



Mike DeWine, Governor
Jon Husted, Lt. Governor
Laurie A. Stevenson, Director

April 25, 2019

Regina Gorby
50360 Pancake Clarkson Road
Negley, Ohio 44441-9711

**Re: Gorby Dump
Director's Final Findings and Orders (DFFO)
DFFO
Municipal Solid Waste Landfills
Columbiana County
MSWL021682**

Subject: Final Findings and Orders of the Director

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Regina Gorby.

If you have any questions, please contact Teri Finrock at (614) 644-3037.

Sincerely,

Jeri Main, Administrative Professional Unit
Division of Materials & Waste Management

Enclosure

ec: Kelly Jeter, DMWM, CO
Bruce McCoy, DMWM, CO
Teri Finrock, Legal
Kelly Jeter, DMWM, CO
Robin Nichols, Legal
Lynn Sowers, DMWM, NEDO
Colum McKenna, DMWM, NEDO

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of:

Regina Gorby	:	<u>Director's Final Findings</u>
50360 Pancake Clarkson Rd	:	<u>and Orders</u>
Negley, Ohio 44441-9711	:	

Respondent

Ohio EPA APR 25 '19
Entered Directors Journal

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Regina Gorby ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3714.12, 3734.13, and 3745.01.

II. PARTIES

These Orders shall apply to and be binding upon Respondent and her heirs and successors in interest liable under Ohio law. No change in ownership of the Property (as hereinafter defined) shall in any way alter Respondent's responsibilities under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in ORC Chapters 3714 and 3734 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is the current owner of a parcel of land located at 50360 Pancake Clarkson Road, Negley, Ohio 44441, which is identified by the Columbiana County Auditor as Parcel Number 45-00362.000 ("Property").
2. Respondent is a "person" as that term is defined in ORC §§ 3714.01(H) and 3734.01(G), and in Ohio Administrative Code ("OAC") Rules 3745-27-01(P)(3) and 3745-400-01(P)(1).

3. There are currently an estimated 30 cubic yards of comingled solid waste and construction and demolition debris ("C&DD") dumped on the Property.
4. The Property is neither licensed nor permitted as a solid waste disposal facility, a C&DD facility, a junk yard, or any type of legitimate recycling facility.
5. OAC Rule 3745-27-01(O)(4) defines open dumping as "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, 3745-29, 3745-30, and 3745-37 of the Administrative Code."
6. ORC § 3734.02(C) states, in pertinent part, "no person shall establish a new solid waste facility...without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation and receiving a permit issued by the director[.]"
7. ORC § 3734.05(A) states, in pertinent part, "no person shall operate or maintain a solid waste facility without a license issued under this division by the board of health of the health district in which the facility is located[.]"
8. ORC § 3734.06(A) states, in pertinent part, "[n]o person shall operate or maintain a construction and demolition debris facility without an annual construction and demolition debris facility operation license issued by the board of health of the health district in which the facility is located or, if the facility is located in a health district that is not on the approved list under section 3714.09 of the Revised Code, from the director of environmental protection."
9. OAC Rule 3745-400-01(G) states, in pertinent part, "'[c]onstruction and demolition debris facility' or 'facility' means any site, location, tract of land, installation, or building used for the disposal of construction and demolition debris."
10. OAC Rule 3745-400-04(B) states, in pertinent part, "[n]o person shall conduct or allow illegal disposal of construction and demolition debris."
11. Respondent has created an unpermitted, unlicensed "solid waste disposal facility" and "open dump", as those terms are defined in OAC Rules 3745-27-01(S)(25) and (O)(3), respectively, in violation of ORC §§ 3734.03 and 3734.05(A) and OAC Rule 3745-27-05(C). Respondent has also created an unlicensed C&DD facility as that term is defined in OAC Rule 3745-400-01(G) in violation of ORC § 3714.06(A) and OAC Rule 3745-400-04(B).
12. Ohio EPA has inspected the Property and observed scrap tires, other miscellaneous solid waste and C&DD scattered throughout the Property. By letters dated August 8, August 17, September 7, October 17, November 4, and December 16, 2016, and January 13, March 27, May 12, May 19, August 2, and September 21, November 17, 2017 and March 16, 2018 Ohio EPA identified the following violations at the Property:

- ORC § 3734.03 and OAC Rule 3745-27-05(C) for open dumping of scrap tires and miscellaneous solid wastes;
 - OAC Rule 3745-400-04(B) for allowing illegal disposal of Cⅅ
 - OAC Rules 3745-27-60(C)(1) and (2) for failure to perform mosquito control and provide lawful mosquito control records.
13. On March 6, 2018, Ohio EPA met with the Respondent. During this discussion, Respondent was provided information regarding Ohio EPA's no-fault scrap tire cleanup program, including the eligibility criteria.
14. On March 19, 2018, Respondent submitted an application to Ohio EPA for a no-fault scrap tire cleanup. This application was ultimately approved, and the scrap tires along with comingled solid waste were removed by Ohio EPA.
15. On June 20, 2018, Liberty Tire Service, on behalf of Ohio EPA, removed all of the scrap tires and the majority of solid waste intermixed with the scrap tires on the Property at no cost to Respondent through the no-fault scrap tire program.
16. On June 25, 2018 and December 20, 2018 Ohio EPA conducted an inspection of the Property. Ohio EPA observed that approximately 30 cubic yards of solid waste and C&DD (in Areas A, B, and C depicted in Attachments 1 and 2) remain on the Property. By letters dated August 6, 2018 and January 7, 2019, Ohio EPA identified the following violations at the Property:
- ORC § 3734.03 and OAC Rule 3745-27-05(C) for open dumping of miscellaneous solid wastes; and
 - OAC Rule 3745-400-04(B) for allowing illegal disposal of C&DD.

V. ORDERS

Respondent shall achieve compliance with ORC Chapters 3714 and 3734, and the rules promulgated thereunder according to the following compliance schedule:

1. Upon the effective date of these Orders, Respondent shall cease acceptance of all C&DD and solid waste at the Property and shall comply with ORC Chapters 3734 and 3714 and OAC Chapters 3745-27 and 3745-400.
2. Not later than one (1) year after the effective date of these Orders, Respondent shall complete the removal and lawful disposal of all solid waste and C&DD in Areas A, B, and C, as depicted in Attachments 1 and 2.
3. Respondent shall obtain waste disposal receipts from a licensed disposal facility for all waste removed in accordance with Order No. 2. The receipts shall contain the weight and volume of each load of waste disposed of at the licensed disposal facility. For each month that solid waste or C&DD is removed, Respondent shall

submit the waste disposal receipts to Ohio EPA Northeast District Office by the 10th day of the following month. Respondent shall make this monthly submission until receipts documenting that all solid waste and C&DD has been lawfully disposed have been provided to Ohio EPA.

4. If any C&DD comingled with solid waste cannot be segregated, then all such unsegregated material shall be disposed of at a licensed solid waste disposal facility.

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 Ohio EPA's Chief, Division of Materials and 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 from Respondent: "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 Respondent.

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, Respondent or the Property.

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 or the Property.

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 the Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Materials and Waste Management
2110 East Aurora Road
Twinsburg, Ohio 44087

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

XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to seek civil or administrative penalties against Respondent for violations specifically cited in these Orders. Ohio EPA and Respondent each reserve all other rights, privileges, and causes of actions, 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, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek civil or administrative penalties against Respondent for violations specifically cited in these Orders, which right Ohio EPA does not waive, 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 waive 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 agrees 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

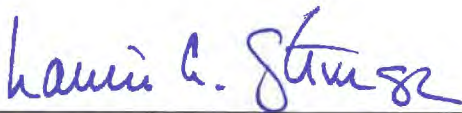
The effective date of the Orders is the date these Orders are entered into the Ohio EPA Director's Journal.

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.

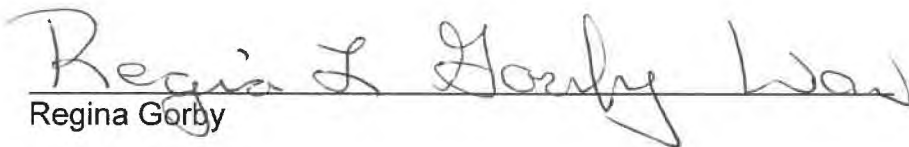
IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



Laurie A. Stevenson
Director

IT IS SO AGREED:



Regina Gorby

Attachment 1



Attachment 2

Area A



Attachment 2

Area B



Attachment 2



Attachment 2

Area C

