

Pursuant to Rule 8(A) of the Ohio Rules of Civil Procedure, Plaintiff states that this Complaint seeks civil penalties in excess of the amount of Twenty-Five Thousand Dollars (\$25,000.00).

GENERAL ALLEGATIONS

1. Republic II is an Ohio corporation registered with the Ohio Secretary of State to operate in Ohio. Republic II's primary business address is 110 S.E. 6th Street, 20th Floor, Ft. Lauderdale, FL. 33301.
2. Republic II, at all times relative to this Complaint, is the owner and/or operator of the Countywide Recycling & Disposal Facility ("CWRDF") solid waste landfill located at 3619 Gracemont Avenue, East Sparta, Stark County, Ohio (the "Facility").
3. The Facility is a "sanitary landfill facility" and a "solid waste disposal facility" as those terms are defined in Ohio Adm. Code 3745-27-01(S)(4) and (25).
4. Defendant is the "owner" or "property owner" as those terms are defined in Ohio Adm. Code 3745-27-01(O)(7), and/or "operator" or "facility operator" as those terms are defined in Ohio Adm. Code 3745-27-01(O)(5).
5. Defendant is a "person" as that term is defined in R.C. 1.59, 3734.01(G), and Ohio Adm. Code 3745-27-01(P)(3).
6. Ohio Revised Code 3734.11(A) provides that no person shall violate any order issued under R.C. 3734.13 or any rule adopted pursuant to R.C. Chapter 3734.
7. Ohio Revised Code 3734.11(B) provides that no person shall violate any section of R.C. Chapter 3734, any rule adopted under it, or the terms and conditions of a permit or license issued

under R.C. Chapter 3734.

8. The Permit to Install and operating licenses for the Facility only permit the landfilling of "solid waste" as that term is defined in R.C. 3734.01(E) and Ohio Adm. Code 3734-27-01(S)(24).

9. On March 28, 2007, the Director of Ohio EPA and Republic II entered into consensual Director's Final Findings and Orders ("March Orders"). The Orders required Republic II to perform measures to extinguish the subsurface fire, which was contributing to the noxious odors emanating from the Facility. The Orders also required Republic II to conduct a study to determine the subsurface fire's impact on the engineered components at the Facility.

10. Pursuant to Ohio Civil Rule 8(A), Plaintiff states that it is seeking damages in excess of twenty-five thousand dollars (\$25,000.00).

11. The allegations in Paragraphs one (1) through ten (10) of this Complaint are incorporated by reference into each count of the Complaint as if fully restated therein.

COUNT ONE
FAILURE TO MAINTAIN THE INTEGRITY OF THE
ENGINEERD COMPONENTS AT A SOLID WASTE LANDFILL

12. Ohio Administrative Code 3745-27-19(B)(2) states that owners and operators of a sanitary landfill facility shall conduct all operations at the facility in strict compliance with the terms and conditions of the permit to install ("PTI") and other authorizing documents issued by Ohio EPA to that facility.

13. Ohio Administrative Code 3745-27-19(E)(1)(c) states that the owner and operator of a solid waste facility shall maintain the integrity of the engineered components of the solid waste landfill and repair any damage to or failure of the components.

14. Ohio Administrative Code 3745-27-19(E)(1)(c) further states that "engineered components" include the components described in Ohio Adm. Code 3745-27-08.

15. Pursuant to Ohio Adm. Code 3745-27-08, a landfill's bottom liner, along with all leachate piping is an engineered component.

16. Prior to December 7, 2007, the south slope of the Facility failed, compromising the bottom liner at the Facility and allowing waste to move outside the approved limits of waste placement.

17. Beginning on an undetermined date, but at least by December 7, 2007, and continuing to present, the bottom liner at the Facility has not been repaired and solid waste remains outside the limits of waste placement on the south slope of the Facility in violation of the Facility's approved PTI, Ohio Adm. Code 3745-27-19(B)(2) and Ohio Adm. Code 3745-27-19(E)(1)(c).

18. Beginning on an undetermined date, but at least by December 7, 2007, and continuing to present, a leachate cleanout pipe near the south slope failure at the Facility was damaged and has not been repaired in violation of the Facility's approved PTI, Ohio Adm. Code 3745-27-19(B)(2) and Ohio Adm. Code 3745-27-19(E)(1)(c).

19. The acts and omissions alleged in this Count constitute violations of Ohio Adm. Code 3745-27-19(E)(3)(e), the Facility's approved PTI and Ohio Adm. Code 3745-27-19(B)(2) and therefore violate R.C. 3734.11(A) and (B), for which Defendant is subject to injunctive relief pursuant to R.C. 3734.10 and R.C. 3734.13(C), and is liable for civil penalty of up to ten thousand dollars (\$10,000.00) for each day of each violation, pursuant to R.C. 3734.13(C).

COUNT TWO
FAILURE TO PROPERLY MANAGE LEACHATE

20. Ohio Administrative Code 3745-27-19(K)(1) states that if leachate outbreaks occur at a sanitary landfill facility, owners and operators must repair all outbreaks, contain and manage the leachate at the facility, and take action to minimize, control, or eliminate the conditions which contribute to the production of leachate.

21. On or around August 13, 2003, September 20, 2007, December, 7, 2007, January 17, 2008, April 30, 2008, May 20, 2008, July 9, 2008, July 11, 2008, April 24, 2009, and other dates yet to be discovered, Republic II failed to contain the leachate at the facility and failed to minimize, control, or eliminate the conditions which contribute to the production of leachate at the Facility, in violation of Ohio Adm. Code 3745-27-19(K)(1).

22. Beginning on an undetermined date, but at least by December 7, 2007, and continuing to present, a leachate cleanout pipe near the south slope failure at the Facility was damaged and has not been repaired in violation of the Facility's approved PTI and Ohio Adm. Code 3745-27-19(K)(1).

23. The acts and omissions alleged in this Count constitute violations of the Facility's approved PTI and Ohio Adm. Code 3745-27-19(K)(1), and therefore violate R.C. 3734.11(A) and (B), for which Defendant is subject to injunctive relief pursuant to R.C. 3734.10 and R.C. 3734.13(C), and is liable for civil penalty of up to ten thousand dollars (\$10,000.00) for each day of each violation, pursuant to R.C. 3734.13(C).

COUNT THREE
UNLAWFUL ACCEPTANCE AND DISPOSAL OF HAZARDOUS WASTE
AT A SOLID WASTE FACILITY

24. Ohio Revised Code 3734.02(F) provides that no person shall dispose of hazardous waste, on any premises other than: (1) a hazardous waste facility operating under a hazardous waste permit issued in accordance with R.C. Chapter 3734; (2) a facility in another state operating under a license or permit issued in accordance with the Resource Conservation and Recovery Act of 1976 ("RCRA"), 90 Stat. 2806, 42 U.S.C.A. 6921 as amended; (3) a facility in another nation operating in accordance with the laws of that nation; (4) a facility holding a permit issued pursuant to Title I of the Marine Protection, Research, and Sanctuaries Act of 1972, 86 Stat. 1052, 33 U.S.C.A. 1401, as amended; or (5) a hazardous waste facility that is operating under a permit by rule under rules adopted by the director of environmental protection or that is not subject to permit requirements under rules adopted by the director.

25. Ohio Revised Code 3734.01(F) defines "disposal" as the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any solid or hazardous waste into the water or ground.

26. Ohio Administrative Code 3745-27-01(F)(1) defines "hazardous waste" as waste that is listed specifically as hazardous waste or exhibits one or more characteristics of hazardous waste as defined in Chapter 3745-51 of the Administrative Code.

27. Ohio Administrative Code 3745-27-19(E)(8)(c) states that owners and operators of sanitary landfill facility shall not dispose of hazardous waste as that term is defined in Ohio Adm. Code 3745-51-03.

28. On or about June 7, 2002, July 26, 2002, February 21, 2007, and March 6, 2008, Republic II disposed hazardous waste as those terms are defined in R.C. 3734.01(F) and Ohio Adm. Code 3745-27-01(H)(1) at the Facility. The disposed hazardous waste included a lead ingot, filter cake, ion exchange filter resin material, and hazardous sludge.

29. The acts and omissions alleged in this Count constitute violations of R.C. 3734.02(F) and Ohio Adm. Code 3745-27-19(E)(8), and therefore violate R.C. 3734.11(A) and (B), for which Defendant is subject to injunctive relief pursuant to R.C. 3734.10 and R.C. 3734.13(C), and is liable for civil penalty of up to ten thousand dollars (\$10,000.00) for each day of each violation, pursuant to R.C. 3734.13(C).

COUNT FOUR
FAILURE TO MAINTAIN AN ADEQUATE HAZARDOUS WASTE
PREVENTION AND DETECTION PROGRAM AT A SANITARY LANDFILL

30. Ohio Administrative Code 3745-27-19(L) requires an owner or operator to implement a written polychlorinated biphenyls ("PCBs") and hazardous waste prevention and detection program that ensures that PCBs and/or hazardous waste is not disposed at a sanitary landfill facility.

31. Ohio Revised Code 3734.01(F) defines "disposal" as the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any solid or hazardous waste into the water or ground.

32. Ohio Administrative Code 3745-27-01(H)(1) defines "hazardous waste" as waste that is listed specifically as hazardous waste or exhibits one or more characteristics of hazardous waste as defined in Chapter 3745-51 of the Administrative Code.

33. On or about June 7, 2002, July 26, 2002, February 21, 2007, and March 6, 2008,

Republic II failed to detect, and thus disposed hazardous waste, as that term is defined in R.C. 3734.01(F) and Ohio Adm. Code 3745-27-01(H)(1) at the Facility. The disposed hazardous waste included a lead ingot, filter cake, ion exchange filter resin material, and hazardous sludge, in violation of Ohio Adm. Code 3745-27-19(L).

34. The acts and omissions alleged in this Count constitute violations of Ohio Adm. Code 3745-27-19(L), and therefore violate R.C. 3734.11(A) and (B), for which Defendant is subject to injunctive relief pursuant to R.C. 3734.10 and R.C. 3734.13(C), and is liable for civil penalty of up to ten thousand dollars (\$10,000.00) for each day of each violation, pursuant to R.C. 3734.13(C).

COUNT FIVE
FAILURE TO COMPLY WITH PERMIT TO INSTALL
AND OPERATING LICENSE

35. Ohio Administrative Code 3745-27-19(B)(2) states that owners and operators of a sanitary landfill facility shall conduct all operations at the facility in strict compliance with the terms and conditions of the permit to install ("PTI") and other authorizing documents issued by Ohio EPA to that facility.

36. Ohio Administrative Code 3745-27-19(B)(1) states that owners and operators of a sanitary landfill facility shall conduct all operations at the facility in strict compliance with the terms and conditions of the solid waste disposal license issued for the facility.

37. At all times relevant herein, Defendant's PTI and solid waste disposal license for the Facility strictly prohibited the disposal of hazardous waste.

38. Ohio Revised Code 3734.01(F) defines "disposal" as the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any solid or hazardous waste into the water or

ground.

39. Ohio Administrative Code 3745-27-01(H)(1) defines "hazardous waste" as waste that is listed specifically as hazardous waste or exhibits one or more characteristics of hazardous waste as defined in Chapter 3745-51 of the Administrative Code.

40. On or about June 7, 2002, July 26, 2002, February 21, 2007, and March 6, 2008, Republic II disposed hazardous waste, as that term is defined in R.C. 3734.01(F) and Ohio Adm. Code 3745-27-01(H)(1). The disposed hazardous waste included a lead ingot, filter cake, ion exchange filter resin material, and hazardous sludge, in violation of Ohio Adm. Code 3745-27-19(B)(1) and (B)(2).

41. The acts and omissions alleged in this Court constitute violations of Ohio Adm. Code 3745-27-19(B)(1) and (B)(2), and therefore violate R.C. 3734.11(A) and (B), for which Defendant is subject to injunctive relief pursuant to R.C. 3734.10 and R.C. 3734.13(C), and is liable for civil penalty of up to ten thousand dollars (\$10,000.00) for each day of each violation, pursuant to R.C. 3734.13(C).

COUNT SIX
FAILURE TO COMPLY WITH DIRECTOR'S FINAL FINDINGS AND ORDERS

42. On March 28, 2007, the Facility entered into consensual Director's Final Findings and Orders with Ohio EPA.

43. In Section XV of the March Orders, Republic II agreed to reimburse Ohio EPA for all fees incurred by experts retained by Ohio EPA to address issues at the Facility regarding the subsurface fire within thirty (30) days of the invoice for these fees.

44. On October 22, 2007, Ohio EPA sent Republic II an invoice for expert fees making the payment due from Republic II within thirty days, November 21, 2007.

45. Beginning on November 22, 2007 and continuing until Republic II submitted the expert fees on January 14, 2008, Republic II violated the March Orders and thus violated R.C. 3734.11 (A).

46. The acts and omissions alleged in this Count constitute violations of the March Orders, and therefore violate R.C. 3734.11(A) and (B), for which Defendant is subject to injunctive relief pursuant to R.C. 3734.10 and R.C. 3734.13(C), and is liable for civil penalty of up to ten thousand dollars (\$10,000.00) for each day of each violation, pursuant to R.C. 3734.13(C).

COUNT SEVEN
FAILURE TO PROVIDE TEN-YEAR DESIGN DESIGNATION

47. Ohio Administrative Code 3745-27-19(N) states that upon the tenth anniversary of the effective date of the initial permit to install issued to the owner and operator of a sanitary landfill facility, the owner and operator shall submit to Ohio EPA an analysis demonstrating that the design of the unconstructed portions of the sanitary landfill facility continues to be consistent with the design standards established in the current version of Ohio Adm. Code 3745-27-08.

48. Republic II was required to submit the ten-year design designation for the Facility to Ohio EPA by May 18, 2009.

49. Beginning on May 19, 2009 and continuing to present, Republic II has not submitted an adequate ten-year design designation for the Facility in accordance with Ohio Adm. Code 3745-27-19(N).

50. The acts and omissions alleged in this Count constitute violations of Ohio Adm. Code 3745-27-19(N) and therefore violate R.C. 3734.11(A) and (B), for which Defendant is subject to injunctive relief pursuant to R.C. 3734.10 and R.C. 3734.13(C), and is liable for civil penalty of up to ten thousand dollars (\$10,000.00) for each day of each violation, pursuant to R.C. 3734.13(C).

COUNT EIGHT
FAILURE TO PREVENT PONDING

51. Ohio Administrative Code 3745-27-19(I) and (J)(3) require owners and operators to ensure that surface water at a sanitary landfill is diverted from areas where solid waste is being, or has been disposed and to undertake actions, as necessary, to correct conditions causing ponding or erosion.

52. On or about August 23, 2006 and October 5, 2007, and other days not yet determined, Republic II did not take the necessary actions to correct ponding conditions at the Facility in accordance with Ohio Adm. Code 3745-27-19(I) and (J)(3).

53. The acts and omissions alleged in this Count constitute violations of Ohio Adm. Code 3745-27-19(I) and (J)(3), and therefore violate R.C. 3734.11(A) and (B), for which Defendant is subject to injunctive relief pursuant to R.C. 3734.10 and R.C. 3734.13(C), and is liable for civil penalty of up to ten thousand dollars (\$10,000.00) for each day of each violation, pursuant to R.C. 3734.13(C).

COUNT NINE
FAILURE TO APPLY DAILY COVER

54. Ohio Administrative Code 3745-27-19(F) requires owners and operators to apply daily cover to all exposed solid waste by the end of the working day to control fire hazards, blowing litter, odors, insects and rodents.

55. On April 3, 2001 and February 23, 2004, and other days not yet determined, Republic II failed to apply daily cover to all exposed solid waste at the end of the working day in accordance with Ohio Adm. Code 3745-27-19(F).

56. The acts and omissions alleged in this Count constitute violations of Ohio Adm. Code 3745-27-19(F), and therefore violate R.C. 3734.11(A) and (B), for which Defendant is subject to injunctive relief pursuant to R.C. 3734.10 and R.C. 3734.13(C), and is liable for civil penalty of up to ten thousand dollars (\$10,000.00) for each day of each violation, pursuant to R.C. 3734.13(C)..

PRAYER FOR RELIEF

Wherefore, Plaintiff State of Ohio respectfully requests that this Court order the following relief:

- A. Pursuant to R.C. 3734.10 and R.C. 3734.13(C), permanently order and enjoin Defendant to comply with the requirements of R.C. Chapter 3734 and the rules promulgated thereunder;
- B. Permanently order and enjoin Defendant to immediately comply with the agreed upon March Orders referenced herein;
- C. Permanently order and enjoin Defendant to cease any and all acceptance of hazardous waste at its Facility in accordance with R.C. 3734.02(F) and Ohio

- Adm. Code 3745-27-19(E)(8)(c);
- D. Permanently order and enjoin Defendant to implement an adequate hazardous waste prevention and detection program in accordance with Ohio Adm. Code 3745-27-19(L);
- E. Permanently order and enjoin Defendant to comply with the PTI, current operating license and any other authorizing documents for the Facility in accordance with Ohio Adm. Code 3745-27-19(B)(1) and (2);
- F. Permanently order and enjoin Defendant to immediately manage and control leachate at the Facility in accordance with Ohio Adm. Code 3745-27-19(K)(1);
- G. Permanently order and enjoin Defendant to maintain the integrity of the engineered components at the Facility in accordance with Ohio Adm. Code 3745-27-19(E)(1)(c);
- H. Permanently order and enjoin Defendant to immediately submit its ten year design designation in accordance with Ohio Adm. Code 3745-27-19(N);
- I. Permanently order and enjoin Defendants to maintain daily cover at its Facility in accordance with Ohio Adm. Code 3745-27-19(F);
- J. Permanently order and enjoin Defendants to immediately correct all ponding occurrences at the Facility in accordance with Ohio Adm. Code 3745-27-19(I) and (J)(3).
- K. Order Defendant to pay all costs and fees for this action, including reasonable

- attorney fees assessed by the Office of the Ohio Attorney General;
- L. Pursuant to R.C. 3734.13(C), order Defendant to pay the State a civil penalty of up to ten thousand dollars (\$10,000.00) per day for the violations set forth in this Complaint including each day of violation occurring after the filing of this Complaint;
- M. Retain jurisdiction of this case until all Orders issued by this Court are complied with in all respects; and
- N. Grant such other relief as may be necessary and appropriate in law and equity.

Respectfully submitted

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