



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

December 18, 2014

Tunnel Hill Partners, L.P.
390 N. Broadway
Jericho, NY 11753

**Re: Tunnel Hill Partners, L.P.
Non-permit Related Exemptions
Approval
Municipal Solid Waste Landfills
Seneca County
MSWL018786**

Subject: Final Findings and Orders of the Director

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Tunnel Hill Partners, L.P.

If you have any questions, please contact Robin Nichols at (614) 644-3037.

Sincerely,

Demitria Crumiell-Hagens

Demitria Crumiell-Hagens, Administrative Professional II
Division of Materials & Waste Management

Enclosure

cc: Sharon Gbur, DMWM, CO
Robin Nichols, Legal
John Pasquarette, DMWM, NWDO
Brad Mitchell, DMWM, CO

OHIO E.P.A.

DEC 18 2014

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of:

Tunnel Hill Partners, LP	:	<u>Director's Final Findings</u>
390 N. Broadway	:	<u>and Orders</u>
Jericho, NY 11753	:	

Respondent

I. JURISDICTION

These Orders are issued to Tunnel Hill Partners, LP ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Sections 3734.02(G) and 3734.13.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent, or of the Facility as hereinafter defined, shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3734 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. By letter dated November 25, 2014, Respondent indicated that it intends to purchase all of WCA Waste Systems, Inc.'s interest in WCA of Massachusetts, LLC on or before December 31, 2014. WCA of Massachusetts, LLC owns WCA of Ohio, LLC. WCA of Ohio, LLC owns Sunny Farms Landfill LLC, which owns and operates the Sunny Farms Landfill ("Facility"), located at 12500 West County Road 18, Fostoria, Seneca County, Ohio 44830.

2. ORC Section 3734.42(I)(1) provides, in pertinent part, that “[w]henver there is a change in ownership of an operating off-site solid waste facility . . . the prospective owner shall file a disclosure statement with the attorney general and the director at least one hundred eighty days prior to the proposed change in ownership.” Under ORC Section 3734.42(I)(1), the Director is authorized to disapprove the change in ownership if he determines that the disclosure statement or the investigative report contains information that would require a denial of a permit under ORC Section 3734.44.
3. Ohio Administrative Code (“OAC”) Rule 109:6-1-02(A)(2) generally provides that a prospective owner of an off-site facility must “file with the attorney general a disclosure statement at least one hundred eighty days prior to the proposed change in ownership.”
4. The Facility is an “off-site facility” as that term is defined in ORC Section 3734.41(G) and Ohio Administrative Code (“OAC”) Rule 109:6-1-01(R).
5. The acquisition described in Finding Number One, above, is considered a “change in ownership” as defined in ORC Section 3734.42(I)(3). As such, Respondent is required to submit disclosure statements in accordance with ORC Section 3734.42(I)(1).
6. By letter dated November 25, 2014 Respondent requested an exemption, pursuant to ORC 3734.02(G), from the 180-day pre-notification requirement specified in ORC Section 3734.42(I)(1). Respondent also notified Ohio EPA that it submitted its disclosure statements for the anticipated change in ownership on November 25, 2014.
7. As indicated in Respondent’s letter referenced in Finding Number Six, above, the Office of the Attorney General and Ohio EPA have received copies of Respondent’s disclosure statements.
8. ORC Section 3734.42(I)(2) provides that “[i]f the parties to a change in ownership decide to proceed with the change prior to the action of the director on the disclosure statement and investigative report, the parties shall include in all contracts or other documents reflecting the change in ownership language expressly making the change in ownership subject to the approval of the director and expressly negating the change if it is disapproved by the director pursuant to division (I)(1) of this section.”

9. Respondent's November 25, 2014 letter also notifies Ohio EPA that the contracts and other documents will include express language that complies with ORC Section 3734.42(l)(2), making the transfer in ownership subject to the approval of the director of Ohio EPA.
10. Pursuant to ORC Section 3734.02(G), the Director may, by order, exempt any person collecting, storing, or disposing of solid waste from any requirement of ORC Chapter 3734, if, in the determination of the Director, it is unlikely that the public health or safety or the environment will be adversely affected thereby. Any such exemption shall be consistent with and equivalent to rules promulgated under the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806, 42 U.S.C. Section 6921, *et seq.*, as amended.
11. Pursuant to ORC Section 3734.02(G), the Director has determined that exempting Respondent from the requirement to submit an environmental background investigation disclosure statement at least 180 days prior to the proposed "change in ownership" described in Finding Number One, above, is unlikely to adversely affect public health or safety or the environment.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent is hereby exempted from the requirement to file a disclosure statement at least 180 days prior to the date of the proposed change in ownership of the Facility described in Finding Number One, above, as required by ORC Section 3734.42(l)(1) and OAC Rule 109:6-1-02(A)(2).
2. Except as otherwise expressly provided herein, Respondent shall comply with all other applicable requirements of ORC Chapter 3734 and the rules adopted thereunder, as well as OAC Chapter 109:6-1.

VI. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

VII. RESERVATION OF RIGHTS

Ohio EPA reserves all rights, privileges and causes of action. Nothing contained


herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 3734 or any other applicable law in the future.

VIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

IT IS SO ORDERED:

Ohio Environmental Protection Agency

A handwritten signature in black ink, appearing to read "Craig W. Butler", is written over a horizontal line.

Craig W. Butler
Director