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BARBARA A. WIEDENBEIN  
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CLERMONT COUNTY, OH

IN THE COURT OF COMMON PLEAS  
CLERMONT COUNTY, OHIO

STATE OF OHIO, ex rel.  
MICHAEL DEWINE  
OHIO ATTORNEY GENERAL,

Plaintiff,

v.

DONALD COMBS, et al.,

Defendants.

: CASE NO. 2018 CVH 01272  
:  
: JUDGE ANTHONY BROCK  
:  
: JUDGMENT ENTRY AND ORDER  
: GRANTING PLAINTIFF'S MOTION  
: FOR PRELIMINARY INJUNCTION  
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This matter came before the Court for hearing on October 16, 2018 on Plaintiff's Motion for Preliminary Injunction against Defendant Donald Combs, doing business as Combs Trucking and Land Improvements and Ace Dumpster. The Court has jurisdiction in this matter and venue is proper. The Parties were provided notice of the hearing and an opportunity to be heard by the Court. Assistant Attorneys General Sally Montell and Casey Chapman were present on behalf of Plaintiff and Donald Combs was present on his own behalf.

Upon consideration of the evidence presented and the testimony heard, the Court now renders this written decision granting the Plaintiff's Motion for Preliminary Injunction. Pursuant to Civ.R. 65(C), the State is not required to deposit a security bond.

**FINDINGS OF FACT**

1. Donald Combs does not have a permit or license to operate a solid waste disposal facility.
2. Donald Combs does not have a license to operate a construction and demolition debris facility.

3. Since 2015, Donald Combs has been bringing dumpsters full of construction and demolition debris and solid waste to his residential property located at 1779 Parker Road, Milford Ohio ("Parker Road Site").
4. Donald Combs unloads these dumpsters and dumps the comingled construction and demolition debris and solid waste ("waste material") onto the ground at the Parker Road Site.
5. Over the last three years, the piles of waste material have grown larger and larger.
6. The waste material dumped at the Parker Road Site is starting to break down and decompose, which poses a danger to the environment and to local residents.
7. The piles of waste material towards the front of the Parker Road Site are blocking vehicular access to the piles further back. This makes much of the Parker Road Site inaccessible to emergency vehicles needing to respond to any fire outbreak. The inaccessibility caused by these obstructions constitutes a danger to the public health and the environment in the case of a fire.
8. Donald Combs has scrap tires in various locations at the Parker Road Site. Some tires are in a dumpster, some are mixed in with the piles of waste material, and some are leaning against a wooden fence. The tires are open to the elements and at times hold water. Donald Combs is not treating any of the tires for mosquitos.
9. The tires lined up along the wooden fence create a danger to the public and next-door neighbors because they are a fire hazard.
10. The tires also pose a danger to the public because they hold water and attract mosquitos that carry the risk of a myriad of diseases.

11. On March 12, 2018, a fire occurred at the Parker Road Site that caught construction and demolition debris, copper wire, solid waste, and a dump trailer on fire.
12. Donald Combs conducted open burning or allowed others to conduct open burning at the Parker Road Site, which is an unrestricted area.

### **CONCLUSIONS OF LAW**

1. Pursuant to R.C. 3734.10, the court of common pleas has jurisdiction to grant—and shall grant—preliminary and permanent injunctive relief against any person who has or is violating any section of the R.C. Chapter 3734 solid waste laws or the rules adopted thereunder.
2. Donald Combs open dumped solid waste, including scrap tires, at the Parker Road Site in violation of R.C. 3734.03.
3. Donald Combs is operating and maintaining an unlicensed and unpermitted solid waste disposal facility in violation of R.C. 3734.02(C) and 3734.05(A)(1).
4. Pursuant to R.C. 3714.11(A), the court of common pleas has jurisdiction to grant—and shall grant—preliminary and permanent injunctive relief against any person who has or is violating any section of the R.C. Chapter 3714 construction and demolition debris laws or the rules adopted thereunder.
5. Donald Combs illegally disposed of construction and demolition debris at the Parker Road Site in violation of Ohio Adm.Code 3745-400-04(B).
6. Donald Combs is operating and maintaining an unlicensed construction and demolition debris facility in violation of R.C. 3714.06(A)(1).

7. Pursuant to R.C. 3704.06(B), the court of common pleas can grant injunctive relief upon the showing that the person has violated R.C. Chapter 3704 or the rules adopted thereunder.
8. Donald Combs conducted or allowed open burning at the Parker Road Site in violation of Ohio Adm.Code 3745-19-04(A).
9. The Clermont County Board of Health declared the Parker Road Site a public nuisance and issued abatement orders to Donald Combs in January 2016.
10. To this day, Donald Combs has not abated the public nuisance.
11. The present conditions at the Parker Road Site have caused an unreasonable interference with the health, wealth, welfare, and property of the neighboring public and constitutes a common law public nuisance.
12. The Plaintiff proved a substantial likelihood of prevailing on the merits.
13. There is a risk of irreparable injury to the environment and public if this injunction is not granted.
14. The issuance of this injunction will not unjustifiably harm third parties.
15. This injunction serves the public interest because it addresses a public nuisance.

#### **ORDER FOR PRELIMINARY INJUNCTION**

**It is hereby ORDERED that Donald Combs shall comply with the following:**

1. Immediately cease accepting or unloading solid waste, including scrap tires, and construction and demolition debris at the Parker Road Site;
2. Abate the public nuisance at the Parker Road Site by conducting the following:
  - a. Not later than November 14, 2018, ensure that all scrap tires are at least 25 feet away from all dwellings, wooden fences, and ignition sources;

- b. Not later than November 30, 2018, clear a 15 feet wide pathway along the piles of solid waste and construction and demolition debris so that emergency vehicles can access the entire length of the waste piles;
3. Not later than November 30, 2018, remove or cause the removal of all scrap tires at the Parker Road Site and arrange for their transportation, by a registered scrap tire transporter, to a scrap tire storage, monocell, monofill, or recovery facility licensed under R.C. 3734.81 in Ohio;
4. Not later than December 10, 2018, submit receipts to the Clermont County Health District showing lawful transport and disposal of all scrap tires at the Parker Road Site;
5. Each and every calendar month, starting November 2018, remove and lawfully dispose of at least 500 cubic yards or 250,000 pounds of solid waste and/or construction and demolition debris from the Parker Road Site until the Site no longer contains any solid waste or construction and demolition debris;
6. Transport all solid waste and construction and demolition debris removed pursuant to this Order to a licensed solid waste transfer facility, licensed solid waste or construction and demolition debris landfill facility, or reuse/manufacturing facility;
7. Obtain receipts from each licensed solid waste transfer facility, licensed solid waste or construction and demolition debris landfill facility, or reuse/manufacturing facility indicating the date, weight or volume, and type of material;
8. By the 10<sup>th</sup> day of each month, starting December 10, 2018, submit all receipts to the Clermont County Health District from each licensed solid waste transfer facility, licensed solid waste or construction and demolition debris landfill facility, or reuse/manufacturing facility showing that at least 500 cubic yards or 250,000 pounds of solid waste or

construction and demolition debris was removed from the Parker Road Site in the prior month;

9. Comply with Ohio Adm.Code Chapter 3745-19 by ceasing to conduct illegal open burning activity in unrestricted or restricted areas without prior notification and authorization by Ohio EPA; and
10. Grant access to the Clermont County Health District, Ohio EPA, and their contractors, agents, and assigns to the Parker Road Site for inspecting Defendant's compliance with R.C. Chapters 3704, 3714, and 3734, the rules adopted thereunder, and this Order.

**IT IS SO ORDERED.**

11-6-18  
DATE

  
JUDGE ANTHONY BROCK

The Clerk shall serve all parties with a file-stamped copy of this order and note said service on the docket.