

Date Issued: _____

Date Effective: _____

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of:

CR/PL, LP :
dba Crane Plumbing :
Cairns Road :
Mansfield, Ohio 44903 :
:

Director's Final Findings
and Orders

Respondent

PREAMBLE

It is hereby agreed by and between the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are hereby issued to Respondent pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under sections 3734.13 and 3745.01 of the Ohio Revised Code (ORC).

II. PARTIES

These Orders shall apply to and be binding upon the Respondent and its successors in interest bound pursuant to Ohio law. No change in ownership of Respondent nor any transfer of assets or real or personal property owned by Respondent shall in any way alter Respondent's obligations under these Orders.

The Respondent's obligations under these Orders may only be altered by the written approval of the Director of the Ohio EPA.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in ORC Chapter 3734. and the regulations promulgated thereunder. Unless otherwise stated, all citations to the Ohio Administrative Code (OAC) shall refer to regulations currently effective. Whenever the terms listed below are used in these Orders, the following definitions shall apply:

1. "Property" means the vitreous china plant located at 1723 West Fourth Street, Mansfield, Richland County, Ohio, which is approximately 80 acres in size and which contains the Facility.
2. "Facility" means the two adjacent solid waste disposal areas located on the Property which are depicted as the "vitreous china landfill" and "previously covered area" in Figure 2 of the Closure/Post Closure Plan attached hereto and incorporated herein as Attachment A.

IV. FINDINGS OF FACT

The Director has determined the following findings of fact:

1. The Respondent is the owner and operator of Property located at 1723 West Fourth Street, Mansfield, Richland County, Ohio, which contains at least two solid waste disposal areas that are herein referred to collectively as the Facility and are depicted more fully as the vitreous china landfill and previously covered area in Figure 2 of the Closure/Post Closure Plan attached hereto and incorporated herein as Attachment A.
2. The Respondent is a "person" as defined in sections 1.59 and 3734.01(G) of the Ohio Revised Code and 3745-27-01(B)(25) of the Ohio Administrative Code (OAC).
3. The Respondent generates "solid waste" at the Property as that term is defined in OAC Rule 3745-27-01.
4. The Facility is neither permitted nor licensed by Ohio EPA as a solid waste landfill and is an open dump. Consequently, Respondent is in violation of ORC Sections 3734.03, 3734.02(C), 3734.05(A)(1) and 3734.05(A)(2)(a), and OAC Rules 3745-27-06(A)(1); 3745-27-05(C) and 3745-37-01(A).
5. On January 28, 1992, Ohio EPA conducted an inspection of the Property and documented open dumping of solid waste in violation of ORC Chapter 3734.03 and OAC Rule 3745-27-05(C). A copy of the inspection report was mailed to the Respondent on March 3, 1992.

6. On June 10, 1994, the Respondent informed Ohio EPA that fired china was still being disposed of at the larger disposal area of the Facility, which is referred to as the vitreous china landfill in Figure 2 of Attachment A. Ohio EPA informed the Respondent that this was and continued to be a violation of Ohio Revised Code Chapter 3734. and the rules promulgated thereunder.
7. On July 17, 1996, Ohio EPA inspected the Property and noted that the Facility was still operating as an unlicensed and unpermitted solid waste landfill in violation of ORC Sections 3734.11(A), 3734.02(C), and 3734.05(A)(1), and OAC Rules 3745-27-06(A)(1) and 3745-37-01(A). This inspection was documented in a September 11, 1996, letter to the Respondent. The Respondent informed Ohio EPA that it disposed of the solid waste it generated by its plant operations in the vitreous china landfill until 1996 when disposal of solid waste at the Facility ceased in response to Notices of Violation from Ohio EPA. Respondent informed Ohio EPA that the smaller disposal area of the Facility, which is referred to as the previously covered area in Figure 2 of Attachment A, was covered with soil before 1989.
8. From 1992 through at least 1998, Ohio EPA documents indicate that Respondent made efforts to determine whether waste at the Facility could be classified as waste eligible for disposal in a Class IV residual solid waste facility. Ohio EPA assisted the Respondent in this effort through meetings, letters and notices of deficiencies.
9. By letter dated July 31, 2000, Ohio EPA cited the Respondent for open dumping in violation of OAC Rule 3745-27-05(C); for establishing a solid waste facility without a permit-to-install in violation of ORC Sections 3734.02(C), 3734.05(A)(1) and 3734.11(A)(2)(a); and for operating a solid waste facility without a license, in violation of OAC Rules 3745-37-01(A) and 3745-37-02(A).

V. ORDERS

1. Within 90 days after the effective date of these Orders, Respondent shall record a notation on the deed to the Property, or on some other instrument which is normally examined during title search, that will in perpetuity notify any potential purchaser of the Property that the land has been used as a solid waste disposal facility. The notation shall include information describing the acreage, exact location, depth, volume, and nature of solid waste placed in the two disposal areas of the Facility.
2. Upon the effective date of these Orders, Respondent shall not dispose of solid waste at its Facility.
3. Within 30 days after the effective date of these Orders, Respondent shall execute and fund the financial assurance instrument attached to these Orders and incorporated herein as Attachment B based on an estimated total post closure care

cost of \$80,148.20 and return to Ohio EPA the original, executed financial assurance instrument. Financial assurance for post closure care of the Facility may be adjusted after the effective date of these Orders in accordance with applicable law. Respondent may provide information regarding potential adjustments to Ohio EPA on an annual basis for Ohio EPA's use in determining whether adjustments should be made.

4. Unless otherwise expressly authorized by Ohio EPA in writing, Respondent shall begin closure of the Facility in accordance with Section 2.1.2 of the Closure/Post Closure Plan, attached hereto and incorporated herein as Attachment A by no later than June 1, 2003.
5. Respondent shall complete closure of the Facility in accordance with the Closure/Post Closure Plan attached hereto as Attachment A by December 1, 2003, unless otherwise authorized by Ohio EPA in writing.
6. Within 60 days after the completion of closure, Respondent shall submit a written closure certification report in accordance with OAC Rule 3745-29-11(J).
7. Respondent shall conduct post-closure monitoring of the Facility upon completing closure of the Facility, in accordance with OAC Rule 3745-29-14 and Attachment A of these Orders.
8. In lieu of claims for civil penalties which may be assessed pursuant to ORC Chapters 3734., Respondent shall deposit in Account Number 8100, FBO Henry G. Stahl, at the Croghan Colonial Bank, the amount of \$25,000.00 in 4 quarterly installments of \$6,250.00 with the first payment due on July 1, 2003. Payment shall be made by tendering certified checks in the stated amount to Croghan Colonial Bank, Attention Trust Department, 323 Croghan Street, Fremont, OH 43420 and by submitting a copy of the certified checks to Jeffrey Hurdley, Staff Attorney, Ohio EPA, Legal Section, P.O. Box 1049, Columbus, OH 43216-1049.

VI. TERMINATION AND SATISFACTION

Respondent's obligations under these Orders shall terminate when the Respondent certifies in writing and demonstrates, to the satisfaction of the Ohio EPA, Division of Solid and Infectious Waste Management, that all obligations under these Orders have been performed and the Ohio EPA, Division of Solid and Infectious Waste Management, approves this certification in writing.

This certification shall be signed by a responsible official of the Respondent. The certification shall make the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principal business function of the 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 signatory to these Orders for any liability arising out of or relating to the Property or any other property owned or used by Respondent for solid waste disposal.

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 federal, state, and local laws and regulations. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to the Property. The Ohio EPA reserves all rights and privileges except as specified herein.

IX. NOTICE

All documents demonstrating compliance with these Orders and all other documents required under these Orders to be submitted to the Ohio EPA shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
Division of Solid and Infectious Waste Management
Attn: Group Leader, DSIWM
347 N. Dunbridge Road
Bowling Green, OH 43402

and

Mansfield-Richland County Health Department
Attn: Health Commissioner
600 W. Third Street
Mansfield, OH 44906

or to such other persons and addresses as may hereafter be specified in writing by the 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 penalties against the Respondent for noncompliance with these Orders.

Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require the Respondent to perform additional activities pursuant to ORC Chapters 3734. and 6111. or any other applicable law in the future. Nothing herein shall restrict the right of the Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of the Respondent. In addition, Respondent reserves any rights it may have to require Ohio EPA to make adjustments to financial assurance in accordance with applicable law. Nothing in these Orders shall be construed to limit the authority of Ohio EPA and the State of Ohio to seek relief for violations not addressed in these Orders. In addition, nothing in these Orders shall be construed to limit the authority of Ohio EPA and the State of Ohio to seek relief to address any groundwater contamination and/or low level radioactive waste associated with the Property, and/or to seek relief to address any disposal areas on the Property which are not part of the Facility as defined in these Orders.

XI. SIGNATORIES

Each undersigned representative of a signatory to these Orders certifies that he or she is fully authorized to enter into the terms and conditions of these Orders and to legally bind such signatory to this document.

IT IS SO ORDERED:

Christopher Jones, Director
Ohio EPA

Date

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by the Ohio EPA for only those violations addressed in these Orders, the Respondent agrees that these Orders are lawful and reasonable, that the items and time frames provided for compliance herein are reasonable and that the Respondent agrees to comply with these Orders. Except as provided in Section X, Reservation of Rights, of these Orders, compliance with these Orders shall be a full accord and satisfaction for the Respondent's liability for the violations cited herein with respect to the Facility.

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

Notwithstanding the preceding, the Ohio EPA and the Respondent agree that in the event that these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, the Respondent retains the right to intervene and participate in such appeal. In such an event, the Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless said Orders are stayed, vacated, or modified.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Christopher Jones, Director
Ohio EPA

Date

CR/PL, LP

By:_____

Date

Title:_____