

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
OCT 25 2002
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Envirite of Ohio, Inc.
2050 Central Avenue, S.E.
Canton, Ohio 44707

.....
Director's Final
Findings and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Envirite of Ohio, 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 the Respondent or of the Facility 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 Chapter 3734. and the rules promulgated thereunder.

IV. FINDINGS

All findings necessary for the issuance of these Orders pursuant to ORC §§ 3734.13 and 3745.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any matter of law or fact. The Director of Ohio EPA has determined the following findings:

1. Respondent is the owner and operator of a permitted hazardous waste treatment and storage facility located at 2050 Central Ave., SE, Canton, Ohio (Facility). Respondent is a foreign corporation qualified to do business in Ohio on December 23, 1996.
2. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
3. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD980568992 and permit number 02-76-0469.
4. At the Facility, Respondent treats, stores and generates "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03.
5. On May 24, 2002, Respondent transported to and disposed of 15.4 tons of listed hazardous waste at American Landfill, in Waynesburg, Ohio. American Landfill does not hold a hazardous waste facility installation and operation permit.
6. Respondent provided telephonic notification to Ohio EPA on May 24, 2002 regarding the transportation and disposal of the hazardous waste at American Landfill as referenced in Finding No. 5. of these Orders.
7. On June 3, 2002, Respondent excavated from American Landfill fourteen, thirty cubic yard containers of hazardous waste from the area where the hazardous waste referenced in Finding No. 5. of these Orders was disposed of.
8. On June 19, 2002, Ohio EPA conducted an inspection of the Facility. As a result of Respondent's May 24, 2002 telephonic notification as referenced in Finding No. 6. of these Orders and the June 19, 2002 inspection, Ohio EPA determined that Respondent had, inter alia:
 - a. Transported or caused to be transported hazardous wastes to an unpermitted facility, in violation of ORC § 3734.02(F) and Permit Condition A.1; and
 - b. Disposed of hazardous waste at an unpermitted facility, in violation of ORC §§ 3734.02(E) and (F).

9. By letter dated June 26, 2002, Ohio EPA notified Respondent of the violations referenced in Finding No. 8. of these Orders.
10. Between July 8, 2002 and July 12, 2002, the fourteen containers of hazardous waste excavated from American Landfill as referenced in Finding No. 7. of these Orders were transported to a permitted hazardous waste landfill in Belleville, Michigan.
11. In addition to the violations referenced in Finding No. 8. of these Orders, the Director has determined that Respondent violated OAC rules 3745-54-71(C) and 3745-52-20 by failing to execute a hazardous waste manifest for the shipment of hazardous waste referenced in Finding No 5. of these Orders.
12. The Director has determined that Respondent has abated the violations referenced in Finding Nos. 8. and 11. 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. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$12,000 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and 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 \$12,000. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the Facility. A copy of this check shall be submitted in accordance with Section X. of these Orders.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official check 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
Northeast District Office
Division of Hazardous Waste Management
2110 E. Aurora Road
Twinsburg, Ohio 44087
Attn: DHWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:
Christopher Jones, 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

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 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, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, 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

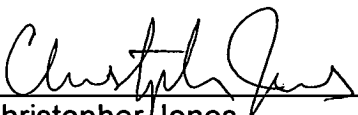
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



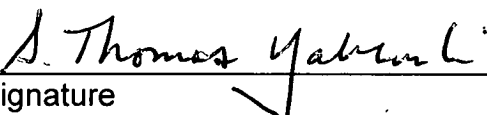
Christopher Jones
Director

OCT 25 2002

Date

IT IS SO AGREED:

Envirite of Ohio, Inc.



Signature

Oct 14, 2002
Date

S. Thomas Yablonski
Printed or Typed Name

Chairman - Envirite of Ohio
Title