

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Spring Grove Resource Recovery, Inc.
4879 Spring Grove Avenue
Cincinnati, Ohio 45232

Respondent

**Director's Final
Findings and Orders**

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Spring Grove Resource Recovery, Inc. (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 successors in interest liable under Ohio law. No change in ownership of Respondent or the Facility shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

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

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent operates a permitted treatment, storage and disposal facility located at 4879 Spring Grove Avenue, Cincinnati, Hamilton County, Ohio (Facility). Respondent received Ohio EPA identification number OHD 000816629.
2. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
3. At the Facility, Respondent generates "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Respondent is a large quantity generator of hazardous waste.
4. On March 25, 2004, Ohio EPA conducted an inspection of the Facility. As a result of this inspection, Ohio EPA determined that Respondent had *inter alia*:
 - a. Failed to maintain adequate aisle space, in violation of OAC rule 3745-54-35 and Permit Condition B.12;
 - b. Failed to properly date the hazardous waste storage containers, in violation of OAC rule 3745-270-50(A)(2)(a) and Permit Condition C.4;
 - c. Failed to maintain and operate the Facility to minimize the possibility of a fire, explosion, or release of hazardous waste constituents to the air, soil, and ground or surface waters, in violation of OAC rule 3745-54-31 and Permit Condition B.1;
 - d. Failed to give notice to the Director of Ohio EPA or file a request for a permit modification before moving a portion of the security fence at the Facility, in violation of OAC rule 3745-50-58(L) and Permit Conditions A.2 and A.15;
 - e. Stored hazardous waste in containers in semi trailers in an unpermitted area at the Facility, in violation of Permit Condition C.1(a);

- f. Failed to manage containers in permitted areas only at the Facility, in violation of Permit Condition C.7(a);
 - g. Stored hazardous waste in an area without proper secondary containment, in violation of OAC rule 3745-55-75(B) and Permit Condition C.8; and
 - h. Stored reactive or ignitable waste within fifty feet of the Facility property line, in violation of OAC rule 3745-55-76 and Permit Condition C.12(a).
5. Ohio EPA has also determined that Respondent failed to manage containers in permitted areas only at the Facility, in violation of ORC § 3734.11(B).
6. By letter dated April 15, 2004, Ohio EPA notified Respondent of the violations discovered during the March 25, 2004 inspection.
7. By letter dated April 26, 2004, Respondent submitted a permit modification and by letter dated May 10, 2004, Respondent submitted documentation in response to Ohio EPA's April 15, 2004, letter.
8. On June 3, 2004, Ohio EPA acknowledged the modification identified in Finding No. 7.
9. By letter dated June 17, 2004, Ohio EPA notified Respondent that Respondent had abated the violations identified in Finding No. 4.
10. By letter dated July 1, 2004, Ohio EPA directed Respondent to submit information identifying the unpermitted hazardous waste storage area as a waste management unit, in accordance with Permit Condition E.11.
11. On July 30, 2004, Ohio EPA received Respondent's Class 1 Permit Modification request to add the unpermitted hazardous waste storage area as a waste management unit.
12. By letter dated October 14, 2004, Ohio EPA acknowledged and concurred with Respondent's request to add the unpermitted hazardous waste storage area as a waste management unit.
13. The Director of Ohio EPA has determined the no additional action with regard to the violation referenced in Finding No. 5 is required at this time.

V. ORDERS

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Respondent shall pay Ohio EPA the amount of \$50,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734., in accordance with the following provisions:
 - a. Within 30 days after the effective date of these Orders, Respondent shall pay \$30,000.00 of the above civil penalty settlement to Ohio EPA in settlement of Ohio EPA's claims for civil penalties which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$30,000.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent. A copy of this check shall be submitted in accordance with Section X. of these Orders.
 - b. Within 120 days after the effective date of these Orders, and in lieu of payment of \$14,020.00 of the above civil penalty settlement, Respondent shall implement a supplemental environmental project (SEP). The SEP shall consist of a one-time charitable contribution in the amount of \$14,020.00 to the St. Bernard Fire Department for the purchase of hazardous material response equipment, to be used primarily during response, containment, and decontamination following a hazardous materials release. Specifically, the response equipment will be comprised of two multi-gas monitors, one volatile organic compound monitor, and a weather monitoring station, as those items are listed in Attachment A of these Orders.
 - c. Within 60 days after implementation of the SEP, Respondent shall submit to Ohio EPA documentation of expenditures (e.g. paid invoices, cancelled check, etc.) related to the charitable contribution of \$14,020.00 to the St. Bernard Fire Department. This documentation shall be submitted in accordance with Section IX of these Orders.

- d. Should Respondent fail to fund the SEP within the required time frame established in Order No. 1.b., Respondent shall pay to Ohio EPA the amount of \$14,020.00 in accordance with the procedures in Order No. 1.a.
- e. In lieu of paying the remaining \$5,980.00 of civil penalty to Ohio EPA, Respondent shall fund an additional SEP by making a contribution in the amount of \$5,980.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD). Respondent shall make the payment within 30 days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$5,980.00. The official check shall be submitted to Brenda Case, or her successor, Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent. A copy of this check shall be submitted in accordance with Section X. of these Orders, and an additional copy of this check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, Ohio EPA, Division of Air Pollution Control, P.O. Box 1049, Columbus, Ohio 43216-1049.
- f. Should Respondent fail to fund the SEP within the required time frame established in Order No. 1.e., Respondent shall pay to Ohio EPA the amount of \$5,980.00 in accordance with the procedures in Order No. 1.a.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official check required by Section V. of these Orders.

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
Southwest District Office
Division of Hazardous Waste Management
401 East Fifth Street
Dayton, Ohio 45402
Attn: DHWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Joseph P. Koncelik, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section

For deliveries to the building:

Joseph P. Koncelik, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
122 South Front Street
Columbus, Ohio 43215
Attn: Manager, Compliance Assurance Section

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

XI. RESERVATION OF RIGHTS

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

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, 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.

XIII. EFFECTIVE DATE

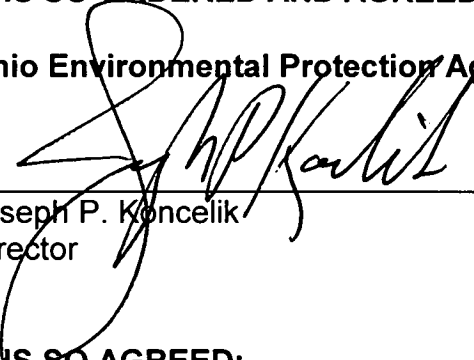
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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. Koncek
Director

AUG 2 2005

Date

IT IS SO AGREED:

Spring Grove Resource Recovery, Inc.



Signature

July 22, 2005

Date

RAEFORD CRAIG LACKEY, ESQ.
Printed or Typed Name

VICE PRESIDENT & CHIEF COUNSEL
Title

ATTACHMENT A

St. Bernard Fire Department - Hazardous Materials Response Equipment Descriptions and Projected Costs:

iTX Multi-Gas Monitor

18104307-11457	LEL, O ₂ , H ₂ S, SO ₂ , Cl ₂ , NH ₃ , Li-Ion	\$2,135.00
18104307-11347	LEL, O ₂ , NH ₃ , H ₂ S, Cl ₂ , CH ₄ , Li-Ion	\$2,210.00
18105551	Instrument Docking Station for iTX	\$1,795.00
17088618	Spare Battery Pack, Rechargeable Li-Ion	\$150.00
18104703	iTX Leather Carrying Case	\$75.00
16000039	iTX Maintenance and Training Video, VHS	<u>\$29.95</u>
		\$6,394.95

VX500 Volatile Organic Compound Monitor

18104034-00001	VX500 PID Monitor w.10.6 eV Lamp (Li-Ion)	\$2,995.00
17088618	VX500 Li-Ion Rechargeable Battery Pack	\$150.00
17090572	Rubber Protective Boot	\$25.00
17090721	Lamp Cleaning Kit	\$11.95
17091380	Replacement Lamp - 10.6 eV	\$225.00
18102939	100 PPM Isobutylene Calibration Cylinder	\$150.00
17096348	iButton® Memory Card w/Mounting Card	<u>\$24.95</u>
		\$3,581.90

HM-1MK III Weather Station, by Rainwise

Wind Speed (Anemometer)

Wind Direction

Temperature - Outside

Temperature - Inside

Relative Humidity

Dew Point

Temperature/Heat Index

Wind Chill

Barometer

Rainfall (Wired and Wireless Options)

Transceivers

\$4,041.00

Total Hazardous Materials Equipment Costs

\$14,017.85