

Issuance Date: _____

Effective Date: _____

BEFORE THE OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter Of:

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|--------------------------|---|---------------------|
| Pike Sanitation, Inc. | : | Director's Final |
| Pike Sanitation Landfill | : | Findings and Orders |
| 123 South Lock Street | : | |
| Waverly, Ohio 45690 | : | |

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Pike Sanitation, Inc. pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) Section 3714.04.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Pike Sanitation, Inc. and any successors in interest liable under Ohio law. No change in ownership of Pike Sanitation, Inc., or of the Facility, as hereinafter defined, shall in any way alter Pike Sanitation, Inc.'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 3714 and the rules promulgated thereunder. Unless otherwise stated, all OAC Rule citations shall refer to rules in effect on the date of these Orders.

IV. FINDINGS

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

1. Pike Sanitation, Inc. is the owner, operator, permittee, and licensee of the Pike

Sanitation Landfill (Facility) located at 11775 State Route 220, Waverly, Pike County, Ohio. The Facility is a "sanitary landfill facility" as that term is defined in OAC Rule 3745-27-01(S)(4). Pike Sanitation, Inc. is currently operating the Facility pursuant to Permit-to-Install (PTI) Number 06-4200 issued April 12, 1996.

2. On January 15, 2005, Governor Taft signed into law Amended Substitute House Bill Number 432. This bill amended sections 3714.01, 3714.09, and 3734.02, enacted new section 3714.07 and sections 3714.021, 3714.071, and 3714.072, and repealed section 3714.07 of the Revised Code to replace the construction and demolition debris facility license fee with a fee on the disposal of construction and demolition debris at construction and demolition debris facilities and solid waste facilities, to authorize the Director of environmental protection to levy an additional disposal fee at construction and demolition debris facilities to pay for ground water monitoring at construction and demolition debris facilities, to require ground water monitoring at construction and demolition debris facilities under certain circumstances, to revise the definition of "construction and demolition debris," and to extend the term of hazardous waste facility installation and operation permits from five to ten years. This bill became effective on April 15, 2005.
3. Specifically, ORC Section 3714.07(A)(1) states, "For the purpose of assisting boards of health and the environmental protection agency in administering and enforcing this chapter and rules adopted under it, there is hereby levied on the disposal of construction and demolition debris at a construction and demolition debris facility that is licensed under this chapter or at a solid waste facility that is licensed under Chapter 3734. of the Revised Code a fee of thirty cents per cubic yard or sixty cents per ton, as applicable."
4. However, ORC Section 3714.07(E)(1) contains a provision that excludes solid waste facilities from the requirement to collect the disposal fee on the disposal of construction and demolition debris if there is no licensed construction and demolition debris facility located within forty miles of the solid waste facility, as determined by the facilities' property boundaries. Both the Ohio House of Representatives and the Ohio Senate have adopted versions of pending budget legislation that, if enacted, will reduce the exclusion zone established by ORC Section 3714.07(E)(1) from forty miles to thirty-five miles. The Facility is located approximately 38.3 miles from the property boundary of the nearest licensed construction and demolition debris facility.
5. On April 4, 2005, Ohio EPA received a letter from Pike Sanitation, Inc. titled "02(G) Exemption Request from Collection of C&DD Fees Authorized Under HB 432 Pike Sanitation, Inc., Waverly, Ohio." The letter, dated March 31, 2005, requested an exemption from the requirement to charge the disposal fee on construction and demolition debris disposed at the Facility as required by ORC Section

3714.07(A)(1).

6. Pursuant to ORC Section 3714.04, the Director may by order exempt any person disposing of or proposing to dispose of construction and demolition debris in such quantities or under such circumstances that, in the determination of the Director or board of health, are unlikely to adversely affect the public health or safety or the environment, or to create a fire hazard, from any provision of this chapter or a rule adopted or order issued under it, other than division (B) of section 3714.03 or division (E) of section 3714.13 of the Revised Code.
7. Granting Pike Sanitation, Inc. an exemption from the requirement to charge the disposal fee on construction and demolition debris disposed at the Facility, as required by ORC Section 3714.07(A)(1), is unlikely to adversely affect the public health or safety or the environment, provided Pike Sanitation, Inc. complies with the following orders.

V. ORDERS

1. Pursuant to ORC Section 3714.04, Pike Sanitation, Inc. is hereby exempted from the requirement to charge the fee of thirty cents per cubic yard or sixty cents per ton on construction and demolition debris disposed at the Facility.
2. Nothing in these Orders shall be construed to authorize any waiver from the requirements of any other applicable federal or state laws or regulations. These Orders shall not be interpreted to release Pike Sanitation, Inc. from responsibility under ORC Chapters 3704, 3714, 3734, or 6111; under the Federal 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.

VI. TERMINATION

This exemption shall terminate on November 1, 2005, or upon issuance of a license for a construction and demolition debris disposal facility located within thirty-five miles of the property boundary of the Facility, whichever occurs first.

VII. 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 Pike Sanitation, Inc. and/or the Facility.

VIII. 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, including seeking penalties against Pike Sanitation, Inc. for noncompliance with these Orders. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Pike Sanitation, Inc. to perform additional activities pursuant to ORC Chapter 3714 or 3734, or any other applicable law in the future. Nothing herein shall restrict the right of Pike Sanitation, Inc. to raise any administrative, legal, or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Pike Sanitation, Inc. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations which may occur at the Facility.

IT IS SO ORDERED:

Joseph P. Koncelik, Director
Ohio Environmental Protection Agency