



John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Craig W. Butler, Director  
December 29, 2014

BFI of Ohio, Inc.  
22730 Fairview Center Drive  
Suite 100  
Fairview Park, OH 44126

**Re: Vickery Solid Waste Transfer Station  
DFFO  
Exemption  
Municipal Solid Waste Transfer Facilities  
Sandusky County  
SWTF018442**

**Subject:** Final Findings and Orders

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for BFI of Ohio, Inc.

You are hereby notified that this action of the Director of Ohio EPA (Director) is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00 made payable to "Treasurer, State of Ohio." The Commission, in its discretion, may reduce the fee if by affidavit it is demonstrated that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission  
77 South High St., 17<sup>th</sup> Floor  
Columbus, Ohio 43215

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

Sincerely,

  
Leanne Greenlee, Administrative Professional 3  
Division of Materials & Waste Management

Enclosure

cc: Robin Nichols, Legal  
John Pasquarette, DMWM, NWDO

ec: Robin Nichols, Legal  
John Pasquarette, DMWM, NWDO  
Jeremy Carroll, DMWM, CO  
Brad Mitchell, DMWM CO  
Jeff Hurdley, Legal  
Sharon Gbur, DMWM, CO

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter Of:

BFI of Ohio, Inc. : Director's Final Findings  
22730 Fairview Center Drive, Ste 100 : and Orders  
Fairview Park, Ohio 44126 :

**Respondent**

**I. JURISDICTION**

These Orders are issued to BFI of Ohio, Inc. ("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. Respondent is the owner and operator, as those terms are defined in OAC Rule 3745-27-01(O), of the Vickery Solid Waste Transfer Station located at 1787 State Route 510 Vickery, Sandusky County, Ohio 43464 (the "Facility").
2. The Sandusky County Health Department is on the list of health departments established pursuant to ORC Section 3734.08 and is authorized to implement the solid waste laws and regulations.

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By: Jessica Lassiter Date: 12-29-14

3. The Facility is located within the Ottawa Sandusky Seneca County Joint Solid Waste Management District.
4. The Facility is currently licensed as a solid waste transfer facility, as that term is defined in OAC Rule 3745-27-01(S)(28). Respondent applied for a 2015 solid waste transfer facility license for the Facility, but withdrew its application via electronic correspondence dated December 18, 2014. As such, the license for the Facility expires on December 31, 2014.
5. By correspondence received by Ohio EPA on December 12, 2014, Respondent indicated that it plans to sell the Facility by December 31, 2014 and that the new owner intends to utilize the property in a manner such that it would not constitute a solid waste facility. Respondent also indicated that although Respondent has maintained its license for the Facility, the Facility is empty, locked up, and has not accepted waste for several years.
6. Closure of a solid waste transfer facility is generally governed by OAC Rule 3745-27-24, which provides that final closure is mandatory when "the owner or operator declares that the facility will cease accepting waste . . . [or the] license held by the solid waste transfer facility expires, and no further license has been applied for[.]"
7. OAC Rule 3745-27-24(B) requires that the owner or operator provide notice of the date that the solid waste transfer facility will cease to accept solid waste. This notice must be by certified mail, and must be sent to the board of health having jurisdiction, to the solid waste planning district in which the facility is located, and to the Director ninety days prior to the date upon which the facility will cease accepting waste. The rule also requires the publication of prominent notice, at three-week intervals, of the date that the facility will cease accepting waste. Notice of the completion of publication must be sent via certified mail to the Director and the board of health.
8. Pursuant to OAC Rule 3745-27-24(C), the owner or operator of a solid waste transfer facility shall, not later than thirty days after ceasing to accept solid waste, thoroughly clean all waste handling facilities, equipment, and areas and post signs at all access gates to the facility, stating that the facility is closed. The owner or operator must maintain the signs for at least six months.

9. OAC Rule 3745-27-24(D) generally provides that within 60 days of ceasing to accept waste, the owner or operator must modify, remove, or seal the leachate collection system as necessary to prevent the filling or overflow of leachate conveyance and storage structures and any discharges to waters of the state. In addition, the rule requires baiting the facility for rodents and treating for vectors, as necessary.
10. In accordance with OAC Rule 3745-27-24(E), within thirty days of complying with the requirements of paragraphs (C) and (D) of OAC Rule 3745-27-24, or before the closed facility can be converted to other uses, the owner or operator shall certify to the licensing authority that the facility has been cleaned and closed in accordance with those paragraphs.
11. Pursuant to OAC Rule 3745-27-24(F), the owner or operator must provide to the Director and to the board of health a written notice, via certified mail, regarding its intent to close the facility. Final closure of a solid waste transfer facility is generally complete when, not later than ninety days after the facility ceases operations, the licensing authority and the Director have received documentation that all areas previously used for solid waste transfer activities that will not be used for legitimate recycling activities have been closed in accordance with paragraph (C) and (D) of this rule.
12. On December 18, 2014 Respondent sent correspondence to the Director, the Sandusky County Health Department, and the Ottawa/Sandusky/Seneca Solid Waste Management District, via certified mail, which explained that the Facility has not accepted solid waste for "a number of years" and that it is Respondent's intention to close the Facility on December 31, 2014.
13. On December 19, 2014, Ohio EPA and the Sandusky County Health Department conducted an inspection of the Facility and observed that the Facility has been thoroughly cleaned and prepared for closure, with all containers removed, the leachate collection system has been emptied, and closed signs have been posted. These observations were documented in correspondence dated December 23, 2014.

14. By letter dated December 22, 2014, Republic Services, Inc. (an affiliate of Respondent) certified to the Sandusky County Health Department that the Facility has been thoroughly cleaned and closed in accordance with OAC 3745-27-24. In addition, the correspondence states that the Facility has neither accepted nor received solid waste for a number of years, that for a number of years there has been signage at the Facility indicating the Facility was closed, and that the "structure and location of the leachate collection system is such that there can be no filling or overflowing or discharges from the system to waters of the state."
15. 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.
16. Pursuant to ORC Section 3734.02(G) and in light of the fact that the Facility has not accepted waste in a number of years; that the current license for the Facility expires on December 31, 2014 and Respondent is not seeking a 2015 license for the Facility; that there are no current customers that need advanced notice in order to acquire alternate waste transfer services; that public access to the Facility has been restricted; that all waste handling facilities, equipment, and areas have been thoroughly cleaned and all leachate has been removed from the Facility; and that the leachate collection system is configured such that there can be no filling or overflow of leachate and discharges to waters of the state, and in consideration of the certification regarding closure dated December 22, 2014 and the fact that Respondent provided certified notice of its intent to close the Facility on December 31, 2014, the Director has determined that exempting Respondent from the solid waste transfer facility closure requirements in OAC Rule 3745-27-24 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 solid waste transfer facility closure requirements set forth in OAC Rule 3745-27-24 with regard to the closure of the Facility on or before December 31, 2014. The Facility is hereby deemed closed upon the effective date of these Orders.

2. Except as otherwise expressly provided herein, Respondent shall comply with all other applicable requirements of ORC Chapter 3734 and the rules adopted thereunder.

#### **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**

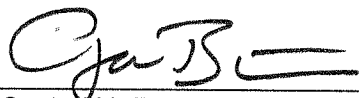
Ohio EPA reserves all rights, privileges and causes of action. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 3734 or any other applicable law in the future.

#### **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**



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Craig W. Butler  
Director