



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

June 8, 2015

Lloyd Thomas
A216 State Route 109
Leipsic, Ohio 45856

**Re: Lloyd Thomas Open Dump
DFFO
Acknowledgement
Municipal Solid Waste Landfills
Putnam County
MSWL019452**

Subject: Final Findings and Orders

Dear Mr. Lloyd Thomas:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Lloyd Thomas.

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
77 South High St., 17th Floor
Columbus, Ohio 43215

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

Sincerely,

Demitria Crumiell-Hagens, Administrative Professional II
Division of Materials & Waste Management

Enclosure

cc: Matt Boyer, DMWM, CO
Kelly Jeter, DMWM, CO
Robin Nichols, Legal
Kristin Tillison, DMWM, NWDO
Mike Reiser, DMWM, NWDO

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

OHIO E.P.A.

JUN -8 2015

ENTERED DIRECTOR'S JOURNAL

In the Matter Of

Mr. Lloyd Thomas
A216 State Route 109
Leipsic, Ohio 45856-9114

Director's Final Findings
and Orders

Respondent

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Lloyd Thomas ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Sections 3714.12, 3734.13 and 3734.85.

II. PARTIES

These Orders shall apply to and be binding upon Respondent and 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 2126 Road 8, Leipsic, Ohio, 45856 identified by the Putnam County Auditor as Parcel Identification Number 18-007181 (the "Property").
2. Respondent is a "person" as that term is defined in ORC Sections 3714.01(H) and 3734.01(G), and in Ohio Administrative Code ("OAC") Rules 3745-27-01(P)(3) and 3745-400-01(DD).
3. Louis W. (now deceased) and Gertrude P. Knueven had sold the Property via a land contract to Respondent in 1977, but officially recorded the transfer of the property via Quit Claim Deed to Respondent on January 30, 2014.

4. There are currently an estimated 300 scrap tires illegally disposed on the Property.
5. The Property is neither licensed nor permitted as a scrap tire collection facility, a solid waste disposal facility, a construction and demolition debris ("C&DD") facility, a junk yard, or any type of legitimate recycling facility.
6. Scrap tires are included in the definition of "solid wastes" under ORC Section 3734.01(E) and "solid waste" in OAC Rule 3745-27-01(S)(23).
7. OAC Rule 3745-27-01(S)(6) defines "scrap tire" as "a type of solid waste and means any unwanted or discarded tire, regardless of size, that has been removed from its original use."
8. The open dumping of scrap tires is a violation of ORC § 3734.03 which states that "[n]o person shall dispose of solid wastes by open burning or open dumping," and OAC Rule 3745-27-05(C) which states that "[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."
9. OAC Rule 3745-27-01(O)(4)(b) defines open dumping as, "[t]he deposition of solid wastes that consist of scrap tires into waters of the state, and also means the final deposition of scrap tires on or into the ground at any place other than a scrap tire collection, storage, monofill, monocell, or recovery facility licensed under section 3734.81 of the Revised Code, or at a site or in a manner not specifically identified in division (C)(2), (C)(3), (C)(4), (C)(5), (C)(7), or (C)(10) of section 3734.85 of the Revised Code, or at any licensed solid waste facility if the deposition is not in accordance with Chapters 3745-27 and 3745-37 of the Administrative Code."
10. 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."
11. 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."

12. OAC Rule 3745-400-04(B) states, in pertinent part, "[n]o person shall conduct or allow illegal disposal of construction and demolition debris."
13. OAC Rule 3745-27-60(B) provides that "[t]he storage of scrap tires in any amount outside or inside a trailer, vehicle, or building is deemed a nuisance, a hazard to public health or safety, or fire hazard unless the scrap tires are stored in accordance with" the standards in OAC Rule 3745-27-60(B).
14. Scrap tires, if not properly managed, may become a breeding ground for mosquitoes. Mosquitoes are a common disease vector for St. Louis encephalitis, La Crosse encephalitis, Yellow Fever, West Nile Virus and Dengue Fever.
15. The 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 Sections 3734.03 and 3734.05(A) and OAC Rule 3745-27-05(C). The 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).
16. On August 19, 2013 Ohio EPA conducted an inspection of the Property and observed scrap tires, other miscellaneous burned and unburned solid waste, and C&DD scattered throughout the property, and cited the following violations:
 - a. ORC Section 3734.03 and OAC Rule 3745-27-05(C) for open dumping of scrap tires and miscellaneous solid wastes;
 - b. OAC Rule 3745-400-04(B) for allowing illegal disposal of C&DD.

These violations were documented in an NOV from the Ohio EPA that was provided to the Respondent on September 4, 2013.
17. On October 30, 2013 Ohio EPA conducted an inspection of the Property and observed scrap tires, other miscellaneous burned and unburned solid waste, and C&DD scattered throughout the property, and cited the following violations:
 - a. ORC Section 3734.03 and OAC Rule 3745-27-05(C) for open dumping of scrap tires and miscellaneous solid wastes;
 - b. OAC Rule 3745-400-04(B) for allowing illegal disposal of C&DD.

These violations were documented in an NOV from Ohio EPA to Respondent dated November 12, 2013.
18. On December 27, 2013 Ohio EPA conducted an inspection of the Property and observed scrap tires, other miscellaneous burned and unburned solid waste, and C&DD scattered throughout the property, and cited the following violations:
 - a. ORC Section 3734.03 and OAC Rule 3745-27-05(C) for open dumping of scrap tires and miscellaneous solid wastes;

- b. OAC Rule 3745-400-04(B) for allowing illegal disposal of C&DD.

These violations were documented in an NOV from Ohio EPA to Respondent dated December 31, 2013.

19. On May 8, 2014 Ohio EPA conducted an inspection of the Property and observed scrap tires, other miscellaneous burned and unburned solid waste, and C&DD scattered throughout the property, and cited the following violations:
 - a. ORC Section 3734.03 and OAC Rule 3745-27-05(C) for open dumping of scrap tires and miscellaneous solid wastes;
 - b. OAC Rule 3745-400-04(B) for allowing illegal disposal of Cⅅ
 - c. OAC Rule 3745-27-60(B)(7)(c) for failure to have scrap tire piles separated by at least twenty five feet from all buildings and other scrap tire piles;
 - d. OAC Rule 3745-27-60(B)(7)(e) for failure to allow emergency vehicle access at all times to, around, and between scrap tire storage piles;
 - e. OAC Rule 3745-27-60(C)(1) through (3) for failure to perform mosquito control and provide lawful mosquito control records.

These violations were documented in an NOV from Ohio EPA to Respondent dated May 20, 2014.

20. On January 30, 2015, Ohio EPA conducted an inspection of the Property and observed scrap tires, other miscellaneous burned and unburned solid waste, and C&DD scattered throughout the property, and cited the following violations:
 - a. ORC Section 3734.03 and OAC Rule 3745-27-05(C) for open dumping of scrap tires and miscellaneous solid wastes;
 - b. OAC Rule 3745-400-04(B) for allowing illegal disposal of Cⅅ
 - c. OAC Rule 3745-27-60(B)(7)(c) for failure to have scrap tire piles separated by at least twenty five feet from all buildings and other scrap tire piles;
 - d. OAC Rule 3745-27-60(B)(7)(e) for failure to allow emergency vehicle access at all times to, around, and between scrap tire storage piles;
 - e. OAC Rule 3745-27-60(C)(1) through (3) for failure to perform mosquito control and provide lawful mosquito control records.

These violations were documented in an NOV from Ohio EPA to Respondent dated February 4, 2015.

21. Given that scrap tires constitute a breeding ground for mosquitos, and given that open burning has occurred on the Property, and considering the potential that a tire fire could occur, the Director has determined that the accumulation of scrap tires on the Property constitutes a danger to the public health or safety or to the environment.
22. ORC Section 3734.85 provides that "[i]f the director determines that an accumulation of scrap tires constitutes a danger to the public health or safety or

to the environment, the director shall issue an order under section 3734.13 of the Revised Code to the person responsible for the accumulation of scrap tires directing that person, within one hundred twenty days after the issuance of the order, to remove the accumulation of scrap tires from the premises on which it is located and transport the tires to a scrap tire storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code, to such a facility in another state operating in compliance with the laws of the state in which it is located, or to any other solid waste disposal facility in another state that is operating in compliance with the laws of that state. If the person responsible for causing the accumulation of scrap tires is a person different from the owner of the land on which the accumulation is located, the director may issue such an order to the landowner."

23. ORC Section 3734.85 further provides, "If a person to whom a removal order is issued under this division fails to comply with the order and if the director performs a removal action under this section, the person to whom the removal order is issued is liable to the director for the costs incurred by the director for conducting the removal operation, storage at a scrap tire storage facility, storage or disposal at a scrap tire monocell or monofill facility, or processing of the scrap tires so removed, the transportation of the scrap tires from the site of the accumulation to the scrap tire storage, monocell, monofill, or recovery facility where the scrap tires were stored, disposed of, or processed, and the administrative and legal expenses incurred by the director in connection with the removal operation."

V. ORDERS

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

1. Not later than ten (10) days after the effective date of these Orders, Respondent shall implement mosquito control measures at the Property in accordance with the provisions of OAC Rule 3745-27-60(C), until all scrap tires have been removed from the Property. Respondent shall provide copies of the mosquito control records required by OAC Rule 3745-27-60(C)(3) to Ohio EPA Northwest District Office within ten (10) days after each application of the registered pesticide, larvicide, or adulticide.
2. Upon the effective date of these Orders, Respondent shall cease acceptance and disposal of all solid wastes, including scrap tires, at the Property and shall comply with ORC Chapter 3734. and OAC Chapter 3745-27.
3. Upon the effective date of these Orders, Respondent shall cease acceptance and disposal of all C&DD at the Property and shall comply with the provisions of ORC Chapter 3714. and OAC Chapter 3745-400.

4. Not later than thirty (30) days after the effective date of these Orders, Respondent shall establish storage piles and fire breaks at the Property in accordance with OAC Rule 3745-27-60.
5. Not later than one hundred twenty (120) days after the effective date of these Orders, Respondent shall remove or cause the removal of all solid waste, excluding scrap tires, from the Property and dispose of all solid waste, excluding scrap tires, at a licensed solid waste disposal facility. Respondent shall obtain disposal receipts from the licensed solid waste disposal facility indicating weight or volume of solid waste disposed of, excluding scrap tires. Respondent shall forward such documentation to Ohio EPA Northwest District Office on a monthly basis by the 10th day of each month until receipts documenting that all solid waste has been appropriately disposed have been provided to Ohio EPA.
6. Not later than one hundred twenty (120) days after the effective date of these Orders, Respondent shall remove or cause the removal of all C&DD from the Property and dispose of all C&DD at a licensed C&DD facility or at a licensed solid waste disposal facility. Respondent shall obtain disposal receipts from the licensed solid waste disposal facility and/or the licensed C&DD facility indicating weight or volume of C&DD disposed. Respondent shall forward such documentation to Ohio EPA Northwest District Office on a monthly basis by the 10th day of each month until receipts documenting that all C&DD has been appropriately disposed have been provided to Ohio EPA.
7. If any solid waste, excluding scrap tires, and C&DD at the Property cannot be segregated, then all such unsegregated material must be disposed of at a licensed solid waste disposal facility within one hundred twenty (120) days of the effective date of these Orders. Respondent shall obtain disposal receipts from the licensed solid waste disposal facility indicating weight or volume of unsegregated material disposed of, excluding scrap tires. Respondent shall forward such documentation to Ohio EPA Northwest District Office on a monthly basis by the 10th day of each month until receipts documenting that all solid waste and C&DD have been appropriately disposed have been provided to Ohio EPA.
8. Not later than one hundred twenty (120) days after the effective date of these Orders, Respondent shall remove or cause the removal of scrap tires from the Property including, but not limited to, scrap tires dumped onto the ground and buried scrap tires, and shall arrange for their transportation, by a registered transporter, to a scrap tire storage, monocell, monofill, or recovery facility licensed under ORC Section 3734.81 in Ohio, to such a facility in another state operating in compliance with the laws of the state in which it is located, or to any other solid waste disposal facility in another state that is operating in compliance with the laws of that state.
9. Respondent shall obtain receipts from the registered transporter and the disposal facility, indicating weight, volume and number of scrap tires received. Respondent shall forward such documentation to Ohio EPA Northwest District

Office on a monthly basis by the 10th day of each month, until receipts documenting that all scrap tires have been removed from the Property, lawfully transported, and 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, 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. NOTICE

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

Ohio Environmental Protection Agency
Northwest District Office,
Division of Materials and Waste Management
347 North Dunbridge Road
Bowling Green, Ohio 43402
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

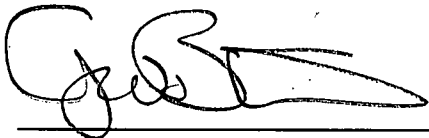
Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance 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 Respondent to perform additional activities pursuant to ORC Chapter 3734. or any other applicable law in the future. Nothing herein shall restrict the right of 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 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:



Craig Butler, Director