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Effective Date AUG 4 2003

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:
Beller-Von Kaenel Trucking, :
Incorporated :
6531 McCracken Drive :
Dover, Ohio 44622 :

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 Beller-Von Kaenel Trucking, Incorporated ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Chapter 6111. 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 the Beller-Von Kaenel Trucking, Incorporated or the Facility 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 6111. and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates two "class V" "injection wells" as defined by Ohio Administrative Code (OAC) Rules 3745-34-04 and 3745-34-01, respectively. Respondent has owned and operated the class V wells since 1971.
2. The two class V injection wells (dry wells and septic tanks) are located at 6531 Mckracken Drive, Dover, Tuscarawas County, Ohio ("Facility").
3. In accordance with OAC Rule 3745-34-13(B) (effective November 9, 1984), the owner or operator of any class V well shall, by November 9, 1985, notify the Director of the existence of any well under the owner or operator's control meeting the definition of class V and provide the information set forth in that rule.
4. In accordance with OAC Rule 3745-34-13(D) (effective March 11, 2002), the owner or operator of any class V well shall notify the Director of the existence of any well under the owner or operator's control meeting the definition of class V contained within paragraph (E) of OAC Rule 3745-34-04. Unless the owner or operator has previously submitted inventory information for a class V well to the Director prior to the effective date of this rule, the owner or operator shall submit the information described in OAC Rule 3745-34-13(D)(1) through (D)(11) for each well under the owner or operator's control with the notification.
5. In violation of OAC Rule 3745-34-13(B) (effective November 9, 1984), Respondent failed to report to Ohio EPA the existence of the two injection wells by November 9, 1985.
6. In 1991, the owner or operator submitted an inventory form in response to a motor vehicle waste disposal mailing. The information submitted on the form indicated the class V injection well was a septic system with a leach field for a restroom.
7. In accordance with OAC Rule 3745-34-07(A), no owner or operator shall construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows the movement of fluid containing any contaminant into an underground source of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation under OAC Chapter 3745-81 or may otherwise adversely affect the health of persons. The applicant for a permit shall have the burden of showing that the requirements of this paragraph are met.

8. In violation of OAC Rule 3745-34-07(A), a visual inspection of one of the class V injection wells at Beller-Von Kaenel Trucking, Incorporated by Ohio EPA personnel indicates that Respondent is discharging inadequately treated and/or untreated sewage with motor vehicle waste to at least one leaching well that immediately overlies a valley fill aquifer predominately composed of coarse, permeable, sand and gravel deposits yielding more than 500 gallons per minute. A March 6, 2000 analysis of the contents of the disposal well included an organic constituent (bis(2-Ethylhexyl)phthalate) that exceeded the primary drinking water standard. The analyses also indicated the presence of oil and grease, gasoline (benzene, toluene, ethylbenzene and xylene) and solvents (trichloroethylene and 1,1 Dichloroethylene).
9. Respondent's discharge of inadequately treated and/or untreated sewage with motor vehicle waste into the class V injection well at the Facility also represents a discharge of pollutants to "waters of the state" as that term is defined by ORC Section 6111.01(H).
10. In accordance with ORC Section 6111.04(A)(1) and (2), no person shall cause pollution or place or cause to be placed any sewage, industrial waste, or other wastes in a location where they cause pollution of any waters of the state, and any such action shall be declared a public nuisance, unless the Director has issued a valid and unexpired permit, or renewal thereof, as provided in ORC Sections 6111.01 to 6111.08, or an application for renewal permit is pending.
11. In accordance with OAC Rule 3745-33-02(A), no person may discharge any pollutant or cause, permit, or allow a discharge of any pollutant without applying for and obtaining an Ohio national pollutant discharge elimination system (NPDES) permit in accordance with the requirements of OAC Chapter 3745-33.
12. In violation of ORC Section 6111.04 and OAC Rule 3745-33-02(A), Respondent does not hold a valid and unexpired permit for the discharge of pollutants to waters of the state via the two class V injection wells.
13. In accordance with OAC Rule 3745-34-07(D), whenever the Director learns that a class V well may be otherwise adversely affecting the health of persons, he may prescribe such actions as may be necessary to prevent the adverse effect, including any action authorized under OAC Rule 3745-34-07(C).
14. On August 8, 2000, pursuant to OAC Rule 3745-34-07(D), Respondent was issued a letter requiring Respondent to conduct a hydrogeologic site investigation of the effected area within sixty (60) days of receipt of the letter. Attached to the letter was a guidance for conducting hydrogeologic site investigations. Respondent did not initiate or complete the investigation.

15. In accordance with OAC Rule 3745-34-07(C), if at any time the Director learns that a class V well may cause a violation of primary drinking water regulations under OAC Chapter 3745-81, he shall:
 - A) Require the injector to obtain an individual permit;
 - B) Order the injector to take such actions (including where required closure of the injection well) as may be necessary to prevent the violation; or
 - C) Take enforcement action.
16. Respondent's facility is covered under an Industrial Storm Water Permit for Group Applicants.
17. Each of the violations cited above represents a separate violation of ORC Section 6111.07.
18. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions expected to result from compliance with these Orders, and its relation to the benefits to the people of the state to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

V. ORDERS

1. Within fourteen (14) days of the effective date of these Orders, Respondent shall submit to Ohio EPA the inventory information for each dry well located at the Facility as required by OAC Rule 3745-34-13(D). Respondent shall submit the information to: Ohio EPA, DDAGW, UIC, Lazarus Government Center, P.O. Box 1049, Columbus, OH 43216-1049.
2. Within sixty (60) days of the effective date of these Orders, Respondent shall submit to Ohio EPA a copy of Respondent's storm water pollution prevention plan. Respondent shall submit the copy of the plan to: Ohio EPA, Southeast District Office, 2195 Front Street, Logan, OH, 43138, Attn: DSW Enforcement Group Leader.
3. Within one hundred twenty (120) days of the effective date of these Orders, a minimum of three (3) monitoring wells shall be installed in relatively close proximity to the Class V injection wells. Additional monitoring wells shall be added as necessary to determine the extent of any contamination released via the Class V injection wells. All monitoring wells shall be installed, designed and developed at appropriate locations and depths to yield ground water samples representative of

the quality of ground water in both the up-gradient and down-gradient directions from the Class V injection wells in the significant zone of saturation into which the fluids are injected.

4. Within thirty (30) days of the installation of the monitoring wells, all monitoring wells shall be sampled for the following constituents: *ammonia; antimony; arsenic; barium; beryllium; cadmium; chloride; chromium; cyanide; fluoride; iron; mercury; nickel; nitrate/ nitrite; pH; selenium; sodium; thallium; total organic carbon (TOC); total solids; vinyl chloride; benzene; carbon tetrachloride; p-Dichlorobenzene; 1,2-Dichloroethane; 1,1-Dichloroethylene; Trichloroethylene; 1,1,1-Trichloroethane; o-Dichlorobenzene; cis-1,2-Dichloroethylene; trans-1,2-Dichloroethylene; 1,2-Dichloropropane; Dichloromethane; Ethyl benzene; Monochlorobenzene; Styrene; Tetrachloroethylene; Toluene; 1,2,4-Trichlorobenzene; 1,1,2-Trichloroethane and total Xylenes.* Additional sampling events shall be completed as necessary to determine the extent of any contamination released via the Class V injection wells. The sampling and analysis procedures shall be designed to ensure monitoring results that provide an accurate representation of ground water quality down gradient of the Class V injection wells. Depending upon the results of chemical analyses, it may be necessary to install additional monitoring wells.

All analyses shall be conducted using analytical techniques acceptable for the analysis of drinking water by an Ohio EPA certified commercial public drinking water laboratory. The laboratory analysis shall be performed using analysis methods with method detection limits below any maximum contaminant level established under OAC Chapter 3745-81.

5. Within one hundred eighty (180) days of the effective date of these Orders, Respondent shall submit to Ohio EPA, in accordance with OAC Rule 3745-34-07(D), a Hydrogeologic Site Investigation (HSI) report. The report shall be presented in narrative form and shall at a minimum include:
 - A) A description of the ground water quality including the extent of any ground water contamination released to the ground water via the Class V injection wells.
 - B) A description of the hydrogeology of the first zone of saturation into which the Class V injection wells have injected fluids. This shall be completed for the area within 1000 feet of the Class V injection wells. The description shall be in both narrative and map form.
 - C) A detailed description of the drilling, sampling and analytical procedures and methods used in characterizing the soil, rock and hydrogeologic properties of the materials underlying the site property.

- D) A detailed description of the equipment and procedures used to determine the ground water quality in the significant zone of saturation into which the Class V injection wells have injected fluid.
 - E) All boring logs, ground water quality data, soil analytical data and other data generated while preparing the HSI report.
 - F) A map showing the location of all water wells within 1000 feet of the Class V injection wells.
6. Within one hundred eighty (180) days of submitting the HSI report required by Order No. 5, Respondent shall propose at least three (3) methods for remediating, to levels protective of human health, safety and the environment, any contamination released to ground water via the Class V injection wells.
7. Within ninety (90) days of the Director's approval of a method from Order No. 6, Respondent shall implement the approved method in accordance with the schedule contained Director's approval letter.
8. Within sixty (60) days of the effective date of these Orders, Respondent shall submit a map, prepared by an Ohio registered surveyor, on a scale of one (1) inch = one hundred (100) feet that indicates the locations of all drain lines, septic tanks and dry wells.
9. Within ninety (90) days of the effective date of these Orders, and in accordance with ORC § 6111.44 and OAC Chapter 3745-31, Respondent shall submit to Ohio EPA a complete permit to install (PTI) application with approvable detail plans for the installation of a new on-lot sewerage system to serve the restrooms at the Facility. Respondent shall submit the PTI application and approvable detail plans to Ohio EPA at the address set forth in Order No. 2.
10. Within ninety (90) days of the effective date of these Orders, Respondent shall submit a written closure plan to Ohio EPA for approval in accordance with OAC Rule 3745-34-07. Respondent shall submit the closure plan to Ohio EPA at the address listed in Order No. 1. The closure plan shall describe the procedures for removing the dry wells, septic tanks, and associated piping, including floor drains, and treatment equipment. This plan shall at a minimum include:
- A) Procedures for disposing or managing any soil, gravel, sludge, liquids or other materials removed from or adjacent to the well in accordance with all applicable federal, state or local regulations and requirements;
 - B) Procedures for notifying Ohio EPA of the intent to close the dry wells at least thirty (30) days prior to plugging and abandoning the wells;

- C) Procedures for closing the dry wells including removing the casings of the dry wells and the specifications of the material that may be used as backfill during closure; and
 - D) An estimate of the cost to close the dry wells per the procedures listed within the plan.
11. Within one hundred twenty (120) days of the effective date of these Orders, Respondent shall initiate construction of the new on-lot sewerage system in accordance with the PTI issued by the Director of Ohio EPA.
 12. Within one hundred fifty (150) days of the effective date of these Orders, Respondent shall complete construction of the new on-lot sewerage system and cease discharging to the two class V injection wells.
 13. Within one hundred eighty (180) days of the effective date of these Orders, Respondent shall permanently plug and abandon all of the dry wells and all associated structures, such as septic tanks and piping in accordance with the approved closure plan.
 14. Within two hundred and ten (210) days of the effective date of these Orders, Respondent shall submit to Ohio EPA a written report detailing actual closure activities and certifying, in accordance with OAC Rule 3745-34-17(D), that the dry wells were closed in compliance with these Orders. Respondent shall submit the report to Ohio EPA at the address listed in Order No. 1.
 15. Within thirty (30) days of notification, Respondent shall respond in writing to address any comments or deficiencies noted by Ohio EPA on any plan or report submitted by Respondent.
 16. Within fourteen (14) days of the milestone dates in Orders No. 11 and 12, Respondent shall submit to Ohio EPA written notification and documentation demonstrating compliance with these milestone dates. Respondent shall submit notice and documentation to Ohio EPA at the address listed in Order No. 2.
 17. Respondent shall pay Ohio EPA seven thousand five hundred dollars (\$7,500.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6111., for the violations cited herein. One-half of the moneys collected as civil penalties shall be credited to the Environmental Education Fund created in ORC § 3745.22. The remainder of the moneys so collected shall be credited to the Water Pollution Control Administration Fund. Within sixty (60) days of the effective date of these Orders, Respondent shall pay Ohio EPA \$2,500.00. This payment shall be made by tendering a certified check for

\$2,500.00 drawn to the "Treasurer, State of Ohio" and submitted to Fiscal Administration, General Accounting Section, Ohio EPA, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent. Respondent shall make two additional payments, each in the amount of \$2,500.00. The second payment shall be due 105 days after the effective date of these Orders, the third payment shall be due 150 days after the effective date of these Orders. These payments shall be paid as specified above.

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 Chiefs of Ohio EPA's Division of Surface Water and Division of Drinking and Ground Waters acknowledge, 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 defined in OAC Rule 3745-33-03(D)(3).

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 class V injection wells.

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

In accordance with the Orders above, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to either:

Ohio Environmental Protection Agency
Southeast District Office
Division of Surface Water
2195 Front Street
Logan, Ohio 43138
Attn: DSW Enforcement Group Leader

or:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Drinking and Ground Waters
122 South Front Street (P.O. Box 1049)
Columbus, Ohio 43215 (43216-1049)
Attn: Val Orr, UIC Unit

(for mailings use the post office box number and zip code)

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

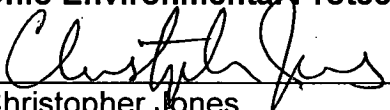
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



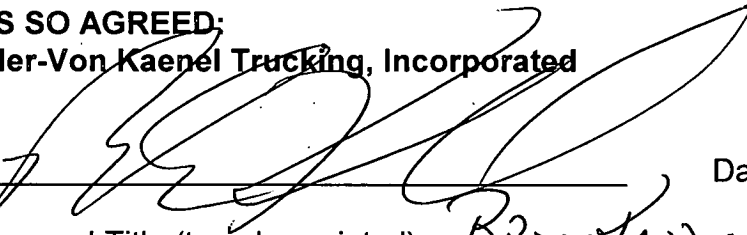
Christopher Jones
Director

AUG 4 2003

Date

IT IS SO AGREED:

Beller-Von Kaenel Trucking, Incorporated

By: 

Name and Title (typed or printed): BRUCE VANDER GEN MGR

Date: 7-10-03