



State of Ohio Environmental Protection Agency

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Issuance Date: \_\_\_\_\_

Effective Date: \_\_\_\_\_

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter Of:

Evergreen Recycling and Disposal Facility
Waste Management of Ohio, Inc.
2625 East Broadway
Northwood, Ohio 43619
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Director's Final Findings and Orders

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Waste Management of Ohio, Inc. (WMI) pursuant to the authority vested in the director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) Section 3734.02(G) and Ohio Administrative Code (OAC) Rule 3745-27-03(B).

II. PARTIES BOUND

These Orders shall apply to and be binding upon WMI and any successors in interest liable under Ohio law. No change in ownership of WMI, or of the Facility, as hereinafter defined, shall in any way alter WMI'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 3734 and the rules promulgated thereunder. Unless otherwise stated, all Ohio Administrative Code (OAC) Rule citations shall refer to rules in effect on the

Bob Taft, Governor
Jennette Bradley, Lieutenant Governor
Christopher Jones, Director

date of these Orders.

#### IV. FINDINGS

The director of Ohio EPA has determined the following findings:

1. WMI is the owner, operator, permittee, and licensee of the Evergreen Recycling and Disposal Facility (Facility) located at 2625 East Broadway, Northwood, Wood County, Ohio. The Facility is a "sanitary landfill facility" as that term is defined in OAC Rule 3745-27-01(S)(4). WMI is currently operating the Facility pursuant to Permit-to-Install (PTI) Number 03-2980, effective April 25, 1990.
2. On September 1, 1995, Ohio EPA received a Closure/Post-Closure Plan (Plan) from WMI for the Facility. The Plan was submitted to comply with the June 1, 1994, regulations. Pursuant to OAC Rule 3745-27-08(C)(16)(b), effective June 1, 1994, the Plan included a requirement for the cap system to include a drainage layer.
3. On July 13, 2004, Hull and Associates, Inc., on behalf of WMI, submitted a request to the Ohio EPA, Division of Solid and Infectious Waste Management (DSIWM), Northwest District Office (NWDO) for an exemption from the requirement to include a drainage layer in the cap system for the portion of the Facility as specified in the request. The exemption request was made pursuant to ORC Section 3734.02(G). As part of the request, WMI proposed an alternate cap system, consisting from top to bottom of thirty (30) inches of frost protection/vegetative layer and thirty-six (36) inches of recompacted soil barrier layer.
4. On July 28, 2004, Hull and Associates, Inc., on behalf of WMI, submitted additional information about the exemption request, including a slope stability analysis and an infiltration comparison between the approved cap with a drainage layer and the proposed alternate cap without a drainage layer. The equivalency calculation performed for the proposed alternate cap system indicates that the leachate generation rates are less for the alternate cap design.
5. OAC Rule 3745-27-11(G)(2) specifies that the owner or operator shall construct a composite cap system in accordance with the cap design specified in the closure/post-closure plan written to comply with the June 1, 1994, regulations. If the cap design in the closure/post-closure plan is revised, the cap design is to comply with OAC Rule 3745-27-08, effective August 15, 2003.

6. Pursuant to OAC Rule 3745-27-08(B)(1)(f)(iii), effective August 15, 2003, a composite cap system must include a drainage layer.
7. OAC Rule 3745-27-19(B)(2) states that the owner or operator shall conduct all construction and operation at a sanitary landfill facility in strict compliance with the applicable authorizing document(s), including permit(s) to install, a plan approval, an operational report, an approved final closure plan, an alteration(s) concurred with in writing by Ohio EPA, or a document(s) listed in OAC Rule [3745-27-09(I)].
8. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), the director may, by order, exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes, or processing solid waste that consists of scrap tires, in such quantities or under such circumstances that, in the determination of the director, are unlikely to adversely affect the public health or safety or the environment, from any requirement to obtain a registration certificate, permit, or license or comply with other requirements of ORC Chapter 3734.
9. Based upon a review of the documents submitted, granting WMI an exemption from the requirement to include a drainage layer in the cap system in the manner proposed is unlikely to adversely affect the public health or safety or the environment, provided WMI complies with the following orders.

## **V. ORDERS**

1. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), WMI is hereby exempted from the requirement to install a drainage layer as a component of the Facility's final cap system. Specifically, WMI is exempted from OAC Rule 3745-27-19(B)(2), which requires WMI to construct the final cap system in accordance with the September 1, 1995, Plan. In place of the required cap system, WMI shall construct the alternate cap system as described in the July 13 and 28, 2004, submittals, as referenced in Findings 3 and 4.
2. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), WMI is exempted from OAC Rule 3745-27-11(G)(2), which requires construction of the final cap system in accordance with the September 1, 1995, Plan. In the event that the Plan is revised, WMI is exempt from the requirement that the cap system design comply with OAC Rule 3745-27-08, effective August 15, 2003. In place of the required cap system, WMI shall construct the alternate cap system as described in the July 13 and 28, 2004, submittals, as referenced in Findings 3 and 4.

3. The proposed alternate cap system shall be constructed in strict accordance with the request and the detailed plans and specifications that were submitted to Ohio EPA in the July 13 and 28, 2004, submittals, as referenced in Findings 3 and 4. There may be no deviation from the details in the request without the express, written approval of Ohio EPA.
4. The cap design authorized in these Orders supersedes the cap design specified in the Facility's September 1, 1995, Plan.
5. Nothing in these Findings or Orders shall be construed to authorize any waiver from the requirements of any other applicable state solid waste laws or regulations. These Orders shall not be interpreted to release WMI 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 WMI.

## **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 WMI for noncompliance with these Orders.

Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require WMI to perform additional activities pursuant to ORC Chapter 3734 or any other applicable law in the future. Nothing herein shall restrict the right of WMI to raise any administrative, legal, or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of WMI. 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.

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**IT IS SO ORDERED:**

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Christopher Jones  
Director