

Issuance Date: _____

Effective Date: _____

BEFORE THE OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Phillip Longstreth	:	<u>Director's Final</u>
12185 Bottom Road	:	<u>Findings and Orders</u>
Dresden, Ohio 43821	:	

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are hereby issued to Mr. Phillip Longstreth ("Mr. Longstreth"), 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 Mr. Longstreth and successors in interest liable under Ohio law. No changes in ownership relating to the Bottom Road property, as hereinafter defined, shall in any way alter Mr. Longstreth'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. Mr. Longstreth is the owner of a farm located at 12185 Bottom Road, in Dresden, Muskingum County, Ohio ("Bottom Road property").

2. The City of Coshocton 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.
3. On September 8, 2006, Mr. Longstreth submitted a request to Ohio EPA for authorization to alternatively dispose of rock media generated from the Coshocton WWTP trickling filters as a road bed aggregate for vegetated roadways at the Bottom Road property. The rock media will be placed and covered with topsoil and seeded. The rock media is solid waste.
4. 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...."
5. 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...."
6. 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...."
7. The activities described in Finding 3 of these Orders and in Mr. Longstreth's request constitute disposal of solid waste at a facility.
8. 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.
9. The activities described in Finding 3 of these Orders and in Mr. Longstreth's request constitute establishment or modification of a facility and require that a permit and license be obtained prior to initiating such activities.
10. 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.
11. The proposed disposal method described in Finding 3 of these Orders and in Mr. Longstreth'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).

12. The disposal of solid waste by the method described in Finding 3 of these Orders and Mr. Longstreth'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 Mr. Longstreth's request, as received on September 8, 2006, and the orders specified below.
13. 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.
14. Based upon a review of Mr. Longstreth's September 8, 2006, request, granting Mr. Longstreth an exemption from the requirement to obtain a permit and a license to establish and operate a solid waste facility, as specified in Finding 8 of these Orders, is unlikely to adversely affect the public health or safety or the environment, provided Mr. Longstreth performs the activities in accordance with his request and these Orders.
15. 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.
16. 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 Southeastern Ohio Joint Solid Waste Management District has levied a disposal fee. ORC Section 3734.57(E) further requires the owner or operator of a solid waste disposal facility operating in a solid waste management district where disposal fees have been ratified to collect and remit to the solid waste management district the fees on each ton of solid waste disposed at the facility.
17. Based upon a review of the September 8, 2006, request, granting Mr. Longstreth an exemption from the requirements to collect and remit the state disposal fee and the solid waste management district disposal fee, as specified in Findings 15 and 16 of these Orders, is unlikely to adversely affect public health or safety or the environment, provided Mr. Longstreth complies with these Orders.

VI. ORDERS

1. Pursuant to OAC Rule 3745-27-05(A)(4), Mr. Longstreth is hereby authorized to use rock media generated at its WWTP as road bed aggregate for vegetated roadways at the Bottom Road property, as specified in Finding 3 of these Orders and in Mr. Longstreth's request, as an alternative disposal method.
2. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), Mr. Longstreth 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. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), Mr. Longstreth is hereby exempted from the requirement of ORC Section 3734.57(A) to collect and remit the state solid waste disposal fee on the rock media disposed at the Bottom Road property in accordance with the request and these Orders.
4. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), Mr. Longstreth is hereby exempted from the requirement of ORC Section 3734.57(E) to collect and remit the district solid waste disposal fee levied pursuant to ORC Section 3734.57(B) on the rock media disposed at the Bottom Road property in accordance with the request and these Orders.
5. Solid waste originating from any location other than the Coshocton WWTP, as described in Finding 2 of these Orders, shall not be disposed at the Bottom Road property.
6. If the rock media is not used for road bed aggregate or is removed from a roadway at the Bottom Road property, the material shall be subject to solid waste disposal requirements and shall be taken to a licensed solid waste disposal facility.
7. Not later than 60 days after completion of this Integrated Alternative Waste Management Program (IAWMP) project, Mr. Longstreth shall submit a report to Ohio EPA, Southeast District Office indicating the total weight in tons of solid waste used for the project.
8. The authorization granted in Order 1 above and the exemptions granted in Orders 2, 3, and 4 shall apply only to the use of rock media generated at the Coshocton WWTP as road bed aggregate for vegetated roadways at the Bottom Road property, as proposed in Mr. Longstreth's request and described in Finding 3 of these Orders.

9. 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 Mr. Longstreth 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 Mr. Longstreth.

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 Mr. Longstreth for noncompliance with these Orders.

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

IT IS SO ORDERED:

Ohio Environmental Protection Agency

Joseph P. Koncelik
Director