

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

SEP 20 2012

ENTERED DIRECTOR'S JOURNAL

In the matter of:

RG Steel Warren, LLC,  
FKA Severstal Warren, Inc.,  
FKA WCI Steel Acquisition, Inc.,  
999 Pine Avenue, SE  
Warren, OH 44483

Director's Final Findings  
and Orders

**Respondent**

I certify this to be a true and accurate copy of the  
original documents as filed in the records of the Ohio  
Environmental Protection Agency.

PREAMBLE

It is agreed by the Parties hereto as follows:

*Handwritten signature* Date: *9-20-12*

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to RG Steel Warren, LLC ("Respondent") 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 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 the 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. An active "residual waste landfill facility" as defined in Ohio Administrative Code ("OAC") 3745-30-01, is located south of the City of Warren and east of the Mahoning River at 999 - 1040 Pine Avenue, SE, Warren, Trumbull County (the "Facility").
2. The Facility is a Class I licensed residual solid waste facility pursuant to OAC Rule 3745-30-01.

3. On July 7, 2008 WCI Steel Acquisition, Inc. merged with other WCI related entities, including WCI Steel Inc. forming the surviving corporation known as Severstal Warren, Inc.
4. On April 14, 2011 Severstal Warren Inc. changed its name to RG Steel Warren, LLC.
5. Respondent RG Steel Warren, LLC, FKA Severstal Warren, Inc., FKA WCI Steel Acquisition, Inc. ["Respondent"] is the "owner" or the "operator" of the Facility as those terms are defined in Ohio Administrative Code ("OAC") Rule 3745-27-01(O)(7) and (O)(5), respectively.
6. Respondent is a person as that term is defined in ORC Section 3734.01(G) and in OAC Rule 3745-27-01(P)(3).

**Findings Pertaining to Interim Waste Grades for Phases 1 and 2**

7. OAC Rule 3745-30-05(A) provides in relevant part: "A permit to install application as required by section 3734.05 of the Revised Code shall be submitted, and approved by the director, before the establishment or modification of the residual waste landfill facility is begun. Compliance with this rule shall not exempt any person from compliance with any other permit, license, or other obligation for authorization."
8. On July 23, 1999, following the review of the Facility's Permit to Install ("PTI") application, Ohio EPA issued PTI #02-6667.
9. OAC Rule 3745-30-05(B) provides in relevant part: "The following detail engineering plans, specifications, and information for residual waste landfill facilities shall be shown by means of drawings and narrative descriptions where appropriate. [\*\*\*] (6) Each drawing numbered consecutively 6A, 6B, 6C, etc. shall show the phase, all previously operated phases, the grid system established in accordance with paragraph (B)(4)(g) of this rule, and all of the following: [\*\*\*] (b) Extent of waste placement for that phase."
10. PTI #02-6667 as initially approved included the entire phasing and cell information.
11. Pursuant to OAC Rule 3745-30-05(B)(6)(b), PTI #02-6667 included Plan Sheet 6(C), depicting Phase 3 development showing an interim waste grade of 4:1 on the north side of Phases 1 and 2.
12. On November 16, 2004 WCI Steel, Inc. submitted a request for an alteration to PTI #02-6667 that was approved by the Northeast District Office on December

14, 2004, which included Plan Sheet 6(C), depicting the same interim waste grade of 4:1 on the north side of Phases 1 and 2.

13. OAC Rule 3745-30-14(B)(2) provides in relevant part: "The owner or operator shall conduct all construction and operation at a residual solid waste landfill facility in strict compliance with the applicable authorizing document(s), including permit(s) to install, a plan approval, an operational report, an approved final closure plan, or an alteration(s) concurred with in writing by Ohio EPA."
14. Ohio EPA conducted a review of the Facility's 2009 annual report and an Ohio EPA inspector identified several violations as documented in a 2009 Annual Report Notice of Violation ("NOV") letter dated September 10, 2010, including the following:
  - a. OAC Rule 3745-30-14(B)(2), which states: "The owner or operator shall conduct all construction and operation at a residual solid waste landfill facility in strict compliance with the applicable authorizing document."

In that letter the inspector noted that "an alteration was approved on December 14, 2004 which includes plan sheet 6C depicting the operational phasing for filling phases 1 and 2 and constructing phase 3 of the facility. The owner or operator has exceeded the waste grades depicted for phases 1 and 2."

- b. OAC Rule 3745-30-14(M)(1)(i), which requires a "comparison of the actual vertical and horizontal limits of emplaced waste to the vertical and horizontal limits of waste placement authorized in the applicable authorizing documents including an approved permit(s) to install, plan approval, or operational report. If emplaced waste exceeds the limits of vertical and horizontal waste placement authorized in the applicable authorizing documents this comparison shall include a topographic map which delineates the areal extent of emplaced waste that exceeds approved limits specified in such authorizing documents. In addition, the topographic map shall contain notes that indicate the following information for waste exceeding authorized limits of waste placement: the maximum estimated volume, the maximum depth, and the average depth."

Specifically, the inspector noted: "The owner/operator is in violation of the rule because the map does not contain notes that indicate the maximum estimated volume, the maximum depth, and the average depth of the waste exceeding authorized limits."

Upon review of the response submitted by Respondent regarding the 2009 Annual Report on October 21, 2011, the deficiency noted in finding 14.b. has been resolved.

15. Ohio EPA conducted a review of the Facility's 2010 and 2011 annual reports and an Ohio EPA inspector identified several violations as documented in an Annual Report NOV letter to Respondent RG Steel Warren dated September 21, 2011, including the following violations:

- a. OAC Rule 3745-30-14(B)(2), which states: "The owner or operator shall conduct all construction and operation at a residual solid waste landfill facility in strict compliance with applicable authorizing documents, including permits to install...or an alteration(s) concurred with in writing by Ohio EPA..."

Specifically, the Ohio EPA inspector stated "RG Steel has exceeded the waste grades depicted for phases 1 and 2..."

- b. OAC Rule 3745-30-14(M)(1)(i), which requires a "topographic map of the residual solid waste landfill facility, certified by a professional skilled in the appropriate discipline(s), with updated contour lines on the plan drawing containing information specified in rule 3745-30-05 of the Administrative Code. The scale and contour interval shall be consistent with the approved plans."

Specifically, the Ohio EPA inspector stated: "RG Steel has not complied with the rule because the submittal does not include a topographical map that compares actual vertical and horizontal limits of waste placement to the vertical and horizontal limits of waste placement authorized in the applicable authorizing document(s), including an approved permit(s) to install, plan approval or operational report. As mentioned previously, the first drawing of the set is a topographical map; however, this map does not provide the necessary comparisons."

Upon review of the response submitted by Respondent regarding the 2009 Annual Report on October 21, 2011, and upon review of the response submitted by Respondent regarding the 2010 Annual Report on December 21, 2011, the deficiencies noted in finding 15.b. have been resolved.

16. In a response letter to the September 21, 2011 NOV to Ohio EPA dated October 21, 2011, Respondent RG Steel stated: "The north slope of Phases 1 and 2 are currently built steeper than the slopes shown in the PTI of 4:1. Current grade on the north slope of Phases 1 and 2 ranges from 1.5:1 to 2:1."

17. In a letter dated December 21, 2011 to Ohio EPA, Respondent RG Steel acknowledges that the interim waste slope shown on Plan sheet 6C for the north side of Phases 1 and 2 is 4:1.
18. In a letter from Burgess & Niple to Ohio EPA dated January 12, 2012 and received by Ohio EPA on January 17, 2012, the consultant and engineer for RG Steel, LLC, while estimating available airspace remaining in Phases 1 and 2 of the Facility, acknowledges "the vertical exceedance of the interim waste slope of the north slope of Phases 1 and 2 of 75,116 cy."
19. Respondent failed to conduct all construction and operation at the Facility in strict compliance with the permitted interim waste grade of 4:1 on the north side of Phases 1 and 2 as depicted in Plan Sheet 6(C) attached to PTI No. 02-6667, and the alteration approved on December 14, 2004.

**Findings regarding Intermediate Cover**

20. OAC Rule 3745-30-14(G)(1) provides: "To minimize infiltration, intermediate cover shall be applied to all filled areas of a residual solid waste landfill facility where additional residual solid waste is not to be deposited for at least one hundred eighty days. The director may approve the use of some alternate time period, if the owner or operator can demonstrate to the satisfaction of the director that, by use of the alternate time period, infiltration will not be increased."
21. On November 16, 2004, WCI Steel submitted a request for an alteration to PTI #02-6667 that was approved by the Northeast District Office on December 14, 2004. In alteration No. 5 WCI Steel proposed: "To meet the intermediate cover criteria, a latex dust suppressant will be applied to areas of waste that are not under final cover and have not been used for more than 90 days."
22. Ohio EPA conducted a review of the Facility's 2009 annual report and an Ohio EPA inspector identified several violations as documented in a 2009 Annual Report Notice of Violation ("NOV") letter to Respondent Severstal Warren, Inc. dated September 10, 2010, including the following violation: OAC Rule 3745-30-14(M)(1)(d) for failure to indicate areas that have intermediate cover on the topographic map.
23. Ohio EPA conducted a review of the Facility's 2010 and 2011 annual reports and an Ohio EPA inspector identified several violations as documented in an Annual Report NOV letter to Respondent RG Steel Warren dated September 21, 2011, including the following violation: OAC Rule 3745-30-14(M)(1)(d) for failure to indicate areas that have intermediate cover on the topographic map.

## V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall either:
  - a. Not later than seven hundred and sixty (760) days after the effective date of these Orders, remove and properly dispose of all waste placed outside of the authorized interim vertical limits of waste placement on the north side of Phases 1 and 2 to achieve compliance with the permitted 4:1 interim waste grade; or,
  - b. Not later than seven hundred and sixty (760) days after the effective date of these Orders, obtain approval and authorization to alter the waste grades for the interim slopes of Phases 1 and 2 and achieve compliance with OAC Rule 3745-30-14(B)(2) by removing and properly disposing any waste placed outside of any subsequently authorized interim limits of waste placement on the north side of Phases 1 and 2; or,
  - c. Not later than thirty (30) days after the effective date of these Orders, submit an authorization request to alter the waste grades for the interim slopes of Phases 1 and 2, and if the alteration request which was submitted within thirty (30) days of the effective date of these Orders is subsequently approved, then not later than seven hundred and thirty (730) days after obtaining approval and authorization to alter the waste grades for the interim slopes of Phases 1 and 2, achieve compliance with OAC Rule 3745-30-14(B)(2) by removing and properly disposing any waste placed outside of the subsequently authorized interim limits of waste placement on the north side of Phases 1 and 2. If an alteration request is submitted under Order number 1.c. within thirty days of the effective date of these Orders, and that request is deficient, then Respondent shall not resubmit the alteration request after 30 days of the effective date of these Orders pursuant to Order number 1.c, but Respondent shall achieve compliance with these Orders by complying with Order number 1.a. or Order number 1.b.
2. Not later than thirty (30) days after the effective date of these Orders, and every ninety (90) days thereafter, Respondent shall inspect the condition of the alternate intermediate cover, and shall document such inspection on the daily log of operations.
3. Respondent shall do the following:

- a. Not later than thirty (30) days after the effective date of these Orders, Respondent shall reapply the Soil-Sement intermediate cover approved pursuant to the alteration to PTI #02-6667 to damaged or eroded areas where alternate intermediate cover was previously applied in accordance with Respondent's authorizing documents; and,
  - b. Every ninety (90) days thereafter, Respondent shall reapply the Soil-Sement intermediate cover approved pursuant to the alteration to PTI #02-6667 to damaged or eroded areas where alternate intermediate cover was previously applied in accordance with Respondent's authorizing documents.
4. Notwithstanding the requirement in Order number 3, if the ambient air temperature is 32 degrees Fahrenheit or below or snow or ice covers such areas where Order number 3.b. would otherwise require the re-application of Soil-Sement intermediate cover, then not later than thirty (30) days after the ninety (90) days specified in Order Number 3.b., Respondent shall reapply the Soil-Sement intermediate cover to damaged or eroded areas where alternate intermediate cover was previously applied in accordance with Respondent's alteration to PTI #02-6667, so long as such delay will not increase infiltration. Order number 4 shall be construed to provide no more than a thirty (30) day grace period beyond the ninety (90) days required pursuant to Order number 3.b. for the reapplication of the Soil-Sement to damaged or eroded areas.
5. Respondent shall do the following:
  - a. Not later than thirty (30) days after the effective date of these Orders Respondent shall apply Soil-Sement alternate intermediate cover to areas that are not under final cover and where additional residual solid waste has not been deposited for ninety (90) days in accordance with the alteration to PTI #02-6667; and,
  - b. Every ninety (90) days thereafter, Respondent shall apply alternate intermediate cover to areas that are not under final cover and where additional residual solid waste has not been deposited for ninety (90) days in accordance with the alteration to PTI #02-6667.
6. Notwithstanding the requirement in Order number 5, if the ambient air temperature is 32 degrees Fahrenheit or below or snow or ice covers such areas where Order number 5.b. would otherwise require the application of soil-sement intermediate cover, then not later than thirty (30) days after the ninety (90) days specified in Order Number 5.b., Respondent shall apply Soil Sement alternate intermediate cover to those areas that are not under final cover in accordance with the alteration to PTI #02-6667, so long as delaying the application for thirty

(30) additional days, will not increase infiltration. Order number 6 shall be construed to provide no more than a thirty (30) day grace period for the application of Soil-Sement alternate intermediate cover to areas that are not under final cover and where additional residual solid waste has not been deposited for ninety (90) days as required pursuant to Order number 5.b.

7. Respondent shall document the date and time that Soil Sement intermediate cover is applied in accordance with Order numbers 3 - 6, and if applying the intermediate cover following the thirty (30) day grace period as provided under Orders number 4 and 6, Respondent shall record in the daily log of operations ambient air temperatures that are 32 degrees Fahrenheit or below or snow or ice conditions as well as the date and time of such conditions to demonstrate the applicability of the thirty (30) day grace period.
8. Respondent shall pay to Ohio EPA the amount of twenty-four thousand eight hundred and eight dollars (\$24,808.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 3734. in accordance with the following provisions:
  - a. Within thirty (30) days after the effective date of these Orders, Respondent shall pay the amount of nineteen thousand and eight hundred and forty-six dollars (\$19,846.00) which will be deposited into the environmental protection remediation fund established pursuant to ORC Section 3734.281. Payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for nineteen thousand and eight hundred and forty-six dollars (\$19,846.00). 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 and the Facility. A copy of the check shall be sent to Ohio EPA, Division of Materials and Waste Management, Supervisor, Systems Management Unit, P.O. Box 1049, Columbus, Ohio 43216-1049.
  - b. In lieu of paying the remaining nine thousand three hundred seventeen dollars (\$9,317.00) of the civil penalty identified in Order No. 5., above, Respondent shall fund a Supplemental Environmental Project (SEP) by making a contribution in the amount of nine thousand three hundred seventeen dollars (\$9,317.00) to the Ohio EPA Clean Diesel School Bus Program. Respondent shall make payment within thirty (30) days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$9,317.00. The official check shall be submitted to Akia Smith, or her successor, Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio, 43216-1049, together with a letter identifying Respondent and the Facility. A copy of the check shall be sent to Ohio EPA, Division of Materials and Waste Management,



Supervisor, Systems Management Unit, P.O. Box 1049, Columbus, Ohio  
43216-1049.

- c. Should Respondent fail to fully fund the SEP within the required time frame established in Order No. 8.b. of these Orders, Respondent shall pay to Ohio EPA the full amount of \$24,808.00 established in Order No. 8.

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when the 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: "RG Steel Warren, LLC certifies that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by the Respondent to Ohio EPA and shall be signed by a responsible official of the Respondent.

#### **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  
Northeast District Office,  
Division of Materials and Waste Management  
21110 East Aurora Road  
Ashtabula, Ohio 4405-2450  
Attn: Unit Supervisor, DMWM

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 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, 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.

#### **XIII. EFFECTIVE DATE**

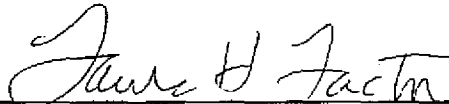
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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

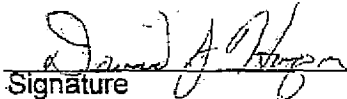
  
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Scott J. Nally, Director

9/20/12  
Date

**IT IS SO AGREED:**

RG Steel, LLC

  
\_\_\_\_\_

Signature

09-20-2012  
Date

David Hogan

Name Typed

General Manager, Engineering & Environmental  
Title