

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

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

**BEFORE THE**  
**OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Waste Management of Ohio, Inc.	:	Director's Final
4010 Powell Road	:	Findings and Orders
P. O. Box 13506	:	
Dayton, Ohio 45413	:	

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to Waste Management of Ohio, Inc. (WMOI) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) Sections 3734.13 and 6111.03 and Ohio Administrative Code (OAC) Rule 3745-27-10(F)(4), as effective March 1, 1990.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon WMOI and successors in interest liable under Ohio law. No change in ownership, relating to the Sheriff Road Landfill (Facility), shall in any way alter WMOI's obligations under these Orders.

**III. DEFINITIONS**

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

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

1. WMOI is the owner and operator of the Facility, located in Allen County on Sheriff Road,

Lima, Ohio.

2. The Facility is a "sanitary landfill facility" as defined in OAC Rule 3745-27-01(C)(4).
3. The property began accepting waste for disposal as the City of Lima Dump in the 1940's. Terminal Services began operating the landfill in 1970 in accordance with a plan approval issued on November 20, 1969, by the Ohio Department of Health. WMOI became the owner/operator of the landfill in November 1984.
4. In accordance with OAC Rule 3745-27-10(A)(2), as that rule was effective on July 29, 1976, the Facility was deemed closed on December 31, 1986.
5. WMOI was notified by a letter from Ohio EPA on December 21, 1988 that the landfill was impacting the ground water beneath the site.
6. A contaminant migration assessment report, dated February 1992, was submitted to Ohio EPA which documented the rate, extent, and concentration of contamination in the ground water. According to the report, the contaminated ground water extended approximately 75 feet east of the site, beneath residential properties, and the ground water flow rate was calculated to be 40 feet per year toward the northeast.
7. Director's Final Findings and Orders were issued on June 30, 1993, ordering WMOI to submit a corrective measures study (CMS) within 180 days of the effective date of the orders due to the Director's determination that the Facility was impacting the underlying ground water. The June 30, 1993, Orders also required WMOI to achieve compliance with OAC Rule 3745-27-10, as that rule was effective on March 1, 1990.
8. In the summer of 1993, thirteen residences near the landfill were connected to the City of Lima, Ohio public drinking water supply.
9. WMOI submitted a CMS to Ohio EPA on December 23, 1993. By letter dated October 3, 1995, Ohio EPA provided WMOI with comments regarding the CMS.
10. Revision 1 of the CMS was received by Ohio EPA on October 1, 1996. As a part of this study, in May 1996, a door-to-door survey of residences within 1000 feet downgradient of the landfill was completed to determine ground water use in the vicinity. WMOI stated within the revised CMS that, "No one within this survey area is currently using ground water as a drinking water source..." By letter dated December 4, 1996, Ohio EPA provided WMOI with comments regarding Revision 1 of the CMS.

11. The final version (Revision 2) of the CMS was received by Ohio EPA on July 16, 1997. On March 20, 1998, Ohio EPA approved the CMS, which included the requirement to continue compliance monitoring, with the following conditions:
  - a. The owner/operator shall perform an Appendix II sampling event for all affected and upgradient wells in the ground water monitoring network. If any Appendix II parameters are detected from this event at any downgradient wells at concentrations greater than those at upgradient wells, the owner/operator shall re-implement ground water assessment monitoring activities in accordance with OAC Rule 3745-27-10(E) for the well(s) of concern. If no Appendix II parameters are detected from this event at any downgradient wells at concentrations greater than those at upgradient wells, the owner/operator shall continue to perform the semi-annual sampling events for the parameters noted in Revision 2 of the CMS.
  - b. The owner/operator shall perform compliance monitoring in accordance with the parameter list and schedule in Revision 2 of the CMS. If the concentration levels shown on Table 6 of Revision 2 of the CMS are exceeded in two consecutive confirmed events, an Appendix II sampling shall be performed at that well. If a confirmed MCL or health-based risk is determined in two successive sampling events, then the ground-water conditions shall be reevaluated to determine if a specific remedial procedure(s) shall be implemented.
12. In 1998, ground water wells at eight of the thirteen residences were appropriately abandoned. The remaining five wells (955 Seriff, 1101 Seriff, 1115 Seriff, 1145 Seriff, and 3438 Springview) were not abandoned due to property access denials. However, as documented within the CMS, the remaining five wells were not being used for drinking water.
13. The maximum contaminant level (MCL) for barium was exceeded at monitoring well SRD-04 during the October 16, 2001, semi-annual sampling event (4.4 mg/L) and confirmed during the December 17, 2001, resampling event (3.6 mg/L). This represented the first sampling event during which an MCL was exceeded at the Facility.
14. The MCL for barium was again exceeded at monitoring well SRD-04 during the April 10, 2002, semi-annual sampling event (3.2 mg/L) and confirmed during the May 23, 2002, resampling event (4.4 mg/L). This represented the second successive sampling event during which an MCL was exceeded at the Facility.
15. In a July 16, 2002, correspondence, WMOI was notified that they were required by the

CMS to reevaluate the ground water conditions at the site and analyze the contingency remedial measures with respect to the specific problem and site conditions.

16. A "Report for the Barium Investigation at Monitoring Well SRD-04" dated August 29, 2002, was submitted to Ohio EPA.
17. Ohio EPA contacted the local public water supplier in September 2002, and determined that there were at least five new residential wells currently in use at 797 Seriff Road, 799 Seriff Road, 3335 Springview, 3360 Springview, and 3470 Springview that are within 1000 feet and potentially downgradient of the landfill.
19. On December 20, 2002, Ohio EPA received the October 9, 2002, semi-annual sampling event results for the Facility. The MCL for barium was exceeded at monitoring well SRD-04 (5.3 mg/L).
20. In a correspondence dated January 7, 2003, WMOI proposed to complete a geoprobe investigation and ground water sampling on-site between monitoring well SRD-04 and the landfill property line to determine if the barium contamination was migrating off-site.
21. On May 5, 2003, Ohio EPA received an investigative report from WMOI concluding that barium contamination is not migrating off-site. Ohio EPA reviewed the report and has determined that WMOI has not adequately defined or quantified the barium contamination.
22. OAC Rule 3745-27-10(F)(4), as effective on March 1, 1990, states "If, at any time during the assessment in paragraphs (E) and (F) of this rule, the Director determines that the Facility threatens human health or the environment, the Director may require the permittee to implement the following measures:
  - a. Notify all persons, via certified mail, who own the land or reside on the land that directly overlies or lies adjacent to any part of the plume of contamination.
  - b. Take any interim measures deemed necessary by the Director to ensure the protection of human health and the environment..."
23. Because WMOI has not demonstrated that barium contamination is not migrating off-site, and because there are at least five ground water wells potentially downgradient of the Facility, the continued exceedances of the MCL for barium in monitoring well SRD-04 threaten human health or the environment.

## V. ORDERS

Pursuant to OAC Rule 3745-27-10(F)(4), as effective March 1, 1990, WMOI shall comply with the following Orders.

1. No later than 14 days after the effective date of these Orders, WMOI shall verify that the five wells noted in Finding No. 12, that were not previously abandoned, are not being used for potable purposes and that there are no other residences, in addition to 797 Seriff Road, 799 Seriff Road, 3335 Springview, 3360 Springview, and 3470 Springview, with potable water wells within 1000 feet and potentially downgradient of the landfill.
2. No later than 21 days after the effective date of these Orders, WMOI shall, via certified mail, contact the residents at 797 Seriff Road, 799 Seriff Road, 3335 Springview, 3360 Springview, and 3470 Springview and any other residences that have a potable water well within 1000 feet of the landfill, and inform these residents of the current concerns regarding ground water contamination in the vicinity of the Facility. In addition, a copy of this notification shall be submitted to the Allen County Health Department and the Ohio EPA, Northwest District Office.
3. No later than 21 days after the effective date of these Orders, WMOI shall request permission, via certified mail, from the residents at 797 Seriff Road, 799 Seriff Road, 3335 Springview, 3360 Springview, and 3470 Springview and any other residences that have a potable water well within 1000 feet of the landfill, to sample each residence's well.
4. No later than 45 days after the effective date of these Orders, WMOI shall sample and analyze all accessible water wells determined to be potable sources, for all constituents listed on Table 7 of the CMS, including barium. WMOI shall attempt to determine the depths of the wells and the depths at which the wells are screened.
5. No later than 75 days after the effective date of these Orders, WMOI shall submit, via certified mail, a report consisting of, but not limited to, the results of the sampling and analysis and a discussion of the results for each well. A well report shall be mailed to each residence that granted WMOI permission to sample their potable water wells. The well report shall include, at a minimum, the results of sampling of the residence's well. A complete report, including all sampled wells, shall be submitted to the Allen County Health Department, and the Ohio EPA, Northwest District Office.
6. No later than 75 days after the effective date of these Orders, WMOI shall notify all additional residences within 1000 feet of the landfill that were not previously notified

in accordance with Order No. 2. The notification shall include, at a minimum, the constituents and concentrations of concern and the approximate location of the contamination.

## **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 management of the 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. Nothing in these Orders shall be construed as waiving or compromising in any way Ohio EPA's right to enforce any other statutes or regulations applicable to management of the Facility. 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 pursuant to these Orders shall be submitted to Ohio EPA at the following address unless otherwise specified, or to such persons and addresses as may be otherwise specified in writing by Ohio EPA.

Ohio Environmental Protection Agency  
Northwest District Office  
347 North Dunbridge Road  
Bowling Green, Ohio 43402  
Attn: Supervisor, DSIWM

## **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 seeking penalties against WMOI for non-compliance with these Orders.

Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful

authority to require WMOI to perform additional activities pursuant to ORC Chapter 3734 or any other applicable law in the future. Nothing herein shall restrict the right of WMOI to raise any administrative, legal, or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of WMOI. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations at the Facility.

**IT IS SO ORDERED**

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Christopher Jones, Director  
Ohio Environmental Protection Agency