



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

April 27, 2016

Jason Wallace  
P.O. Box 31  
Cuba, Ohio 45114

**Re: Jason Wallace Open Dump  
Director's Final Findings and Orders (DFFO)  
DFFO  
Municipal Solid Waste Landfills  
Clinton County  
MSWL020895**

**Subject: Jason & Angela Wallace Unilateral Orders**

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Jason Wallace 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  
77 South High St., 17<sup>th</sup> Floor  
Columbus, Ohio 43215

If you have any questions, please contact Troy Harter or Terri Finfrock at (614) 644-3037.

Sincerely,

A handwritten signature in black ink that reads "D. L. Crumiell-Hagens".

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

cc: Carl Mussenden, DMWM, CO  
Kelly Jeter, DMWM, CO  
Troy Harter, Legal  
Terri Finfrock, Legal  
Toni Carmichael, DMWM, SWDO  
Michelle Ackenhausen, DMWM, SWDO

OHIO E.P.A.

APR 27 2016

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

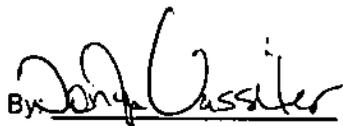
In the Matter Of

Jason A. Wallace :  
Angela C. Wallace :  
3248 Cuba Road :  
Wilmington, Ohio :

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.

**Respondents**

By  Date: 4-27-16

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Jason A. Wallace and Angela C. Wallace ("Respondents") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Sections 3714.11 and 3734.13.

**II. PARTIES**

These Orders shall apply to and be binding upon Respondents, and her 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 Chapters 3714. and 3734. and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

1. Respondents are both owners of the property located at 3248 Cuba Road, Wilmington, Ohio, Parcel Number 330022201000000 ("the Property") located in Clinton County.
2. Respondents are both "persons" as that term is defined in ORC Section 3734.01(G), and in Ohio Administrative Code ("OAC") Rule 3745-27-01(P)(3).
3. Respondents are both "owners" as that term is defined in OAC Section 3745-27-01(O)(7).

4. According to ORC Section 3734.01(E) 'Solid wastes' "means 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. "Solid wastes" does not include any material that is an infectious waste or a hazardous waste."
5. "Construction and demolition debris" is defined in ORC 3714.01(C) as "[t]hose materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure that is built by humans . . . ."
6. OAC Rule 3745-37-01(C) which states in part, "No person shall establish, modify, operate or maintain a construction and demotion debris facility without a construction and demolition debris facility license issued by the licensing authority except as otherwise specified in this rule. An application for a construction and demolition debris facility license shall be made in accordance with Chapter 3745-37 of the Administrative Code and shall be submitted as follows: (1) A person proposing to open a new facility shall submit a license application at least ninety days before proposed operation of the facility; and (2) The owner or operator of a facility that was in operation or under construction prior to the effective date of this rule shall submit a license application in accordance with rule 3745-37-02 of the Administrative Code not later than six months after the effective date of this rule. The owner or operator may continue to operate the facility until the licensing authority issues a final action on the license application in accordance with Chapter 3745-37 of the Administrative Code and division (C) of section 3714.06 of the Revised Code."
7. ORC Sections 3714.13(A) and (B) state, "(A) No person shall violate any section of this chapter. (B) No person shall violate a rule adopted under this chapter."
8. ORC Section 3734.01(H) defines "Open Burning" as the burning of solid wastes in an open area or burning of solid wastes in a type of chamber or vessel that is not approved or authorized in rules adopted by the director of Ohio EPA under section 3734.02 of the Revised Code.
9. ORC Section 3734.01(I) defines "Open dumping" as the depositing of solid waste onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code.
10. 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."

11. The open dumping of solid waste is a violation of ORC Section 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."
12. OAC Rule 3745-400-04(B) states, "No person shall conduct or allow illegal disposal of construction and demolition debris." "Illegal disposal" is defined in OAC Rule 3745-400-01(S) as "the disposal of construction and demolition debris at any place other than a construction and demolition debris disposal facility . . . or a solid waste disposal facility."
13. "Construction and demolition debris" is defined in OAC Rule 3745-400-01(F) as "[t]hose materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure . . . ."
14. Respondents have engaged in open dumping and open burning of solid waste at the Property.
15. Respondents have established an illegal construction and demolition debris disposal site by disposing of construction and demolition debris on the Property, which is not a licensed construction and demolition debris disposal facility or solid waste disposal facility.
16. Ohio EPA conducted inspections of the Property on March 13, 2015, April 30, 2015, and June 5, 2015, and documented violations of the following laws and rules in letters dated April 7, 2015, May 5, 2015, and June 15, 2015:
  - ORC Section 3734.03 – open burning and open dumping;
  - OAC Rule 3745-27-05(C) – open dumping;
  - ORC Section 3714.06(A) - operating a construction and demolition debris facility without an annual construction and demolition debris facility operation license;
  - OAC Rule 3745-400-04(B) - illegal disposal of construction and demolition debris;
  - OAC Rule 3745-37-01(C) - establishing a construction and demolition debris facility without a construction and demolition debris facility license;
  - ORC 3714.13(A) and (B) - No person shall violate any section of this chapter or a rule adopted under this chapter.

## **V. ORDERS**

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

1. Not later than thirty (30) days after the effective date of these Orders, Respondents shall remove or cause the removal of all solid waste and construction and demolition debris from the Property to a disposal facility authorized to accept that material.
2. Not later than ten (10) days after removal of the solid waste and construction and demolition debris in accordance with Order No. 1 above, Respondents shall obtain and forward to Ohio EPA Southwest District Office receipt(s) from the waste hauler and the disposal facility, indicating weight and/or volume of the solid waste and construction demolition debris transported and received.

## **VI. TERMINATION**

Respondents' obligations under these Orders shall terminate when Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondents have 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 Respondents of the obligations that have not been performed, in which case Respondents 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 Respondents to Ohio EPA and shall be signed by Respondents.

## **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 Property.

## **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken by Respondents 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 Respondents or the Property.

### **IX. NOTICE**

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

Ohio Environmental Protection Agency  
Southwest District Office,  
Division of Materials and Waste Management  
401 East Fifth Street  
Dayton, Ohio 45402  
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 Respondents 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 Respondents to perform additional activities pursuant to ORC Chapters 3734. or 3714. and the rules promulgated thereunder or any other applicable law in the future. Nothing herein shall restrict the right of Respondents to raise any administrative legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondents.

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.

### **XII. 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**

**Ohio Environmental Protection Agency**



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Craig W. Butler, Director