

Issuance Date: _____

Effective Date: _____

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

City of Coshocton	:	Director's Final
Waste Water Treatment Plant	:	Findings and Orders
2742 County Road 271	:	
Coshocton, Ohio 43812	:	
(Parcel # 0441530000901)	:	

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are hereby issued to the City of Coshocton ("the City"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Section 3734.02, Ohio Administrative Code ("OAC") Rule 3745-27-03(B), and OAC Rule 3745-27-05(A)(4).

II. PARTIES

These Orders shall apply to and be binding upon the City and successors in interest liable under Ohio law. No changes in ownership relating to the Coshocton Waste Water Treatment Plant, as hereinafter defined, shall in any way alter the City'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. Unless otherwise stated, all OAC citations shall refer to rules in effect on the date of these Orders.

IV. FINDINGS

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

1. The City is the owner and operator of a wastewater treatment plant ("WWTP") located at 2742 County Road 271 in the City of Coshocton, Coschocton County, Ohio. The City utilizes rock media in the trickling filters at the WWTP.
2. On August 17, 2006, the City submitted a request to Ohio EPA for authorization to alternatively dispose of rock media generated from the City's WWTP trickling filters as a road bed aggregate for a vegetated access road at the WWTP. The rock media will be placed and covered with soil and seeded. The rock media is solid waste.
3. ORC Section 3734.01(E) defines "solid wastes," in pertinent part, to mean "such unwanted residual solid or semisolid material as results from industrial, commercial, agricultural, and community operations...."
4. ORC Section 3734.01(F) defines "disposal," in pertinent part, to mean "the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any solid wastes...into or on any land or ground or surface water or into the air...."
5. ORC Section 3734.01(N) defines "facility," in pertinent part, to mean "any site, location, tract of land, installation, or building used for incineration, composting, sanitary landfilling, or other methods of disposal of solid wastes...."
6. The activities described in Finding 2 of these Orders and in the City's request constitute disposal of solid waste at a facility.
7. ORC Sections 3734.02(C), 3734.05(A)(1), and 3734.05(A)(2), and OAC Chapters 3745-27 and 3745-37 require that a permit and license be obtained prior to establishment or modification of a solid waste facility.
8. The activities described in Finding 2 of these Orders and in the City's request constitute establishment or modification of a facility and require that a permit and license be obtained prior to initiating such activities.
9. OAC Rule 3745-27-05(A) specifies the methods of solid waste disposal that are authorized in Ohio. This rule authorizes sanitary landfilling, incineration, and composting as acceptable disposal methods. In addition, OAC Rule 3745-27-05(A)(4) states that solid wastes may be disposed as engineered fill or by land application, provided the Director determines that such alternative methods will not create a nuisance or harm human health or the environment and are capable of complying with other applicable laws.
10. The proposed disposal method described in Finding 2 of these Orders and in the City's request is a method other than sanitary landfilling, incineration, or composting,

and, therefore, requires authorization from the Director pursuant to OAC Rule 3745-27-05(A)(4).

11. The disposal of solid waste by the method described in Finding 2 of these Orders and in the City's request can be performed without creating a nuisance or harming human health or the environment, and in compliance with other applicable laws, provided it is performed in accordance with the City's request, as received on August 17, 2006, and the orders specified below.
12. 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.
13. Based upon a review of the City's August 17, 2006, request, granting the City an exemption from the requirement to obtain a permit and a license to establish and operate a solid waste facility, as specified in Finding 7 of these Orders, is unlikely to adversely affect the public health or safety or the environment, provided the City performs the activities in accordance with the City's request and these Orders.
14. Pursuant to ORC Section 3734.57(A), the owner or operator of a solid waste disposal facility must collect and remit to the state a disposal fee for each ton of solid waste disposed at the facility. However, pursuant to ORC Section 3734.57(D)(1)(a), the fees levied under ORC Section 3734.57(A) do not apply to the disposal of solid wastes that are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid waste generated at one or more premises owned by the generator regardless of whether the facility is located on the premises where the wastes are generated. The City is the generator of the rock media and is the owner of the property where the waste will be disposed. Therefore, these fees are not applicable.
15. Pursuant to ORC Section 3734.57(B), the solid waste management policy committee of a single or joint solid waste management district is authorized to levy a disposal fee on solid wastes disposed at solid waste disposal facilities located within the solid waste management district. The Coshocton, Fairfield, Licking, Perry Solid Waste Management District has levied a disposal fee. However, pursuant to ORC Section 3734.57(D)(1), the fee levied under ORC Section 3734.57(B) does not apply to the disposal of solid wastes that are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid waste generated at one or more premises owned by the generator regardless of

whether the facility is located on the premises where the wastes are generated. The City is the generator of the rock media and is the owner of the property where the waste will be disposed. Therefore, these fees are not applicable.

VI. ORDERS

1. Pursuant to OAC Rule 3745-27-05(A)(4), the City is hereby authorized to use rock media generated at its WWTP as road bed aggregate for a vegetated access road at the WWTP, as specified in Finding 2 of these Orders and in the City's request, as an alternative disposal method.
2. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), the City is hereby exempted from the requirements contained in ORC Sections 3734.02(C), 3734.05(A)(1), and 3734.05(A)(2), and OAC Chapters 3745-27 and 3745-37 to obtain a permit and license to establish and operate a solid waste facility.
3. Solid waste originating from any location other than the City's WWTP plant, as described in Finding 1 of these Orders, shall not be disposed at the WWTP.
4. If the rock media is not used for road bed aggregate or is removed from the roadway, the material shall be subject to solid waste disposal requirements and shall be taken to a licensed solid waste disposal facility.
5. Not later than 60 days after completion of this Integrated Alternative Waste Management Program (IAWMP) project, the City shall submit a report to Ohio EPA, Southeast District Office indicating the total weight in tons of solid waste used for the project.
6. The authorization granted in Order 1 and the exemptions granted in Order 2 shall apply only to the use of rock media generated at the City's WWTP as road bed aggregate for the WWTP access road as proposed in the City's request and described in Findings 1 and 2 of these Orders.
7. Nothing in these Orders shall be construed to authorize any activity, method, or waiver from the requirements of ORC Chapter 3734. or the regulations promulgated thereunder, except as expressly provided herein. These Orders shall not be interpreted to release the City from responsibility under ORC Chapters 3704., 3734., or 6111.; under the Federal Clean Water Act, the Resource Conservation and Recovery Act, or the Comprehensive Environmental Response, Compensation, and Liability Act; or from other applicable requirements for remedying conditions resulting from any release of contaminants to the environment.

VI. 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 City.

VII. 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 the City for noncompliance with these Orders.

Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require the City 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 City 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 City. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations that may occur at the WWTP Property.

IT IS SO ORDERED:

Ohio Environmental Protection Agency

Joseph P. Koncelik
Director