

Date Issued: JUL 24 2001  
Date Effective: JUL 24 2001

OHIO E.P.A.  
JUL 24 2001  
ENTERED DIRECTOR'S JOURNAL

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of:

Kreichbaum Management Corporation : Director's Final Findings  
57162 Kreichbaum Road : and Orders  
Jacobsburg, Ohio 43933 :

Respondent

**I. JURISDICTION.**

These Director's Final Findings and Orders (Orders) are hereby issued to Kreichbaum Management Company (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under sections 3734.13 and 3745.01 of the Ohio Revised Code ("ORC").

**II. PARTIES**

These Orders shall apply to and be binding upon the Respondent, and its assigns and successors in interest. No changes in ownership relating to the property, located at 45307 Bondi Ridge Road, Woodsfield, Monroe County, Ohio, will in any way alter the Respondent's responsibilities under these Orders. The Respondent's obligations under these Orders may be altered only by the written approval of the Director of Ohio EPA.

**III. DEFINITIONS**

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

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

#### **IV. FINDINGS OF FACT**

The Director has determined the following findings of fact:

1. Respondent is the owner and operator of a sawmill formerly known as the Jim Ball Lumber Company (a.k.a. Bondi Ridge Lumber/Pallets, Inc.), located at 45307 Bondi Ridge Road, Woodsfield, Monroe County, Ohio (Bondi Ridge Road Property).
2. Respondent purchased the Bondi Ridge Road Property in January of 1997, from the late Mr. Jim Ball. At the time of purchase, a significant amount of improperly disposed and discarded wood debris and saw dust existed at the Bondi Ridge Road Property.
3. Discarded wood debris and saw dust are "solid wastes" as defined by Ohio Administrative Code (OAC) Rule 3745-27-01.
4. Respondent is a "person" as that term is defined by ORC Section 3734.01 (G) and is responsible for the improper disposal of solid waste at the Bondi Ridge Road Property.
5. OAC Rule 3745-27-01 defines open dumping as the deposition of solid wastes into waters of the state, and the final deposition of solid wastes on or into the ground at any place other than a solid waste facility operated in accordance with Chapter 3734. of the Revised Code, and Chapters 3745-27 and 3745-37 of the Administrative Code.
6. Open dumping of solid waste has occurred at the Bondi Ridge Road Property and has been confirmed by Ohio EPA inspections detailed below in Findings No. 8 and 9.
7. On January 12, 1996, the Director of Ohio EPA received a verified complaint which alleged violations of ORC Chapters 3704., 6111., and 3734. and the rules promulgated thereunder. The complainant alleged these violations were occurring at "Jim Ball's Sawmill."
8. On February 29, 1996, Ohio EPA issued a Notice of Violation (NOV) to the late Jim Ball as a result of a February 8, 1996 inspection conducted at the Bondi Ridge Road Property. The February 29, 1996 NOV cited open dumping violations of ORC Section 3734.03 and OAC Rule 3745-27-05(C).
9. On March 10, 2000, Ohio EPA issued a NOV to the Respondent as a result of a February 15, 2000 inspection conducted at the Bondi Ridge Road Property. The March 10, 2000 NOV cited a violation of OAC Rule 3745-27-05(C).

10. Respondent does not have a permit to establish a solid waste disposal facility nor does the Respondent have a solid waste disposal license required for the legal disposal of solid waste by ORC Chapter 3734. and the rules promulgated thereunder.
11. ORC Section 3734.03 states in pertinent part, "No person shall dispose of solid wastes by open burning or open dumping, except as authorized by the director of environmental protection . . . ."
12. OAC Rule 3745-27-05(C) states, "No person shall conduct, permit, or allow open dumping." From on. or about January **1997**, and continuing to the present, Respondent has allowed the continued existence of an unlicensed and unpermitted solid waste disposal facility (open dump) at the Bondi Ridge Road Property.
13. ORC Section 3734.05(A)(l) states in pertinent part, ". . . . no person shall operate or maintain a solid waste facility without a license issued under this division . . . ." From on or about January 1997, and continuing to the present, Respondent has operated and otherwise maintained an open dump at the Bondi Ridge Road Property which was created prior to Respondent's purchase thereof.

## **V. ORDERS**

Respondent shall achieve compliance with ORC Chapter 3734. and the regulations promulgated thereunder according to the following compliance schedule:

1. Effective immediately, the Respondent shall cease open dumping of solid waste and shall conduct operations in accordance with ORC Chapters 3704., 3734., and 61 II.
2. Beginning July 1, 2001, and continuing quarterly thereafter, the Respondent shall remove a minimum of 1680 cubic yards of solid waste from the Bond-i Ridge Road Property per quarter and shall arrange for proper disposal at a licensed solid waste disposal facility, which includes but is not limited to, authorized composting facilities and/or legitimate recycling facilities.

Respondent shall obtain disposal receipts from the authorized solid waste disposal facility(s) indicating weight and volume of disposal and shall forward such documentation to Ohio EPA in quarterly progress reports due on or before the 10th day of the month immediately following the end of the previous quarter, (i.e. January 1 0th , April 1 0th , July 10th , and October 10th ).

3. Within 15 days after completion of the obligations described in Order No. 2, Respondent shall submit to Ohio EPA an accurate notice of completion as described in Section VI of these Orders.

## **VI. TERMINATION AND SATISFACTION**

The Respondent's obligations under these Orders shall terminate when the Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA, Division of Solid and Infectious Waste Management, that all obligations under these Orders have been performed and Ohio EPA, Division of Solid and Infectious Waste Management, acknowledges, in writing, Ohio EPA's acceptance of this certification and demonstration.

This certification shall be submitted by the Respondent and shall be signed by a responsible official of Kreichbaum Management Corporation; The certification shall make the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principal business function of Kreichbaum Management Corporation.

## **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 signatory to these Orders, for any liability arising out of or relating to the operation of the Respondent's Bondi Ridge Road Property.

## **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 federal, state, and local laws and regulations, including but not limited to, all applicable permits for the activities required by these Orders. 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 Respondent's operation of its Bondi Ridge Road Property. Ohio EPA reserves all rights and privileges except as specified herein.

## **IX. NOTICE**

All documents demonstrating compliance with these Orders and all other documents required under these Orders to be submitted to Ohio EPA shall be addressed to:

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

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

#### X. 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 penalties against the Respondent for noncompliance with these Orders or for violations identified in these Orders.

Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require the Respondent 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 Respondent 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 Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

#### XII. 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 those violations addressed in these Orders, the Respondent agrees that these Orders are lawful and reasonable, that the items and time frames provided for compliance herein are reasonable and that the Respondent agrees to comply with these Orders. Ohio EPA specifically does not waive its right to pursue actions and civil penalties as set forth in the Reservation of Rights section of these Orders.

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

Notwithstanding the preceding, Ohio EPA and the Respondent agree that in the event that these Orders are appealed by any other party to the Environmental Review Appeals

Commission, or any court, the Respondent retains the right to intervene and participate in such appeal. In such an event, the Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

**XI. SIGNATORIES**

Each undersigned representative of a signatory to these Orders certifies that he or she is fully authorized to enter into the terms and conditions of these Orders and to legally bind such signatory to this document.

**IT IS SO AGREED:**

Kreichbaum Management Corporation (Respondent)

By: W. E. Ramsay  
W. E. Ramsay

July 13 2001  
Date

Title: Pres.  
President

Ohio Environmental Protection Agency

Christopher Jones  
Christopher Jones, Director