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State of Ohio Environmental Protection Agency

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December 29, 2006

CERTIFIED MAIL

Summitville Tiles, Inc.
P.O. Box 73
Summitville, OH 43962

Director's Final Findings & Orders

Dear Sir or Madam:

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

Sincerely,

Brian F. Dearth
Systems Management Unit
Division of Solid & Infectious Waste Management

cc: Ed Gortner, CO, DSIWM ✓
Jeff Hurdley, CO, Legal
Lynn Sowers, NEDO, DSIWM

Bob Taft, Governor
Bruce Johnson, Lieutenant Governor
Joseph P. Koncelik, Director

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of:

Summitville Tiles, Inc.
P.O. Box 73
Summitville, Ohio

Director's Final Findings
and Orders

and

Summitcrest, Inc.
P.O. Box 638
Summitville, Ohio

I certify this to be a true and accurate copy of
official documents as filed in the records of the Ohio
Environmental Protection Agency.

RV.  Date: 12/29/06

Respondents

OHIO E.P.A.
DEC 29 2006
EXTENDED DIRECTOR'S JENR NA

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Summitville Tiles, Inc. (Respondent Summitville) and Summitcrest, Inc. (Respondent Summitcrest) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) Sections 3734.13, 3734.20 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondents and their successors in interest liable under Ohio law. No change in ownership of Respondents or of the Disposal Area (as hereinafter defined) shall in any way alter Respondents' obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders and Appendix A shall have the same meaning as defined in ORC Chapter 3734. and the rules promulgated thereunder.

- A. "Disposal Area" shall mean Respondent Summitcrest property where Respondent Summitville currently disposes of its waste material.

- B. "Maximum Analyte Limit" shall mean the maximum chemical concentration of a particular constituent as established in either Column I or Column II of Appendix A, attached to these Orders and incorporated herein.
- C. "Waste Streams" shall mean any and all solid waste Respondent Summitville generates from its manufacturing operations and intends to dispose or disposes within the Disposal Area. Waste streams do not include earthen material with no additives that are excluded from the definition of solid waste under Ohio law.
- D. "Waste Material" shall mean all of Respondent Summitville's solid waste that has been disposed within the Disposal Area.

IV. FINDINGS

1. Summitville Tiles, Inc. (Respondent Summitville) is a private company with a mailing address of P.O. Box 73 in Summitville, Ohio, which owns and operates a tile manufacturing business with a mailing address of P.O. Box 283 in Minerva, Ohio, and is physically located on State Route 183, just west of Minerva in Carroll County, Ohio ("Minerva Plant").
2. Respondent Summitville has represented to Ohio EPA that it has disposed of an estimated 338,000 tons of off-specification unfired clay tile product waste (Waste Material) on an approximately 39.37 acre parcel of land (Disposal Area) owned by Summitcrest, Inc., (Respondent Summitcrest) with a mailing address of P.O. Box 638, 31842 Acker Rd. in Summitville, Ohio, and physically located approximately one mile south of Summitville, Ohio on State Route 644.
3. Respondent Summitville's Waste Material and Waste Streams are not exempted from the definition of "solid waste" as that term is defined in OAC Rule 3745-27-01 and ORC Section 3734.01; therefore, Respondent Summitville's Waste Material and Waste Streams as those terms are defined in these Orders are considered "solid waste" under Ohio law.
4. Respondent Summitville has represented to Ohio EPA that disposal of Waste Material has been taking place in the Disposal Area for approximately 35 years.
5. Respondent Summitville has represented to Ohio EPA that as a matter of tile production, Respondent Summitville must use certain additives, including barium carbonate to manufacture its product.. Further, Respondent Summitville has represented that the barium carbonate additive reacts with sulfate and is chemically changed to barium sulfate. Barium sulfate is less soluble in water and is less likely to leach into the environment.

6. Respondents have represented to Ohio EPA that certain analytes listed in Appendix A may exist naturally in Respondents' raw materials at certain concentrations that may exceed the limits established for such analytes listed in Column I or Column II in Appendix A.
 7. Ohio EPA has determined that Respondent Summitville's estimated 338,000 tons of Waste Material, referenced in Finding of Fact No. 2 above, has been disposed in a manner inconsistent with Ohio's waste disposal laws and rules.
 8. In correspondence dated December 4, 2006, Ohio EPA notified Respondent Summitville of violations of Ohio Revised Code ("ORC") Sections 3734.02(C), 3734.03 and 3734.05(A)(1) and Ohio Administrative Code ("OAC") Rules 3745-27-05(C) and 3745-37-01(A) occurring at the Disposal Area which include, but are not limited to, the estimated 338,000 tons of Waste Material, referenced in Finding of Fact No. 2 above.
 9. ORC Section 3734.03 states in pertinent part that, "*No person shall dispose of solid wastes by open burning or open dumping...*" and OAC Rule 3745-27-05(C) states that, "*No person shall conduct, permit, or allow open dumping.*"
 10. ORC Section 3734.02(C) states, in pertinent part that, "*....no person shall establish a new solid waste facility or infectious waste treatment facility, or modify an existing solid waste facility...without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation and receiving a permit issued by the director....*" and OAC Rule 3745-37-01(A) states that, "*No person shall conduct municipal solid waste landfill, industrial solid waste landfill, residual solid waste landfill, compost facility, transfer facility, infectious waste treatment facility, or solid waste incinerator facility operations without possessing a separate, valid license for each such operation, as required by Chapter 3734. of the Revised Code and the Administrative Code rules adopted thereunder. Each license shall be obtained from the board of health in the health district in which the facility is located, or by the director, if the director has assumed the licensing function for that health district,*"
- - Respondent Summitville has represented that its past disposal of the Waste Material and future disposal of its Waste Streams at the Disposal Area will not endanger human health, safety or the environment.

V. ORDERS

The Director hereby issues the following Orders:

A. Waste and Disposal Area Characterization

1. Within 60 days after the effective date of these Orders, Respondents shall submit to Ohio EPA for approval a Waste and Disposal Area

Characterization Work Plan (Work Plan). Respondents' Work Plan shall detail methods and techniques Respondents will undertake to fully characterize the Disposal Area, Waste Material, and Waste Streams Respondent Summitville has disposed, presently disposes, or intends to dispose within the Disposal Area.

Respondents shall obtain representative samples, characterize, and perform chemical analysis of:

- a. ground water from beneath the Disposal Area,
 - b. leachate, if any, from within the Disposal Area,
 - c. Waste Material samples from the Disposal Area,
 - d. Waste Stream materials that result from Respondent Summitville's manufacturing process.
2. Respondents shall perform total chemical analysis of both solid and water samples using the analytes listed in Appendix A, attached hereto and incorporated herein. Respondents shall further subject all solid samples to leaching analysis using US EPA Methods 1311 and 1312 and shall analyze the leaching extract for the analytes listed in Appendix A.
 3. Respondents shall implement the Work Plan within 15 days after receipt of Ohio EPA approval.

B. Disposal Area

4. Within 30 days after receipt of Respondents' waste and Disposal Area characterization results, required by Orders No. A.1 through A.3 and which document the pH of the environmental conditions within the Disposal Area, Respondents shall comply with the following criteria:
 - a. If the measured pH of any environmental condition within the Disposal Area is less than or equal to 4.5 s.u., Respondents shall comply with Order No. B.5 or B.6, as applicable.
 - b. If the measured pH of all environmental conditions within the Disposal Area is greater than 4.5 s.u., Respondents shall comply with either Order No. B.5 or B.6, as applicable. In the alternative, Respondents may comply with B.7 or B.8, as applicable.

TCLP Option

5. In the event that sampling data generated as a result of Respondents' compliance with Orders No. A.1 through A.3 indicates that all parameters for samples collected within the Disposal Area are less than the limits established for each parameter listed in Column I of Appendix A, attached hereto and incorporated herein; Respondents shall comply with Orders No. D.14 through D.28.
6. If the sampling data generated as a result of Respondents' compliance with Orders No. A.1 through A.3 indicates that any parameter for samples collected within the Disposal Area is greater than or equal to the limits established for each parameter listed in Column I of Appendix A, attached hereto and incorporated herein, then these Orders are hereby revoked.

SPLP Option

7. In the event that sampling data generated as a result of Respondents' compliance with Orders No. A.1 through A.3 indicates that all parameters for samples collected within the Disposal Area are less than the limits established for each parameter listed in Column II of Appendix A, attached hereto and incorporated herein; Respondent shall comply with Orders No. D.14 through D.28.
8. If the sampling data generated as a result of Respondents' compliance with Orders No. A.1 through A.3 indicates that any parameter for samples collected within the Disposal Area is greater than or equal to the limits established for each parameter listed in Column II of Appendix A, attached hereto and incorporated herein, then these Orders are hereby revoked.

C. Waste Streams

9. Within 30 days after documenting the pH of each of Respondent Summitville's Waste Stream extract, as required by Orders No. A.1 through A.3, Respondents shall comply with the following criteria:
 - a. If the measured pH of Respondent Summitville's Waste Stream extract is less than or equal to 4.5 s.u., Respondents shall comply with Orders No. C.10 or C.11, as applicable.
 - b. If the measured pH of Respondent Summitville's Waste Stream extract is greater than 4.5 s.u., Respondents shall comply with Orders No. C.10 and C.11. In the alternative, Respondents may comply with C.12 and C.13.

TCLP Option

10. Within 365 days after the effective date of these Orders and annually thereafter and upon a change in its manufacturing process, Respondent Summitville shall analyze each Waste Stream using US EPA Method 1311 (TCLP) utilizing detection limits less than or equal to the Practical Quantitation Limit designated for each constituent identified in Respondents' approved Work Plan. Respondent Summitville shall retain all raw data, sample results, and interpretative reports regarding samples performed under this order. Respondent Summitville shall provide a copy of all raw data, sample results, and interpretative reports to Ohio EPA upon request. If 8 consecutive tests indicate that an analyte listed in Column I of Appendix A is not detected, Respondent Summitville will not be required to test for that analyte provided there is has been no subsequent change to Respondent Summitville's manufacturing process.
11. Unless otherwise prohibited by Order No. B.6, Respondent Summitville shall be authorized to engage in continued disposal of its Waste Streams within the existing Disposal Area provided the results of any analysis required by Order No. C.10 or results obtained from Respondents' compliance with Orders No. A.1 through A.3 indicates that particular Waste Stream is within the TCLP limits established in Column I of Appendix A.

SPLP Option

12. Within 365 days after the effective date of these Orders and annually thereafter and upon a change in its manufacturing process, Respondent Summitville shall analyze each Waste Stream using US EPA Method 1312 (SPLP) utilizing detection limits less than or equal to the Practical Quantitation Limit designated for each constituent identified in Respondents' approved Work Plan. Respondent Summitville shall retain all raw data, sample results, and interpretative reports regarding samples performed under this order. Respondent Summitville shall provide a copy of all raw data, sample results, and interpretative reports to Ohio EPA upon request. If 8 consecutive tests indicate that an analyte listed in Column II of Appendix A is not detected, Respondent Summitville will not be required to test for that analyte provided there is has been no subsequent change to Respondent Summitville's manufacturing process.

13. Unless otherwise prohibited by Order No. B.8, Respondent Summitville shall be authorized to engage in continued disposal of its Waste Streams within the existing Disposal Area provided the results of any analysis required by Order No. C.12 or results obtained from Respondents' compliance with Orders No. A.1 through A.3 indicates that particular Waste Stream is within the SPLP limits established in Column II of Appendix A.

D. Operation and Maintenance of the Disposal Area

14. Respondents shall limit access to the Disposal Area by non-employees except during operating hours when operating personnel are present or as otherwise required by law. At all times, the Respondents shall limit access to the Disposal Area as necessary to prevent scavenging and salvaging. This order shall not apply to Ohio EPA personnel, who, upon proper identification, may enter Respondent Summitville's Minerva Plant and Respondent Summitcrest's Disposal Area at any time to determine compliance with these Orders and Ohio law.
15. Respondents shall ensure that the Disposal Area is stable.
16. Respondents shall only dispose of Respondent Summitville's Waste Streams specifically defined and subject to these Orders.
17. Respondent shall dispose of Waste Streams within the Disposal Area in such a manner that the disposal does not cause water pollution, and does not violate any regulation adopted by the director pursuant to Chapter 3704. of the Revised Code.
18. Respondents shall dispose of Waste Streams within the Disposal Area in such a manner that noise, odors, and dust are strictly controlled so as not to cause a nuisance or a health hazard. Respondents shall take action necessary to comply with this paragraph.
19. Respondents shall undertake actions necessary to eliminate the ponding, repair the erosion, and to correct the conditions causing the ponding or erosion at the Disposal Area.
20. Respondents shall establish positive drainage within the Disposal Area.
21. With respect to all leachate from the Disposal Area, Respondents shall either repair and stop the leachate outbreak or sample the leachate

outbreak to determine if the outbreak exceeds any limit established in Column II of Appendix A. Respondents shall use appropriate SW-846 testing methods utilizing detection limits less than or equal to the Practical Quantitation Limit designated for each constituent identified in Respondents' approved Work Plan when sampling leachate outbreaks at the Disposal Area and shall retain all raw data, sample results, and interpretative reports regarding surface leachate. Respondents shall provide a copy of all raw data, sample results, and interpretative reports to Ohio EPA upon request. Respondents shall ensure that no surface leachate outbreak exceeding any limit established in Column II of Appendix A leaves the limits of waste placement of the Disposal Area.

22. Within 60 days after the effective date of these Orders, Respondents shall submit a complete Industrial Stormwater National Pollutant Discharge Elimination System (NPDES) permit application, antidegradation addendum and supporting documentation, as needed, to Ohio EPA for the Disposal Area.
23. Within 120 days after the effective date of these Orders, the Respondents shall submit, for Ohio EPA review and approval, a plan describing activities that will be undertaken following cessation of disposal activities within the Disposal Area:
 - a. a final grading plan that represents a final vegetative cover system constructed in accordance with Order No. D.23(b). The final vegetative cover system shall have a maximum slope of 25 percent in all areas of the Disposal Area.
 - b. the vegetative cover system design plan shall detail all of Respondents' activities and vegetative cover system specifications to be implemented when Respondent Summitville ceases its need to dispose at the Disposal Area.
24. Unless otherwise expressly authorized by Ohio EPA, Respondents shall implement the activities described in the plan in Order No. D.23 in the event that one of the Respondents declare that the Disposal Area will cease acceptance of waste for disposal by a date declared by either Respondent.
25. Upon triggering conditions specified in Orders No. D.23 or D.24, Respondent Summitcrest shall record on the plat and deed to the Disposal Area property, or on some other instrument which is normally examined during title search, that will in perpetuity notify any potential purchaser of the property that the land has been used as an industrial solid waste landfill facility, a notation describing the impacted acreage, exact location, depth, volume, and nature of waste deposited in the Disposal Area.

26. Within 7 days after cessation of disposal activities within the Disposal Area, Respondents shall begin constructing the vegetative cover system and shall establish a vegetative cover system comprised of native grasses and other vegetative species capable of preventing erosion within 3 years after cessation of disposal activities with the Disposal Area. Respondent Summitcrest shall maintain the vegetative cover system for a period of 30 years after installation of the vegetative cover system.
27. In the event Ohio EPA notifies Respondents that the Respondents' submittals required by these Orders are unsatisfactory in whole or in part, within 30 days after receipt of such notification, Respondents shall amend and submit to Ohio EPA a fully revised document or documents in accordance with Ohio EPA's notice of deficiency. Ohio EPA may approve of such submittals with conditions or modifications.
28. The Director may revoke these Orders for any reason if either Respondent fails to comply with any of these Orders or if the Director determines that either Respondent's activities at the Disposal Area adversely impacts human health, safety or the environment.
29. For purposes of Orders No. B.5, B.6, B.7, B.8, C.10, C.11, C.12 or C.13, Respondents may demonstrate that a parameter listed in Column I or Column II of Appendix A occurs naturally in Respondents' raw materials in levels in excess of the limits established for such parameter listed in Column I or Column II of Appendix A. Upon such a showing, satisfactory to Ohio EPA, such parameter will not be considered in determining whether the standards in Orders No. B.5, B.6, B.7, B.8, C.10, C.11, C.12 or C.13 have been met.

VI. TERMINATION

Respondents' obligations under these Orders shall terminate when each Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that each Respondent has 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: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by each Respondent to Ohio EPA and shall be signed by a responsible official of 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, the operation of Respondent Summitcrest's Disposal Area.

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 Respondents.

IX. 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.

X. NOTICE

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

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

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

Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to seek civil or administrative penalties against Respondents for violations specifically cited in these Orders and the right to seek any relief against Respondents for violations cited in the Orders to the extent these Orders are revoked in accordance with Orders No. B.6, B.8 or D.28 herein. Ohio EPA and Respondents each reserve all other rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, Respondents consent to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek civil or administrative penalties against Respondents for violations specifically cited in these Orders, and the right to seek any relief against Respondents for violations cited in the Orders to the extent these Orders are revoked in accordance with Orders No. B.6, B.8 or D.28 herein which rights Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondents' liability for the violations specifically cited herein.

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

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

XIII. EFFECTIVE DATE

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

XIV. SIGNATORY AUTHORITY

Each undersigned representative 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

Joseph P. Koncelik
Director

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is cursive and appears to read 'Joseph P. Koncelik'.

Director's Final Findings and Orders
Summitville Tiles, Inc. and Summitcrest, Inc.

Page ~~12~~ of ~~14~~
13 15

IT IS SO AGREED:

Summitville Tiles, Inc.

David W. Johnson
Signature

12/27/06
Date

David W. Johnson
Printed or Typed Name

President & CEO
Title

Summitcrest, Inc.

[Signature]
Signature

12/27/2006
Date

David W. Johnson III
Printed or Typed Name

President CEO
Title

**ATTACHMENT A
MAXIMUM ANALYTE LIMITS**

Analyte List	CAS Number	Maximum Analyte Limits (mg/l)	
		Column I, <i>TCLP</i>	Column II, <i>SPLP/ASTM</i>
Acetone	67-64-1	27.50	5.50
Antimony	7440-36-0	0.030	0.0060
Arsenic	7440-38-2	0.050	0.010
Barium	7440-39-3	10.0	2.0
Benzene	71-43-2	0.0250	0.0050
Beryllium	7440-41-7	0.020	0.0040
Cadmium	7440-43-9	0.0250	0.0050
Carbon Disulfide	75-15-0	5.0	1.0
Carbon Tetrachloride	56-23-5	0.0250	0.0050
Chlorobenzene	108-90-7	0.50	0.10
Chromium (total)	7440-47-3	0.50	0.10
Cobalt	7440-48-4	3.650	0.730
Copper	7440-50-8	6.50	1.30
Cyanide (free)	57-12-5	1.0	0.20
1,4-Dichlorobenzene	106-46-7	0.3750	0.0750
1,2-Dichloroethane	107-06-2	0.0250	0.0050
1,1-Dichloroethene	75-35-4	0.0350	0.0070
cis-1,2-Dichloroethene	156-59-2	0.350	0.070
trans-1,2-Dichloroethene	156-60-5	0.50	0.10
Ethylbenzene	100-41-4	3.50	0.70
Fluoride	16984-48-8	20.0	4.0
Lead	7439-92-1	0.750	0.150
Mercury	7439-97-6	0.010	0.0020
Methyl Ethyl Ketone	78-93-3	20.0	4.0
Methyl Isobutyl Ketone	108-10-1	10.0	2.0

Analyte List	CAS Number	Maximum Analyte Limits (mg/l)	
		Column I, TCLP	Column II, <i>SPLP/ASTM</i>
Methylene Chloride	75-09-2	0.0250	0.0050
Molybdenum	7439-98-7	0.20	0.040
Nickel	7440-02-0	0.50	0.10
Nitrate	14797-55-8	50.0	10.0
Nitrite	14797-65-0	5.0	1.0
pH	n/a	≤ 4.50 S.U.	> 4.50 S.U.
Phenol	108-95-2	10.0	2.0
Selenium	7782-49-2	0.250	0.050
Styrene	100-42-5	0.50	0.10
Tetrachloroethene	127-18-4	0.0250	0.0050
Thallium	7440-28-0	0.010	0.0020
Toluene	108-88-3	5.0	1.0
I,1,1-Trichloroethane	71-55-6	1.0	0.2
Trichloroethene	79-01-6	0.0250	0.0050
Vinyl Chloride	75-01-4	0.01 0	0.0020
Xylenes (total)	1330-20-7	50.0	10.0
Zinc	7440-66-6	10.0	2.0