

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of:

American Scrap Tire Recyclers, Inc.	:	<u>Director's Final Findings</u>
3574 North Myers Road	:	<u>and Orders</u>
Geneva, Ohio 44041	:	

Respondent

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to American Scrap Tire Recyclers, Inc., ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Sections 3734.13 and 3734.85.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and its successors in interest liable under Ohio law. No change in ownership of Respondent or of the Facility (as hereinafter defined) shall in any way alter Respondent's 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 3734. and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is the owner of a parcel of land identified in the records of the Ashtabula County Recorder's office by warranty deed recorded July 2, 1999, in volume 113, pages 9297 and 9298, as permanent parcel number 17-023-00-009-00 (hereinafter referred to as the "Facility"). Respondent held a valid license for a scrap tire recovery facility for a period of time (from November 30, 1999 to November 18, 2002). Subsequent to November 18, 2002, the Facility has remained unlicensed. The Facility is located at 3574 North Myers Road, Geneva Township, Ashtabula County, Ohio.
2. Respondent is incorporated under the laws of the State of Ohio and is a "person" as

that term is defined in ORC Section 3734.01(G) and Ohio Administrative Code ("OAC") Rule 3745-27-01(P)(3).

3. Respondent is the "property owner" as that term is defined in Ohio Administrative Code ("OAC") Rule 3745-27-01(O)(7).
4. The Ashtabula County Health Department (the "Health Department") is on the approved list maintained pursuant to OAC Rule 3745-37-08 and administers and enforces the solid and infectious waste program in Ashtabula county.

Failure to properly operate a scrap tire facility

5. In accordance with OAC Rule 3745-27-65(C)(1)(b) (effective March 1, 1996), "[t]he owner or operator of a scrap tire recovery facility shall not accept any waste except scrap tires at the facility."
6. In accordance with OAC Rule 3745-27-65(C)(4) (effective March 1, 1996), "[t]he owner or operator shall have available at the facility a copy of the approved permit to install or registration certificate[.]" As amended on March 29, 2002, OAC Rule 3745-27-65(C)(4) states, "[t]he owner or operator shall have available at the facility a copy of the solid waste license and a copy of the approved permit to install or registration certificate for the facility."
7. In accordance with OAC Rule 3745-27-65(C)(6) (effective March 1, 1996), "[t]he owner or operator shall limit access to the facility to authorized personnel except during operating hours and when operating personnel are present[.]"
8. In accordance with OAC Rule 3745-27-65(C)(9) (effective March 1, 1996), "[t]he owner or operator shall manage the facility so as not to cause a nuisance, a health hazard, water pollution, or air pollution."
9. In accordance with OAC Rule 3745-27-65(D)(2) (effective March 1, 1996 and March 29, 2002), "[t]he owner or operator shall maintain the scrap tire handling areas and fire lanes to be free of vegetation or other combustible materials and obstructions to emergency vehicles."
10. In accordance with OAC Rule 3745-27-65(E)(3)(a) (effective March 1, 1996), "[o]utside storage in the temporary scrap tire storage area for a registered recovery facility shall not exceed an amount seven times the facilities [sic] daily designed input capacity or ten thousand square feet of effective scrap tire storage which ever is greater[.]" As amended on March 29, 2002, OAC Rule 3745-27-65(E)(3)(a) states, "[f]or a registered scrap tire recovery facility, [the temporary scrap tire storage area] shall not exceed the following: (l) [a]n

amount seven times the facility's daily designed input capacity or ten thousand square feet of aggregate whole scrap tire and rough shred storage which ever is greater[.]”

11. In accordance with OAC Rule 3745-27-65(F)(1)(a) (effective March 1, 1996), “[s]crap tire storage piles shall be no greater than two thousand five hundred square feet in basal area.”
12. In accordance with OAC Rule 3745-27-65(F)(1)(c) (effective March 1, 1996), “[w]here the length and width of a scrap tire storage pile(s) are each less than or equal to twenty five feet and the height of the scrap tire storage pile(s) is less than or equal to six feet, the scrap tires storage pile(s) shall be separated from other scrap tire storage piles and from buildings and structures by a fire lane with a width equal to or greater than fifty feet[.]” As amended on March 29, 2002, OAC Rule 3745-27-65(F)(1)(c) states “[f]ire lanes shall be equal to or greater than those listed in [Figure 1.]”
13. In accordance with OAC Rule 3745-27-65(F)(1)(d) (effective March 1, 1996), “[w]here either the length or width of a scrap tire storage piles(s) exceed(s) twenty five feet or where the height of the scrap tire storage pile(s) exceed(s) six feet, the scrap tire storage pile(s) shall be separated from other scrap tire storage piles and from buildings and structures by a fire lane with a width equal to or greater than one of the following distances: (I) one hundred feet.”
14. In accordance with OAC Rule 3745-27-65(G) (effective March 1, 1996), “[t]he owner or operator shall maintain a contingency plan for the occurrence of a fire at the facility....”
15. In accordance with OAC Rule 3745-27-65(I)(1)(a) (effective March 1, 1996), “[t]he owner or operator shall supply and maintain in working order the following equipment at the facility: . . . [a] fire extinguisher, which is clearly visible, in the immediate vicinity of the portable containers or scrap tire piles[.]”
16. On October 22, 1999, Ohio EPA issued Respondent a Solid Waste Facility Registration for a Scrap Tire Class II Recovery Facility, registration #02-13338R.
17. On October 22, 1999, Ohio EPA also issued Respondent two Scrap Tire Transporter Registration certificates, numbers 04-STT001-001 and 04-STT001-005. Both certificates listed an expiration date of May 1, 2000.
18. On November 30, 1999, the Health Department issued Respondent a Solid Waste

Facility License for Class II Scrap Tire Facility which had an expiration date of December 31, 1999.

19. On December 27, 1999, the Health Department issued Respondent a Solid Waste Facility License for a Class II Scrap Tire Facility for calendar year 2000.
20. On January 25, 2000, the Health Department inspected Respondent's Facility and observed the following violations:
 - a. OAC Rule 3745-27-65(C)(6) for failure to limit access to the Facility to authorized personnel except during operating hours and when operating personnel are present;
 - b. OAC Rule 3745-27-65(F)(1)(a) for failure to maintain outdoor scrap tire storage piles of no greater than 2,500 square feet in basal area;
 - c. OAC Rule 3745-27-65(G) for failure to maintain a fire contingency plan; and
 - d. OAC Rule 3745-27-65(I) for failure to supply and maintain proper fire equipment at the Facility.

The Health Department notified Respondent of the inspection results in correspondence dated January 31, 2000.

21. On March 7, 2000, the Health Department inspected Respondent's Facility and observed the following violations:
 - a. OAC Rule 3745-27-65(C)(6) for failure to limit access to the Facility to authorized personnel except during operating hours and when operating personnel are present;
 - b. OAC Rule 3745-27-65(G) for failure to maintain a fire contingency plan; and
 - c. OAC Rule 3745-27-65(I) for failure to supply and maintain proper fire equipment at the Facility.

The Health Department notified Respondent of the inspection results in correspondence dated March 8, 2000.

22. On March 14, 2000, the Health Department inspected Respondent's Facility and observed the following violations:
 - a. OAC Rule 3745-27-65(C)(6) for failure to limit access to the Facility to

authorized personnel except during operating hours and when operating personnel are present;

- b. OAC Rule 3745-27-65(G) for failure to maintain a fire contingency plan; and
- c. OAC Rule 3745-27-65(I) for failure to supply and maintain proper fire equipment at the Facility.

The Health Department notified Respondent of these violations in correspondence dated March 21, 2000.

23. On March 28, 2000, the Health Department again inspected Respondent's Facility and observed the following violations:
- a. OAC Rule 3745-27-65(G) for failure to maintain a fire contingency plan; and
 - b. OAC Rule 3745-27-65(I) for failure to supply and maintain proper fire equipment at the Facility.

The Health Department notified Respondent of these violations in correspondence dated March 29, 2000.

24. On April 7, 2000, Ohio EPA issued two Scrap Tire Transporter Registration certificates to Respondent, numbers 04-STT001-001 and 04-STT001-007, which expired on May 1, 2001.
25. On April 28, 2000, the Health Department conducted an inspection of the Facility and observed the following violations:
- a. OAC Rule 3745-27-65(F)(1)(c) for failure to maintain a fire lane width equal to or greater than fifty feet between separate scrap tire storage piles and from buildings where the length and width of a scrap tire storage pile are each less than or equal to twenty five feet and the height is less than or equal to six feet; and
 - b. OAC Rule 3745-27-65(G) for failure to maintain a fire contingency plan.
26. On September 28, 2000, the Health Department conducted an inspection of the Facility and observed the following violation: failure to maintain a fire contingency plan as required by OAC Rule 3745-27-65(G).

27. On November 3, 2000, the Health Department and Ohio EPA conducted an

inspection of Respondent's Facility and observed the following violations:

- a. OAC Rule 3745-27-65(C)(1)(b) for acceptance of non-scrap rubber;
- b. OAC Rule 3745-27-65(D)(2) for failure to manage scrap tire handling areas and fire lanes free of vegetation or other combustible materials and obstructions to emergency vehicles;
- c. OAC Rule 3745-27-65(F)(1)(c) for failure to maintain a fire lane width equal to or greater than fifty feet between separate scrap tire storage piles and from buildings where the length and width of a scrap tire storage pile are each less than or equal to twenty five feet and the height is less than or equal to six feet; and
- d. OAC Rule 3745-27-65(G) for failure to maintain a fire contingency plan.

The Health Department notified Respondent of these violations in a Notice of Violation ("NOV") letter dated December 5, 2000.

28. On December 20, 2000, the Health Department issued Respondent a Solid Waste Facility License for a Class II Scrap Tire Facility for calendar year 2001.
29. On March 29, 2001, the Health Department conducted an inspection of Respondent's Facility and observed the following violations:
 - a. OAC Rule 3745-27-65(D)(2) for failure to maintain scrap tire handling areas and fire lanes free of vegetation or other combustible materials and obstructions to emergency vehicles;
 - b. OAC Rule 3745-27-65(F)(1)(c) for failure to maintain a fire lane width equal to or greater than fifty feet between separate scrap tire storage piles and from buildings where the length and width of a scrap tire storage pile are each less than or equal to twenty five feet and the height is less than or equal to six feet; and
 - c. OAC Rule 3745-27-65(G) for failure to maintain a fire contingency plan.

The Health Department notified Respondent of these violations in an NOV letter dated April 16, 2001.

30. On April 30, 2001, the Health Department met with Respondent's representative to

discuss Respondent's plans to abate ongoing scrap tire disposal violations at the Facility.

31. On May 14, 2001, the Ashtabula County Board of Health issued a Board Order to Respondent to abate all scrap tire disposal violations by June 25, 2001.
32. Respondent failed to comply with the May 14, 2001 Board Order.
33. On June 29, 2001, the Health Department conducted an inspection of Respondent's Facility and observed the following violations:
 - a. OAC Rule 3745-27-65(D)(2) for failure to maintain scrap tire handling areas and fire lanes free of vegetation or other combustible materials and obstructions to emergency vehicles;
 - b. OAC Rule 3745-27-65(F)(1)(a) for failure to maintain outdoor scrap tire storage piles of no greater than 2,500 square feet in basal area;
 - c. OAC Rule 3745-27-65(F)(1)(c) for failure to maintain a fire lane width equal to or greater than fifty feet between separate scrap tire storage piles and from buildings where the length and width of a scrap tire storage pile are each less than or equal to twenty five feet and the height is less than or equal to six feet; and
 - d. OAC Rule 3745-27-65(F)(1)(d) for failure to ensure scrap tire storage piles are separated from other scrap tire storage piles and from buildings and structures by a fire lane at least 100 feet pile-to-pile and pile-to-building; and
 - e. OAC Rule 3745-27-65(G) for failure to maintain a fire contingency plan.
34. On October 26, 2001, the Director issued Final Findings and Orders for the proposed denial of Respondent's Annual Scrap Tire Transporter Registration application. The Director issued the proposed denial because Respondent failed to complete its application by providing Ohio EPA with an acceptable financial assurance instrument in accordance with OAC Rules 3745-27-54(C)(4) and 3745-27-15(H)(1).
35. On November 8, 2001, the Health Department and Ohio EPA conducted an inspection of the Facility and observed the following violations:
 - a. OAC Rule 3745-27-65(C)(4) for failure to have a copy of the registration certification available;

- b. OAC Rule 3745-27-65 (C)(6) for failure to limit access to the Facility;
- c. OAC Rule 3745-27-65(C)(9) for failure to manage the Facility so as not to cause a nuisance, a health hazard, water pollution, or air pollution;
- d. OAC Rule 3745-27-65(D)(2) for failure to maintain scrap tire handling areas and fire lanes free of vegetation or other combustible materials and obstructions to emergency vehicles;
- e. OAC Rule 3745-27-65(E)(3)(a) for failure to maintain outside storage in the scrap tire temporary storage area so as to not exceed an amount seven times the Facility's daily designed input capacity or ten thousand square feet in effective scrap tire storage which ever is greater;
- f. OAC Rule 3745-27-65(F)(1)(a) for failure to maintain outdoor scrap tire storage piles of no greater than 2,500 square feet in basal area;
- g. OAC Rule 3745-27-65(F)(1)(c) for failure to maintain a fire lane width equal to or greater than fifty feet between separate scrap tire storage piles and from buildings where the length and width of a scrap tire storage pile are each less than or equal to twenty five feet and the height is less than or equal to six feet;
- h. OAC Rule 3745-27-65(F)(1)(d) for failure to ensure scrap tire storage piles are separated from other scrap tire storage piles and from buildings and structures by a fire lane at least 100 feet pile-to-pile and pile-to-building when either the length or width of a scrap tire storage pile exceeds twenty five feet or when the height of the scrap tire storage pile exceeds six feet; and
- i. OAC Rule 3745-27-65(G) for failure to maintain a fire contingency plan.

The Health Department notified Respondent of these violations in an NOV letter dated November 14, 2001.

36. On December 20, 2001, the Health Department issued Respondent a Solid Waste Facility License for a Class II Scrap Tire Facility for calendar year 2002. In correspondence accompanying the license, the Health Department informed Respondent that if ongoing violations of OAC Rule 3745-27-65 were not corrected within thirty days, the matter would be brought to the attention of the Ashtabula County Board of Health, which may result in suspension of the license.

37. On January 8, 2002, the Health Department and Ohio EPA conducted an inspection of the Facility and observed the following violations:
- a. OAC Rule 3745-27-65(C)(4) for failure to have a copy of the registration certification available;
 - b. OAC Rule 3745-27-65 (C)(6) for failure to limit access to the Facility to authorized personnel except during operating hours and when operating personnel are present;
 - c. OAC Rule 3745-27-65(C)(9) for failure to manage the Facility so as not to cause a nuisance, a health hazard, water pollution, or air pollution;
 - d. OAC Rule 3745-27-65(D)(2) for failure to maintain scrap tire handling areas and fire lanes free of vegetation or other combustible materials and obstructions to emergency vehicles;
 - e. OAC Rule 3745-27-65(E)(3)(a) for failure to maintain outside storage in the scrap tire temporary storage area so as to not exceed an amount seven times the Facility's daily designed input capacity or ten thousand square feet in effective scrap tire storage, which ever is greater;
 - f. OAC Rule 3745-27-65(F)(1)(a) for failure to maintain outdoor scrap tire storage piles of no greater than 2,500 square feet in basal area;
 - g. OAC Rule 3745-27-65(F)(1)(c) for failure to maintain a fire lane width equal to or greater than fifty feet between separate scrap tire storage piles and from buildings where the length and width of a scrap tire storage pile are each less than or equal to twenty five feet and the height is less than or equal to six feet;
 - h. OAC Rule 3745-27-65(F)(1)(d) for failure to ensure scrap tire storage piles are separated from other scrap tire storage piles and from buildings and structures by a fire lane at least 100 feet pile-to-pile and pile-to-building when either the length or width of a scrap tire storage pile exceeds twenty five feet or when the height of the scrap tire storage pile exceeds six feet; and
 - i. OAC Rule 3745-27-65(G) failure to maintain a fire contingency plan.

The Health Department notified Respondent of these violations in an NOV letter dated January 14, 2002.

38. By Agreed Judgment Entry dated March 29, 2002, the Ashtabula County Court of Common Pleas ordered Respondent to do the following:
- a. Remove and properly dispose of or recover all whole scrap tires stored outside at the Facility by April 24, 2002;
 - b. Temporarily store whole scrap tires that are received late in the day in the tire receiving area overnight. Whole scrap tires kept in the tire receiving area overnight were to be covered with a tarp and removed by 10:00 AM the following day;
 - c. Develop a contingency fire plan for the Facility;
 - d. Remove and properly dispose of or recover scrap tire equivalents (two piles indicated on map attached to Agreed Judgment Entry) by May 25, 2002, although Respondent was permitted to relocate some of the scrap tires from the two piles to a third pile indicated on the map. The dimensions for the third pile were not to exceed twenty-five by one hundred feet and not more than six feet in height;
 - e. Remove and properly dispose of or recover scrap tire equivalents from the three piles by July 1, 2002;
 - f. Place gravel in the areas between the three piles of scrap tire equivalents;
 - g. Provide financial assurance in accordance with OAC Chapter 3745-27 to Ohio EPA by May 25, 2002, for the scrap tire recovery Facility;
 - h. Pay the Health Department for the 2002 Facility license by April 1, 2002; and
 - i. Except as outlined above, cease outside storage of whole scrap tires and scrap tire equivalents.

Upon removal of the three piles of scrap tire equivalents, Respondent was permitted to store rubber mulch pieces no greater than one inch in size in three piles with each pile measuring no more than twenty-five by one hundred feet and not exceeding six feet in height. Respondent was permitted to store the rubber mulch pieces as long as the storage did not violate solid waste laws.

39. On May 21, 2002, the Health Department conducted an inspection of the Facility, observed the following violations, and recorded them on an inspection checklist:
- a. OAC Rule 3745-27-65(C)(4) for failure to have a copy of the Facility's registration certification available;
 - b. OAC Rule 3745-27-65(C)(6) for failure to limit access to the Facility to authorized personnel except during operating hours and when operating personnel are present;
 - c. OAC Rule 3745-27-65(C)(9) for failure to manage the Facility so as not to cause a nuisance, a health hazard, water pollution, or air pollution;
 - d. OAC Rule 3745-27-65(D)(2) for failure to maintain scrap tire handling areas and fire lanes free of vegetation or other combustible materials and obstructions to emergency vehicles;
 - e. OAC Rule 3745-27-65(E)(3)(a) for failure to maintain outside storage in the temporary scrap tire storage area so as not to exceed an amount seven times the Facility's daily designed input capacity or ten thousand square feet of effective scrap tire storage which ever is greater;
 - f. OAC Rule 3745-27-65(F)(1)(a) for failure to maintain outdoor scrap tire storage piles of no greater than 2,500 square feet in basal area;
 - g. OAC Rule 3745-27-65(F)(1)(c) for failure to maintain a fire lane width equal to or greater than fifty feet between separate scrap tire storage piles and from buildings where the length and width of a scrap tire storage pile are each less than or equal to twenty five feet and the height is less than or equal to six feet; and
 - h. OAC Rule 3745-27-65(F)(1)(d) for failure to ensure scrap tire storage piles are separated from other scrap tire storage piles and from buildings and structures by a fire lane at least 100 feet pile-to-pile and pile-to-building when either the length or width of a scrap tire storage pile exceeds twenty five feet or when the height of the scrap tire storage pile exceeds six feet.
40. By Agreed Judgment Entry dated July 22, 2002, the Ashtabula County Court of Common Pleas found Respondent in contempt of the Agreed Judgment Entry dated March 29, 2002. The court gave Respondent until August 12, 2002, to purge the finding of contempt by properly disposing of all whole tires

by July 26, 2002, and complying with the other terms of the March 29, 2002 Judgment Entry. The court ordered Respondent to immediately cease acceptance of scrap tires until a Notice of Compliance, agreed to by both parties, was filed with the court. The court also ordered an inspection of the Facility to take place on August 13, 2002.

41. On September 24, 2002, the Health Department conducted an inspection of the Facility, observed the following violations, and recorded them on an inspection checklist:
 - a. OAC Rule 3745-27-65 (C)(6) for failure to limit access to the Facility;
 - b. OAC Rule 3745-27-65(C)(9) for failure to manage the Facility so as not to cause a nuisance, a health hazard, water pollution, or air pollution;
 - c. OAC Rule 3745-27-65(D)(2) for failure to maintain scrap tire handling areas and fire lanes free of vegetation or other combustible materials and obstructions to emergency vehicles;
 - d. OAC Rule 3745-27-65(E)(3)(a) for failure to maintain outside storage in the temporary scrap tire storage area so as not to exceed an amount seven times the Facility's daily designed input capacity or ten thousand square feet of effective scrap tire storage which ever is greater;
 - e. OAC Rule 3745-27-65(F)(1)(a) for failure to maintain outdoor scrap tire storage piles of no greater than 2,500 square feet in basal area;
 - f. OAC Rule 3745-27-65(F)(1)(c) for failure to maintain a fire lane width equal to or greater than fifty feet between separate scrap tire storage piles and from buildings where the length and width of a scrap tire storage pile are each less than or equal to twenty five feet and the height is less than or equal to six feet; and
 - g. OAC Rule 3745-27-65(F)(1)(d) for failure to ensure scrap tire storage piles are separated from other scrap tire storage piles and from buildings and structures by a fire lane at least 100 feet pile-to-pile and pile-to-building when either the length or width of a scrap tire storage pile exceeds twenty five feet or when the height of the scrap tire storage pile exceeds six feet.
42. By Board Order dated November 18, 2002, the Ashtabula County Board of Health revoked Respondent's 2002 solid waste facility license, which Respondent did not appeal.

Failure to close a scrap tire facility

43. OAC Rule 3745-27-65(A) provides that the owner or operator of a scrap tire collection, storage, or recovery facility “shall comply with the requirements and operational criteria specified in this rule until the owner or operator has certified that the facility has been closed in accordance with rule 3745-27-66 of the Administrative Code.”
44. Pursuant to OAC Rule 3745-27-66(A)(4), “[f]inal closure activities shall be mandatory for a scrap tire collection, storage, or recovery facility if . . . [a] scrap tire collection, storage, or recovery facility license held by the facility has been suspended or revoked, and all remedies for such suspension or revocation have either been exhausted or waived by failure to pursue such remedies in a timely manner.”
45. Since November 22, 2002, the Facility has been neither licensed nor permitted as a scrap tire facility or a solid waste disposal facility, as required by ORC Chapter 3734. and OAC Chapter 3745-27, and yet has failed to perform final closure activities as required by OAC Rule 3745-27-66.
46. On December 5, 2002, the Health Department and Ohio EPA conducted an inspection of the unlicensed Facility and observed the following violations:
 - a. OAC Rule 3745-27-65(C)(9) for failure to manage the Facility so as not to cause a nuisance, a health hazard, water pollution, or air pollution;
 - b. OAC Rule 3745-27-65(D)(2) for failure to maintain scrap tire handling areas and fire lanes free of vegetation or other combustible materials and obstructions to emergency vehicles;
 - c. OAC Rule 3745-27-65(F)(1)(c)¹ for failure to establish and maintain adequate fire lane widths; and
 - d. Failure to comply with the March 29, 2002 and July 22, 2002 Agreed Judgment Entries.

The Health Department notified Respondent of these violations in an NOV letter dated March 14, 2003. In the same correspondence, the Health Department informed Respondent that in accordance with OAC Rule 3745-27-66(A), final

¹OAC Rule 3745-27-65(F)(1)(c) was amended, effective March 29, 2002, and increased the minimum fire lane width requirement. The Health Department NOV did not reflect the higher standard, but cited Respondent for failing to comply with former, less stringent, requirement.

closure activities are mandatory following revocation or suspension of a scrap tire collection, storage or recovery facility license, when all remedies for such have been exhausted or waived by failure to pursue such remedies in a timely manner.

47. By NOV letter dated February 14, 2003, Ohio EPA informed Respondent that failure to submit a 2002 Annual Scrap Tire Facility Report by January 31, 2003, is a violation of OAC Rule 3745-27-65(J).
48. On April 25, 2003, the Health Department conducted an inspection of the unlicensed Facility and observed the following violations:
 - a. OAC Rule 3745-27-65(C)(9) for failure to manage the Facility so as not to cause a nuisance, a health hazard, water pollution, or air pollution;
 - b. OAC Rule 3745-27-65(D)(2) for failure to maintain scrap tire handling areas and fire lanes free of vegetation or other combustible materials and obstructions to emergency vehicles;
 - c. OAC Rule 3745-27-65(F)(1)(c)² for failure to establish and maintain adequate fire lane widths; and
 - d. Failure to comply with the March 29, 2002 and July 22, 2002 Agreed Judgment Entries.

In an NOV letter dated May 21, 2003, the Health Department notified Respondent of these violations and reiterated the mandatory final closure requirements of OAC Rule 3745-27-66(A), (B), (C), and (D) following revocation or suspension of a scrap tire collection, storage or recovery facility license.

49. In correspondence dated May 2, 2003, Respondent submitted a time line of forty-two working days for removing scrap tires, scrap tire shreds, and solid waste from the unlicensed Facility.
50. On June 5, 2003, the October 26, 2001 Final Findings and Orders for the proposed denial of Respondent's Annual Scrap Tire Transporter Registration application became a final action of the Director.
51. In correspondence dated June 9, 2003, Respondent requested a temporary

²See OAC Rule 3745-27-65(F)(1)(c) amended effective March 29, 2002, *supra* note 1.

exemption to operate shredding equipment at the unlicensed Facility.

52. On June 30, 2003, the Health Department conducted an inspection of the unlicensed Facility and observed the following violations:
- a. OAC Rule 3745-27-65(C)(9) for failure to manage the Facility so as not to cause a nuisance, a health hazard, water pollution, or air pollution;
 - b. OAC Rule 3745-27-65(D)(2) for failure to maintain scrap tire handling areas and fire lanes free of vegetation or other combustible materials and obstructions to emergency vehicles;
 - c. OAC Rule 3745-27-65(F)(1)(c)³ for failure to establish and maintain adequate fire lane widths; and
 - d. Failure to comply with the March 29, 2002 and July 22, 2002 Agreed Judgment Entries.

In an NOV letter dated July 10, 2003, the Health Department notified Respondent of these violations and reiterated the mandatory final closure requirements of OAC Rule 3745-27-66(A), (B), (C), and (D) following revocation or suspension of a scrap tire collection, storage or recovery facility license.

53. On July 31, 2003, the Director denied Respondent's June 9, 2003 request for a temporary exemption to operate shredding equipment at the unlicensed Facility.
54. On September 29, 2003, the Health Department conducted an inspection of the unlicensed Facility and observed the following violations:
- a. OAC Rule 3745-27-65(C)(9) for failure to manage the Facility so as not to cause a nuisance, a health hazard, water pollution, or air pollution;
 - b. OAC Rule 3745-27-65(D)(2) for failure to maintain scrap tire handling areas and fire lanes free of vegetation or other combustible materials and obstructions to emergency vehicles;

³See OAC Rule 3745-27-65(F)(1)(c) amended effective March 29, 2002, *supra* note 1.

- c. OAC Rule 3745-27-65(F)(1)(c)⁴ for failure to establish and maintain adequate fire lane widths; and
- d. Failure to comply with the March 29, 2002 and July 22, 2002 Agreed Judgment Entries.

In an NOV letter dated October 15, 2003, the Health Department notified Respondent of these violations and reiterated the mandatory final closure requirements of OAC Rule 3745-27-66(A), (B), (C), and (D) following revocation or suspension of a scrap tire collection, storage or recovery facility license.

55. On November 19, 2003 and December 17, 2003, the Health Department and Ohio EPA conducted inspections of the unlicensed Facility and observed the following violations:
- a. OAC Rule 3745-27-65(C)(9) for failure to manage the Facility so as not to cause a nuisance, a health hazard, water pollution, or air pollution;
 - b. OAC Rule 3745-27-65(D)(2) for failure to maintain scrap tire handling areas and fire lanes free of vegetation or other combustible materials and obstructions to emergency vehicles;
 - c. OAC Rule 3745-27-65(F)(1)(c)⁵ for failure to establish and maintain adequate fire lane widths; and
 - d. Failure to comply with the March 29, 2002 and July 22, 2002 Agreed Judgment Entries.

In an NOV letter dated January 16, 2004, the Health Department notified Respondent of these violations and reiterated the mandatory final closure requirements of OAC Rule 3745-27-66(A), (B), (C), and (D) following revocation or suspension of a scrap tire collection, storage or recovery facility license.

56. By correspondence dated February 23, 2004, the Health Department requested that Ohio EPA utilize state scrap tire abatement funds to remove and properly dispose of scrap tire accumulations at the unlicensed Facility.

⁴See OAC Rule 3745-27-65(F)(1)(c) amended effective March 29, 2002, *supra* note 1.

⁵See OAC Rule 3745-27-65(F)(1)(c) amended effective March 29, 2002, *supra* note 1.

57. On March 31, 2004, the Health Department conducted an inspection of the unlicensed Facility and observed the following violations:
- a. OAC Rule 3745-27-65(C)(9) for failure to manage the Facility so as not to cause a nuisance, a health hazard, water pollution, or air pollution;
 - b. OAC Rule 3745-27-65(D)(2) for failure to maintain scrap tire handling areas and fire lanes free of vegetation or other combustible materials and obstructions to emergency vehicles; and
 - c. Failure to comply with the March 29, 2002 and July 22, 2002 Agreed Judgment Entries.

In an NOV letter dated April 19, 2004, the Health Department notified Respondent of these violations and reiterated the mandatory final closure requirements of OAC Rule 3745-27-66(A), (B), (C), and (D) following revocation or suspension of a scrap tire collection, storage or recovery facility license.

58. On June 8, 2004, the Health Department conducted an inspection of the unlicensed Facility and observed the following violations:
- a. OAC Rule 3745-27-65(C)(9) for failure to manage the Facility so as not to cause a nuisance, a health hazard, water pollution, or air pollution;
 - b. OAC Rule 3745-27-65(D)(2) for failure to maintain scrap tire handling areas and fire lanes free of vegetation or other combustible materials and obstructions to emergency vehicles;
 - c. failure to comply with the March 29, 2002 and July 22, 2002 Agreed Judgment Entries.

In an NOV letter dated July 13, 2004, the Health Department notified Respondent of these violations and reiterated the mandatory final closure requirements of OAC Rule 3745-27-66(A), (B), (C), and (D) following revocation or suspension of a scrap tire collection, storage or recovery facility license.

59. On July 29, 2004, representatives from the Health Department, the Geneva City Fire Chief, and Ohio EPA met with Respondent and discussed the following outstanding violations at the Facility:

- a. OAC Rule 3745-27-66 failure to submit and implement a final closure plan;
- b. OAC Rule 3745-27-65(C)(9) for failure to manage the Facility so as not to cause a nuisance, a health hazard, water pollution, or air pollution;
- c. OAC Rule 3745-27-65(D)(2) for failure to maintain scrap tire handling areas and fire lanes free of vegetation or other combustible materials and obstructions to emergency vehicles; and
- d. Failure to comply with the March 29, 2002 and July 22, 2002 Agreed Judgment Entries.

The Health Department memorialized the meeting in correspondence dated August 6, 2004, and informed Respondent that the Health Department would not consider issuance of a scrap tire recovery facility license to Respondent until Ohio EPA concurred that all waste tire disposal violations had been abated at the Facility.

60. On September 20, 2004, the Health Department conducted an inspection of the unlicensed Facility and observed the following violations:
 - a. OAC Rule 3745-27-65(C)(9) for failure to manage the Facility so as not to cause a nuisance, a health hazard, water pollution, or air pollution;
 - b. OAC Rule 3745-27-65(D)(2) for failure to maintain scrap tire handling areas and fire lanes free of vegetation or other combustible materials and obstructions to emergency vehicles; and
 - c. Failure to comply with the March 29, 2002 and July 22, 2002 Agreed Judgment Entries.

In an NOV letter dated November 15, 2004, the Health Department notified Respondent of these violations and reiterated the mandatory final closure requirements of OAC Rule 3745-27-66(A), (B), (C), and (D) following revocation or suspension of a scrap tire collection, storage or recovery facility license.

Open Dumping of Solid Waste

61. OAC Rule 3745-27-01(S)(24) defines “[s]olid waste” as “...unwanted residual solid or semisolid material...and other substances that are not harmful or inimical to public health, and includes, but is not limited to, garbage, scrap

tires, combustible and noncombustible material, street dirt, and debris. Solid waste does not include any material that is an infectious waste or a hazardous waste.”

62. OAC Rule 3745-27-01(S)(6) defines “scrap tire” as “a type of solid waste and means any unwanted or discarded tire, regardless of size, that has been removed from its original use. ‘Scrap tire’ includes all whole scrap tires and pieces of scrap tires which are readily identifiable as scrap tires by visual inspection and which still contain wire.”
63. The open dumping of scrap tires is a violation of ORC Section 3734.03 and OAC Rule 3745-27-05(C) which respectively state that “[n]o person shall dispose of solid wastes by open burning or open dumping” and “[n]o person shall conduct, permit, or allow open dumping. In the event that open dumping...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.”
64. OAC Rule 3745-27-01(O)(4)(a) defines “open dumping” as “the 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.”
65. OAC Rule 3745-27-01(O)(4)(b) defines “open dumping” as “the final deposition of scrap tires on or into the ground at any place other than a scrap tire collection, storage, monofill, monocell, or recovery facility licensed under section 3734.81 of the Revised Code, or at a site or in a manner not specifically identified in division (C)(2), (C)(3), (C)(4), (C)(5), (C)(7), or (C)(10) of section 3734.85 of the Revised Code, or at any licensed solid waste facility if the deposition is not in accordance with Chapters 3745-27 and 3745-37 of the Administrative Code.”
66. In accordance with OAC Rule 3745-27-65(D)(9) (effective March 29, 2002), “[t]he owner or operator shall maintain access for emergency vehicles to the scrap tire storage area at all times from the facility entrance.”
67. There are currently three large piles of scrap tire shreds, scrap tire shreds in

trailers, and one pile of metal shavings and rubber fines illegally disposed at the unlicensed Facility.

68. On October 26, 2004, Ohio EPA conducted an inspection of the unlicensed Facility and observed the following violations:
- a. ORC 3734.03 and OAC Rule 3745-27-05(C) for open dumping of metal shavings and rubber fines at the Facility;
 - b. OAC Rule 3745-27-65(C)(6) for failure to limit access to the Facility to authorized personnel except during operating hours and when operating personnel are present;
 - c. OAC Rule 3745-27-65(C)(9) for failure to manage the Facility so as not to cause a nuisance, a health hazard, water pollution, or air pollution;
 - d. OAC Rule 3745-27-65(E)(3)(a) for failure to maintain the scrap tire temporary storage area so as to not exceed an amount seven times the Facility's daily designed input capacity or ten thousand square feet of aggregate whole scrap tire and rough shred storage which ever is greater;
 - e. OAC Rule 3745-27-65(F)(1)(c)⁶ for failure to establish and maintain adequate fire lane widths;
 - g. OAC Rule 3745-27-65(G) for failure to maintain a fire contingency plan;
 - h. Failure to abate all waste tire disposal violations, in violation of the May 14, 2001 Board Order;
 - i. Failure to comply with the March 29, 2002 and July 22, 2002 Agreed Judgment Entries;
 - j. Failure to perform mandatory final closure activities after the November 18, 2002 license revocation, in violation of OAC Rule 3745-27-66(A).

Ohio EPA notified Respondent of these violations in an NOV letter dated November 3, 2004.

⁶OAC Rule 3745-27-65(F)(1)(c) was amended, effective March 29, 2002, and increased the minimum fire lane width requirement. Ohio EPA's NOV did not reflect the higher standard, but cited Respondent for failing to comply with former, less stringent, requirement.

69. In correspondence dated December 10, 2004, Respondent replied to Ohio EPA's NOV dated November 3, 2004.
70. On December 8, 2004, the Health Department conducted an inspection of the unlicensed Facility and observed the following violations:
- a. ORC 3734.03 and OAC Rule 3745-27-05(C) for open dumping;
 - b. OAC Rule 3745-27-65(C)(6) for failure to limit access to the Facility to authorized personnel except during operating hours and when operating personnel are present;
 - c. OAC Rule 3745-27-65(C)(9) for failure to manage the Facility so as not to cause a nuisance, a health hazard, water pollution, or air pollution;
 - d. OAC Rule 3745-27-65(E)(3)(a) for failure to maintain the scrap tire temporary storage area so as to not exceed an amount seven times the facility's daily designed input capacity or ten thousand square feet of aggregate whole scrap tire and rough shred storage which ever is greater;
 - e. OAC Rule 3745-27-65(F)(1)(c) for failure to establish and maintain fire lane widths equal to or greater than those contained in Figure 1 of this rule;
 - f. OAC Rule 3745-27-65(G) for failure to maintain a fire contingency plan;
 - g. Failure to abate all waste tire disposal violations by June 25, 2001, in violation of the May 14, 2001 Board Order;
 - h. Failure to perform mandatory final closure activities after the November 18, 2002 license revocation in violation of OAC Rule 3745-27-66(A); and
 - i. Failure to comply with the March 29, 2002 and July 22, 2002 Agreed Judgment Entries.

The Health Department notified Respondent of these violations in an NOV letter dated December 17, 2004.

71. On March 30, 2005, the Health Department conducted an inspection of the unlicensed Facility and observed the following violations:
- a. ORC 3734.03 and OAC Rule 3745-27-05(C) for open dumping;

- b. OAC Rule 3745-27-65(C)(6) for failure to limit access to the Facility to authorized personnel except during operating hours and when operating personnel are present;
- c. OAC Rule 3745-27-65(C)(9) for failure to manage the Facility so as not to cause a nuisance, a health hazard, water pollution, or air pollution;
- d. OAC Rule 3745-27-65(E)(3)(a)(I) for failure to maintain the scrap tire temporary storage area so as to not exceed an amount seven times the Facility's daily designed input capacity or ten thousand square feet of aggregate whole scrap tire and rough shred storage which ever is greater;
- e. OAC Rule 3745-27-65(F)(1)(c) for failure to establish and maintain fire lane widths equal to or greater than those contained in Figure 1 of this rule;
- f. OAC Rule 3745-27-65(G) for failure to maintain a fire contingency plan;
- g. Failure to abate all waste tire disposal violations by June 25, 2001, in violation of the May 14, 2001 Board Order;
- h. Failure to perform mandatory final closure activities after the November 18, 2002 license revocation in violation of OAC Rule 3745-27-66(A); and
- i. Failure to comply with the March 29, 2002 and July 22, 2002 Agreed Judgment Entries.

The Health Department notified Respondent of these violations in an NOV letter dated April 20, 2005.

72. On April 27, 2005, Ohio EPA conducted an inspection of the unlicensed Facility and observed the following violations:
- a. OAC Rule 3745-27-66(A), (B), (C), (D), (E), and (G) for failure to implement mandatory closure;
 - b. ORC 3734.03 and OAC Rule 3745-27-05(C) for open dumping;
 - c. OAC Rule 3745-27-65(C)(9) for failure to manage the Facility so as not to cause a nuisance, a health hazard, water pollution, or air pollution;
 - d. OAC Rule 3745-27-65(F)(1)(c) for failure to establish and maintain fire

lane widths equal to or greater than those contained in Figure 1 of this rule;

- e. Failure to abate all waste tire disposal violations by June 25, 2001, in violation of the May 14, 2001 Board Order; and
- f. Failure to comply with the March 29, 2002 and July 22, 2002 Agreed Judgment Entries.

Ohio EPA notified Respondent of these violations in an NOV letter dated May 19, 2005.

73. On June 28, 2005, the Health Department conducted an inspection of the unlicensed Facility and observed the following violations:
- a. ORC 3734.03 and OAC Rule 3745-27-05(C) for open dumping;
 - b. OAC Rule 3745-27-65(C)(9) for failure to manage the Facility so as not to cause a nuisance, a health hazard, water pollution, or air pollution;
 - c. OAC Rule 3745-27-65(E)(3)(a)(I) for failure to maintain the scrap tire temporary storage area so as to not exceed an amount seven times the Facility's daily designed input capacity or ten thousand square feet of aggregate whole scrap tire and rough shred storage which ever is greater;
 - d. OAC Rule 3745-27-65(F)(1)(c) for failure to establish and maintain fire lane widths equal to or greater than those contained in Figure 1 of this rule;
 - e. OAC Rule 3745-27-65(G) for failure to maintain a fire contingency plan;
 - f. Failure to abate all waste tire disposal violations by June 25, 2001, in violation of the May 14, 2001 Board Order; and
 - g. Failure to comply with the March 29, 2002 and July 22, 2002 Agreed Judgment Entries.

The Health Department notified Respondent of these violations in an NOV letter dated July 6, 2005.

74. On July 6, 2005, Ohio EPA conducted an inspection of the unlicensed Facility and observed the following violations:

- a. OAC Rule 3745-27-66(A) for failure to implement mandatory closure;
- b. ORC 3734.03 and OAC Rule 3745-27-05(C) for open dumping;
- c. OAC Rule 3745-27-65(D)(2) for failure to maintain the scrap tire handling areas and fire lanes to be free of vegetation or other combustible materials and obstructions to emergency vehicles;
- d. OAC Rule 3745-27-65(D)(9) for failure to maintain access for emergency vehicles to the scrap tire storage area at all times from the Facility entrance;
- e. OAC Rule 3745-27-65(F)(1)(c) for failure to establish and maintain fire lane widths equal to or greater than those contained in Figure 1 of this rule;
- f. Failure to abate all waste tire disposal violations by June 25, 2001, in violation of the May 14, 2001 Board Order; and
- g. Failure to comply with the March 29, 2002 and July 22, 2002 Agreed Judgment Entries.

Ohio EPA notified Respondent of these violations in an NOV letter dated September 15, 2005.

75. On September 27, 2005, the Health Department conducted an inspection of the unlicensed Facility and observed the following violations:
- a. ORC 3734.03 and OAC Rule 3745-27-05(C) for open dumping;
 - b. OAC Rule 3745-27-65(C)(9) for failure to manage the Facility so as not to cause a nuisance, a health hazard, water pollution, or air pollution;
 - c. OAC Rule 3745-27-65(E)(3)(a) for failure to maintain the scrap tire temporary storage area so as to not exceed an amount seven times the Facility's daily designed input capacity or ten thousand square feet of aggregate whole scrap tire and rough shred storage which ever is greater;
 - d. OAC Rule 3745-27-65(F)(1)(c) for failure to establish and maintain fire lane widths equal to or greater than those contained in Figure 1 of this rule;

- e. OAC Rule 3745-27-65(G) for failure to maintain a fire contingency plan;
- f. OAC Rule 3745-27-66(A) for failure to implement mandatory closure;
- g. Failure to abate all waste tire disposal violations by June 25, 2001, in violation of the May 14, 2001 Board Order; and
- h. Failure to comply with the March 29, 2002 and July 22, 2002 Agreed Judgment Entries.

The Health Department notified Respondent of these violations in an NOV letter dated September 30, 2005.

- 76. To date, Respondent has failed to perform mandatory closure at the Facility. One pile of metal shavings and rubber fines, three large piles of scrap tire shreds, and scrap tire shreds in trailers remain at the Facility as confirmed by the Health Department inspection conducted on September 27, 2005 and NOV to Respondent dated September 30, 2005.
- 77. The Facility is located within one half mile of the City of Geneva's downtown area (population 6,833), is approximately three miles north of Interstate 90 (approximately 20,000 vehicles daily) and three miles south of Lake Erie. There are seven schools, one hospital, and one nursing home located within a five mile radius.
- 78. In consideration of the proximity of Respondent's Facility to the City of Geneva; to public water supplies, sensitive sub-populations of schools, hospitals, and nursing homes; and in consideration of a tire fire's potential to hinder traffic on Interstate 90, to affect sensitive populations, and to adversely impact Lake Erie's water quality, the Director has determined that the accumulation of scrap tires and scrap tire shreds on Respondent's Facility constitutes a danger to the public health or safety or to the environment.
- 79. ORC Section 3734.85 provides that, "[i]f the director determines that an accumulation of scrap tires constitutes a danger to the public health or safety or to the environment, he shall issue an order under section 3734.13 of the Revised Code to the person responsible for the accumulation of scrap tires directing that person, within one hundred twenty days after the issuance of the order, to remove the accumulation of scrap tires from the property on which it is located and transport the tires to a scrap tire storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code, to such a facility in another state operating in compliance with the laws of the state in which it is located, or to any other solid waste disposal facility in another state

that is operating in compliance with the laws of that state. If the person responsible for causing the accumulation of scrap tires is a person different from the owner of the land on which the accumulation is located, the director may issue such an order to the landowner.”

V. ORDERS

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

1. Not later than one hundred twenty (120) days after the effective date of these Orders, Respondent shall remove or cause the removal of all scrap tires and scrap tire shreds from the Facility including, but not limited to, scrap tires dumped onto the ground, stored in vehicles, trailers or buildings at the Facility, and/or buried scrap tires, and shall arrange for their transportation, by a registered scrap tire transporter:
 - a. to a scrap tire storage, monofill, monocell, or recovery facility licensed under ORC Section 3734.81; or
 - b. to such a facility in another state operating in compliance with the laws of that state; or
 - c. to any other solid waste disposal facility in another state that is operating in compliance with the laws of that state.
2. Not later than one hundred twenty (120) days after the effective date of these Orders, Respondent shall remove or cause the removal of all solid wastes, including all scrap tire derived material, from the Facility and arrange for disposal at a licensed solid waste disposal facility.
3. Respondent shall obtain receipts from the registered transporter and the authorized scrap tire facility or solid waste disposal facility indicating weight, volume or number of scrap tires transported and shall forward such documentation to Ohio EPA within seven (7) days after completion of Orders No. 1 and 2.

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 Solid and Infectious 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 from Respondent: "I certify 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. For purposes of these Orders, a responsible official is a individual who is in charge of a principal business function of Respondent.

VII. 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 Respondent.

VIII. NOTICE

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

Ohio Environmental Protection Agency
Northeast District Office
Division of Solid and Infectious Waste Management
1110 E. Aurora Road
Twinsburg, Ohio 44087-1969
Attn: Unit Supervisor, DSIWM

and

Ashtabula County Health Department
12 West Jefferson St.
Jefferson, Ohio 44047-1096
Attn: Environmental Health Director

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

IX. 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 Respondent 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 Respondent to perform additional activities pursuant to ORC Chapter 3734. or any other applicable law in the future. Nothing herein shall restrict the right of 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 Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

X. EFFECTIVE DATE

The effective date of the Orders is the date these Orders are entered into the Ohio EPA Director's Journal.

IT IS SO ORDERED:

Ohio Environmental Protection Agency

Joseph P. Koncelik, Director