



State of Ohio Environmental Protection Agency

STREET ADDRESS:

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Columbus, Ohio 43215

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

April 19, 2010

Martin Landfill Corporation
Or Corporate Owners
SW Quarter Section 6
Range 5 in Steubenville Land District
Cadiz Township, OH 43907

**Re: Director's Final Findings & Orders
Martin Landfill**

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. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00, made payable to "Ohio Treasurer Kevin Boyce," 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: Kelly Jeter, CO, DSIWM
Rich Fox, SEDO, DSIWM
Jeff Hurdley, CO, Legal

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

OHIO E.P.A.
APR 19 2010

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

ENTERED DIRECTOR'S JOURNAL

In the Matter Of:

Martin Landfill Corporation
or corporate owners
SW Quarter Section 6
Range 5 in Steubenville Land District
Cadiz Township, Ohio 43907

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.

Respondents

By: *Myrle Cassidie* Date: 4-19-10

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Martin Landfill Corporation or corporate owners ("Respondents") 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

These Orders shall apply to and be binding upon Respondents and successors in interest liable under Ohio law. No change in ownership of the Property (as hereinafter defined) shall in any way alter Respondents' responsibilities 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 makes the following findings:

1. Landfill Resources Incorporated ("LRI") is listed as the current owner of three parcels in Harrison County, Ohio totaling approximately 81.38 acres of land, parcel numbers 04-0000065001, 04-0000032002, and 04-0000032001, and further identified in the records of the Harrison County Recorder's Office by limited warranty deed and recorded December 16, 1988, in Volume 227, Pages 440-41 (hereinafter, the "Property"). The Property is located at SW Quarter Section 6, Range 5 in the Steubenville Land District, Cadiz Township, Harrison County, Ohio and near U.S. Route 22.

2. The former owners of the Property, Jack and Ethel Martin, operated a licensed solid waste landfill at the Property (the "Martin Landfill", as commonly known, or the "Facility") from 1976 to 1988.
3. Jack and Ethel Martin dba Martin Solid Waste Removal transferred the Property to LRI on December 16, 1988 by previously-mentioned limited warranty deed. LRI later merged with and into Martin Landfill Corporation, an Ohio corporation, on June 22, 1989.
4. LRI, and then Respondent Martin Landfill Corporation as successor in interest operated the Martin Landfill from 1988 to approximately January 11, 1991, the date Respondents informed Ohio EPA that it would cease acceptance of solid waste.
5. On March 7, 1991, Ohio EPA conducted an inspection of the Property and found scrap tires open dumped on the Property.
6. Respondents informed Ohio EPA via correspondence dated April 15, 1991 that they did not intend to re-open the Facility.
7. The Director of Ohio EPA issued Unilateral Director's Findings and Orders on December 13, 1991 to Respondents and ordered Respondents to close the Facility for violations of the solid waste laws, including OAC Rule 3745-27-05(C) (then (B)) for failure to restrict access to the Property and allowing open dumping of scrap tires to occur.¹
8. There are currently at least 6,250 scrap tires illegally disposed on the ground at the Property.
9. Ohio EPA exercised its due diligence in trying to ascertain the identities of unknown persons responsible for the scrap tire accumulation through interviews of the Harrison county sheriff and local health department. Neither local agency had any information as to the persons responsible for the scrap tire accumulation.

¹ On December 15, 1993, the Ohio Secretary of State cancelled the articles of corporation of the Martin Landfill Corporation for failure to report or pay corporate taxes pursuant to ORC Section 5733.20 as listed on the Ohio Secretary of State's website. The Martin Landfill Corporation's appeal of the December 13, 1991 Unilateral Director's Final Findings and Orders to the Environmental Review Appeals Commission ("ERAC") was dismissed by ERAC on July 11, 2001. Efforts to locate the corporate owners of Martin Landfill Corporation have been unsuccessful to date.

10. Respondents are each a "person" as that term is defined in ORC Section 3734.01(G) and in Ohio Administrative Code ("OAC") Rule 3745-27-01(P)(3).
11. Scrap tires are included in the definition of "solid wastes" under ORC Section 3734.01(E) and OAC Rule 3745-27-01(S)(23).
12. 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."
13. The open dumping of scrap tires is a violation of ORC Section 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 is occurring or has occurred at a property, the person(s) responsible for the open dumping ... 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."
14. OAC Rule 3745-27-01(O)(4)(b) defines "open dumping" as including "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."
15. OAC Rule 3745-27-60(B) provides that storage 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) through (B)(11).
16. Scrap tires, if not properly managed, may become a breeding ground for mosquitoes. Mosquitoes are a common disease vector for potentially fatal St. Louis encephalitis, La Crosse encephalitis, Yellow Fever, West Nile Virus and Dengue Fever.
17. Respondents have created or allowed an unpermitted, unlicensed "solid waste disposal facility" and "open dump", as those terms are defined OAC Rules 3745-27-01(S)(24) and (O)(3), respectively, in violation of ORC Sections 3734.03 and 3734.05(A), and OAC Rule 3745-27-05(C).

18. Given the proximity of Respondents' scrap tire dump to Cadiz Township and sensitive sub-populations such as Harrison Westgate Elementary School and Harrison Central High School, the potential for a tire fire plume to reduce visibility on U.S. Routes 22 and 250, and in consideration of a tire fire adversely impacting the public health, the Director has determined that the accumulation of scrap tires on the Property caused by Respondents constitutes a danger to the public health or safety or to the environment.
19. ORC Section 3734.85(A) 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.
20. ORC Section 3745.85(A) further provides "[i]f 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"

V. ORDERS

Respondents 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, Respondents shall cease acceptance and disposal of all solid wastes, including scrap tires, at the Property and shall comply with ORC Chapter 3734. and OAC Chapter 3745-27.
2. Upon the effective date of these Orders, Respondents shall implement mosquito control measures at the Property in accordance with the provisions of OAC Rule 3745-27-60(C). Respondents shall make the mosquito control records required by OAC Rule 3745-27-60(C)(3) available for inspection by Ohio EPA during

normal operating hours. Respondents shall retain copies of mosquito control records for a minimum of three years.

3. Not later than thirty (30) days after the effective date of these Orders, Respondents shall establish storage piles and fire breaks at the Property in accordance with OAC Rule 3745-27-60(B)(1) through (B)(11).
4. Not later than one hundred twenty (120) days after the effective date of these Orders, Respondents shall remove or cause the removal of all scrap tires from the Property including, but not limited to, scrap tires dumped onto the ground, partially buried scrap tires, and buried scrap tires, and shall arrange for their transportation, by a scrap tire transporter registered in the State of Ohio:
 - a. to a scrap tire storage, monofill, monocell, or recovery facility which is operating in accordance with ORC Chapter 3734. and the rules adopted thereunder; or
 - b. to a scrap tire storage, monofill, monocell, or recovery facility in another state operating in compliance with the laws of that state; or
 - c. to any other solid waste disposal facility in another state that is operating in accordance with the laws of that state and that is authorized to accept scrap tires for disposal.
5. Respondents shall obtain receipts from the registered transporter and the authorized scrap tire facility or solid waste disposal facility indicating weight, volume or number of scrap tires transported and disposed and shall forward such documentation to Ohio EPA within fourteen (14) days after completion of Order No. 4.
6. Respondent shall continue to comply with Order No. 2, above, until such time as all scrap tires have been removed from the Property.

VI. TERMINATION

Respondents' obligations under these Orders shall terminate when Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondents have performed all obligations under these Orders and the Enforcement Coordinator of Ohio EPA's Division of Solid and Infectious Waste Management 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 Respondents of the obligations that

have not been performed, in which case Respondents shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation from Respondent: "We 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 Respondents.

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 Respondents or the Property.

VIII. 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 Front Street
Logan, Ohio 43138
Attn: DSIWM Supervisor

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

IX. 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 Respondents 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 Respondents to perform additional activities pursuant to ORC Chapter 3734. or any other applicable law in the future. Nothing herein shall restrict the right of Respondents to raise any

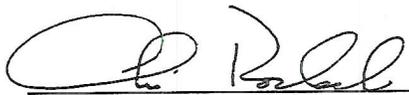
administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondents. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

X. 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