

BEFORE THE BOARD OF COMMISSIONERS OF THE METROPOLITAN
WATER RECLAMATION DISTRICT OF GREATER CHICAGO

METROPOLITAN WATER RECLAMATION
DISTRICT OF GREATER CHICAGO,

Complainant,

v.

BIODYNE LANSING, INC. d/b/a PRAIRIE
LANSING LANDFILL,

Respondent.

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) Enforcement Action Nos: 69235, 70827,
70707, et al.

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) Site: 170th St., ½ Mile, E. of Torrence
Lansing, Illinois

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) Hearing Officer: James A. Thomas

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**HEARING OFFICER FINAL ORDER: FINDINGS OF FACT,
CONCLUSIONS OF LAW AND RECOMMENDED FINE AMOUNT**

INTRODUCTION

At a telephone status hearing conducted September 7, 2012, both Complainant Metropolitan Water Reclamation District of Greater Chicago ("MWRD") and Respondent Biodyne Lansing, Inc. d/b/a Prairie Lansing Landfill ("Biodyne" or "PLL") (collectively "the parties") were present and represented by legal counsel, before this Hearing Officer. At that time, Respondent Biodyne Lansing, Inc. advised that it would not present a defense should this matter go to contested hearing. This Hearing Officer then directed the parties to submit proposed findings of fact, conclusions of law and a recommended fine amount. The parties submitted a joint filing on March 22, 2013. Having considered the parties' submittal and all other pertinent facts and evidence, this Hearing Officer submits the following Final Order, subject to the approval of the Board of Commissioners of the Metropolitan Water Reclamation District of Greater Chicago:

FINDINGS OF FACT

- Prairie Lansing Landfill is a closed landfill located in Lansing, Illinois. The landfill has been closed for approximately twenty (20) years or more.
- The Metropolitan Water Reclamation District of Greater Chicago ("MWRD") Initiated Show Cause Action in November 2004 because Prairie/Lansing Landfill ("PLL") failed to submit required semi-annual reports known as RD-115 Continued Compliance reports due June 2003 and thereafter.
- Upon filing the required delinquent reports by PLL, An Agreed Order was entered on February 17, 2006, whereby Prairie/Lansing Landfill agreed to submit all required reports including semi-annual RD-115 Reports and monthly RD-202 reports. Additionally, PLL agreed to install a working flow meter by which to measure the discharge flow from the landfill. In attempting to comply with the agreed compliance plan, PLL installed a flow meter, but was not able to keep it consistently operational for any extended period of time.
- With the exception of the flow meter issue, PLL was in compliance with the agreed order until the year 2009 when it ceased submitting the required reports. RD-202 reports were no longer being submitted as of August 2009. RD-115 reports were no longer being submitted as of December 2010.
- During the course of these proceedings, National Closure Corporation sold the landfill at issue to Scattered Corporation. Thereafter, in September 2007, Scattered Corporation sold the landfill to Biodyne Lansing, Inc., which currently owns the landfill. In consideration for transfer of the Discharge Authorization to the new owner, Biodyne Lansing, Inc., on December 6, 2007, the President of Biodyne Lansing, Inc. executed an Affidavit whereby Biodyne assumed all liabilities owed to the MWRD on behalf of the landfill.
- With leave of the Hearing Officer, Biodyne Lansing, Inc. was added as a respondent to the instant Show Cause Action on August 24, 2012. Thereafter, National Closure Corporation was voluntarily dismissed as a respondent, without prejudice.
- Because the landfill did not have a working flow meter, the MWRD was required to visually inspect the discharge from the landfill to ensure compliance with the MWRD ordinances. As a result, the MWRD conducted 87 Inspections for the period September 1, 2009 through August 10, 2012. For this three-year period,

the Field Staff did not document any unusual flow activity during inspections, thus no extraordinary sampling or monitoring was required during this timeframe.

- In accordance with the Sewage and Waste Control Ordinance, the cost per inspection is \$843. Therefore, the total charge for 87 inspections is \$73,341.00.
- As of August 2012, PLL submitted all delinquent monthly, semi-annual and annual reports required by the MWRD pursuant to the Sewage and Waste Control Ordinance.
- PLL voluntarily and permanently physically severed the landfill's connection to the MWRD sewerage system as of August 23, 2012. As of that date, PLL no longer discharges to the MWRD sewerage system.

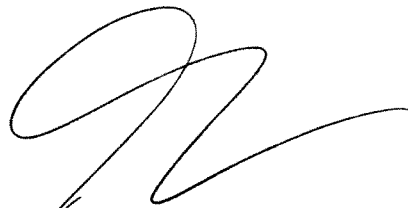
CONCLUSIONS OF LAW

Biodyne d/b/a PLL was in violation of the MWRD Sewage and Waste Control Ordinance for the following reasons:

1. Failing to submit the required RD-115 reports as set forth in the First Amended Verified Show Cause Complaint.
2. Failing to submit its monthly RD-202 reports as set forth in the Agreed Order dated February 17, 2006.
3. Failing to maintain a working flow meter for the purpose of measuring the flow discharged from the landfill into the MWRD sewerage system.

RECOMMENDED FINE AMOUNT

The recommended fine amount is \$73,341.00, which represents the administrative costs associated with MWRD Field Staff conducting 87 inspections to verify the discharge flow conditions at the landfill property while connected to the MWRD sewerage system as provided for in the Sewage and Waste Control Ordinance, Appendix F, I. Noncompliance Enforcement Activities.



JAMES A. THOMAS/HEARING OFFICER

April / , 2013
DATE