



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

January 27, 2021

Dean E. Hartley Jr.
P.O. Box 16
Neffs, Ohio 43940

**Re: Kidd Street Open Dump
Director's Final Findings and Orders (DFFO)
DFFO
Municipal Solid Waste Landfills
Belmont County
MSWL023450**

Subject: Final Findings and Orders of the Director

Dear Mr. Hartley Jr:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for **Kidd Street Open Dump**.

You are hereby notified that this action of the Director of Ohio EPA (Director) is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00 made payable to "Treasurer, State of Ohio." The Commission, in its discretion, may reduce the fee if by affidavit it is demonstrated that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission
30 East Broad Street, 4th Floor
Columbus, Ohio 43215

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

Sincerely,

Jeri Main

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

Enclosure

ec: Teri Finrock, Legal
Troy Harter, Legal
Kelly Jeter, DMWM, CO
Bruce McCoy, DMWM, CO
Joe Goicochea, DMWM, SEDO
Rich Fox, DMWM, SEDO

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of

Dean E. Hartley Jr. : Director's Final Findings
P.O. Box 16 : and Orders
Neffs, Ohio 43940 :

Respondent

I. JURISDICTION

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

II. PARTIES

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

III. DEFINITIONS

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

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is the owner of the property located at Kidd Street and Giffin Street, Neffs, Belmont County, Ohio; Belmont County Auditor's parcel numbers 26-02796.000, 26-2798.000 and 26-02799.000 (the "Property").
2. Respondent is a "person" as that term is defined in ORC Sections 3714.01 and 3734.01(G), and in Ohio Administrative Code ("OAC") Rules 3745-400-01(P)(1) and 3745-27-01(P)(3).
3. ORC Section 3734.01(E) defines "solid wastes" as "such unwanted residual solid or semisolid material as results from industrial, commercial, agricultural, and

community operations . . . and includes, but is not limited to, garbage, scrap tires, combustible and noncombustible material, street dirt, and debris.

4. OAC Rule 3745-27-01(O)(4)(a) defines “open dumping” as “[t]he deposition of solid wastes, other than scrap tires, 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, 3745-29, 3745-30, and 3745-37 of the Administrative Code.”
5. OAC Rule 3745-27-05(C) states, “[n]o person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or has occurred at a property, the person(s) responsible for the open dumping, the owner of the property, or the person(s) who allow or allowed open dumping to occur, shall promptly remove and dispose or otherwise manage the solid waste in accordance with Chapter 3734, of the Revised Code, and shall submit verification that the solid waste has been properly managed.”
6. ORC Section 3714.01(C) defines “construction and demolition debris” 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.”
7. As defined in OAC Rule 3745-400-01(I)(2): “Illegal disposal” means “the disposal of construction and demolition debris at any place other than a construction and demolition debris disposal facility operated in accordance with Chapter 3714. of the Revised Code, and Chapters 3745-400 and 3745-37 of the Administrative Code or a solid waste disposal facility operated in accordance with Chapter 3745-27 of the Administrative Code, and licensed in accordance with Chapter 3745-37 of the Administrative Code, or as otherwise authorized by this Chapter.”
8. OAC Rule 3745-400-04(B) states that “[n]o person shall conduct or allow illegal disposal of construction and demolition debris.”
9. Ohio EPA conducted its initial inspection of the Property on May 29, 2019, as a result of a complaint and observed approximately 40-60 cubic yards of commingled solid waste and construction and demolition debris. Ohio EPA cited Respondent in a letter dated June 20, 2019, for open dumping of solid waste, in violation of OAC Rule 3745-27-05(C).
10. Ohio EPA conducted follow up inspections of the Property on October 16, 2019, December 3, 2019, February 19, 2020, and September 1, 2020, and observed that no new waste has been dumped on the Property, nor has waste been removed and properly disposed. Further, Ohio EPA observed large excavations at the Property. Corresponding Notices of Violation (“NOV”) letters dated November 7, 2019, December 16, 2019, March 9, 2020, and September 11, 2020, cited Respondent for open dumping of solid waste in violation of OAC Rule 3745-27-

05(C), and illegal disposal of construction and demolition debris in violation of OAC Rule 3745-400-04(B) (September 11, 2020 NOV only).

11. In response to the initial NOV dated June 20, 2019, Respondent's "girlfriend" stated that Respondent was incarcerated, but would clean up the the Property as soon as he was released. Ohio EPA spoke with Respondent shortly after he was released in October 2019. Respondent indicated that he would have the open dump cleaned up by the end of the year (2019).
12. On March 30, 2020, Ohio EPA spoke with Respondent regarding the unresolved violation. Respondent expressed his willingness to resolve the violations but needed more time due to financial issues.
13. To date, Respondent has not taken any steps to remove and properly dispose of the open dumped solid waste.

V. ORDERS

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

1. Upon the effective date of these Orders, Respondent shall not conduct, permit, or allow any disposal of solid wastes or construction and demolition debris at the Property and shall comply with ORC Chapters 3714 and 3734, and OAC Chapters 3745-27 and 3745-400.
2. Not later than July 1, 2021, Respondent shall remove or cause the removal of all commingled solid waste and construction and demolition debris from the Property and properly dispose of all commingled solid waste and construction and demolition debris at a licensed solid waste disposal facility. Respondent shall have lawfully disposed of at least 15 cubic yards of commingled solid waste and construction and demolition debris, and at least an additional 15 cubic yards each month in accordance with the following schedule:
 - A. April 1, 2021 (15 cubic yards removed),
 - B. May 1, 2021 (total of 30 cubic yards removed),
 - C. June 1, 2021 (total of 45 cubic yards removed), and
 - D. July 1, 2021 (all solid waste and construction and demolition debris removed).
3. Respondent shall obtain disposal receipts from the licensed solid waste disposal facility indicating weight or volume of the solid waste disposed. Respondent shall forward such documentation to Ohio EPA Southeast District Office on a monthly basis by the 10th day of each month until receipts documenting that all solid waste and construction and demolition debris has been appropriately disposed have been provided to Ohio EPA.

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 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: "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, the 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 the Respondent or the Property.

IX. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Southeast District Office,
Division of Materials and Waste Management
2195 East Front Street
Logan, Ohio 43138
Attn: Unit Supervisor, DMWM

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

X. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent 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 the Respondent for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require the Respondent to perform additional activities pursuant to ORC Chapters 3714 and 3734. or any other applicable law in the future. Nothing herein shall restrict the right of the Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of the Respondent.

Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

XI. EFFECTIVE DATE

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

IT IS SO ORDERED:



Laurie A. Stevenson, Director