

By: Kelly A. Michel Date: _____

6/9/2020

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

BDM Warren Steel Holdings, LLC
1040 Pine Ave. SE
Warren, Ohio 43055

**Director's Final
Findings and Orders**

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to BDM Warren Steel Holdings, LLC (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.02(G), 3734.13, and 3745.01.

II. PARTIES BOUND

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

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. The former RG Steel Warren LLC 1,200-acre property is located at 1040 Pine Ave. SE, Warren, Trumbull County, Ohio (Site). Within the boundaries of the Site is a residual waste landfill facility (Facility) as that term is defined in OAC Rule 3745-30-01(B)(2). The Facility is comprised of two landfill units know as Landfill A, (11 acres) and Landfill B, (23 acres). (Landfill A may also be referred to as South or New landfill and Landfill B may also be referred to as North or Old landfill).
2. Respondent is the current "owner" and "operator" of the Site (including the Facility) as those terms are defined under Ohio Administrative Code (OAC) Rule 3745-27-01(O)(7) and (O)(5), respectively as a result of the purchase of the Site from RG Steel Warren, LLC at a bankruptcy sale on September 21, 2012. Respondent is a "person" as defined in ORC § 3734.01(G) and OAC Rule 3745-27-01(P)(3).
3. The Facility was issued permit to install (PTI) #02-6667 on July 23, 1999. Since the purchase of the Site, no residual waste has been placed at the Facility. The Facility was last licensed in 2014 and was never properly closed.
4. On May 30, 2019, and revised on June 27, 2019 and July 31, 2019, Respondent submitted a Revised Closure Plan which included an ORC § 3734.02(G) exemption request to Ohio EPA (Exemption Request), for the exemptions from the following solid waste closure and post-closure requirements:
 - a. Maximum approved slope of 33% instead of the approved 2 to 25%;
 - b. Post-closure care period of three years instead of thirty years.
 - c. Ground water monitoring for three years during the post-closure care period instead of thirty years, or until the Respondent obtains an Urban Setting Designation for the Facility; and
 - d. The requirement to annually review, analyze, adjust, and submit the final closure cost estimate and post-closure care cost estimate including the adjustment for inflation.
5. Pursuant to ORC § 3734.02(G), the Director may, by order, "exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes ... 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 ... of this chapter."
6. The Director finds that granting Respondent the exemptions set forth below is

unlikely to adversely affect the public health or safety or the environment within the meaning of ORC § 3734.02(G) provided Respondent complies with these Orders.

V. ORDERS

1. The Revised Closure/Post-Closure Plan submitted on May 30, 2019 and revised on June 27, 2019, July 31, 2019, and May 7, 2020 is hereby approved (hereinafter the "Revised Closure/Post-Closure Plan"). Requests for any future alterations to the Revised Closure/Post-Closure Plan shall be submitted to Ohio EPA, Northeast District for prior review and approval.
2. Respondent requested, pursuant to ORC § 3734.02(G), certain exemptions from the solid waste final closure and post-closure care requirements. The following exemption requests are granted in accordance with the following terms and conditions:
 - a. The Facility will have a Post-Closure Care Period of three years instead of thirty years, as specified in OAC Rule 3745-30-10(C)(5) (effective 5/18/15). If Respondent obtains an Urban Setting Designation for the Facility, then Respondent may cease post-closure groundwater monitoring at the Facility.
 - b. Respondent is relieved of the obligation under OAC Rules 3745-30-14(E)(14) and 3745-30-10(C)(6) (effective 5/18/15) to annually review, analyze, adjust, and submit the final closure cost estimate and post-closure care cost estimate for financial assurance..
 - c. Respondent is relieved of the obligation under OAC Rule 3745-30-09(F)(3)(b) regarding the maximum cap system slope of 25%. The cap system shall have a maximum slope of 33%.
3. Respondent shall achieve compliance with ORC Chapters 3734. and the rules promulgated thereunder, according to the following compliance schedule:
 - a. Within ninety (90) days after the effective date of these Orders, Respondent shall commence and implement the Revised Closure/Post-Closure Plan in accordance with the schedules therein.

- b. Within ninety (90) days after completion of closure, Respondent shall submit the certification of closure to Ohio EPA and the Trumbull County Board of Health in accordance with OAC Rule 3745-30-09.
 - c. Respondent shall commence and perform the post-closure care activities in accordance with OAC Rule 3745-30-10 and the Revised Closure/Post-Closure Plan and the schedules therein.
- 4. Unless otherwise specified in these Orders or the Revised Closure/Post-Closure Plan, Respondent shall comply with all other requirements specified in OAC Rules 3745-30-09, 3745-30-10, and 3745-30-14.

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 Materials and 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 Respondent. For purposes of these Orders, a responsible official is a principal executive officer of at least the level of vice-president.

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

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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
Northeast District Office
Division of Materials and Waste Management
Attn: DMWM Manager
2110 East Aurora Road
Twinsburg, Ohio 44087

and

Ohio Environmental Protection Agency
Central Office
Division of Materials and Waste Management
Attn: Jeremy Carroll
P.O. Box 1049
Columbus, Ohio 43216-1049

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. SAMPLING AND DOCUMENT AVAILABILITY

As directed by Ohio EPA, Respondent shall notify Ohio EPA in advance of all sample collection activity. Upon request, Respondent shall allow split or duplicate samples to be taken by Ohio EPA or its contractor. Ohio EPA shall also have the right to take any additional samples it deems necessary. Upon request, Ohio EPA shall allow Respondent to take split or duplicate samples of any samples Ohio EPA takes as part of its oversight of the implementation of the work required by these Orders.

Ohio EPA may request copies of all documentation required by these Orders including, but not limited to, sampling, tests or other data, including raw data and original laboratory reports, generated by or on behalf of Respondent with respect to the Facility. Within seven (7) days after receipt of a request by Ohio EPA, Respondent shall provide Ohio EPA with a copy of the documentation requested by Ohio EPA. An electronic copy shall also be provided in a format approved by Ohio EPA. Respondent may submit to Ohio EPA any interpretative reports and written explanations concerning the raw data and original laboratory reports and raw data. Should Respondent subsequently discover an error in any report or raw data, Respondent shall promptly notify Ohio EPA of such discovery and provide the correct information.

XII. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XIV. 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, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

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.

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



Laurie A. Stevenson
Director

IT IS SO AGREED:

BDM Warren Steel Holdings, LLC



Charles J. Betters, President



Date