

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY**

**STATE OF OHIO ex rel.
DAVE YOST et al.,
Plaintiffs,**

v.

**BAUMANN'S RECYCLING
CENTER, LLC, et al.**

Defendants.

: CASE NO. CV 19 910310

**:
:
:
: JUDGE KELLY ANN GALLAGHER**

CONSENT ORDER AND JUDGMENT ENTRY

Plaintiffs, the State of Ohio, on relation of the Ohio Attorney General Dave Yost, Cuyahoga County Board of Health, and the City of Garfield Heights filed a Complaint seeking injunctive relief and civil penalties against Defendants Baumann's Recycling Center, LLC, Baumann Enterprises, Inc., and Baumann Properties, LTD. for violations of Ohio's waste and material management laws and fire code, under R.C. Chapters 3714, 3734, and 3737 and the rules adopted thereunder, concerning the Defendants' ownership and operation of a construction and demolition debris processing facility at 4801 Chaincraft Road, Garfield Heights, Ohio. The Parties have consented to the entry of this Order.

Therefore, without trial, admission, or determination of any issue of fact or law and with the consent of the Parties hereto, it is ORDERED, ADJUDGED, AND DECREED:

I. DEFINITIONS

1. As used in this Order, the following terms are defined:

A. "Defendants" means Defendants Baumann's Recycling Center, LLC, Baumann Enterprises, Inc., and Baumann Properties, LTD.

- B. "Appendix" refers to a document that is attached to, and incorporated into, this Consent Order.
- C. "Appendix 1" is the "Revised Operating Plan" agreed to by the Parties.
- D. "Appendix 2" is the "Site Operating Map."
- E. "Plaintiffs" means Plaintiffs the State of Ohio, Cuyahoga County Board of Health (CCBH), and the City of Garfield Heights ("Garfield Heights").
- F. "Director" means the Director of the Ohio Environmental Protection Agency ("Ohio EPA") or her designee.
- G. "Parties" means Plaintiffs, the State of Ohio, Cuyahoga County Board of Health, and the City of Garfield Heights, and Defendants, Baumann's Recycling Center, LLC, Baumann Enterprises, Inc., and Baumann Properties, LTD.
- H. "Person" means an individual, public or private corporation, business trust, estate, trust, partnership, association, federal government or any agency thereof, municipal corporation or any agency thereof, political subdivision or any agency thereof, public agency, interstate body created by compact, any other entity, and other officers, agents, employees, attorneys, and/or those in active concert or participation with any of them.
- I. "Site" means Defendants' property located at 4801 Chaincraft Road, Garfield Heights, Ohio, 44125 and any adjacent parcels used by Defendants.
- J. "Legacy RSM" means the RSM existing on the Site as of the Effective Date of this Order, as referenced in Appendix 2. Notwithstanding any processing or re-processing, Legacy RSM shall continue to be classified as Legacy RSM until it is lawfully disposed in accordance with this Order or used in compliance with an

authorization of the Director or CCBH. Defendants shall segregate and keep separated Legacy RSM from all other materials at the Site, including but not limited to other RSM and Cⅅ accepted at the Site after the Effective Date of this Order.

- K. "RSM" means fine or residual construction and demolition debris less than three quarters of an inch in size that is generated at a processing facility as a result of sorting or screening C&DD from which all prohibited materials have been removed.
- L. "State" means Plaintiff, the State of Ohio, including the Director, Ohio Environmental Protection Agency, or the Ohio Attorney General on behalf of the State.
- M. "Revised Operating Plan" means the terms agreed to by the Parties that outline the manner in which Defendants will receive, store, process, and dispose construction and demolition debris at the Site.
- N. "Order" refers to this Order.
- O. "Written" means a paper copy or a saved or stored electronic copy.
- P. "Mixed Construction and Demolition Debris" or "Mixed C&DD" shall have the same meaning as found in Ohio Adm.Code 3745-400-01(M)(1).

II. JURISDICTION AND VENUE

2. The Court has jurisdiction over the Parties and the subject matter of this action under R.C. Chapters 3714, 3734, and 3737. The Complaint states a claim upon which relief can be granted. Venue is proper in this Court. Defendants shall not challenge the Court's jurisdiction to enter or enforce this Order.

III. PARTIES BOUND

3. Baumann's Recycling Center, LLC is an Ohio limited liability company, whose principal place of business is 4801 Chaincraft Road, Garfield Heights, Ohio 44125.

4. Baumann Enterprises, Inc. is an Ohio corporation, whose principal place of business is 4801 Chaincraft Road, Garfield Heights, Ohio 44125.

5. Baumann Properties, Ltd. is an Ohio limited liability company, whose principal place of business is 4801 Chaincraft Road, Garfield Heights, Ohio 44125.

6. This Order shall apply to and be binding only upon Defendants, and, to the extent consistent with Civ. R. 65(D), on their agents, officers, employees, contractors, assigns, successors in interest, and those persons acting in concert, privity, or participation with Defendants who receive actual notice of this Order whether by personal service, by public record filed in the county land record, or otherwise. Defendants shall provide a copy of this Order to any successor in interest and to each key employee, consultant, or contractor employed to perform work referenced herein or to operate the Site.

7. This Order is in settlement and compromise of disputed claims, and nothing in this Order is to be construed as an admission of any facts or liability.

8. If insolvency, bankruptcy, or other failure occurs, Defendants must pay the remaining balance of the total civil penalty, calculated in accordance with Paragraphs 18 and 19.

IV. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS

9. The Plaintiffs allege that Defendants are responsible for violations of Ohio's Fire Code and the environmental laws of the State of Ohio under R.C. Chapters 3714, 3734, and 3737. Defendants deny all such allegations. Compliance with this Order shall constitute full satisfaction of any civil liability of Defendants to Plaintiffs for the claims alleged in Plaintiffs' Complaint.

10. Nothing in this Order, including the imposition of stipulated civil penalties for violations of this Order, shall limit the authority of the Plaintiffs to:

- A. Seek any legal or equitable relief or civil penalties from Defendants or any other appropriate person for any claims or violations not alleged in the Complaint;
- B. Seek any legal or equitable relief or civil penalties from Defendants or any other appropriate person for claims, conditions, or violations that occur on or exist after the entry of this Order;
- C. Enforce this Order through a contempt action or otherwise seek relief for violations of this Order; and/or
- D. Take any future legal or equitable action against any appropriate person, including Defendants, to eliminate or mitigate conditions at the Site that may present a threat to public health or welfare or to environment in derogation of applicable laws and rules, which Plaintiffs have the authority to enforce.

11. This Order does not waive, abridge, settle, compromise, or otherwise impact any other claims in law or equity that the Plaintiffs or other persons may have against Defendants.

12. Except for the signatories to the Order, nothing in this Order shall constitute or be construed as satisfaction of civil liability, a covenant not to sue, and/or a release regarding the claims alleged, against any person not a signatory to this Order for any liability such non-signatory may have arising out of matters alleged in the Complaint. The Plaintiffs also specifically reserve their right to sue any person that is not a signatory to this Order.

13. Nothing in this Order shall relieve Defendants of their obligations to comply with applicable federal, state, or local statutes, regulations, rules, or ordinances.

14. Nothing herein shall restrict the right of Defendants to raise any administrative, legal, or equitable defense with respect to such further actions reserved by the State in this Order. However, with respect to the actions reserved by the Plaintiffs in this Section, Defendants shall not assert and/or maintain, any defense or claim of waiver, *res judicata*, collateral estoppel, issue preclusion, claim splitting, or other defenses based on any contention that Plaintiffs' claims in any subsequent judicial or administrative proceeding could or should have been brought in this case.

15. Defendants agree that each is jointly and severally liable for the obligations and requirements in this Order.

V. PERMANENT INJUNCTION

16. Defendants are ordered and permanently enjoined to comply fully with the Ohio Fire Code and all applicable sections of R.C. Chapters 3714, 3734, and 3737 and the rules adopted thereunder.

17. Defendants are ordered and enjoined to conduct the following:

A. PROCESSING NEW C&DD AT THE SITE

- i. Except as provided in paragraph 17(B) of this Order and Appendix 1, Defendants may commence acceptance and conduct processing of new construction and demolition debris that was not on-Site on the Effective Date of this Order and will arrive at the Site only in accordance with the applicable rules and authorizing documents, including a construction and demolition debris processing facility permit and license issued pursuant to R.C. Chapter 3714. Defendants shall ensure that operations at the Site do not adversely impact public health, safety, or the environment.

B. REMOVAL OF LEGACY RSM

- i. Defendants shall comply with the Revised Operating Plan until Ohio EPA rescinds it due to any of the following:
 1. Any Defendant's failure to comply with this Order, the Revised Operating Plan, the Ohio Fire Code, or any provision of Ohio's environmental laws or regulations;
 2. Agreement of the Parties; or
 3. The Legacy RSM is completely removed from the Site.
- ii. Defendants shall segregate and keep separated Legacy RSM from all other materials at the Site, including but not limited to other RSM and Cⅅ accepted at the Site after the Effective Date of this Order.
- iii. Defendants shall ensure that the Legacy RSM is legally disposed in compliance with all of the following deadlines. In addition, all Legacy RSM must be legally disposed by July 31, 2027.
 1. Defendants shall reduce the Legacy RSM by a minimum of fifteen thousand (15,000) cubic yards every three (3) calendar months, measured and confirmed by topographical survey, by methods permissible by this Order. Defendants shall remove the first fifteen thousand (15,000) cubic yards by December 31, 2024.
 - a. Not later than thirty (30) days after the Effective Date of this Order, and at least two weeks prior to commencing any removal activities, Defendants shall cause a physical survey of the entire Site to be performed by an independent

professional surveyor licensed in the State of Ohio; provided, however, if Defendants have ordered a survey within five (5) business days of the Effective Date of this Order and the same is not completed by the surveyor the same shall not be a violation of this Consent Order as long as Defendant provides such survey at least two weeks prior to commencing any removal activities. The survey shall identify each pile at the Site and indicate the volume of each identified pile.

2. Defendants shall ensure that the Legacy RSM, with the exception of wood, concrete, brick, and scrap metal separated from the Legacy RSM in accordance with the Revised Operating Plan, is disposed only at a licensed solid waste landfill, a licensed C&DD landfill, or another location approved by Ohio EPA in writing in accordance with paragraph 17.B.iv. of this Order.
3. Not later than the seventh (7th) day of each calendar month, Defendants shall provide to Ohio EPA and CCBH the following for the preceding month:
 - a. Copies of all disposal receipts;
 - b. Records indicating the volume of wood, concrete, brick, and scrap metal removed from the Legacy RSM in accordance with this Order; and,

c. Records indicating the volume of wood, concrete, brick, and scrap metal removed from the Site.

4. Unless otherwise agreed by Ohio EPA in writing, not later April 14th, July 14th, October 14th, and January 14th of each calendar year, Defendants shall use an independent professional licensed surveyor to conduct a topographical survey of the Site that reflects the Site conditions as they exist at the end of the preceding calendar month and submit the results of that survey to Ohio EPA, CCBH, and Garfield Heights within fourteen (14) days of conducting the survey (and no later than April 28th, July 28th, October 28th, and January 28th of each calendar year). The topographical survey shall include the volume of each pile at the Site, including the Legacy RSM, and indicate each pile's change in volume when compared to the previous topographical survey. Upon concurrence from Ohio EPA, CCBH, and Garfield Heights that all Legacy RSM has been removed, this requirement will terminate.

iv. Defendants may apply for an exemption pursuant to R.C. Chapter 3714 to allow for the disposal of the Legacy RSM at a location other than a licensed C&DD or solid waste landfill.

C. SITE-WIDE FIRE CONTROL

i. Paragraph 17(C)(i)(1) through (8) apply to all material, including but not limited to Legacy RSM and new material brought on Site. Maximum pile volumes and dimensions set forth in any portion of Paragraph 17.C. of this

Order do not constitute authorization to exceed any maximum pile volumes or dimensions set forth in a permit or other authorization issued regarding the Site or activities conducted at the Site.

1. Defendants shall ensure all pile(s) are located on reasonably level areas of solid ground, blacktop, concrete, or other hard-surface material.
2. Defendants shall maintain fire apparatus access roads on all sides of all pile(s) of Legacy RSM at all times as indicated in Appendix 2. Fire apparatus access roads shall be maintained for all weather access and shall be no less than twenty (20) feet in useable width.
3. Defendants shall protect fire hydrants with appropriate barriers or berms to avoid damage or obstruction and shall clearly mark and flag hydrants for rapid location in case of emergency. Defendants shall maintain a minimum clear distance of five (5) feet around all hydrants, with unobstructed access maintained on one side at all times. Defendants shall inspect and test hydrants #2, #3, and #4, designated as “private hydrants” in Appendix 2, at a minimum annually using an individual certified in fire protection by the State Fire Marshal. *It is acknowledged that Defendants have no control over the pressure and/or quantity of water available at these hydrant locations. Accordingly, the inspection and testing shall be intended to provide information to the local fire response organizations as to*

the availability and operational capacity of these private hydrants should an emergency response become necessary.

4. Defendants shall maintain pile(s) in such a way that clearly defines pile perimeters, prevents creeping of material, and facilitates cleanup of fire apparatus access roads.
5. The maximum pile volume for any mixed C&DD pile shall not exceed fifteen thousand (15,000) cubic yards, or the maximum allowed per the most recent revision of the Ohio Fire Code, whichever is less, without prior approval from the Garfield Heights (for example, the maximum stockpile volume is currently 5,555 cubic yards for the Chipped, Shredded and Size Reduced Bulk Wood).
6. For any comingled piles, the more restrictive pile dimensions applicable to any individual component of that comingled pile shall apply to that comingled pile as a whole.
7. If venting or any other visible sign of heating within any pile occurs, the Defendants shall measure and log the temperature of that area daily until temperatures remain below 130 degrees Fahrenheit for a continuous period of seven (7) days. Temperature scans of vents or similar surface features via portable infrared instruments (or equivalent) may be used as an acceptable means of temperature measurement. Defendants shall produce temperature logs to Ohio EPA, CCBH, and Garfield Heights on request.

8. If there is a fire at the Site or if the temperature of any area of any pile thermocouple, vent, or surface feature exceeds 150 degrees Fahrenheit, Defendants shall accept no C&DD other than clean hard fill until (1) the fire or heating is abated and (2) resumption of new material acceptance is approved by Garfield Heights or its designee. In the instance of a heating event or observed fire, Defendants shall conduct all material processing and pile activities at the affected location in a manner to manage pile temperatures and reduce heat gain. All such activity shall be completed in coordination with Garfield Heights until temperatures are reduced and heating potential is satisfactorily abated as determined by Garfield Heights.

ii. Mixed C&DD pile(s)

1. In addition to the maximum volume restrictions in Paragraph (17)(C)(i)(5), Defendants shall ensure mixed C&DD pile(s) do not exceed twenty-five (25) feet in height, one hundred fifty (150) feet in width, and two hundred fifty (250) feet in length. Defendants shall manage mixed C&DD in accordance with all applicable laws, ordinances, and regulations including, but not limited to, state and local laws, ordinances, and regulations, as well as the most current revision of the Ohio Fire Code as set forth in Ohio Administrative Code 1301:7-7-28(H), Section 2808.3 (Size of Piles) with respect to pile fire prevention and mitigation.

2. Defendants shall remove and lawfully dispose all newly generated Recovered Screened Material (RSM) from processing new C&DD as soon as practicable. Newly generated RSM may be accumulated onsite to a maximum volume of five hundred (500) cubic yards as fire control material if testing for ignitability per methods approved by Ohio EPA and Garfield Heights demonstrated to the satisfaction of Ohio EPA, CCBH, and Garfield Heights that the RSM is noncombustible. Defendants shall document RSM volumes each calendar week, and materials exceeding the five hundred (500) cubic yard limit shall be containerized and removed from the Site by 9am every Monday.
3. For mixed C&DD piles, Defendants shall designate and maintain two separate piles: an accumulating pile and an operating pile, each of which will have a base elevation established using one of the methods below prior to material placement. Defendants shall have just one operating pile and one accumulating pile for mixed C&DD materials.
 - a. For the accumulating pile and the operating pile, Defendants shall record, maintain, and make available the following information:
 - i. The date that the base elevation is established, together with photographs documenting the physical marking or a copy of the ground survey

conducted in accordance with the preceding paragraph;

ii. The date upon which material is first placed in the pile; and

iii. Each date that the pile is reduced to base elevations, together with dated photographs documenting the reduction.

iii. Un-Processed C&DD pile(s) consisting solely of unprocessed wood: Raw Timber or Hogged Wood (Pre-chipped or pre-shredded timber and whole logs)

1. Defendants shall ensure pile(s) do not exceed sixty (60) feet in height, three hundred (300) feet in width, or five hundred (500) feet in length. Raw Timber or Hogged Wood shall be managed in accordance with all applicable, laws, ordinances, and regulations, including, but not limited to, state and local laws, ordinances, and regulations, as well as the the most current revision of the Ohio Fire Code as set forth in Ohio Administrative Code 1301:7-7-28(G),

including Section 2807.2 (Size of Piles) with respect to fire prevention and mitigation.

iv. Separated Processed C&DD pile(s): Chipped or Size Reduced Bulk Wood Including “Optical Wood”, Excepting Shredded Wood Processed for Use as Fuel.

1. Defendants shall ensure pile(s) do not exceed twenty-five (25) feet in height, one hundred fifty (150) feet in width, and two hundred fifty (250) feet in length. Chipped or Size Reduced Bulk Wood Including “Optical Wood” shall be managed in accordance with all applicable laws, ordinances, and regulations, including, but not limited to, state and local laws, ordinances, and regulations, as well as the most current revision of the Ohio Fire Code as set forth in Ohio Adm.Code 1301:7-7-28(G), including Section 2808.3 (Size of Piles) with respect to fire prevention and mitigation.

v. Separated C&DD pile(s): Size Reduced Bulk Wood Consisting of Shredded Wood Processed for Use as Fuel

1. Defendants shall ensure pile(s) do not exceed twenty (20) feet in height, one hundred fifty (150) feet in width, and two hundred fifty (250) feet in length, and maximum pile volume shall not exceed five thousand five hundred fifty-five (5,555) cubic yards. Size Reduced Bulk Wood Consisting of Shredded Wood Processed for Use as Fuel shall be managed in accordance with all applicable laws, ordinances, and regulations, including, but not limited to, state and local laws,

ordinances, and regulations, as well as the most current revision of the Ohio Fire Code as set forth in Ohio Administrative Code 1301:7-7-28(I), Section 2809.(1) through 2809.(5) with respect to fire prevention and mitigation.

vi. Solid Waste Management

1. Defendants shall containerize solid waste removed from C&DD within forty-eight (48) hours. Those containers shall be removed from the Site when full and taken to a licensed solid waste transfer facility or a licensed solid waste landfill. The temporary storage of putrescible solid wastes in excess of seven days, or temporary storage of any solid wastes where such storage causes a nuisance or health hazard shall not be permitted.

vii. Management of Oversized Non-Recyclables

1. When materials are removed from unprocessed or processed C&DD as non-recyclable materials that are too large to be containerized, Defendants shall store the materials on the concrete pad adjacent to the fire laydown area prior to being removed from the site and disposed of in a licensed facility by the 1st and 15th each month

unless otherwise authorized in writing by Ohio EPA, CCBH, and Garfield Heights.

D. FINANCIAL ASSURANCE

- i. Not later than sixty (60) days after the Effective Date of this Order, Defendants shall do the following:
 1. Fully fund financial assurance for Legacy RSM in accordance with the “fixed per cubic yard amount” calculated pursuant to Ohio Adm.Code 3745-400-56(A)(2); and
 2. Fund financial assurance for all newly generated Mixed C&DD, including RSM, in accordance with applicable rules.

VI. CIVIL PENALTY

18. Under R.C. 3714.11 and 3734.13, Defendants are ordered to jointly and severally pay a civil penalty of \$1,500,000 subject to the provisions in this Order, in accordance with the following schedule:

- A. \$10,000 within thirty (30) days of the Effective Date of this Order;
 - i. \$3,333.34 shall go to CCBH;
 - ii. \$3,333.33 shall go to Garfield Heights;
 - iii. \$3,333.33 shall go to Ohio EPA;
- B. \$350,000 by December 31, 2025;
 - i. \$116,666.66 shall go to CCBH;
 - ii. \$116,666.67 shall go to Garfield Heights;
 - iii. \$116,666.67 shall go to Ohio EPA;
- C. \$350,000 by December 31, 2026; and

- i. \$116,666.67 shall go to CCBH;
- ii. \$116,666.67 shall go to Garfield Heights;
- iii. \$116,666.66 shall go to Ohio EPA;

D. \$790,000 by June 30, 2027.

- i. \$263,333.33 shall go to CCBH;
- ii. \$263,333.33 shall go to Garfield Heights;
- iii. \$263,333.34 shall go to Ohio EPA.

19. If Defendants meet the following removal benchmarks as required by this Order, the annual civil penalty payments in Paragraph 18 will be reduced and payments made pursuant to these terms:

A. The \$350,000 payment due on December 31, 2025 will be reduced to \$65,000 if Defendants meet their required reduction of 60,000 cubic yards of Legacy RSM by September 30, 2025.

- i. \$21,666.67 shall go to CCBH;
- ii. \$21,666.67 shall go to Garfield Heights;
- iii. \$21,666.66 shall go to Ohio EPA.

B. The \$350,000 payment due on December 31, 2026 will be reduced to \$75,000 if Defendants meet their required reduction of 120,000 cubic yards of Legacy RSM by September 30, 2026.

- i. \$25,000 shall go to CCBH;
- ii. \$25,000 shall go to Garfield Heights;
- iii. \$25,000 shall go to Ohio EPA;

C. The \$790,000 payment due on June 30, 2027 will be reduced to \$125,000 if Defendants meet their required reduction of one hundred fifty thousand (150,000) cubic yards of Legacy RSM by March 31, 2027.

i. \$41,666.67 shall go to CCBH;

ii. \$41,666.66 shall go to Garfield Heights;

iii. \$41,666.67 shall go to Ohio EPA.

D. After review of the topographical survey and by December 15, 2025; December 15, 2026; and June 15, 2027; the Ohio EPA will notify Defendants in writing of the civil penalty amount due. Each payment will be reviewed separately and compliance or noncompliance will not affect the next payment cycle. If the removal benchmark is met, payment of the reduced civil penalty associated with that benchmark as specified in paragraph 19 of this Order will constitute payment in full of that annual payment and the difference will be held in perpetual abeyance. In the event that all Legacy RSM is completely and lawfully removed and Defendants demonstrate that the total volume removed was less than the benchmarks contained in the Order, the civil penalty may be adjusted to the reduced values at the sole discretion and concurrence of Ohio EPA, CCBH, and Garfield Heights.

20. Civil penalty payments for Ohio EPA shall be made by delivering to Hannah Smith, Paralegal, or her successor, Office of the Attorney General, 30 E. Broad St., 25th Floor, Columbus, Ohio 43215, a certified check or checks for the appropriate amount, payable to the order of "Treasurer, State of Ohio;" Civil penalty payments to Garfield Heights shall be made by delivering to Barbara Biro, Finance Director, or her successor, City of Garfield Heights, 5407 Turney Road,

Garfield Heights, Ohio 44127, a certified check or checks for the appropriate amount, payable to the order of "City of Garfield Heights;" and civil penalty payments to CCBH shall be made by delivering to Pam Sawchyn, or her successor, Cuyahoga County Board of Health, 5550 Venture Drive, Parma Ohio 44130, a certified check or checks for the appropriate amount, payable to the order of "Cuyahoga County Board of Health."

21. If full payment of the civil penalty and any other amount due under this Consent Order is not received by the Plaintiffs in accordance with the terms of this Consent Order, the remaining unpaid balance of the total civil penalty and any other amount due, plus applicable interest under R.C. 131.02(D), shall become immediately due and owing. The remaining unpaid balance delinquent payments shall accrue interest at the rate per annum required by R.C. 5703.47 calculated from the Effective Date of this Order.

22. If any amount is not paid in accordance with the terms of this Consent Order, the Attorney General may collect that amount under R.C. 131.02. Pursuant to R.C. 109.081, in addition to the outstanding balance due under this Consent Order, collection costs of ten percent shall be owing and fully recoverable from the Defendants to be paid into the State Treasury to the credit of the Attorney General Claims Fund.

23. The Plaintiffs reserve the right to file a certificate of judgment lien against Defendants for the remaining unpaid balance of the total civil penalty, plus applicable statutory interest and collection costs, if the full civil penalty payment is not paid according to the schedule in this Order. Defendants shall not be permitted to claim a force majeure as an excuse for any untimely payment or partial payment of an amount less than the full civil penalty as specified in this Order.

24. If any Defendant files a petition for bankruptcy, the Plaintiffs reserve the right to file a certificate of judgment lien against the other, non-filing Defendant(s), for the remaining unpaid balance of the total civil penalty, plus applicable statutory interest.

VII. STIPULATED PENALTIES

25. If Defendants fail to comply with any of the requirements of this Order, including Sections V. and VI., Defendants shall immediately and automatically be jointly and severally liable for and shall pay stipulated penalties under the following schedule for each failure to comply:

- i. Defendants shall pay two hundred dollars (\$200.00) per day for each day any requirement of this Order is violated up to the first thirty (30) days of violation;
- ii. For each day any requirement of this Order is violated between thirty (30) days and ninety (90) days of violation, Defendants shall pay one thousand dollars (\$1,000.00) per day;
- iii. For each day any requirement of this Order is violated greater than (90) days of violation, Defendants shall pay one thousand five hundred dollars (\$1,500.00) per day.

26. Stipulated penalties due under this Order shall be immediately due and owing without demand by the State and shall be paid by check or money order, to Ohio EPA payable to "Treasurer, State of Ohio" and delivered to Hannah Smith, Paralegal, or her successor, at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215; to Garfield Heights payable to "City of Garfield Heights" and delivered to Barbara Biro, Finance Director, or her successor, City of Garfield Heights, 5407 Turney Road, Garfield Heights, Ohio 44127; and to CCBH payable to "Cuyahoga County Board of Health" and delivered to Pam Sawchyn, or her successor, Cuyahoga County Board of Health, 5550 Venture Drive, Parma, Ohio 44130. Stipulated penalties shall be split evenly among CCBH, Garfield Heights, and Ohio EPA.

27. Defendants' payment and Plaintiffs' acceptance of such stipulated penalties under this Section shall not be construed to limit the Plaintiffs' authority, without exception, to seek: 1) additional relief under R.C. Chapter 3714, 3734, or 3737, including civil penalties under R.C. 3714.11 and R.C. 3734.13; 2) judicial enforcement of this Order for the same violations for which a stipulated penalty was paid; or 3) sanctions for additional remedies, civil, criminal, or administrative, for violations of applicable laws. Further, payment of stipulated penalties by Defendants shall not be an admission of liability by Defendants.

VIII. COMPLIANCE NOT DEPENDENT ON GRANTS OR LOANS

28. Performance of the terms of this Order by Defendants is not conditioned on the receipt of any private, federal, state, or local grants, loans, and/or funds. In addition, Defendants' performance is not excused by failing to obtain or any shortfall of any private, federal, state, or local grants, loans and/or funds or by the processing of any applications for the same.

IX. SITE ACCESS

29. As of the Effective Date of this Order, Ohio EPA, Cuyahoga County Board of Health, and the City of Garfield Heights, and their representatives and contractors shall have access at reasonable times to the Site, and shall have access to any other property controlled by or available to Defendants to which access is necessary to effectuate the actions required by this Order. Access shall be allowed for the purposes of conducting activities related to this Order including but not limited to:

- a. Monitoring the work or any other activities taking place at the Site;
- b. Verifying any data or information submitted to the Plaintiffs;
- c. Conducting investigations relating to contamination at or near the Site;
- d. Obtaining samples;

- e. Assessing the need for, planning, or implementing additional response actions at or near the Site;
- f. Inspecting and copying records, operating logs, contracts or other documents maintained or generated by Defendants or their agents, consistent with this Order and applicable law; or
- g. Assessing Defendants' compliance with this Order.

30. Nothing in this Order shall be construed to limit the statutory authority of the Plaintiffs or their authorized representatives to enter at reasonable times upon the Site or any other private or public property, real or personal, to inspect or investigate, obtain samples and examine or copy any records to determine compliance with R.C. Chapters 3714, 3734, and 3737.

X. SUBMITTAL OF DOCUMENTS

31. All documents required to be submitted to Ohio EPA pursuant to this Order shall be submitted electronically or to the following addresses, or to such addresses as Ohio EPA may hereafter designate in writing:

Ohio EPA
Division Materials and Waste Management
50 West Town Street, Suite 700
Columbus, Ohio 43215
Attn: Enforcement Manager

Ohio EPA
Northeast District Office
Division of Materials and Waste Management
Attn: Materials and Waste Management Program Manager
2110 E. Aurora Road
Twinsburg, Ohio 44087

https://fileshare.epa.ohio.gov/filedrop/nedo_dmwm_submittals

32. All documents required to be submitted to Cuyahoga County Board of Health pursuant to this Order shall be submitted to the following addresses, or to such addresses as Cuyahoga County Board of Health may hereafter designate in writing:

Solid Waste Program Supervisor
Cuyahoga County Board of Health
5550 Venture Drive
Parma, OH 44130

33. All documents required to be submitted to the City of Garfield Heights pursuant to this Order shall be submitted to the following addresses, or to such addresses as the City of Garfield Heights may hereafter designate in writing:

Division of Fire
City of Garfield Heights
5407 Turney Road
Garfield Heights, Ohio 44125

XI. EFFECT OF ORDER

34. This Order does not constitute authorization or approval of the construction, installation, modification, or operation of any waste and material management facility under R.C. Chapters 3714 or 3734 not previously approved by Ohio EPA. Approval for any such construction, installation, modification, or operation shall be by permit issued by Ohio EPA or other such permits as may be required by applicable federal, state, or local laws, rules, or regulations.

XII. MODIFICATION

35. No modification shall be made to this Order without the written agreement of the Parties and the Court.

XIII. MISCELLANEOUS

36. Nothing in this Order shall affect Defendants' obligation to comply with all applicable federal, state or local laws, regulations, rules, ordinances, or orders.

37. Any acceptance by Plaintiffs of any payment, document, or other work due subsequent to the time that the obligation is due under this Order shall not relieve Defendants from the obligations created by this Order.

38. Defendants shall inform Ohio EPA of any change in Registered Agents' address and business addresses or telephone numbers, or the cessation of the business that is the subject of this action.

XIV. RETENTION OF JURISDICTION

39. This Court shall retain jurisdiction for the purpose of administering and enforcing this Order.

XV. ENTRY OF ORDER AND FINAL JUDGMENT BY CLERK

40. Under Rule 58 of the Ohio Rules of Civil Procedure, upon signing this Order by the Court, the Clerk is directed to enter it upon the journal. Within three (3) days of entering the judgment upon the journal, the Clerk is directed to serve upon all Parties notice of the judgment and its date of entry upon the journal in the manner prescribed by Civ.R. 5(B) and note the service in the appearance docket. The failure of the Clerk to serve notice does not affect the validity of this Order.

XVI. EFFECTIVE DATE

41. This Order shall be effective upon the date of its entry by the Court.

XVII. COURT COSTS

42. Defendants are ordered to pay all court costs of this action.

XVIII. AUTHORITY TO ENTER INTO THE ORDER

43. Each signatory represents and warrants that they have been duly authorized to sign this document and are fully authorized to agree to its terms and conditions, and, in the case of a person

signing on behalf of a corporate entity, may so legally bind the corporate entity to all terms and conditions in this document. By signing this Order, each signatory waives all rights of service of process for the underlying Complaint.

IT IS SO ORDERED.

JUDGE KELLY ANN GALLAGHER

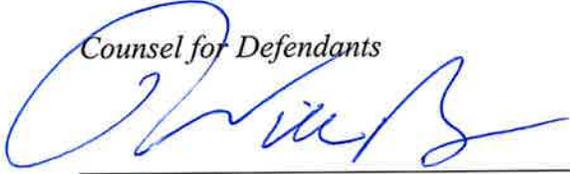
DATE

APPROVED AND AGREED TO BY:



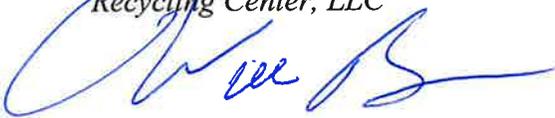
TIMOTHY J WEYLS, JR. (0069734)
WEYLS PETERS + CHUPARKOFF, LLC
6505 Rockside Road, Suite 105
Independence, Ohio 44131
Telephone: (216) 264-4821
Facsimile: (216) 503-4667
tj@w-pllc.com

Counsel for Defendants



WILLIAM B. BAUMANN

*Authorized Representative of Baumann's
Recycling Center, LLC*



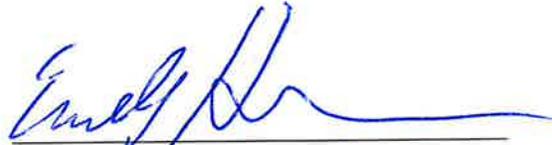
WILLIAM B. BAUMANN

*Authorized Representative of Baumann
Enterprises, Inc.*



WILLIAM B. BAUMANN

*Authorized Representative of Baumann
Properties, Ltd.*



EMILY HUDSON (100324)
CAMERON SIMMONS (0073904)
Assistant Attorneys General
Ohio Attorney General's Office
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215
Telephone: (614) 466-2766
Facsimile: (614) 644-1926
Emily.Hudson@OhioAGO.gov
Cameron.Simmons@OhioAGO.gov

*Counsel for Plaintiffs, the State of Ohio,
Cuyahoga County Board of Health, and the
City of Garfield Heights*

APPENDIX 1 – REVISED OPERATING PLAN

Baumann Recycling Center, LLC Revised Operating Plan for Legacy Recovered Screen Material (RSM)

This Revised Operating Plan (“Plan”) addresses Legacy RSM management by the Baumann’s Recycling Center located at 4801 Chaincraft Road in Cleveland, Ohio (the “Site”). The provisions of this Plan are binding upon Baumann’s Recycling Center, LLC; Baumann Enterprises, Inc.; and Baumann Properties LTD. (collectively “Baumann”), as set forth in the Consent Order of the Cuyahoga Common Pleas Court in Case No. 19 CV 910310 (Order). As used in the Plan:

- “Mixed Construction and Demolition Debris” or “Mixed C&DD” shall have the same meaning as set forth in Ohio Adm.Code 3745-400-01(M)(1).
- “Legacy RSM” means the RSM existing on the Site as of the Effective Date, as shown on the Site Operating Map in Appendix 2 to the Order.
- The definitions in the Order are adopted herein.

General Obligations

- Baumann shall operate the Site in a manner that does not cause a nuisance or fire hazard; in accordance with R.C. Chapters 3704, 3714, 3734, 3737, and 6111 and the rules adopted thereunder; in a manner that does not adversely affect public health, safety, or the environment; and in compliance with all applicable Federal, State, and Local laws and regulations and all orders of the Court in Case No. 19 CV 910310.
- If the Ohio Environmental Protection Agency (“Ohio EPA”), Cuyahoga County Board of Health (“CCBH”), or City of Garfield Heights determines that any provision of this Plan has been violated, Baumann will be provided with a written notice that includes reference to items within this Plan deemed non-compliant. Unless Ohio EPA determines there is an immediate threat to public health, safety, or the environment, the written notice will include a reasonable correction period if the same is capable of correction as reasonably determined by Ohio EPA. If the issue is not resolved during the correction period, Ohio EPA may withdraw authorization to process and/or accept construction and demolition debris. Such withdrawal of authorization will be automatically lifted when Ohio EPA confirms resolution of the noncompliance in writing.
- All operations at the Site shall be conducted in accordance with all authorizing documents, including permits and licenses issued for the Site, the Order, and this Plan.

- Any C&DD that is stored on the Site, including any processed C&DD designated for additional processing, will be stored on the Site in accordance with all authorizing documents issued, including permits and licenses issued for the Site. All Legacy RSM will be stored in accordance with all authorizing documents issued, including permits and licenses issued for the Site, the Order, and this Plan.

Processing of Legacy RSM

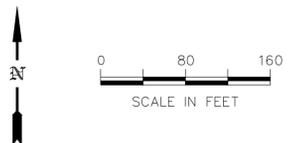
Baumann may process, or additionally process, Legacy RSM as follows:

- If Baumann can conduct effective and efficient sorting of the Legacy RSM such that wood, concrete, brick, and scrap metal can be separated from other material in the piles, then they shall use the methods and timeframes for material handling, storage, and final disposition as required by paragraph 17(C)(ii) in the Order;
- Baumann shall utilize operational controls and record keeping to track Legacy RSM leaving the Site, including daily logs and retaining copies of disposal receipts;
- Absolutely no material may be added to the existing piles of Legacy RSM;
- Legacy RSM stays Legacy RSM even after processing;
- Defendants shall segregate and keep separated Legacy RSM from all other materials at the Site, including but not limited to other RSM and C&DD accepted at the Site after the Effective Date of the Order;
- Baumann must employ fire prevention and control as required otherwise in the Order and Fire Code, and,
- Baumann must complete the removal of the Legacy RSM in accordance with the Order.

L:\SENECA ENGINEERING\2022 C&DD Permits\Baumann Enterprises\Baumann Enterprises_2022 Processing Facility\Site Operation Map.dwg User:scrooks Aug 23, 2023 12:26pm



PROPOSED MATERIAL PILES	
1	PROPOSED CHAINCRAFT IRON & METAL SCRAP YARD
2	PROPOSED UNSCREENED DIRT
3	PROPOSED BRICK MATERIALS
4	PROPOSED CONCRETE SCREENINGS
5	PROPOSED UNPROCESSED CONCRETE & CONCRETE MATERIALS
6	PROPOSED UNPROCESSED ASPHALT & ASPHALT MATERIALS
7	WOOD GRINDINGS
8	PROCESSED/ UNPROCESSED DIRT
9	UNPROCESSED WOOD
10	UNPROCESSED C&D
11	LEGACY RSM
15	NEWLY GENERATED INCREASED RSM
16	UNPROCESSED WOOD TO BE TRANSPORTED TO #9
17	FIRE LAYDOWN
18	PLANT ROCK
19	NONRECYCLABLES
20	METAL
21	NONRECYCLABLES, METALS, BRICK, CONCRETE



LEGEND	
---	EXISTING MAJOR CONTOUR (10-FT)
- - - -	EXISTING MINOR CONTOUR (2-FT)
~~~~~	TREE LINE
---	PARCEL LINE
P/L	PARCEL LINE
---	FACILITY PROPERTY LINE
---	EXISTING ROADWAY EXTENTS (PAVED)
---	EXISTING ROADWAY EXTENTS (UNPAVED)
---	EXISTING FENCE
---	EXISTING STORMWATER DIVERSION BERM
---	EXISTING TRENCH DRAIN
---	FIRE LANE
+	RAILROAD TRACKS
---	EXISTING STREAM
---	PILE OF MATERIALS (APPROXIMATE)
---	LEGACY RSM
---	EXISTING STRUCTURES
---	STORMWATER FLOW DIRECTION
---	OIL/GAS WELLS
---	EXISTING STORMWATER CATCH BASIN/DRAIN
---	EXISTING FIRE HYDRANT, LABELED FH1-4 (APPROX. LOCATION)
---	EXISTING MANHOLE

- REFERENCES:
1. THE AERIAL IMAGE AND CONTOURS WERE OBTAINED FROM GEOLOCATION ON 09/26/2022.
  2. THE PROPERTY BOUNDARIES WERE OBTAINED FROM THE CUYAHOGA COUNTY AUDITOR ON 09/26/2022.
- NOTES:
1. THIS FACILITY WAS IN OPERATION PRIOR TO OCTOBER 6, 2017 WITH TWO OCCUPIED DWELLINGS WITHIN THE 500-FT SETBACK.
  2. THE SITE FEATURES CHAIN LINK FENCING AND AN ENTRANCE GATE.
  3. THE SITE IS NOT VISIBLE FROM ROADS THAT ARE TYPICALLY TRAVELED BY THE PUBLIC (BROADWAY AVE & HENRY ST.) DUE TO ELEVATION DIFFERENCE AND VEGETATION SURROUNDING THE SITE.



REV. NO.	DATE	DRAWN	CHECKED	APPROVED	ISSUED

**Seneca ENGINEERING, LLC**

**BAUMANN'S RECYCLING CENTER, LLC.**  
**C&DD PROCESSING FACILITY**  
**SITE OPERATION MAP**

DRAWN BY: CRC  
 CHECKED BY: TBS  
 APPROVED BY: MJS  
 DATE: 8/17/2023  
 REV. NO.: REV. 2  
 DRAWING NO.: