



**John R. Kasich**, Governor  
**Mary Taylor**, Lt. Governor  
**Craig W. Butler**, Director

May 26, 2022

WMRE of Ohio-American, LLC  
7916 Chapel Street SE  
Waynesburg, OH 44688

**Re: WMRE of Ohio-American, LLC  
Director's Final Findings and Orders (DFFO)  
DFFO  
RCRA C - Hazardous Waste  
Stark County  
OHR000012484**

**Subject:** Final Findings and Orders of the Director

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for WMRE of Ohio-American, LLC.

Enclosed is the invoice for the total penalty amount of \$10,000.00 required by the orders. The penalty payment(s) shall be made by official check(s) made payable to "Treasurer, State of Ohio."

If you have any questions, please contact Sarah Miles at (614) 644-3037.

Sincerely,

*Diana Bammerlin*

Diana Bammerlin, Administrative Professional 2  
Division of Environmental Response and Revitalization

Enclosure

cc: Kristie Shipley, DERR, CO  
Mitch Mathews, DERR, CO  
Tammy Heffelfinger, DERR, CO  
Natalie Oryshkewych, DERR, NEDO  
Nyall McKenna, DERR, NEDO  
Frank Zingales, DERR, NEDO  
Sarah Miles, Legal

By: Kelly A. Mack Date: \_\_\_\_\_

5/25/2022

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the Matter of:**

**WMRE of Ohio-American, LLC**  
7916 Chapel Street SE  
Waynesburg, Ohio 44688

**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 WMRE of Ohio-American, LLC (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 of the Facility 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. Respondent does not admit to any of Ohio EPA's factual or legal findings and nothing in these Orders shall be considered as an admission by Respondent of any matter of fact or law.

1. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
2. Respondent operates a gas plant located at 7916 Chapel Street SE, Waynesburg, Ohio (Facility). The Facility has been assigned U.S. EPA identification number OHR000012484.
3. Respondent generates "hazardous waste" as that term is defined by ORC §3734.01 and OAC rules 3745-50-10(H)(2) and 3745-51-03. Respondent generates non-acute hazardous waste in amounts greater than 1,000 kilograms per calendar month and therefore is operating as a "Large Quantity Generator" (LQG) of hazardous waste, as defined in OAC rule 3745-50-10(L)(5), subject to the requirements in OAC Chapter 3745-52. Respondent has also stored and accumulated hazardous waste in a hazardous waste "tank" as that term is defined in OAC rule 3745-50-10(T)(1) and is therefore subject to the hazardous waste tank system standards in OAC rules 3745-52-17(A)(2), 3745-52-17(A)(5)(b) and 3745-66-90 through 3745-66-99.
4. At the Facility, Respondent generates characteristic hazardous wastes, including but not limited to, oil and condensate from landfill gas processing (D001 – ignitability, D018- benzene, D035- methyl ethyl ketone, D039-tetrachloroethylene), polymorphous porous graphite media from the siloxane treatment tower (D018- benzene), and spent carbon (D018- benzene) as defined in OAC rules 3745-51-21 and 3745-51-24. Additionally, Respondent generates "used oil" as defined in OAC rule 3745-279-01.
5. On February 8, 2021, Respondent notified Ohio EPA that polymorphous porous graphite media was disposed at a solid waste landfill not authorized to accept hazardous waste and was subsequently determined to be hazardous for benzene (D018) when it was sampled by the landfill during a profile update. Based upon this information, Ohio EPA determined that Respondent, *inter alia*:
  - a. Failed to determine if polymorphous porous graphite media waste was a hazardous waste, in violation of OAC rule 3745-52-11; and
  - b. Caused hazardous waste to be sent and subsequently disposed at a facility that did not have a hazardous waste facility installation and operation permit, in violation of ORC §3734.02(F) and OAC rule 3745-52-10(A)(3).
6. On February 25, 2021, Ohio EPA conducted a virtual Focused Compliance Inspection via Microsoft Teams to discuss Facility operations and waste generation

and management. Ohio EPA asked Respondent to provide characterization information for landfill gas condensate and spent carbon and to also identify eleven (11) waste streams that were previously generated and characterized as non-hazardous waste.

7. On March 3, 2021 and March 10, 2021, Respondent provided spent carbon characterization information, which confirmed it exhibits the characteristic of toxicity due to benzene (D018), and a summary of non-hazardous wastes generated at the Facility.
8. By email dated March 16, 2021, Respondent provided a response to Ohio EPA. In this response, Respondent provided analytical results for landfill gas condensate and stated the landfill gas condensate meets the exclusion in 40 CFR 261.2(c)(2)(ii), which states commercial chemical products listed in 261.33 are not solid wastes if they are themselves fuels. In this response, Respondent also indicated that when polymorphous porous graphite media waste is generated in the future, it will be analyzed once removed from service and Respondent will ensure it is disposed at a facility authorized to accept such waste.
9. By email dated March 30, 2021, Ohio EPA provided a response to Respondent regarding the exclusion referenced in Finding No. 8. of these Orders. Ohio EPA informed Respondent that landfill gas condensate derived from a municipal solid waste landfill is a waste under OAC rule 3745-51-02 and that it is not an unused commercial chemical product nor a fuel but rather a waste derived from the decomposition of solid waste. Ohio EPA further explained that the landfill gas condensate remains regulated as a waste since it is sent for energy recovery, per OAC rule 3745-51-02(C)(2). The characterization information provided, as referenced in Finding No. 8. of these Orders, indicated the landfill gas condensate exhibits the hazardous characteristics of ignitability (D001) and toxicity due to benzene (D018). Based upon this information, Ohio EPA determined Respondent, *inter alia*:
  - a. Failed to determine if the landfill gas condensate was a hazardous waste, in violation of OAC rule 3745-52-11;
  - b. Caused hazardous waste landfill gas condensate to be sent to a facility that did not have a hazardous waste facility installation and operation permit in violation of ORC §3734.02(F) and OAC rule 3745-52-10(A)(3).; and
  - c. Failed to use a hazardous waste manifest for multiple shipments of hazardous waste landfill gas condensate which were transported to an unauthorized facility, in violation of OAC rules 3745-52-20 to 3745-52-27.

10. During a phone conversation on April 7, 2021, Respondent notified Ohio EPA that on April 5, 2021, Respondent started using a hazardous waste manifest to transport the hazardous waste landfill gas condensate to an authorized facility.
11. By email dated April 29, 2021, Respondent provided additional analytical results for landfill gas condensate to Ohio EPA which indicated the landfill gas condensate is also characteristically toxic for methyl ethyl ketone (D035) and tetrachloroethane (D039), with chlorobenzene present as an underlying hazardous constituent (UHC).
12. By letter dated May 17, 2021, Ohio EPA notified Respondent of the violations referenced in Findings Nos. 5. and 9. of these Orders and notified Respondent that based upon information in Findings Nos. 5., 9., 10., and 11. of these Orders that violations referenced in Findings Nos. 5.a., 9.a., and 9.c. of these Orders were resolved.
13. On August 4, 2021, Ohio EPA conducted a Compliance Evaluation Inspection at the Facility. During the inspection, Ohio EPA determined Respondent, *inter alia*:
  - a. Failed to maintain the job title for each position at the Facility related to hazardous waste management, failed to maintain the name of the employee filling each job, failed to maintain a written job description for each position, and failed to maintain a written description of the type and amount of both introductory and continuing training that will be given to each person, in violation of OAC rule 3745-52-17(A)(7)(d)(i)(ii)(iii);
  - b. Failed to include the locations of all emergency equipment in the contingency plan, in violation of OAC rule 3745-52-261(E);
  - c. Failed to include in the quick reference guide, a map depicting locations where hazardous wastes are generated and accumulated as well as identifying the location of the water supply, in violation of OAC rule 3745-52-262(B)(4)(6);
  - d. Failed to provide secondary containment for ancillary equipment that is part of the hazardous waste tank system, in violation of OAC rule 3745-66-93(F);
  - e. Failed to conduct inspections, at least once each operating day, of the hazardous waste tank system, in violation of OAC rule 3745-66-95(A)(B)(1)(2)(3);
  - f. Failed to conduct inspections, at least once each operating day, of ancillary equipment for the hazardous waste tank system, in violation of OAC rule

3745-66-95(E); and

- g. Failed to keep on file written statements by those persons who supervised installation of the new tank system, that the tank system was properly installed and designed and that required repairs were performed, in violation of OAC rule 3745-66-92(G).
14. By email dated September 13, 2021, Respondent provided a response to Ohio EPA which included personnel training documentation and an updated contingency plan that included locations of all emergency equipment and depicted locations of hazardous waste accumulation and generation as well as the water supply in the quick reference guide.
15. By letter dated October 8, 2021, Ohio EPA notified Respondent of the violations referenced in Finding No. 13. of these Orders and notified Respondent that based upon information referenced in Finding No. 14. of these Orders, violations referenced in Findings Nos. 13.a., 13.b, and 13.c. of these Orders were resolved.
16. By letter dated November 5, 2021, Respondent provided a response to Ohio EPA which indicated daily inspections of the hazardous waste tank system and daily inspections of the ancillary equipment are being conducted. Respondent provided two weeks of completed inspection logs as part of this submittal. Respondent also stated it has engaged an engineering company to assess the ancillary equipment to provide options for secondary containment. Respondent provided a copy of the October 7, 2021 assessment that was conducted on the concrete containment basin on which the tank sits. The assessment identified several cosmetic issues but did not find any major deficiencies and concluded that the structure is at very low risk for structural cracking, spalling, or deterioration.
17. On January 10, 2022, Respondent provided a response to Ohio EPA indicating a leak detection sensor was installed in the sump for the concrete secondary containment and a new level sensor was installed in the hazardous waste tank.
18. By letter dated January 18, 2022, Ohio EPA notified Respondent that based upon the information in Findings Nos. 16. and 17. of these Orders that the violations referenced in Findings Nos. 13.e. and 13.f. of these Orders were resolved.
19. By email dated March 30, 2022, Respondent notified Ohio EPA that they expect the engineering design phase of the new hazardous waste tank system to be completed by May 31, 2022.
20. Because Respondent committed to procedures to ensure the proper management of hazardous waste as described in Findings Nos. 8. and 10. of these Orders, the

Director has determined that there is no further action required of Respondent at this time regarding the violations referenced in Findings Nos. 5.b. and 9.b. of these Orders.

## **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:
  - a. By May 31, 2022, submit an engineering plan, including an implementation schedule to Ohio EPA that will address the hazardous waste tank system requirements in OAC rules 3745-66-92 and 3745-66-93.
  - b. Within 180 days after submittal of the engineering plan to Ohio EPA, install the upgraded tank system and certify the design and installation in accordance with OAC rule 3745-66-92(A) through (G), as well as demonstrate compliance with OAC rules 3745-66-94, 3745-66-95, and 3745-66-98. Compliance with this Order will resolve the violations referenced in Findings Nos. 13.d. and 13.g. of these Orders.
2. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$10,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and which will be deposited into the environmental protection remediation fund established pursuant to ORC § 3734.281. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$10,000.00. The official check shall be submitted to Ohio EPA, PO Box 77005, Cleveland, Ohio 44194-7005, together with a letter identifying the Respondent. Notification of penalty payment shall be sent to the Hazardous Waste Program Compliance Assurance Manager, Ohio EPA, Division of Environmental Response and Revitalization, P.O. Box 1049, Columbus, Ohio 43216-1049 or via electronic mail at Mitchell.mathews@epa.ohio.gov.

## **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

Environmental Response and Revitalization 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 [e.g., corporate officer] who is in charge of a principal business function of 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 (except penalty payment checks) required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Northeast District Office  
Division of Environmental Response and Revitalization



Director's Final Findings and Orders  
WMRE of Ohio – American LLC  
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2110 East Aurora Road  
Twinsburg, Ohio 44087  
Attn: Hazardous Waste Program Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Manager, Hazardous Waste Compliance Assurance Section  
Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Environmental Response and Revitalization  
P.O. Box 1049  
Columbus, Ohio 43216-1049

For deliveries to the building:

Manager, Hazardous Waste Compliance Assurance Section  
Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Environmental Response and Revitalization  
50 West Town Street  
Columbus, Ohio 43215

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

For electronic mail delivery, submit documents to the following email addresses:

Mitchell.Mathews@epa.ohio.gov  
Natalie.Oryshkewych@epa.ohio.gov

#### **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**

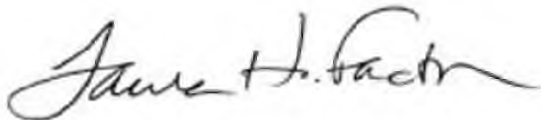
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

#### **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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Laurie A. Stevenson  
Director

**IT IS SO AGREED:**

WMRE of Ohio - American LLC

  
\_\_\_\_\_  
Signature

5-4-22  
Date

  
\_\_\_\_\_  
Printed or Typed Name

Vice President  
Title



Mike DeWine, Governor  
Jon Husted, Lt. Governor  
Laurie A. Stevenson, Director

### Ohio EPA Invoice

Date Printed: May 25, 2022

WMRE of Ohio - American LLC  
7916 Chapel St SE  
Waynesburg, OH 44688

Receivable ID: 1489617  
*Please include this Receivable ID with all correspondence*

Due Date: June 25, 2022  
Amount Due: \$10,000.00  
Effective Date: May 25, 2022

Revenue Description: DERR - Findings and Orders - Hazardous Waste Cleanup (FFOHW)  
Program Name: RCRA C - Hazardous Waste  
Reason: Per Director's Final Findings and Orders, Penalty Fee

**How to Pay Fee Online:**

1. Go to Ohio EPA's homepage: <https://epa.ohio.gov/>
2. In the "Featured Content" section locate the tile for the eBusiness Center and click.
3. On the right side of the screen click the blue "Launch" tile to enter the eBusiness Center.
4. To use the eBusiness center you will need an account. If you have an account, click the OH|ID icon in the light blue section on the left of the screen to log in.
5. If you do not have an account, the light blue section on the right of the screen has eBiz Help Wizard to assist with creating an account.
6. If you are paying your receivable with a credit card no PIN is required. If you plan to pay using a bank account and routing information you will need to request a PIN.

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CUT OFF THIS STUB AND MAIL IT WITH YOUR CHECK. DO NOT MAIL TOP PORTION.

Pay to: Treasurer, State of Ohio. Please write the Revenue ID on your check. Please send this stub with your check. DO NOT SEND LETTERS OR OTHER FORMS.

Ohio EPA  
PO Box 77005  
Cleveland, OH 44194-7005

Due Date:	6/25/2022
Revenue ID:	1489617
Amount Due	\$10,000.00
Type Code:	FFOHW
Transaction ID:	