

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
MAR 19 2001
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Envirosafe Services of Ohio, Inc. 876 Otter Creek Road Oregon, Ohio 43616	: : :	<u>Director's Final Findings</u> <u>and Orders</u>
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PREAMBLE

It is hereby agreed that:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Envirosafe Services of Ohio, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("RC") sections 3704.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon ("Respondent"), its assigns and successors in interest.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in RC Chapter 3704 and the regulations promulgated thereunder.

IV. FINDINGS OF FACT

The Director of the Ohio EPA has determined the following findings of fact:

1. Respondent owns and operates a hazardous waste treatment and disposal facility located at 876 Otter Creek Road in Oregon. At the facility, Respondent's operation includes roadways and parking areas, identified as emissions unit F001 which is an air contaminant source as defined in Ohio Administrative Code ("OAC") rule 3745-35-01 (B)(1). Respondent is subject to OAC rule 3745-17-08 "Restriction of emission of fugitive dust."

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2. On August 13, 1993, a permit to operate ("PTO") was issued for emissions unit F001. The PTO expired on August 12, 1996. Respondent failed to submit a PTO renewal application for emissions unit F001 prior to August 12, 1996. Operating emissions unit F001 without an effective PTO constitutes a violation of OAC rule 3745-35-02.
3. Respondent's primary operation is the landfill, identified as emissions unit F002, which is an air contaminant source as defined in Ohio Administrative Code ("OAC") rule 3745-35-01 (B)(1).
4. On August 25, 1993, a permit to operate ("PTO") was issued for emissions unit F002. The PTO expired on August 24, 1996. Respondent failed to submit a renewal PTO application for emissions unit F002 prior to August 24, 1996. Operating emissions unit F002 without an effective PTO constitutes a violation of OAC rule 3745-35-02.
5. On March 30, 2000, the Toledo Division of Environmental Services ("TDES") received PTO renewal applications, dated March 20, 2000, for emissions units F001 (roadways and parking areas) and F002 (landfill).
6. On May 9, 2000, a representative of the TDES conducted an inspection of the facility.
7. On May 19, 2000, TDES sent a Notice of Violation ("NOV") to Respondent.
8. On June 13, 2000, Respondent hand delivered a response to the NOV referenced in Finding (7). Respondent indicated that the record keeping requirements of the PTOs are currently being followed but denied the need for the daily cover due to the nature of the material being landfilled. At a meeting held at Ohio EPA on January 26, 2001, Respondent produced records that indicate it is and has been complying with the record keeping requirements of the PTOs. Respondent also demonstrated to the satisfaction of Ohio EPA that the stabilized electric arc furnace dust (K061) provides comparable and adequate protection and is appropriate daily cover for the landfill operations.
9. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their benefits to the people of the State to be derived from such compliance.

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V. ORDERS

The Director issues the following Orders:

1. Respondent shall comply with the terms and conditions of the expired PTOs for emissions units F001 and F002 until the Director acts on the renewal applications submitted on March 20, 2000.
2. Pursuant to R.C. 3704.06, Respondent agrees to pay a civil penalty in the amount of ten thousand dollars (\$10,000) in settlement of Ohio EPA's claim for civil penalties. Within fourteen (14) days after the effective date of these orders, Respondent shall pay to Ohio EPA the amount of eight thousand dollars (\$8,000) of the total penalty amount. Payment shall be made by certified check made payable to "Treasurer, State of Ohio" and sent to Vicki Galilei, Fiscal Specialist, or her successor, at the following address:

Fiscal Administration
Ohio Environmental Protection Agency
Lazarus Government Center
122 South Front Street
P.O. Box 1049
Columbus, OH 43216-1049

A copy of the check shall be sent to Jim Orlemann, Manager, Engineering Section, or his successor, at the following address:

Division of Air Pollution Control
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, OH 43216-1049

The remaining two thousand dollars (\$2,000) shall be paid to fund a supplemental environmentally beneficial project. Specifically, within thirty (30) days after the effective date of these orders, Respondent shall deliver a certified check in this amount and made payable to Ohio Department of Natural Resources, Division of Forestry, State Forest Fund for the purpose of funding urban tree-planting projects in Ohio. This check shall specify that such monies are to be deposited into Fund No. 509. The check shall be sent to John Dorka, Deputy Chief, or his successor, at the

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following address:

Division of Forestry
Ohio Department of Natural Resources
1855 Fountain Square Court, H-1
Columbus, Ohio 43224-1327

VI. 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.

VIII. RESERVATION OF RIGHTS

Nothing contained herein prevents 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 Respondent for noncompliance with these Orders. Nothing contained herein prevents Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities at the facility pursuant to RC Chapter 3704 or any other applicable law in the future. Nothing herein restricts the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions that Ohio EPA may seek to require of Respondent.

IX. SIGNATORIES

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 this document.

X. WAIVER

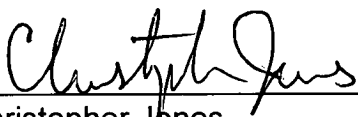
In order to resolve disputed claims, without admissions of fact, violation or liability, Respondent agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's civil liability for the specific violations cited herein. Respondent hereby waives the right to appeal the issuance, terms and service of these Orders and it hereby waives any and all rights it might have to seek administrative or judicial review of these Orders either in law or equity.

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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 an appeal. In such event, Respondent shall continue to comply with these Orders unless these Orders are stayed, vacated, or modified.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



Christopher Jones
Director

3-14-01

Date

IT IS AGREED:



Envirosafe Services of Ohio, Inc.

Douglas E. Roberts

By

2/28/01

Date

Vice President

Title

pen