

OHIO E.P.A.

DEC 19 2006

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Spring Grove Resource Recovery, Inc.
4879 Spring Grove Avenue
Cincinnati, Ohio 45232

**Director's Final
Findings and Orders**

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Spring Grove Resource Recovery, Inc. (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 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or the Facility shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

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

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent operates a permitted treatment, storage and disposal facility located at 4879 Spring Grove Avenue, Cincinnati, Hamilton County, Ohio (Facility). Respondent received Ohio EPA identification number OHD 000816629 and Ohio Hazardous Waste Facility Installation and Operation Permit, No. 05-31-0012 (Permit).
2. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
3. At the Facility, Respondent generates "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Respondent is a large quantity generator of hazardous waste.
4. On September 29, 2005, Respondent notified Ohio EPA, via telephone, that two shipments of hazardous waste were sent to a landfill not permitted to accept hazardous waste. Specifically, Respondent reported that the first off-site shipment occurred on July 11, 2005, and the second off-site shipment occurred on September 16, 2005.
5. Based upon the information referenced in Finding No. 4 of these Orders, Ohio EPA determined that Respondent had, *inter alia*:
 - a. Caused hazardous waste to be transported to a facility not operating under a hazardous waste permit issued in accordance with ORC Chapter 3734., in violation of ORC § 3734.02(F);
 - b. Failed to prepare and utilize a uniform hazardous waste manifest for off-site shipments of hazardous waste, in violation of OAC rule 3745-52-20(A) and Permit Condition B.24; and
 - c. Failed to determine whether a hazardous waste meets the treatment standards in OAC rules 3745-270-40, 3745-270-45, and 3745-270-49 prior to land disposal, in violation of OAC rule 3745-270-07(A)(1) and Permit Condition B.40.
6. By letter dated October 18, 2005, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 5.a. through 5.c. of these Orders.

7. On October 25, 2005, Respondent notified Ohio EPA that the second shipment of hazardous waste, presumed to have been transported off-site on September 16, 2005, as referenced in Finding No. 4 of these Orders, remained at the Facility and had been stored in an area of the Facility designated for the storage of non-hazardous waste. Respondent also notified Ohio EPA that, upon discovery, the second shipment of hazardous waste was moved to, and properly managed in, a permitted area of the Facility.
8. In correspondence dated November 3, 2005, Respondent provided responses to Ohio EPA's October 18, 2005, letter.
9. On November 16, 2005, Ohio EPA conducted a follow-up inspection at the Facility. As a result of the inspection, Ohio EPA determined that Respondent had, *inter alia*, failed to comply with the procedures described in the approved waste analysis plan found in Section C of the Permit, in violation of OAC rule 3745-54-13 and Permit Condition B.3.
10. By letter dated December 13, 2005, Ohio EPA notified Respondent of the violation referenced in Finding No. 9 of these Orders.
11. In correspondences dated January 6 and February 16, 2006, Respondent provided responses to Ohio EPA's December 13, 2005 letter.
12. Based upon the information contained in Respondent's November 3, 2005, January 6 and February 16, 2006 letters to Ohio EPA, referenced in Finding Nos. 8 and 11 of these Orders, the Director has determined that no additional action is required of Respondent at this time regarding the violations referenced in Finding Nos. 5.a. through 5.c., and 9 of these Orders. In addition, and based upon the storage of hazardous waste in an unpermitted area of the Facility, as referenced in Finding No. 7 of these Orders, the Director has determined that Respondent is in violation of ORC § 3734.02(E) and (F), and Permit Condition C.1(a).
13. On May 8, 2006, Ohio EPA received Respondent's Class 1 Permit Modification request to add the unpermitted hazardous waste storage area, referenced in Finding No. 7 of these Orders, as a "waste management unit," in accordance with Permit Condition E.11.
14. By letter dated June 5, 2006, Ohio EPA acknowledged and concurred with Respondent's request to add the unpermitted hazardous waste storage area as a "waste management unit."

15. Based upon Ohio EPA receipt and acceptance of Respondent's Class 1 Permit Modification, as referenced in Finding Nos. 13 and 14 of these Orders, the Director has determined the no additional action is required of Respondent at this time regarding the violation referenced in Finding No. 12 of these Orders.

V. ORDERS

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

1. Respondent shall pay Ohio EPA the amount of \$8,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734., in accordance with the following provisions:
 - a. Within 30 days after the effective date of these Orders, Respondent shall pay \$6,400.00 of the above civil penalty settlement to Ohio EPA in settlement of Ohio EPA's claims for civil penalties which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$6,400.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent. A copy of this check shall be submitted in accordance with Section X. of these Orders.
 - b. In lieu of paying the remaining \$1,600.00 of civil penalty to Ohio EPA, Respondent shall fund an additional SEP by making a contribution in the amount of \$1,600.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD). Respondent shall make the payment within 30 days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$1,600.00. The official check shall be submitted to Brenda Case, or her successor, Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent. A copy of this check shall be submitted in accordance with Section X. of these Orders, and an additional copy of this check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, Ohio EPA, Division of Air Pollution Control, P.O. Box 1049, Columbus, Ohio 43216-1049.

- c. Should Respondent fail to fund the SEP within the required time frame established in Order No.1.b., Respondent shall pay to Ohio EPA within 7 days of failing to comply with Order 1.b. the amount of \$1,600.00 in accordance with the procedures in Order No. 1.a.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V. of these Orders.

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 operation of Respondent's Facility.

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

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

Ohio Environmental Protection Agency
Southwest District Office
Division of Hazardous Waste Management
401 East Fifth Street
Dayton, Ohio 45402
Attn: DHWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Joseph P. Koncelik, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section

For deliveries to the building:

Joseph P. Koncelik, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
50 West Town Street, Suite 700
Columbus, Ohio 43215
Attn: Manager, Compliance Assurance Section

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

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all other rights, privileges and causes of action, 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. 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 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

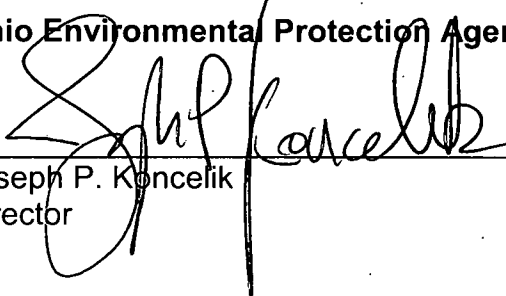
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



Joseph P. Koncelik
Director

DEC 19 2006

Date

IT IS SO AGREED:

Spring Grove Resource Recovery, Inc.

Raiford Craig Lackey, Esq.
Signature

December 5, 2006
Date

RAEFORD CRAIG LACKEY, ESQ.
Printed or Typed Name

VICE PRESIDENT & CHIEF COUNSEL
Title