



**Environmental  
Protection Agency**

John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Scott J. Nally, Director

August 24, 2012

**CERTIFIED MAIL**

Moraine Properties, LLC  
Paper Sludge Disposal Site  
5500 Wayzata Blvd., Suite 800  
Golden Valley, MN 55416

**Re: Director's Final Findings and Orders  
Moraine Properties, LLC  
City Lot 4268, Soldiers Home-West Carrollton Road  
Moraine, Ohio 45439**

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 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. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00, made payable to "Treasurer, State of Ohio". 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 with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission  
77 South High Street, 17<sup>th</sup> Floor  
Columbus, OH 43215

Sincerely,



Georgia Frakes, Management Analyst  
Division of Materials and Waste Management

Enclosure: Director's Final Findings and Orders

cc: Scott Hester, DMWM, CO  
Paul Stuart, Public Health of Dayton/Montgomery Co.  
Tracy Buchanan, DMWM, SWDO  
Betty Arthungal, DMWM, SWDO  
Kathy Jackson, DMWM, SWDO

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.

Issuance Date: August 24, 2012

By: Joseph Lassiter Date: 8-24-12

Effective Date: August 24, 2012

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

IN THE MATTER OF

Moraine Properties, LLC  
5500 Wayzata Blvd, Suite 800  
Golden Valley, MN 55416

Director's Final  
Findings  
and Orders

ENTERED DIRECTOR'S JOURNAL

AUG 24 2012

OHIO E.P.A.

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Moraine Properties, LLC pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Section 3734.02(G) and Ohio Administrative Code ("OAC") Rule 3745-27-03(B).

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Moraine Properties, LLC and successors in interest liable under Ohio law. No change in ownership of Moraine Properties, LLC or of the Site, as hereinafter defined, shall in any way alter Moraine Properties, LLC'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 Chapter 3734 and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA ("Director") has determined the following findings:

1. Moraine Properties, LLC is the owner and operator of City Lot 4268 ("Site"), located on Soldiers Home-West Carrollton Road in Moraine, Ohio.
2. In the 1960's and 1970's, the Site was used for the placement of paper sludge associated with the recycling of carbonless paper and various other paper products. The Site was never licensed or permitted.

3. Due to the nature of the paper that was recycled, some of the sludge has been found to contain low levels of PCBs. Due to the nature of this waste, a remedial action plan has been developed to close the Site under the Voluntary Action Program (VAP) rules as codified under OAC Rule 3745-27-300.
4. On July 20, 2012, Moraine Properties, LLC submitted a request pursuant to OAC Rule 3745-27-13(D)(2) for authorization to "engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility or solid waste facility was operated". Ohio EPA, Southwest District Office (SWDO), Division of Materials & Waste Management (DMWM) concurred with the request on July 30, 2012.
5. Pursuant to OAC Rule 3745-27-13(H)(6), "no excavation of waste shall occur unless the excavated waste is replaced within previously existing horizontal and vertical limits of waste placement or is treated or disposed of at a licensed, permitted treatment or disposal facility, in accordance with Chapter 3734. of the Revised Code and the regulations promulgated thereunder".
6. Contained within the OAC Rule 3745-27-13 request received on July 20, 2012 was a request for an exemption from OAC Rule 3745-27-13(H)(6), submitted pursuant to OAC Rule 3745-27-03(B). The exemption is requested for purposes of consolidation of the paper sludge waste on-site, to accommodate cap construction, and to facilitate proper grading for the cap slopes.
7. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), the Director, by order, "may exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes in such quantities or under such circumstances that, in the determination of the Director, are unlikely to adversely affect the public health or safety or the environment from any requirement to obtain a permit or license or comply with other requirements of ORC Chapter 3734 and any rules adopted thereunder".
8. Pursuant to ORC Section 3734.02(G), issuance of an exemption relieving Moraine Properties, LLC from the requirement to place waste within previously existing horizontal and vertical limits of waste placement at the Site pursuant to OAC Rule 3745-27-13(H)(6) in order to minimize the size of the disposal area, to accommodate cap construction, and to facilitate proper grading for the cap slopes, is unlikely to adversely affect the public health or safety or the environment.

#### **V. ORDERS**

1. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), Moraine Properties, LLC is hereby granted an exemption from the requirement in OAC Rule 3745-27-13(H)(6) that all excavated waste be replaced within the previously existing horizontal and vertical limits of waste placement in order to consolidate the overall size of the disposal area, to accommodate cap construction, and to facilitate proper grading for the cap slopes. The exemption granted herein for the Moraine Properties, LLC applies solely to the property owners and is not transferable to future owners of the property.
2. Moraine Properties, LLC shall provide Ohio EPA with a certification report in accordance with OAC Rule 3745-27-13(H)(10) within sixty days of completion of the filling, grading, excavating, building, drilling or mining activities.
3. Any deviation from the planned activities, as described in the OAC Rule 3745-27-13 request received by Ohio EPA on July 20, 2012, shall not occur without concurrence from Ohio EPA, SWDO.
4. Moraine Properties, LLC shall strictly comply with all requirements required by OAC Rule 2745-27-13(H) and shall conduct all activities at the Site in accordance with the OAC Rule 3745-27-13(D)(2) request received by Ohio EPA on July 20, 2012.
5. These Orders shall not be construed to release Moraine Properties, LLC from their responsibilities under ORC Chapter 3734 and OAC Chapter 3745-27 as an owner or operator of a property containing hazardous and/or solid waste, except as specified herein.

#### **VI. 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 property owners and/or related to the Site.

#### **VII. OTHER APPLICABLE LAWS**

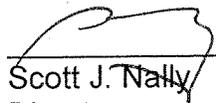
All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable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

### **VIII. 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 for noncompliance with these Orders. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require the property owners to perform additional activities pursuant to ORC Chapter 3734 or any other applicable law in the future. Nothing herein shall restrict the right of the property owners to raise any administrative, legal, or equitable claim or defense with respect to such further actions that Ohio EPA may seek to require of the property owners. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations which may occur at the Site.

**IT IS SO ORDERED:**

**Ohio Environmental Protection Agency**

  
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Scott J. Nally  
Director