

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

OHIO E.P.A.

NOV 28 2007

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Melissa Pacifico
P.O. Box 40
Neffs, Ohio 43940

Director's Final Findings
and Orders

Respondent

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Melissa Pacifico ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3734.13 and 3714.12.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and her heirs and successors in interest liable under Ohio law. No change in ownership of the Property (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 defined in ORC Chapters 3734. and 3714. and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is the owner of a 1.5 acre parcel of land identified in the Belmont County Recorder's Office as parcel number 26-00844.000, located at 0 Shields Hollow Road (Section 18, T.5, R.3 in Pultney Township), Neffs, Belmont County, Ohio ("Property").
2. Respondent is a "person" as that term is defined in ORC Sections 3714.01(H) and 3734.01(G) and OAC Rules 3745-27-01(B) and 3745-400-01(DD).

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: [Signature] Date: 11-28-07

3. There is currently an estimated 1,100 cubic yards of commingled municipal solid waste and construction and demolition debris ("C&DD") disposed on the Property.
4. The Property is neither licensed nor permitted as a solid waste disposal facility nor licensed as a construction and demolition debris facility in accordance with ORC Chapters 3714. and 3734. and OAC Chapters 3745-27, 3745-37 and 3745-400.
5. The open dumping of solid waste on the Property 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 is occurring or 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."
6. The illegal disposal of construction and demolition debris on the Property is a violation of ORC Section 3714.06(A) and OAC Rule 3745-400-04(B) which respectively state that "[n]o person shall operate or maintain a construction and demolition debris facility without an annual construction and demolition debris facility operation license...."), and "[n]o person shall conduct or allow illegal disposal of construction and demolition debris, as defined in rule 3745-400-01 of the Administrative Code."
7. On July 18,2005, Ohio EPA received an anonymous complaint alleging that a large volume of solid waste and C&DD had been disposed on the Property. Subsequently, Ohio EPA conducted an inspection of the Property on July 19,2005, and confirmed that open dumping of solid waste and illegal disposal of C&DD had occurred. In correspondence dated August 10,2005, Ohio EPA notified Respondent she was in violation of ORC Chapter 3734.03 and OAC Rule 3745-27-05(C) for open dumping of solid waste, and OAC Rule 3745-400-04(B) for illegal disposal of C&DD.

Additionally, the notice of violation ("NOV) informed Respondent that as the legal owner of the Property, she is ultimately responsible for the waste disposed on the Property and must ensure that all solid waste and C&DD is removed and disposed of at a licensed disposal facility.

8. Ohio EPA received no response from Respondent in regard to the August 10,2005, NOV. Subsequently! in correspondence dated September 7, 2005, Ohio EPA notified Respondent she continued to be in violation of ORC Chapter 3734.03 and

OAC Rule 3745-27-05(C) for open dumping of solid waste, and OAC Rule 3745-400-04(B) for illegal disposal of C&DD. Additionally, Ohio EPA requested that Respondent contact Ohio EPA within 15 days detailing what actions Respondent intended to take to address the violations on the Property.

9. Ohio EPA conducted additional inspections of the Property on July 19, 2006, January 4, 2007, and June 6, 2007. In correspondence dated July 24, 2006, January 23, 2007, March 28, 2007, and June 11, 2007, Ohio EPA notified Respondent she was in violation of ORC Chapter 3734.03 and OAC Rule 3745-27-05(C) for open dumping of solid waste, and OAC Rule 3745-400-04(B) for illegal disposal of C&DD. The NOV's outlined above also requested that Respondent contact Ohio EPA to discuss what actions she planned to take to address the ongoing violations.
10. Following the June 11, 2007 NOV, Respondent contacted Ohio EPA and stated that she was not the owner of the Property. Ohio EPA informed Respondent that it had obtained the deed for the Property as well as tax records, all of which listed Respondent as the current property owner. Respondent then informed Ohio EPA that she was selling the Property to an individual on a land contract, but she would attempt to remove the waste from the Property.
11. Ohio EPA attempted to contact the individual identified by Respondent as the prospective purchaser of the Property to substantiate Respondent's claim and found that the individual was incarcerated in the Ross Correctional Institution and would not be released until February of 2008. Subsequent checks of records kept by the Belmont County Auditor confirmed that Respondent was still listed as the owner of the Property.
12. Ohio EPA conducted an inspection of the Property on September 12, 2007, and observed that a substantial amount of earth moving had recently occurred and the solid waste and C&DD was in the process of being buried on the Property. In correspondence dated September 26, 2007, Ohio EPA informed Respondent that all attempts to bury the solid waste and C&DD must stop immediately and that all waste disposed on the Property must be sent to a licensed disposal facility. Additionally, Ohio EPA notified Respondent she was in violation of ORC Chapter 3734.03 and OAC Rule 3745-27-05(C) for open dumping of solid waste, and OAC Rule 3745-400-04(B) for illegal disposal of C&DD.

V. ORDERS

Respondent shall achieve compliance with Chapters 3714. and 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Immediately upon the effective date of these Orders, Respondent shall cease acceptance and disposal of solid waste and C&DD at the Property.
2. Immediately upon the effective date of these Orders, Respondent shall cease the burial of solid waste and C&DD at the Property.
3. Within sixty (60) days after the effective date of these Orders, Respondent shall excavate and remove all solid waste including, but not limited to, solid waste dumped onto the ground and buried at the Property, and dispose of all solid waste at a licensed solid waste disposal facility. Respondent shall obtain disposal receipts from the licensed solid waste disposal facility indicating weight or volume of wastes disposed.
4. Within sixty (60) days after the effective date of these Orders, Respondent shall excavate and remove all C&DD including, but not limited to C&DD dumped onto the ground and buried at the Property, and dispose of all C&DD at a licensed C&DD disposal facility. In the event that C&DD can not be segregated from the solid waste, the commingled solid waste and C&DD shall be disposed at a licensed solid waste disposal facility. Respondent shall obtain disposal receipts from the licensed C&DD disposal facility or solid waste disposal facility indicating weight or volume of wastes disposed.
5. Within fourteen (14) days after completion of Order Nos. 3 and 4, Respondent shall submit to Ohio EPA a written notice of completion, along with documentation of proper removal and disposal, including receipts from the C&DD disposal facility and solid waste disposal facility.

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: "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 the Respondent.

VII. OTHER CLAIMS

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

IX. 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
Attn: DSIWM - Unit Supervisor
2195 Front Street
Logan, Ohio 43138

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

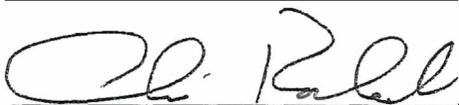
penalties against Respondent for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapters 3734., 3714. 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.

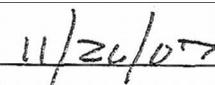
XIII. EFFECTIVE DATE

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

IT IS SO ORDERED:

Ohio Environmental Protection Agency


Chris Korleski, Director


Date