

CONSTRUCTION AND OPERATION OF THE FACILITY

The hazardous waste facility shall be constructed and operated in accordance with R.C. Chapter 3734, all applicable Ohio hazardous waste rules, as such term is defined in Rule 3745-50-10 of the Ohio Administrative Code (O.A.C.), the conditions of this permit, the approved Part B Permit Application ("approved application"), and all applicable rules promulgated under the Resource Conservation and Recovery Act, as amended. In the instance of discrepancies or inconsistent language therein, the language of the more stringent provision shall govern.

PERMIT APPROVAL

This permit approval is based upon the record of proceedings in this matter, including the written OPINION AND FINAL ORDER of the Board, to which this permit is attached and which is also maintained at the offices of the Board.

Entered into the Journal of the Board this \_\_\_\_\_ day of \_\_\_\_\_, 1992.

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Michael A. Shapiro, Acting Executive Director  
Ohio Hazardous Waste Facility Board

AUTHENTICATED EXHIBIT I

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**Sowash, Carson & Shostak**  
A Legal Professional Association

39 N. College Street, P.O. Box 2629, Athens, Ohio 45701 (614)594-8388

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C E R T I F I C A T E

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THE STATE OF OHIO,


SS:

COUNTY OF FRANKLIN,

I, Betty B. Willis, the undersigned, a duly  
commissioned and qualified Notary Public in and for the  
State of Ohio, do hereby certify that the foregoing is  
a transcript of an excerpt of the Joint Committee on  
Agency Rule Review December 7, 1993 Proceedings;

That said proceedings were recorded by me;  
thereafter transcribed upon a computer;

IN WITNESS WHEREOF, I have hereunto set my  
hand and affixed my official seal of office at Columbus,  
Ohio, on this 9<sup>th</sup> day of December 1993.

  
Betty B. Willis, Notary Public  
in and for the State of Ohio

My Commission expires May 28, 1995  
Recorded in Franklin County, Ohio

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JOINT COMMITTEE ON AGENCY RULE REVIEW

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IN THE MATTER OF: )  
PROCEEDINGS OF ) ITEM NO. 51  
REGULAR MEETING ) E.P.A., DIV. OF HAZARDOUS WASTE MGT.

- - -

STATEHOUSE, H.R. C-12  
65 SOUTH FRONT STREET  
COLUMBUS, OHIO  
TUESDAY, DECEMBER 7, 1993  
2:30 O'CLOCK P.M.

- - -

1 DECEMBER 7, 1993

2 AFTERNOON SESSION

3  
4 P R O C E E D I N G S

5 - - -

6 CHAIRMAN SYKES: ITEM NUMBER 51.

7 MR. SHERMAN: THANK YOU, MR.

8 CHAIRMAN.

9 ITEM NUMBER 51 - ENVIRONMENTAL PROTECTION  
10 AGENCY - DIVISION OF HAZARDOUS WASTE MANAGEMENT - 74  
11 RULES, FILED (CONTINUES DESCRIPTION OF THE RULES.)

12 CHAIRMAN SYKES: WE HAVE RICHARD  
13 SAHLI, AN OPPONENT, OHIO ENVIRONMENTAL COUNCIL.

14 MR. SAHLI: THANK YOU, MR.  
15 CHAIRMAN, MR. VICE CHAIRMAN. MY NAME IS RICHARD SAHLI.  
16 I AM THE EXECUTIVE DIRECTOR OF THE OHIO ENVIRONMENTAL  
17 COUNCIL. WE HAVE BEEN AROUND FOR 24 YEARS. WE ARE AN  
18 UMBRELLA GROUP FOR 171 LOCAL ENVIRONMENTAL GROUPS AROUND  
19 OHIO.

20 YES, WE DO OPPOSE THIS PACKAGE OF RULES, AND  
21 WE OPPOSE THIS PACKAGE OF RULES BECAUSE THEY ARE ILLEGAL  
22 UNDER OHIO LAW, THUS INVOKING JCARR'S JURISDICTION TO  
23 DISAPPROVE REGULATIONS THAT CONFLICT WITH OHIO LAW. LET  
24 ME EXPLAIN HOW THAT IS. THESE RULES ARE BASED ON A  
25 FEDERAL PROGRAM WHICH DIFFERENTIATE BETWEEN HAZARDOUS

1 WASTE INCINERATION WHICH HAS BEEN REGULATED FOR YEARS AND  
2 WHAT WE CONSIDER TO BE A LOOPHOLE AREA WHICH THEY CALL  
3 BOILERS AND INDUSTRIAL FURNACES OR BIFS FOR SHORT AND  
4 WHAT THESE UNITS ARE ARE CEMENT KILNS WHICH THERE ARE  
5 TWO OPERATING IN THE STATE, THERE ARE SEVERAL INDUSTRIAL  
6 FURNACES WHICH INSTEAD OF SAY BURNING COAL OR NATURAL GAS  
7 ARE INSTEAD BURNING HAZARDOUS CHEMICALS WHICH ARE  
8 HAZARDOUS WASTE UNDER OHIO LAW. BUT THE U.S. EPA ALLOWED  
9 THAT LOOPHOLE AND ONLY NOW ARE RULES BEING DEVELOPED FOR  
10 THE PERMITTING OF THOSE TYPES OF FACILITIES. WELL, THE  
11 PROBLEM WE HAVE IS THAT ARE DIFFERENCES, ADDITIONAL  
12 SAFEGUARDS IN OHIO LAW THAT THESE RULES DO NOT RECOGNIZE.  
13 BACK IN 1982 THE GENERAL ASSEMBLY ESTABLISHED THE  
14 HAZARDOUS WASTE FACILITY BOARD TO UNDERTAKE A MORE  
15 RIGOROUS SITING REVIEW WITH A VOTE FROM A FIVE MEMBER  
16 BOARD THAN WHAT U.S. EPA LAW REQUIRED BECAUSE I THINK THE  
17 LEGISLATURE WAS CORRECT IN THINKING ADDITIONAL SAFEGUARDS  
18 WERE NEEDED.

19 BACK IN 1984 THE GENERAL ASSEMBLY AMENDED THE  
20 LEGISLATIVE DEFINITION OF WHAT IS A HAZARDOUS WASTE  
21 TREATMENT FACILITY IN OHIO TO INCLUDE THOSE THAT RECOVER  
22 ENERGY FROM THE BURNING OF HAZARDOUS WASTE. NOW IT'S  
23 THAT ENERGY RECOVERY FUNCTION THAT IS THE BASIS FOR THE  
24 U.S. EPA LOOPHOLE ON THESE BIF RULES, BUT THAT HAD BEEN  
25 PICKED UP IN OHIO LAW BEFORE HAND. WHAT THAT MEANS IS

1 THAT IF THERE IS A FACILITY TO BE PERMITTED TO BURN  
2 HAZARDOUS WASTE IN A BOILER INDUSTRIAL FURNACE TO RECOVER  
3 ENERGY, IT HAS TO GO TO THE OHIO HAZARDOUS WASTE FACILITY  
4 BOARD. WHY THESE RULES ARE ILLEGAL IS THAT THEY DO NOT  
5 REQUIRE THAT TO OCCUR. IN FACT, I LOOK AT THESE RULES  
6 AS A USURPATION OF THE AUTHORITY OF THE OHIO HAZARDOUS  
7 WASTE FACILITY BOARD BY THE OHIO EPA.

8 WHAT THESE RULES PROPOSE IS A CONCEPT OF  
9 PERMIT BY RULE. THESE FACILITIES WOULD SIMPLY BE ABLE TO  
10 BE GRANDFATHERED IN BY THE DIRECTOR OF OHIO EPA, NEVER  
11 HAVING TO GO TO THE OHIO HAZARDOUS WASTE FACILITY BOARD.  
12 AND I'LL TELL YOU THESE OPERATIONS, THESE BIFS, ARE ALL  
13 OVER OHIO, AWFULLY LARGE ONE IN CINCINNATI. THERE IS  
14 ABOUT, I HAVEN'T SEEN A FINAL NUMBER, BUT I BELIEVE THERE  
15 ARE 20 OPERATIONS LIKE THIS AROUND THE STATE OF OHIO.

16 I REPRESENT A NUMBER OF GROUPS AROUND THESE  
17 WHO DO BELIEVE THAT OHIO LAW SHOULD BE UPHELD AND THESE  
18 FACILITIES BE REQUIRED TO GO TO THE OHIO HAZARDOUS WASTE  
19 FACILITY BOARD AS THE GENERAL ASSEMBLY INTENDED.

20 THAT'S OUR BASIS FOR OPPOSITION. I WOULD BE  
21 HAPPY TO ENTERTAIN ANY QUESTIONS ANY MEMBERS MAY HAVE.

22 CHAIRMAN SYKES: ARE THERE ANY  
23 QUESTIONS FOR MR. SAHLI?

24 SENATOR KEARNS.

25 SENATOR KEARNS: WOULD YOU EXTEND

1 THIS CONCERN TO ALL OF THE RULES THAT ARE PROPOSED IN  
2 THIS PACKAGE THAT'S BEFORE US TODAY, ALL THE RULES THAT  
3 ARE LISTED IN 51?

4 MR. SAHLI: MR. CHAIRMAN,  
5 SENATOR KEARNS, MY MAIN OBJECTION IS THE GRANDFATHERING  
6 COMPONENT OF THE RULES OF THE PERMIT BY RULE, BUT TO THE  
7 EXTENT THAT ALL OF THESE ISSUES NEED TO BE ACTUALLY RULED  
8 UPON BY THE OHIO HAZARDOUS WASTE FACILITY BOARD NOT THE  
9 OHIO EPA, YES, MY CONCERNS GO THROUGHOUT THE WHOLE  
10 PROCESS. THERE ARE MANY POINTS WHERE I FEEL REGULATION  
11 OF HAZARDOUS WASTE INCINERATION AS THE HAZARDOUS WASTE  
12 BOARD DOES IT IS BETTER CONTROLLED THAN WHAT IS PROPOSED  
13 IN THESE RULES. BUT MY LARGEST CONCERN IS THAT THE  
14 LEGISLATURE' HAD A NUMBER OF PROCEDURAL SAFEGUARDS,  
15 SUBSTANTIVE SAFEGUARDS IN SITING CRITERIA THAT THE  
16 HAZARDOUS WASTE BOARD HAS TO RULE UPON, WHICH THESE RULES  
17 HAVE NOTHING TO DO WITH WHATSOEVER. THEN WE LOOK AT THE  
18 PROCESS OF THIS INCINERATION GIVING NO CONSIDERATION TO  
19 APPROPRIATE SITING AND THE GENERAL ASSEMBLY RULED BACK  
20 IN '84 WHEN IT AMENDED THE STATUTE TO SAY THAT THESE  
21 TYPES OF FACILITIES HAVE TO BE SITED APPROPRIATELY AND  
22 THAT'S THROUGH THE HAZARDOUS WASTE BOARD.

23 SENATOR KEARNS: THANK YOU, MR.  
24 SAHLI.

25 CHAIRMAN SYKES: ARE THERE ANY