

Issuance Date: _____

Effective Date: _____

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Elkrun Industries, Inc	:	<u>Director's Final</u>
9676 State Route 7	:	<u>Findings and Orders</u>
Rogers, Ohio 44455	:	

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Elkrun Industries, Inc. ("Elkrun") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Section 3714.04 and Ohio Administrative Code ("OAC") Rule 3745-400-15(D).

II. PARTIES BOUND

These Orders shall apply to and be binding upon Elkrun and successors in interest liable under Ohio law. No change in ownership of Elkrun or of the Facility, as hereinafter defined, shall in any way alter Elkrun'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 ("Director") has determined the following findings:

1. Elkrun is the owner, operator, and licensee of the Elkrun Industries C&DD Landfill ("Facility"), located approximately 0.65 miles north of the intersection of State Route 7 and Dutchtown School Road in Rogers, Columbiana County, Ohio. The Facility is a "construction and demolition debris facility" as that term is defined in OAC Rule 3745-400-01(G). Elkrun is currently operating the Facility pursuant to its 2007 Construction and Demolition Debris Facility License, effective January 2007.

2. OAC Rule 3745-400-07(G)(2)(a)(iv) requires the standard cap system to have a minimum slope of three percent and a maximum slope of 25 percent and requires that the standard cap system be graded to eliminate ponding, promote drainage, and minimize erosion.
3. On June 16, 2006, Ohio EPA received a request from URS on behalf of Elkrun for an exemption, pursuant to ORC Section 3714.04 and OAC Rule 3745-400-15(D)(1), from the standard cap maximum slope requirement in OAC Rule 3745-400-07(G)(2)(a)(iv), for the 14.5-acre portion of the active licensed disposal area (ALDA) and for the 8.4 acre inactive licensed disposal area (ILDA) at the Facility. In lieu of following the requirements in OAC Rule 3745-400-07(G)(2)(a)(iv), Elkrun requested to increase the maximum slope of the cap system to 33 percent (3H:1V) as an alternative maximum slope.
4. The June 16, 2006 exemption request is supported by a slope stability analysis, prepared pursuant to OAC Rule 3745-27-08, demonstrating that the Facility will remain stable under design static and dynamic conditions. The request is also supported by surface water erosion calculations demonstrating that the Facility will maintain a maximum erosion rate of less than five tons per acre per year in accordance with OAC Rules 3745-400-07(A)(3) and 3745-400-07(G)(3).
5. Pursuant to ORC Section 3714.04 and OAC Rule 3745-400-15(D), the licensing authority may exempt any person disposing of or proposing to dispose of construction and demolition debris in such quantities or under such circumstances that, in the determination of the licensing authority, are unlikely to adversely affect the public health or safety or the environment, or create a fire hazard, from any provision of ORC Chapter 3714 or any rule adopted or order issued thereunder, except for the sole source aquifer location prohibition or asbestos requirements.
6. Based upon a review of the June 16, 2006 request, and as supported by an acceptable slope stability analysis and soil erosion calculations, granting Elkrun an exemption from the maximum slope requirement in OAC Rule 3745-400-07(G)(2)(a)(iv) is unlikely to adversely affect the public health or safety or the environment, or create a fire hazard, provided Elkrun complies with the following Orders.

V. ORDERS

1. Pursuant to ORC Section 3714.04 and OAC Rule 3745-400-15(D), Elkrun is hereby exempted from the maximum slope requirement in OAC Rule 3745-400-07(G)(2)(a)(iv) at the Facility in accordance with these Orders and the June 16, 2006 request.
2. In lieu of following the maximum slope requirement in OAC Rule 3745-400-07(G)(2)(a)(iv), Elkrun may construct the Facility to the grades specified in the June 16, 2006 request, at a maximum slope not to exceed 3H:1V, for a total of 22.9-acres, which include portions of the ALDA and ILDA at the Facility.
3. Nothing in these Orders shall be construed to authorize any waiver from the requirements of any applicable federal or state laws or regulations except as specified herein. These Orders shall not be interpreted to release Elkrun from responsibility under ORC Chapters 3704, 3714, 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 Elkrun and/or the Facility.

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 Elkrun for noncompliance with these Orders.

Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Elkrun to perform additional activities pursuant to ORC Chapter 3714. or any other applicable law in the future. Nothing herein shall restrict the right of Elkrun to raise any administrative, legal, or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Elkrun. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations which may occur at the Facility.

IT IS SO ORDERED

Chris Korleski, Director
Ohio Environmental Protection Agency