

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the Matter Of:**

<b>Central Waste, Inc.</b>	:	<b>Director's Final Findings</b>
<b>12003 Oyster Road</b>	:	<b>And Orders</b>
<b>Alliance, Ohio 44601</b>	:	

**Respondent**

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Central Waste, Inc., Joanne E. Douglas, and Mary C. Blai (collectively hereinafter referred to as "Respondents") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3734.13 and 3745.01.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondents and their heirs and successors in interest liable under Ohio law. No change in ownership of Respondent Central Waste, Inc. or of the Facility (as hereinafter defined) shall in any way alter Respondents' 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.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

1. Respondent Central Waste, Inc., an Ohio corporation, is the owner, operator, and license holder of the Central Waste, Inc. Landfill ("Facility") located at 12003 Oyster Road, Alliance, Mahoning County, Ohio.
2. The Facility is a "sanitary landfill facility" as defined under Ohio Administrative Code (OAC) Rule 3745-27-01(C)(4) and is authorized to accept "solid waste" as that term is defined under ORC Section 3734.01(E) and OAC Rule 3745-27-01(B)(43).
3. Respondent Joanne E. Douglas held the position of President of Central Waste, Inc. until October 24, 2001, and exercised control over the daily operations of Central Waste, Inc. until, at least, October 24, 2001. After Respondent Joanne E. Douglas resigned as President, her 243.75 shares of no par value, common stock were transferred to Respondent Mary C. Blai, Phyllis A. Shabe, and Jean Oreskovich.
4. Respondent Central Waste, Inc. currently has issued and outstanding 1,000 shares of no par value common stock, which are owned as follows:

Phyllis A. Shabe	325 of the shares
Mary C. Blai	325 of the shares
Jean Oreskovich	325 of the shares
Dean Silbiger	12.5 of the shares
Martin Silbiger	12.5 of the shares
5. Respondent Mary C. Blai assumed the responsibility of day to day operations of Central Waste, Inc. and has held the title of Vice President since October 24, 2001.
6. On January 15, 1982, Ohio EPA issued Permit to Install No. 02-880 to Central Waste, Inc. for the construction and operation of the Facility.
7. On March 26, 1992, Ohio EPA issued Permit to Install No. 02-4934 to Central Waste, Inc. for a lateral expansion of the Facility.
8. Permit Condition No. 6 of Permit to Install No. 02-4934, stated, "The financial assurance mechanism for final closure and post-closure care of the facility shall be funded prior to the acceptance of solid waste in the area covered by this permit."
9. On July 21, 1993, Respondent Joanne E. Douglas submitted a request to the Director that Condition No. 6 of Permit to Install No. 02-4934 be amended to allow for additional time to fund the final closure/post-closure care trust fund ("trust fund").
10. Ohio EPA considered the Respondent Joanne E. Douglas's July 21, 1993 request to be a request for a variance from the requirements in OAC Rules 3745-27-15(A)(3)(a)

- and 3745-27-16(A)(3)(a) (effective June 1, 1992) which require the first payment into the trust fund be at least equal to the current final closure/post-closure care cost estimates divided by the number of years in the pay-in period.
11. The estimated pay-in period for the Facility expansion was five years. Based on the cost estimate of \$3,435,909.00, the first payment for the Central Waste Landfill was required to be \$687,182.00.
  12. Ohio EPA, through Director's Final Findings and Orders ("DFF&O's") dated September 2, 1993, issued a temporary variance to Central Waste, Inc. from the requirements of OAC Rules 3745-27-15(A)(3)(a) and 3745-27-16(A)(3)(a) (effective June 1, 1992) allowing Respondents to make quarterly payments into the trust fund based on the total actual monthly waste receipts at the Facility multiplied by \$6.00 per ton of waste.
  13. The DFF&O's issued September 2, 1993, expired three hundred sixty-five (365) days from the date Respondents first accepted waste in the area authorized by Permit to Install No. 02-4934. Respondents first accepted waste in the area authorized by Permit to Install No. 02-4934 on January 9, 1995. Therefore, the variance granted in the DFF&O's expired on January 9, 1996.
  14. Upon the expiration of the variance granted in the September 2, 1993 DFF&O's, (January 9, 1996), Respondent Central Waste, Inc. was required by the terms of the September 2, 1993 DFF&O's to deposit additional payments into the trust fund as necessary such that the balance in the trust fund was at least equal to \$1,374,364.00, the amount due had the rules been followed and the variance granted in the September 2, 1993 DFF&O's not been issued.
  15. Respondent Central Waste, Inc. failed to comply with the September 2, 1993 DFF&O's. Respondent Central Waste, Inc. partially funded the trust fund with approximately \$40,000.00. Respondent Central Waste, Inc. was referred to the Attorney General's Office on March 27, 1997, for failure to comply with the September 2, 1993 DFF&O's and for failure to pay district and state solid waste disposal fees from July 1995 through May 1996.
  16. On April 10, 1997, Respondent Joanne E. Douglas established two surety bonds for final closure and post-closure care of the Facility in compliance with the OAC Rules 3745-27-15 and 3745-27-16.
  17. A consent agreement was filed in the Mahoning County Court of Common Pleas on May 27, 1997, resolving violations of financial assurance and solid waste disposal fee requirements.
  18. On April 12, 2000, Ohio EPA issued Consensual DFF&O's to Respondent Central Waste, Inc. requiring Central Waste, Inc. to resolve violations of exceeding lateral and

vertical limits of solid waste placement at the Facility.

19. By letter dated August 2, 2000, Ohio EPA notified Respondent Central Waste, Inc. that the surety bond company used to maintain the Facility's financial assurance was no longer on the list of acceptable sureties and that an alternate financial assurance mechanism needed to be submitted to Ohio EPA as required by OAC Rules 3745-27-15(H)(1) and 3745-27-16(H)(1).
20. On August 7, 2000, Respondent Central Waste, Inc. was issued Permit to Install No. 02-13262 for a vertical and lateral expansion of the Facility and an increase in the authorized maximum daily waste receipt.
21. Permit Condition No. 16 of Permit to Install No. 02-13262, requires Respondent Central Waste, Inc. to execute and fund a financial assurance instrument meeting the requirements of OAC Rules 3745-27-15(B)(1) and 3745-27-16(B)(1) prior to waste acceptance into any disposal areas newly authorized by Permit to Install No. 02-13262.
22. In correspondence dated October 18, 2001, February 21, 2002, July 11, 2002, September 27, 2002, and May 30, 2003, Ohio EPA notified Respondents of the violation of OAC Rules 3745-27-15(B)(1), 3745-27-16(B)(1), 3745-27-15(H)(1), 3745-27-16(H)(1), and 3745-27-19(C) for failure to establish alternate financial assurance, for utilizing a surety bond from an unacceptable surety bond company, and for failure to conduct all construction and operations at a sanitary landfill facility in strict compliance with the applicable authorizing document, PTI No. 02-13262.
23. In response to a letter from Dan Harris dated December 17, 2002, the Mahoning County Health Department proposed denial of the 2003 annual solid waste license for Central Waste, Inc. Central Waste, Inc. appealed the proposed denial. To date, no final action has been taken by the Mahoning County Health Department.
24. On April 16, 2002, Respondent Central Waste, Inc. illegally accepted hazardous waste that contained rainwater contaminated with iron oxide (K062- a listed hazardous waste). A notice of violation dated April 19, 2002, was sent by the Mahoning County Health District to Central Waste, Inc. documenting this violation. By letter dated September 10, 2002, Central Waste, Inc. submitted documentation to the Ohio EPA demonstrating that the hazardous waste was excavated and shipped from the Central Waste, Inc. Landfill to a permitted hazardous waste disposal facility on August 30, 2002.
25. OAC Rule 3745-27-15(B)(1) states (in pertinent part), "[t]he owner or operator of a solid waste facility shall execute and fund the final closure financial assurance instrument submitted as a part of a permit to install prior to acceptance of waste pursuant to a

modification that increases final closure cost estimates of an existing solid waste facility....”

26. OAC Rule 3745-27-15(H)(1) states, (in pertinent part), “[t]he surety company issuing the bond shall, at a minimum, be among those listed as acceptable sureties on federal bonds in “Circular 570” of the U.S. department of the treasury.”
27. OAC Rule 3745-27-16(B)(1) states, (in pertinent part), “[t]he owner or operator of a solid waste facility shall execute and fund the post-closure care financial assurance instrument submitted as a part of a permit to install prior to acceptance of waste pursuant to a modification that increases post-closure care cost estimates of an existing solid waste facility....”
28. OAC Rule 3745-27-16(H)(1) states, (in pertinent part), “[t]he surety company issuing the bond shall, at a minimum, be among those listed as acceptable sureties on federal bonds in “Circular 570” of the U.S. department of the treasury.”
29. OAC Rule 3745-27-19(C) states, (in pertinent part), “[t]he 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 closure plan, an alteration(s) concurred with in writing by Ohio EPA....”
30. To date, Respondents remain in violation of OAC Rules 3745-27-15 and 3745-27-16 for failure to establish and maintain financial assurance for final closure and post-closure care for solid waste disposal facilities.
31. Currently, the final closure cost estimate is \$1,301,979.00 and the post-closure care cost estimate is \$1,053,295.00. These figures are the cost estimates listed in the 2002 annual report submitted to Ohio EPA by Respondent Central Waste, Inc.

## **V. ORDERS**

1. Within two hundred seventy (270) days after the effective date of these Orders, Respondents shall execute and fund a financial assurance mechanism meeting the requirements of OAC Rules 3745-27-15(E) and 3745-27-16(E). Respondents shall fund the financial assurance mechanism in the amount of \$2,381,182.00 (\$1,316,301.00 for final closure and \$1,064,881.00 for post-closure care).
2. If Respondents have not complied with Order Number 1 above within two hundred seventy (270) days after the effective date of these Orders, Respondents shall

immediately begin final closure activities for the Facility in accordance with ORC Chapter 3734, OAC Chapter 3745-27, and any applicable closure plan. Final closure activities triggered by this Order shall be completed within one hundred and eighty (180) days.

3. Respondents shall pay Ohio EPA the amount of \$76,480.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734 and which will be deposited into the environmental protection remediation fund established pursuant to ORC §3734.281. Payment shall be made by official checks, in accordance with the payment schedule set forth below, made payable to "Treasurer, State of Ohio" and totaling \$76,480.00. The official checks shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondents, the Central Waste, Inc. Landfill, and a copy of the check shall be sent to Ann Wood, Legal in accordance with the following schedule:
  - A. Within seven (7) days after the effective date of these Orders, Respondent shall pay \$30,000.00;
  - B. Within sixty (60) days after the effective date of these Orders, Respondent shall pay \$23,240.00;
  - C. Within one hundred twenty (120) days after the effective date of these Orders, Respondent shall pay \$23,240.00

#### **VI. TOLLING AGREEMENT (ORC § 3745.31)**

Respondents agree that the time period between the effective date of these Orders and payment in full of the civil penalty settlement amount of \$ 76,480.00 set out in Section V. of these Orders will not be included in computing the time periods under the statute of limitations set forth in ORC § 3745.31. Respondents agree not to assert, plead or raise in any fashion, in any such action hereafter initiated or maintained by the State of Ohio, whether by answer, motion or otherwise, any defense or avoidance based on (a) the running of the statute of limitations during the aforementioned period; or (b) laches or other principles concerning the timeliness of commencing a civil action based upon the failure of the State of Ohio to assert such claims during the aforementioned period; and the statute of limitations shall be tolled during and for such period.

#### **VII. TERMINATION**

Respondents' obligations under these Orders shall terminate when Respondents certify in

writing and demonstrate to the satisfaction of Ohio EPA that Respondents have performed all obligations under these Orders and the Chief 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 Respondents to Ohio EPA and shall be signed by a responsible official of Respondents. For purposes of these Orders, a responsible official is defined in OAC 3745-31-04(B).

#### **VIII. 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 Respondents' Facility.

#### **IX. 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.

#### **X. 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.

#### **XI. NOTICE**

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

Ohio Environmental Protection Agency  
Division of Solid and Infectious Waste Management

122 South Front Street  
Columbus, Ohio 43215  
Attn: Financial Assurance Section, DSIWM

## **XII. RESERVATION OF RIGHTS**

Ohio EPA and Respondents each reserve all rights, privileges and causes of action, except as specifically waived in Section XIII of these Orders.

## **XIII. 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 the violations specifically cited in these Orders, Respondents consent to the issuance of these Orders and agree to comply with these Orders. 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 waive 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.

## **XIV. EFFECTIVE DATE**

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

## **XV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders 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

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Christopher Jones  
Director

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Date

**IT IS SO AGREED:**

**Central Waste, Inc.**

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Signature

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Printed or Typed Name

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Title

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Date

COPY