 9, 2002 inspection, the Columbiana County Health District identified the violations of rule and law referenced in Finding No. 14 above.
  
16. On August 22, 2002, the Columbiana County Board of Health (CCBH) enacted a variance to the C&DD rules for the C&DD facilities within its jurisdiction as follows:
  - a. *"Definition of Construction and Demolition Debris*  
  
*In accordance with OAC 3745-400-01(F), Construction and Demolition Debris includes deminimus amounts of waste that are nonhazardous or noninfectious such as paper, packaging, cloth, plastic, etc. that are generated as a result of construction and demolition debris activities and as a result of those activities are commingled with structural and functional materials comprising the structure and surrounding site improvements."*
  
  - b. *"Removal of Wastes from the Working Face*  
  
*In accordance with OAC 3745-400-11 the owner or operator shall unload the debris in the designated unloading zone. The owner or operator shall inspect the unloaded debris and remove prohibited materials that are visible prior to placing the debris on the working face. The owner or operator shall re-inspect the debris placed on the working face and shall remove prohibited materials. If prohibited materials are removed from the working face in a timely fashion the owner or operator is exempt from the requirements of OAC 3745-400-11(F)(a) and 3745-400-11 (F)(4)(c)."*
  
17. On August 31, 2002, revisions were promulgated to the C&DD rules contained in OAC Chapter 3745-400.
  
18. On November 12, 2002, Ohio EPA and the Columbiana County Health District conducted a partial inspection of the Facility. The purpose of the inspection was to determine compliance with OAC Chapters 3745-400 and 3745-27.
  
19. By letter dated November 22, 2002, the Columbiana County Health District notified Respondent that it was in violation of the following requirements of rule and law (as effective August 31, 2002) resulting from the November 12, 2002 inspection:
  - a. OAC Rule 3745-400-11(F)(3): Respondent failed to utilize a designated unloading zone.

- b. OAC Rule 3745-400-11(F)(3)(a): Respondent failed to unload the debris in clearly designated and marked unloading zones separate from the working face.
- c. OAC Rule 3745-400-11(F)(3)(b): Respondent failed to clearly mark the limits of the unloading zone with at least two temporary markers.
- d. OAC Rule 3745-400-11(B)(10): Respondent failed to keep required records, including that of all material prohibited for disposal that was accepted by the Facility.

This NOV letter failed to properly document the findings of the November 12, 2002 inspection.

20. By letter dated December 6, 2002, Ohio EPA notified Respondent that it was in violation of the following requirements of rule and law resulting from the November 12, 2002 inspection:
- a. OAC Rule 3745-400-11(F): Respondent accepted waste not readily identifiable as C&DD.
  - b. OAC Rule 3745-400-11(F): Respondent disposed of solid waste at the working face of the Facility.
  - c. OAC Rule 3745-400-11(F)(2): Respondent disposed of solid waste at the working face of the Facility.
  - d. OAC Rule 3745-400-11(F)(3)(a): Respondent failed to unload the debris in clearly designated and marked unloading zones separate from the working face.
  - e. OAC Rule 3745-400-11(F)(3)(d): Respondent failed to prevent cliffing of waste.
  - f. OAC Rule 3745-400-07(B)(3): Respondent failed to comply with the applicable construction specifications and performance standards when it did not install a drainage layer for the Facility's leachate collection system prior to waste placement.
  - g. OAC Rule 3745-400-07(F)(5)(c)(iii)(c): Respondent failed to comply with the applicable construction specifications and performance standards when it did not install a drainage layer for the Facility's leachate collection system prior to waste placement and the leachate systems was not free from debris or foreign material.
  - h. OAC Rule 3745-400-07(F)(5)(c)(iv): Respondent failed to comply with the applicable construction specifications and performance standards and the approved license when it did not install a drainage layer for the Facility's leachate collection system with a permeability of no less than  $1 \times 10^{-3}$  cm/sec.
  - i. ORC Section 3734.03: Respondent disposed of solid waste at the working face of the Facility.

- j. OAC Rule 3745-27-05(C): Respondent disposed of solid waste at the working face of the Facility.
  - k. OAC Rule 3745-400-11(B)(1) and (B)(2): Respondent failed to conduct all operations at the Facility in strict compliance with the requirements of this rule and its license.
21. In late 2002, Ohio EPA learned of the variance granted on August 22, 2002, by the Columbiana County Board of Health. On January 22, 2003, the Director requested that the AGO take appropriate legal actions to overturn the August 22, 2002 variance enacted by the Columbiana County Board of Health. On May 9, 2003, a complaint for declaratory and injunctive relief was filed with the Columbiana County Court of Common Pleas. It is the State's position that the CCBH exceeded its statutory authority in granting the variance because it has the effect of allowing C&DD facilities to illegally dispose of solid waste. On April 20, 2004, the Ohio EPA withdrew the complaint after the Columbiana County Health District was removed from the Director's approved list of health districts administering and enforcing Ohio's solid and infectious waste and C&DD laws.
22. On April 23, 2003, Ohio EPA conducted a partial inspection of the Facility. The purpose of the inspection was to determine compliance with OAC Chapters 3745-400 and 3745-27. By letter dated June 12, 2003, Ohio EPA notified Respondent that it was in violation of the following requirements of rule and law:
- a. OAC Rule 3745-400-11(F) with regard to Respondent's disposal of material other than C&DD at the working face of the Facility.
  - b. OAC Rule 3745-400-11(F)(2) with regard to Respondent's disposal of solid waste at the working face of the Facility.
  - c. OAC Rule 3745-400-11(F) with regard to Respondent's acceptance of waste that is not readily identifiable as C&DD.
  - d. OAC Rule 3745-400-11(B)(1) with regard to Respondent's failure to conduct all operations at the Facility in strict compliance with the Facility license.
  - e. ORC Section 3734.03 with regard to Respondent's disposal of solid waste at the working face of the Facility.
  - f. OAC Rule 3745-27-05(C) with regard to Respondent's disposal of solid waste open dumped at the working face of the Facility.
23. On July 25, 2003, the Columbiana County Health District and Ohio EPA conducted an inspection of the Facility to determine compliance with OAC Chapters 3745-400 and 3745-27. This inspection was documented in a letter from the Columbiana County Health District to the Respondent dated August 21, 2003. Respondent was in violation of the following requirements of rule and law:

- a. OAC Rule 3745-400-11(F)(3)(a) with regard to Respondent's disposal of solid waste at the working face of the Facility.
  - b. OAC Rule 3745-400-11(F) with regard to Respondent's acceptance of waste that is not readily identifiable as C&DD.
  - c. OAC Rule 3745-400-11(H)(1) with regard to Respondent's failure to cover combustible debris on a weekly basis.
24. On September 3, 2003, the Columbiana County Health District conducted an inspection of the Facility to determine compliance with OAC Chapters 3745-400 and 3745-27. This inspection was documented in a letter from the Columbiana County Health District to the Respondent dated September 5, 2003. Respondent was in violation of the following requirements of rule and law:
- a. OAC Rule 3745-400-11(F)(3)(a) with regard to Respondent's disposal of solid waste at the working face of the Facility.
25. On September 29, 2003, the Columbiana County Health District conducted an inspection of the Facility to determine compliance with OAC Chapters 3745-400 and 3745-27. This inspection was documented in a letter from the Columbiana County Health District to the Respondent dated October 6, 2003. Respondent was in violation of the following requirements of rule and law:
- a. OAC Rule 3745-400-11(F)(3)(a) with regard to Respondent's disposal of solid waste at the working face of the Facility.
26. On March 1, 2004, Ohio EPA conducted a partial inspection of the Facility. The purpose of the inspection was to determine compliance with OAC Chapters 3745-400 and 3745-27, and to assess whether progress had been made to remediate a fire that occurred at the Facility on February 20, 2004. By letter dated March 29, 2004, Ohio EPA notified Respondent that it was in violation of the following requirements of rule and law:
- a. OAC Rule 3745-400-11(F) with regard to Respondent's disposal of material other than C&DD at the working face of the Facility.
  - b. OAC Rule 3745-400-11(F)(2) with regard to Respondent's disposal of solid waste at the working face of the Facility.
  - c. OAC Rule 3745-400-11(F) with regard to Respondent's acceptance of waste that is not readily identifiable as C&DD.
  - d. OAC Rule 3745-400-11(B)(1) with regard to Respondent's failure to conduct all operations at the Facility in strict compliance with the Facility license.
  - e. ORC Section 3734.03 with regard to Respondent's disposal of solid waste at the working face of the Facility.



- f. OAC Rule 3745-27-05(C) with regard to Respondent's disposal of solid waste at the working face of the Facility.
  - g. OAC Rule 3745-400-11(F)(3) with regard to Respondent's failure to remove prohibited wastes from a designated unloading zone.
  - h. OAC Rule 3745-400-11(F)(3)(a) with regard to Respondent's failure to utilize a designated and marked unloading zone separate from the working face.
  - i. OAC Rule 3745-400-11(F)(3)(b) with regard to Respondent's failure clearly mark the limits of an unloading zone with at least two temporary markers.
  - j. OAC Rule 3745-400-11(C)(2) with regard to Respondent's failure maintain all applicable permits and authorizations required by ORC Section 6111., when it modified its leachate collection system without first receiving approval.
  - k. ORC Section 3734.11(A) with regard to Respondent's violation of rules under that statute.
  - l. ORC Section 3714.13(A) with regard to Respondent's violation of rules under that statute.
  - m. ORC Section 3714.13(B) with regard to Respondent's violation of rules under that statute.
27. On June 30, 2004, Ohio EPA conducted a comprehensive inspection of the Facility. The purpose of the inspection was to determine compliance with OAC Chapters 3745-400 and 3745-27. By letter dated August 10, 2004, Ohio EPA notified Respondent that it was in violation of the following requirements of rule and law:
- a. OAC Rule 3745-400-11(F) with regard to Respondent's disposal of material other than C&DD at the working face of the Facility.
  - b. OAC Rule 3745-400-11(F)(2) with regard to Respondent's disposal of solid waste at the working face of the Facility.
  - c. OAC Rule 3745-400-11(F) with regard to Respondent's acceptance of waste that is not readily identifiable as C&DD.
  - d. ORC Section 3734.03 with regard to Respondent's disposal of solid waste at the working face of the Facility.
  - e. OAC Rule 3745-27-05(C) with regard to Respondent's disposal of solid waste at the working face of the Facility.
  - f. OAC Rule 3745-27-60(B)(8) for Respondent's failure to provide adequate mosquito control in scrap tire shreds stored at the Facility.
28. On July 12, 2004, Ohio EPA conducted a partial inspection of the Facility. The purpose of the inspection was to determine compliance with OAC Chapters 3745-400 and 3745-27. By letter dated August 10, 2004, Ohio EPA notified Respondent that it was in violation of the following requirements of rule and law:

- a. OAC Rule 3745-400-11(F) with regard to Respondent's disposal of material other than C&DD at the working face of the Facility.
  - b. OAC Rule 3745-400-11(F)(2) with regard to Respondent's disposal of solid waste at the working face of the Facility.
  - c. ORC Section 3734.03 with regard to Respondent's disposal of solid waste at the working face of the Facility.
  - d. OAC Rule 3745-27-05(C) with regard to Respondent's disposal of solid waste at the working face of the Facility.
  - e. OAC Rule 3745-400-11(F)(3)(d) for Respondent's "cliffing" waste and failing to properly compact waste disposed at the Facility.
29. On September 16, 2004, Ohio EPA conducted a partial inspection of the Facility. The purpose of the inspection was to determine compliance with OAC Chapters 3745-400 and 3745-27. By letter dated October 21, 2004, Ohio EPA notified Respondent that it was in violation of the following requirements of rule and law:
- a. OAC Rule 3745-400-11(F) with regard to Respondent's disposal of material other than C&DD at the working face of the Facility.
  - b. OAC Rule 3745-400-11(F)(2) with regard to Respondent's disposal of solid waste at the working face of the Facility.
  - c. ORC Section 3734.03 with regard to Respondent's disposal of solid waste at the working face of the Facility.
  - d. OAC Rule 3745-27-05(C) with regard to Respondent's disposal of solid waste at the working face of the Facility.
  - e. OAC Rule 3745-400-11(F)(3) with regard to Respondent's failure to remove prohibited wastes from a designated unloading zone.
  - f. OAC Rule 3745-400-11(F)(3)(a) with regard to Respondent's failure to utilize a designated and marked unloading zone separate from the working face.
  - g. OAC Rule 3745-400-11(F)(3)(b) with regard to Respondent's failure clearly mark the limits of an unloading zone with at least two temporary markers.
30. On September 28, 2004, Ohio EPA conducted a partial inspection of the Facility. The purpose of the inspection was to determine compliance with OAC Chapters 3745-400 and 3745-27. By letter dated October 21, 2004, Ohio EPA notified Respondent that it was in violation of the following requirements of rule and law:
- a. OAC Rule 3745-400-11(F) with regard to Respondent's disposal of material other than C&DD at the working face of the Facility.
  - b. OAC Rule 3745-400-11(F)(2) with regard to Respondent's disposal of solid waste at the working face of the Facility.
  - c. ORC Section 3734.03 with regard to Respondent's disposal of solid waste at the working face of the Facility.

- d. OAC Rule 3745-27-05(C) with regard to Respondent's disposal of solid waste at the working face of the Facility.
31. On November 9, 2004, Ohio EPA conducted a partial inspection of the Facility. The purpose of the inspection was to determine compliance with OAC Chapters 3745-400 and 3745-27. By letter dated November 9, 2004, Ohio EPA notified Respondent that it was in violation of the following requirements of rule and law:
- a. OAC Rule 3745-400-11(F) with regard to Respondent's disposal of material other than C&DD at the working face of the Facility.
  - b. OAC Rule 3745-400-11(F)(2) with regard to Respondent's disposal of solid waste at the working face of the Facility.
  - c. ORC Section 3734.03 with regard to Respondent's disposal of solid waste at the working face of the Facility.
  - d. OAC Rule 3745-27-05(C) with regard to Respondent's disposal of solid waste at the working face of the Facility.
  - e. OAC Rule 3745-400-11(F)(3)(a) with regard to Respondent's failure to utilize a designated and marked unloading zone separate from the working face.
  - f. OAC Rule 3745-400-11(F)(3)(b) with regard to Respondent's failure clearly mark the limits of an unloading zone with at least two temporary markers.

## **V. ORDERS**

1. Within one hundred and eighty (180) days after the effective date of these Orders, Respondent shall submit, for Ohio EPA - Northeast District Office (NEDO) concurrence, a final closure/post closure plan for the Facility, prepared in accordance with OAC Rule 3745-27-11(B), as effective June 1, 1994, except as required by these Orders. The closure/post closure plan shall include, at a minimum, the following items:
  - a. Final contour plan with a maximum slope of 25 percent and a minimum slope of five percent, unless alternate slopes are otherwise authorized by the Director.
  - b. Cap system design details, for the Facility only, in accordance with OAC Rules 3745-27-11(G)(1)(c) and OAC Rule 3745-27-08(C)(16), as effective June 1, 1994.

In the alternative, Respondent shall design a cap system in accordance with OAC Rules 3745-27-11(G)(1)(c) and OAC Rule 3745-27-08(C)(16), as effective June 1, 1994, except that a combination drainage layer and frost protection layer may be utilized which consists of scrap tire chips provided that the scrap tire chips have a minimum permeability  $1 \times 10^{-3}$  cm/sec., and

that the scrap tire chips meet or exceed the insulation R factor of thirty (30) inches of soil. The combination drainage layer and frost protection layer shall be built in accordance with standards set forth in ASTM D-6270-98. In addition, Respondent shall ensure that engineering measures will be utilized in the cap system to ensure the structural and functional integrity of the combination drainage layer and frost protection layer, as well as the vegetative layer required by OAC Rule 3745-27-08(C)(16)(d), as effective June 1, 1994.

At the same time that Respondent submits one of the two cap system design requirements discussed above, Respondent may also submit a written request to the Director for his approval to construct an alternative cap system, as long as the request contains a design that is at least as environmentally protective, and has at least the same long term durability, as the standard design specified above. Such a request shall contain the same level of engineering detail as is required in a standard cap design.

- c. Design of the tie-in for the cap system and the recompacted soil liner system, if applicable.
- d. Slope stability analysis.
- e. Description of availability and suitability of final cover material.
- f. Quality assurance/quality control plan for cap system construction in accordance with paragraph OAC Rule 3745-27-08(F), as effective June 1, 1994.
- g. The explosive gas monitoring plan entitled, "Landfill Gas Migration Monitoring Plan" that was submitted to Ohio EPA on November 24, 2004, revised to include the following:
  - 1). A commitment to install at least one permanent gas well (monitor) between the limits of waste placement and any occupied structure, as that term is defined in OAC Rule 3745-27-12, which is located within one thousand (1000) feet horizontal distance from emplaced wastes. The explosive gas monitoring plan shall include detailed plans for the construction of permanent wells (monitors) and shall be constructed in accordance with standard industry practices. The permanent wells (monitors) shall be constructed in such a manner, and placed in such locations and in such numbers that explosive gas migration through the unconsolidated stratigraphic unit or fractured bedrock pathway towards the structure will be detected.

- 2). A commitment to perform explosive gas monitoring in accordance OAC Rule 3745-27-12 to the extent explosive gas that equals or exceeds the lower explosive limit for methane is detected migrating from the Facility.
  - 3). A list of the public authorities that will be contacted upon finding explosive gas migration that equals or exceeds the lower explosive limit for methane.
- h. Description of anticipated measures to control erosion.
  - l. Ground water detection monitoring plan prepared in accordance with OAC Rule 3745-27-10.
  - j. Surface-water management system design to prevent surface water and sediment run-on/run-off at the Facility. The Facility shall be graded in a manner that prevents the ponding of water at the Facility and drainage structures shall be provided to direct surface water from the Facility to achieve compliance with OAC Rule 3745-27-11(H)(2), as effective June 1, 1994;
  - k. Contingency plans for leachate, fire, and differential settling.
2. Within one hundred and twenty (180) days after the effective date of these Orders, Respondent shall submit to the Director an executed and funded financial assurance mechanism(s) for closure and post-closure care of the Facility meeting the requirements of OAC Rules 3745-27-15, 3745-27-16, and 3745-27-17. Respondent shall use forms prescribed by the Director for the financial assurance. The financial assurance instrument shall contain an itemized cost estimate, in current dollars, for closure and post-closure care of the Facility for a period of no less than five (5) years. The estimate shall be based on a third-party conducting the closure and post-closure care activities. The financial assurance instrument shall, at a minimum, be reviewed and adjusted annually in accordance with OAC Rules 3745-27-15 and 3745-27-16.
  3. In all future license applications for the Facility, Respondent shall include the final closure/post closure plan required to be submitted in accordance with Order No. 1 above, or include a reference to the final closure post closure plan, and any subsequent closure plan that is approved by Ohio EPA.
  4. In the event that Ohio EPA notifies Respondent in writing that the final closure/post closure plan submitted to achieve compliance with Order No. 1 above is unsatisfactory in whole or in part, within thirty (30) days after the date of such notification, Respondent shall amend and submit to Ohio EPA - NEDO a revised document(s) addressing the deficiencies identified in Ohio EPA's written

notification in full accordance with Ohio EPA's comments. Ohio EPA may approve the closure plan in whole or part and with or without conditions.

5. Implementation

- a. Within sixty (180) days after Ohio EPA's written approval/concurrence regarding the ground water detection monitoring plan specified in Order No. 1 above, Respondent shall install the ground water monitoring system as specified in OAC Rule 3745-27-10, and if approved, the final closure/post closure plan.
  - b. Within thirty (90) days after the installation of the ground water monitoring system specified in Order No. 1 above, Respondent shall implement the ground water detection monitoring program in accordance with OAC Rule 3745-27-10. Implementation is defined as the collection of ground water samples from the ground water monitoring system.
  - c. Within fifteen (45) days after Ohio EPA's written approval/concurrence regarding the explosive gas monitoring plan, Respondent shall implement the explosive gas monitoring plan in accordance with the schedule of implementation contained therein, and if approved the final closure/post closure plan.
6. Unless otherwise expressly authorized by Ohio EPA, Respondent shall cease waste acceptance and disposal, and shall begin closure activities and installing a final cap system over the area of the Facility, in accordance with the final cap system requirements specified in Order No.1 and, if approved, the final closure/post closure plan upon triggering any of the occurrences for mandatory closure specified in OAC Rule 3745-400-12(B).
7. Respondent shall complete the installation of the final cap system within three hundred and sixty five days (365) of any of the events listed above in Order No. 6 that trigger the commencement of the installation of the final cap system.
8. Within sixty (60) days after completion of the final cap system, Respondent shall submit to Ohio EPA - NEDO a certification report meeting the requirements of OAC Rules 3745-27-11(J) and 3745-27-08(H), as effective June 1, 1994, and certifying that the Respondent has completed the closure activities specified in these Orders, and has achieved compliance with OAC Rule 3745-27-11, as effective June 1, 1994, and if approved, the final closure/post closure plan.
9. Upon final closure of the Facility, Respondent shall conduct post-closure care and monitoring of the Facility in accordance with OAC Rule 3745-27-14 except that the post-closure care period shall be for five (5) years instead of thirty (30) years as required by OAC Rule 3745-27-14.

10. Respondent shall pay Ohio EPA the amount of \$56,553.04 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapters 3714. and 3734. and which will be deposited into the Environmental Remediation fund established pursuant to ORC § 3734.281. Payment shall be made in 8 quarterly installments of \$7,069.13 with the first payment due on April 1, 2005, and shall be made by official checks made payable to "Treasurer, State of Ohio" \$56,553.04 . 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, and a copy of the checks shall be sent to Mr. Jeff Hurdley, Ohio EPA, Legal Section, P.O. Box 1049, Columbus, OH 43216-1049, as well as the Ohio EPA Northeast District Office as specified in Section X below.

## **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 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 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 in the case of a limited liability company, by the chief executive officer or his duly authorized representative, if such representative is responsible for the overall operation of the Facility.

## **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  
Northeast District Office  
Division of Solid and Infectious Waste Management  
2110 East Aurora Road  
Twinsburg, Ohio 44087  
Attn: Supervisor, DSIWM

and to:

(For Order No. 2 only)  
Director  
Ohio Environmental Protection Agency  
Lazarus Government Center  
Attn. Ms. Fanny Haritos  
P.O. Box 1049  
Columbus, OH 43216-1049

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:**

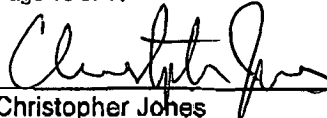
**Ohio Environmental Protection Agency**

DEC. 22. 2004 12:30PM

OHIO EPA LEGAL OFC 614 728 1803

NO. 2368 P. 19


A&L Salvage, LLC  
Director's Finding and Orders  
Page 18 of 18

  
\_\_\_\_\_  
Christopher Jones  
Director

12-30-04

**IT IS SO AGREED:**

**A&L Salvage, LLC**

  
\_\_\_\_\_  
Signature

12/22/04  
Date

Stephen D. Kondrac  
Printed or Typed Name

CEO  
Title

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Christopher Jones  
Director

**IT IS SO AGREED:**

**A&L Salvage, LLC**

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Signature

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Date

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Printed or Typed Name

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Title