OHIO E.P.A.

APR - 1 2011

ENTERED DIRECTOR'S JOURNAL

Issuance Date: APR 0 1 2011

Effective Date: APR 0 1 2011

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Mr. John E. Stancato 368 East Vermont Avenue Sebring, Ohio 44672 (parcel 210060192000)	: : : :	Director's Final Findings and Orders

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are hereby issued to Mr. John E. Stancato ("Property Owner"), 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") Rules 3745-27-03(B) and 3745-27-05(A)(4).

II. PARTIES

These Orders shall apply to and be binding upon the Property Owner and successors in interest liable under Ohio law. No changes in ownership relating to the Stancato Property, as hereinafter defined, shall in any way alter the Property Owner'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 Property Owner owns parcel number 210060192000 located at 368 Vermont Avenue, Sebring, Mahoning County, Ohio ("Stancato Property").

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.

By: [signature] Date: 4-1-11

2. On January 21, 2011, the Property Owner submitted a request to the Director for authorization to use two tons of clay pottery molds as driveway base material at the Stancato Property.

3. On February 8, 2011, the Property Owner submitted additional information describing the clay from which the molds were made.

4. The clay pottery molds are a solid waste.

5. 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...."

6. 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 waste...into or on any land or ground or surface water or into the air...."

7. 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...."

8. The activity described in Finding 2 constitutes disposal of solid waste at a facility.

9. 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.

10. The activity described in Finding 2 constitutes establishment or modification of a facility and requires that a permit and license be obtained prior to initiating such activity.

11. 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.

12. The proposed disposal method described in Finding 2 is a method other than sanitary landfilling, incineration, or composting, and, therefore, requires authorization of the Director pursuant to OAC Rule 3745-27-05(A)(4).

13. The disposal of solid waste by the method described in Finding 2 can be performed without creating a nuisance or harming human health or the environment, and in compliance with other applicable laws, provided the activity is performed in accordance with the Property Owner's request, as received on January 21, 2011, and the orders specified below.

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.

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 Mahoning County 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 a disposal fee has been ratified to collect and remit to the solid waste management district the fees on each ton of solid waste disposed at the facility.

16. 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.

17. Based upon a review of the January 21, 2011 request, granting the Property Owner an exemption from the requirements to obtain a permit and license, as specified in Finding 10, or comply with other requirements promulgated pursuant to ORC Chapter 3734 for the specific activities described in Finding 2 and in the January 21, 2011 request, is unlikely to adversely affect the public health or safety or the environment, provided the Property Owner complies with the following Orders.

18. Based upon a review of the January 21, 2011 request, granting the Property Owner 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 14 and 15 for the specific activities described in Finding 2 and the January 21, 2011 request, is unlikely to adversely affect public health or safety or the environment, provided the Property Owner complies with the following Orders.

V. ORDERS

1. As required by OAC Rule 3745-27-05(A)(4), the Property Owner is hereby authorized to use up to two tons of clay pottery molds at the Stancato Property, as specified in Finding 2, as an alternative disposal method.

2. The Property Owner shall utilize the clay pottery molds in accordance with the following placement procedures:

   a. The clay pottery molds shall be placed according to the request submitted by the Property Owner on January 21, 2011.

   b. The clay pottery molds shall be placed in such a manner as necessary to prevent creation of a nuisance caused by the release of contaminants to the environment.

   c. Upon completion of the proposed activity, The Property Owner shall submit to Ohio EPA, Northeast District Office (NEDO) and the Mahoning County District Board of Health, a report describing the amount of waste placed at the Stancato Property and the location of the waste on the Stancato Property.

3. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), the Property Owner is hereby exempted from the requirements of 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 or comply with other requirements promulgated pursuant to ORC Chapter 3734 for the specific activities described in Finding 2 and in the January 21, 2011 request.

4. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), the Property Owner is hereby exempted from the requirement of ORC Section 3734.57(A) to collect and remit the state disposal fee for the clay pottery molds disposed at the Stancato Property in accordance with the January 21, 2011 request, and these Orders.

5. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), the Property Owner is hereby exempted from the requirement of ORC Section 3734.57(E) to collect and remit the disposal fees levied pursuant to ORC Section 3734.57(B) on clay pottery molds disposed on the Stancato Property in accordance with the January 21, 2011 request and these Orders.

6. The authorization granted in Order 1 and the exemptions granted in Orders 3, 4, and 5 apply only to the use of the clay pottery molds described in the January 21, 2011 request as driveway base at the Stancato Property. This authorization shall not be construed as approval for use of other materials or additional waste. Use of any such additional materials shall not occur unless the Property Owner obtains prior approval.

7. If the clay pottery molds are not used in accordance with these Orders and the January 21, 2011 request, the clay pottery molds shall be managed and/or disposed in accordance with all applicable requirements.

8. Ohio EPA, NEDO and the Mahoning County District Board of Health shall be notified not later than five (5) days prior to start of the project so that use of the clay pottery molds can be routinely inspected by Ohio EPA, NEDO or the Mahoning County District Board of Health.

9. Authorization to conduct the activities authorized in these Orders shall expire if the activities have not been completed within two (2) years of the effective date of these Orders.

10. 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 Property Owner from responsibility under ORC Chapters 3704, 3734, or 6111; under the Federal Clean Water 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 federal, state, and local laws and regulations. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to the Property Owner. Ohio EPA reserves all rights and privileges except as specified herein.

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 Property Owner for noncompliance with these Orders.

Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require the Property Owner 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 Owner to raise any administrative, legal, or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of the Property Owner. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations that may occur at the Stancato Property.

IT IS SO ORDERED:

Scott J. Nally
Director
Ohio Environmental Protection Agency