State of Ohio Environmental Protection Agency

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December 2, 2009

S.W. Land Company
8555 Georgetown Road
Cambridge, OH 43725

CERTIFIED MAIL

Director's Final Findings & Orders

Dear Sir or Madam:

Transmitted herewith are Final Findings & Orders of the Director concerning the matter indicated.

Sincerely,

Kimberly Reese
Systems Management Unit
Division of Solid & Infectious Waste Management

cc: Bruce McCoy, CO, DSIWM
Rich Fox, SEDO, DSIWM
Jeff Hurdley, CO, Legal

OHIO E.P.A.
DEC -2 2009
ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter Of:

S.W. Land Company 8555 Georgetown Road Cambridge, Ohio 43725	:	Director's Final Findings and Orders

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to S.W. Land Company ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") sections 3714.12 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent or of the Facility owned by Respondent (as hereinafter defined) 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 3714 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

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: Donna Lassiter Date: 12-2-09

1. The S.W. Land Company construction and demolition debris disposal facility ("Facility") is located on State Route 209, approximately 2 miles west of the intersection of State Route 40 and State Route 209, Cambridge, Guernsey County, Ohio.

2. The Facility is a "construction and demolition debris facility" as defined under Ohio Administrative Code ("OAC") Rule 3745-400-01(G).

3. Respondent, an Ohio corporation, is a "person" as defined under ORC Section 3714.01(H) and OAC Rule 3745-400-01(DD) and is the "owner" and "operator" of the Facility as those terms are defined in OAC Rule 3745-400-01(EE) and (I), respectively.

4. OAC Rule 3745-400-11(B)(1) requires the owner or operator of a construction and demolition debris facility to conduct all operations at the facility in strict compliance with the license, any orders, and other authorizing documents issued in accordance with Chapter 3714. of the Revised Code.

5. Respondent's license identifies the areal and vertical limits of construction and demolition debris placement for the Facility.

6. On November 13, 2007, Ohio EPA received a report titled *"Construction Documentation Report for the Standard Cap System"* ("Report"). Ohio EPA reviewed the report and in correspondence dated January 9, 2008, issued a notice of deficiency ("NOD") to Respondent requiring the following information:

    a. A plan drawing showing the as-built top of waste/top of sub-grade and including a demonstration that the as-built top of waste grades are at or below those currently approved;

    b. A plan drawing showing the as-built top of recompacted soil barrier and including a demonstration that the as-built thickness of the recompacted soil barrier layer is at least 18 inches;

    c. A plan drawing showing the as-built top of vegetative soil layer and including a demonstration that the as-built thickness of the vegetative soil layer is at least 6 inches;

    d. The information required by OAC Rule 3745-400-08(D) that indicates that the Facility has been blocked by locked gates, fencing, or other sturdy obstacles, and that signs are posted stating that the Facility is closed.

Additionally, Ohio EPA informed Respondent that the Report did not contain the information necessary to ascertain if the closure activities were consistent with the closure requirements of OAC Chapter 3745-400, therefore Ohio EPA could not concur with the Report.

7. On April 9, 2008, Ohio EPA received a topographical survey map for closure of the Facility which compared the approved top-of-waste grades with the as-built recompacted soil barrier sub-grade. Upon review of the survey map, Ohio EPA noted that the Facility has been filled with waste significantly above the approved top-of-waste grades. Subsequently, in correspondence dated May 28, 2008, Ohio EPA notified Respondent that it is in violation of OAC Rule 3745-400-11(B)(1) for failure to conduct all operations at the Facility in strict compliance with the authorizing documents, specifically the license application which identifies the areal and vertical limits of construction and demolition debris ("C&DD") placement.

   Additionally, Ohio EPA directed Respondent to respond to the Notice of Violation ("NOV") within thirty days and provide a detailed evaluation of the as-built versus approved contours including actual area (acreage) of overfill as well as volume, and detail the actions taken to abate the violation of OAC Rule 3745-400-11(B)(1).

8. In response to the May 28, 2008, NOV, Ohio EPA received correspondence from Respondent dated June 26, 2008, stating, in part, the following:

   a. The Facility's original license application approved by Ohio EPA allowed for the placement of C&DD over a 8.2 acre area, however Respondent stated that it voluntarily decided to close the Facility and only 3.12 acres of the approved area were used for C&DD disposal;

   b. Respondent stated that during closure activities Respondent placed a compacted clay cap over the Facility in two, to three feet thick layers which exceeds the minimum closure requirements;

   c. Respondent further stated that it had reviewed the closure regulations and found there is no specific elevation requirement.

9. On June 2, 2008, Ohio EPA received revisions to the Report. Ohio EPA reviewed these revisions and in correspondence dated July 28, 2008 issued a NOD to Respondent stating the following:

   a. The revised Report did not contain the information necessary to ascertain if the closure activities were consistent with the closure requirements of OAC Rule 3745-400-08(D)(3);

b. A comparison of the as-built top of waste contours to the approved top of waste contours was requested in the January 9, 2008, NOD but was not provided by Respondent. Instead, Respondent submitted a comparison of the as-built top of waste contours to "modified" top of waste contours. These "modified" contours were developed by Respondent's consultant to represent proposed final waste contours; however no modified contours were ever approved by Ohio EPA for the Facility.

c. Ohio EPA requested that Respondent provide a detailed analysis of the area, volume, and depth (maximum and average) of the overfill.

10. Ohio EPA conducted an inspection of the Facility on August 13, 2008 and observed that no activities had occurred at the Facility to rectify the overfill. Subsequently, in correspondence dated August 19, 2008, Ohio EPA notified Respondent that it remained in violation of OAC Rule 3745-400-11(B)(1) for failure to conduct all operations at the Facility in strict compliance with the authorizing documents, specifically the limits of waste placement depicted in the license.

11. Ohio EPA conducted an inspection of the Facility on June 11, 2009 and observed that no activities had occurred at the Facility to rectify the overfill. Subsequently, in correspondence dated June 29, 2009, Ohio EPA notified Respondent that it remained in violation of OAC Rule 3745-400-11(B)(1) for failure to conduct all operations at the Facility in strict compliance with the authorizing documents, specifically the limits of waste placement depicted in the license.

12. In response to the June 29, 2009, NOV, Ohio EPA received correspondence from Respondent dated July 7, 2009, stating that, as indicated in previous correspondence dated June 26, 2008 and August 27, 2008, Respondent disagrees with the NOVs issued by Ohio EPA and believes that it is in compliance with the closure standards for the Facility. Respondent further requested an opportunity to meet with Ohio EPA in order to resolve the issues regarding Respondent's Facility.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall pay to Ohio EPA the amount of sixteen thousand, three hundred ninety-eight dollars ($16,398.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 3714. in accordance with the following provisions:

a. Within thirty (30) days after the effective date of these Orders, Respondent shall pay the amount of twelve thousand, three hundred ninety-eight dollars ($12,398.00) of the total amount which will be deposited into the environmental protection remediation fund established pursuant to ORC Section 3734.281. Payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for twelve thousand, three hundred ninety-eight dollars ($12,398.00). The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the Facility. A copy of the check shall be sent to Ohio EPA, Division of Solid and Infectious Waste Management, Supervisor, Systems Management Unit, P.O. Box 1049, Columbus, Ohio 43216-1049.

b. In lieu of paying the remaining four thousand dollars ($4,000.00) of the civil penalty identified in Order No. 1-a above, Respondent shall fund a Supplemental Environmental Project (SEP) by making a contribution in the amount of four thousand dollars ($4,000.00) to the Cambridge City School District for the purpose of purchasing recycling containers for the Cambridge City Schools. Respondent shall make payment within thirty (30) days after the effective date of these Orders by tendering an official check made payable to "Cambridge City Schools" for four thousand dollars ($4,000.00). The official check shall be submitted to Cambridge City Schools, Attention: Carrie Spung, Recycling Program Coordinator, 6111 Fairdale Road, Cambridge, Ohio 43725. A copy of the check, together with a letter identifying the Respondent and the Facility, shall be sent to Ohio EPA, Division of Solid and Infectious Waste Management, Supervisor, Systems Management Unit, P.O. Box 1049, Columbus, Ohio 43216-1049 and to Ohio EPA, Southeast District Office, Division of Solid and Infectious Waste Management, Attention: Unit Supervisor, DSIWM, 2195 South Front Street, Logan, Ohio 43138.

c. Should Respondent fail to fund the Cambridge City Schools Recycling SEP in accordance with Order No. 1-b above, Respondent shall pay Ohio EPA four thousand dollars ($4,000.00) of the civil penalty in accordance with the procedures in Order No. 1-a.

2. Upon compliance with Order 1, above, Respondent shall be deemed to have completed closure of the Facility as required by paragraph (G) of OAC Rule 3745-400-12 and to have satisfied the requirements of OAC Rule 3745-400-08.
Upon compliance with Order 1, above, Respondent shall implement a two (2) year post-closure care period for the Facility. Post-closure care for the Facility shall include maintaining the integrity and effectiveness of the cap system and properly managing the leachate at the Facility.

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 operation of Respondent's Facility.

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 Respondent.

VIII. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

IX. NOTICE

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

Ohio Environmental Protection Agency
Southeast District Office
Division of Solid and Infectious Waste Management
2195 S. Front Street
Logan, Ohio 43138
Attn: Unit Supervisor, DSIWM

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

X. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XI of these Orders.

XI. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIII. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski, Director

IT IS SO AGREED:

S.W. Land Company by

William A. Nicolozakes, president — 11-20-09

William A. Nicolozakes, President — Date

Dean S. Nicolozakes Sec; Tres — 11-20-09

Dean S. Nicolozakes, Secretary-Treasurer — Date