

Issuance Date: \_\_\_\_\_

Effective Date: \_\_\_\_\_

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

|                           |   |                            |
|---------------------------|---|----------------------------|
| SR Recycle, Inc.          | : | <u>Director's Final</u>    |
| Attn: Sam DiPasquale      | : | <u>Findings and Orders</u> |
| 11 White Hawk Trail       | : |                            |
| Patterson, New York 12563 | : |                            |

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to SR Recycle, Inc. ("SR"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Chapter 3714. and Ohio Administrative Code ("OAC") Chapter 3745-37.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon SR and any successors in interest liable under Ohio law. No change in ownership of SR, or of the Facility as hereinafter defined, shall in any way alter SR'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.

**IV. FINDINGS**

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

1. On September 27, 2005, SR submitted an application for a 2006 Construction and Demolition Debris ("C&DD") Facility License to establish and operate the SR Recycle, Inc. C&DD Landfill ("Facility") to be located on the north side of U.S. Route 30, approximately 0.7 miles from the intersection of U.S. Route 30 and State Route 644 in Kensington, Hanover Township, Columbiana County, Ohio. The Facility is a licensed C&DD landfill, which has not yet been constructed.

2. SR is the "applicant" as that term is defined in OAC Rule 3745-400-01.
3. On September 30, 1996, OAC Chapter 3745-400 and amendments to OAC Chapter 3745-37 (collectively the "C&DD Rules") became effective. Together, these OAC Chapters regulate the design, construction, licensing, operation, and closure of C&DD landfills.
4. The Director of Ohio EPA is the jurisdictional licensing authority for C&DD facilities located in Columbiana County.
5. ORC Section 3734.03 prohibits any person from disposing of "solid wastes by open burning or open dumping, except as authorized by the director of environmental protection...". OAC Rule 3745-27-05(C) further provides that "[n]o person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or has occurred at a property, the person(s) responsible for the open dumping, the owner of the property, or the person(s) who allow or allowed open dumping to occur, shall promptly remove and dispose or otherwise manage the solid waste in accordance with Chapter 3734. of the Revised Code, and shall submit verification that the solid waste has been properly managed."
6. Ohio EPA cited SR in violation of ORC Section 3734.03 and OAC Rule 3745-27-05(C) for illegally disposing of solid wastes by open dumping, or allowing disposal of solid wastes by open dumping, in Notice of Violation ("NOV") letters dated June 28, 2004; July 29, 2004; November 5, 2004; January 31, 2005; August 26, 2005; August 26, 2005; and November 3, 2005. SR was also cited by Ohio EPA's Division of Hazardous Waste Management ("DHWM") for open dumping and the unpermitted storage and disposal of hazardous waste, among other violations.
7. On May 24, 2005, Ohio EPA sent an Invitation to Negotiate ("ITN") Director's Final Findings and Orders to SR. However, negotiations were unsuccessful. Thus, on December 27, 2005, the Director referred SR to the Attorney General's Office ("AGO") to address violations of ORC Chapter 3734.
8. OAC Rule 3745-37-03 establishes criteria for issuing C&DD facility operating licenses.
9. Pursuant to OAC Rule 3745-37-03(C)(3), the licensing authority shall not issue a construction and demolition debris facility license unless the owner or operator, who has previously or is currently responsible for the management or operation of one or more facilities licensed under ORC Chapters 3714. or 3734., has managed or operated such facility in substantial compliance with applicable provisions of ORC Chapters 3714., 3704., 3734., and 6111., and any rules and permits issued thereunder.

10. As evidenced by the violations noted in Finding Number 6, above, as well as other violations, the May 24, 2005, ITN and the December 27, 2005, enforcement referral to the AGO, SR has not maintained substantial compliance with the applicable provisions of ORC Chapters 3714. and 3734., and any rules and permits issued thereunder.
11. Because SR has not maintained substantial compliance with the applicable provisions of ORC Chapters 3714. and 3734., and any rules and permits issued thereunder, the Director, as the licensing authority, cannot issue a C&DD facility license to SR for the Facility.

#### **V. ORDERS**

1. The 2006 C&DD facility license application submitted by SR Recycle, Inc. for its Facility located on the north side of U.S. Route 30, approximately 0.7 miles from the intersection of U.S. Route 30 and State Route 644 in Kensington, Hanover Township, Columbiana County, Ohio, is hereby denied.

#### **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 SR and/or the Facility.

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

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**IT IS SO ORDERED**

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Joseph P. Koncelik, Director  
Ohio Environmental Protection Agency