

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

**Penn-Ohio Waste LLC
P.O. Box 310
7555 North Street
Negley, Ohio 44441**

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**Director's Final Findings
and Orders**

I certify this to be a true and accurate copy of the
official documents as filed in the records of the Ohio
Environmental Protection Agency.

PREAMBLE

It is agreed by the parties hereto as follows:

By:  Date: _____

4/30/2020

I. JURISDICTION

These Director Findings and Orders ("Orders") are issued to Penn-Ohio Waste LLC ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §3745.01 and Chapter 3714. Director's Final Findings and Orders may be issued later to require Respondent to take additional actions.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in the composition of Respondent 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 3714, and 3734 and the rules promulgated thereunder.

IV. FINDINGS

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

1. Respondent is a Delaware corporation doing business in Ohio and registered as a foreign corporation with the Ohio Secretary of State.
2. Respondent owns and operates a construction and demolition debris (C&DD) landfill facility (Facility ID CDDL018903) located at 7555 North Street, Negley, Ohio 44441,

Columbiana County.(Penn Ohio Landfill)

3. Respondent has been issued Notices of Violation for ongoing operational issues at the Penn Ohio Landfill. These violations will be addressed in a future compliance order.
4. Respondent had begun accepting rail cars at a property located at 44626 State Route 154 in Elk Run Township, Columbiana County ("Signal Site"). In early December 2019, Respondent began unloading rail cars at the Signal Site without first obtaining a storm water permit and an air permit.
5. Respondent ceased all operations at the Signal Site upon notification from Ohio EPA that Respondent was operating the Signal Site without permits. As a result, approximately 180 rail cars loaded with C&DD were located at or staged for delivery to the Signal Site.
6. At the same time Respondent received the notification from Ohio EPA regarding the Signal Site referenced in Finding No. 5., of these Orders, Ohio EPA also requested that Respondent not accept waste at the Penn Ohio Landfill.
7. On December 10, 2019, Youngstown & Southeastern Railway Company (Y&SR) notified Ohio EPA that it was the owner of the Signal Site and that the approximate 180 rail cars loaded with C&DD were impacting its business because the dormant rail cars were interfering with Y&SR's ability to service its customers. Y&SR needed the rail cars removed from the rail lines, unloaded and returned to service other companies waiting to ship materials by rail.
8. In an effort to prevent any further disruption of rail service, Ohio EPA agreed to enter into Orders with Respondent to allow the temporary unloading of rail cars at the Signal Site. The Director's Findings and Order issued on December 20, 2019 specifically prohibited Respondent from accepting or disposing any of the waste from the approximate 180 rail cars at the Penn Ohio Landfill without the prior written authorization from Ohio EPA.
9. Respondent successfully completed the unloading operation of the 180 rail cars at the Signal Site. Currently, Respondent has not completed the construction of a new cell at the Penn Ohio Landfill and therefore, Respondent's landfill is unable to accept waste. Respondent has requested that it be permitted to operate a construction and demolition debris transfer station at the Signal Site.

V. ORDERS

1. Respondents shall limit rail unloading operations at the Signal Site to no more than twelve (12) hours per day Monday through Friday. Rail unloading operations shall commence no earlier than 5:30 AM and shall cease no later than 5:30 PM each day. Saturday or Sunday operations will only occur with the prior written consent of Ohio EPA.
2. Trucks loaded with waste from the rail cars shall be removed from the Signal Site by the next business day. All unloaded rail cars will be turned over to Y&SR for removal from the site as part of their normal operations. Any waste spilled during unloading operations shall be removed prior to the close of business.
3. Respondent shall provide a weekly report of the operations at the Signal Site. The report shall be submitted to Ohio EPA by the close of business on Monday detailing the activities of the previous week. The report shall include, but not limited to, the following:
 - a. The actual operating hours, starting and ending.
 - b. The number of rail cars unloaded each day.
 - c. The number of trucks loaded each day.
 - d. The destination of each of those trucks, including all weight receipts for each truck as measured at the destination.
 - e. Narrative detailing any operational changes to address dust emissions.
 - f. Narrative detailing any operational changes to address surface water run-off.
 - g. Narrative detailing any operational changes to address leachate management, including any transfer of leachate for off-site disposal and disposal receipts.
 - h. Narrative detailing any problem that has impacted Respondent's ability to unload rail cars and properly dispose of the waste and any operational changes to address the problem.
4. Any waste unloaded that meets the definition of construction and demolition debris (C&DD) pursuant to OAC Rule 3745-400-01(C) may be taken to a licensed C&DD landfill or a permitted and licensed solid waste landfill in Ohio or Pennsylvania.
5. Any waste unloaded that meets the definition of solid waste pursuant to ORC 3734.01 shall be taken to a permitted and licensed solid waste landfill in Ohio or Pennsylvania.

6. Respondent shall provide roll-off trailers at each Ohio-based C&DD landfill that accepts waste from these rail cars. The roll-off trailers will be used to collect prohibited materials (i.e. solid waste) that are picked out of the C&DD waste stream originating from the rail cars.
7. Not later than 20 days after issuance of this order, Respondent will submit to Ohio EPA the best management practices it has implemented to prevent a backlog of rail cars at the Signal Site. Respondent will include with this submittal documentation that Y&SR has approved Respondent's best management practices.
8. No C&DD or solid waste shall be taken to the Penn Ohio Landfill without the prior written approval of Ohio EPA.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon the written approval of Ohio EPA's Division Materials and Waste Management. Respondent shall submit a written request to terminate to the Chief of the Division Materials and Waste Management.

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 Site.

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

Unless otherwise specified, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

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

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

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.

IV. 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. The parties acknowledge and agree that this Order may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, "electronic signature" shall include faxed versions of an original signature or electronically scanned and transmitted versions (e.g., via pdf) of an original signature.

**IT IS SO ORDERED AND AGREED:
Ohio Environmental Protection Agency**



Laurie A. Stevenson
Director

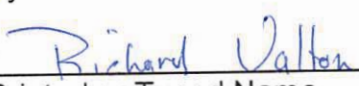
4/30/2020

Date

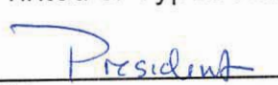
**IT IS SO AGREED:
Penn-Ohio Waste LLC**



By



Printed or Typed Name



Title

4/27/20

Date