

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT
OFFICE OF THE DIRECTOR

In the matter of administrative proceedings)
against **HARLAND'S SANITARY**)
LANDFILL, INC., a corporation organized)
under the laws of the State of Michigan and)
doing business at 3890 Camp Road, in the)
City of Manistee, County of Manistee, State)
of Michigan.)

AQD No. 8-2010

SRN: N3634

STIPULATION FOR ENTRY OF FINAL ORDER
BY CONSENT

This proceeding resulted from allegations by the Michigan Department of Natural Resources and Environment ("MDNRE") Air Quality Division ("AQD") against Harland's Sanitary Landfill, Inc., ("Company"), a Michigan corporation with its primary business at 3890 Camp Road in the City of Manistee, County of Manistee, State of Michigan, with State Registration Number ("SRN") N3634. The MDNRE alleges that the Company is in violation of the Michigan Administrative Code ("MAC"), 2003 AACRS, R 336.1201 ("Rule 201") for unpermitted elevated sulfur dioxide (SO₂) emissions, and MAC 2006 AACRS, R 336.2801 et seq ("Rule 1801 et seq"), which implements the Prevention of Significant Deterioration major source preconstruction permit program required by 40 CFR Section 52.21. Specifically, the MDNRE alleges that sulfur dioxide (SO₂) emissions as a result of the combustion of hydrogen sulfide at this Company's municipal solid waste landfill gas flare exceed the federal Prevention of Significant Deterioration (PSD) regulations, 40 CFR 52.21(b) and Rule 1801 et seq as cited herein and referenced in the Violation Notice dated July 29, 2009. The Company and MDNRE stipulate to the termination of this proceeding by entry of a Stipulation for Entry of a Final Order by Consent ("Consent Order").

The Company and MDNRE stipulate as follows:

1. The Natural Resources and Environmental Protection Act, 1994 PA 451, ("Act 451"), MCL 324.101 et seq. is an act that controls pollution to protect the environment and natural resources in the State.

2. Article II, Pollution Control, Part 55 of Act 451 ("Part 55"), MCL 324.5501 et seq. provides for air pollution control regulations in this State.
3. The MDNRE was created as a principal department within the Executive Branch of the State of Michigan pursuant to Executive Order 2009-45 and has all statutory authority, powers, duties, functions and responsibilities to administer and enforce all provisions of Part 55.
4. The Director has delegated authority to the Chief of the AQD ("AQD Chief") to enter into this Consent Order.
5. The termination of this matter by a Consent Order pursuant to Section 5528 of Part 55 is proper and acceptable.
6. The Company and the MDNRE agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by the Company of any fact alleged by MDNRE or that any law has been violated.
7. This Consent Order becomes effective on the date of execution ("effective date of this Consent Order") by the AQD Chief.
8. The Company shall achieve compliance with the aforementioned regulations in accordance with the requirements contained in this Consent Order.

COMPLIANCE PROGRAM AND IMPLEMENTATION SCHEDULE

9. A. Permit to Install No. 357-08A
 1. Permit to Install No. 357-08A shall be attached hereto as Exhibit A of this Consent Order.
 2. Upon revision or renewal of Renewable Operating Permit (ROP) MI-ROP-N3634-2005 which incorporates Permit to Install No. 357-08A, the ROP will be attached hereto as revised Exhibit A of this Consent Order.
- B. Control Program and Installation Schedule
 1. By March 15, 2010, the Company shall notify the AQD Cadillac District Supervisor in writing that the purchase has occurred of the appropriate air pollution control equipment to bring the Company into compliance with the provisions of Rule 1801 et seq.
 2. By March 15, 2010, the Company shall begin on-site installation of the required air pollution control device(s) and associated equipment in accordance with the permit to install

issued pursuant to paragraph 9.A. of this Consent Order and shall notify the AQD Cadillac District Supervisor in writing that this installation has begun.

3. By June 6, 2010, the Company shall have completed the installation of the appropriate sulfur removal system air pollution control equipment and notified the AQD Cadillac District Supervisor in writing that the installation has been completed and operation of the equipment has commenced in accordance with the provisions of the Exhibit A and as specified in Condition IX. OTHER REQUIREMENTS 2. of Exhibit A of this Consent Order.

C. Final Emission and Material Limitations

1. The SO₂ emission rate from the sulfur removal system for reducing sulfur content of landfill gas prior to combustion shall not exceed 36 tons SO₂ per year based upon a 12-month rolling time period as determined at the end of each calendar month with the first month of emissions included in this calculation beginning on June 6, 2010, as specified in Special Condition No. I EMISSION LIMITS of Exhibit A.

2. On and after commencement of the sulfur removal system for reducing sulfur content of landfill gas prior to combustion, the landfill gas hydrogen sulfide concentration shall not exceed 400 ppm after treatment in the sulfur removal system, as specified in Special Condition No. II. MATERIAL LIMITS, 1. of Exhibit A.

D. Operating Conditions

1. On and after the later of the effective date of this Consent Order, and the date of trial operation of the sulfur removal system, the Company shall not operate EUFLARE1 unless the sulfur removal system is installed, maintained, and operated in a satisfactory manner, including submitting, operating and maintaining compliance with the approved malfunction abatement operation and maintenance plan, as specified in Special Condition No. IV DESIGN/EQUIPMENT PARAMETERS 1. of Exhibit A.

2. On and after the effective date of this Consent Order, the Company shall maintain a gas flow measuring device that shall continuously record the total actual flow of landfill gas to EUFLARE1, as specified in VI. MONITORING/RECORDKEEPING 1, of Exhibit A.

RECORDKEEPING, REPORTING AND TESTING

10. On and after the effective date of this Consent Order, the Company shall monitor and record, on a weekly basis, the hydrogen sulfide concentration of the treated landfill gas. If after a year,

each of the weekly readings of the hydrogen sulfide concentration of the treated landfill gas were below 400 ppm, the Company may petition the AQD Cadillac District Supervisor to reduce the frequency of monitoring and recording the hydrogen sulfide concentration of the treated landfill gas to once a month. If at any time the hydrogen sulfide concentration readings exceed 400 ppm, the Company shall resume monitoring and recording on a weekly basis and shall review all operating and maintenance activities for the sulfur removal system along with keeping records of corrective actions taken. Once the weekly readings have maintained below 400 ppm of hydrogen sulfide concentration in the landfill gas for eight consecutive weeks after an exceedence, the Company may resume monthly monitoring and recordkeeping. The Company shall keep all records on file at the facility for a period of at least five years and make them available to the MDNRE upon request.

11. Consistent with paragraph 9.C.1 of this Consent Order, the Company shall keep, in a satisfactory manner, monthly and 12-month rolling SO_x emission calculations for EUFLARE1. The Company shall keep all records on file at the facility for a period of at least five (5) years and make them available to the MDNRE upon request.

GENERAL PROVISIONS

12. On and after the effective date of this Consent Order, except as otherwise provided by the administrative rules of Part 55, the Company shall not install, construct, reconstruct, relocate, alter, or modify any process or process equipment including control equipment pertaining thereto, which may emit an air contaminant, unless a permit to install which authorizes such action is issued by the MDNRE pursuant to Rule 201, the Company is issued a waiver pursuant to Rule 202, or the change is exempt from the requirements of Rule 201.

13. This Consent Order in no way affects the Company's responsibility to comply with any other applicable state and federal, or local laws or regulations, including without limitation, any amendments to the federal Clean Air Act, 42 USC 7401 *et seq.*, Act 451, Part 55 or their rules and regulations, or to the State Implementation Plan.

14. This Consent Order constitutes a full and complete civil settlement and satisfaction as to the resolution of the violations specifically addressed herein and in the Violation Notice; however, it does not resolve any criminal action that may result from these same violations.

15. Within thirty (30) days after the effective date of this Consent Order, the Company shall pay to the General Fund of the State of Michigan, in the form of a check made payable to the "State of

Michigan" and delivered to the Michigan Department of Natural Resources and Environment, Financial and Business Services Division, Revenue Control, P.O. Box 30657, Lansing, Michigan 48909-8157, a settlement amount of \$80,000.00, which includes AQD costs for investigation and enforcement. This total settlement amount shall be paid within thirty (30) days of the effective date of this Consent Order. To ensure proper credit, all payments made pursuant to this Consent Order shall include the Agreement Identification No. AQD3320 on the face of the check. This settlement amount is in addition to any fees, taxes, or other fines that may be imposed on the Company by law.

16. On and after the effective date of this Consent Order, if the Company fails to comply with paragraph 12 of this Consent Order, the Company is subject to a stipulated fine of up to \$10,000.00 per violation. On and after the effective date of this Consent Order, if the Company fails to comply with paragraph 9.C.1 of this Consent Order, the Company is subject to stipulated fines of up to \$4,000.00 per violation per month. On and after the effective date of this Consent Order, if the Company fails to comply with paragraphs 9.D.1 or 9.C.2 of this Consent Order, the Company is subject to stipulated fines of up to \$1,000.00 per violation per day. On and after the effective date of this Consent Order, if the Company fails to comply with any other provision of this Consent Order (excluding general conditions of Exhibit A and paragraphs 9.D.2 or 9.A.2), the Company is subject to a stipulated fine of up to \$500.00 per violation. The amount of the stipulated fines imposed pursuant to this paragraph shall be within the discretion of the MDNRE. Stipulated fines submitted under this Consent Order shall be by check, payable to the State of Michigan, within thirty (30) days after written demand and shall be delivered to the Michigan Department of Natural Resources and Environment, Financial and Business Services Division, Revenue Control, P.O. Box 30657, Lansing, Michigan 48909-8157. To ensure proper credit, all payments shall include the Agreement Identification No. AQD3320S on the face of the check. Payment of stipulated fines shall not alter or modify in any way the Company's obligation to comply with the terms and conditions of this Consent Order.

17. The AQD, at its discretion, may seek stipulated fines or statutory fines for any violation of this Consent Order which is also a violation of any provision of applicable federal and state law, rule, regulation, permit, or MDNRE administrative order. However, the AQD is precluded from seeking both a stipulated fine under this Consent Order and a statutory fine for the same violation.

18. To ensure timely payment of the settlement amount assessed in paragraph 15 and any stipulated fines assessed pursuant to paragraph 16 of this Consent Order, the Company shall pay an interest penalty to the State of Michigan each time it fails to make a complete or timely payment under

this Consent Order. The interest penalty shall be determined at a rate that is one percent (1%) plus the average interest rate paid at auction of 5-year United States Treasury notes during the six (6) months immediately preceding July 1 and January 1, as certified by the State Treasurer, compounded annually, using the full increment of amount due as principal, calculated from the due date specified in this Consent Order until the date that delinquent payment is finally paid in full. Payment of an interest penalty by the Company shall be made to the State of Michigan in accordance with paragraph 15 of this Consent Order. Interest payments shall be applied first towards the most overdue amount or outstanding interest penalty owed by the Company before any remaining balance is applied to subsequent payment amount or interest penalty.

19. The Company agrees not to contest the legal basis for the settlement amount assessed pursuant to paragraph 15. The Company also agrees not to contest the legal basis for any stipulated fines assessed pursuant to paragraph 16 of this Consent Order, but reserves the right to dispute in a court of competent jurisdiction the factual basis upon which a demand by MDNRE of stipulated fines is made. In addition, the Company agrees that said fines have not been assessed by the MDNRE pursuant to Section 5529 of Part 55 and therefore are not reviewable under Section 5529 of Part 55.

20. This compliance program is not a variance subject to the 12 month limitation specified in Section 5538 of Part 55.

21. This Consent Order shall remain in full force and effect for a period of at least three (3) years. Thereafter, the Consent Order shall terminate only upon written notice of termination issued by the AQD Chief. Prior to issuance of a written notice of termination, the Company shall submit a request, to the AQD Chief at the Michigan Department of Natural Resources and Environment, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, consisting of a written certification that the Company has fully complied with all the requirements of this Consent Order and has made all payments including all stipulated fines required by this Consent Order. Specifically, this certification shall include: (i) the date of compliance with each provision of the compliance program and the date any payments or stipulated fines were paid; (ii) a statement that all required information has been reported to the AQD Cadillac District Office District Supervisor; (iii) confirmation that all records required to be maintained pursuant to this Consent Order are being maintained at the facility; and, (iv) such information as may be requested by the AQD Chief.

22. In the event Harland's Sanitary Landfill, Inc. sells or transfers the facility, with SRN: N3634, it shall advise any purchaser or transferee of the existence of this Consent Order in connection

with such sale or transfer. Within thirty (30) calendar days, the Company shall also notify the AQD Cadillac District Office District Supervisor, in writing, of such sale or transfer, the identity and address of any purchaser or transferee, and confirm the fact that notice of this Consent Order has been given to the purchaser and/or transferee. As a condition of the sale, Harland's Sanitary Landfill, Inc. must obtain the consent of the purchaser and/or transferee, in writing, to assume all of the obligations of this Consent Order. A copy of that agreement shall be forwarded to the AQD Cadillac District Office District Supervisor within thirty (30) days of assuming the obligations of this Consent Order.

23. Prior to the effective date of this Consent Order and pursuant to the requirements of Sections 5511 and 5528(3) of Part 55, the public was notified of a 30-day public comment period and was provided the opportunity for a public hearing.

24. Section 5530 of Part 55 may serve as a source of authority but not a limitation under which the Consent Order may be enforced. Further, Part 17 of Act 451 and all other applicable laws and any other legal basis or applicable statute may be used to enforce this Consent Order.

25. The Company hereby stipulates that entry of this Consent Order is a result of an action by MDNRE to resolve alleged violations of its facility located at 3890 Camp Road, in the City of Manistee, Michigan. The Company further stipulates that it will take all lawful actions necessary to fully comply with this Consent Order, even if the Company files for bankruptcy in the future. The Company will not seek discharge of the settlement amount and any stipulated fines imposed hereunder in any future bankruptcy proceedings, and the Company will take necessary steps to ensure that the settlement amount and any future stipulated fines are not discharged. The Company, during and after any future bankruptcy

proceedings, will ensure that the settlement amount and any future stipulated fines remain an obligation to be paid in full by the Company to the extent allowed by applicable bankruptcy law.

The undersigned certifies that he/she is fully authorized by the Company to enter into this Consent Order and to execute and legally bind the Company to it.

HARLAND'S SANITARY LANDFILL, INC.

Todd M. Harland - General Manager
Print Name and Title

[Signature] Date: 3/8/10
Signature

The above signatory subscribed and sworn to before me this 8 day of March, 2010.

[Signature]
Notary Public

Approved as to Content:

[Signature]
G. Vinson Hellwig, Chief
AIR QUALITY DIVISION
DEPARTMENT OF
NATURAL RESOURCES AND
ENVIRONMENT

Approved as to Form:

[Signature]
Alan F. Hoffman, Section Head
ENVIRONMENTAL REGULATION SECTION
ENVIRONMENT, NATURAL RESOURCES,
AND AGRICULTURE DIVISION
DEPARTMENT OF ATTORNEY GENERAL

Dated: 3/8/10

Dated: 3/12/10

DENEEN ROSKOSKI
NOTARY PUBLIC, STATE OF MI
ACTING IN COUNTY OF
MY COMMISSION EXPIRES Apr 7, 2016
COUNTY OF MANISTEE

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FINAL ORDER

The Chief of the Air Quality Division having had opportunity to review the Consent Order and having been delegated authority to enter into Consent Orders by the Director of the Michigan Department of Natural Resources and Environment pursuant to the provisions of Part 55 of Act 451 and otherwise being fully advised on the premises,

HAS HEREBY ORDERED that the Consent Order is approved and shall be entered in the record of the MDNRE as a Final Order.

MICHIGAN DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT


G. Vinson Hellwig, Chief
Air Quality Division

Dated: 3/11/10