

## Provincial Officer's Order

Order Number

1-434640292

### Order Issued To

SHIRE CORPORATION  
1693 COLBORNE ST E , BRANTFORD, ON, N3T 5L4

WESSUC INC.  
1693 COLBORNE ST E , BRANTFORD, ON, N3T 5L4

### Site

Shire Corporation - Sarnia Scott Rd. Lagoons  
LOT:11, CONCESSION:RANGE 3, GEOTOWNSHIP:SARNIA, SARNIA, ON,

Refer to the Definitions section in the Provincial Officer's Report, Part B of this Order, for the meaning of all the capitalized terms that are used in this Order.

### PART A - WORK ORDERED

Pursuant to my authority under **EPA | 157**, I order you, jointly and severally, unless otherwise indicated, to do the following:

**Item No. 1      Compliance Due Date:** Jun-04-2024

By June 4, 2024, make publicly available a copy of this Order on the Orderees' website(s) and notify any person who generates NASM Material that may be deposited at the Site that NASM Material cannot be received at the Site as of June 7, 2024 and that alternative arrangements ought to be made for managing that material.

**Item No. 2      Compliance Due Date:** Jun-07-2024

By June 7, 2024, cease permitting, causing or arranging for the deposit of NASM Material at the Site.

**Item No. 3      Compliance Due Date:** Jun-05-2024

By June 5, 2024, retain the services of a Qualified Consultant to prepare the Work Plan as described in Work Ordered Item No. 5 and the Summary Report as described in Work Ordered Item No. 8.

**Item No. 4      Compliance Due Date:** Jun-05-2024

By June 5, 2024, submit to the Provincial Officer written confirmation from the Qualified Consultant(s), by email to [heather.haight@ontario.ca](mailto:heather.haight@ontario.ca) and to

environment.sarnia@ontario.ca, that they have (1) received a copy of the Order; (2) been retained to prepare a Work Plan as described in Work Ordered Item No. 5 and the report as described in Work Ordered Item No. 8; and (3) the experience and qualifications to carry out such work

**Item No. 5      Compliance Due Date: Jun-14-2024**

By June 14, 2024, have the retained Qualified Consultant prepare a written work plan that sets out the procedures for the removal of any NASM Material at the Site, including any NASM Material in storage lagoons, commencing by June 18, 2024 that includes, at minimum, the following:

- a) procedures and recommendations for removing NASM Material from the Site in a manner that minimizes or prevents the offsite discharge of contaminants, and in particular odour, that may cause an adverse effect;
- b) a detailed schedule for the removal of NASM Material from the Site, including a date when all NASM Material is expected to be removed, with a rationale for the proposed dates;
- c) providing written weekly updates to the Provincial Officer regarding the removal of NASM Material from the Site that includes, at minimum, the type and amounts of NASM Material removed in the preceding week and copies of any documentation from the receiving site where the NASM Material is deposited that states the quantity, and type of NASM Material;
- d) providing the contact information of any site(s) where removed NASM Material is to be deposited or disposed, including the address of the site(s) and the name and phone number for the owner of the site(s);
- e) for any site(s) where removed NASM Material is to be deposited or disposed, provide written confirmation that the site(s) is permitted to receive the NASM Material, including the ECA number, NASM Plan number or EASR registration number for any site that is required to operate in accordance with an approval issued under Ministry legislation; and
- f) providing the ECA number or EASR registration number of any waste management system(s) to be used to remove and transport NASM Material from the Site, including the person's name, the company's name, phone number and address.

**Item No. 6      Compliance Due Date: Jun-14-2024**

By June 14, 2024, submit to the Provincial Officer, by email to heather.haight@ontario.ca and to environment.sarnia@ontario.ca, a copy of the Work Plan.

**Item No. 7      Compliance Due Date: Jun-18-2024**

Commencing by June 18, 2024 remove all NASM Material from the Site, including any NASM Material in storage lagoons, in accordance with the Work Plan and any written comments on the plan provided by the Provincial Officer to the Orderees.

**Item No. 8      Compliance Due Date: TBD**

Within 5 days of removing all NASM Material from the Site, have a Qualified Consultant prepare a written report that summarizes the work undertaken as a result of this Order and an assessment of how the Site is achieving compliance with the Waste ECA and Ministry legislation in relation to the discharge of odours from the Site, including obtaining a new ECA or any changes to an existing ECA that may be required before resuming the receiving and processing of NASM Material at the Site.

**Item No. 9      Compliance Due Date: TBD**

Within 7 days of removing all NASM Material from the Site, submit to the Provincial Officer, by email to [heather.haight@ontario.ca](mailto:heather.haight@ontario.ca) and to [environment.sarnia@ontario.ca](mailto:environment.sarnia@ontario.ca), a copy of the Summary Report.

## **PART B - PROVINCIAL OFFICER'S REPORT**

This Order is being issued for the reasons set out below.

### **Definitions**

For the purposes of this Order, the following capitalized terms shall have the meanings set out below:

"2022 Order" means the amending Provincial Officer's Order No. 1-130129207-A1, issued Oct. 25, 2022.

"2023 Order" means the Provincial Officer's Order No. 1-214408255, issued June 16, 2023.

"Air Contaminant and Odour Mitigation Plan" means the document entitled Operation Guidance Manual for Sludge Storage Lagoons, dated June 13, 2023, prepared by SLR Consulting (Canada) Ltd as required by Item No. 4 of the 2022 Order.

"Air Monitoring Plan" means the document entitled Air Quality Monitoring Plan, dated March 7, 2023, prepared by SLR Consulting (Canada) Ltd, as required by Item No. 3 of the 2022 Order.

"April 2024 Order" means the Provincial Officer's Order No. 1-366834143, issued Apr 23, 2024

"EASR" means the Environmental Activity and Sector Registry established under Part II.2 of the EPA.

"ECA" means an environmental compliance approval issued under Part II.1 of the EPA.

"EPA" means the Environment Protection Act, R.S.O. 1990, c. E.19.

"ESDM Report" means the emission summary and dispersion modelling report entitled Final Emission Summary and Dispersion Modelling Report, dated June 15, 2023, prepared by SLR Consulting (Canada) Ltd, as required by Item No. 7 of the 2022 Order.

"Inspection Report" means the report dated March 28, 2024, summarizing the results of an inspection of the Site by Provincial Officer Heather Haight on February 27, 2024.

"Ministry" or "MECP" means the Ministry of the Environment, Conservation, and Parks.

"NASM" means non-agricultural source materials as defined in Ontario Regulation 267/03: General under the NMA.

"NASM Material" means waste, including solid or liquid NASM.

"NASM Plan" means a nutrient management plan for the management of NASM and other nutrients that may be applied to NASM application areas or stored in NASM storage facilities required under the NMA.

"NMA" means the Nutrient Management Act, 2002, S.O. 2002, c. 4.

"Order" means this Provincial Officer's Order No.1-434640292, as it may be amended.

"Orderees" means the persons to whom this Order is issued as listed above in the Order Issued To section.

"Provincial Officer" means the undersigned provincial officer or, in the event that the undersigned is unable to act, any other provincial officer with the Ministry's Sarnia District Office authorized to act pursuant to the EPA.

"Qualified Consultant" means a third-party consultant(s) or contractor(s) satisfactory to the Provincial Officer who has obtained the appropriate education and training and has demonstrated experience and expertise in the areas relating to the work required to be carried out by this Order.

"Shire" means Shire Corporation.

"Site" means the property that is the subject of this Order, namely the waste disposal site known as the Scott Road Lagoons, located at Lot 11, Concession Range 3, City of Sarnia, Ontario, as approved by the Waste ECA.

"Summary Report" means the written report required by Work Ordered Item No. 8.

"Waste ECA" means the ECA No. 0698-C37JDB, dated July 21, 2021, issued to Shire Corporation for a waste disposal site, including the transfer and processing (decanting), to be used for the temporary storage of NASM limited to Categories 1, 2, and 3 and contingency storage of waste activated sludge, biosolids or wastewater from the City of Sarnia WWTP.

"Wessuc" means Wessuc Inc.

"Work Plan" means the written work plan required by Work Ordered Item No. 4, as may be amended.

### **Description of Person(s) Subject to the Order**

Shire Corporation is an active corporation that was incorporated in Ontario on April 2, 2009. Shire owns the Site and operates it pursuant to the Waste ECA. Hank VanVeen is a director of Shire.

Wessuc Inc. is an active corporation that was incorporated in Ontario on April 27, 2000. Wessuc operates a waste management business throughout Ontario. Hank VanVeen is a director of Wessuc.

While Shire is the registered owner of the Site and listed on the Waste ECA, its business and operations are closely intertwined with Wessuc. Both Wessuc and Shire use the same head office address. Shire's business page on Facebook.com directs the public to Wessuc's website and contact information. On Wessuc's website, it describes the Site as part of Wessuc's NASM

storage operations. In addition, all communications from the principals of Shire, including Mr. VanVeen, use Wessuc email addresses. I believe that Wessuc and Shire operate as a single entity.

### **Description of the Site and/or System/Facility**

The Site is a waste disposal site that operates pursuant to the Waste ECA, which permits the acceptance of NASM Material generated in the Province of Ontario. The Site is made up of two storage lagoons in which both solid and liquid NASM Material is mixed together and stored temporarily. The Site is located east of Scott Road and north of Imperial Avenue in the City of Sarnia. The Site is located in an industrial area, less than one kilometer south of a residential neighbourhood.

### **Reasons for the Order**

#### **Background**

Between April 13, 2022, and Nov. 9, 2022, the Ministry received over 300 complaints related to the discharge of odour from operations at the Site.

On October 25, 2022, I issued the 2022 Order that required Shire to, among other things, have a qualified consultant develop operational and air monitoring plans for the Site and submit an emission summary and dispersion modelling report in respect of the Site.

Shire developed and submitted the Air Contaminant and Odour Mitigation Plan, the Air Monitoring Plan, and the ESDM Report in accordance with the 2022 Order. The plans were intended to describe how the Site can be operated in a manner that prevents the discharge of odour that may cause an adverse effect.

On June 16, 2023, I issued the 2023 Order that required Shire to, among other things, implement the Air Contaminant and Odour Mitigation Plan and Air Monitoring Plan. In addition, the 2023 Order required Shire to submit applications for a new ECA for managing discharges to air and for an amendment to the Waste ECA to approve the operational and process changes at the Site described in the plans.

After the issuance of the 2023 Order, Shire took some steps to implement the Air Contaminant and Odour Mitigation Plan and Air Monitoring Plan, however it has not fully implemented either plan to date, as described below.

Since February 21, 2024, the Ministry has received at least 62 further complaints regarding the discharge of odour from the Site. Ministry records indicate that since the Site began operating in the fall of 2021, at least 143 different individuals have contacted the Ministry to report being impacted by odours discharged from the Site.

On February 27, 2024, I conducted an inspection of the Site and observed a number of failures to implement the Air Contaminant and Odour Mitigation Plan and Air Monitoring Plan. In particular, upon review of the daily logs required to be maintained in accordance with the Air Contaminant and Odour Mitigation Plan, I observed that from September 26, 2023 to present,

Shire consistently failed to maintain prescribed targets for dissolved oxygen concentration, pH, and water cap/layer depth that were intended to minimize or reduce the discharge of odours from the Site. In addition, since May 2023 Shire exceeded at least one or more of the criteria specified in the Air Monitoring Plan nearly every week in which air monitoring data was recorded. Shire was also not properly completing the daily logs required by the plans and the Site continued to receive NASM Material despite exceeding the prescribed targets specified in the plans. The plans specified that in order to prevent the discharge of odour, NASM Material should cease to be received when the prescribed targets were exceeded.

Shire has also reported recurring issues with the maintenance and operation of air monitors specified in the Air Monitoring Plan, which has impeded the ability to properly implement the Air Monitoring Plan.

On April 23, 2024, I issued the April 2024 Order which required Shire to, amongst other things, cease accepting solid NASM at the Site and to retain a qualified third-party consultant to update the Air Contaminant and Odour Mitigation Plan and Air Monitoring Plan. The updates were intended to describe how the Site could be operated in a manner that prevents the discharge of odour that may cause an adverse effect from the Site, in light of continued complaints regarding the discharge of odour from the Site and the failure to fully implement the plans.

### **Current Contraventions**

#### **Contravention of Section 14 of the EPA**

I believe that the Orderees have discharged or are continuing to discharge a contaminant, namely odour, hydrogen sulphide (H<sub>2</sub>S), and ammonia, into the natural environment that causes or is likely to cause an adverse effect, such as harm or material discomfort to any person, loss of enjoyment of normal use of property, and interference with the normal conduct of business, contrary to section 14 of the EPA.

As noted above, the Ministry has received a number of odour complaints in relation to the discharge of odour from the Site. I have personally attended the Site on numerous occasions and have verified that significant odours are being discharged from its operations. I have also attended at the properties of several complaints and confirmed that odours consistent with those at the Site are present and are the cause or likely cause of adverse effects.

The Air Contaminant and Odour Mitigation Plan notes that the maintenance of dissolved oxygen concentration, pH, and water cap/layer depth at certain specified levels is necessary to prevent the release of Hydrogen Sulphide (H<sub>2</sub>S) and Ammonia into the atmosphere, where they can cause odours. As noted above, my review of daily logs showed that Shire has consistently failed to meet prescribed targets for a number of parameters under the Air Contaminant and Odour Mitigation Plan.

The ESDM Report estimated that odours from the Site experienced by complainants could reach levels approximately 2907% above the applicable odour threshold for ammonia and 1291% above the applicable odour threshold for hydrogen sulphide depending on operating conditions at the Site.

In accordance with the Air Monitoring and Odour Mitigation Plan, Shire is required to submit weekly air monitoring reports summarizing air monitoring data. A review of these monitoring reports shows that Shire has consistently exceeded the criteria specified in the Air Monitoring Plan.

To date, Shire has taken the position that it is not responsible for the complaints of odours attributed to the Site and maintains that the source of odours are other facilities in the area. Based on my experience, and the reports of complainants, it is my opinion that the Site is the source of the discharge of odours as the reported complaints are located downwind of the Site at times when there are no complaints near the other facilities. Further, the complaints of odour discharged from the Site are consistent with the ESDM Report and confirmed using my experience responding to complaints of odour. Ministry records indicate there have been minimal complaints of odour relating to other nearby facilities prior to Shire beginning operations at the Site.

#### Contravention of Section 9 of the EPA

Section 9 requires that any person who uses, operates, constructs, alters, extends or replaces any plant, structure, equipment, apparatus, mechanism or thing that may discharge or from which may be discharged a contaminant into any part of the natural environment other than water must only do so in accordance with an ECA.

The Orderes do not currently hold an ECA for any equipment, apparatus, mechanisms, plants, or structures at the Site, despite the fact that, as outlined above, the Site discharges odour, H<sub>2</sub>S, and Ammonia to air as part of its operations.

Shire is required by the 2023 Order to apply for an ECA for air by June 28, 2024.

#### Contravention of Orders

Item No. 1 and Item No. 2 of the 2023 Order required Shire to implement the Air Monitoring Plan and Air Contaminant and Odour Mitigation Plan, respectively. As outlined in detail above, Shire failed to fully implement these plans and consequently contravened the 2023 Order.

To date, Shire has not complied with at least Work Ordered Item Nos. 4 and 5 of the April 2024 Order, as they have not made efforts to prepare or implement the required update to the Air Contaminant and Odour Mitigation Plan.

#### Contravention of the Waste ECA

Condition 1.12 of the Waste ECA required that: "At no time shall the Owner or Operator allow the discharge of a contaminant that causes or is likely to cause an adverse effect."

As described above, I believe that the Orderes have discharged or are continuing to discharge a contaminant, namely odour, hydrogen sulphide (H<sub>2</sub>S), and ammonia, into the natural environment that causes or is likely to cause adverse effects, contrary to this requirement of the Waste ECA.



### Reasons for the Work Ordered Items:

With regards to Work Ordered Item No. 1, this requirement is intended to give persons who generate NASM Material that may be deposited at the Site advanced notice that the NASM Material cannot be received at the Site as of June 7, 2024, such that they might make alternative arrangements for the NASM Material.

With regard to Work Ordered Item No. 2, this requirement is intended to require the Orderes to cease receiving NASM Material at the Site, in order to prevent the continued or repeated discharge of odour, H<sub>2</sub>S, and Ammonia from the Site

With regard to Work Ordered Item Nos. 3 and 4, these requirements are intended to ensure that a person with the appropriate technical qualifications carry out the specified work ordered items.

With regard to Work Ordered Item Nos. 5 and 6, these requirements are intended to require the Orderes to have a Qualified Consultant prepare and submit a plan to remove all NASM Material from the Site. I intend to review this plan and to provide written comments to the Orderes in advance of the date specified in Work Ordered Item No. 7.

With regard to Work Ordered Item No. 7, this requirement is intended to prevent the continued or repeated discharge of odour, H<sub>2</sub>S, and Ammonia from the Site, by requiring the commencement of the removal of all NASM Material from the Site in accordance with the Work Plan.

With regard to Work Ordered Item No. 8, this requirement is intended to assist the Ministry in assessing if the Site will operate in compliance with Ministry legislation in relation to the discharge of odours from the Site, including by obtaining a new ECA and/or an amendment to an existing ECA.

### **Authority to Issue the Order**

I am issuing this Order under my authority as a Provincial Officer under the following legislation, which also includes the authority to take intermediate action and/or procedural steps:

This Order is being issued pursuant to EPA ss.157(1).

I reasonably believe that the Orderes have contravened or are contravening those provisions of the EPA as outlined in the Contraventions section below.

I further reasonably believe that Shire has contravened or is contravening provisions of the 2023 Order, namely Item No. 1 and Item No. 2; Work Ordered Item Nos. 4 and 5 of the April 2024 Order; and provisions of the Waste ECA, namely Condition 1.12.

### **Contraventions**

EPA   9   (1)	(1) No person shall, except under and in accordance with an environmental compliance approval,
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	<p>(a) use, operate, construct, alter, extend or replace any plant, structure, equipment, apparatus, mechanism or thing that may discharge or from which may be discharged a contaminant into any part of the natural environment other than water; or</p> <p>(b) alter a process or rate of production with the result that a contaminant may be discharged into any part of the natural environment other than water or the rate or manner of discharge of a contaminant into any part of the natural environment other than water may be altered.</p>
EPA   14   (1)	(1) Subject to subsection (2) but despite any other provision of this Act or the regulations, a person shall not discharge a contaminant or cause or permit the discharge of a contaminant into the natural environment, if the discharge causes or may cause an adverse effect.

### Attachments

The attachments listed below, if any, form part of this Order:

**ISSUING OFFICER**

**Name:** Heather Haight

**Job Title:** Environmental Compliance Officer

**Badge Number:** 1709

**Address:** 1094 LONDON RD, SARNIA, ON

**Officer Email:** heather.haight@ontario.ca

**Office Email:** Environment.Sarnia@ontario.ca

**Date:** May 31, 2024

**Signature:**

*Heather Haight*

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## **REVIEW AND APPEAL INFORMATION**

### **REQUEST FOR REVIEW**

You may request that this Order be reviewed by the Director. Your request must be made in writing or orally with written confirmation. Your written request or written confirmation of your oral request must be received by the Director within 7 days after the date this Order was served on you and must be given to the Director as indicated in the Contact Information below.

In your written request or written confirmation, you must:

- specify the portions of this Order that you wish to be reviewed;
- include any submissions to be considered by the Director with respect to issuance of this Order to you or any other person and with respect to the contents of this Order;
- apply for a stay of this Order, if necessary; and
- provide an address for service by one of the following means, in person, by mail, by commercial courier, by fax, or by email.

In response to your request, the Director may confirm, alter/amend or revoke this Order. As an intermediate step, the Director may stay this Order by providing written notice to you that additional time is required to make a decision.

The Director will serve you with a copy (written notice) of the decision to revoke this Order or of an order, a Director's Order, to confirm or alter/amend this Order, together with reasons.

### **DEEMED CONFIRMATION OF THIS ORDER**

If within 7 days of the Director receiving your request for review you do not receive written notice of a stay, or oral or written notice of the Director's decision on your request for review, this Order is deemed (considered) to have been confirmed by Order of the Director and deemed to have been served upon you at the expiry of those 7 days.

### **APPEAL INFORMATION (REQUIRE A HEARING)**

A. If this Order is deemed confirmed as explained above, you may require a hearing by the Ontario Land Tribunal on the deemed confirmed Order within 15 days of the deemed service date:

- you must serve as indicated in the Contact Information below, written notice of your appeal on the Ontario Land Tribunal and the Director within those 15 days of the deemed service date;

- your notice must state the portions of the deemed confirmed Order for which a hearing is required and the grounds on which you intend to rely at the hearing;
- unless you have leave (permission) of the Ontario Land Tribunal, you are not entitled to appeal a portion of the deemed confirmed Order or to rely on grounds of appeal that are not stated in your notice requiring the hearing; and
- written notice requiring a hearing must be served on the Ontario Land Tribunal and the Director as indicated in the Contact Information below.

B. If this Order is confirmed or altered/amended by the Director by a written order served upon you (as opposed to the deemed confirmation noted above), such Director's Order will include the appropriate instructions for appealing that order to the Ontario Land Tribunal.

## CONTACT INFORMATION

The contact information for the Director and the Ontario Land Tribunal is the following:

Registrar  
Ontario Land Tribunal  
655 BAY STREET, 15<sup>th</sup> FLOOR  
TORONTO, ON M5G 1E5  
OLT.Registrar@ontario.ca

and

Director (Provincial Officer's Orders)  
Ministry of the Environment,  
Conservation and Parks  
Sarnia District Office  
1094 LONDON RD  
SARNIA, ON N7S 1P1  
Office Email: Environment.  
Sarnia@ontario.ca  
Fax: (519) 336-4280

The contact information of the Ontario Land Tribunal and further information regarding its appeal requirements can be obtained directly from the Tribunal at:

Tel: (416) 212-6349, Toll Free: 1(866) 448-2248 or [www.olt.gov.on.ca](http://www.olt.gov.on.ca)

## SERVICE INFORMATION

Service of the documentation referred to above can be made personally, by mail, by fax (in the case of the Director only), by commercial courier or by email in accordance with the legislation under which this Order is made and any corresponding Service Regulation.

## ADDITIONAL INFORMATION

Unless stayed by the Director or the Ontario Land Tribunal, this Order is effective from the date of service.

Failure to comply with a requirement of this Order constitutes an offence. Unless otherwise indicated, the obligation to comply with a requirement of this Order continues on each day after the specified compliance date until the obligation has been satisfied.

The requirements of this Order are minimum requirements only and do not mean that you are not required to comply with any other applicable legal requirements, including any:

- statute, regulation, or by-law;
- federal, provincial, or municipal law; or
- applicable requirements that are not addressed in this Order.

The requirements of this Order are severable. If any requirement of this Order, or the application of any requirement to any circumstance, is held invalid, such finding does not invalidate or render unenforceable the requirement in other circumstances. It also does not invalidate or render unenforceable the other requirements of this Order.

Further orders may be issued in accordance with the legislation as circumstances require.

This Order is binding upon any successors or assignees of the persons to whom this Order is issued.

**The procedures to request a review by the Director or require a hearing and other information provided above are intended as a guide. The legislation should be consulted for additional details and accurate reference. Further information can be obtained from e-Laws at [www.ontario.ca/laws](http://www.ontario.ca/laws).**