STATE OF MICHIGAN

DEPARTMENT OF ENVIRONMENTAL QUALITY

LANSING

RICK SNYDER
GOVERNOR

C. HEIDI GRETHER
DIRECTOR

VIA E-MAIL

TO: Governor Rick Snyder
Members of the Michigan Legislature

FROM: C. Heidi Grether, Director Maggie Pallone Acting

DATE: March 24, 2017

SUBJECT: Report on Activities Funded by the Staff Account of the Solid Waste Management Fund

In accordance with Subsection 11550(6) of Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, attached is the Department of Environmental Quality's (DEQ) Report on Activities Funded by the Staff Account of the Solid Waste Management Fund for fiscal year 2016.

If you need further information, please contact Jack Schinderle, Division Director, Waste Management and Radiological Protection Division, at 517-284-6551; or you may contact me at 517-284-6700.

Attachment
cc/att: Ellen Jeffries, Director, Senate Fiscal Agency
Mary Ann Cleary, Director, House Fiscal Agency
Al Pscholka, Director, State Budget Office
Dick Posthumus, Governor's Office
Darin Ackerman, Governor's Office
Angela Ayers, Governor's Office
Josh Sefton, Senate Fiscal Agency
Austin Scott, House Fiscal Agency
Jacques McNeely, State Budget Office
Jennifer Harrison, State Budget Office
Amy Epkey, Environment Deputy Director, DEQ
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Jeff Spencer, DEQ
John Craig, DEQ
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Becky Kocsis, DEQ
Christina Miller, DEQ

REPORT ON ACTIVITIES FUNDED BY THE STAFF ACCOUNT OF THE SOLID WASTE MANAGEMENT FUND

OCTOBER 1, 2015 – SEPTEMBER 30, 2016

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March 17, 2017

Subsection 11550(6) of Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), states in part:

> By March 1 annually, the department shall prepare and submit to the governor, the legislature, the chairs of the standing committees of the senate and house of representatives with primary responsibility for issues related to natural resources and the environment, and the chairs of the subcommittees of the senate and house appropriations committees with primary responsibility for appropriations to the department a report that details the activities of the previous fiscal year funded by the staff account of the solid waste management fund...

Following is the information as outlined in Subsections 11550(6)(a) through (i):

(a) Full-Time Equivalent (FTE) Positions

Solid waste activities carried out by the Department of Environmental Quality (DEQ), Waste Management and Radiological Protection Division (WMRPD), in fiscal year (FY) 2016, were conducted by 35 FTEs. These positions included permitting, licensing, compliance, and enforcement staff, such as geologists, engineers, and environmental quality analysts; district supervisors; and WMRPD management and administrative support staff.

(b) Construction Permit Application Decisions

Four construction permit applications were pending at the beginning of FY 2016.

(1) During FY 2016, four applications for permits to establish or expand solid waste disposal facilities were received.

(2) A total of four applications were determined to be administratively complete. There were no applications determined to be administratively incomplete. Six applications were approved, and one applicant withdrew an application. There were zero applications denied. At the end of FY 2016, there was one application pending a decision.

(3) Of the applications that were determined to be administratively complete, 100 percent were decided upon within 120 days of being determined to be administratively complete, as required by Section 11511 of Part 115.[1]

[1] The processing deadline is specified in Subsection 1307(1) of Part 13, Permits, of the NREPA, which requires that the DEQ approve or deny an application for a construction permit under Section 11509 by the 120-day processing deadline, unless a deadline extension is requested by the applicant.

CONSTRUCTION PERMIT APPLICATIONS	
Pending Applications as of October 1, 2015	4
Number of New Applications Received	4
Number of Applications Administratively Incomplete	0
Number of Applications Withdrawn	1
Number of Permits Issued	6
Number of Applications Denied	0
Number of Pending Applications as of September 30, 2016	1
Percent of Decisions Made on Time	100%

(c) Operating License Applications Received Under Section 11512 of Part 115

At the beginning of FY 2016, nine operating license applications were pending a decision.

(1) During FY 2016, 23 applications for new or renewal licenses to operate solid waste disposal facilities were received.

(2) A total of 23 applications were determined to be administratively complete. There were zero applications determined to be administratively incomplete. A total of 31 applications were approved, zero applicants withdrew their application, and zero license applications were denied. At the end of FY 2016, there was one application pending a decision.

(3) Of the license applications that were determined to be administratively complete in FY 2016, 100 percent were decided upon within 90 days of being determined to be administratively complete, as required by Section 11516 of Part 115.[2]

OPERATING LICENSE APPLICATIONS	
Pending Applications as of October 1, 2015	9
Number of New Applications Received	23
Number of Applications Administratively Incomplete	0
Number of Applications Withdrawn	0
Number of Licenses Issued	31
Number of Applications Denied	0
Number of Pending Applications as of September 30, 2016	1
Percent of Decisions Made on Time	100%

[2] The processing deadline is specified in Subsection 1307(1) of Part 13, Permits, of the NREPA, which requires that the DEQ approve or deny an application for an operating license under Section 11512 by the 90-day processing deadline, unless a deadline extension is requested by the applicant.

(d) Number of Inspections of Licensed Disposal Areas as Required by Section 11519 of Part 115

During FY 2016, 486 inspections of licensed disposal areas were conducted.[3]

(e) Number of Letters of Warning (LOWs)[4] Sent to Licensed Disposal Areas

During FY 2016, 24 LOWs were sent to licensed disposal areas.[5]

(f) Number of Contested Case Hearings Initiated in FY 2016: 0

Number of Contested Case Hearings Completed in FY 2016: 0

Number of Civil Actions Initiated in FY 2016: 1

Number of Civil Actions Completed in FY 2016: 0

Number of Voluntary Consent Orders and Administrative Orders Entered or Issued in FY 2016: 5

Amount of Fines and Penalties Collected in FY 2016 Through Such Actions or Orders: $10,800

(g) Description of Corrective Actions Required by Enforcement Actions

(1) Marquette County Solid Waste Management Authority

On October 22, 2015, the Marquette County Solid Waste Management Authority (Authority) voluntarily entered an administrative consent order (Consent Order) with the DEQ to resolve alleged violations of Part 115 at the Marquette County Landfill, located in Sands Township, Marquette County. The Consent Order was entered into based on a Violation Notice issued by the DEQ on July 15, 2015, and an Enforcement Notice issued on September 29, 2015, alleging that the Authority was

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[3] A total of 548 compliance inspections were conducted in FY 2016. However, 486 are reported here because Subsection 11550(6)(e) only requires the number of inspections at licensed disposal areas. The remaining 62 inspections were conducted either at sites of illegal operations or at Type B solid waste transfer facilities that are authorized to operate by the statute, but are not required to have an operating license.

[4] LOW includes written communications from the DEQ that give notice of noncompliance with Part 115, such as Compliance Communications and Violation Notices.

[5] A total of 36 LOWs were issued in FY 2016. However, 24 are reported here because Subsection 11550(6)(e) only requires the number of LOWs sent to licensed disposal areas. The remaining 12 LOWs were sent either to owners or to operators of disposal areas that are not required to have an operating license or to owners or operators of sites determined to be illegal operations. A Type B solid waste transfer facility is an example of a solid waste disposal area that is not required to have a license to legally operate. Although these disposal areas are not licensed, they are inspected for compliance with the operational requirements of Part 115 and the Part 115 Rules. The number of LOWs sent in FY 2016 may encompass some inspections made in the last quarter of FY 2015.

in violation of Part 115 and the Part 115 Rules. The DEQ alleged the Authority failed to submit a certification under the seal of a professional engineer that verified construction at the disposal area was in accordance with approved plans. The Authority failed to have their construction quality assurance officer submit documentation that the landfill was constructed in accordance with approved construction quality assurance plans. The Authority cut the berm of a leachate impoundment for the purpose of creating a crane pad. This construction was not in accordance with approved engineering plans or certified in accordance with the approved quality assurance plan. These unauthorized modifications of the impoundment failed to maintain the minimum freeboard for the impoundment and would potentially allow the leachate in the impoundment to over top the impoundment, resulting in an illegal leachate discharge to the environment. The Consent Order required the Authority to rebuild the berm of the impoundment to conform to the approved engineering plans and submit a revised construction certification report verifying the proper construction of the impoundment. Under the terms of the Consent Order, the Authority agreed to a $4,800 payment to the State of Michigan in settlement of the DEQ's claim for a civil fine for the alleged violations.

(2) City of Pontiac

On November 2, 2015, the city of Pontiac (Pontiac) voluntarily entered an administrative consent order (Consent Order) with the DEQ to resolve alleged violations of Part 115 at its Collier Road Landfill (Landfill), located at 575 Collier Road, Pontiac, Oakland County. The Consent Order was entered to resolve violations alleged in multiple Compliance Communications and Violation Notices issued between April 2009 and January 2014, for Pontiac's failure to meet surface and groundwater performance requirements, including failure to conduct repeat assessment monitoring and failure to adequately respond to detection of contaminants found in excess of established groundwater protection standards. In addition, the DEQ alleged Pontiac failed to install an active gas collection system; failed to repair and supplement the leachate collection system to limit head on the Landfill liners and prevent migration of leachate; failed to demonstrate the Landfill has been closed in a manner that is protective of human health and the environment; and failed to monitor and maintain the final cover over the Landfill. The Consent Order requires that Pontiac complete a remedial investigation in compliance with the Remedial Investigation Work Plan conditionally approved by the DEQ on December 21, 2012; submit for DEQ approval an Interim Response Work Plan; if necessary, complete a Phase II remedial investigation; if necessary, complete a feasibility study of possible final remedies to address contamination emanating from the Landfill; if necessary, submit a Remedial Action Plan that complies with the applicable cleanup criteria of Part 201, Environmental Remediation, of the NREPA; submit a revised postclosure monitoring and maintenance plan for DEQ review and approval; and submit updated financial assurance forms. The Consent Order also provides a mechanism for Pontiac to be reimbursed for completion of compliance program activities from the Landfill perpetual care fund. Under the terms of the Consent Order, Pontiac agreed to pay

$6,000 to the State of Michigan in settlement of the DEQ's claim for a civil fine for the alleged violations.

(3) Independent Rural Waste Services Division No. 1 LLC

On December 2, 2015, Independent Rural Waste Services Division No. 1 LLC (IRWS) voluntarily entered an administrative consent order (Consent Order) with the DEQ to resolve alleged violations of Part 115 at the Osceola Landfill (Landfill) in Richmond Township, Osceola County. The Consent Order was entered to resolve violations alleged in a Compliance Communication, dated September 19, 2012; Violation Notice, dated August 9, 2013; Formal Meeting Request, dated May 8, 2015; and Violation Notice, dated July 6, 2015. These communications further identified IRWS's inability to sell the Landfill in spite of its attempts to find a purchaser with the ability to return the Landfill to full compliance and the need for IRWS to provide financial assurance to cover the cost of closure, postclosure monitoring and maintenance, and corrective action at the Landfill. The Consent Order requires that IRWS record leachate collection and disposal information on a daily basis in a DEQ-approved log and incorporate all leachate maintenance and repair activities in the Landfill operating record; pump liquids from the secondary collection systems and record the amount of leachate removed on a weekly basis; specifies a plan and schedule to conduct groundwater sampling; specifies the conditions in which IRWS may voluntarily conduct further sampling to update the delineation of the contaminant plumes identified in the draft Remedial Action Plan for the Landfill; specifies contingency actions required if sampling results for any of the sentinel wells detect constituents at levels above groundwater protection standards established pursuant to the Part 115 Rules; specifies a schedule for gas monitoring at the Landfill; requires submittal of a plan to determine the exact location of the solid waste boundary of the unlined area of the Southwest Cell; specifies a schedule for the payment of financial assurance to cover the cost of closure, postclosure maintenance and monitoring, and corrective action; provides a plan and schedule for general maintenance and operations at the Landfill, including removal of all junk vehicles, equipment, and materials not related to the monitoring, maintenance, and sale of the Landfill; and authorizes IRWS to operate a Type B transfer station within a specified area of the Landfill. Under the terms of the Consent Order, IRWS is required to direct funds to the Landfill's perpetual care fund in lieu of a civil fine, but is subject to stipulated penalties for failure to comply with the compliance program provisions of the Consent Order.

(4) Zellar MPI Real Estate, Inc.

On July 11, 2016, Zellar MPI Real Estate, Inc. (Zellar), voluntarily entered an administrative consent order (Consent Order) with the DEQ to resolve alleged violations of Part 115 at the Haywire Landfill (Landfill), located in Hiawatha Township, Schoolcraft County. The Consent Order was entered into based on violation notices issued to Zellar on November 13, 2015, January 26, 2016, March 18, 2016, and June 13, 2016, and the denial of the Response Action Plan

dated March 4, 2016, that Zellar failed to operate the Landfill in accordance with the following Part 115 requirements. Zellar failed to properly manage leachate generated by the Landfill, ensure slope stability, and ensure that there was no impact to the groundwater resulting from discharges from the Landfill. The Consent Order required Zellar to submit engineering plans to ensure slope stability on the Landfill on or before September 16, 2016. The Consent Order also required that on or before September 16, 2016, Zellar perform a remedial investigation of groundwater quality impacts adjacent to the Landfill. If sampling results indicated groundwater impact, Zellar was required to immediately notify the DEQ and submit a work plan for installation of additional monitoring wells to characterize and determine the extent of groundwater impacts. If initial sampling results indicate no action is necessary, but subsequent monitoring results indicate significant groundwater exceedances of background values, then a new Response Action Plan will be required, including additional well installation and a new groundwater monitoring schedule. The Consent Order required Zellar to manage the interim and final Landfill cover of the Landfill in accordance with the Part 115 Rules and required Zellar to complete final closure of the active area within five years of the effective date of the Consent Order. On or before September 16, 2016, Zellar was required to submit for review and approval an updated Operations Plan for the Landfill that was in compliance with the Part 115 Rules. The plan was to include a designated primary leachate treatment facility for the Landfill. The Consent Order also required Zellar, within ten days of the end of each month after the effective date of the Consent Order, to submit a monthly report on the Landfill's operations and maintenance. The Consent Order also requires that if a new Landfill unit or extension of an existing Landfill unit is constructed, Zellar must ensure it is constructed with the applicable Part 115 Rules.

(5) City of Warren

On July 22, 2016, the city of Warren (Warren) voluntarily entered an administrative consent order (Consent Order) with the DEQ to resolve alleged violations of Part 115 at the City Refuse Transfer Station. The Consent Order was entered into based on an enforcement notice issued by the DEQ on June 16, 2016, to Warren alleging that the city failed to manage yard clippings in accordance with Sections 11514 and 11521 of Part 115. For more than a year, the DEQ had worked with Warren to facilitate a solution for the management of yard clippings. However, Warren had not secured a management option that complies with Part 115. The Consent Order required Warren to submit a plan and schedule to educate its citizens and sanitation workers about the benefits of and ways to generate less yard clippings. The plan, upon approval from the DEQ, would be implemented in accordance with the approved schedule contained in the plan. The Consent Order also required Warren to resume collecting solid waste and yard clippings in separate vehicles and cease commingling yard clippings and solid waste for transport and disposal. The Consent Order specifies a deadline by which Warren must, either directly or indirectly via transfer, deliver or cause the delivery of all yard clippings generated in the city to a registered composting facility in good standing

with the DEQ, or submit documentation to the DEQ verifying that it has secured property that is suitable for the development and operation of a permanent composting facility sufficient to manage the volume of yard clippings generated in the city. The Consent Order requires that any composting facility developed by Warren be registered, fully operational, and in use by no later than April 1, 2017. The Consent Order requires Warren to submit monthly progress reports on its compliance with the Consent Order. The Consent Order does not seek settlement in lieu of a civil fine, but does contain stipulated penalties to incentivize compliance with the terms and conditions of the Consent Order.

(h) Number of Solid Waste Complaints Received, Investigated, Resolved, and Not Resolved by the DEQ

During FY 2016, the DEQ received 146 solid waste complaints, 26 of which were investigated via inspections. The remaining 120 complaints were resolved by contact with the parties involved, were appropriately referred to other DEQ program divisions/offices or other agencies, or are still under investigation.

(i) Amount of Revenue Remaining in the Staff Account at the End of FY 2016

The amount of revenue in the Solid Waste Management Fund Staff Account at the end of FY 2016 was $4,800,688.