



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

September 23, 2015

Belpre Classic and Collision  
Center, Inc.  
280 Timberline Drive  
Vincent, Ohio 45764

**Re: Belpre Classic and Collision Center, Inc.  
Director's Final Findings and Orders (DFFO)  
DFFO  
RCRA C - Hazardous Waste  
Washington County  
OHR000120717**

**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 Belpre Classic and Collision Center, Inc.

If you have any questions, please contact Andrea Smoktonowicz at (614) 644-3180.

Sincerely,

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

Enclosure

cc: Mitch Mathews, DMWM, CO  
Kelly Smith, DMWM, CO  
Andrea Smoktonowicz, Legal  
Donna Goodman, DMWM, SWDO

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

SEP 23 2015

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Belpre Classic and Collision Center, Inc.  
1004 Campus Drive  
Belpre, Ohio 45714

Respondent

Director's Final  
Findings and Orders

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to Belpre Classic and Collision Center, Inc. (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.02(G), 3734.13 and 3745.01.

**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 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. Pursuant to ORC § 3734.02(G) and Ohio Administrative Code (OAC) rule 3745-50-31, the Director, may, by order exempt any person generating, collecting,

storing, treating, disposing of, or transporting hazardous wastes in such quantities or under such circumstances that, in the determination of the Director, are unlikely to adversely affect the public health or safety or the environment, from any requirement to obtain a hazardous waste facility installation and operation permit or comply with other requirements of ORC Chapter 3734. Any such exemption shall be consistent with and equivalent to rules promulgated under the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806, 41 U.S.C. § 6921 et seq., as amended.

2. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A)
3. Since approximately the beginning of 2011, Respondent operated an auto body repair shop located at 1004 Campus Drive, Belpre, Washington County, Ohio (Facility). Respondent purchased the underlying property on June 13, 2013.
4. At the Facility, Respondent generates "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Respondent typically generates less than 100 kilograms of waste per month, commonly known as a conditionally exempt small quantity generator, and is subject to the requirements of OAC rule 3745-51-05. Respondent generates hazardous waste spent paint thinner from cleaning paint spray guns that is a characteristic hazardous waste due to ignitability (D001) and a listed hazardous waste (F003, F005) as described in OAC rules 3745-51-21 and 3745-51-31.
5. On April 5, 2004, Ohio EPA inspected the Facility's previous owner, Todd's Body Shop, and observed two drums of hazardous waste spent paint thinner, F003 and F005, as described in OAC rule 3745-51-31, generated by Todd's Body Shop in a shed in the rear of the Facility. The hazardous waste was not being unlawfully stored at the time of the April 5, 2004, inspection and on April 12, 2004, Ohio EPA sent Todd's Body Shop a Notice of Compliance.
6. On January 10, 2014, Ohio EPA conducted a complaint investigation at the Facility which is now owned by Respondent. During the investigation, Ohio EPA observed two fifty-five gallon drums of spent paint thinner in a shed at the rear of the Facility, and depicted in Finding No. 5. of these Orders, as well as 19 five-gallon containers of spent paint thinner that was generated by Respondent. Several of the five-gallon containers were open and lying on their sides. Ohio EPA observed spillage of spent paint thinner outside the shed and stressed vegetation in areas where the spent paint thinner was disposed on the shed floor and on the soils around the shed. Soon after this inspection, Respondent provided information on the paint thinner in the form of material safety data

sheets (MSDS) which demonstrated that the spent paint thinner generated by Respondent, was at a minimum, listed hazardous waste, F003 and F005, as described in OAC rule 3745-51-31.

7. On January 14, 2014, Respondent verified that the two 55-gallon drums observed by Ohio EPA at the Facility during the inspection were generated by Todd's Body Shop and were left behind by Todd's Body Shop when Respondent acquired the Facility.
8. As a result of this investigation, Ohio EPA issued Notices of Violation (NOVs) dated January 22, and February 28, 2014, and determined Respondent, *inter alia*:
  - a. Failed to evaluate wastes to determine if they were hazardous, in violation of OAC rule 3745-52-11. Specifically, Respondent failed to evaluate the spent paint booth filters generated at the Facility.
  - b. Caused the establishment or operation of a hazardous waste facility without a hazardous waste facility installation and operation permit and disposed of hazardous waste at an unauthorized facility, in violation of ORC §§ 3734.02(E) and (F) as the result of the spillage or disposal of hazardous waste spent paint thinner on the ground in and around the storage shed.
9. Based upon the information in Findings Nos. 6 and 7. of these Orders regarding Respondent's activities, the Director has determined Respondent caused hazardous waste to be stored at the Facility which is an unauthorized facility, in violation of ORC § 3734.02(E) and (F). Specifically, Respondent stored hazardous waste for at least three years because Respondent failed to remove the hazardous waste from the Facility that had been abandoned by the previous owner, Todd's Body Shop.
10. On March 13, 2014, via e-mail correspondence, a consultant submitted a letter to Ohio EPA on behalf of Respondent containing information responding to the violations in the February 28, 2014, NOV. The information included a proposal to characterize the spent paint booth filters, a schedule for removal of the hazardous waste from the Facility by a third party waste disposal company, and a recommendation that the consultant prepare and submit a closure plan to Ohio EPA for areas where hazardous waste was stored and disposed at the Facility.

11. On March 20, 2014, the hazardous waste being stored at the Facility at the time of the complaint investigation was transported and manifested offsite to an authorized facility. Subsequent to the hazardous waste being sent to an authorized facility, Ohio EPA received copies of manifests from Respondent.
12. In November 2014, Respondent submitted a waste characterization of the spent paint booth filters, abating the violation in Finding No. 8.a. The analytical results showed them to be non-hazardous.
13. Respondent submitted financial documentation for an ability to pay the civil penalty demonstration. Based on this, discussions with Respondent, and internet law enforcement investigatory searches, Ohio EPA determined Respondent had an inability to pay a civil penalty.
14. Due to Respondent's establishment and operation of a hazardous waste storage and disposal facility as described in Findings Nos. 6. through 9. of these Orders, Respondent is required to have a hazardous waste facility and installation permit and is subject to all general facility standards found in OAC Chapter 3745-54 and 55, including but not limited to, closure in accordance with OAC rules 3745-55-11 through 3745-55-20, the financial assurance for closure requirements contained in OAC rules 3745-55-42 through 3745-55-51 and corrective action for waste management units in accordance with OAC rule 3745-54-101. To obtain a hazardous waste facility installation and operation permit, Respondent is required to submit "Parts A and B" of the application in accordance with OAC Chapter 3745-50.
15. The submittal of a Closure Plan for the areas where the spent thinner was disposed on the shed floor and to the soils around the shed at the Facility, in lieu of the submittal of an application for a hazardous waste facility installation and operation permit is unlikely to adversely affect the public health or safety or the environment. The Closure Plan shall comply with the administrative requirements of OAC Chapters 3745-65 and 66 and the substantive requirements of OAC Chapters 3745-54 and 55 including but not limited to the groundwater protection program in accordance with OAC rules 3745-54-90 through 3745-54-100. Therefore, the Director finds that the issuance to Respondent of an exemption from the requirement to submit an application for a hazardous waste facility installation and operation permit is unlikely to adversely affect the public health or safety or the environment within the meaning of ORC § 3734.02(G).
16. Under a July 10, 2003 consent order entered into between the State of Ohio and YSI Incorporated, an "Environmental Remediation Project Trust" ("YSI Trust")

was created allowing the Director to pay for closure costs using the YSI Trust when owners or operators of hazardous waste facilities have an inability to pay to perform closure.

17. Respondent has an inability to pay closure costs for cleanup of areas where the spent thinner was disposed on the shed floor and soils around the shed at the Facility. Respondent's consultant, Kemron Environmental Services ("Kemron"), estimates closure costs will be approximately \$5,000.
18. The Director authorizes closure costs to be paid using the YSI Trust for up to \$10,000. Respondent agrees to provide access to Ohio EPA and Kemron to perform the closure work. In order to receive reimbursement, Kemron shall submit invoices to Ohio EPA, Enforcement Supervisor, Lazarus Government Center, Division of Materials and Waste Management, P.O. Box 1049, Columbus, Ohio 43216-1049. Upon verification that the work has been performed, monies will be released from the YSI Trust to Kemron.

#### **V. ORDERS**

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Respondent is hereby exempted from the requirement to submit an application for a hazardous waste facility installation and operation permit for the Facility, *provided that* Respondent complies with the following;
  - a. Within 90 days after the effective date of these Orders, Respondent shall submit to Ohio EPA for review and approval a Closure Plan for all areas at the Facility where hazardous waste was stored and disposed, including but not limited to areas where the spent thinner was stored in the shed, disposed on the shed floor, and to the soils around the shed at the Facility as referenced in Findings Nos. 6. through 9. of these Orders. A copy of the Closure Plan shall be submitted in accordance with Section X. of these Orders and an additional copy submitted to Ohio EPA, Division of Environmental Response and Revitalization, Manager, Engineering Section, P.O. Box 1049, Columbus, Ohio 43216-1049;
  - b. This Closure Plan shall comply with the administrative requirements of OAC Chapters 3745-65 and 3745-66 and the substantive requirements of OAC Chapters 3745-54 and 3745-55, including but not limited to, the groundwater protection program in accordance with OAC rules 3745-54-

90 through 54-100. The Closure Plan is subject to approval by Ohio EPA. If Ohio EPA does not approve the Closure Plan and provides Respondent with a written statement of deficiencies, Respondent shall submit a revised Closure Plan for approval addressing the deficiencies within 30 days of receiving such written statement. If Ohio EPA modifies the Closure Plan, the modified Closure Plan becomes the approved plan. Upon Ohio EPA's written approval of the Closure Plan, Respondent shall implement the approved Closure Plan in the manner and pursuant to the time frames set forth in the approved Closure Plan and OAC rules 3745-55-13/3745-66-13;

- c. Within 90 days after approval of the Closure Plan pursuant to Order No. 1.a., Respondent shall submit a closure cost estimate and documentation demonstrating that Respondent has established financial assurance and liability coverage for the areas of the Facility subject to closure, in accordance with OAC rules 3745-55-42 through 3745-55-47; and
- d. Within 60 days after completion of closure, Respondent shall submit certification of closure to Ohio EPA in accordance with OAC rules 3745-55-15. Ohio EPA's acceptance of the closure certification shall abate the violations referenced in Findings Nos. 8.b. and 9. of these Orders.

## **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and Ohio EPA's Division of Materials and Waste Management acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is e.g., a corporate officer who is in charge of a principal business function of Respondent.

### **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of Respondent's Facility.

### **VIII. 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.

### **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

### **X. NOTICE**

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Southeast District Office  
Division of Materials and Waste Management  
2195 Front Street  
Logan, Ohio 43138-8637  
Attn: DMWM Manager  
and Ohio EPA Central Office at the following addresses:

For mailings, use the post office box number:

Enforcement Supervisor  
Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Materials and Waste Management  
P.O. Box 1049  
Columbus, Ohio 43216-1049

For deliveries to the building:

Enforcement Supervisor  
Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Materials and Waste Management  
50 West Town Street  
Columbus, Ohio 43215

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

#### **XI. RESERVATION OF RIGHTS**

Ohio EPA reserves its rights to exercise its lawful authority to require Respondent to perform corrective action at the Facility, at some time in the future, pursuant to ORC Chapter 3734. or any other applicable law. Respondent reserves its rights to raise any administrative, legal or equitable claim or defense with respect to performing such corrective action. Ohio EPA and Respondent each reserve all other rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders.

#### **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek corrective action at the Facility by Respondent, which right Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In

such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

**XIII. EFFECTIVE DATE**

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

**XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED AND AGREED:**

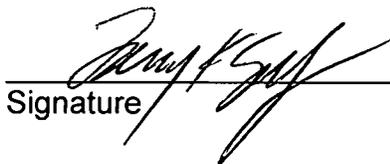
**Ohio Environmental Protection Agency**



\_\_\_\_\_  
Craig W. Butler  
Director

**IT IS SO AGREED:**

**Belpre Classic and Collision Center, Inc.**



\_\_\_\_\_  
Signature

8/29/15  
\_\_\_\_\_  
Date

LARRY K SURRIDGE  
\_\_\_\_\_  
Printed or Typed Name

Printed or Typed Name

Owner  
\_\_\_\_\_  
Title

Title