

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Ohio Soil Recycling LLC	:	<u>Director's Final Findings</u>
2101 Integrity Drive South	:	<u>and Orders</u>
Columbus, Ohio 43209	:	

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are hereby issued to Ohio Soil Recycling LLC ("OSR"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Section 3734.02(G) and Ohio Administrative Code ("OAC") Chapter 3745-27.

**II. PARTIES BOUND**

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

"Compost Product" means compost that meets applicable compost product quality standards.

"Exceptional Quality Biosolids" has the same meaning as defined in rule 3745-40-04 of the Administrative Code.

"Fill" means Foundry Sand placed on the ground in order to fill an existing depression or hole in the ground, create mounds, or otherwise artificially change the grade or elevation of the Property.

"Foundry Sand" means silica sand and binders from sand molds and cores that have been through the production process at Honda of America Mfg., Inc., Anna Engine Plant located at 12500 Meranda Road in Anna, Ohio, 45302.

"Soil Blend" means a mixture of Foundry Sand with uncontaminated soil, contaminated soil intended for remediation, or with a combination of uncontaminated soil and contaminated soil intended for remediation, such that the resulting mixture does not exceed 50% Foundry Sand by volume. Soil Blends shall neither include nor be commingled with other solid waste, construction and demolition debris, pulverized debris, sludge other than Exceptional Quality Biosolids, slag, or unfinished compost. Soil Blends may be created utilizing contaminated soil only if the resulting Soil Blend is remediated. Soil Blends are nonputrescible, homogeneous, and relatively uniform in texture.

"Waters of the state" has the same meaning as in section 6111.01(H) of the Revised Code.

#### **IV. FINDINGS**

The Director of Ohio EPA ("Director") has determined the following findings:

1. OSR owns and operates a soil recycling facility at 2101 Integrity Drive South, Columbus, Ohio. At its soil recycling facility, OSR accepts non-hazardous contaminated soil for bioremediation treatment under permits and approvals from Ohio EPA divisions of Air Pollution Control, Surface Water and Materials and Waste Management. OSR's bioremediation process remediates contaminated soils to meet residential standards set forth in Ohio EPA's Voluntary Action Program.
2. On November 8, 2019, OSR submitted a request ("OSR's Request") to Ohio EPA seeking authorization to permanently place Foundry Sand on property it owns located at 2101 Integrity Drive South, Columbus, Ohio ("Property"). OSR is seeking to permanently place up to 12,500 tons of Foundry Sand as an ingredient in a Soil Blend on the Property per year.
3. The Property is deed-restricted for commercial/industrial use only.
4. OSR's Request proposes to blend Foundry Sand with non-hazardous soils intended for bioremediation. The foundry sand will be blended with soils intended for bioremediation then remediated at the Ohio Soil Recycling, LLC facility to create a Soil Blend. The Soil Blend will then be used as Fill at the Property.
5. On December 12, 2019, OSR submitted to Ohio EPA analytical results for samples of the foundry sand proposed for alternative disposal. This analysis demonstrated that no constituents in the samples analyzed exceeded the Table 1 limits.
6. ORC Section 3734.01(E) defines "solid wastes" in pertinent part to mean "...such unwanted residual solid or semisolid material as results from industrial, commercial, agricultural, and community operations[.]"

7. ORC Section 3734.01(F) defines “disposal” in pertinent part to mean “...the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any solid wastes... into or on any land or ground or surface water or into the air[.]”
8. ORC Section 3734.01(N) defines “facility,” in pertinent part, to mean “any site, location, tract of land, installation, or building used for incineration, composting, sanitary landfilling, or other methods of disposal of solid wastes[.]”
9. The permanent placement of Foundry Sand at the Property constitutes the disposal of solid waste at a facility pursuant to ORC Chapter 3734 and the rules promulgated thereunder.
10. ORC Sections 3734.02(C), 3734.05(A)(1), and 3734.05(A)(2) and OAC Chapters 3745-27 and 3745-37 require that a permit and license be obtained prior to the establishment or modification and operation of a solid waste facility.
11. The permanent placement of up to 12,500 tons of Foundry Sand per year at the Property constitutes the establishment or modification and operation of a solid waste facility prior to which a permit and license must be obtained.
12. OAC Rule 3745-27-05(A) specifies the methods of solid waste disposal that are authorized in Ohio, including sanitary landfilling, incineration, and composting. In addition, OAC Rule 3745-27-05(A)(4) states that solid wastes may be disposed as engineered fill or by land application, provided the Director determines that such alternative methods will not create a nuisance or harm human health or the environment and are capable of complying with other applicable laws.
13. The proposed disposal method, which is the permanent placement up to 12,500 tons of Foundry Sand per year at the Property as an ingredient in a Soil Blend, is a method of disposal other than sanitary landfilling, incineration, or composting and, therefore, requires authorization from the Director pursuant to OAC Rule 3745-27-05(A)(4).
14. OAC Rule 3745-27-05(A)(4) sets forth the requirements for an alternative disposal method authorization. OSR provided all of the required information.
15. The Director has determined that the disposal of the Soil Blend in compliance with these Orders will not create a nuisance or harm human health or the environment and will not prevent compliance with other applicable laws provided it is performed in accordance with these Orders.
16. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), the Director, by order, may exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes in such quantities or 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 to obtain



a permit or license or comply with other requirements of ORC Chapter 3734 and any rules adopted thereunder.

17. Pursuant to ORC Section 3734.57(A), the owner or operator of a solid waste disposal facility must collect and remit to the state a disposal fee for solid waste disposed at the facility.
18. The permanent placement of the Soil Blend at the Property constitutes the disposal of solid waste at a facility pursuant to ORC Chapter 3734 and the rules promulgated thereunder, and does not fall within the exceptions in ORC 3734.57(D); therefore, the state solid waste disposal fee, absent an exemption, is otherwise applicable to the disposal of Foundry Sand at the Property.
19. The Director has determined that, for the annual disposal of up to 12,500 tons of Foundry Sand at the Property as an ingredient in a Soil Blend, granting OSR an exemption from the requirements of ORC Chapter 3734 and OAC Chapters 3745-27 and 3745-37 to obtain a permit and a license to establish or modify and operate a solid waste facility and to collect and remit the state solid waste disposal fee, is unlikely to adversely affect the public health or safety or the environment, provided that OSR performs the activities in accordance with these Orders.
20. Ohio EPA's jurisdiction is limited to determining whether disposing the Soil Blend is unlikely to harm the environment. Ohio EPA has no jurisdiction over the stability, safety, or durability of the Soil Blend and is not making a determination on the appropriateness of the Soil Blend for any particular use. Prior to disposal of the Soil Blend, OSR should check with a structural engineer or other professional, as appropriate, to determine whether the Soil Blend is suitable in each specific instance it is used.

## **V. ORDERS**

1. For Foundry Sand that is disposed at the Property as part of a Soil Blend in accordance with these Orders, OSR is hereby exempted in accordance with ORC Section 3734.02(G) from the requirement to remit the state solid waste disposal fee set forth in ORC Section 3734.57(A) and from the requirements to obtain a permit and license before establishing a solid waste facility set forth in ORC Sections 3734.02(C), 3734.05(A)(1), and 3734.05(A)(2) and OAC Chapters 3745-27 and 3745-37. These Orders do not relieve OSR from the obligation to collect or remit any other solid waste disposal fee.

### **Disposal Requirements**

2. OSR shall dispose of Foundry Sand at the Property only when it is an ingredient in a Soil Blend that is being used as Fill.

3. OSR shall ensure that the total volume of Foundry Sand disposed at the Property as part of a Soil Blend does not exceed 12,500 tons per year.
4. OSR may only dispose of Soil Blends at the Property in accordance with all of the following:
  - a. Soil Blends shall not be disposed within 300 feet of occupied buildings, unless a reduction in this distance is approved, in writing, by the landowner and, if applicable, the resident of the occupied building;
  - b. Soil Blends shall not be disposed within:
    - i. 300 feet of wells and surface waters used for drinking water or watering livestock; or
    - ii. 100 feet of wells and surface waters used for drinking water or watering livestock if the entire 100 feet is comprised of a grass buffer between the ovens and the wells and surface waters;
  - c. Soil Blends shall not be disposed within 33 feet of surface waters of the state as defined in ORC Section 6111.01(H) that are not referenced in Order 2.d;
  - d. Soil Blends shall not be disposed during precipitation events;
  - e. Soil Blends shall not be disposed onto frozen or snow-covered ground;
  - f. OSR shall immediately cease disposal of Soil Blends on the Property pursuant to these Orders if a discharge to waters of the state is detected. OSR may resume disposal of Soil Blends on the Property pursuant to these Orders only upon receipt of written notification from Ohio EPA.
5. OSR may dispose of Soil Blends pursuant to these Orders only within the only within the fill area of the Property as identified in Attachment A.
6. These Orders authorize the disposal of Foundry Sand as an ingredient in a Soil Blend at the Property only in compliance with all provisions of these Orders. To the extent that any provision of these Orders conflicts with a provision in OSR's Request, or in any attachment to OSR's Request, OSR is only authorized as specifically provided herein and shall comply with these Orders and these Orders shall supersede any inconsistent requirement in OSR's Request, in any attachment to OSR's Request, or any document submitted pursuant to these Orders.
7. OSR shall obtain and comply with all authorizations required by ORC Chapter 3704 and shall dispose of Soil Blends at the Property in such a manner that noise, dust, and odors are strictly controlled so as not to cause a nuisance or a health hazard.

8. OSR shall obtain and comply with all authorizations required by ORC Chapter 6111, including but not limited to a National Pollutant Discharge Elimination System (NPDES) permit for the control of storm water and the discharge of wastewater, and shall dispose of Soil Blends at the Property in such manner as to control storm water run-on and run-off and protect Waters of the State. OSR shall report any unauthorized discharge to Waters of the state to Ohio EPA (Call 1-800-282-9378) within 24 hours of discovery.
9. OSR shall ensure that the disposal of Soil Blends does not create a nuisance or adversely affect public safety or health or the environment. The Director reserves the right to revoke this Order at any time for any lawful reason. Immediately upon the effective date of any such revocation, OSR shall cease disposing Soil Blends at the Property.
10. OSR shall ensure that the Foundry Sand intended for disposal under these Orders is analyzed at a minimum annually in accordance with these Orders. When collecting and analyzing samples pursuant to these Orders, OSR shall ensure the following requirements are satisfied:
  - a. The samples collected shall be representative of the Foundry Sand intended for disposal under these Orders;
  - b. The sample(s) are analyzed for the constituents listed in Table 1 and constituents added pursuant to Order Number 13;
  - c. The reported detection limit for the analysis shall be below the limit specified for each constituent in Table 1 or set for constituents added pursuant to Order Number 13; and
  - d. The analytical methods employed generate reliable constituent results in units consistent with the units in Table 1 and the units of the limits set in accordance with Order Number 13.
11. OSR shall not dispose of any Soil Blends at the Property that contain Foundry Sand with constituents at levels that exceed any of the constituent concentration limits specified in Table 1 or any constituent concentration limit for any additional constituent added pursuant to Order Number 13.
12. If there is a substantial change in either the generation process or the raw materials used to create the Foundry Sand, these Orders do not authorize OSR to utilize the Foundry Sand generated after the substantial change until it receives written concurrence from Ohio EPA in accordance with this Order. OSR may provide to Ohio EPA the results of an analysis of representative samples of the Foundry Sand generated after the substantial change that was conducted in accordance with the analysis requirements set forth in Order Number 10. Upon receipt of written concurrence from Ohio EPA that the results submitted in accordance with this Order demonstrate that the Foundry Sand generated after the substantial change



does not contain constituents at levels that exceed any of the constituent concentration limits specified in Table 1 or any constituent concentration limits set in accordance with Order Number 13, OSR may utilize the Foundry Sand in accordance with these Orders. For the purposes of these Orders, a substantial change in the raw materials is any change that may result in higher concentrations of the constituents listed in Table 1 or constituents added pursuant to Order Number 13.

**Table 1: Constituent Concentration Limits**

<b>Constituents <sup>1</sup></b>	<b>Totals Analysis<sup>2</sup> Constituent Concentration Limits (mg/kg)*</b>
Aluminum (Al)	77000
Antimony (Sb)	31
Barium (Ba)	15000
Cadmium (Cd)	39
Copper (Cu)	1500
Iron (Fe)	55000
Lead (Pb)	300
Selenium (Se)	100
Zinc (Zn)	2800

\* - dry weight basis

13. Ohio EPA reserves the right to add constituents to Table 1 and set limits for those newly added constituents as it deems necessary to protect human health or safety or the environment, without modifying these Orders, by providing 30-days written notice to OSR.

### **Storage and Blending Requirements**

14. OSR may store Foundry Sand and Soil Blends at the Property until the expiration date of these Orders.
15. When blending Foundry Sand and when storing Foundry Sand and Soil Blends, OSR shall use Best Management Practices ("BMPs") as defined in OAC Rule 3745-599-02. The BMPs shall include, at a minimum, all of the following.
  - a. Using vegetative stabilization practices, grading, berming, or curbing to prevent runoff and divert run-on away from storage and blending areas;

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<sup>1</sup> Al, Sb, Ba, Fe: US EPA Regional Screening Levels; Cd, Cu, Pb, Se, Zn: US EPA 40 CFR Part 503 Pollutant Concentrations.

<sup>2</sup>EPA publication SW-846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW-846).

- b. Locating storage, stockpiles, and blending operations at least 100 feet from all property lines, functional storm water catch basins, drainage ways, railroad rights of way, post-construction water quality features, and surface waters of the state;
  - c. Unless otherwise provided in a permit issued under ORC Chapter 6111, implementing sediment control practices to catch any solids in runoff or to divert runoff away from all property lines, functional storm water catch basins, drainage ways, railroad rights of way, post construction water quality features, and surface waters of the state;
  - d. Taking measures to control fugitive dust and other air emissions that may result from activities authorized through these Orders.
  - e. OSR shall blend the Foundry Sand at its treatment pad as identified in Attachment A.
16. OSR shall not prevent the Director, or the Director's authorized representative(s), from entering upon the Property or any location where Foundry Sand is generated or disposed, at any reasonable time, for the following purposes:
- a. To inspect and copy records that must be kept under these Orders.
  - b. To collect samples; perform monitoring; take photographs; perform measurements, surveys, and other tests; and inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required pursuant to these Orders.
  - c. For all other purposes for which the Director or an authorized representative of Ohio EPA has rights of access or inspection authority under applicable law.
17. This authorization shall expire five years after its effective date unless revoked by Ohio EPA or otherwise superseded through enactment or promulgation of laws or rules.

### **Recordkeeping and Reporting Requirements**

18. OSR shall maintain a daily log that, for each day Foundry Sand is brought to the Property or placed at the Property pursuant to these Orders, includes all of the following information:
- a. The date;
  - b. The amount of Foundry Sand brought on to the Property that day, in dry tons;



- c. The amount of Foundry Sand disposed of on the Property that day, in dry tons;
  - d. The locations where Soil Blend was placed, depicted using GPS coordinates or illustrations on a topographic map; and
  - e. Actions taken to comply with the setbacks and other requirements set forth in Order Number 4.
- 19. OSR shall maintain all of the following records and reports for a minimum of 5 years after the disposal of Foundry Sand pursuant to these Orders, and shall make them available to Ohio EPA upon request:
  - a. Daily log records required pursuant to Order Number 18;
  - b. All laboratory reports of all sampling results and analyses;
  - c. All other records and reports required by these Orders.
- 20. Not later than January 31st of each calendar year, OSR shall submit to Ohio EPA an Annual Report for the previous calendar year that includes, at a minimum, the following:
  - a. Total amount, in dry tons, of Foundry Sand disposed at the Property in the previous calendar year.
  - b. An estimate, in dry tons, of the amount of Foundry Sand expected to be disposed the following calendar year at the Property;
  - c. Analytical results for all analyses performed the previous calendar year; and
  - d. A notarized statement from OSR that, to the best of the knowledge of OSR, the information contained in the Annual Report is true and accurate.
- 21. The Annual Report shall be sent to the following address:

For mailings:

Ohio Environmental Protection Agency  
Division of Materials and Waste Management  
Attn: Beneficial Use Unit  
P.O. Box 1049  
Columbus, Ohio 43216-1049

Or

For hand delivery:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Materials and Waste Management  
Attn: Beneficial Use Unit  
50 West Town Street  
Columbus, Ohio 43215

## **VI. 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 OSR.

## **VII. 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 for noncompliance with these Orders, including seeking penalties against OSR for noncompliance with these Orders.

Nothing in these Orders shall be construed to authorize any activity, method, or waiver from the requirements of ORC Chapter 3734 or the regulations promulgated thereunder, except as expressly provided herein. These Orders shall not be interpreted to release OSR from responsibility under ORC Chapters 3704, 3734, or 6111; under the Clean Water Act, the Resource Conservation and Recovery Act, or the Comprehensive Environmental Response, Compensation, and Liability Act; or from other applicable requirements for remedying conditions resulting from any release of contaminants to the environment.

Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require OSR to perform additional activities pursuant to ORC Chapter 3734 or any other applicable law in the future. Nothing herein shall restrict the right of OSR to raise any administrative, legal, or equitable claim or defense with respect to such further actions that Ohio EPA may seek to require of OSR.

### **VIII. EFFECTIVE DATE**

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

### **IT IS SO ORDERED:**

**Ohio Environmental Protection Agency**

A handwritten signature in blue ink, reading "Laurie A. Stevenson", is positioned above a horizontal line.

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Laurie A. Stevenson, Director



**Appendix A: OSR Site**

Map Key	
Green (■)	: Fill Area
Red (---)	: Former Anchor Landfill Boundaries
Yellow (—)	: OSR Treatment Pad

**Appendix A: OSR Site**

**Map Key**

- Green (■): Fill Area
- Red (—): Former Anchor Landfill Boundaries
- Yellow (—): OSR Treatment Pad

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**Appendix A: OSR Site**

Map Key	
Green (■):	Fill Area
Red (—):	Former Anchor Landfill Boundaries
Yellow (—):	OSR Treatment Pad