



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

June 13, 2017

Arco Recycling, Inc.
1705 Noble Road
East Cleveland, OH 44112

**Re: Arco Recycling, Inc.
Director's Final Findings and Orders (DFFO)
DFFO
Construction & Demolition Debris
Cuyahoga County
CDDL021638**

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 Arco Recycling, 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., 17th Floor
Columbus, Ohio 43215

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

Sincerely,

Gregory Nichols
Division of Materials & Waste Management

ec: Robin Nichols, DMWM
Kelly Jeter, DMWM



**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of:

Arco Recycling, Inc.	:	<u>Director's Final Findings</u>
1705 Noble Road	:	<u>and Orders</u>
East Cleveland, Ohio 44112	:	
	:	
Respondent	:	

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Arco Recycling, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Section 3714.12.

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 the 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 3714 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is a corporation, incorporated in the state of Ohio, and located at 1705 Noble Road in East Cleveland, Ohio.
2. Respondent is a "person" as that term is defined in ORC section 3734.01(H) and OAC rule 3745-400-01(P)(1).
3. Respondent asserts that it operated a construction and demolition debris recycling operation at 1705 Noble Road, East Cleveland, Ohio (the "Facility"). The Facility is located on a consolidated parcel identified by the Cuyahoga County Auditor's Office as parcel number 673-01-011, which is comprised of approximately 9.892 acres.

4. The Facility is not, nor has it ever been, licensed or permitted as a construction and demolition debris facility or a solid waste disposal facility.
5. On January 17, 2017, the Director of Ohio EPA issued Final Findings and Orders ("January DFF&Os") to Respondent that, among other things, required the removal and lawful disposal of the construction and demolition debris ("C&DD") illegally disposed at the Facility.
6. On January 30, 2017, Respondent appealed the January DFF&Os to the Environmental Review Appeals Commission, which has jurisdiction over such matters.
7. On June 5, 2017, the state of Ohio, by and through the Ohio Attorney General, filed a complaint against Respondent and others in the Cuyahoga County Common Pleas Court (the "Court") to address ongoing violations at the Facility. On the same date, a Partial Consent Order resolving Respondent's violations was filed with the Court.
8. Under the Partial Consent Order, Respondent is required to, among other things, do the following:
 - a. Comply with Ohio laws related to C&DD and cease disposing, or authorizing third parties to dispose, of any C&DD or other waste material at the Facility;
 - b. Allow Ohio EPA and the Cleveland Department of Public Health, Division of Air Quality, to access the Facility to conduct air monitoring;
 - c. Provide to Ohio EPA and the Cuyahoga County Board of Health ("CCBH"), as well as their employees, contractors, designees, and assigns, full site access for purposes related to the removal of the C&DD from the Facility;
 - d. Relinquish all rights in the construction and demolition debris at the Facility;
 - e. Reimburse Ohio EPA for all funds expended for purposes related to C&DD removal and air monitoring at the Facility.
9. Also on June 5, 2017, Respondent and the state of Ohio, by and through the Ohio Attorney General, filed a Joint Stipulation and Settlement Agreement (JSSA) with the Environmental Review Appeals Commission. The JSSA provides that within seven days of the Court entering the Consent Order, the Director will terminate the DFF&Os.
10. The Court approved the Partial Consent Order via Journal Entry filed June 6, 2017.
11. Pursuant to the JSSA, the Director is obligated to terminate the DFF&Os not later

than June 13, 2017.

V. ORDERS

In light of the Findings set forth in Section IV., above, and in accordance with the requirements of the JSSA, the Director hereby revokes the January DFF&Os. The obligations set forth in the January DFF&Os will terminate upon the effective date of this Order.

VI. RESERVATION OF RIGHTS


Nothing contained herein shall be construed as an admission that the January DFF&Os were unlawful and/or unreasonable, or that Respondent performed all obligations under the January DFFOs. Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of any other lawful Order, including the Partial Consent Order, or from taking other administrative, legal, or equitable action as deemed appropriate and necessary. 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 3714 or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal, or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

X. 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



Craig W. Butler
Director