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State of Ohio Environmental Protection Agency

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December 29, 2006

CERTIFIED MAIL

The Belden Brick Company
700 W. Tuscarawas Street
Canton, OH 44701

Director's Final Findings & Orders

Dear Sir or Madam:

Transmitted herewith are Final Findings & Orders of the Director concerning the matter indicated.

Sincerely,

Brian F. Dearth
Systems Management Unit
Division of Solid & Infectious Waste Management

cc: Ed Gortner, CO, DSIWM ✓
Jeff Hurdley, CO, Legal
Steve Rine, SEDO, DSIWM

Bob Taft, Governor
Bruce Johnson, Lieutenant Governor
Joseph P. Koncelik, Director

disposes within the Disposal Area. Waste streams do not include earthen material with no additives that are excluded from the definition of solid waste under Ohio law.

- D. "Waste Material" shall mean all of Respondent's solid waste that has been disposed within the Disposal Area.
- E. "Ohio EPA Investigation" shall mean the groundwater, leachate, waste material and waste stream investigation conducted by Ohio EPA's Site Investigation Field Unit on December 13 and 14, 2006.

IV. FINDINGS

1. The Belden Brick Company (Respondent) owns and operates a brick manufacturing business located at 475 Dover Road NW, Sugarcreek, Tuscarawas County, Ohio. Respondent's operation involves multiple manufacturing facilities in the Sugarcreek area which includes Respondent's Disposal Area.
2. Respondent's waste material and waste streams are not exempted from the definition of "solid waste" as that term is defined in OAC Rule 3745-27-01 and ORC Section 3734.01; therefore, Respondent's waste material and waste streams as those terms are defined in these Orders are considered "solid waste" under Ohio law.
3. Respondent has represented to Ohio EPA that Respondent's waste material and waste streams do not pose a threat to human health, safety or the environment.
4. Respondent has represented that as a matter of brick production, Respondent must use certain additives, including barium carbonate to manufacture its product. Further, Respondent has represented that the barium carbonate additive reacts with sulfate and is chemically changed to barium sulfate. Barium sulfate is less soluble in water and is less likely to leach into the environment.
4. Ohio EPA and Respondent have engaged in a number of discussions to address potential environmental concerns at the Disposal Area associated with Respondent's past, present and future disposal activities of Respondent's waste material and waste streams that were not conducted in accordance with the disposal requirements found in Ohio law.
5. In an effort to better understand Respondent's waste material, waste streams and Disposal Area, Ohio EPA's Site Investigation Field Unit (SIFU) conducted an investigation characterizing the groundwater, leachate, and waste material within Respondent's Disposal Area on December 13 and 14, 2006 (Ohio EPA SIFU Investigation). In addition, the Ohio EPA SIFU Investigation sought to further characterize Respondent's individual waste streams before placement into the

Disposal Area. Ohio EPA's analysis consisted of EPA Methods 1311, 1312, 6010, 8270, 8260, and other water quality parameters for the constituents listed in Appendix A of these Orders, attached hereto and incorporated herein. Ohio EPA expects to receive the analytical results of the Ohio EPA SIFU Investigation in February of 2007.

V. ORDERS

The Director hereby issues the following Orders:

A. Disposal Area (aka the Brick Landfill)

1. Within 30 days after receipt of Ohio EPA's investigative results which document the pH of the environmental conditions within the Disposal Area, Respondent shall comply with the following criteria:
 - a. If the measured pH of any environmental condition within the Disposal Area is less than or equal to 4.5 s.u., Respondent shall comply with Order No. A.2 or A.3, as applicable.
 - b. If the measured pH of all environmental conditions within the Disposal Area is greater than 4.5 s.u., Respondent shall comply with either Order No. A.2 or A.3, as applicable. In the alternative, Respondent may comply with A.4 or A.5, as applicable.

TCLP Option

2. In the event that sampling data generated as a result of Respondent's and Ohio EPA's investigation indicates that all parameters for samples collected within the Disposal Area are less than the limits established for each parameter listed in Column I of Appendix A, attached hereto and incorporated herein; Respondent shall comply with Orders No. C.11 through C.25.
3. If the sampling data generated as a result of Ohio EPA's Investigation indicates that any parameter for samples collected within the Disposal Area is greater than or equal to the limits established for each parameter listed in Column I of Appendix A, attached hereto and incorporated herein, then these Orders are hereby revoked.

SPLP Option

4. In the event that sampling data generated as a result of Respondent's and Ohio EPA's investigation indicates that all parameters for samples collected

within the Disposal Area are less than the limits established for each parameter listed in Column II of Appendix A, attached hereto and incorporated herein; Respondent shall comply with Orders No. C.11 through C.25.

5. If the sampling data generated as a result of Ohio EPA's Investigation indicates that any parameter for samples collected within the Disposal Area is greater or equal to the limits established for each parameter listed in Column II of Appendix A, attached hereto and incorporated herein, then these Orders are hereby revoked.

B. Waste Streams

6. Within 30 days after receipt of Ohio EPA's investigative results documenting the pH of each of Respondent's waste stream extract, Respondent shall comply with the following criteria:
 - a. If the measured pH of Respondent's waste stream extract is less than or equal to 4.5 s.u., Respondent shall comply with Orders No. B.7 or B.8, as applicable.
 - b. If the measured pH of Respondent's waste stream extract is greater than 4.5 s.u., Respondent shall comply with Orders No. B.7 and B.8. In the alternative, Respondent may comply with B.9 and B.10.

TCLP Option

7. Within 365 days after the effective date of these Orders and annually thereafter and upon a change in its manufacturing process, Respondent shall analyze each waste stream using US EPA Method 1311 (TCLP) utilizing detection limits less than or equal to the Practical Quantitation Limits utilized by Ohio EPA and documented in its investigative results. Respondent shall retain all raw data, sample results, and interpretative reports regarding samples performed under this order. Respondent shall provide a copy of all raw data, sample results, and interpretative reports to Ohio EPA upon request. If 8 consecutive tests indicate that an analyte listed in Column I of Appendix A is not detected, Respondent will not be required to test for that analyte provided there is has been no subsequent change to Respondent's manufacturing process.
8. Unless otherwise prohibited by Order No. A.3, Respondent shall be authorized to engage in continued disposal of its waste streams within the existing Disposal Area provided the results of any analysis required by Order No. B.7 or results obtained from Ohio EPA's Investigation indicates that particular waste stream is within the TCLP limits established in Column I of Appendix A.

SPLP Option

9. Within 365 days after the effective date of these Orders and annually thereafter and upon a change in its manufacturing process, Respondent shall analyze each waste stream using US EPA Method 1312 (SPLP) utilizing detection limits less than or equal to the Practical Quantitation Limits utilized by Ohio EPA and documented in its investigative results. Respondent shall retain all raw data, sample results, and interpretative reports regarding samples performed under this order. Respondent shall provide a copy of all raw data, sample results, and interpretative reports to Ohio EPA upon request. If 8 consecutive tests indicate that an analyte listed in Column II of Appendix A is not detected, Respondent will not be required to test for that analyte provided there is no subsequent change to Respondent's manufacturing process.
10. Unless otherwise prohibited by Order No. A.5, Respondent shall be authorized to engage in continued disposal of its waste streams within the existing Disposal Area provided the results of any analysis required by Order No. B.9 or results obtained from Ohio EPA's Investigation indicate that particular waste stream is within the SPLP limits established in Column II of Appendix A.

C. Operation and Maintenance of the Disposal Area

11. Respondent shall limit access to the Disposal Area by non-employees except during operating hours when operating personnel are present or as otherwise required by law. At all times, the Respondent shall limit access to the Disposal Area as necessary to prevent scavenging and salvaging. This order shall not apply to Ohio EPA personnel, who, upon proper identification, may enter Respondent's facility at any time to determine compliance with these Orders and Ohio law.
12. Respondent shall ensure that the Disposal Area is stable.
13. Respondent shall only dispose of Respondent's waste streams specifically defined and subject to these Orders.
14. Respondent shall dispose of its waste streams within the Disposal Area in such a manner that the disposal does not cause water pollution, and does not violate any regulation adopted by the director pursuant to Chapter 3704. of the Revised Code.

15. Respondent shall dispose of its waste streams within the Disposal Area in such a manner that noise, odors, and dust are strictly controlled so as not to cause a nuisance or a health hazard. The owner or operator shall take action necessary to comply with this paragraph.
16. Respondent shall undertake actions necessary to eliminate the ponding, repair the erosion, and to correct the conditions causing the ponding or erosion.
17. Respondent shall establish positive drainage within the Disposal Area.
18. With respect to all leachate from the Disposal Area, Respondent shall either repair and stop the leachate outbreak or sample the leachate outbreak to determine if the outbreak exceeds any limit established in Column II of Appendix A. Respondent shall use appropriate SW-846 testing methods utilizing detection limits less than or equal to the Practical Quantitation Limits utilized by Ohio EPA and documented in its investigative results when sampling leachate outbreaks at the Disposal Area and shall retain all raw data, sample results, and interpretative reports regarding surface leachate. Respondent shall provide a copy of all raw data, sample results, and interpretative reports to Ohio EPA upon request. Respondent shall ensure that no surface leachate outbreak exceeding any limit established in Column II of Appendix A leaves the limits of waste placement of the Disposal Area.
19. Respondent shall comply with its NPDES permit issued by the Director for the Disposal Area.
20. Within 120 days after the effective date of these Orders, the Respondent shall submit, for Ohio EPA review and approval, a plan describing activities that will be undertaken following cessation of disposal activities within the Disposal Area:
 - a. a final grading plan that represents a final vegetative cover system constructed in accordance with Order No. C.20(b). The final vegetative cover system shall have a maximum slope of 25 percent in all areas of the Disposal Area.
 - b. the vegetative cover system design plan shall detail all of Respondent's activities and vegetative cover system specifications to be implemented when Respondent ceases its disposal operations at the Disposal Area.

21. Unless otherwise expressly authorized by Ohio EPA, the Respondent shall implement the activities described in the plan in Order No. C.20 in the event Respondent declares that the Disposal Area will cease acceptance of waste for disposal by a date declared by Respondent.
22. Upon triggering conditions specified in Orders No. C.20 or C.21, Respondent shall record on the plat and deed to the Disposal Area 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 industrial solid waste landfill facility, a notation describing the impacted acreage, exact location, depth, volume, and nature of waste deposited in the Disposal Area.
23. Within 7 days after cessation of disposal activities within the Disposal Area, Respondent shall begin constructing the vegetative cover system and shall establish a vegetative cover system comprised of native grasses and other vegetative species capable of preventing erosion within 3 years after cessation of disposal activities with the Disposal Area. Respondent shall maintain the vegetative cover system for a period of 30 years after installation of the vegetative cover system.
24. In the event Ohio EPA notifies the Respondent that the Respondent's submittals required by these Orders are unsatisfactory in whole or in part, within 30 days after receipt of such notification, the Respondent shall amend and submit to Ohio EPA a fully revised document or documents in accordance with Ohio EPA's notice of deficiency. Ohio EPA may approve of such submittals with conditions or modifications.
25. The Director may revoke these Orders for any reason if Respondent fails to comply with any of these Orders or if the Director determines that Respondent's activities at the Disposal Area adversely impacts human health, safety or the environment.

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 Enforcement Coordinator 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: "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.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of Respondent's Disposal Area.

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 Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

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

Ohio Environmental Protection Agency
Southeast District Office
Division of Solid and Infectious Waste Management
2195 Front Street
Logan, Ohio 43138
Attn: Unit Supervisor, DSIWM

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 Respondent for violations specifically cited in these Orders and the right to seek any relief against Respondent for violations cited in the Orders to the extent these Orders are revoked in accordance with Orders No. B.3, B.5 or C.25 herein. Ohio EPA and Respondent each reserve all other rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek civil or administrative penalties against Respondent for violations specifically cited in these Orders, and the right to seek any relief against Respondent for violations cited in the Orders to the extent these Orders are revoked in accordance with Orders No. B.3, B.5 or C.25 herein, which rights Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

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

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

XIII. EFFECTIVE DATE

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

XIV. SIGNATORY AUTHORITY

Each undersigned representative certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

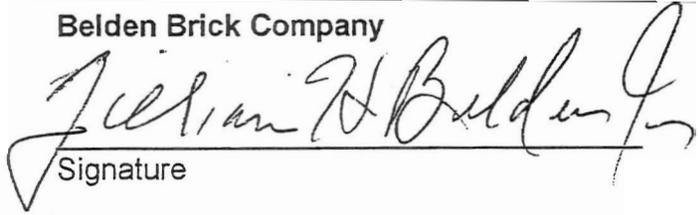
IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



Joseph P. Koncelik
Director

IT IS SO AGREED:

Belden Brick Company

Signature

12/28/06
Date

William H. Belden, Jr.
Printed or Typed Name

Chairman & CEO
Title

**ATTACHMENT A
MAXIMUM ANALYTE LIMITS**

Analyte List	CAS Number	Maximum Analyte Limits (mg/l)	
		Column I, TCLP	Column II, SPLP/ASTM
Acetone	67-64-1	27.50	5.50
Antimony	7440-36-0	0.030	0.0060
Arsenic	7440-38-2	0.050	0.010
Barium	7440-39-3	10.0	2.0
Benzene	71-43-2	0.0250	0.0050
Beryllium	7440-41-7	0.020	0.0040
Cadmium	7440-43-9	0.0250	0.0050
Carbon Disulfide	75-15-0	5.0	1.0
Carbon Tetrachloride	56-23-5	0.0250	0.0050
Chlorobenzene	108-90-7	0.50	0.10
Chromium (total)	7440-47-3	0.50	0.10
Cobalt	7440-48-4	3.650	0.730
Copper	7440-50-8	6.50	1.30
Cyanide (free)	57-12-5	1.0	0.20
1,4-Dichlorobenzene	106-46-7	0.3750	0.0750
1,2-Dichloroethane	107-06-2	0.0250	0.0050
1,1-Dichloroethene	75-35-4	0.0350	0.0070
cis-1,2-Dichloroethene	156-59-2	0.350	0.070
trans-1,2-Dichloroethene	156-60-5	0.50	0.10
Ethylbenzene	100-41-4	3.50	0.70
Fluoride	16984-48-8	20.0	4.0
Lead	7439-92-1	0.750	0.150
Mercury	7439-97-6	0.010	0.0020
Methyl Ethyl Ketone	78-93-3	20.0	4.0
Methyl Isobutyl Ketone	108-10-1	10.0	2.0

Analyte List	CAS Number	Maximum Analyte Limits (mg/l)	
		Column I, <i>TCLP</i>	Column II, <i>SPLP/ASTM</i>
Methylene Chloride	75-09-2	0.0250	0.0050
Molybdenum	7439-98-7	0.20	0.040
Nickel	7440-02-0	0.50	0.10
Nitrate	14797-55-8	50.0	10.0
Nitrite	14797-65-0	5.0	1.0
pH	n/a	≤ 4.50 S.U.	> 4.50 S.U.
Phenol	108-95-2	10.0	2.0
Selenium	7782-49-2	0.250	0.050
Styrene	100-42-5	0.50	0.10
Tetrachloroethene	127-18-4	0.0250	0.0050
Thallium	7440-28-0	0.010	0.0020
Toluene	108-88-3	5.0	1.0
1,1,1-Trichloroethane	71-55-6	1.0	0.2
Trichloroethene	79-01-6	0.0250	0.0050
Vinyl Chloride	75-01-4	0.010	0.0020
Xylenes (total)	1330-20-7	50.0	10.0
Zinc	7440-66-6	10.0	2.0