

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the Matter Of:**

<b>Central Waste, Inc.</b>	<b>:</b>	<b>Director's Final Findings</b>
<b>12003 Oyster Road</b>	<b>:</b>	<b>And Orders</b>
<b>Alliance, Ohio 44601</b>	<b>:</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. (hereinafter referred to as "Respondent") 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 Respondent and its 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 Respondent's obligations under these Orders. Respondent shall provide a copy of these Orders to prospective purchasers of the Facility at least thirty (30) days prior to the transfer of ownership of the Facility to such purchasers.

**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. On or about January 16, 2004, Respondent entered into Director's Final Findings & Orders ("January 16, 2004 Orders") with Ohio EPA resolving certain violations of Ohio Revised Code Chapter 3734 and Ohio Administrative Code Chapter 3745-27.
2. Order No. 1 of the January 16, 2004 Orders provided that:

Within two hundred seventy (270) days after the effective date of these Orders, Respondent shall execute and fund a financial assurance mechanism meeting the requirements of OAC Rules 3745-27-15(E) and 3745-27-16(E). Respondent 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).

3. Order No. 1 of the January 16, 2004 Orders listed the amounts for final closure and post-closure care in 2003 dollars. These amounts must be updated for inflation in accordance with OAC Rules 3745-27-15(D) and 3745-27-16(D). The inflation factors for updating the final closure and post-closure care costs are 1.6% and 2.1%, for 2004 and 2005, respectively.
4. Order No. 2 of the January 16, 2004 Orders provided that:

If Respondent has not complied with Order Number 1 above within two hundred seventy (270) days after the effective date of these Orders, Respondent 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.
5. The January 16, 2004 Orders were amended on October 12, 2004, to extend the time provided in the January 16, 2004 Orders to execute and fund a financial assurance mechanism.
6. The October 12, 2004 amendment to the January 16, 2004 Orders (October 12, 2004 Amendment) extended the time to execute and fund a financial assurance mechanism to June 30, 2005.
7. Respondent has indicated by letter dated April 28, 2005, that it is unlikely that Respondent will be able to satisfy the obligations required by Order Nos. 1 and 2 of the October 12, 2004 Amendment and have requested an extension of time by which to complete execution and funding of a financial assurance mechanism.
8. The Director has determined that such an extension would be appropriate and reasonable under the circumstances.

#### **V. ORDERS**

1. Order No. 1 of the January 16, 2004 Orders is hereby modified to provide that Respondent shall execute and fund a financial assurance mechanism meeting the requirements of OAC Rules 3745-27-15(E) and 3745-27-16(E) on or before June 30, 2006, or upon the transfer of ownership of the Facility to another entity, whichever occurs sooner. Respondent shall fund the financial assurance mechanism in the amount of \$2,470,086.00 (\$1,365,446.00 for final closure and \$1,104,640.00 for post-closure care).
2. Order No. 2 of the January 16, 2004 Orders is hereby modified to provide that if Respondent does not comply with Order No. 1 above by executing and funding a financial assurance mechanism meeting the requirement of OAC Rules 3745-27-15(E) and 3745-27-16(E) on or before June 30, 2006, or upon the transfer of ownership of the Facility to another entity,

whichever occurs sooner, Respondent and its successors in interest liable under Ohio law 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. To the extent not otherwise specifically modified, all of the terms and conditions of the Director's Final Findings & Orders dated January 16, 2004 shall remain in full force and effect.
4. The October 12, 2004 Amendment is hereby superceded by these Orders.

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has 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 Respondent of the obligations that have not been performed, in which case Respondent 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 Respondent to Ohio EPA and shall be signed by a responsible official of the Respondent. For purposes of these Orders, a responsible official is defined in OAC 3745-31-04(B).

#### **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's Facility.

#### **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 Respondent.

#### **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 Respondent 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

**XI. RESERVATION OF RIGHTS**

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

**XII. WAIVER**

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

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent 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 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**

\_\_\_\_\_  
Joseph P. Koncelik  
Director

**IT IS SO AGREED:**

**Central Waste, Inc.**

COPY

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed or Typed Name

\_\_\_\_\_  
Title