



State of Ohio Environmental Protection Agency

STREET ADDRESS:

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MAILING ADDRESS:

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

December 4, 2007

Doris M. Oroszy
3122 Sweet Road
Conneaut, OH 44030

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: Murat Tukul, DSIWM, NEDO
Jeff Hurdley, CO, Legal

Ed Gortner, DSIWM, CO
Ashtabula County Health Dept.

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

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**



In the Matter Of:

Doris M. Oroszy
3122 Sweet Road
Conneaut, OH 44030

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:
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:
:

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

By: *Doris Oroszy* Date: 12-4-07

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Doris M. Oroszy (the "Respondent") 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 BOUND

These Orders shall apply to and be binding upon Respondent and heirs and successors in interest liable under Ohio law. No change in ownership of the Property (as hereinafter defined) owned by the Respondent 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 Chapter 3734. and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Doris M. Oroszy is the owner of 45.314 acre parcel of real property, located at 3122 Sweet Road, Monroe Township, Ashtabula County, Ohio and claims title by or

through instrument recorded in Volume 291, Page 2373, of the Ashtabula County Recorder's Official Records (the "Property"). The Property is further identified as Ashtabula County Auditor parcel number 310270000400.

2. Respondent is a "person" as that term is defined in ORC Section 3734.01 and Ohio Administrative Code ("OAC") Rule 3745-27-01(P)(3).
3. There are currently an estimated 70,000 scrap tires illegally disposed of on the Property.
4. The Property is neither licensed nor permitted as a scrap tire collection, storage, monofill, monocell, or recovery facility or solid waste disposal facility in accordance with ORC Chapter 3734. and OAC Chapter 3745-27.
5. 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."
6. Scrap tires are included in the definition of "solid waste" under OAC Rule 3745-27-01(S)(24).
7. The open dumping of scrap tires is a violation of ORC § 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 . . . 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."
8. OAC Rule 3745-27-01(O)(4)(b) defines "open dumping" as "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."
9. OAC Rule 3745-27-60(B) provides that, "[s]torage of scrap tires in any amount outside or inside ... a building shall be deemed a nuisance, a hazard to public health or safety, or a fire hazard unless the tires are stored in accordance with [the standards set forth within OAC Rule 3745-27-60(B)(1) - (8)]."

10. 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.
11. On July 21, 2004, the Ashtabula County Health Department ("ACHD") issued Board Orders that required Doris M. Oroszy to do the following:
 - a. Legally remove and dispose of all scrap tires by September 15, 2004.
 - b. Arrange for a registered scrap tire transporter to transport all scrap tires to a scrap tire disposal facility.
 - c. Submit disposal receipts from a scrap tire transporter to ACHD by September 22, 2004.
 - d. Submit monthly progress reports to ACHD that documents removal activities.
 - e. Implement mosquito control measures in accordance with OAC Rule 3745-27-60(B)¹.
 - f. Provide copies of mosquito control records within ten days after each application.
 - g. Establish, by August 14, 2004, scrap tire storage piles and fire lanes in accordance with OAC Rule 3745-27-60 (B)(1) through (B)(6).
12. On September 15, 2004, ACHD conducted an inspection of the Property and observed the following violations:
 - a. ORC Section 3734.02(C) for establishing a solid waste facility without submitting an application for a permit.
 - b. ORC Section 3734.03 for open dumping of solid waste.
 - c. ORC Section 3734.11(A) for violations of any order issued under 3734.13 of the ORC.
 - c. OAC Rule 3745-27-05(C) for open dumping of solid waste.
 - d. OAC Rule 3745-27-60(B)(6)(a) for having scrap tire piles greater than 2500 square feet in basal area.
 - e. OAC Rule 3745-27-60(B)(6)(f)² for failure to maintain fire lanes to allow emergency vehicle access at all times.
 - f. OAC Rule 3745-27-60(B)(8) for failure to provide mosquito control measures.
 - g. Failure to comply with the July 21, 2004 Ashtabula County Board Orders.

This inspection was documented in a Notice of Violation ("NOV") letter from ACHD to Doris M. Oroszy dated November 1, 2004. Also documented in this NOV was the presence of mosquito larvae in the tires.

¹ACHD mistakenly stated wrong address for this requirement only. The July 21, 2004 Board Orders did accurately identify the proper address where the violations were taking place.

²Mis-stated as a violation of OAC Rule 3745-27-60(B)(6)(e).

13. On July 6, 2005, Ohio EPA conducted an inspection of the Property and observed the following violations:
- a. OAC Rule 3745-27-05(C) for open dumping of solid waste.
 - b. OAC Rule 3745-27-60(B)(6)(a) for having scrap tire piles greater than 2500 square feet in basal area.
 - c. OAC Rule 3745-27-60(B)(6)(f) for failure to maintain emergency vehicle access to and around the scrap tire piles.
 - d. OAC Rule 3745-27-60(B)(8) for failure to provide mosquito control measures.

This inspection was documented in an NOV letter from Ohio EPA to Doris M. Oroszy dated September 8, 2005. Also documented was the presence of mosquito larvae in the tires and the failure to comply with the July 21, 2004 ACHD Board Orders.

14. On February 1, 2006, Ohio EPA and ACHD conducted a joint inspection of the Property and observed the following violations:
- a. OAC Rule 3745-27-05(C) for open dumping of solid waste.
 - b. OAC Rule 3745-27-60(B)(6)(a) for having scrap tire piles greater than 2500 square feet in basal area.
 - c. OAC Rule 3745-27-60(B)(6)(f) for failure to maintain emergency vehicle access to and around the scrap tire piles.
 - d. OAC Rule 3745-27-60(B)(8) for failure to provide mosquito control measures.

This inspection was documented in an NOV letter from Ohio EPA to Doris Oroszy dated March 3, 2006. Also documented was the presence of mosquito larvae in the tires and the failure to comply with the July 21, 2004 ACHD Board Orders.

15. On July 16, 2006, September 6, 2006, December 22, 2006, and February 28, 2007, Ohio EPA conducted inspections of the Property and observed the following violations:
- a. OAC Rule 3745-27-05(C) for open dumping of solid waste.
 - b. OAC Rule 3745-27-60(B)(6)(a) for having scrap tire piles greater than 2500 square feet in basal area.
 - c. OAC Rule 3745-27-60(B)(6)(f) for failure to maintain emergency vehicle access to and around the scrap tire piles.
 - d. OAC Rule 3745-27-60(B)(8) for failure to provide mosquito control measures.

This inspection was documented in an NOV letter from Ohio EPA to Doris Oroszy dated April 25, 2007. Also documented was the presence of mosquito larvae in the tires and the failure to comply with the July 21, 2004 ACHD Board Orders.

16. As of December 31, 2006, Ashtabula County had one confirmed case of West Nile Virus.
17. Given the proximity of Respondent's scrap tire pile to Kingsville and sensitive sub populations such as pre-schools, elementary schools and a high school, the past confirmed presence of West Nile Virus in the County, and the potential that a tire fire could obscure major transportation routes such as State Route 7, and in consideration that the effects of a tire fire could adversely impact waters of the state, the Director has determined that the unlawful accumulation of scrap tires on the Property constitutes a danger to the public health or safety or to the environment.
18. 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."
19. 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(B)(8) and (B)(9). Respondent shall provide copies of the mosquito control records required by OAC Rule 3745-27-60(B)(10) to Ohio EPA within ten (10) days after each application of the registered pesticide, larvicide, or adulticide.
2. 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)(1) through (6).
3. Not later than one hundred twenty (120) days after the effective date of these Orders, Respondent shall remove or cause the removal of all 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 scrap tire transporter:
 - a. to a scrap tire storage, monofill, monocell, or recovery facility licensed under ORC Section 3734.81; or
 - b. to such a facility in another state operating in compliance with the laws of the state in which it is located; or
 - c. to any other solid waste disposal facility in another state that is operating in compliance with the laws of that state.
4. Respondent shall obtain receipts from the registered transporter and the facility, indicating weight, volume or number of scrap tires received. Respondent shall forward such documentation to Ohio EPA within ten (10) days after completion of Order No. Three (3).
5. Respondent shall continue to comply with Order Nos. One (1) and Two (2) above until such time as all scrap tires have been removed from the Property.

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 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 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, Respondent and 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 and the Property.

IX. NOTICE

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

Ohio Environmental Protection Agency
Northeast District Office
Division of Solid and Infectious Waste Management
Attn: DSIWM Unit Supervisor
2110 E. Aurora Road
Twinsburg, OH 44087

and to:

Ashtabula County Health Department
12 West Jefferson Street
Jefferson, OH 44047-1096
Attn: Raymond J. Saporito, Health Commissioner

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

X. RESERVATION OF RIGHTS

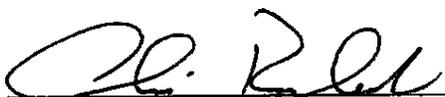
Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance 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 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.

XI. 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:

Ohio Environmental Protection Agency


Chris Korleski, Director