

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

DEC 23 2011

ENTERED DIRECTOR'S JOURNAL

In the Matter of

Materion Brush Inc.
f.k.a. Brush Wellman Inc.
14710 W. Portage South River Road
Elmore, Ohio
43416

Director's Final Findings
and Orders

PREAMBLE

It is hereby agreed by and among the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are hereby issued to modify and supersede Director's Final Findings and Orders issued March 19, 1992 to Materion Brush Inc., f.k.a. Brush Wellman Inc. (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Sections 6111.03 and 3745.01 of the Ohio Revised Code (ORC).

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent, its assigns, and successors in interest liable under Ohio law. No change in ownership of Respondent or of the Facility shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise expressly stated herein, all terms in these Orders have the same meaning as used in ORC 6111. and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings of fact:

1. Respondent is the owner of a closed solid waste disposal facility (Facility) located on the northern part of the premises of Respondent's beryllium products manufacturing plant located approximately four miles north of the Village of Elmore in Ottawa County. (Another permitted landfill is located south of the plant and is not the subject of this document).

2. On March 19, 1992, Respondent entered into Director's Final Findings and Orders that required the implementation of an approved ground water quality assessment work plan, and the submission of a written report containing an assessment of the ground water quality including all data generated as part of implementation of the ground water quality assessment. The 1992 Orders were issued under ORC Chapters 3734 and 6111. The Facility is a solid waste facility regulated under ORC Chapter 3734.
3. Findings Number 2 through Number 13 of the attached Director's Final Findings and Orders issued March 19, 1992 to Respondent Brush Wellman Inc. are fully incorporated herein.
4. By cover letter dated April 20, 1995, Respondent submitted to Ohio EPA, NWDO, a document entitled "the Final Report of Ground Water Quality Assessment of the Facility."
5. Based upon ground water monitoring data obtained from quarterly sampling events conducted since 1995, an evaluation of the Respondent's ground water monitoring program, and the waste disposal at the Facility, Ohio EPA has determined that the Facility's current ground water monitoring program does not adequately monitor the Facility's impact on the underlying ground water.
6. Both parties agree to modify and supersede the 1992 Orders to require by agreement that Respondent comply with the requirements of OAC Rule 3745-27-10 (A)(1)(a) through OAC Rule 3745-27-10 (A)(1)(b) and OAC Rule 3745-27-10 (A)(2) through OAC Rule 3745-27-10 (A)(6), as effective August 15, 2003 and OAC Rule 3745-27-10 (B) through (E)(7) and (E)(9) through (E)(12), as effective August 15, 2003 at the Facility.
7. The Director has given consideration to and based his determination on the evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to the conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the state of Ohio to be derived from such compliance in accomplishing the purpose of ORC Chapter 6111.
8. Ohio EPA has determined that modifying and superseding the existing 1992 Consensual Orders to require compliance with OAC Rule 3745-27-10 (A)(1)(a) through OAC Rule 3745-27-10 (A)(1)(b) and OAC Rule 3745-27-10 (A)(2) through OAC Rule 3745-27-10 (A)(6), as effective August 15, 2003 and OAC Rule 3745-27-10 (B) through (E)(7) and (E)(9) through (E)(12), as effective August 15, 2003, in order to adequately address impacts and potential impacts to Waters of the State pursuant to ORC § 6111.03, is protective of human health and safety and the environment, and appropriate for use at the Facility.

9. By entering these orders and by agreeing to comply with the provisions of OAC Rule 3745-27-10 (A)(1)(a) through OAC Rule 3745-27-10 (A)(1)(b) and OAC Rule 3745-27-10 (A)(2) through OAC Rule 3745-27-10 (A)(6), as effective August 15, 2003 and OAC Rule 3745-27-10 (B) through (E)(7) and (E)(9) through (E)(12), as effective August 15, 2003 to address ORC 6111 impacts to Waters of the State from the Facility, Respondent is not agreeing to comply with any other provision of OAC Rule 3745-27, as effective August 15, 2003, including OAC Rule 3745-27-10 (A)(1)(c), OAC rule 3745-27-10(E)(8) and OAC Rule 3745-27-10 (F), as effective August 15, 2003 under these Orders. However, Respondent does agree to follow OAC Rule 3745-27-10 (A)(1)(a) through OAC Rule 3745-27-10 (A)(1)(b) and OAC Rule 3745-27-10 (A)(2) through OAC Rule 3745-27-10 (A)(6), as effective August 15, 2003 and OAC Rule 3745-27-10 (B) through (E)(7) and (E)(9) through (E)(12), as effective August 15, 2003 to address the ORC Chapter 6111 impacts to Waters of the State.
10. By entering these orders and by agreeing to comply with the provisions of OAC Rule 3745-27-10 (A)(1)(a) through OAC Rule 3745-27-10 (A)(1)(b) and OAC Rule 3745-27-10 (A)(2) through OAC Rule 3745-27-10 (A)(6), as effective August 15, 2003 and OAC Rule 3745-27-10 (B) through (E)(7) and (E)(9) through (E)(12), as effective August 15, 2003 to address ORC 6111 impacts to waters of the state from the Facility, Respondent is not agreeing to comply with the implementation of OAC Rule 3745-27-10 (F), as effective August 15, 2003 by solely agreeing to comply with any section that cross-references OAC Rule 3745-27-10 (F), as effective August 15, 2003 under these Orders.

V. ORDERS

These Director's Orders are issued to modify and supersede the March 19, 1992 Consensual Orders. Respondent shall comply with the requirements of OAC Rule 3745-27-10 (A)(1)(a) through OAC Rule 3745-27-10 (A)(1)(b) and OAC Rule 3745-27-10 (A)(2) through OAC Rule 3745-27-10 (A)(6), as effective August 15, 2003 and OAC Rule 3745-27-10 (B) through (E)(7) and (E)(9) through (E)(12), as effective August 15, 2003, at the Facility.

The Director hereby issues the following Orders:

1. According to the schedule contained herein, Respondent shall implement the requirements of OAC Rule 3745-27-10 (A)(1)(a) through OAC Rule 3745-27-10 (A)(1)(b) and OAC Rule 3745-27-10 (A)(2) through OAC Rule 3745-27-10 (A)(6), as effective August 15, 2003 and OAC Rule 3745-27-10 (B) through (E)(7) and (E)(9) through (E)(12), as effective August 15, 2003 which shall include but is not limited to the following Orders 2 through 7.

2. Not later than one hundred eighty (180) days after the effective date of these Orders, Respondent shall install, at a minimum, 4 additional wells in the following locations and hydrogeologic units:
 - (a) An additional monitoring well shall be located midway between MWRS-02 and MW-12, at approximate facility coordinates 10,875 Easting/11,875 Northing, and installed in the shallow bedrock aquifer. This additional well is needed to determine the rate and extent of migration of waste derived constituents and concentration of waste-derived constituents in ground water. If a river sand deposit is identified at this location Respondent shall, in addition to the shallow bedrock well, install a well screened in the river sand deposit;
 - (b) An additional monitoring well shall be located upgradient of the Facility in the vicinity of existing well MW-09, at approximate Facility coordinates 10,700 Easting/11,460 Northing, and installed in the shallow bedrock aquifer. This additional well is needed to replace an existing upgradient monitoring well that is improperly screened;
 - (c) An additional monitoring well shall be located on the north side of the Portage River in the vicinity of existing well MW-18, at approximate Facility coordinates 11,060 Easting/12,250 Northing, and installed in the Intermediate/Deep aquifer. This additional monitoring well is needed to confirm hydraulic containment of the plume, and determine the rate and extent of migration of waste-derived constituents and concentration of waste-derived constituents in ground water.
 - (d) An additional monitoring well shall be located on the north side of the Portage River at approximate Facility coordinates 11,920 Easting/ 12,005 Northing, and installed in the Intermediate/Deep aquifer. This well is needed to confirm hydraulic containment of the plume, and determine the rate and extent of migration of waste-derived constituents and concentration of waste-derived constituents in ground water. This well is not located on the Respondent's property. If the Respondent is unable to obtain permission to undertake this action, then the Respondent shall submit a copy of their written access request and if a response is provided, a copy of the written statement from the off-site property owner indicating that off-site access is denied.

3. Not later than one hundred eighty (180) days after the effective date of these Orders, Respondent shall properly decommission upgradient monitoring well MW-9. The Respondent may statistically compare the ground water quality data collected from the new upgradient well identified in Order 2(b) to the existing ground water quality data from MW-10. The statistical test used for this comparison shall be the Analysis of Variance [ANOVA]. If there are no statistical differences between the ground water quality data, then MW-10 may be used as an upgradient well location.
4. The Respondent shall submit a ground water quality assessment plan and determine the rate and extent of migration of the waste-derived constituents and the concentrations of the waste-derived constituents in the ground water downgradient of the Facility in compliance with the requirements of OAC Rule 3745-27-10 (A)(1)(a) through OAC Rule 3745-27-10 (A)(1)(b) and OAC Rule 3745-27-10 (A)(2) through OAC Rule 3745-27-10 (A)(6), as effective August 15, 2003 and OAC Rule 3745-27-10 (B) through (E)(7) and (E)(9) through (E)(12), as effective August 15, 2003. The Respondent shall submit the ground water quality assessment plan no later than ninety (90) days after the effective date of these orders. The Respondent shall submit a report documenting the determination of rate and extent of migration of waste-derived constituents and the concentrations of the waste-derived constituents in the ground water within 450 days of completing the requirements in Order 2.
5. The Respondent shall submit to Ohio EPA for director's approval a request to conduct a compliance monitoring program. This request shall be submitted with the report required by Order 4. This request shall contain a plan that shall include a description of the compliance monitoring program including the following:
 - (a) The monitoring wells to be included in the compliance monitoring program. This shall include all monitoring wells utilized to make the determination required in Order 4.
 - (b) The constituents for which ground water samples will be analyzed including all waste-derived constituents determined to have been released to ground water from the Facility in the report submitted per Order 4.
 - (c) The sampling, at least annually, of all monitoring wells specified in Order 5(a) for all constituents listed in Appendix I of OAC Rule 3745-27-10.
 - (d) The sampling of all monitoring wells specified in Order 5(a) for all constituents listed in Appendix II of OAC Rule 3745-27-10 at least once every three years.
 - (e) The techniques, procedures, and analytical equipment to be used for ground water sampling including, but not limited to, the items listed in paragraph (C)(2) of OAC Rule 3745-27-10.

- (f) The sampling of all compliance wells specified under Order 5(a) at least semi-annually and the analysis of those samples for those constituents specified under Order 5(b).
 - (g) The determination of ground water levels and flow direction during the sampling required by Order 5(f) in all wells specified in Order 5(a).
 - (h) The sampling of the Portage River at one upstream and one downstream location at least semi-annually for all waste-derived constituents that have been determined to have been released to ground water from the Facility.
 - (i) Provisions for submitting all data within 75 days of sampling the ground water monitoring wells and surface water per Order 5. The data shall be submitted with a report that shall include electronic spreadsheets in Excel format or other electronic format acceptable to Ohio EPA containing the data results from the sampling event. The report shall document the performance of statistical analysis on the ground water analytical results in accordance with OAC Rule 3745-27-10(C)(6) and (C)(7) in order to determine if concentrations of waste-derived constituents are increasing downgradient of the Facility.
 - (j) If the statistical analysis per Order 5(i) demonstrates a statistically significant increase, then the Respondent shall determine the concentrations of any waste-derived contaminant released to ground water and the rate and extent of migration of the contaminants. The Respondent shall update the compliance monitoring program plan accordingly to add constituents and well locations, as warranted. If any changes are required to the compliance monitoring program plan, the written plan must be updated and submitted to the Ohio EPA, Northwest District Office (NWDO), for approval prior to implementation of the changes. Respondent shall submit the proposed changes to the plan to Ohio EPA, NWDO for approval not later than sixty (60) days after the statistical analysis per Order 5(i) demonstrates a statistically significant increase, or the addition of a new well to the compliance monitoring program.
6. Respondent's compliance monitoring program plan shall be reviewed by Ohio EPA. If Ohio EPA determines that the compliance monitoring program plan is deficient, Ohio EPA may approve the plan with conditions or modifications or may send Respondent a notice of deficiency indicating where the plan is deficient. Upon receipt of a notice of deficiency, Respondent shall revise the compliance monitoring program plan to correct all identified deficiencies and shall submit the revised plan to Ohio EPA for approval not later than sixty (60) days after receipt of the notice of deficiency.

7. The Respondent shall commence sampling in accordance with the compliance monitoring program within ninety (90) days of the Director's approval of the plan.
8. The Respondent shall maintain hydraulic capture of contaminants attributable to the Facility in the Intermediate/Deep Aquifer by pumping one or more plant production wells.
9. The Respondent shall maintain the cap of the Facility.
10. The Respondent shall file a deed notification on the property deed of the property upon which the solid waste facility is located. The deed notification shall include a description of the nature of the waste deposited and the location of waste placement, including the area, volume and depth of the described waste.
11. Respondent shall comply with OAC Rule 3745-27-10 (A)(1)(a) through OAC Rule 3745-27-10 (A)(1)(b) and OAC Rule 3745-27-10 (A)(2) through OAC Rule 3745-27-10 (A)(6), as effective August 15, 2003 and OAC Rule 3745-27-10 (B) through (E)(7) and (E)(9) through (E)(12), as effective August 15, 2003 at the facility for:
 1. Fifteen years; and
 2. Then to continue after fifteen years until Respondent can demonstrate through semi-annual sampling events that the concentrations of all waste-derived constituents are shown to be at or below background values, using the statistical procedures described in OAC Rule 3745-27-10 (C)(6) and C(7), as effective August 15, 2003 for a period of three consecutive years.

VI. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the Operation of Respondent's Facility.

VII. 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 Respondent or to any Facility owned by Respondent.

VIII. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

IX. NOTICE

All documents required to be submitted by Respondents pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
Division of Materials and Waste Management
347 North Dunbridge Road
Bowling Green, Ohio 43402-0466
Attn: Unit Supervisor, DMWM

Or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

X. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XI.

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 Respondent for noncompliance with these Orders. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapters 3734 and 6111 or any other applicable law in the future, including but not limited to corrective measures under OAC Rule 3745-27. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

XI. WAIVER

Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

XII. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Enforcement Coordinator of Ohio EPA's Division of Materials and Waste Management acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principal business function of Respondent.

XIII. EFFECTIVE DATE

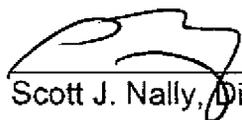
The effective date of the Orders is the date these Orders are entered into the Ohio EPA Director's Journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



Scott J. Nally, Director

IT IS SO AGREED:

Materion Brush Inc., f.k.a. Brush Wellman Inc.


Signature

12-19-2011
Date

Randall Drummond
Printed or Typed Name

Plant Manager
Title

Issuance Date: March 19, 1992

Effective Date: March 19, 1992

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

Chicki Mackey Date 3/19/92

BEFORE ME

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter Of:

Brush Wellman Inc.
Elmore, Ohio 43416

Respondent

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:
:
:

Director's Final Findings and Orders

OHIO E.P.A.
MAR 19 1992

FILED DIRECTOR'S JOURNAL

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are hereby issued to Brush Wellman Inc. (Respondent) pursuant to the authority vested in the Director of Environmental Protection (Director) under Ohio Revised Code (ORC) Chapters 3734 and 6111.

II. PARTIES

These Orders shall apply to and be binding upon the Respondent, as the Owner, and the Operator of the Facility and its officers, directors, assigns and successors in interest.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in ORC Chapters 3734 and 6111 and the regulations promulgated thereunder.

IV. FINDINGS OF FACT

The Director has determined the following findings of fact:

1. Respondent is the owner of a closed solid waste disposal facility (Facility) located on the northern part of the premises of Respondent's beryllium products manufacturing plant located approximately four miles north of the Village of Elmore in Ottawa County. (Another permitted landfill is located south of the plant and is not the subject of this document).
2. The Facility was a grandfathered industrial solid waste site. From approximately 1960 to 1965 the Facility was used as a settling lagoon for sludges produced at Respondent's plant. During the time beginning in 1965 through June 23, 1989, solid wastes were disposed on top of the sludges.

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

By: G. W. Mackey Date 3/19/92

3. Based on a review of existing groundwater data collected using the four existing wells at the Facility, the Northwest District Office (NWDO) of Ohio EPA required Respondent to submit a ground water sampling and analysis plan. The NWDO approved Respondent's ground water sampling and analysis plan in January of 1988.
4. During 1988, 1989, and 1990, Respondent conducted the ground water sampling plan identified in Finding No. 3 above. For the purpose of the plan, existing wells designated Nos. 9 and 10 were presumed to be upgradient and wells designated Nos. 11 and 12 were presumed to be downgradient. Samples were obtained quarterly from each well, and the results of all the above referenced sampling events were sent to Ohio EPA for review.
5. Based upon groundwater monitoring data obtained from the sampling events described in Finding No. 4 above, Ohio EPA has determined that the Facility has caused pollution to waters of the State in violation of ORC Section 6111.04 and OAC Rule 3745-27-08(I), as that rule was effective July 29, 1976.
6. During a meeting conducted on December 8, 1988, Ohio EPA informed Respondent of the determination that the Facility has caused pollution to waters of the State, as specified in Finding No. 5 above.
7. Respondent declared the Facility closed effective June 23, 1989, in accordance with OAC Rule 3745-27-10(A)(1), as that rule was effective July 29, 1976.
8. It is necessary for the Respondent to conduct a ground water quality assessment program at the Facility for the purpose of determining the concentration of leachate or leachate-derived constituents in the ground water, and to determine the rate and extent of migration of leachate or leachate-derived constituents in the ground water.
9. By cover letter dated November 9, 1990, Respondent submitted a proposed ground water quality assessment program work plan to Ohio EPA. By letter dated March 11, 1991, Ohio EPA provided Respondent written comments on the proposed ground water quality assessment program work plan.
10. By cover letter dated May 31, 1991, Respondent submitted its response to Ohio EPA's March 11, 1991 comments, which included proposed changes to the proposed ground water quality assessment program work plan. By cover letter dated July 18, 1991, Ohio EPA provided written comments on Respondent's May 31, 1991 letter.
11. By cover letter dated August 9, 1991, Respondent submitted its response to Ohio EPA's May 31, 1991 comments which response included proposed changes to the proposed ground water quality assessment program work plan. By letter dated September 3, 1991, Ohio EPA approved the proposed ground water quality assessment program work plan as amended by the proposed changes contained in Respondent's May 31, 1991 and August 9, 1991 responses.

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Identify and file a true and accurate copy of the
findings and orders in the records of the Ohio
Environmental Protection Agency.

By: Orlinda Mackey Date 3/19/92

12. By cover letter dated September 18, 1991, the Respondent submitted to Ohio EPA, NWDO, the amended ground water quality assessment program work plan which incorporated the Respondent's May 31, 1991 and August 9, 1991 letters referenced in Findings numbers 10 and 11 above.
13. The Director has given consideration to and based his determination on evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State of Ohio to be derived from such compliance in accomplishing the purpose of ORC Chapter 6111.

V. ORDERS

Respondent shall comply with ORC Chapters 3734 and 6111 and the regulations promulgated under those Chapters in accordance with the following schedule:

1. Respondent shall conduct the approved ground water quality assessment program at the Facility in accordance with the following schedule:
 - a. Within thirty (30) days after the effective date of these Orders, Respondent shall commence implementation of the approved ground water quality assessment program work plan and shall conduct the work plan in accordance with the schedule of implementation contained therein.
 - b. Respondent shall submit a written report containing an assessment of the ground water quality including all data generated as part of implementation of the ground water quality assessment program. The written report shall be submitted in accordance with the schedules of implementation contained in the amended ground water quality program work plan required by Order 1.a., above.

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VI. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a signatory to these Orders for any liability arising out of or relating to the operation of Respondent's solid waste facility.

VII. 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. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability or Ohio EPA's right to enforce any other statutes or regulations applicable to Respondent's solid waste facility. Ohio EPA reserves all rights and privileges except as specified herein.

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

By: Cheri Mackey Date 3/19/92

VIII. NOTICE

All documents demonstrating compliance with these Orders and all other documents required pursuant to these Findings and Orders shall be submitted to Ohio EPA and addressed to:

Ohio Environmental Protection Agency
Northwest District Office
347 North Dunbridge Road
P. O. Box 466
Bowling Green, Ohio 43402-0466
Attn: Unit Supervisor, DSIWM

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unless otherwise specified in these Orders, or to such persons and addresses as may be otherwise specified in writing by the Ohio EPA.

IX. 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 penalties against Respondent for noncompliance with these Orders.

Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapters 3734 and 6111 or any other applicable law in the future. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

X. TERMINATION AND SATISFACTION

These orders shall terminate when the Respondant demonstrates in writing and certifies to the satisfaction of the Ohio EPA that all obligations under these Orders have been performed and the Ohio EPA approves in writing this certification.

This certification shall be signed by a responsible official of the Respondent. The certification shall make the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate, and complete."

For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principal business function of the Respondent.

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

By: Arthur Mackey Date 3/19/92

XI. SIGNATORIES

Each undersigned representative of a signatory to these Orders certifies that he or she is fully authorized to enter into the terms and conditions of these Orders and to legally bind such signatory to this document.

IT IS SO ORDERED:

Gerry Soarn
Donald R. Schregardus,
Director

March 19, 1992
Date

XI. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only those matters addressed in these Orders, Respondent agrees that these Orders are lawful and reasonable, that the schedules provided for compliance herein are reasonable and that Respondent agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for the Respondent's liability for the violations cited herein.

Respondent hereby waives the right to appeal the issuance, terms and service of these Orders, and hereby waives any and all rights it might have to seek judicial review of said Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that in the event that these Orders are appealed by any other party to the Environmental Board of Review, or any other court, Respondent retains the right to intervene and participate in such appeal. In such event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless said Orders are stayed, vacated, or modified.

IT IS SO AGREED:

Brush Wellman Inc.

By: Larry A. Chaka
Title: Manager, Environmental Control Department

February 6, 1992
Date

Ohio Environmental Protection Agency

Gerry Soarn
Donald R. Schregardus
Director

March 19, 1992
Date

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