



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

August 29, 2018

Mr. and Mrs. Mark Scott  
5410 SW 3<sup>rd</sup> Ave  
Cape Coral, FL 33914

**Re: Lancaster Road Scott Open Dump  
Director's Final Findings and Orders (DFFO)  
DFFO  
Construction & Demolition Debris  
Ross County  
CDDL019857**

**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 Lancaster Road Scott Open Dump.

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

Sincerely,

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

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

Enclosure

ec: Kelly Jeter, DMWM, CO  
Bruce McCoy, DMWM, CO  
Carl Mussenden, DMWM, CO  
Joe Goicochea, DMWM, SEDO  
Teri Finrock, Legal  
Troy Harter, Legal

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Mark and Tamara Scott	:	<u>Director's Final Findings</u>
5410 SW 3 <sup>rd</sup> Ave	:	<u>and Orders</u>
Cape Coral, FL 33914	:	

Respondents

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Mark and Tamara Scott ("Respondents") 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 the Respondents 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 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 Chapter and 3734. and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

1. Respondents are each an "owner", as that term is defined in OAC Rules 3745-27-01(O)(7), of property located at 1410 Lancaster Road, Chillicothe, Ross County, Ohio (the "Property"). The Property is identified by the Ross County Auditor as parcel number 190406011000.

2. Respondents are each a "person" as that term is defined in ORC § 3734.01(G) and in Ohio Administrative Code ("OAC") Rule 3745-27-01(P)(3).
3. OAC Rule 3745-37-01(A) states that "[n]o person shall conduct municipal solid waste landfill, industrial solid waste landfill, residual solid waste landfill, compost facility, transfer facility, infectious waste treatment facility, or solid waste incineration facility operations without possessing a separate, valid license for each such operation, as required by Chapter 3734. of the Revised Code and the Administrative Code rules adopted thereunder. Each license shall be obtained from the board of health in the health district in which the facility is located, or by the director, if the director has assumed the licensing function for that health district."
4. ORC § 3734.01(I) defines open dumping as 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 [.]"
5. 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[.]"
6. The open dumping of solid waste 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."
7. ORC § 3734.02(C) states, in pertinent part, "no person shall establish a new solid waste facility... without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation and receiving a permit issued by the director[.]"
8. ORC § 3734.05(A) states, in pertinent part, "no person shall operate or maintain a solid waste facility without a license issued under this division by the board of health of the health district in which the facility is located[.]"
9. In April 2013, a fire occurred at the Property where a building and its contents, paper pulp, were destroyed. Respondents' insurer, Western Reserve Group, hired Gillum Brothers Excavating ("Gillum") to manage cleanup activities. Respondents assert that Gillum misstated it had permission from Ohio EPA to dispose of the

building on-site and excavated a trench. Gillum disposed of primarily construction and demolition debris and paper mill waste into the trench.

10. Ohio EPA inspected the Property on the following dates: July 24, 2013; September 29, 2015; November 30, 2015; January 11, 2016; February 29, 2016; May 18, 2016; August 17, 2016; October 28, 2016; January 6, 2017; June 1, 2017; August 1, 2017; and October 20, 2017.
11. Ohio EPA cited the Respondents in violation of ORC § 3734.03 and OAC Rule 3745-27-05(C) for open dumping, and OAC Rule 3745-400-04(B) for illegally disposing of C&DD at the Property in letters dated August 12, 2013; October 9, 2015; December 7, 2015; March 8, 2016; and June 1, 2016.
12. After Ohio EPA cited Respondents for open dumping and illegal disposal of C&DD in letters dated August 12, 2013 and October 9, 2015, Respondents communicated to Ohio EPA on November 25, 2015 that 2,312 tons of waste and C&DD had been removed from the trench and properly disposed at the Pike County Landfill at a cost of \$110,989 with funds provided by the insurance company. An additional 510 tons were removed at a cost of \$34,785 funded by Respondents.
13. At this time, Respondents' efforts to remove the paper mill waste from the Property have exhausted their financial resources, and approximately 1,200 tons of paper mill waste remain stockpiled on a concrete pad and on a nearby grassy area at the Property. The remaining paper mill waste is mostly in rolls of about two feet in diameter and two to three feet in height. Some incidental pieces of concrete and rocks were present, which should be easily removed prior to further processing.
14. Ohio EPA cited the Respondents in violation of ORC § 3734.03 and OAC Rule 3745-27-05(C) for open dumping of paper mill waste at the Property in letters dated September 1, 2016, November 10, 2016; January 17, 2017; June 15, 2017; and August 8, 2017.
15. On August 23, 2017, Ohio EPA staff met with Respondents at the Property to evaluate the paper mill waste, available equipment and property for potential to manage the paper mill waste through composting. Ohio EPA staff determined the following:
  - a. The paper mill waste should be a suitable bulking agent when shredded and mixed with other nitrogen-rich waste materials.
  - b. The existing concrete pad where some of the paper mill waste is stored is a suitable location for the active stages of the composting process.
  - c. The nearby grassy area where some of the paper mill waste is stored is a suitable location for storage of material in the curing and final stages of composting.
  - d. Respondents' own equipment can be used to move and mix the materials.

- e. Respondents should be able to secure access to equipment to shred the paper mill waste.
16. On May 3, 2018, Respondents submitted a plan proposal (Attachment A) developed with assistance from Ohio EPA for composting the paper mill waste on-site by mixing it with animal waste, as a management alternative to resolve the open dumping violation.
17. In accordance with OAC Chapter 3745-560, composting of paper mill waste used as a bulking agent and animal waste are allowed at registered Class III composting facilities.
18. Pursuant to Ohio Revised Code (ORC) Section 3734.02(G) and Ohio Administrative Code 3745-500-220, the director may grant an exemption from any requirement of ORC Chapter 3734. or the rules adopted thereunder if granting the exemption is unlikely to adversely affect the public health or safety or the environment.
19. Based upon a review of Respondents' request, Ohio EPA has determined that granting the exemption to Respondents from the class III composting facility registration requirements in OAC Rule 3745-560-300 for the Respondents' Property located at 1410 Lancaster Road, Chillicothe, is unlikely to adversely affect the public health or safety or the environment.

## **V. ORDERS**

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

1. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-500-220(B), Respondents are hereby granted an exemption from the requirements for establishing a Class III composting facility in OAC Rule 3745-560-300 and all Class III operational requirements in OAC Chapter 3745-560 for the duration of the project at Respondents' Property located at 1410 Lancaster Road, Chillicothe, Ohio, provided Respondents perform composting activities as specified in Respondents' May 3, 2018 the project plan (Attachment A) and these Orders.
2. This exemption is issued solely to the Respondents' Property located at 1410 Lancaster Road, Chillicothe, Ohio. This exemption is not transferrable upon change of ownership of the Facility. This exemption is not transferrable to any other person. This exemption is not transferrable to Respondents' establishment or operation of a composting facility located on any other property owned or operated by Respondents, other than the Property specified herein.

3. Composting of the materials approved in this exemption shall occur in the area dedicated solely for the project designated with concurrence from Ohio EPA.
4. The exemption shall expire on December 31, 2019 unless authorization for continuation of the composting project is granted by Ohio EPA.
5. Not later than thirty (30) days after the effective date of these Orders, Respondents shall submit in writing to Ohio EPA an addendum to its May 3, 2018 project plan containing a plan view drawing, using a scale of one inch equals no greater than one hundred feet, containing the following information:
  - a. the property lines of all land owned or leased for the composting facility;
  - b. public roads, railroads, and structures;
  - c. existing topography showing streams, wetlands, lakes, springs, and other surface waters of the state;
  - d. the north arrow;
  - e. location of the materials placement areas for each of the following:
    - i. composting operations
    - ii. storage of feedstocks, bulking agents, or additives.
    - iii. storage of compost product.
    - iv. existing occupied structures.
    - v. any leachate management structure.
    - vi. the limits of the one-hundred-year floodplain.
6. Respondents shall perform composting operations in compliance with the project plan and in such a manner that does the following:
  - a. Controls noise, dust, and odors so as not to cause a nuisance or a health hazard.
  - b. Controls the attraction, breeding, and emergence of insects, birds, rodents, and other vectors so as not to cause a nuisance or a health hazard. Respondents shall initiate vector control measures as deemed necessary by Ohio EPA.
  - c. Prevents the occurrence of fire. In the event that a fire does occur, Respondents shall act immediately to prevent the spread of fire and extinguish the fire.
  - d. Employs all reasonable measures to collect, properly contain, and dispose of scattered litter.
  - e. Prevents the creation of water pollution that would violate ORC Chapter 6111 or any rules adopted thereunder.
  - f. Prevents the creation of air pollution that would violate ORC Chapter 3704 or any rules adopted thereunder.
7. Not later than three hundred (300) days after the effective date of these Orders, Respondents shall process and mix all paper mill waste (approximately 1,200

tons) located at the Property with sufficient volumes of animal manure to promote composting.

8. Respondents shall seek written concurrence from Ohio EPA prior to using any additional feedstocks, bulking agents, or additives not listed in these Orders or the project plan.
9. Following mixing and processing, Respondents shall land apply compost in accordance with best management practices at the Property such that land application and corresponding activities do not cause or threaten to cause an adverse effect to the public health or safety or the environment.
10. Nothing in these Orders shall be construed to authorize any waiver from the requirements of any applicable federal or state laws or regulations except as specified herein. These Orders shall not be interpreted to release Respondents from responsibility under ORC Chapters 3704, 3714, 3734, and 6111; under the Federal Clean Water Act, the Resource Conservation and Recovery Act, or the Comprehensive Environmental Response, Compensation, and Liability Act.
11. The Director of Ohio EPA may revoke these Orders for any reason, including but not limited to Respondents' failure to comply with any of these Orders or a determination by the Director that the activities performed pursuant to these Orders threaten or adversely affect public health or safety or the environment.

## **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 Ohio EPA's Chief, 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 from the Respondents: "We certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted to Ohio EPA by the Respondents seeking termination in accordance with this Section 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, Respondents 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 Respondents 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 the Respondents pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Southeast District Office  
Division of Materials and Waste Management  
2195 Front Street  
Logan, Ohio 43138

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

## **XI. RESERVATION OF RIGHTS**

Ohio EPA reserves its rights to seek civil or administrative penalties against Respondents for violations specifically cited in these Orders. Ohio EPA and Respondents each reserve all other rights, privileges, and causes of actions, 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, Respondents consent to the issuance of these Orders and agree to comply with these



Orders. Except for the right to seek civil or administrative penalties against Respondents for violations specifically cited in these Orders, which right Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondents' liability for the violations specifically cited herein.

Respondents hereby waive the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondents hereby waive any and all rights Respondents may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondents agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondents retain the right to intervene and participate in such appeal. In such an event, Respondents 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**



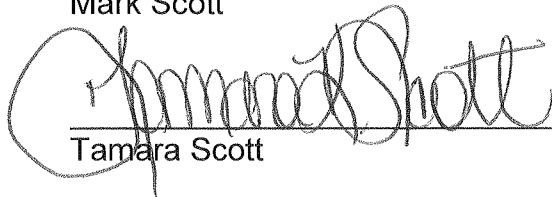
---

Craig W. Butler  
Director

**IT IS SO AGREED:**



\_\_\_\_\_  
Mark Scott



\_\_\_\_\_  
Tamara Scott

Attachment A

## 1. Introduction

On April of 2013 there was a fire that occurred at our warehouse at 1410 Lancaster Rd., Chillicothe, OH. The building was destroyed and it held mostly paper pulp for our local paper mill. In November of 2015 the insurance company gave us approval and also the funds to remove up to \$110,989.00 worth of material for a total of 2312 tons. We were able to remove another 510 tons with our own money totaling \$34,785.11. The total tonnage removed was 2,832.22. We have exhausted all of our resources financially to remove any more at this time because 2 of our biggest clients left our facility following the fire. We only have 1 remaining customer since then. For this reason we are requesting to compost the remaining pulp paper on-site.

## 2. Process

The paper pulp is still mostly in rolls of about two feet in diameter and two to three feet in height and will have to be shredded in order to mix it with feedstock. The paper pulp will be shredded in a tub grinder. A dumpster will be available to dispose of any solid waste such as plastic, metal and treated wood as we hand sort thru debris. Any rocks or chunks of concrete found will be used on-site as clean hard fill and in accordance with rules. The processed paper pulp will be mixed with locally available feedstock and composted in windrows. We plan to use solid and liquid manure from local beef, dairy & horse farmers as a feedstock.

## 3. Method of Composting

Windrow composting will be utilized on/near the two concrete pads where the paper pulp is currently stored, or other location approved by Ohio EPA. The internal temperature of the windrows will be taken once a week and recorded. Windrows will be turned whenever the average internal temperature exceeds to 140 degrees f, or drops below 90 degrees f, but no less than every two weeks. Compost turnings will be scheduled to minimize any negative

impacts on neighboring property. The amount of manure that will be added to the mix will be determined with the assistance of Ohio EPA.

**4. Final Product**

All compost will be inspected by the Ohio EPA prior to determination as final product. Final product will be removed from the composting area for storage and ultimately onsite utilization. No final product will leave the property owned by Tamara and Mark Scott.

**5. Proposed Timeline/Milestones**

It is our goal to start this process as soon as we have written permission from the Ohio EPA and work to have all paper pulp sorted and shredded within 8 to 10 months. We will continually evaluate the compost and final product. If Ohio EPA determines that additional feedstock is needed or windrows must be managed differently, we will amend this proposal and manage the project as instructed by the Ohio EPA to promote continued composting. We will continue to evaluate the composting process and final product until Ohio EPA determines all product is finished.

**6. Equipment**

We plan to utilize a dumpster currently stored on-site, Rumpke

Tub Grinder: We are working with Tatman Mulching and also the City of Chillicothe to rent the tub grinder or hire another company to shred the pulp at our facility.

Front End loaded and tractor – owned by the facility and currently located on-site.

**7. Record keeping and submittals**

A monthly log of the project will be utilized and kept onsite. When operations are suspended and personnel will not be available to perform the site inspection, the absence will be noted in the daily log. Other information to be included in the daily log include but not limited to:

**a. Weekly inspections**

- b. Bi-weekly temperature readings**
- c. Receipt/record of feedstock brought onto site**
- d. Receipt/record of solid waste removed from the site**
- e. Odors identified onsite or offsite**
- f. Additional manure sources**
- g. Poned surface water or excess runoff from the composting area, and**
- h. Any complaints received**

**A report outlining the projects compliance with the timeframes set herein and including the daily log will be provided to the Ohio EPA on the second, fourth, sixth month and then quarterly, until project is completed.**

**8. Composting operations will be overseen by:**

**Jay Ackley – onsite, Site watchman, Emergency contact 740-649-4432**

**Malinda Knight – records**

**Tamara Scott – reporting to Ohio EPA**