



State of Ohio Environmental Protection Agency

Southwest District

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

October 16, 2007

Mr. Don Hershner  
3653 Oxford Millville Road  
Oxford, Ohio 45056-9038

Mr. Henry Bowling  
125 Hermay Drive  
Hamilton, Ohio 45013

RE: **Schlichter C&DD Facility, Butler County**  
**Notice of Violation – Failure to Comply with Consent Orders**

Dear Mr. Hershner & Mr. Bowling:

As you are aware, the Agreed Order for Judgement (Order) between the state of Ohio and the Old River Valley Place of Nature Foundation (ORVPNF) that was filed in Butler County Court of Common Pleas on March 9, 2007 requires ORVPNF to submit documentation each year to support the claim of inability to pay. To date, the proper documents have not been submitted pursuant to Section III, No. 9 of the Order. *As such, ORVPNF is in Violation of said Order as the items required in Section III have not been submitted within the specified timeline.* The specific portions of the Order that pertain to the financials are as follows:

1. *Section III. Satisfaction of Lawsuit and Effect of Order, No.9 states in part: "Not later than April 30 of each year following entry of this Order, Defendant Foundation agrees to submit to Plaintiff State of Ohio income tax statements for the previous year, as well as a written inability-to-pay argument that specifically addresses financial reasons why injunctive relief cannot be performed and/or compliance costs cannot be paid. Plaintiff agrees to review the above documents submitted by Defendant Foundation to determine Defendant Foundation's inability to pay. The ability-to-pay analysis will take into consideration the estimated cost for closure and post-closure care at Defendant Foundation's Landfill."*

As of October 16, 2007, the Foundation has failed to provide the income tax statements to Plaintiff State of Ohio for the previous year, as well as their written inability-to-pay argument that specifically addresses financial reasons why injunctive relief cannot be performed and/or compliance costs cannot be paid in violation of Order No. 9.

Additionally, ORVPNF is in violation of the following financial related portions of the Order:

2. Section III. Satisfaction of Lawsuit and Effect of Order, No.7 states in part: "Within thirty (30) days after entry of the Order, Defendant Foundation agrees to forfeit to Plaintiff State of Ohio all non real estate assets including, but not limited to, cash, annuities, insurance policies, stock, stock options, stock funds, money market funds, and bank accounts of all types owned by Defendant Foundation".

As of October 16, 2007, ORVNF has not forfeited to Plaintiff State of Ohio all non real estate assets including, but not limited to, cash, annuities, insurance policies, stock, stock options, stock funds, money market funds, and bank accounts of all types owned by Defendant Foundation in violation of Order No. 7.

3. Section III. Satisfaction of Lawsuit and Effect of Order, No.11 states in part: "Defendant Foundation is authorized to accept donations, in the form of monetary donations or donations in kind, not to exceed ten thousand dollars (\$10,000) annually. Donations shall only be used for security, maintenance, upkeep and/or closure of Defendant Foundation's Landfill in accordance with Ohio Administration Code 3745-27-11... Defendant Foundation shall submit to Plaintiff annually, no later than April 30, a report of all receipts and expenditures from the previous year, to include a purpose of each expenditure".

As of October 16, 2007, ORVNF has failed to provide a report to Plaintiff State of Ohio, of all receipts and expenditures from the previous year, to include a purpose of each expenditure in violation of Order No. 11.

Compliance with the requirements outlined in this letter shall not relieve you of your obligation to comply with other legal obligations, including, but not limited to, Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water Act, Clean Air Act, Comprehensive Environmental Response, Compensation, and Liability Act, or Resource Conservation and Recovery Act remedying conditions resulting from any release of contaminants to the environment.

Please submit all of the financial documents required in the Order as discussed above. Failure to submit the documents could result in further legal action. Should you have any questions, I may be reached at (937) 285-6045.

Sincerely,



Tracy L. Buchanan, R.S.  
Supervisor  
Division of Solid & Infectious Waste Management

cc: Carl Mussenden, Ohio EPA, DSIWM-CMEU

TLB/plh