



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**

RICHARDSON & ROBBINS BUILDING
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

OFFICE OF THE
SECRETARY

PHONE
(302) 739-9000

**NOTICE OF ADMINISTRATIVE PENALTY ASSESSMENT
AND SECRETARY'S ORDER**

Pursuant to 7 Del. C. §§ 6005(b)(2) and (b)(3)
Order No. 2026-WH-0007

VIA CERTIFIED MAIL, RETURN RECEIPT

Issued To:

Owner/Operator:

John J. Thomas
District Manager
Delaware Recyclable Products, Inc.
Waste Management of Delaware,
Inc.
246 Marsh Lane
New Castle, Delaware 19720

Registered Agent:

Corporation Trust
Company
Corporation Trust Center
1209 Orange Street
Wilmington, Delaware
19801

Dear Mr. Thomas:

The Secretary¹ of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") has found Waste Management of Delaware, Inc.'s Delaware Recyclable Products, Inc. ("Respondent" or "DRPI") in violation of Title 7, Chapter 40 of the Delaware Code ("Chapter 40"); Title 7, Chapter 60 of the Delaware Code ("Chapter 60"); Title 7 Section 1301 of the Delaware Administrative Code, Delaware's

¹ The head of the Delaware Department of Natural Resources and Environmental Control as appointed by the Governor.

Regulations Governing Solid Waste (“*Solid Waste Regulations*” or “*DRGSW*”); Title 7 Section 5101 of the Delaware Administrative Code, Delaware’s *Sediment and Stormwater Regulations* (“*DSSR*”); and Title 7 Section 7201 of the Delaware Administrative Code, Delaware’s *Regulations Governing the Control of Water Pollution* (“*Water Pollution Control Regulations*”). Accordingly, the Department is issuing this Notice of Administrative Penalty Assessment and Secretary’s Order (“*Order*”), pursuant to 7 *Del. C.* § 6005.

BACKGROUND

Respondent operates an industrial waste landfill located at 246 Marsh Lane, New Castle, Delaware 19720 (“*DRPI landfill*”). During the operation of its landfill, the *DRPI landfill* accepts industrial dry waste for disposal. As such, Respondent is subject to facility visits and compliance inspections conducted by the Department’s Division of Waste and Hazardous Substances’ (“*DWHS*”) Compliance and Permitting Section (“*CAPS*”), pursuant to *DRGSW*. Regulations pertaining to the collection, storage, transportation, treatment, and disposal of industrial solid wastes have been established to assure the safe and adequate management of solid wastes within the State of Delaware.

On May 16, 2023, *CAPS* issued NOV 23-SW-22, citing the receipt of waste from solid waste transporters without a valid solid waste transporters permit or vehicles that did not have a solid waste transporter permit² number displayed.

² Solid Waste Permit SW 15/02 Condition III.M.1 states: “Waste transportation permit. *DRPI* shall not accept waste from solid waste transporters hauling waste in vehicles having a gross vehicle weight of 26,000

On June 21, 2023, the Department issued Secretary's Order Nos. 2023-A-0013 and 2023-WH-0014. Secretary's Order No. 2023-A-0013, issued on behalf of the Department's Division of Air Quality ("DAQ"), cited violations of Chapter 60, state air regulations and its permit associated with emission limit exceedances, recordkeeping, and other permit requirements. Secretary's Order No. 2023-WH-0014, issued on behalf of CAPS, cited violations of Solid Waste Permit SW-15/02³ associated with cover requirements, stormwater management, control/management of erosion, leachate contamination of stormwater, and notification of damage to a landfill liner system. The Department entered into a settlement agreement for both Secretary's Orders with DRPI on December 27, 2023 ("Settlement Agreement").

On December 27, 2023, CAPS issued NOV 23-SW-37, citing the receipt and subsequent disposal of prohibited waste (i.e., hazardous waste) at the DRPI landfill.

Since the December 27, 2023, Settlement Agreement, the Department has identified numerous instances of continued non-compliance by Respondents despite the Department's notification to Respondent through

pounds or more, unless the hauler has a valid Transporter's Permit issued by the Department's Division of Waste and Hazardous Substances, Compliance and Permitting Section (DRGSW, Section 7.0)."

³ Solid Waste Permit SW-15/02 with an 'Effective Date' and "Date Issued" of May 25, 2022.

both informal and formal enforcement actions of these same violations. Additionally, since the Settlement Agreement, new instances of non-compliance have been identified by CAPS, DAQ, the Department's Division of Water ("DOW"), and the Department's Division of Watershed Stewardship's ("DWS") Sediment and Stormwater Program ("SSP").

On April 21, 2025, SSP approved planned capping construction activities required to close operations at the DRPI landfill.

On May 8, 2025, representatives from DNREC's DWHS met with representatives of Respondent to address recent fires, inadequate cover, and stormwater management at the DRPI landfill. On May 28, 2025, Respondent submitted a 30-day plan which identified actions Respondent had taken towards addressing the concerns discussed during the May 8 meeting.

On June 9, 2025, Respondent representatives met with representatives from CAPS, SSP, and DOW to discuss the management of stormwater that had become contaminated by exposed waste which resulted from erosion and insufficient cover. During that meeting, DOW notified Respondent that its coverage under the National Pollutant Discharge Elimination System ("NPDES") Industrial Stormwater General Permit only authorizes the discharge of stormwater generated under compliant landfill cover conditions and does not authorize the discharge of stormwater that has been in direct contact with exposed waste. Therefore, discharge of stormwater that has been in direct contact to exposed waste is an unpermitted discharge and a Chapter 60 violation.

CAPS' on-site compliance specialist, Scott Gilfert, has observed daily operations at the DRPI landfill since October 4, 2021. Additionally, on June 13, 2025, CAPS representatives Larry Matson, Alee Gonzalez, and Scott Gilfert observed operations at the DRPI landfill. While on-site, CAPS representatives also observed exposed waste over a large portion of the landfill, demonstrating that precipitation/stormwater had come into direct contact with the exposed landfill waste. As a result, the DRPI landfill is generating "contaminated stormwater" as defined in Solid Waste Permit SW-15/02 Condition IV.A.4. CAPS representatives observed contaminated stormwater draining into the stormwater management features (e.g., swales, basins). Stormwater management features are only intended to collect and manage non-contaminated stormwater.

On July 3, 2025, CAPS issued a letter to Respondent that documented the findings of the June 13, 2025, facility visit and notified Respondent of stormwater management requirements to prevent further unauthorized discharge of "contaminated stormwater". CAPS put Respondent on notice that DRPI is expected to direct contaminated stormwater to the leachate collection system to prevent overtopping, cresting, or unpermitted releases of contaminated stormwater. Respondent was also notified that DRPI needed to apply for and obtain Temporary NPDES Discharge Authorization in order to discharge stormwater that has contacted waste from the facility to waters of the State.

In a letter dated July 24, 2025, CAPS again notified Respondent that it was out of compliance and afforded Respondent an opportunity to demonstrate compliance by requiring the submission of a plan for approval by CAPS showing how DRPI planned on controlling contaminated stormwater, establishing and maintaining sufficient cover of waste, and confirming non-impacted conditions within stormwater features. Respondent submitted a plan to the Department within the timeframe specified in the July 24, 2025, letter. Respondent was given 90 days, or until October 28, 2025, to achieve full compliance with the totality of the July 24, 2025, letter. To date, full compliance has not been achieved.

On September 25, 2025, CAPS representatives Alison Kiliszek and Scott Gilfert conducted a facility visit at the DRPI landfill. Numerous violations were observed during the facility visit, while reviewing documentation provided after the facility visit, and also during a review of information previously obtained by CAPS representatives.

On June 11, 2025, the DOW notified Respondent via email that water going into the basins cannot be characterized as normal, uncontaminated stormwater as it has likely come into contact with waste due to significant portions of the landfill remaining uncovered, and, therefore, NPDES Temporary Discharge Authorization would be required for any discharge to waters of the State from either onsite basin. The DOW email provided Respondent with application requirements for the temporary discharge authorization. On June 12, 2025, DRPI submitted an application. On June 20, 2025, a DOW representative met onsite with Respondent to discuss the

application, and Respondent indicated that it was now in compliance with its landfill cover requirements, which would mean NPDES Temporary Discharge Authorization would no longer be required. However, during follow-up conversations with DOW, CAPS confirmed that DRPI was still out of compliance, and the landfill cover violations were still a significant concern. On July 10, 2025, DOW notified Respondent of this determination and that NPDES Temporary Discharge Authorization would still be required for any discharge to surface water.

In a letter dated July 25, 2025, DOW notified Respondent that additional analytical monitoring of water within the stormwater basins was required before DRPI's NPDES Temporary Discharge Authorization request could be deemed complete. The July 25, 2025, letter reiterated that Respondent does not have a permit that authorizes the discharge of contaminated stormwater from the DRPI landfill.

In the July 25, 2025, letter, DOW stated that discharge of contaminated stormwater (i.e. stormwater that has been in contact with waste materials due to extensive poor cover conditions) was a Chapter 60 violation since Respondent did not have permit coverage allowing this type of discharge. The ultimate solution to avoid unpermitted discharge was to fix the non-compliant cover conditions at the landfill. However, interim/temporary solutions were required to be deployed to avoid unpermitted discharges and associated violations until landfill cover issues were resolved. As previously communicated to Respondent, interim solutions included:

- Option 1: Managing contaminated stormwater through diversion to the leachate collection system in accordance with the DRPI landfill's solid waste permit; or,
- Option 2: Obtaining a temporary NPDES discharge authorization to allow for contaminated stormwater discharge from the DRPI landfill under enhanced monitoring conditions.

DOW instructed Respondent that discharge from either stormwater basin at this facility or any discharge from dewatering of the stormwater basins or swales that was not directed into the leachate collection system shall need to be regulated under a NPDES Temporary Discharge Authorization until such time that DOW receives confirmation from the CAPS that the landfill cover violations have been fully addressed.

On September 24, 2025, DOW received the additional analytical results from Respondent needed to complete its NPDES Temporary Discharge Authorization application. On October 30, 2025, DOW issued a 180-day temporary discharge authorization for the discharge of stormwater that had been exposed to landfill waste from DRPI landfill's east and west basins respectively, the "East Basin" and "West Basin"), contingent upon specific discharge requirements. Those requirements consisted of submission of a stormwater treatment plan for approval, subsequent treatment and monitoring for the East Basin, and discharge notification and monitoring for the West Basin. To date, Respondent has not complied with the temporary discharge authorization requirements for the East Basin even though discharges from the East Basin have continued. The Respondent was notified

during a meeting with the Department on April 7, 2026 that if DRPI required an extension of the NPDES Temporary Discharge Authorization beyond the April 30, 2026 expiration date, then it was required to submit an extension request for review by April 17, 2026. DRPI did not submit an extension request by the April 17, 2026 deadline.

On October 30, 2025, CAPS representatives performed a follow-up facility visit that included an assessment of compliance with CAPS' July 24, 2025, letter. Numerous violations of Solid Waste Permit SW-15/02, and non-compliance with the requirements set forth in CAPS' July 24, 2025, letter, were observed.

On November 6, 2025, a representative from DWS performed a routine inspection of the DRPI landfill. The DWS representative observed that the East Basin was actively discharging through the outfall. The outfall for the East Basin is comprised of two riser structures with two piped outlets. Further investigation confirmed that the seal between two sections of one of the risers on this outfall structure was either missing or compromised. An attempt to remediate the leak was completed on November 19, 2025. On December 1, 2025, the SSP was notified that the East Basin began discharging turbid water from leaks in both risers. Turbid discharge from both risers of the East Basin was observed on December 4, 2025, December 11, 2025, and December 19, 2025. From December 19, 2025, through the most recent regulatory review on April 1, 2026, both risers continued to discharge turbid water.

The Department acknowledges that Respondent has taken steps to improve the overall operation of the DRPI landfill. However, the observations made by Department representatives since the December 27, 2023, Settlement Agreement indicate the DRPI landfill remains out of compliance with permits, plans, approvals, and/or regulations all of which are under the purview of CAPS, DOW, and SSP.

FINDINGS OF FACT AND VIOLATION INCLUDING STATUTORY REQUIREMENTS

1. 7 Del. C. § 6003(a)(2) states:

(a) No person shall, without first having obtained a permit from the Secretary, undertake any activity:

(2) In any way which may cause or contribute to discharge of a pollutant into any surface or ground water.

The Industrial Stormwater General Permit coverage for this facility only authorizes stormwater discharge under compliant landfill cover conditions where exposure of waste to stormwater is minimized in accordance with Best Management Practices (BMPs) and Respondent's solid waste permit. Discharge of contaminated stormwater (i.e. stormwater that has been in contact with waste materials due to extensive poor cover conditions) is a

Chapter 60 violation since Respondent does not have NPDES permit coverage allowing this type of discharge. Respondent was first notified of this violation verbally on June 11, 2025. Although Respondent has performed some measures to mitigate the frequency of unpermitted discharge from the facility, unpermitted discharges have reoccurred from June 2025 through January 2026 on multiple occasions, in violation of 7 *Del. C. § 6003(a)(2)*.

2. 7 Del. Admin C. § 7201 – 3.2.1 states:

No person shall undertake any activity that causes or contributes to the discharge of a pollutant to any surface water or groundwater.

7 Del. Admin C. § 7201 – 3.3.3 states:

No person shall discharge any pollutant from a point source into surface or ground water, directly or indirectly, except as authorized pursuant to a permit granted under these regulations, unless such discharge is specifically exempted from such permit regulations.

Due to extensive landfill cover violations, Respondent has allowed stormwater that has been in contact with exposed waste to discharge from the facility rather than managing this stormwater through diversion to the

leachate collection system in accordance with Respondent's solid waste permit. Respondent does not have a permit that authorizes the discharge of stormwater that has been in contact with exposed waste. Since notifying Respondent of this violation on June 11, 2025, the Department was notified of multiple discharge events from the DRPI landfill including discharge observed and/or reported on June 13, 16, and 25, 2025, July 2, 7, 10, 17, 21, and 22, 2025, August 7, 2025, September 2, 2025, October 30, 2025, November 6, 13, and 18, 2025, December 4 and 11, 2025, and January 6, 2026 in violation of 7 Del. Admin C. § 7201 - 3.2.1 and 3.3.3.

3. 7 Del. C. § 4003(c) and 7 Del. Admin C. § 5101 - § 3.8.2 states:

Each land developer shall certify, on the sediment and stormwater management plan submitted for approval, that all land clearing, construction, development, and drainage will be done according to the approved plan.

Respondent has been working out of sequence from the approved sequence of construction. On March 11, 2025, it began construction on the West Basin immediately after constructing the East Basin, which is not in accordance with the approved sequence. On September 9, 2025, Respondent moved from capping event I to capping event II without scheduling a pre-construction meeting or notifying the Department. The SSP was notified that the permanent stormwater facility basins were completed on November 7, 2025. The required Post-Construction Verification

Documentation was not submitted for these basins, which was due within 60 days of basin completion. On August 19, 2025, the SSP found that Respondent disturbed land that is located outside of the approved Limit of Disturbance for the project, in violation of 7 Del. C. § 4003(c).

4. 7 Del. Admin C. § 5101 - § 4.4.1 states:

Unless an exception is approved on a case by case basis for a specific type of activity by the appropriate plan approval agency, not more than 20 acres may be disturbed at any one time. This will necessitate the phasing of construction on sites in excess of 20 acres to minimize areas exposed of ground cover and reduce erosion rates. Disturbance of a second 20 acre section may not proceed until temporary or permanent stabilization of the first 20 acre section is accomplished.

In September 2025, it was observed by SSP staff that this project had exceeded 20 acres disturbance at a time. At this time, multiple locations were disturbed concurrently, including capping event phase I (18.7 acres), a clay cap (3.5 acres), and both the East (1.4 acres) and West Basins (2.7 acres). When Respondent moved to disturbing capping event 2 (17.6 acres), the clay cap remained disturbed, which kept the total disturbance over 20 acres, in violation of 7 Del. Admin C. § 5101 - § 4.4.1.

5. 7 Del. Admin C. § 5101 - § 6.1.9 states:

Upon written notice by the Department, Delegated Agency, or Certified Construction Reviewer, any portion of the work which does not comply with the approved Sediment and Stormwater Management Plan or these regulations shall be corrected by the Owner within the time period specified in the written notice.

DNREC construction review reports have continually noted that open work items have not been addressed within the timeframe specified by the Department. Turbid discharge from the site has remained an open work item from November 6, 2025, to present. Lack of proper stabilization from the start of the project (May 13, 2024) has contributed to turbid runoff into the East Basin, in violation of 7 Del. Admin C. § 5101 - § 6.1.9.

6. Solid Waste Permit SW-15/02 – Condition I.D.1 states:

Construction and operations at DRPI shall be conducted in compliance with all federal, state, county, and municipal environmental statutes, ordinances, and regulations, including, but not limited to: Delaware's Regulations Governing Solid Waste, Delaware's Regulations Governing Hazardous Waste, Delaware's Regulations Governing the Control of

Water Pollution, Delaware's Surface Water Quality Standards, and Delaware's Regulations Governing the Control of Air Pollution.

Respondent has violated and continues to violate the requirements of its approved Sediment and Stormwater Plan overseen by the SSP. Respondent has violated and continues to violate the requirements of the Water Pollution Control Regulations overseen by the DOW.

Failure to comply with SSP and DOW requirements is a violation of Permit Condition I.D.1. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

7. Solid Waste Permit SW-15/02 – Condition I.D.6 states:

A copy of the most current version of this permit shall be maintained in both the scalehouse and the on-site office at DRPI.

On September 25, 2025, CAPS representatives requested that Respondent provide a copy of the current permit for review. Respondent provided a copy of the previously issued permit (March 2021) and not the May 2022 version. On October 6, 2025, CAPS' on-site compliance specialist confirmed that copies of the current permit were located in the scale house and on-site office.

Failure to have copies of the current version of the permit in all required locations is a violation of Permit Condition I.D.6. Respondent corrected this violation on October 6, 2025, to the satisfaction of the Department.

8. Solid Waste Permit SW-15/02 – Condition II.B.1 states:

Sediment and stormwater control must comply with Delaware's Sediment and Stormwater Regulations.

On November 7, 2025, CAPS received an email from Respondent indicating that the riser pipe in the East Basin had been installed without the appropriate seal between sections. Without the seal, the riser pipe leaks any time liquid levels exceed the elevation of the riser pipe joint. On or about November 17, 2025, Respondent responded to an email from SSP requesting an update on the riser pipe, indicating that the current water level is still above the missing seal and that work cannot be completed at this time until the water level goes down another 2 inches. Based on this information and information provided by an SSP representative, the riser was placed on or about July 23, 2024, and has tentatively been leaking contaminated stormwater during high water level events since it was improperly installed. The riser pipe seal was installed on or about November 20, 2025.

CAPS has received multiple Sediment and Stormwater Construction Site Review inspection reports. Each report noted several deficiencies. To the knowledge of CAPS, there are still deficiencies associated with SSP.

Failure to comply with DSSR is a violation of Permit Condition II.B.1. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

9. Solid Waste Permit SW-15/02 – Condition II.B.5 states:

Discharge from the detention basin shall be in compliance with all applicable federal, state, county, and local regulations.

DRPI has two stormwater basins with outfalls that fall under the NPDES program. These basins are only allowed to discharge clean uncontaminated stormwater; they are not authorized to discharge contaminated stormwater from the landfill. Secretary's Order No. 2023-WH-0014, dated June 21, 2023, cites issues with the proper application of cover that began, at the latest, on September 27, 2022. Proper application of cover is still an ongoing issue.

Until about late June/early July 2025, Respondent was discharging contaminated stormwater from both basins. Around that time, DNREC required Respondent to plug the basin outlets to prevent the discharge of additional contaminated stormwater without a permit/authorization from DOW.

On or about October 30, 2025, DOW issued a temporary discharge authorization based on information provided by Respondent to DOW. This

authorization required testing and notifications prior to discharging from the East Basin. However, on November 7, 2025, Respondent indicated that a riser pipe seal between concrete sections had not been installed and that the riser pipe was actively leaking contaminated stormwater when the East Basin liquid levels were high, regardless of whether the outlet was plugged. The riser pipe seal was installed on or about November 20, 2025.

On December 4, 2025, John Thomas telephoned CAPS to inform them that on or about December 2, 2025, the liquid level in the East Basin exceeded the height of the riser pipes and freely discharged an unknown volume of liquid. This discharge occurred at an unknown rate until the tops of the riser pipes were exposed. Mr. Thomas informed CAPS that SSP and DOW would also be notified and that additional information related to the event would be forthcoming. CAPS relayed this information to SSP and DOW on December 4, 2025.

Failure to comply with NPDES Program discharge requirements is a violation of Permit Condition II.B.5. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

10. Solid Waste Permit SW-15/02 - Condition III.A; OMP §3.4.1, ¶2; OMP §3.4.3; and OMP §3.11.2.2 state:

Permit Condition III.A: Operations at DRPI shall be conducted in accordance with this permit and the

Operation and Maintenance Plan (the Operations and Maintenance Plan) revised March 2021.

OMP Section 3.4.1, paragraph 2: An additional six inches of compacted earthen cover materials will be placed over operational cover area that will not receive additional lifts of refuse for periods longer than six months. To minimize maintenance activities, temporary vegetation will be established on sideslopes as described in Section 3.4.3. The establishment of healthy vegetation will stabilize disposal areas by minimizing erosion of intermediate cover materials. Eroded area that may develop will be repaired and reseeded as weather and season permits.

OMP Section 3.4.3: Seeding to promote stabilization of final cover areas will be accomplished as soon as weather permits. Seeding operation and application of necessary nutrients will follow the Delaware Erosion and Sedimentation Control Handbook of 2016 or the latest revision thereof. To help establish a good vegetative growth on poorer soils, soil amendments, such as composted vegetative matter or digested sludge from a domestic wastewater treatment facility may be applied to the surface. Such

undertaking will be coordinated with the New Castle County Soil Conservation District to insure proper application rates. Established vegetation of non-landscaped areas will be mowed at least once per year by DRPI.

OMP Section 3.11.2.2 (in part): Intermediate cover that will not be removed for additional waste placement within three months will be stabilized with temporary vegetation. Procedures for establishment of temporary vegetation are described below. It should be noted that temporary vegetation is intended to last only to the end of a current growing season and that it must be replaced as provided below at the start of each growing season or replaced by Permanent Vegetation as provided in Section 3.11.2.3.

There are multiple areas of the exterior landfill slopes that have not received additional waste for at least six months. For instance, based on images of the 6-2A valley of the DRPI landfill dating back to July 18, 2023, a "stone material" has been used as cover and it is an inadequate growth media for vegetation. Similar observations were made on July 12, 2024, and September 25, 2025.

Similarly, based on images dating back to September 9, 2024, on the south side of the maintenance access road/future haul road leading into 6-2A, temporary vegetation has not been established. These images demonstrate that portions of the south side of the haul road have remained unvegetated and prone to erosion. CAPS also has images from April 25 and September 25, 2025, illustrating that temporary vegetation was not established.

Finally, another noticeable area where temporary vegetation has not been established was at the crest of the landfill behind the Cell 6 pump station. The gray material was observed beginning, at the latest, on March 4, 2024, and continuing with the establishment of vegetation on March 3 and October 30, 2025.

Although there were numerous instances where temporary vegetation should have been established, only a few select areas were mentioned specifically within the CAPS' compliance assessment report which is a culmination of two (2) on-site visits (September 25 and October 30, 2025), documentation obtained by CAPS' on-site compliance specialist, reviews of CAPS's records, and reviews of Respondent's records. The report was finalized on March 4, 2026, and will be henceforth be referred to as "CAPS's Compliance Evaluation Report". In accordance with the OMP, Respondent should have applied soil amendments in areas with unsuccessful vegetative growth in order to establish good vegetative growth.

Failure to establish temporary vegetation on side-slopes is violation of Permit Condition III.A and OMP Sections 3.4.1 (paragraph 2), 3.4.3, and 3.11.2.2. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

11. Solid Waste Permit SW-15/02 – Condition III.A and OMP §3.13.1 state:

Permit Condition III.A: Operations at DRPI shall be conducted in accordance with this permit and the Operation and Maintenance Plan (the Operations and Maintenance Plan) revised March 2021.

OMB Section 3.13.1: The DRPI Landfill shall be maintained under the direction of the Facility Manager. General maintenance activities will include, but not be limited to, the following tasks:

- cutting grass;
- reseeding and fertilizing finished slopes where grass may have died;
- removing accumulated sediment from stormwater features;
- reburying waste that may have worked its way to the surface;
- grading the access road on the landfill as necessary; and

- repairing leachate seeps.

Inspections will be performed on a regular basis with identified maintenance being scheduled as soon as practical thereafter.

Beginning, at the latest, in July 2023, there have been numerous areas of the slopes of the DRPI landfill where an attempt to vegetate never happened or conditions were such that any attempts were unsuccessful.

The swales near the 4C pump stations and 1,2,3,5 pump station have been inundated with a mixture of debris, sediment, and waste for an extended period of time. The culvert connecting the two swales was barely visible on one side and an estimated 90% or more buried on the other side.

Since, at the latest, September 2022, adequate cover application has been an ongoing issue. This includes issues with reburying waste where it has worked its way to the surface.

Failure to conduct general maintenance of the landfill area in accordance with the OMP is in violation of Permit Condition III.A and OMP Section 3.13.1. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

12. Solid Waste Permit SW-15/02 – Condition III.B states:

DRPI shall be operated in a manner that will preclude degradation of adjacent land, air, surface water, or groundwater.

On March 4, 2025, the Cell 4E pump station experienced a failure where leachate was flowing from the leachate collection system and draining into the adjacent stormwater swale which ultimately drains into the East Basin. At that time, the East Basin outlet was readily able to discharge liquids when the appropriate water level was reached at the outlet structure.

When Secretary's Order No. 2023-WH-0014, dated June 21, 2023, was issued, Respondent was formally made aware that there were issues regarding the adequate placement of cover at the DRPI landfill. This issue has still not been resolved as of the finalization date of CAPS' Compliance Evaluation Report. As such, any stormwater that discharges to the basins and ultimately discharges from the basins is considered contaminated stormwater.

On October 30, 2025, DOW issued a temporary discharge authorization to Respondent that included specific sampling and analysis procedures for the two stormwater basins. Prior to Respondent's request to obtain a temporary discharge authorization, the amount of information known about the quality of the water being discharged was minimal. After sampling, multiple constituents of concern were determined to be above allowable discharge limits. The uncontrolled discharge of contaminated

stormwater from the basins to the surface water of the State does not constitute operating DRPI in a manner that will preclude degradation of adjacent land, air, surface water, or groundwater.

Failure to operate in a manner that would preclude degradation of adjacent land, air, surface water, and groundwater is a violation of Permit Condition III.B. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

13. Solid Waste Permit SW-15/02 – Condition III.G states:

DRPI shall not accept for disposal the following prohibited wastes:

1. Hazardous waste.
2. Asbestos.
3. Creosote treated materials.
4. Regulated infectious waste.
5. Licensed radioactive material (as described in the Delaware Radiation Control Regulations), and any radioactive material considered source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954.
6. Electrical transformers.
7. Putrescible wastes.
8. Municipal solid waste.
9. Municipal solid waste ash.

10. Whole tires.
11. Liquid waste as restricted by 40 CFR Part 258.28.

On November 16, 2023, Respondent informed CAPS of the possibility that mercury waste (flooring debris) that exceeded the toxicity characteristic leaching procedure (TCLP) limit was disposed of at the DRPI landfill. On November 29, 2023, Respondent informed CAPS that confirmation sampling was completed and confirmed that the flooring debris exceeded the regulatory TCLP limit for mercury, thus verifying that a hazardous waste was disposed of at the DRPI landfill.

On July 28, 2025, Respondent submitted a letter to CAPS to document a fire that occurred on July 24, 2025, as a result of an Android phone battery (likely a lithium-ion battery and a hazardous waste) that heated up and ultimately caught fire, then was landfilled.

On October 27, 2025, WM submitted a letter in accordance with Permit Condition VII.D regarding a fire that occurred during the early hours of October 23, 2025, likely caused by a lithium-ion battery (a hazardous waste) from a security camera. Of note, it was relayed to CAPS that the fire associated with this event was visible from the Delaware Memorial Bridge and that the battery had ignited paper waste that was landfilled in the vicinity.

Accepting prohibited wastes for disposal is in violation of Permit Condition III.G. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

14. Solid Waste Permit SW-15/02 – Condition III.K states:

Operational Cover. DRPI shall cover the working face a minimum of once a week. On windy days, or when strong wind is forecast for the area, DRPI shall immediately cover the working face. Cover shall consist of a minimum of six inches of clean fill or other material acceptable to the Department. The Department may require that certain loads be covered immediately if needed to prevent nuisance conditions.

Issues with operational cover date back to at least September 27, 2022, as specified within Secretary's Order No. 2023-WH-0014, dated June 21, 2023.

On September 25, 2025, it was difficult for CAPS representatives to discern what portions of the upper plateau of the DRPI landfill were/weren't associated with the working face due to a general lack of cover. There were piles of waste scattered all around the upper plateau in addition to the area likely associated with the working face. Some piles appeared to be more recent, such as piles of bags likely associated with litter picking efforts. Other piles were comprised of waste from one of several closure turf installation projects. Many of the piles were in places that had not been landfilled or even accessed in at least a week. Other piles of waste were in areas adjacent to

on-hill travel paths that are traveled with some frequency; however, those areas had not been landfilled in at least a week.

There were areas on the hill that had been landfilled and/or re-covered recently where the applied cover did not reach the extent of the waste landfilled in the area. Additionally, there were areas where cover was re-applied where the cover contained a significant amount of entrained waste.

There was a pile of previously landfilled waste that had been excavated to create the anchor trench for the installation of the ClosureTurf® on the northern portion of the upper plateau. CAPS representatives told Respondent that the waste had to be covered or moved to the working face and landfilled. The waste appeared to be properly managed no later than September 30, 2025.

At the time of the follow-up facility visit on October 30, 2025, CAPS representatives were able to take photographs of areas where the same waste was exposed during both days. Due to additional landfilling activities and the addition of cover on certain areas of the upper plateau, it was more difficult to pinpoint waste previously observed on September 25, 2025. However, CAPS representatives were able to clearly identify at least three instances where waste had been exposed from at least September 25 through October 30, 2025.

Based on observations made during the facility visits and a review of daily reports by the on-site compliance specialist, operational cover is not being applied to working face areas at least once per week.

Failure to adequately apply operational cover is in violation of Permit Condition III.K. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

15. Solid Waste Permit SW-15/02 – Condition III.L states:

Intermediate cover. Any area that receives operational cover and is not expected to receive either additional solid waste or a capping system within six months shall be covered with intermediate cover. Intermediate cover shall consist of at least 12 inches of compacted soil (total), or an alternative material approved by the Department.

Issues with intermediate cover date back to at least September 27, 2022, as specified within Secretary's Order No. 2023-WH-0014, dated June 21, 2023.

There were many areas on the side-slopes of the DRPI landfill that should have had first operational cover and now intermediate cover that did not at the time of the facility visit on September 25, 2025. The bulk of these

areas were readily visible from the perimeter road and contained waste discernable by the naked eye. Many of these areas were the same or untouched when a follow-up facility visit was conducted on October 30, 2025.

There were areas of the hill that appeared to have been re-covered recently during the September 25, 2025, facility visit where the applied cover did not reach the extent of the waste landfilled in the area. It was also observed that in some areas the equipment tracking in the cover was orientated in such a way to encourage preferential flow paths down the slopes and likely contributed to the creation of erosion rills (aka rilling) in those areas. Additionally, there were areas where cover was re-applied where the cover contained a significant amount of entrained waste.

There was a significant amount of exposed waste just beyond the western limits of what appeared to be the extent of the capping efforts on the plateau on September 25, 2025. This waste has been exposed for an unknown amount of time but at least a couple months and should have been covered. On October 30, 2025, some of this waste had been covered or relocated in preparation for additional capping work to continue.

Based on observations made during the facility visits and a review of daily reports by the on-site compliance specialist, intermediate cover is not being applied at the appropriate intervals.

Failure to adequately apply intermediate cover is in violation of Permit Condition III.L. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

16. Solid Waste Permit SW-15/02 – Condition III.N states:

Litter shall be controlled and collected in accordance with the Operations and Maintenance Plan. Controls shall include daily inspections for litter, compaction of waste upon receipt, use of fences and other barriers, and routine litter collection. Scattered and wind-blown litter shall be collected as frequently as necessary to maintain an aesthetically desirable environment. DRPI shall prevent litter from migrating off-site. The DRPI personnel shall collect any off-site litter which has migrated from the landfill site immediately.

On September 25, 2025, the amount of litter observed around the DRPI landfill was extremely variable. Toward the entrance via Marsh Lane, there was some litter visible near the outskirts of the capping area toward Cell 6 and the western parts of the hill. Litter could be seen from the perimeter road on the side-slopes of Cells 5C through 6-2A. Some areas had higher concentrations of litter while others appeared to have been recently cleaned and/or were litter-free. Areas with higher concentrations of litter were generally near areas that were lacking adequate cover.

There was a significant amount of litter on the plateaus and near the capping activities on the plateau. There were some random piles of trash bags that could have been associated with litter removal efforts. However, due to the general lack of cover, there is a higher concentration of wind-blown litter on the plateaus. The capping area was scattered with litter around the edges where work was being done. CAPS representatives observed a significant amount of litter within the open anchor trenches that appeared to be associated with the capping project or had blown in from elsewhere.

During the follow-up facility visit on October 30, 2025, CAPS representatives observed less litter on the side slopes with most observations being associated with the lack of cover. CAPS representatives observed two DRPI staff walking the side slopes and picking up litter, and they also observed litter scattered around the areas covered with ClosureTurf®.

Failure to control litter is in violation of Permit Condition III.N. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

17. Solid Waste Permit SW-15/02 – Condition III.O states:

Dust control measures shall be provided to minimize potential nuisance dust to adjacent landowners. Site access and entrance roads shall be cleaned with

water and swept as needed to minimize the potential for mud being tracked onto public roads.

Fugitive dust emissions shall not be emitted in such quantities as to cause or create a condition of air pollution (injurious to human, plant, or animal life or unreasonably interfering with the enjoyment of life and property) from material-handling operations, the stockpiling of materials, or vehicular traffic entering or leaving the facility. This includes along Marsh Lane adjacent to the New Castle County Public Safety Building and along the commercial/industrial properties which in turn are adjacent to the West Minquadale community. The paved surface of Marsh Lane shall be kept clean of dust-causing dirt and mud by employing methods such as water tanker/sprinkler trucks. These methods will also be employed on non-paved roads to control fugitive dust emissions.

During the September 25 and October 30, 2025, facility visits, CAPS representatives observed muddy conditions on various parts of Marsh Lane. Mud was clearly tracked from the landfill to the access road and then ultimately beyond the solid-waste facility gate. The inbound side of the road had some mud, but the outbound side was muddier. Respondent made

efforts on both days to decrease the amount of mud within the outbound lane prior to CAPS representatives departing for the day.

Tracking mud from landfill operations onto Marsh Lane from the facility has been an ongoing issue at the DRPI landfill. Based on observations during the facility visits, the haul route from the working face to the scale house is generally dirt- or mud-laden. There is a short stretch of dirt/mud-laden semi-gravelly area between the toe of the hill and the scales, then there is asphalt in various states of usefulness from the scale house to Route 13.

Failure to minimize the potential for mud to be tracked onto public roads is in violation of Permit Condition III.O. The tracking was generally corrected on the days of the facility visit; however, tracking mud from the facility has been an ongoing issue and is still an item of concern. As of the date of this Order, Respondent has not implemented adequate controls to correct this violation to the satisfaction of the Department.

18. Solid Waste Permit SW-15/02 – Condition III.P.4 states:

Emergency telephone numbers of nearby ambulance, hospital, police and fire services shall be prominently displayed by at least one telephone in each of the following on-site locations: the maintenance office/shop, the leachate pre-treatment building, the scale house and the administrative office.

A list of emergency telephone numbers was prominently displayed only in the administrative office of the DRPI landfill. An outdated list of emergency telephone numbers was ultimately located in a file bin within the maintenance office/shop after CAPS and WM representatives searched around the building, which is not considered to be prominently displayed. CAPS and Respondent representatives were unable to locate copies of the emergency telephone list in both the pre-treatment building and the scale house. On September 26, 2025, CAPS' on-site compliance specialist confirmed that copies of the emergency telephone numbers were prominently displayed within the maintenance office/building, pre-treatment building, and the scale house.

Failure to have emergency telephone numbers prominently displayed in the maintenance office/shop, pre-treatment building, and scale house are violations of Permit Condition III.P.4. Respondent corrected this violation on September 26, 2025, to the satisfaction of the Department.

19. Solid Waste Permit SW-15/02 – Condition III.R states:

All employees (except the Operations Specialist) assigned duties at DRPI shall receive, as a minimum, the training listed below. Unless otherwise specified by a nationally recognized training provider (for example, the American Red Cross as a training provider for First Aid), training shall be required initially and annually thereafter. Initial training for

waste screening shall be completed within 60 days of hiring, and all other initial training shall be completed within 180 days of hiring.

1. Operational and contingency procedures.
2. Waste screening.
3. Health and safety procedures.
4. Fire prevention and protection.
5. Emergency first aid.
6. CPR training.
7. Temporary employees shall receive, as a minimum, training in operational and contingency procedures, health and safety procedures, and fire prevention and protection. Additional training for temporary employees may be required, dependent on position responsibilities. For example, a temporary weighmaster must receive waste screening training within 60 days of hiring.

On September 25, 2025, CAPS representatives requested records demonstrating compliance with the training requirements specified within Permit Condition III.R. Respondent indicated that many records were kept digitally. CAPS representatives requested that the records be provided no later than October 8, 2025, which was later extended to October 9, 2025. CAPS received documentation related to employee training on October 9, 2025.

Based on the documentation provided, Respondent does a series of safety meetings throughout the year which cover the bulk of the employee training requirements. DRPI recently completed training for First Aid, CPR, and AED in August and September 2025. On October 9, 2025, Respondent indicated that the certificates for these would be sent when Respondent received them. On November 13, 2025, the certificates for First Aid, CPR, and AED training were again requested, but these certificates still have not been provided.

Failure to demonstrate to the Department that employees have received all required trainings is a violation of Permit Condition III.R. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

20. Solid Waste Permit SW-15/02 – Condition IV.A.1 states:

DRPI shall maintain a surface water management system to prevent erosion of the waste and cover, prevent the collection of standing water, minimize surface water run-on into the waste, and minimize run-off from the waste. DRPI shall maintain coverage under the National Pollutant Discharge Elimination System (NPDES) for stormwater discharge.”

Issues with maintaining a surface water management system that adequately controls erosion and minimizes run-off from the waste date back to December 5, 2022, at the latest, as specified within Secretary's Order No. 2023-WH-0014, dated June 21, 2023.

On September 25, 2025, CAPS representatives observed various degrees of rilling over numerous parts of the DRPI landfill. Rill widths ranged from inches to several feet and rill lengths ranged from feet to several tens-of-feet. Rilling was most noticeable within improperly covered and non-vegetated areas of the side-slopes. Some of the rilling was a result of stormwater flowing from the upper plateau and then finding preferential flow paths down the side-slopes. Depending on the specific area of the side-slope, exposed waste, previously covered waste, cover, or any combination of them were eroded by one or more storm events.

On October 30, 2025, CAPS representatives observed rills similar in nature to those from September 25, 2025. Additionally, the 6-2A valley along the access road at the toe of Cells 6-2A and 1 had significant erosion and washout. Based on observations, cover in the vicinity of the 6-2A valley was washed away by stormwater and flowed across the access road and then into a stormwater swale. Cover and landfilled waste were deposited on the access road for approximately 30-40 yards. It is unknown how much cover and landfilled waste was deposited and/or washed downstream via the stormwater swale. The 6-2A valley has historically been an area where stormwater flow, erosion, and the integrity of a landfill gas pipeline have been concerns. On this day in particular, the rills in this area likely measured

several feet in any direction. Cover that was previously placed was so eroded that landfill waste was exposed and stormwater was actively flowing over the waste, crossing the access road, and entering the adjacent stormwater swale. Due to this severe erosion, there were also concerns regarding the integrity of a landfill gas pipeline and connection location within this same area. The pipeline appeared to be sagging in portions and was being undercut by various degrees as more cover and landfilled waste washed away.

On October 30, 2025, CAPS representatives observed that stormwater flowing from the upper tier drain of downchute DC-2 was causing erosion to the adjacent area. Downchute DC-2 is mostly covered with ClosureTurf®; however, there is a large gap between the bottom of the ClosureTurf® and the eastern perimeter swale that is unstabilized soil. Based on at least one visible rill, stormwater from the upper tier drain went beyond the limits of downchute DC-2 and began eroding cover on the other side of the downchute. Other rills originating from upslope of this area were also observed in this same vicinity.

Failure to prevent erosion of the waste and cover, and run-off from the waste is a violation of Permit Condition IV.A.1. Additionally, Respondent discharged contaminated stormwater from its basins without proper authorization by the NPDES program. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

21. Solid Waste Permit SW-15/02 – Condition IV.A.2; OMP §3.11.3; and OMP §3.15.5 state:

Permit Condition IV.A.2: DRPI shall maintain a stormwater management system on the landfill to prevent erosion of the waste and cover, prevent the accumulation of standing water, and minimize stormwater runoff into the waste. The stormwater conveyance and discharge system (SCDS) shall be kept free of leachate (including condensate from the gas collection system), debris, waste, and sediment buildup.

- a. DRPI shall ensure that contaminated stormwater from operation on the landfill is directed to the leachate collection system.
- b. DRPI shall inspect the stormwater management system on the landfill monthly and immediately after any rainfall capable of causing erosion or surface run-off or on the next operating day if rainfall occurs while the facility is not operating. DRPI shall record the results of the inspections, maintain records of these inspections and of their findings, and the actions taken to correct observed deficiencies. Inspections shall, at a minimum, include:

- (1) Berms and swales shall be inspected for erosion, sedimentation, and debris.
 - (2) Silt fences shall be inspected for damage, accumulated debris, and to ensure that fencing is firmly anchored.
 - (3) Culverts and pipes shall be inspected for siltation, blockage, and debris.
 - (4) Control structures and outfalls shall be inspected for siltation, debris, and damage. If stormwater is flowing at the time of the inspection, DRPI shall visually inspect the discharge for color, sheen, floating debris, and sediment laden stormwater. DRPI shall record their observations from the visual inspection, describing any odor noted as well.
- c. DRPI shall coordinate stormwater pond cleanout or maintenance involving structural repair of the ponds with the DNREC Sediment and Stormwater Program or DNREC Division of Water, as applicable.

OMP Section 3.11.3: All components of the stormwater management and erosion and sediment control system at the DRPI Landfill will be inspected and maintained throughout the life of the landfill. Monthly inspections will be made by the Facility

Manager or their designate and after each significant rain event (i.e., 24-hour rainfall of about 3 in. or greater) to ensure the integrity of the systems. The Facility Manager will perform preventive maintenance of all stormwater management practices to ensure proper functioning. All required maintenance will be performed in a timely manner to minimize off-site discharge of sediment and ensure environmental protection at all times. In addition, surface water will be monitored in accordance with approved stormwater plan (see Appendix V-F).

OMP Section 3.15.5: All components of the stormwater management and erosion and sediment control system at the DRPI Landfill will be inspected and maintained by DRPI throughout the landfill operation, according to the schedule described in Section 3.11.3 of this O&M Plan. In addition to regular review by Facility Manager, inspections will be made after each significant rain event (i.e., a rainfall of about 3 in. over a 24-hour period) to ensure the integrity of the system. All required maintenance will be performed in a timely manner to eliminate the off-site discharge of sediment and to ensure environment protection at all times.

Issues with maintaining a surface water management system that controls erosion on the landfill date back to December 5, 2022, at the latest, as specified within Secretary's Order No. 2023-WH-0014, dated June 21, 2023.

CAPS has images from January 4 and March 12, 2024, illustrating that the swale located near the Cell 4C pump station was not kept free, at least to a reasonable degree, of debris, waste, and sediment. In the January image, there was some attempt to clean the swale. However, even after dipping out the swale, the outlet culvert location can only be estimated as it appears to still be buried within sediment and/or waste. In the March image, the outlet culvert can be seen; however, the outlet culvert still appears to be at least 50% blocked by sediment.

On September 25, 2025, it was nearly impossible to find the outlet culvert in the swale near the Cell 4C pump station due to the amount of debris, waste, and sediment accumulated within the swale. On October 30, 2025, CAPS representatives noted that a significant amount of sediment had been removed from this area; however, the water level was such that it could not be determined whether the outlet culvert had been exposed during the dipping effort.

The swale near the Cells 1,2,3,5 pump station was in a similar condition to the swale near the Cell 4C pump station. On September 25, 2025, the inlet culvert to this swale was estimated to be 90%+ blocked by debris, waste, and sediment. Due to the amount of water in this area on October 30, 2025,

it could not be determined whether an adequate amount of debris, waste, and sediment had been removed to unblock the inlet culvert. The outlet culvert appears to have been kept in good working condition with no significant amount of blockage.

Issues with cover application date back to September 27, 2022, at the latest, as specified within Secretary's Order No. 2023-WH-0014, dated June 21, 2023. As a result, both East Basin and West Basin have been receiving contaminated stormwater since that time in lieu of stormwater being directed to the leachate collection system.

Failure to adequately maintain the SCDS and keep it free of leachate, debris, waste, and sediment buildup are violations of Permit Condition IV.A.2 and OMP Sections 3.11.3 and 3.15.5. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

22. Solid Waste Permit SW-15/02 – Condition IV.A.3 states:

Stormwater management. DRPI shall properly operate, manage and maintain all structures and basins designed to manage stormwater and shall take all reasonable steps to minimize or prevent any discharge of pollutants into surface waters.

Respondent has been discharging unknown quantities of contaminated stormwater from both the East Basin and the West Basin since at least September 2022 due to a lack of adequate cover being applied over landfilled waste.

Around late June/early July 2025, DNREC required Respondent to plug the outlets of the East and West Basins in an attempt to prevent further discharges of unknown quantities of contaminated stormwater. On or about September 2, 2025, the plug in the outlet for the East Basin failed and discharged around 434,000 gallons of contaminated stormwater before a repair was completed. On October 30, 2025, CAPS representatives observed contaminated stormwater freely flowing from the East Basin. Additionally, it was not reported until November 7, 2025, that one of the riser pipes had been improperly installed, and it was later determined that this riser pipe was installed on or about July 23, 2024. As such, even with the repair to the East Basin outlet plug, the East Basin was freely discharging unknown quantities of contaminated stormwater until the seal on the riser was installed on or about November 19, 2025.

On December 1, 2025, Respondent emailed the Department indicating that the other riser within the East Basin was also not properly sealed and that it too had been leaking unknown quantities of contaminated stormwater, although significantly less than the other recently repaired riser in the East Basin. A video was included with the email. To the knowledge of CAPS, the liquid level within the East Basin has not been lowered to a level in which the second riser could be resealed and/or repaired to stop the uncontrolled flow

of contaminated stormwater when liquid levels exceed the leak point elevation.

Failure to properly operate, manage, and maintain structures and basins and for failing to take all reasonable steps to prevent any discharge of pollutants into surface waters are violations of Permit Condition IV.A.3. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

23. Solid Waste Permit SW-15/02 – Condition IV.A.4 states:

DRPI shall take all necessary steps to identify and prevent the discharge of pollutants from the waste into surface water and shall initiate corrective actions to confirm, quantify, and remediate such discharges. For the purposes of this permit, contaminated stormwater means stormwater which comes in direct contact with landfill wastes or landfill wastewater. Landfill wastewater means all wastewater associated with, or produced by, landfilling activities except for sanitary wastewater, non-contaminated stormwater, and groundwater from monitoring or production wells on-site. Landfill wastewater includes leachate, gas collection condensate, laboratory derived wastewater, contaminated stormwater, and contact

wash-water used to wash solid wastes from equipment.

Issues with preventing the discharge of pollutants from the waste into surface water date back to at least December 29, 2022, as specified within Secretary's Order No. 2023-WH-0014, dated June 21, 2023.

As previously discussed, due to a lack of cover, stormwater has been able to freely flow over landfilled waste and generate large quantities of contaminated stormwater. Respondent has not taken sufficient action to convey all contaminated stormwater into the leachate collection system as required by Permit Condition IV.A.2. Because of this, both basins continue to accumulate contaminated stormwater after rain events that cause runoff. Around late June/early July 2025, DNREC required Respondent to plug the basin outlets. The West Basin appeared to have been properly plugged at that time. However, as explained previously, due to an improperly installed riser pipe, the East Basin continued to discharge contaminated stormwater until on or about November 19, 2025, when a seal was installed between riser sections. It was later learned on December 1, 2025, that there were installation issues with both riser pipes. To the knowledge of CAPS, the liquid levels in the East Basin have not been lowered by Respondent to a level in which the second riser pipe could be sealed/repaired.

The ground surrounding the gas scrubber towers was covered and/or stained by spent carbon materials that had been spilled on the ground and not cleaned up. The area around the scrubbers freely drains towards the

swale near the Cells 1,2,3,5 pump station and ultimately to the West Basin. On September 25, 2025, the area around the scrubbers appeared to be black and CAPS representatives observed drainage paths toward the nearby swale. On October 30, 2025, CAPS representatives observed that the carbon media was being changed. There was ponded water around the gas scrubber area and drainage paths from the spilled material towards the nearby swale.

On or about August 25, 2025, a pipeline within the Cell 5E pump station cabinet broke. Respondent had placed a bucket inside the cabinet to capture the dripping leachate; unfortunately, the bucket filled and then overflowed into the cabinet. The cabinet then self-drained onto the ground beneath the cabinet, and leachate freely entered the adjacent stormwater swale. On September 25, 2025, CAPS representatives observed that a different part of the pipeline within the Cell 5E pump station cabinet appeared to have leaked on at least one occasion. Though not leaking on this day, there was staining and/or leachate residue on the pipeline within the cabinet. Additionally, part of the cabinet appeared to be corroded directly above that piece of the pipeline.

On October 30, 2025, CAPS representatives observed a substantial amount of water flowing from the ClosureTurf® system used for the ongoing capping project. The water observed on and flowing from the ClosureTurf® appeared to be fairly clear and clean in nature. Stormwater coming from other parts of the landfill was quite turbid and likely contained sediment, waste, and/or debris from the hill. Adequate cover to create a physical barrier between landfilled waste and stormwater, with subsequent vegetative cover,

and/or the continuation/completion of the capping project would likely greatly improve water quality concerns at the DRPI landfill.

Failure to prevent the discharge of pollutants from the waste into surface water is a violation of Permit Condition IV.A.4. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

24. Solid Waste Permit SW-15/02 – Condition IV.B.1.a states:

All monitoring wells shall be maintained and protected in accordance with the Delaware 'Regulations Governing the Construction and Use of Wells'.

On September 25, 2025, CAPS representatives observed gas probe GP 5-6. GP 5-6 is classified as an "observation well" in DNREC's well permit system under DNREC Well Permit No. 162035. As such, GP 5-6 is regulated by Delaware's Regulations Governing the Construction and Use of Wells and the outer casing is required to be secured with a locking lid when not in use. The lid for the outer casing was observed on the ground behind the well. The well was relocked to the satisfaction of the CAPS on September 30, 2025

Failure to have a monitoring well properly secured with a locking lid is a violation of Permit Condition IV.B.1.a. The Respondent corrected this violation on September 30, 2025, to the satisfaction of the Department.

25. Solid Waste Permit SW-15/02 – Condition IV.C.1.a; Condition III.A; and OMP §3.10.2 state:

Permit Condition IV.C.1.A: Weekly inspection shall be conducted and documented by DRPI to verify proper functioning of all groundwater control system components.

Permit Condition III.A: Operations at DRPI shall be conducted in accordance with this permit and the Operation and Maintenance Plan (the Operations and Maintenance Plan) revised March 2021.

OMP Section 3.10.2: The groundwater control system will be routinely inspected and maintained along with other environmental systems at the DRPI Landfill. Any deficiencies found during the routine inspections will be noted on the leachate monitoring report found in Appendix V-B, Form D. System inspection includes visually confirming that groundwater control pumps controls are operational, valves have been properly placed in open or closed positions, and that the groundwater discharge is being managed with other stormwater in the facility's stormwater management system. Maintenance of

groundwater control system components, including submersible pumps, valves, and controls, will be performed to maintain working conditions. Accessible groundwater collection lines will be cleaned using a sewer jetter or other suitable method once per year.

During inspection and maintenance events, DRPI personnel will document the work performed and conditions encountered.

On September 25, 2025, CAPS representatives requested records demonstrating compliance with the inspection requirements specified within Permit Conditions IV.C.1.a and III.A and OMP Section 3.10.2. Respondent indicated that many records were kept digitally. CAPS representatives requested that all requested records be provided no later than October 8, 2025, which was later extended to October 9, 2025. CAPS received documentation related to weekly inspection requirements on October 9, 2025.

Based on a review of the inspection records, from around April to the end of September 2025, high head levels, zero gallons pumps, zero hours on the pump, and some intermittent anomalous values were common occurrences for the Cell 4C pump station. Respondent's inspection records should have alerted Respondent that the Cell 4C pump station was not

properly operating. As such, the records show that Respondent was not verifying that the system was properly functioning.

Failure to adequately verify that the groundwater control system was properly functioning is a violation of Permit Conditions IV.C.1.A and III.A, and OMP Section 3.10.2. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

26. Solid Waste Permit SW-15/02 – Condition IV.C.1.c states:

The system shall be designed and operated to maintain five feet of separation distance between the liner and the groundwater table.

On October 9, 2025, CAPS received leachate logs from Respondent, including logs for the date range January 2 through October 9, 2025.

Based on a review of the leachate logs ranging from January 2 through October 9, 2025, Respondent exceeded the compliance elevations for the groundwater control system on numerous occasions throughout 2025. The Cell 4C pump station started showing issues in late March and by late April, it was almost a daily occurrence until early September. The issues started again in mid-September but were resolved before October. The continued high head levels should have been an indication to Respondent that the Cell 4C pump station was not properly operating to maintain the separation distance between the liner and groundwater table.

Failure to operate the groundwater control system to maintain five feet of separation distance between the liner and the groundwater table is a violation of Permit Condition IV.C.1.c. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

27. Solid Waste Permit SW-15/02 – Condition IV.C.2.a states:

The groundwater control system shall be capable of measuring the rate and quantity of flow from each cell on a daily basis and shall be capable of sampling the water collected.

On October 9, 2025, CAPS received leachate logs from Respondent, including logs for the date range January 2 through October 9, 2025.

Based on a review of the leachate logs ranging from January 2 through October 9, 2025, the Cell 4C pump station started showing high elevations in late March and by late April, and it was almost a daily occurrence until early September, then it was resolved before October. The occurrence of continued high elevations within Cell 4C and “zero” values in gallons and hours pumped should have alerted Respondent that the Cell 4C pump station was malfunctioning. As such, the malfunctioning pump station rendered it incapable of measuring the rate and quantity of flow from the Cell 4C pump station for an extended period.

Failure to ensure the groundwater control system is capable of measuring the rate and quantity of flow from each cell on a daily basis is a violation of Permit Condition IV.C.2.a. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

28. Solid Waste Permit SW-15/02 – Condition IV.C.2.b states:

The performance standard of the groundwater control system shall be that the groundwater elevation is maintained at least five feet below the liner.

Based on a review of leachate logs ranging from January 2 through October 9, 2025, Respondent exceeded the compliance elevations for the groundwater control system on numerous occasions throughout 2025. The Cell 4C pump station started showing the exceedance of compliance elevations in late March and by late April, and it was almost a daily occurrence until early September, then it was resolved before October. The continued high head levels should have been an indication to Respondent that the Cell 4C pump station was not properly operating and that performance standards to maintain the separation distance between the liner and groundwater table were not being met.

Failure to ensure the groundwater control system performance standard that the groundwater elevation is maintained at least five feet below the liner is a violation of Permit Condition IV.C.2.b. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

29. Solid Waste Permit SW-15/02 – Condition IV.C.2.d states:

DRPI shall measure and record the depth of water and the quantity of water pumped from each groundwater control system sump where a pump is installed each operating day.

Based on a review of leachate logs ranging from January 2 through October 9, 2025, Respondent did not record any of the underdrain or leachate values for three (3) days during the period reviewed. Blank inspection records with dates were provided and it was not indicated that the facility was closed. One record did not have a date but is likely associated with March 10 based on adjacent records. There were a total of four (4) instances where nothing was noted for the Cell 4C pump station. The leachate log was left blank without any explanation as to why.

Failure to record the depth of water and quantity of water pumped for each groundwater control system sump each operating day are violations of Permit Condition IV.C.2.d. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department

30. Solid Waste Permit SW-15/02 – Condition IV.D.1.a states:

DRPI shall operate and maintain the leachate collection, transmission, and storage system, including all alarm systems in accordance with this permit and the Operations and Maintenance Plan approved by the Department. DRPI shall clean-up all leachate spills immediately or within a time frame approved by the Department, on a case-by-case basis.

On October 9, 2025, CAPS received leachate logs from DRPI. Based on a review of the leachate logs, CAPS has determined that Respondent has done the following:

- Exceeded one foot of head on the liner for extended/numerous periods (see Solid Waste Permit SW-15/02 - Permit Condition IV.D.1.e)
- Failed to ensure that the leachate monitoring system was capable of measuring the rate and quantity of leachate flow (see Solid Waste Permit SW-15/02 - Permit Condition IV.D.2.a)
- Failed to record the depth of leachate and the quantity of leachate pumped of leachate pumped form each leachate sump (see Solid Waste Permit SW-15/02 - Permit Condition IV.D.2.c)

As a result of the above items, CAPS has determined that Respondent is not adequately operating or maintaining its leachate systems. Failure to operate and maintain the leachate collection, transmission, and storage system is a violation of Permit Condition IV.D.1.a. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

31. Solid Waste Permit SW-15/02 – Condition IV.D.1.c; Condition III.A; and OMP §3.8.3 state:

Permit Condition IV.D.1.c: Daily (each operating day) inspections shall be conducted and documented by DRPI to verify proper functioning of the leachate collection system, leachate force main, and leachate pretreatment facility components. To ensure proper functioning, the pumps shall also be inspected every operating day. The results of the inspection shall be recorded in the facility log and shall be submitted with the semi-annual monitoring report.

Permit Condition III.A: Operations at DRPI shall be conducted in accordance with this permit and the Operation and Maintenance Plan (the Operations and Maintenance Plan) revised March 2021.

OMP Section 3.8.3: The leachate management system must be routinely inspected and maintained

to provide for proper operation and maximum protection of the environment. Any deficiencies found during the routine inspections will be noted on the leachate monitoring report found in Appendix V-B, Form D. System inspection includes visually confirming that leachate pumps controls are operational, valves have been properly placed in open or closed positions, and that the leachate transmission force main is not leaking into secondary containment pipe. Regular maintenance of leachate management system components, including submersible pumps, valves, and controls, will be performed according to manufacturer recommendations. The leachate transmission force main has been designed to move leachate at a self-scouring velocity to prevent build-up of solids. Accessible leachate collection lines will be cleaned using a sewer jetter or other suitable method once every four years or as deemed necessary by system performance.

During inspection and maintenance events, DRPI will document the work performed and conditions encountered.

CAPS reviewed leachate logs from January 2 through October 9, 2025, and discovered the following:

- There were issues with the Cell 4C leachate pump that were noted each operating day from January 2 through September 5, 2025; and
- The logs indicated that each operating day from April 30 through May 30, 2025, gallons of leachate were pumped but there were zero values noted for the gallons pumped per day and the hours the pump ran. Accordingly, Respondent did not properly document whether the pumps were running as the log for this time period is contradictory.
- Failure to properly document whether the leachate collection system was functioning properly is a violation of Permit Conditions IV.D.1.c and III.A and also OMP Section 3.8.3. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

32. Solid Waste Permit SW-15/02 – Condition IV.D.1.e states:

The system shall be designed, operated, and maintained so that there is no more than one foot of head on the liner outside of the sump.

Based on a review of leachate logs ranging from January 2 through October 9, 2025, the DRPI landfill exceeded the compliance elevations for the leachate pump stations on numerous occasions throughout 2025. The Cell 5D and Cell 4C pump stations have the most instances.

The Cell 5D pump station had an issue accurately measuring the level of head⁴ that began, at the latest, in early January and continued until late March. A transducer wire was changed on or about March 26 which seemed to fix the problem. The Cell 4C pump station had similar issues accurately measuring the level of head that occurred in early July, and then again throughout the month of September.

The continued high head levels should have been an indication to Respondent that the Cell 5D and Cell 4C pump stations were not properly operating to maintain less than one foot of head on the liner. There were numerous instances where a pump station would exceed for a single day and then return to normal. There were also a handful where a pump station would exceed for a few days then return to normal. There were also instances where the head level on the liner was not recorded.

Failure to operate and maintain the leachate collection system so there is no more than one foot of head on the liner system is a violation of Permit

⁴ "Level of head" in this case refers to the height of leachate accumulated on top of the landfill liner. DRGSW §6.4.2.1.8 states: "The leachate collection system must be designed and operated to prevent the leachate head on the liner from exceeding a depth of 12 inches."

Condition IV.D.1.e. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

33. Solid Waste Permit SW-15/02 – Condition IV.D.1.f states:

DRPI shall prevent leachate seeps from side slopes.

A multitude of seeps of various sizes, and with varying frequencies, have been observed on the side-slopes of the DRPI landfill. For instance, on or about January 10, 2024, one of the more remarkable seeps was observed by CAPS' on-site compliance specialist, located half-way between the Cell 4B-South and Cell 4B-North pump stations and originating around the upper limits of the clay cap. Leachate flowed freely down the side-slope via a series of erosion rills, ultimately settling in the eastern perimeter swale.⁵

Similarly, on or about July 8, 2025, Respondent made efforts to put out a series of subsurface fires occurring in the area of Cell 6-1B. Respondent excavated the landfill in spots to find the ignition source and then doused the excavations with large quantities of water. As a result of the water being added, large seeps formed downslope of the excavations.

Failure to prevent leachate seeps from side-slopes is a violation of Permit Condition IV.D.1.f. The facility-wide frequency in which seeps are

⁵ Respondent did report and sample the seep incident in accordance with the Solid Waste Permit.

occurring has significantly decreased with the addition of adequate cover materials; however, seeps are still a concern at the DRPI landfill.

34. Solid Waste Permit SW-15/02 – Condition IV.D.2.a states:

The leachate monitoring system shall be capable of measuring the rate and quantity of leachate flow through each leachate pump, and shall be capable of sampling the leachate at each leachate riser vault.

Based on a review of leachate logs ranging from January 2 through October 9, 2025, there were multiple instances where negative values were recorded for the Cell 4C pump station indicating that it was malfunctioning. There were also many instances where the same integers (34.6) were entered though the value was entered as positive and not negative. As such, the malfunction rendered the pump incapable of measuring the rate and quantity of leachate flow from the Cell 4C pump station for an extended period. There was only one instance where the Cell 5C pump station record indicated a negative value (-0.4). It is unclear whether the Cell 5C pump station value was anomalous or miss-entered into the log.

Failure to ensure the leachate monitoring system was capable of measuring the rate and quantity of leachate flow through each leachate pump is a violation of Permit Condition IV.D.2.a. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

35. Solid Waste Permit SW-15/02 – Condition IV.D.2.c states:

DRPI shall measure and record the depth of leachate and the quantity of leachate pumped from each leachate sump each operating day.

Based on a review of the leachate logs ranging from January 2 through October 9, 2025, Respondent failed, numerous times, to record the head level for all its leachate pump stations. There were thirteen (13) instances for the Cell 4C pump station, one (1) instance for the Cell 6 pump station, and one (1) instance for the Cell 5C pump station. There were also three (3) instances where blank inspection records with dates were provided⁶ and one (1) record with no date provided.

Failure to measure and record the depth of leachate and the quantity of leachate pumped from each leachate sump each operating day are violations of Permit Condition IV.D.2.c. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

⁶ There was no indication the facility was closed on these dates.

36. Solid Waste Permit SW-15/02 – Condition IV.D.3.b; Condition III.A; and OMP §3.8.3 state:

Permit Condition IV.D.3.b: DRPI shall monitor all leachate collection system flowmeters, pumps, controls, recording devices and storage tanks each operating day to ensure proper functioning and to record flows. DRPI shall inspect for leakage from valves, flowmeters, connections at riser locations, and storage tanks each operating day. The results of the monitoring and inspections shall be recorded and made available to the Department within a reasonable time upon request.

Permit Condition III.A: Operations at DRPI shall be conducted in accordance with this permit and the Operation and Maintenance Plan (the Operations and Maintenance Plan) revised March 2021.

OMP Section 3.8.3: The leachate management system must be routinely inspected and maintained to provide for proper operation and maximum protection of the environment. Any deficiencies found during the routine inspections will be noted on the leachate monitoring report found in Appendix V-B, Form D. System inspection includes visually

confirming that leachate pumps controls are operational, valves have been properly placed in open or closed positions, and that the leachate transmission force main is not leaking into secondary containment pipe. Regular maintenance of leachate management system components, including submersible pumps, valves, and controls, will be performed according to manufacturer recommendations. The leachate transmission force main has been designed to move leachate at a self-scouring velocity to prevent build-up of solids. Accessible leachate collection lines will be cleaned using a sewer jetter or other suitable method once every four years or as deemed necessary by system performance.

During inspection and maintenance events, DRPI will document the work performed and conditions encountered.”

Based on a review of the leachate logs ranging from January 2 through October 9, 2025, Respondent failed to ensure the leachate collection system was properly functioning. For an entire month, from April 30 to May 30, 2025, leachate logs indicated that the gallons pumped per day, and hours run, were zero; however, volume pumped values were entered.

There were also extended periods where Cell 4C pump was undergoing maintenance, had zero gallons pumped, or the display screen was not working. For the operating days between January 2 and February 28, 2025, the following was observed: one (1) instance of a value related to gallons pumped entered; five (5) instances where the gallons pumped was entered as zero; and thirty-two (32) instances where "pump maint" or similar was entered. For each operating day from March 3 through September 5, 2025, it was noted that the screen display was not working. For this time period, the volume pumped and gallons pumped per day were a mix of zero to anomalous formula values.

Failure to ensure that the leachate collection system was properly functioning and to record flows are violations of Permit Conditions IV.D.3.b and III.A, and OMP Section 3.8.3. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

37. Solid Waste Permit SW-15/02 – Condition VI.B.1 states:

Permit Condition VI.B.1: DRPI shall operate and maintain the gas extraction system and flares to control odors. Malodorous gaseous emissions from the landfill shall be controlled to the extent that there is no perceivable landfill odor beyond the property boundary. DRPI shall maintain a permit for the operation of the extraction system and flares in

accordance with Delaware's Regulations Governing
the Control of Air Pollution and DRGSW.

During the 2025 calendar year the CAPS' on-site compliance specialist perceived and documented six (6) instances of landfill odor beyond the property boundary in violation of Permit Condition VI.B.1:

- January 28

DESCRIPTION: Sulfuric- Low odor concentration, clearly discernable

LOCATION(S): Odors detected along Liberty Blvd (from Cresson Ave to Altoona Ave), Frazer Ave, Tyrone Ave, Marsh Ln (between Magnus Tire to the east sediment pond).

NCC AIRPORT WIND DIRECTION: SW 10 mph

- January 29

DESCRIPTION: Sulfuric- Low odor concentration, clearly discernable

LOCATION(S): Odors detected along Liberty Blvd (from Cresson Ave to Newport Ave), Frazer Ave, Tyrone Ave, Altoona Ave, Mifflin Ave. Also at Fernwood Ave, Littleworth Ln, and Marsh Ln (between Magnus Tire to the east sediment pond).

NCC AIRPORT WIND DIRECTION: W 13 mph

- April 28
DESCRIPTION: carbon/char/sooty
LOCATION(S): Rte 13 NB between Fairview Ave., and March Ln
NCC AIRPORT WIND DIRECTION: NW 8 mph
- May 7
DESCRIPTION: Burning, char, sulfuric
LOCATION(S): along Liberty Blvd. between and along, Eerie Ave. to Tyrone Ave.
NCC AIRPORT WIND DIRECTION: W 8 mph
- August 27
DESCRIPTION: Sulfuric
LOCATION(S): Rte 13 SB, March Ln
NCC AIRPORT WIND DIRECTION: NW 8 mph
- December 17
DESCRIPTION: Sulfuric. Instrument non-detection
LOCATION(S): on 495 NB between the 1.0 and 1.5 mile markers
NCC AIRPORT WIND DIRECTION: N 9 mph

Failure to operate and maintain the gas extraction system and flares to control odors is a violation of Permit Condition VI.B.1. As of the date of this Order, Respondent has corrected the cited instances of odor to the satisfaction of the Department.

38. Solid Waste Permit SW-15/02 – Condition VI.D; Condition III.A; OMP §3.9.2.4; and Condition VIII.A.4 state:

Permit Condition VI.D: Landfill gas odor control system. The landfill gas control system shall be monitored in accordance with the Department approved Operations and Maintenance Plan, the DRPI LFG Odor Control System (appendix V-D of the permit application), and the current permit issued by the Department's Division of Air Quality. Monitoring of the system shall include the following:

1. Monthly monitoring of the extraction system.

Monitoring parameters shall include:

- a. Gas composition, including methane, carbon dioxide, oxygen, and balance gas.
- b. Pressure (vacuum).
- c. Gas flow.
- d. Gas temperature.
- e. Liquid levels in the condensate handling system.

2. Weekly monitoring of the blower/flare system.

Monitoring parameters shall include:

- a. Gas composition, including methane, carbon dioxide, oxygen, and balance gas.
- b. Inlet pressure.
- c. Outlet pressure.

- d. Gas flow.
- e. Flare temperature.
- f. Pressure drops across water knockouts and flame arresters.
- g. Liquid level in condensate knockout.

Permit Condition III.A: Operations at DRPI shall be conducted in accordance with this permit and the Operation and Maintenance Plan (the Operations and Maintenance Plan) revised March 2021.

OMP Section 3.9.2.4: The LFG management system must be routinely inspected and maintained to provide for proper operation and maximum protection of the environment. Wellheads installed at the LFG extraction wells will be monitored on a quarterly basis. Data collected during wellhead monitoring will include LFG temperature, vacuum, percent methane, and percent oxygen and will be recorded in the Waste Management Landfill Gas Management System (LGMS).

The blower and flare station will be monitored on a weekly basis (Form E, Appendix V-B). Data will be obtained near the blower, prior to combustion in the flare. Collected data will include vacuum at the

blower, total gas flow, percent methane, and percent oxygen. When the flare is operational, thermocouple temperature at the flare tip will also be monitored. A record of the results of each monitoring event should be maintained in a file.

Permit Condition VIII.A.4: DRPI shall maintain copies of all inspections required by the Operations and Maintenance Plan and this permit and those documents shall be available for review by the Department.

At the time of the inspection CAPS representatives requested that landfill gas monitoring records be provided no later than October 9, 2025. Records related to landfill gas monitoring (e.g., the landfill gas migration monitoring report) were not submitted.

On November 21, 2025, CAPS once again requested records related to landfill gas monitoring, requiring that they be provided by the end-of-day on November 25, 2025. As of the date of this Order, these records have not been provided to the Department.

Failure to provide the Department with inspection/monitoring records related to the landfill gas odor control system is a violation of Permit Conditions VI.D, III.A, and VIII.A.4 and OMP Section 3.9.2.4.

39. Solid Waste Permit SW-15/02 – Condition VII.C.3 states:

Upon discovery, DRPI shall report to the Department any intentional or accidental deviation from any approved plan.

Previous discussions of permit conditions outlined the numerous instances where Respondent has deviated, whether intentionally or accidentally, from the Department approved OMP and Closure Plan. Instances include at least the following:

- Failure to maintain cover in accordance with OMP Section 3.4 (Violation #10).
- Failure to implement hauler rules and regulations in accordance with OMP Section 3.6.8⁷.

⁷ OMP Section 3.6.8 (Hauler Rules and Regulations) states: "Incoming waste haulers will be advised of, and generally conform to, the following rules and regulations. ● Each commercial waste hauler will provide DRPI with the information listed below: name and address; solid waste permit number; permit expiration date; and contact person's name and telephone number. ● Commercial hauling vehicles will have a vehicle identification number permanently and conspicuously displayed in an agreed upon location on the side of its vehicle. ● Incoming waste will be limited to dumping during posted operating hours of the landfill unless prior special arrangements are agreed to by DRPI, DNREC, and the local community. ● Commercial haulers will become familiar with acceptable wastes and will preclude delivery of any waste that is not acceptable waste. ● All haulers will comply with all landfill rules, including waste screening procedures. ● All haulers will follow the

- Failure to inspect and maintain the leachate management system in accordance with OMP Section 3.8.3 (Violation #37).
- Failure to properly inspect and maintain the groundwater control system in accordance with OMP Section 3.10.2 (Violation #26).
- Failure to deploy temporary vegetation in accordance with OMP Section 3.11.2.2 (Violation #10).
- Failure to properly maintain all components of the stormwater management system in accordance with OMP Sections 3.11.3 and 3.15.5 (Violation #21).
- Failure to conduct general maintenance on the landfill area in accordance with OMP Section 3.13.1 (Violation #11).
- Failure to construct the final cover system in accordance with previously approved plans (Violation #44).

Failure to report any intentional or accidental deviations from approved plans is a violation of Permit Condition VII.C.3. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

directions of the landfill staff while on site. • When directed to do so by landfill operation personnel, the hauler will discharge waste material from his vehicles as directed for inspection. • DRPI may, at its discretion, establish commercial hauler insurance and performance security requirements, as applicable, which may be adjusted from time-to-time. • Maintain valid DESW Permit for vehicles registered over 26,000 lbs.”

40. Solid Waste Permit SW-15/02 – Condition VII.D.1.h and Condition VII.D.2 state:

Permit Condition VII.D.1.h: DRPI shall immediately notify the Department in the event of any of the following occurrences. Written notification (to include narrative, response and follow-up required) shall be submitted to the Department within five business days.

h. Damage to the landfill liner system.

Permit Condition VII.D.2: If any event listed in Section VII.D.1 of this permit occurs during business hours, DRPI should report to the Department's Compliance and Permitting Section by telephone to 302-739-9403. At all other times report is to be made to the Department's TOLL-FREE 24-HOUR LINE 1-800-662-8802."

On July 24, 2025, CAPs Representatives observed damage to the liner system on the southern side of Cell 1. Respondent was re-grading the side-slope in preparation for the installation of the final cover and ClosureTurf®. Portions of the liner system became fully exposed during this process and were damaged, likely by heavy equipment used in the capping project.

On July 24, 2025, CAPS emailed Respondent, informing it of the damage to the liner and requiring Respondent to officially report it, with a plan to remediate the damage. Respondent replied on July 25, 2025, indicating that it would be investigated, that it might be old remnants from a previous repair in the area, and that it might have been purposely exposed for the tie-in.

On August 6, 2025, Respondent provided additional information to CAPS which indicated that the liner was not damaged, and that Respondent was unclear what area CAPS could have been referencing.

On August 13, 2025, CAPS responded by informing Respondent that the location referenced by Respondent in the prior email was not the portion described or observed by CAPS.

On October 1, 2025, Respondent submitted a request to modify the toe of slope and access road interface on the southern side of Cell 1 to manage damage done to the liner system in this area. Request item 1 from the October 1 correspondence states: "WM has requested a design change to the tie location of the ClosureTurf® to the existing liner system that was damaged during excavation." This design modification request acknowledges CAPS previous attestation that Respondent damaged the liner system on the southern side of Cell 1. Liner damage is required to be reported to the Department immediately, Respondent failed to immediately report such damage to CAPS.

Failure to properly notify CAPS immediately of damage to the liner system is a violation of Permit Conditions VII.D.1.h and VII.D.2. As of the date of this Order, Respondent has indirectly acknowledged that liner damage occurred with the submission of the October 1, 2025 design request.

41. Solid Waste Permit SW-15/02 – Condition VII.D.3 states:

DRPI shall submit a written notification to the Department no later than: (i) five business days following any event requiring “Emergency Reporting”; or (ii) on a date mutually agreed upon between DNREC and DRPI at the time of the event.

The notification shall include the following:

- a. Date and time of occurrence/discovery.
- b. Date and time of reporting.
- c. Agencies notified.
- d. Materials and quantities involved.
- e. Narrative describing how the incident occurred and the actions taken by DRPI and other response personnel.
- f. Report of injuries/damage.
- g. Proposal for follow-up or remedial actions required and schedule.

As stated in Violation 41, other than WSP's October 1, 2025, request to modify the transition at the toe of the Cell 1 slope to repair damage to the

liner system, no written notification has been provided to CAPS to document the liner system damage observed by CAPS.

Failure to provide CAPS with written notification of damage to the liner system within five (5) business days of at least the discovery date by CAPS is a violation of Permit Condition VII.D.3. As of the date of this Order, Respondent has not corrected the violation to the satisfaction of the Department.

42. Solid Waste Permit SW-15/02 – Condition IX.A.1 states:

Upon closure of the landfill or landfill cell, a capping system shall be installed that will control emissions of gas, promote vegetative cover, and minimize infiltration and percolation of water into, and prevent erosion of, the waste through-out the post-closure care period.

On October 7, 2025, CAPS's on-site compliance specialist observed elevated H₂S readings near a landfill gas header adjacent to deployed ClosureTurf® and took a picture of the general area, with a flag marking the gas header in question. In the background, between the gas header and the edge of the ClosureTurf®, the under-cap gas collection system appears to be bent at an angle.⁸

⁸ The purpose of an under-cap gas collection system is to collect landfill gas that accumulates directly under the capping system. The system is typically made of

CAPS contacted Respondent via telephone to investigate the area around the flagged gas header as soon as possible to determine what was occurring. The same day, Respondent emailed CAPS closer images of: (1) the connection of the under-cap gas collection pipe to the nearby landfill gas header; and (2) the bent pipe coming from beneath the ClosureTurf®. Bends in the perforated under-cap gas collection pipe can inhibit a proper vacuum of the gas collection system. A loss/reduction in vacuum strength promotes the abnormal accumulation of landfill gases in areas due to a lack of vacuum to remove gases from that area. High concentrations of landfill gases pose a risk to human health and the environment.

Again that day, a follow-up telephone call discussing the issue and Respondent's intended solution was held. Respondent was going to install a horizontal pipe in the area to properly connect the under-cap gas collection system to the existing gas collection system.

Respondent indicated repairs were completed on or about October 10, 2025. Images of the repair in process were shown to CAPS representatives on October 30, 2025.

Failure to properly install at least one (1) component of the capping system associated with the control of landfill gas emissions is a violation of Permit Condition IX.A.1. As of the date of this Order, Respondent has

perforated pipes wrapped by geotextile. It is connected to the rest of the landfill gas collection system, and a vacuum is maintained.

corrected the one (1) observed instance on or about October 30, 2025, to the satisfaction of the Department.

43. Solid Waste Permit SW-15/02 – Condition X.D states:

Long-term intermediate cover (cover exposed for greater than 30 days) used on the sub-cells prior to final capping shall be stabilized with vegetation or other erosion control material approved by the Department.

There are at least three (3) very prominent areas which have not received waste for over a year, have poor cover, and have yet to be stabilized with temporary or long-term vegetation: the 6-2A valley; the side-slope of the haul road leading into 6-2A; and the side-slope/crest of slope behind the Cell 6 pump station. As a result of the lack of vegetation, all three (3) areas are prone to erosion, and are constantly in need of repair.

Failure to stabilize long-term intermediate cover in the interim of installing the final capping system is a violation of Permit Condition X.D. As of the date of this Order, Respondent has not corrected this violation to the satisfaction of the Department.

44. Solid Waste Permit SW-15/02 – Condition X.E states:

All components of the cap, including the gas control system shall be constructed in accordance with the CQA, closure plan, and closure schedule approved by the Department. Final certification documentation shall be completed by a third party CQA Consultant and submitted for Department review within 60 days after the capping has been completed.

On October 1, 2025, WSP submitted a request, on behalf of Respondent, to modify the design of the toe-of-slope and access road interface to repair damage done to the liner system in this area. The request also included plans to better armor the interface of the downchutes and eastern perimeter swale. It is the understanding of DNREC that this request would update the drawing set titled "Delaware Recyclable Products, Inc. 2023 Final Cover System Construction" with a date of April 2023.

Based on a review of the October 1 WSP request, in May 2025 a set of drawings was issued ahead of the physical construction start date. There are no known records indicating the Department received the May 2025 drawing set for Department review/comment/approval/records. The October 1 WSP request also indicated that the modified drawing set was reissued in July 2025. The July 2025 design change appeared to be centered around the addition of the below-cap gas collection system. There are no known records illustrating the Department was provided the design changes for review/comment/approval/records prior to said changes being implemented at the DRPI landfill. Capping system design features must be approved by

the Department prior to installation per DRGSW § 6.8.1.4⁹ The next modification specified within the October 1 WSP request was dated October 2025 in conjunction with the aforementioned request to modify the design of the toe-of-slope and access road interface.

CAPS sent Respondent a comment letter regarding the October 1 WSP request on or about November 10, 2025. The comment letter was received by Respondent on November 17, 2025. In addition to comments related to the newest design modification items, CAPS requested a series of documents be provided. The requested documents were as follows:

- A copy of all Technical Specifications for the project.
- A copy of the Construction Quality Assurance (CQA) Plan for the project.
- A copy of the May 2025 Drawing set.
- A copy of the request, and subsequent approval by the CAPS, of the changes associated with the "Below Cap Gas System Additions" that appears to have occurred on or about July 2025.
- A copy of the July 2025 Drawing set.

CAPS requested the above documents and a response be provided within 30 days of receipt of the comment letter (December 17, 2025). To the knowledge of current CAPS representatives, Respondent never requested and received subsequent approval to modify the previously approved April

⁹ DRGSW § 6.8.1.4 states: The proposed design of the capping system must be approved by the Department prior to installation.

2023 plans/drawings to include a gas collection system directly below the cap. Documentation related to the under-cap gas collection system was requested to confirm whether the Department approved the modification.

With the exception of Respondent's request and CAPS' approval of the addition of the below cap gas system, all other documents from the November 10, 2025 letter were provided on December 5, 2025. After reviewing the December 5, 2025 submissions, CAPS reached out to WSP/Respondent on December 15, 2025 to inquire about the items provided and obtain missing items. CAPS reached out with the following items within the email:

"The actual request to CAPS for the addition of the below cap gas collection system (added to the drawing set on or about July 17, 2025) was not included in the package. Please provide DRPI's request to CAPS to modify the cap design. If submitted to a CAPS member via email, please include the email.

Any comments and/or approval from the CAPS for the addition of the below cap gas collection system was also not included. Please include written documentation of CAPS' approval of the design modification. Please also include technical specifications related to the materials associated with the below cap gas collection system.

There was a request dated August 18, 2025 for remote gas wellheads. CAPS is unable to find this request in its records. Please verify whether this design modification is still being considered. If yes, CAPS will review and provide comments on the request.”

Within the December 15, 2025 email thread, WSP indicated that WSP was unaware of any submittal/approval procedure for “field changes” and that it was “requested by operations to provide another layer of gas control”. CAPS do not consider the addition of an under-cap gas collection to be a minor “field change” that can occur without prior approval of the Department. As such, CAPS responded to WSP and indicated that “[a]ll changes to previously approved documents must be submitted to the CAPS for review/approval prior to implementation. Please submit any design changes for CAPS review.”

On December 17, 2025, WSP, on behalf of Respondent, sent CAPS a letter clarifying WSP’s perspective on design changes. A meeting to further discuss the need for Respondent/WSP to request design changes prior to implementation was held on January 1, 2026.

On April 9, 2026, WSP, on behalf of Respondent, sent CAPS a revised request that appears to incorporate the October 1 request, CAPS’ comments to the October 1 request, and additional requests associated with the design

of the capping system. As of the date of this Order, CAPS is still reviewing the April 9 request.

Modifying previously approved components of the capping system plans/drawings and implementing said modifications without first having obtained Department approval is a violation of Permit Condition X.E. As of the date of this Order, Respondent has not corrected the violation to the satisfaction of the Department.

CONCLUSIONS

Based on these foregoing violations by the Respondent through the date of February 6, 2026, the Department has concluded that Respondent has violated the above-cited regulatory and statutory provisions.

SECRETARY'S ORDER

In consideration of the foregoing findings, notice is hereby given, pursuant to 7 *Del. C.* § 6005(b)(2), that Respondent is to immediately begin using Department-modified Solid Waste Permit SW-15/02 upon receipt. The forthcoming Department-modified permit supersedes the current version of Solid Waste Permit SW-15/02 (last modified April 8, 2022) and is valid and enforceable upon receipt.

Additionally, in consideration of the foregoing findings, notice is hereby given, pursuant to 7 *Del. C.* § 6005(b)(2), that Respondent is responsible for

achieving compliance with all applicable laws and regulatory requirements by undertaking and submitting the following within **thirty (30) days**:

- 1) Return site activities to what is reflected within the approved Sediment and Stormwater Pollution Plan, including the allowable total land disturbance acreage.
- 2) Correct all open work items associated and notify the Sediment and Stormwater Regulatory inspector of completion within thirty (30) days.
- 3) Prior to April 30, 2026, any stormwater that has been in contact with waste shall either be diverted to the leachate collection system in accordance with the DRPI solid waste permit; or managed in compliance with the October 20, 2025, NPDES Temporary Discharge Authorization, including all notification, monitoring, treatment, and reporting requirements. After April 30, 2026, the date on which NPDES Temporary Discharge Authorization for this facility expires, discharge of stormwater that has been in contact with waste from the facility will no longer be authorized and diversion to the leachate collection system shall be required. Any offsite discharge of stormwater that has been in contact with waste after April 30, 2026, will be considered a new violation and will be subject to further enforcement action.
- 4) Submit a written plan detailing how Respondent's waste handling procedures will be modified to exclude prohibited waste from the facility.

- 5) Submit a written plan detailing how Respondent will ensure that the facility does not accept waste from solid waste transporters in vehicles having a gross weight of 26,000 pounds or more unless the hauler has a valid Transporter's Permit issued by the Department's Division of Waste and Hazardous Substances, Compliance and Permitting Section (DRGSW, Section 7.0).
- 6) Submit a written plan detailing how Respondent will ensure litter at the facility is collected in a timely manner.
- 7) Submit a written plan detailing how Respondent will minimize the potential for mud to be tracked from the facility to public roads.
- 8) Submit documentation demonstrating that staff at the facility have received First Aid and CPR training.
- 9) Submit inspection/monitoring records for the period of one year prior to the date of this Order demonstrating compliance with Solid Waste Permit SW-15/02 – Conditions VI.D, III.A, and VIII.A.4, and OMP Section 3.9.2.4.
- 10) Submit a written plan detailing how Respondent will ensure that all components of the groundwater control system are adequately inspected; that deficiencies found during the inspections are documented and addressed in a timely manner; and that all components are maintained in good working order to maintain five feet of separation between the liner and the groundwater table.

- 11) Submit a written plan detailing how Respondent will ensure that all components of the leachate collection system are adequately inspected; that deficiencies found during the inspections are documented and addressed in a timely manner; and that all components are maintained in good working order to keep five (5) feet of separation between the liner and the groundwater table.
- 12) Submit a written plan detailing how Respondent will ensure that any intentional, or accidental, deviations will be reported to the Department in a timely manner.
- 13) Submit a written plan detailing how Respondent will ensure the protection of existing liner systems for the remaining operating lifespan of the facility, and during ongoing and future capping and closure activities.
- 14) Submit a written plan detailing how Respondent will ensure that the installation of any system, structure, or cap component is done in accordance with manufacture instructions, Department approved plans, and DRGSW.
- 15) Submit an updated Operations and Maintenance Plan that reflects the Department-derived modifications to Solid Waste Permit SW-15/02. The updated plan must include example inspection forms to illustrate how Respondent will ensure permit-required inspections are adequately documented and deficiencies are corrected in a timely manner.

16) Respondent shall contact CAPS to schedule a meeting to discuss the adequacy of the Groundwater, Leachate, and Stormwater Monitoring and Reporting Program Plan in demonstrating compliance with the requirements of DRGSW.

In consideration of the foregoing findings, notice is hereby given, pursuant to 7 *Del. C.* § 6005(b)(2), that Respondent is responsible for achieving compliance with all applicable laws and regulatory requirements by undertaking and submitting the following within **sixty (60) days**:

- 1) Rebury waste that has worked its way to the surface on all plateaus and slopes.
- 2) Cover all waste exposed on plateaus for more than one week with at least six (6) inches of clean fill or other material acceptable to the Department.
- 3) Cover all waste exposed on external slopes with at least twelve (12) inches of compacted soil (total) or an alternative material approved by the Department.
- 4) Remove accumulated sediment and waste from all stormwater management features (e.g., swales and basins) and return them to a clean state. Respondent shall perform sampling of the unconsolidated bed material (sediment) from the stormwater management features to

confirm that all stormwater management features have been restored. Respondent shall provide CAPS with a summary report detailing the restoration efforts, amounts of sediment removed from the swales and basins, and sampling results within seven (7) calendar days of receipt of the results for the Department's approval.

In consideration of the foregoing findings, notice is hereby given, pursuant to 7 *Del. C. § 6005(b)(2)*, that Respondent is responsible for achieving compliance with all applicable laws and regulatory requirements by undertaking and submitting the following within **ninety (90) days**:

- 1) Establish temporary vegetation on external slopes and areas which have received intermediate cover using seeding and nutrient application methods described within the July 2023 version of the Delaware Erosion and Sedimentation Control Handbook or the current version thereof.
- 2) Submit a workplan for Department review/approval to investigate potential impacts to groundwater, surface water, soil, and adjacent natural resource areas surrounding and downgradient of both East Basin and West Basin due to the prolonged accumulation, storage, and discharge of contaminated stormwater.

1. The Nature, Circumstances, Extent, and Gravity of the Violation, or Violations:

The nature, circumstances, extent, and gravity of the violations are significant. This Order identifies and describes forty-four (44) permit and regulatory violations from multiple Department programs. Failing to ensure compliance with the permit and regulatory requirements are all significant deviations from the regulatory requirements cited herein which have also brought about the unpermitted discharge of contaminated stormwater on numerous occasions over a period of multiple months.

2. Respondent's Ability to Pay:

The record contains no information that Respondent lacks the ability to pay the administrative penalty assessed.

3. Prior History of Violations:

Secretary's Order 2023-WH-0014, issued on June 21, 2023, addressed numerous permit and regulatory violations. Following issuance of that Order and subsequent to the Settlement Agreement executed in December 2023, Respondent continued to have violations that were the same or similar in nature and had not maintained compliance for a significant period. Respondent's prior history of violations was not a factor in compounding the administrative penalty; however, the failure to maintain compliance since the

previous administrative enforcement was considered in undertaking this action.

4. Degree of Culpability:

The degree of culpability is significant. Respondent has possessed permits from the Department to operate the DRPI Landfill for multiple decades and has extensive landfill operation experience across the country. Had Respondent employed reasonable oversight measures as DRGSW, DSSR, and Water Pollution Control Regulations require, the violations would not have occurred.

5. Economic Benefit or Savings Resulting from the Violation(s):

With respect to the economic benefit, Respondent incurred an economic benefit from failing to maintain compliance by not incurring costs associated with cover materials, failing to deploy seeds/nutrients for adequate vegetation growth, and failing to manage contaminated stormwater by an alternative means other than by way of an unpermitted discharge. Respondent's economic benefit was not a factor in compounding the administrative penalty; however, since an economic benefit exists by failing to maintain compliance, this was considered in undertaking this action.

6. Such Other Matters as Justice May Require:

Lastly, considering such other matters as justice may require, the

Secretary has determined that the penalty assessed is proportional to the violations cited herein and has been designed to deter Respondent, and those similarly situated, from engaging in future violations.

Pursuant to 7 *Del. C.* § 6005(b)(3), this is written notice to Respondent that based on the above findings and factors, an administrative penalty of \$3,311,470.00 for violations associated with Solid Waste Permit SW-15/02 and \$456,018.00 for violations associated with Water Pollution Control Regulations is assessed for the violations identified in this Secretary's Order. Calculations for the administrative penalty associated with ongoing violations were assessed through February 6, 2026.

Respondent shall submit one check to the Department in the amount of \$3,767,488.00 to pay the administrative penalty within thirty (30) days from the receipt of this Secretary's Order. The check shall be made payable to the "State of Delaware" and shall be directed to: Leslie Reese, 89 Kings Highway SW, Dover, DE 19901.

PUBLIC HEARING AND APPEAL RIGHTS

This Secretary's Order affects Respondent's legal rights and is effective and final upon receipt by Respondent. Pursuant to Section 6008 of Title 7 of the Delaware Code, any person whose interest is substantially affected by this action of the Secretary may appeal to the Environmental Appeals Board within **twenty (20) days** of the receipt of the Secretary's Order. Respondent may also, pursuant to 7 *Del. C.* § 6005(b)(3), request a public hearing on the

Secretary's Order within **thirty (30) days** of receipt of the Secretary's Order. A public hearing pursuant to 7 *Del. C.* § 6005(b)(3) would be conducted pursuant to 7 *Del. C.* § 6006, and the Secretary's order following the hearing would be subject to appeal, pursuant to 7 *Del. C.* § 6008, by any person substantially affected.

Respondent is further advised that the above assessed administrative penalty shall be due and owing within thirty (30) days of Respondent's receipt of this Secretary's Order. In the event of nonpayment of the administrative penalty assessed above, and after Respondent has exhausted all legal appeals, if any, a civil action may be brought by the Secretary in Superior Court for collection of the administrative penalty, including interest, attorneys' fees and costs, and the validity, amount and appropriateness of such administrative penalty and/or costs shall **not** be subject to review pursuant to 7 *Del. C.* §§ 6005(b)(3) and (c).

To request a public hearing pursuant to 7 *Del. C.* § 6005(b)(3), please submit your request, in writing, to:

Department of Natural Resources and Environmental Control
Office of the Secretary
89 Kings Highway
Dover, DE 19901
Telephone: (302) 739-9000

To submit an appeal to the Environmental Appeals Board pursuant to 7 *Del. C.* § 6008, you must file your written statement of appeal and submit a

Submit all compliance documentation and correspondence to:

Alison Kiliszek
Department of Natural Resources and Environmental Control
Division of Waste and Hazardous Substances
Compliance and Permitting Section

89 Kings Highway
Dover, DE 19901
Alison.Kiliszek@delaware.gov

ASSESSMENT OF PENALTY

Pursuant to 7 *Del. C.* § 6005(b)(3), the Secretary may impose an administrative penalty of not more than \$10,000.00 for each day of violation detailed in this Secretary's Order for violations prior to June 16, 2025. Pursuant to 7 *Del. C.* § 6005(b)(3), the Secretary may impose an administrative penalty of not more than \$40,000.00 for each day of violation detailed in this Secretary's Order for violations incurred on or after June 16, 2025. This Secretary's Order is written notice to Respondent, that, based upon its findings, the Department is assessing Respondent an administrative penalty for the violations identified in this Secretary's Order up to and including the date of February 6, 2026. In assessing the administrative penalty, 7 *Del. C.* § 6005(b)(3) instructs the Secretary to consider the following factors: (1) the nature, circumstances, extent, and gravity of the violation, or violations; (2) the ability of the violator to pay; (3) any prior history of such violations; (4) the degree of culpability; (5) the economic benefit or savings (if any) resulting from each violation; and (6) such other matters as justice may require. A brief discussion of these factors is set forth below.

check, made payable to: "Environmental Appeals Board," for the \$50.00 filing fee, to:

Department of Natural Resources and Environmental Control
Office of the Secretary
Attn: Assistant to the Environmental Appeals Board
89 Kings Highway
Dover, DE 19901
Telephone: (302) 739-9000

For additional information on filing an appeal with the Environmental Appeals Board and what information you must include in your written statement of appeal, please refer to the Environmental Appeals Board Regulations, codified at 7 DE Admin. Code § 105.

The Department, to the extent necessary, reserves the right to take additional enforcement actions regarding these and other violations by Respondent, including but not limited to one or more of the following: an action under 7 *Del. C.* § 6005(b)(1) seeking penalties for past violations, an action under 7 *Del. C.* § 6005(b)(2) seeking penalties for continuing violations, an action in the Court of Chancery pursuant to 7 *Del. C.* § 6005(b)(2) seeking a temporary restraining order or an injunction, and the imposition of civil penalties and recovery of the Department's costs and attorney's fees pursuant to 7 *Del. C.* §§ 6005(b)(3) & (c)(1). Nothing in this document shall be deemed to estop, or in any way preclude any additional enforcement action for these or any other violations, including administrative and civil penalties for each day of violation, or an action for the recovery of Department costs expended in abating these violations.

SECRETARY'S ORDER FOR COST RECOVERY

Pursuant to 7 *Del. C.* § 6005(c), Respondent is liable for all expenses incurred by the Department in abating the violation detailed in this Secretary's Order. "Such expenses shall include, but not be limited to, the costs of investigation, legal fees and assistance, public hearings, materials, equipment, human resources, contractual assistance and appropriate salary and overtime pay for all state employees involved in the effort notwithstanding merit system laws, regulations or rules to the contrary." (7 *Del. C.* § 6005(c)(1)).

At this time, the Department is not seeking costs from Respondent. In the event that Respondent appeals this Secretary's Order pursuant to 7 *Del. C.* § 6008 or requests a public hearing pursuant to 7 *Del. C.* § 6005(b)(3), the Department reserves the right to issue a detailed billing statement of all costs incurred as a result of Respondent's appeal and seek recovery of that amount. The Department will issue Respondent that detailed billing and Cost Recovery Order following exhaustion of Respondent's appeal rights.

PRE-PAYMENT

Respondent may prepay the administrative penalty of \$3,767,488.00 in the manner described in the attached "Waiver of Statutory Right to A Hearing." By doing so, Respondent waives its right to a hearing and the opportunity to appeal or contest this Secretary's Order.

If you have any questions, please contact, or have your attorney contact Travis Groski, Deputy Attorney General, at (302) 484-8964 or Travis.Groski@delaware.gov

April 26, 2026

Date



Gregory Patterson
Secretary
Department of Natural Resources
and Environmental Control

cc: Travis Groski, Deputy Attorney General
Timothy Ratsep, Division of Waste and Hazardous Substances Director
Steven Williams, Division of Watershed Stewardship Director
Steven Smailer, Division of Water Director

WAIVER OF STATUTORY RIGHT TO A HEARING

DELAWARE RECYCLABLE PRODUCTS, INC. hereby waives its right to a public hearing and its opportunity to appeal or contest this Secretary's Order, and agrees to the following:

1. **DELAWARE RECYCLABLE PRODUCTS, INC.** will pay the administrative penalty in the amount of \$3,767,488.00 by sending a check payable to the "State of Delaware" within 30 days of receipt of this Secretary's Order. The check shall be directed to: Leslie Reese, 89 Kings Highway SW, Dover, DE 19901.

DELAWARE RECYCLABLE PRODUCTS, INC.

Date: _____ By: _____
(Signature)

Title: _____ Name: _____
(Print)