



State of Ohio Environmental Protection Agency

STREET ADDRESS:

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Columbus, Ohio 43215

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MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

December 4, 2007

Jefferson Trust
P.O. Box 4626
Maineville, OH 45039

Betty Keith, Trustee
Jefferson Trust
P.O. Box 4626
Maineville, OH 45039

David Huebner, Trustee
Jefferson Trust
P.O. Box 4626
Maineville, OH 45039

James Wright, Trustee
Jefferson Trust
P.O. Box 4626
Maineville, OH 45039

Harjinder Singh, Manager
Jefferson Trust
11873 Nathanshill Lane
Cincinnati, OH 45249

Re: Director's Final Findings & Orders

Dear Sir or Madam:

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

You are hereby notified that this action of the Director of Environmental Protection (Director) is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. It must be filed with the Appeals Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00 which the Commission, in its discretion, may reduce if by affidavit you

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed at the following address:

Environmental Review Appeals Commission
309 South Fourth Street, Room 222
Columbus, Ohio 43215

Sincerely,



Kimberly Reese
Systems Management Unit
Division of Solid & Infectious Waste Management

Enclosure: Director's Final Findings and Orders

cc: Russ Brown, DSIWM, SWDO
Jeff Hurdley, CO, Legal

Ed Gortner, DSIWM, CO
Larry Wisner, Warren County Health Dept.

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
DEC -4 2007

ENTERED DIRECTOR'S JOURNAL



In the Matter Of:

Jefferson Trust
P.O. Box 4626
Maineville, OH 45039

Betty Keith, Trustee
Jefferson Trust
P.O. Box 4626
Maineville, OH 45039

David Huebner, Trustee
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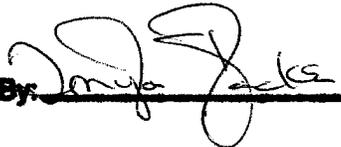
James Wright, Trustee
Jefferson Trust
P.O. Box 4626
Maineville, OH 45039

Harjinder Singh, Manager
Jefferson Trust
11873 Nathanshill Lane
Cincinnati, OH 45249

Respondents

Director's Final Findings
and Orders

I certify this to be a true and accurate copy of the
official documents as filed in the records of the Ohio
Environmental Protection Agency.

By:  Date: 12-4-07

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Jefferson Trust, David Huebner, Betty Keith, James Wright and Harjinder Singh (collectively the "Respondents") 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 Respondents and successors in interest liable under Ohio law. No change in ownership of the Respondents, or of the Property (as hereinafter defined) owned by the Respondents shall in any way alter Respondents' obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3734. and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. The Jefferson Trust ("Jefferson Trust") is the owner of real property, located at 2340 Lebanon Road, Union Township, Warren County, Ohio and claims title by or through instrument recorded in Volume 1684, page 864, of the Warren County Recorder's Official Records (the "Property"). The Property is further identified as Warren County Auditor parcel number 13-33-400-026.
2. David Huebner, Betty Keith, and James Wright are Trustees of the Jefferson Trust.
3. Dr. Harjinder ("Harji") Singh is the manager for the Jefferson Trust.
4. Respondents are each a "person" as that term is defined in ORC Section 3734.01 and Ohio Administrative Code ("OAC") Rule 3745-27-01(P)(3).
5. There are currently an unknown amount of buried, partially buried, and surficial scrap tires illegally disposed of on the Property.
6. The Property is neither licensed nor permitted as a scrap tire collection, storage, monofill, monocell, or recovery facility or solid waste disposal facility in accordance with ORC Chapter 3734. and OAC Chapter 3745-27.
7. 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."
8. Scrap tires are included in the definition of "solid waste" under OAC Rule 3745-27-01(S)(24).

9. The open dumping of scrap tires is a violation of ORC § 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.”
10. 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.”
11. OAC Rule 3745-27-60(B) provides that “storage of scrap tires in any amount outside or inside ... a building shall be deemed a nuisance, a hazard to public health or safety, or a fire hazard unless the tires are stored in accordance with [the standards set forth within OAC Rule 3745-27-60(B)(1) - (8)].”
12. Scrap tires, if not properly managed, may become a breeding ground for mosquitoes. Mosquitoes are a common disease vector for St. Louis encephalitis, La Crosse encephalitis, Yellow Fever, West Nile Virus and Dengue Fever.
13. On May 18, 2006, the Warren County Health Department (“WCHD”) issued Board Orders that required David Heubner and Betty Keith, Trustees for the Jefferson Trust and Harji Singh, Agent for the Jefferson Trust to abate the public nuisance existing at the Property by June 18, 2006 by doing the following:
 - a. Legally remove all visible scrap tires using a registered scrap tire transporter.
 - b. Dispose of all scrap tires at a licensed scrap tire disposal facility.
 - c. Submit disposal receipts from a scrap tire transporter and the scrap tire disposal facility, indicating the number or volume of scrap tires, to WCHD.
14. On March 21, 2007, WCHD conducted an inspection of the Property and observed the following violations:
 - a. Failure to comply with the May 18, 2006 Warren County Board of Health Order.
 - b. ORC Section 3734.03 for open dumping of solid waste.
 - c. OAC Rule 3745-27-05(C) for open dumping of solid waste.

- d. OAC Rule 3745-27-60(B)(5) for having scrap tires covered with soil.
- e. OAC Rule 3745-27-60(B)(8) for failure to provide mosquito control measures.

This inspection was documented in separate Notices of Violation ("NOV") letters from WCHD dated March 26, 2007 to Harji Singh (Agent), Betty Keith (Trustee), and David Huebner (Trustee).

15. On March 21, 2007, Ohio EPA conducted an inspection of the Property and observed the following violations:
- a. ORC Section 3734.03 for open dumping of solid waste.
 - b. OAC Rule 3745-27-05(C) for open dumping of solid waste.
 - c. OAC Rule 3745-27-60(B)(5) for having scrap tires covered with soil.
 - d. OAC Rule 3745-27-60(B)(6)(e) for failure to maintain fire lanes free of combustible material.
 - e. OAC Rule 3745-27-60(B)(f) for failure to maintain emergency vehicle access to and around the scrap tires.
 - f. OAC Rule 3745-27-60(B)(8) for failure to provide mosquito control measures.

This inspection was documented in separate NOV's dated April 23, 2007 from Ohio EPA and sent via certified mail to Harjinder Singh, James Wright, Betty Keith, and David Huebner.

16. On May 31, 2007, Ohio EPA and WCHD conducted a joint inspection of the Property and observed the following violations:
- a. ORC Section 3734.03 for open dumping of solid waste.
 - b. OAC Rule 3745-27-05(C) for open dumping of solid waste.
 - c. OAC Rule 3745-27-60(B)(5) for having scrap tires covered with soil.
 - d. OAC Rule 3745-27-60(B)(6)(e) for failure to maintain fire lanes free of combustible material.
 - e. OAC Rule 3745-27-60(B)(f) for failure to maintain emergency vehicle access to and around the scrap tires.

This inspection was documented in separate NOV's dated June 6, 2007 from Ohio EPA and sent via certified mail to Harjinder Singh, James Wright, Betty Keith, and David Huebner.

17. Given the proximity of Respondents' scrap tire dump to the city of Lebanon and sensitive sub populations such as pre-schools, elementary schools, junior and high schools, and the potential that a tire fire could obscure major transportation routes such as State Route 48 and Interstate 71, and in consideration that the effects of a tire fire could adversely impact waters of the state and the health of the public, the Director has determined that the unlawful accumulation of scrap tires on the Property constitutes a danger to the public health or safety or to the environment.

18. 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, the director 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 premises 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.”
19. ORC Section 3734.85 further provides, “If a person to whom a removal order is issued under this division fails to comply with the order and if the director performs a removal action under this section, the person to whom the removal order is issued is liable to the director for the costs incurred by the director for conducting the removal operation, storage at a scrap tire storage facility, storage or disposal at a scrap tire monocell or monofill facility, or processing of the scrap tires so removed, the transportation of the scrap tires from the site of the accumulation to the scrap tire storage, monocell, monofill, or recovery facility where the scrap tires were stored, disposed of, or processed, and the administrative and legal expenses incurred by the director in connection with the removal operation.”

V. ORDERS

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

1. Upon the effective date of these Orders, Respondents shall implement mosquito control measures at the Property in accordance with the provisions of OAC Rule 3745-27-60(B)(8). Respondents shall provide copies of the mosquito control records required by OAC Rule 3745-27-60(B)(10) to Ohio EPA within ten (10) days after each application of the registered pesticide, larvicide, or adulticide.
2. Not later than thirty (30) days after the effective date of these Orders, Respondents shall establish storage piles and fire lanes at the Property in accordance with OAC Rule 3745-27-60(B)(1) through (6).
3. Not later than one hundred twenty (120) days after the effective date of these Orders, Respondents shall remove or cause the removal of all scrap tires from the

Property including, but not limited to, scrap tires dumped onto the ground and 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 the state in which it is located; or
 - c. to any other solid waste disposal facility in another state that is operating in compliance with the laws of that state.
4. Respondents shall obtain receipts from the registered transporter and the facility, indicating weight, volume or number of scrap tires received. Respondents shall forward such documentation to Ohio EPA within ten (10) days after completion of Order No. Three (3).
 5. Respondents shall continue to comply with Order Nos. One (1) and Two (2) above until such time as all scrap tires have been removed from the Property.

VI. TERMINATION

Respondents' obligations under these Orders shall terminate when Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondents have performed all obligations under these Orders and Ohio EPA's Division of Solid and Infectious Waste Management Enforcement Coordinator acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondents of the obligations that have not been performed, in which case Respondents shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation from Respondents : "We certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondents to Ohio EPA and shall be signed by the Jefferson Trust Trustees and manager.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, Respondents and/or the Property.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondents and/or the Property.

IX. NOTICE

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

Ohio Environmental Protection Agency
Southwest District Office
Division of Solid and Infectious Waste Management
Attn: DSIWM Unit Supervisor
401 East Fifth Street
Dayton, Ohio 45402-2911

and to:

Warren County Combined Health District
416 South East Street
Lebanon, Ohio 45036
Attn: Larry Wisner, Administrator

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

X. RESERVATION OF RIGHTS

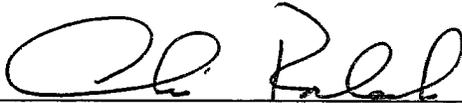
Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondents for noncompliance 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 Respondents to perform additional activities pursuant to ORC Chapter 3734. or any other applicable law in the future. Nothing herein shall restrict the right of Respondents to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondents. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

XI. 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

A handwritten signature in black ink, appearing to read "Chris Korleski", written over a horizontal line.

Chris Korleski, Director