

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Cavin Date 5-22-92

Issuance Date May 22, 1992  
Effective Date May 22, 1992

**BEFORE THE**

**OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

**LAKE COUNTY RECYCLING  
AND DISPOSAL FACILITY  
P. O. BOX 745  
KIRTLAND, OHIO 44240**

Case No. 90-SO-016

**DIRECTOR'S FINAL  
FINDINGS AND ORDERS**

MAY 22 1992  
OHIO ENVIRONMENTAL PROTECTION AGENCY  
DIRECTOR'S OFFICE

Pursuant to Chapters 119. and 3734. of the Ohio Revised Code, the Director of Environmental Protection (hereinafter "Director") hereby makes the following Findings and issues the following Orders.

**FINDINGS**

1. Waste Management of Ohio, Inc. (hereinafter "the Entity") operates the Lake County Recycling and Disposal Facility (hereinafter "the Facility") located at 7166 Brooklane Road in the City of Kirtland, Lake County, Ohio.
2. The Facility was in operation prior to July 1, 1968. Accordingly, the Entity is required by section 3734.05 of the Ohio Revised Code to submit a Permit to Install application for the Facility.
3. The Entity submitted a Permit to Install application to the Director on September 25, 1989.
4. On March 23, 1990 the Director issued a proposed action denying such Permit to Install application.
5. The Entity filed a timely request for an adjudication hearing in response to the March 23, 1990 proposed action.
6. On August 6, 1990 Doris R. Pincombe and Chester Waste Watchers, Inc. were permitted to intervene in this matter.
7. No adjudication hearing has been held in this matter.
8. A Stipulation and Settlement Agreement, executed by all parties, has been filed in this matter.
9. The Hearing Examiner assigned to this matter has filed a Report and Recommendation recommending issuance of the Orders agreed to by the parties in the Stipulation and Settlement Agreement.



**Attorney General  
Lee Fisher**

M E M O R A N D U M

TO: DAN HARRIS, OEPA/DSWM  
JOHN WATKINS, OEPA/DSWM/NEDO

FROM: CHRISTOPHER KORLESKI, <sup>CK</sup>AAG, EES

DATE: November 27, 1991

RE: Lake County Recycling & Disposal Facility, Case No.  
90-SO-016

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Attached please find the Report and Recommendation issued in the above referenced matter.

If you have any questions or comments, please contact me.

CK/kmh  
0418E/57

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**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

<b>In the Matter of:</b>	:	<b>Case No. 90-S0-016</b>
	:	
<b>LAKE COUNTY RECYCLING &amp; DISPOSAL FACILITY,</b>	:	<b>REPORT AND RECOMMENDATION</b>
	:	
<b>Applicant</b>	:	

Attached hereto is a copy of the Hearing Examiner's Report and Recommendation in the above matter. Pursuant to section 119.09 of the Ohio Revised Code and Rule 3745-47-24 of the Ohio Administrative Code, any party to this matter may file with the director of environmental protection written objections to the Report and Recommendation. Such objections must be filed within ten (10) days of receipt of the Report and Recommendation. Written objections should be filed with:

Hearing Clerk  
Ohio Environmental Protection Agency  
Fourth Floor  
P.O. Box 1049, 1800 WaterMark Drive  
Columbus, Ohio 43266-0149

If objections are filed, an original plus two (2) copies are required.

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:	:	Case No. 90-SO-016
	:	
<b>LAKE COUNTY RECYCLING &amp; DISPOSAL FACILITY,</b>	:	<b>REPORT AND RECOMMENDATION</b>
	:	
Applicant	:	

**FINDINGS OF FACT**

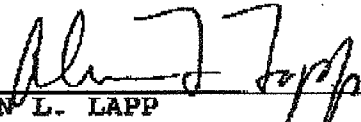
1. The Lake County Recycling and Disposal Facility ("the Applicant") has applied for a permit-to-install a solid waste disposal facility. On March 23, 1990, the Director of Environmental Protection issued a proposed action denying such application.
2. The Applicant filed a timely request for an adjudication hearing in response to the March 23, 1990 proposed action.
3. On August 6, 1990, Doris R. Pincombe and Chester Waste Watchers, Inc. were permitted to intervene in this matter.
4. No adjudication hearing has been held in this matter.
5. A Stipulation and Settlement Agreement, executed by all parties, was filed in this matter on October 25, 1991. A copy of the Stipulation and Settlement Agreement is attached to this Report and Recommendation.

**CONCLUSIONS OF LAW**

1. In view of the Stipulation and Settlement Agreement, there remain no unresolved issues of fact or law in this matter requiring the convening of an adjudication hearing. Case No. 90-SO-016 is, therefore, moot.
2. There is no basis in the record of this proceeding to conclude that the Findings and Orders proposed by the parties for issuance by the Director (incorporated in the Stipulation and Settlement Agreement as Exhibit A) are not lawful and reasonable.

RECOMMENDATION

1. Not earlier than May 15, 1992, Case No. 90-SO-016 should be dismissed as moot, and the Findings and Orders set forth in Exhibit A of the attached Stipulation and Settlement Agreement should be issued as a final action of the Director, effective upon issuance.

  
\_\_\_\_\_  
ALAN L. LAPP  
Presiding Hearing Examiner

November 25, 1991  
Date

BEFORE THE OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: : Case No. 90-SO-016
LAKE COUNTY RECYCLING AND :
DISPOSAL FACILITY :
Applicant. : :

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SECTION

STIPULATION AND SETTLEMENT AGREEMENT

The parties hereto, Appellant Lake County Recycling and Disposal Facility ("Applicant"), Appellee, the staff of the Ohio Environmental Protection Agency (hereinafter "OEPA"), and Intervenors Doris R. Pincombe and Chester Waste Watchers, Inc., having engaged in settlement discussions and having reached an agreement, do hereby jointly stipulate and agree as follows:

- 1. On March 23, 1990, the Director of the Ohio Environmental Protection Agency issued proposed findings and orders denying Applicant's application for a permit to install a solid waste disposal facility.
2. On April 20, 1990, Applicant requested an adjudication hearing regarding the proposed denial.
3. On August 6, 1990, Doris R. Pincombe and Chester Waste Watchers, Inc. were permitted to intervene in the proceedings.
4. The parties have engaged in settlement discussions in an attempt to resolve Applicant's request for an adjudication hearing without the necessity of a full adjudication hearing.
5. These settlement discussions have allowed the parties to reach an agreement with respect to the issues presented in Applicant's request for an adjudication hearing.

WHEREAS, the parties wish to conclude this proceeding, without adjudication, by entering into the following Settlement Agreement.

**THEREFORE**, the parties have agreed as follows:


1. The staff of Ohio EPA and the intervenors agree to recommend that the Director deny Applicant's Permit to Install application and issue final findings and orders requiring:
  - a. that the Applicant submit to the Director a closure plan and ground water quality assessment plan no later than fourteen (14) days after issuance of the final findings and orders;
  - b. that the Applicant cease accepting solid wastes for disposal at the facility not later than one year after issuance of the final findings and orders and in any event no later than May 15, 1993; and
  - c. that the Applicant commence closure of the facility not later than one year after issuance of the final findings and orders and in any event no later than May 15, 1993.


The staff of the Ohio EPA and the intervenors agree to recommend that the Director issue such final findings and orders no earlier than May 15, 1992, and that the final findings and orders to be issued on or after May 15, 1992 be identical in substance to Exhibit "A".

2. Upon issuance of the Director's final findings and orders in accordance with No. 1, above, and in substance identical to Exhibit A, Applicant agrees to accept and comply with such orders, and waives any right to contest the lawfulness or reasonableness of the findings and orders before the Environmental Board of Review or any court of competent jurisdiction.
3. The entering of this Stipulation and Settlement Agreement shall in no way be construed as an admission by the Director that the proposed denial of Applicant's Permit to Install Application and the reasons therefore were not reasonable or lawful.
4. The entering of this Stipulation and Settlement Agreement shall in no way be construed as an admission by the Applicant that the proposed denial of Applicant's Permit to Install Application and the reasons therefor were reasonable or lawful.
5. Applicant agrees that, upon the Director's issuance of the final findings and orders in accordance with this settlement agreement, Applicant shall dismiss its request for an adjudication hearing.

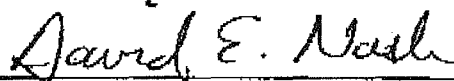
LAKE COUNTY RECYCLING AND  
DISPOSAL FACILITY


Respectfully submitted,  
LEE FISHER  
ATTORNEY GENERAL OF OHIO

BY:   
Authorized Representative  
Ronald S. Baker, President  
Waste Management of Ohio, Inc.

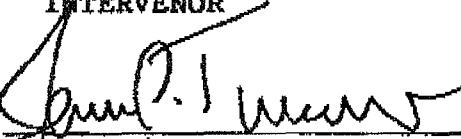
  
CHRISTOPHER KORLESKI  
Assistant Attorney General  
Environmental Enforcement  
Section, 25th Floor  
30 E. Broad Street  
Columbus, Ohio 43266-0410  
(614) 466-2766

DORIS R. PINCOMBE, INTERVENOR

  
DAVID E. NASH  
Thompson, Hine & Flory  
1100 National City Bank Bldg.  
Cleveland, Ohio 44114  
(216) 566-5500

 *by Chris Korleski  
per actual*  
DORIS R. PINCOMBE  
7633 Hidden Valley Dr.  
Chesterland, Ohio 44026  
(216) 328-8106

Counsel for Applicant, Lake  
County Recycling and Disposal  
Facility

CHESTER WASTE WATCHERS, INC.  
INTERVENOR  
  
JEROME C. TINIANOW  
Hahn, Loeser & Parks  
431 East Broad Street, Suite 200  
Columbus, Ohio 43215-3820  
(614) 221-0240

Counsel for Intervenor, Chester  
Waste Watchers, Inc.



**EXHIBIT A**

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

**BEFORE THE  
 OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the matter of:

Lake County Recycling and :  
 Disposal Facility : Director's Final  
 P.O. Box 745 : Findings and Orders  
 Kirtland, Ohio 44240 :

Pursuant to Chapter 3734 of the Ohio Revised Code (ORC), the Director of Environmental Protection (hereinafter "Director") hereby makes the following Findings and issues the following Orders.

**FINDINGS**

1. Waste Management of Ohio, Inc. hereinafter the "entity", operates the Lake County Recycling and Disposal Facility, hereinafter the "facility", located at 7166 Brooklane Road in the City of Kirtland, Lake County, Ohio.
2. The facility was in operation prior to July 1, 1968 and the entity is required to submit a Permit to Install application in accordance with ORC Section 3734.05.
3. The entity submitted a Permit to Install application to the Director on September 25, 1989.
4. The Director has reviewed the Permit to Install application and based upon this review has determined that the proposed source will violate those Sections of Rules 3745-27-06 and 3745-27-07 of the Ohio Administrative Code (OAC) enumerated in the Specific Reasons for Denial given in Attachment A of these Findings and Orders.
5. Section 3734.09 of the Ohio Revised Code states that if the Director denies a Permit to Install application submitted under ORC Section 3734.05, he shall include in the order denying the application the requirements that the owner or operator of the facility submit a plan for closure and post-closure care of the facility to the Director for approval within six months after issuance of the order and he shall also order that the facility cease accepting solid wastes for disposal at the facility and commence closure of the facility not later than one year after issuance of the order.

**ORDERS**

1. The application for a Permit to Install is hereby denied.
2. The entity shall submit a closure plan in accordance with ORC Section 3734.05(A)(6) within fourteen (14) days of the effective date of these Orders. The closure plan shall at a minimum meet all regulations applicable to closure and post-closure of solid waste disposal facilities. This shall include closure in accordance with OAC Rule 3745-27-11.
3. The entity shall, within fourteen (14) days of the effective date of these Orders, submit a ground water quality assessment plan in accordance with OAC Rules 3745-27-10(E)(2) and (3). Any inadequacies identified by the Director or his authorized representative shall be corrected by the entity within thirty (30) days of receiving notice of the inadequacies from the Director or his authorized representative. Upon approval of the plan, the entity shall implement the plan in accordance with OAC Rule 3745-27-10(E)(4). Implementation of the plan shall comply with OAC Rules 3745-27-10(E)(4), 3745-27-10(E)(5), 3745-27-10(E)(6), 3745-27-10(E)(7), 3745-27-10(E)(8), and 3745-27-10(F).
4. Not later than one year from the effective date of these Orders, and in any event no later than May 15, 1993, the entity shall cease acceptance of solid waste for disposal at the facility and commence closure in accordance with a closure plan approved by the Director.

IT IS SO ORDERED

\_\_\_\_\_  
DONALD R. SCHREGARDUS

\_\_\_\_\_  
DATE

0151E/42-43



State of Ohio Environmental Protection Agency

P.O. Box 1049, 1800 WaterMark Dr.  
Columbus, Ohio 43266-0149  
(614) 644-3020  
FAX (614) 644-2329

George V. Voinovich  
Governor

Donald R. Schregardus  
Director

May 22, 1992

Re: Director's Final Findings & Orders  
Lake County Recycling and  
Disposal Facility  
Lake County

CERTIFIED MAIL

Lake County Recycling and Disposal Facility  
Attn: Mr. Larry Riddle, Site Manager  
P.O. Box 745  
Chesterland, Ohio 44026

Dear Mr. Riddle:

Transmitted herewith are Final Findings & Orders of the Director concerning the matter indicated.

Very truly yours,

*Thomas E. Crepeau*

Thomas E. Crepeau, Manager  
Data Management Section  
Division of Solid and Infectious Waste Management

TEC/dhs

- cc: Alan Lapp, Hearing Examiner
- Barbara Bonds, Acting Chief, DSIWM
- Tom Allen, DDGW
- Chris Khoury, DDGW
- Dave Wertz, NEDO
- John Watkins, NEDO
- Christopher Korleski, AGO
- Frank Kellogg, Lake County Health Dept.
- Ronald S. Baker, Waste Management of Ohio, Inc.
- David E. Nash, Thompson, Hine & Flory
- Jerome C. Tinianow, Hahn, Loeser & Parks
- Chester Township Trustees
- Doris Pincombe

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TO: <i>AGO</i>	FROM: <i>Jerry Parker</i>	
CC: <i>AGO</i>	CO: <i>OHIO EPA</i>	
DEPT: <i>ENVIRONMENTAL</i>	PHONE: <i>614-644-1186</i>	
FAX: <i>614-644-2441</i>	FAX: <i>614-487-0761</i>	

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