



State of Ohio Environmental Protection Agency

**STREET ADDRESS:**

Lazarus Government Center  
50 W. Town St., Suite 700  
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184  
www.epa.state.oh.us

**MAILING ADDRESS:**

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

January 29, 2009

Pheasant Run Development LLC  
Agent: V. Robert Candiello  
4859 W. Sylvania Ave., Suite A  
Toledo, OH 43623

**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 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: Ed Gortner, CO - DSIWM  
Janine Maney, OEPA - Legal

Mike Reiser - NWDO- DSIWM  
Jody Vaughn- Toledo-Lucas Co Health Dept.

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

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

ISSUED DIRECTOR'S JOURNAL

In the Matter Of

Pheasant Run Development LLC  
Agent: V. Robert Candiello  
4859 W. Sylvania Ave., Suite A  
Toledo, Ohio 43623

:  
:  
:  
:

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.

Respondent

I. JURISDICTION *Dan Kassar* Date: 1-29-09

These Director's Final Findings and Orders ("Orders") are issued to Pheasant Run Development, LLC 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

These Orders shall apply to and be binding upon Respondent and its 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 responsibilities 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 current owner of a parcel of land, located at 200 South Meilke Road, Holland, Lucas County, Ohio, 43528 identified by the Lucas County Recorder as Instrument Number 20061213-0082813. This parcel is further identified by the Lucas County Auditor as Tax Parcel Identification Number 60-13234 (the "Property").
2. Respondent is a "person" as that term is defined in ORC Section 3734.01(G), and in Ohio Administrative Code ("OAC") Rule 3745-27-01(P)(3).
3. Respondent is an Ohio Domestic For-Profit Limited Liability Company effective November 1, 2008 pursuant to ORC 1705.

4. The Articles of Organization for the Pheasant Run Development, LLC state the following purpose: "To engage in the business of a real estate investment, development and holding company and the doing of all things necessary and incidental thereto, as well as any other business or activity permitted under Section 1705.01 to 1705.58 inclusive of the Ohio Revised Code."
5. Pheasant Run Development, LLC acquired the property located at 200 South Meilke Road from Mark Gorney on December 2, 2008, identified by the Lucas County Auditor as Transfer No. 08-207206.
6. There are currently an estimated 7,000 scrap tires illegally disposed on the Property.
7. The Property is not licensed as a scrap tire collection facility, a solid waste disposal facility, or any type of legitimate recycling facility.
8. Scrap tires are included in the definition of "solid wastes" under ORC Section 3734.01(E) and OAC Rule 3745-27-01(S)(23).
9. 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."
10. The open dumping of scrap tires is a violation of ORC § 3734.03 which states that "[n]o person shall dispose of solid wastes by open burning or open dumping," and OAC Rule 3745-27-05(C) which states that "[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."
11. OAC Rule 3745-27-01(O)(4)(b) defines open dumping as, "[t]he deposition of solid wastes that consist of scrap tires into waters of the state, and also means 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."
12. OAC Rule 3745-27-60(B) provides that "[t]he storage of scrap tires in any amount outside or inside a trailer, vehicle, or building is deemed a nuisance, a hazard to public health or safety, or fire hazard unless the scrap tires are stored in

accordance with [the standards set forth with in OAC Rule 3745-27-60(B)(1) - (11)].”

13. 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.
14. On September 1, 2004 Ohio EPA and the Toledo-Lucas County Health Department (“Health Department”) conducted a joint inspection of the Property and observed the following violations:
  - a) OAC Rule 3745-27-61(B) for failure to obtain a scrap tire facility registration prior to operation.
  - b) ORC Section 3734.03 for open dumping of scrap tires.
  - c) ORC Sections 3734.02(C) and 3745.05(A) for establishing and operating a solid waste facility without a permit or license.
  - d) OAC Rule 3745-27-60(B)(6)(d), (e), and (f), *rev'd* OAC 3745-27-60(B)(7)(d), (B)(11), and (B)(7)(e), eff. 11/01/2007, for not maintaining adequate fire lanes.
  - e) OAC Rule 3745-27-60(B)(6)(a) and (b), *rev'd* OAC 3745-27-60(B)(7)(a), and (b), eff. 11/01/2007, for maintaining a scrap storage pile that exceeds 2,500 square feet in basal area and 8 feet in height.

These violations were documented in a Notice of Violation letter (“NOV”) from the Health Department dated September 16, 2004.

15. On May 11, 2005, Ohio EPA and the Health Department conducted a joint inspection of the Property and observed the following violations:
  - a) OAC Rule 3745-27-61(B) for failure to obtain a scrap tire facility registration prior to operation.
  - b) ORC Section 3734.03 for open dumping of scrap tires.
  - c) ORC Sections 3734.02(C) and 3745.05(A) for establishing and operating a solid waste facility without a permit or license.
  - d) OAC Rule 3745-27-60(B)(6)(d), (e), and (f), *rev'd* OAC 3745-27-60(B)(7)(d), (B)(11), and (B)(7)(e), eff. 11/01/2007, for not maintaining adequate fire lanes.
  - e) OAC Rule 3745-27-60(B)(6)(a) and (b), *rev'd* OAC 3745-27-60(B)(7)(a), and (b), eff. 11/01/2007, for maintaining a scrap storage pile that exceeds 2,500 square feet in basal area and 8 feet in height.

This inspection was documented in an NOV from the Health Department dated June 10, 2005.

16. On August 25, 2005, Ohio EPA and the Health Department conducted a joint inspection of the Property and observed the following violations:
  - a) OAC Rule 3745-27-61(B) for failure to obtain a scrap tire facility registration prior to operation.
  - b) ORC Section 3734.03 for open dumping of scrap tires.

- c) ORC Sections 3734.02(C) and 3745.05(A) for establishing and operating a solid waste facility without a permit or license.
- d) OAC Rule 3745-27-60(B)(6)(d), (e), and (f), *rev'd* OAC 3745-27-60(B)(7)(d), (B)(11), and (B)(7)(e), eff. 11/01/2007, for not maintaining adequate fire lanes.
- e) OAC Rule 3745-27-60(B)(6)(a) and (b), *rev'd* OAC 3745-27-60(B)(7)(a), and (b), eff. 11/01/2007, for maintaining a scrap storage pile that exceeds 2,500 square feet in basal area and 8 feet in height.

This inspection was documented in NOVs from the Health Department dated September 14, 2005 and from Ohio EPA dated October 4, 2005.

17. On November 14, 2005, the Health Department conducted an inspection of the Property and observed the following violations:
- a) OAC Rule 3745-27-61(B) for failure to obtain a scrap tire facility registration prior to operation.
  - b) ORC Section 3734.03 for open dumping of scrap tires.
  - c) ORC Sections 3734.02(C) and 3745.05(A) for establishing and operating a solid waste facility without a permit or license.
  - d) OAC Rule 3745-27-60(B)(6)(d), (e), and (f), *rev'd* OAC 3745-27-60(B)(7)(d), (B)(11), and (B)(7)(e), eff. 11/01/2007, for not maintaining adequate fire lanes.
  - e) OAC Rule 3745-27-60(B)(6)(a) and (b), *rev'd* OAC 3745-27-60(B)(7)(a), and (b), eff. 11/01/2007, for maintaining a scrap storage pile that exceeds 2,500 square feet in basal area and 8 feet in height.

This inspection was documented in an NOV from the Health Department dated January 3, 2006.

18. On December 14, 2005, Ohio EPA and the Health Department conducted a joint inspection of the Property and observed the following violations:
- a) OAC Rule 3745-27-61(B) for failure to obtain a scrap tire facility registration prior to operation.
  - b) ORC Section 3734.03 for open dumping of scrap tires.
  - c) ORC Sections 3734.02(C) and 3745.05(A) for establishing and operating a solid waste facility without a permit or license.
  - d) OAC Rule 3745-27-60(B)(6)(d), (e), and (f), *rev'd* OAC 3745-27-60(B)(7)(d), (B)(11), and (B)(7)(e), eff. 11/01/2007, for not maintaining adequate fire lanes.
  - e) OAC Rule 3745-27-60(B)(6)(a) and (b), *rev'd* OAC 3745-27-60(B)(7)(a), and (b), eff. 11/01/2007, for maintaining a scrap storage pile that exceeds 2,500 square feet in basal area and 8 feet in height.

This inspection was documented in an NOV from the Health Department dated January 4, 2006.

19. On February 7, 2006, Ohio EPA and the Health Department conducted a joint inspection of the Property and observed the following violations:

- a) OAC Rule 3745-27-61(B) for failure to obtain a scrap tire facility registration prior to operation.
- b) ORC Section 3734.03 for open dumping of scrap tires.
- c) ORC Sections 3734.02(C) and 3745.05(A) for establishing and operating a solid waste facility without a permit or license.
- d) OAC Rule 3745-27-60(B)(6)(d), (e), and (f), *rev'd* OAC 3745-27-60(B)(7)(d), (B)(11), and (B)(7)(e), eff. 11/01/2007, for not maintaining adequate fire lanes.
- e) OAC Rule 3745-27-60(B)(6)(a) and (b), *rev'd* OAC 3745-27-60(B)(7)(a), and (b), eff. 11/01/2007, for maintaining a scrap storage pile that exceeds 2,500 square feet in basal area and 8 feet in height.

This inspection was documented in an NOV from the Health Department dated February 24, 2006.

20. On April 20, 2006, Ohio EPA and the Health Department conducted a joint inspection of the Property and observed the following violations:

- a) OAC Rule 3745-27-61(B) for failure to obtain a scrap tire facility registration prior to operation.
- b) ORC Section 3734.03 for open dumping of scrap tires.
- c) ORC Sections 3734.02(C) and 3745.05(A) for establishing and operating a solid waste facility without a permit or license.
- d) OAC Rule 3745-27-60(B)(6)(d), (e), and (f), *rev'd* OAC 3745-27-60(B)(7)(d), (B)(11), and (B)(7)(e), eff. 11/01/2007, for not maintaining adequate fire lanes.
- e) OAC Rule 3745-27-60(B)(6)(a) and (b), *rev'd* OAC 3745-27-60(B)(7)(a), and (b), eff. 11/01/2007, for maintaining a scrap storage pile that exceeds 2,500 square feet in basal area and 8 feet in height.

This inspection was documented in an NOV from the Health Department dated May 1, 2006.

21. On June 8, 2006, the Health Department conducted an inspection of the Property and observed the following violations:

- a) OAC Rule 3745-27-61(B) for failure to obtain a scrap tire facility registration prior to operation.
- b) ORC Section 3734.03 for open dumping of scrap tires.
- c) ORC Sections 3734.02(C) and 3745.05(A) for establishing and operating a solid waste facility without a permit or license.
- d) OAC Rule 3745-27-60(B)(6)(d), (e), and (f), *rev'd* OAC 3745-27-60(B)(7)(d), (B)(11), and (B)(7)(e), eff. 11/01/2007, for not maintaining adequate fire lanes.
- e) OAC Rule 3745-27-60(B)(6)(a) and (b), *rev'd* OAC 3745-27-60(B)(7)(a), and (b), eff. 11/01/2007, for maintaining a scrap storage pile that exceeds 2,500 square feet in basal area and 8 feet in height.

This inspection was documented in an NOV from the Health Department dated June 21, 2006.

22. On September 28, 2006, Ohio EPA and the Health Department conducted a joint inspection of the Property and observed the following violations:

- a) OAC Rule 3745-27-61(B) for failure to obtain a scrap tire facility registration prior to operation.
- b) ORC Section 3734.03 for open dumping of scrap tires.
- c) ORC Sections 3734.02(C) and 3745.05(A) for establishing and operating a solid waste facility without a permit or license.
- d) OAC Rule 3745-27-60(B)(6)(a) and (b), *rev'd* OAC 3745-27-60(B)(7)(a), and (b), eff. 11/01/2007, for maintaining a scrap storage pile that exceeds 2,500 square feet in basal area and 8 feet in height.

This inspection was documented in an NOV from the Health Department dated October 11, 2006.

23. On December 12, 2006, Ohio EPA and the Health Department conducted a joint inspection of the Property and observed the following violations:

- a) OAC Rule 3745-27-61(B) for failure to obtain a scrap tire facility registration prior to operation.
- b) ORC Section 3734.03 for open dumping of scrap tires.
- c) ORC Sections 3734.02(C) and 3745.05(A) for establishing and operating a solid waste facility without a permit or license.
- d) OAC Rule 3745-27-60(B)(6)(a) and (b), *rev'd* OAC 3745-27-60(B)(7)(a), and (b), eff. 11/01/2007, for maintaining a scrap storage pile that exceeds 2,500 square feet in basal area and 8 feet in height.

This inspection was documented in an NOV from the Health Department January 3, 2007.

24. On February 2, 2007, the Health Department conducted an inspection of the Property and observed the following violations:

- a) OAC Rule 3745-27-61(B) for failure to obtain a scrap tire facility registration prior to operation.
- b) ORC Section 3734.03 for open dumping of scrap tires.
- c) ORC Sections 3734.02(C) and 3745.05(A) for establishing and operating a solid waste facility without a permit or license.
- d) OAC Rule 3745-27-60(B)(6)(a) and (b), *rev'd* OAC 3745-27-60(B)(7)(a), and (b), eff. 11/01/2007, for maintaining a scrap storage pile that exceeds 2,500 square feet in basal area and 8 feet in height.

This inspection was documented in an NOV letter from the Health Department dated February 6, 2007.

25. On March 23, 2007, the Health Department conducted an inspection of the Property and observed the following violations:

- a) OAC Rule 3745-27-61(B) for failure to obtain a scrap tire facility registration prior to operation.
- b) ORC Section 3734.03 for open dumping of scrap tires.
- c) ORC Sections 3734.02(C) and 3745.05(A) for establishing and operating a solid waste facility without a permit or license.
- d) OAC Rule 3745-27-60(B)(6)(a) and (b), *rev'd* OAC 3745-27-60(B)(7)(a), and (b), eff. 11/01/2007, for maintaining a scrap storage pile that exceeds 2,500 square feet in basal area and 8 feet in height.

This inspection was documented in an NOV letter from the Health Department dated April 11, 2007.

26. On May 1, 2007, Ohio EPA and the Health Department conducted a joint inspection of the Property and observed the following violations:
  - a) OAC Rule 3745-27-61(B) for failure to obtain a scrap tire facility registration prior to operation.
  - b) ORC Section 3734.03 for open dumping of scrap tires.
  - c) ORC Sections 3734.02(C) and 3745.05(A) for establishing and operating a solid waste facility without a permit or license.
  - d) OAC Rule 3745-27-60(B)(6)(a) and (b), *rev'd* OAC 3745-27-60(B)(7)(a), and (b), eff. 11/01/2007, for maintaining a scrap storage pile that exceeds 2,500 square feet in basal area and 8 feet in height.

This inspection was documented in an NOV letter from the Health Department dated May 7, 2007.

27. On June 6, 2007, Ohio EPA and the Health Department conducted a joint inspection of the Property and observed the following violations:
  - a) OAC Rule 3745-27-61(B) for failure to obtain a scrap tire facility registration prior to operation.
  - b) ORC Section 3734.03 for open dumping of scrap tires.
  - c) ORC Sections 3734.02(C) and 3745.05(A) for establishing and operating a solid waste facility without a permit or license.
  - d) OAC Rule 3745-27-60(B)(6)(a) and (b), *rev'd* OAC 3745-27-60(B)(7)(a), and (b), eff. 11/01/2007, for maintaining a scrap storage pile that exceeds 2,500 square feet in basal area and 8 feet in height.

This inspection was documented in an NOV letter from the Health Department dated June 12, 2007.

28. On October 25, 2007, the Health Department issued Board Orders to the prior property owner Mark Gorney which stated:
  - (1) Immediately provide scrap tire shipping paper manifests for all previously removed scrap tires from the property located at 200 S. Meilke. The manifests shall be filled out completely, and include the scrap tire transporter, the

- registered scrap tire disposal facility, and the weight, volume and number of scrap tires received.
- (2) Not later than (30) days after the effective date of these orders the Respondent shall remove no less than 3,000 scrap tires from the 200 S. Meilke property including, but not limited to, scrap tires dumped onto the ground and/or buried scrap tires, and shall continue to remove no less than 3,000 scrap tires every thirty (30) days thereafter, until all scrap tires are completely removed from the property located at 200 S. Meilke. The owner and/or operators of the property at 200 S. Meilke shall remove all tires by January 30, 2008 consistent with articles 3 and 4 below.
  - (3) The owner and/or operators of the property at 200 S. Meilke shall arrange for scrap tire transportation by a registered transporter, to a scrap tire storage, monocell, monofill or recovery facility licensed under ORC Section 3734.81, 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 the state.
  - (4) The owner and/or operators of the property at 200 S. Meilke shall obtain manifests from the registered transporter and the registered scrap tire disposal facility, indicating weight, volume and number of scrap tires received. The owner and/or operators of the property at 200 S. Meilke shall forward such documentation to the Toledo-Lucas County Health Department within ten (10) days after completion of the transportation as required by Articles 2) and 3) above.
  - (5) The owner and/or operators of the property at 200 S. Meilke shall submit progress reports every month for the immediately preceding calendar month until all scrap tires are removed for the property at 200 S. Meilke. The monthly progress reports, due to the Toledo-Lucas County Health Department by the tenth day of each month, shall summarize the owner and/or operator's of the property at 200 S. Meilke efforts to comply with the requirements of these Board Orders. The first progress report shall be delivered to the Toledo-Lucas County Health Department no later than the tenth day of the month immediately following the month that the Board Orders become effective.
  - (6) The owner and/or operators of the property at 200 S. Meilke shall continue to comply with the foregoing Articles until such time as all scrap tires have been removed from the property at 200 S. Meilke.
29. On February 25, 2008, the Health Department conducted an inspection of the Property to determine compliance with the October 25, 2007 Health Department Board Orders, finding that the prior property owner Mark Gorney violated the Board Orders.
- This inspection was documented in an NOV from the Health Department dated March 13, 2008.
30. On April 30, 2008, Ohio EPA conducted an inspection of the Property and observed the following violations:
- a) ORC Section 3734.03 for open dumping of scrap tires.

- b) OAC Rule 3745-27-05(C) for open dumping of scrap tires.
- c) ORC Section 3734.81(A) for operating a scrap tire collection, storage, monocell, monofill, or recovery facility without a license.
- d) ORC Section 3734.76(C) for establishing a new, or modify an existing, scrap tire storage facility without first either registering with the director by submitting an application for a scrap tire storage facility registration certificate.
- e) OAC Rule 3745-27-61(B) for not obtaining a scrap tire storage registration prior of operation.
- f) ORC Sections 3734.02(C) and 3745.05(A) for establishing and operating a solid waste facility without a permit or license.
- g) OAC Rule 3745-27-60(B)(7)(d) which states that “[s]crap tire storage piles of more than five hundred scrap tires including single or multiple racks containing a total of more than five hundred tires shall be separated from other scrap tire storage piles and from buildings and structures by a fire break with a width equal to or greater than fifty-six feet in accordance with the fire break chart in appendix I to rule 3745-27-65 of the Administrative Code.”
- h) OAC Rule 3745-27-60(B)(7)(e) which states that “[s]ufficient fire breaks shall be maintained to allow access of emergency vehicles at all times to, around, and between the scrap tire storage tire piles and areas.”

This inspection was documented in an NOV letter from Ohio EPA dated May 6, 2008.

- 31. Given the confirmed human case of West Nile Virus in the County and the proximity of the scrap tires located on the Property to sensitive sub-populations such as elementary schools and nursing homes, the Director has determined that the accumulation of scrap tires on the Property constitutes a danger to the public health or safety or to the environment.
- 32. 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.”
- 33. 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

Respondent 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, Respondent shall implement mosquito control measures at the Property in accordance with the provisions of OAC Rule 3745-27-60(C). Respondent shall provide copies of the mosquito control records required by OAC Rule 3745-27-60(C)(3), to Ohio EPA Northwest District Office within ten (10) days after each application of the registered pesticide, larvicide, or adulticide.
2. Upon the effective date of these Orders, Respondent shall cease acceptance and disposal of all solid wastes, including scrap tires, at the Property and shall comply with ORC Chapter 3734. and OAC Chapter 3745-27.
3. Not later than thirty (30) days after the effective date of these Orders, Respondent shall establish storage piles and fire lanes at the Property in accordance with OAC Rule 3745-27-60(B).
4. Not later than one hundred twenty (120) days after the effective date of these Orders, Respondent shall remove or cause the removal of 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 transporter, to a scrap tire storage, monocell, monofill, or recovery facility licensed under ORC Section 3734.81 in Ohio, 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. During the 120 day period, Respondent shall remove, transport and dispose of at least 2500 scrap tires within 30 days, and 2500 scrap tires every 30 days thereafter with all of the scrap tires being removed, transported and disposed within 120 days after the effective date of these Orders. Respondent shall obtain receipts from the registered transporter and the disposal facility, indicating weight, volume and number of scrap tires received. Respondent shall forward such documentation to Ohio EPA Northwest District Office on a monthly basis by the 10th day of each month.

5. Respondent shall submit monthly progress reports until all scrap tires are removed from the Property. Respondent's monthly progress reports, due to Ohio EPA Northwest District Office by the 10th day of each month, shall summarize Respondent's efforts to comply with the requirements of these Orders. The first progress report shall be delivered to Ohio EPA Northwest District Office no later than the 10th day of the month immediately following the month that these Orders become effective.
6. Respondent shall comply with Order Nos. One (1) and Three (3) above until such time as all scrap tires have been removed from the Property unless otherwise provided by Ohio EPA in writing.

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrate to the satisfaction of Ohio EPA that Respondent has 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 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 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, Respondent 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 Respondent or the Property.

### **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. Upon the written request of the recipient of an order issued under ORC Section 3734.85(A), the Director may extend the time for compliance with the order if the request demonstrates that Respondent has acted in good faith to comply with the order.

### **X. NOTICE**

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

Ohio Environmental Protection Agency  
Northwest District Office  
Division of Solid and Infectious Waste Management  
Attn: Unit Supervisor, DSIWM  
347 North Dunbridge Road  
Bowling Green, Ohio 43402-9398

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

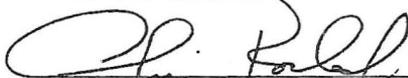
### **XI. RESERVATION OF RIGHTS**

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.

### **XII. 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:**



Chris Korleski, Director