



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

July 5, 2018

B & G Autosales, LLC  
6091 Woodwind Court  
Middletown, OH 45044

**Re: Simpson Paper Mill  
Director's Final Findings and Orders (DFFO)  
DFFO  
Municipal Solid Waste Landfills  
Butler County  
MSWL021798**

**Subject:** Final Findings and Orders of the Director

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for B & G Autosales, LLC.

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

Sincerely,

A handwritten signature in black ink that reads "Greg Nichols". The signature is written in a cursive, flowing style.

Greg Nichols, Administrative Processing Unit  
Division of Materials & Waste Management

Enclosure

ec: Carl Mussenden, DMWM, CO  
Kelly Jeter, DMWM, CO  
Teri Frinfrock, Legal  
Robin Nichols, Legal  
Dylan Dyer, DMWM, SWDO  
Tracy Buchanan, DMWM, SWDO

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of

B & G Autosales, LLC : Director's Final Findings  
6091 Woodwind Court : and Orders  
Middletown, Ohio :

Respondent

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to B & G Autosales, LLC ("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 3745.01.

**II. PARTIES**

These Orders shall apply to and be binding upon Respondent, and its 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 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. Respondent is a limited liability company organized in the state of Ohio and is the owner of the property identified as Parcel Number C1710017000085 ("the Property") located at 3560 South Main Street, in Middletown, Lemon Township, Butler County, Ohio.
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 3745-27-01(P)(3) and 3745-400-01(P)(1).

3. Respondent is an "owner" as that term is defined in OAC Rules 3745-27-01(O)(7) and 3745-400-01(P)(2).
4. 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."
5. "Construction and demolition debris" is defined in ORC Section 3714.01 as "those materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any physical structure that is built by humans[.]"
6. ORC Section 3734.01(I) states, in pertinent part, "[o]pen dumping' means the depositing of solid wastes into a body or stream of water or 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[.]"
7. 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 provides 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."
8. OAC Rule 3745-400-04(B) provides that "[n]o person shall conduct or allow illegal disposal of construction and demolition debris." OAC Rule 3745-400-01(I)(2) defines "illegal disposal" as "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, this chapter, and Chapter 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[.]"
9. OAC Rule 3745-37-01(C) states, in pertinent part, "No person shall establish, modify, operate or maintain a construction and demotion debris facility without a construction and demolition debris facility license(.)"
10. The Property is not licensed as a solid waste facility or a construction and demolition debris facility.
11. Ohio EPA conducted inspections of the Property on September 9, 2016, December 30, 2016, April 14, 2017, and August 18, 2017 and cited the following violations in

letters dated September 29, 2016, January 19, 2017, April 26, 2017 and August 31, 2017:

- ORC Section 3734.03 and OAC Rule 3745-27-05(C) for open dumping of solid wastes,
  - OAC Rule 3745-400-04(B) for illegal disposal of construction and demolition debris, and
  - OAC Rule 3745-37-01(C) for establishing, modifying, operating or maintaining a construction and demolition debris facility without a construction and demolition debris facility license at the Property.
  - OAC Rule 3745-37-01(A) for conducting municipal solid waste landfill... operations without possessing a separate valid license.
12. On September 13, 2017, November 28, 2017, and January 26, 2018, Ohio EPA observed that the violations at the Property had not been abated.
  13. Respondent provided receipts demonstrating to Ohio EPA the proper removal of 180 scrap tires from the Property.
  14. Although Respondent took proper steps to remove some solid waste, solid waste and construction and demolition debris remain at the Property.
  15. Respondent has obtained a demolition permit from the Butler County Board of County Commissioners, Building and Zoning, and is in the process of demolishing structures on the Property. Respondent's permit expires on July 17, 2018, and Respondent has committed to completing demolition of all structures on the Property not later than that date, except the yellow structure located on the southwest portion of the Property.

## **V. ORDERS**

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

1. 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.
2. Upon the effective date of these Orders, Respondent shall cease acceptance and disposal of all construction and demolition debris ("C&DD") at the Property and shall comply with the provisions of ORC Chapter 3714. and OAC Chapter 3745-400.

3. Not later than January 1, 2019, Respondent shall complete the disposal of all solid waste from the Property, including all solid waste resulting from the demolition activities described in Finding 15, at a licensed solid waste disposal facility.
4. Not later than January 1, 2019, Respondent shall complete the disposal of all C&DD from the Property, including all construction and demolition debris resulting from the demolition activities described in Finding 15, at a licensed C&DD facility or at a licensed solid waste disposal facility.
5. Respondent shall obtain disposal receipts from the licensed solid waste disposal facility and licensed C&DD disposal facility indicating weight or volume of waste disposed. Beginning on the effective date of these Orders, and continuing until all solid waste and C&DD is properly disposed, Respondent shall forward such documentation to Ohio EPA Southwest District Office on a monthly basis by the 10th day of each month documenting the amount of solid waste and C&DD that has been appropriately disposed from the prior month.
6. If Respondent fails to perform any obligation set forth in Paragraphs 1 through 5 of Section V of these Orders, Respondent shall immediately pay to Ohio EPA the amount of two thousand five hundred dollars (\$2,500.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 3734. Payment of a civil penalty pursuant to this Paragraph does not release Respondent from the obligation to comply with Paragraphs 1 through 4, above. Payment to Ohio EPA shall be made by official check made payable to "Treasurer, State of Ohio" for two thousand five hundred dollars (\$2,500.00). The official check shall be submitted together with a letter identifying the Respondent to the following address:

Ohio EPA  
Office of Fiscal Administration  
Attn: Brenda Case  
P.O. Box 1049  
Columbus, Ohio 43216-1049

## **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: "[Name] certifies 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 a responsible official of 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 Property.

#### **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken by Respondent 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. 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 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.

#### **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 the 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**

  
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Craig W. Butler, Director

#### **IT IS SO AGREED:**

**B&G Autosales, LLC**

By: James Tim Agee, President 5/17/18  
Signature Date

JAMES TIM AGEE, President  
Printed or Typed Name