

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

In the Matter of:

Waste Management of Michigan, Inc.
Southwest Ottawa County Landfill Superfund Site
Ottawa County

MDEQ Reference No. AOC-RRD-07-009

**ADMINISTRATIVE ORDER BY CONSENT
FOR PAYMENT OF PAST COSTS**

A. This Administrative Order by Consent for Payment of Past Costs (Order) is entered into voluntarily by and between the Michigan Department of Environmental Quality (MDEQ) and the Michigan Department of Attorney General (MDAG) (collectively, the State), and Waste Management of Michigan, Inc., pursuant to the authority vested in the MDEQ and the MDAG by Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.20101 *et seq.* All terms used in this Order, which are defined in Part 201 or the Part 201 Administrative Rules, 2002 AACSR 299.5101 *et seq.* (Part 201 Rules), shall have the same meaning in this Order as in Part 201 and the Part 201 Rules.

B. This Order concerns the settlement between the State and Waste Management of Michigan, Inc. (alternatively, hereinafter, the "Reimbursing Party"), of the State's past response activity costs, which were incurred by the State in responding to the release or threat of release of hazardous substances at and emanating from the Southwest Ottawa County Landfill (the Property). The Property is located between James and Riley Streets on 160th Avenue near Holland in Ottawa County, Michigan. The Property and any associated area, place, or property where concentrations of hazardous substances exceed the residential cleanup criteria of Section 20120a(1)(a) and (17) of the NREPA (the Facility), as further defined in the Part 201 Rules, is a facility as defined by Part 201 and is subject to regulation under Part 201.

C. Pursuant to Part 201, the State has incurred costs in responding to the release or threat of a release of hazardous substances at the Facility. Pursuant to Section 20126a(1)(a) of the NREPA, a person who is liable under Section 20126 is liable for all response activity costs lawfully incurred by the State. The parties to this Order desire to resolve all claims for past response activity costs that the State has incurred and paid. Settlement of this claim is in the public interest and will minimize litigation.

D. The execution of this Order by the Reimbursing Party is neither an admission of liability with respect to any issue covered under this Order nor an admission or denial of any findings of fact or legal determinations stated or implied herein.

E. This Order shall apply to and be binding upon the Reimbursing Party and its successors and assigns. No change or changes in the ownership or corporate status of the Reimbursing Party shall alter in any way the Reimbursing Party's obligations under this Order. The signatories to this Order certify that they are authorized to execute this Order and legally bind the parties they represent.

BASED UPON THE FOREGOING FACTS AND DETERMINATIONS, THE MDEQ AND THE ATTORNEY GENERAL HEREBY ORDER, AND REIMBURSING PARTY HEREBY AGREE, TO THE FOLLOWING:

1. Within thirty (30) days of the effective date of this Order, the Reimbursing Party shall pay to the State Five Hundred and Seventy-Five Thousand Dollars (\$575,000) to resolve all claims for past response activity costs for the Facility. For the purposes of this Order, the term "past response activity costs" means costs that the State has incurred and paid for response activities at the Facility prior to November 20, 2007. "Past response activity costs" does not include costs that the State has incurred, but has not yet paid.

Payment is to be made by check payable to the "State of Michigan - Environmental Response Fund" and sent to:

Revenue Control Unit
Financial and Business Services Division
Michigan Department of Environmental Quality
P.O. Box 30657
Lansing, Michigan 48909-8157

Via Courier:

Revenue Control Unit
Financial and Business Services Division
Michigan Department of Environmental Quality
Constitution Hall, 5th Floor, South Tower
525 West Allegan Street
Lansing, MI 48933-2125

To ensure proper credit, payment made pursuant to this Order must be made by check referencing the Southwest Ottawa County Landfill, the MDEQ Reference No. AOC-RRD-07-009, and the Remediation and Redevelopment Division Account Number RRD-2227. A copy of the transmittal letter and the check shall be provided simultaneously to:

The MDEQ Project Coordinator:
Cindy Fairbanks
Superfund Section
Remediation and Redevelopment Division
Michigan Department of Environmental Quality
P.O. Box 30426
Lansing, MI 48909
Phone: 517-335-4111
FAX: 517-335-4887

and to:

Neil Gordon
Assistant Attorney General in Charge
Environment, Natural Resources, and Agriculture Division
Michigan Department of Attorney General
P.O. Box 30755
Lansing, Michigan 48909

Costs recovered pursuant to this Order shall be deposited in the Environmental Response Fund in accordance with the provisions of Section 20108(3) of the NREPA.

2. If the Reimbursing Party fails to pay the amount indicated in Paragraph 1 pursuant to the schedule set forth therein, the Reimbursing Party shall also pay the State interest on the balance not paid at the rate provided in Section 20126a(3) of the NREPA. If the Reimbursing Party's payment is more than thirty (30) days past due, the Reimbursing Party shall also pay the State stipulated penalties of Five Hundred Dollars (\$500.00) per day for every day of its noncompliance with Paragraph 1. If the MDEQ does not receive full payment from the Reimbursing Party, including any accrued interest and penalties, within (10) days after the date specified in Paragraph 1, and the MDEQ has notified the Reimbursing Party of its failure to make such payment, the State, at its complete and unilateral discretion, may void this Order by sending written notification of such to the Reimbursing Party.

3. In consideration of the payment to be made by the Reimbursing Party under the terms of this Order, except as otherwise provided in this Order, the State covenants not to sue or to take further administrative action against the Reimbursing Party for the past response activity costs addressed in Paragraph 1. With respect to the Reimbursing Party's liability for past response activity costs, the State's covenant not to sue shall take effect upon the MDEQ's receipt of full payment from the Reimbursing Party for the amount specified in Paragraph 1 and any associated interest and penalties that may have accrued pursuant to Paragraph 2. The covenant not to sue applies only to past response activity costs and shall not be construed as a covenant not to sue for any other liability that the Reimbursing Party may have to the State for the Facility. The covenant not to sue shall extend only to the Reimbursing Party and does not extend to any other person.

4. Nothing in this Order shall be construed as releasing or discharging any liability of any person to the Reimbursing Party and the Reimbursing Party specifically reserves its rights against such persons.

5. The Reimbursing Party agrees that all applicable statutes of limitation are tolled until the Reimbursing Party has complied with the terms of this Order.

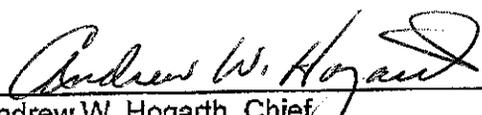
6. The State reserves all of its rights under state and federal law to perform response activities and to take enforcement action, including action to seek injunctive relief, the recovery of response activity costs not addressed by this Order, the recovery of natural resource damages and costs incurred to assess natural resource damages, monetary penalties, punitive damages for any violation of law or this Order, and liability for criminal acts. The State expressly reserves all of its rights and defenses pursuant to any available legal authority to enforce this Order.

7. Nothing in this Order shall limit the power and authority of the State, pursuant to Section 20132(8) of the NREPA, to direct or order all appropriate action to protect the public health, safety, or welfare, or the environment; or to prevent, abate, or minimize a release or threatened release of hazardous substances, pollutants, or contaminants on, at, or from the Facility.

8. Pursuant to Section 20129(5) of the NREPA, and to the extent provided in Paragraph 3, the Reimbursing Party shall not be liable for claims for contribution for the matters addressed in this Order. Entry of this Order does not discharge the liability of any other person that may be liable under Section 20126 of the NREPA, or Sections 107 and 113 of the CERCLA, 42 USC Sections 9607 and 9613, to the extent allowable by law. Pursuant to Section 20129(9) of the NREPA, any action by the Reimbursing Party for contribution from any person not a party to this Order shall be subordinate to the rights of the State if the State files an action pursuant to Part 201 or other applicable federal or state laws.

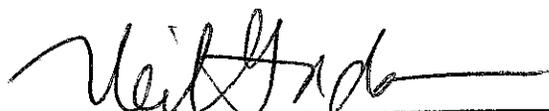
9. This Order shall become effective on the date that the State signs this Order. All dates for the performance of obligations under this Order shall be calculated from the effective date of this Order. For the purposes of this Order, the term "day" shall mean a calendar day unless otherwise noted.

IT IS SO AGREED TO AND ORDERED BY:



Andrew W. Hogarth, Chief
Remediation and Redevelopment Division
Michigan Department of Environmental Quality

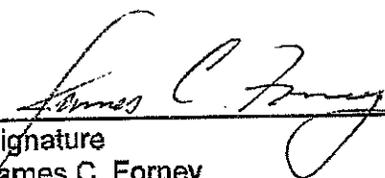
12/20/07
Date



Neil Gordon [P56374]
Assistant Attorney General
Environment, Natural Resources, and Agriculture Division
Michigan Department of Attorney General

12/20/2007
Date

IT IS SO AGREED BY:



Signature
James C. Forney
Area Director, Mideast - Closed Sites Group
Waste Management of Michigan, Inc.

20 Dec 2007
Date