

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of:

Allied Waste Systems, Inc.	:	<u>Director's Final Findings</u>
15880 N. Greenway-Hayden Loop	:	<u>and Orders</u>
Suite #100	:	
Scottsdale, Arizona	:	

Respondent

PREAMBLE

It is hereby agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are hereby issued to Allied Waste Systems, 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), 3734.13 and 3745.01.

II. PARTIES

These Orders shall apply to and be binding upon Respondent, and its successor interest liable under Ohio law. No changes in ownership relating to the Facility, as hereafter defined, will 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 OF FACT

The Director has determined the following findings:

1. Respondent is the prospective owner of property located at 621 Newman Street, Mansfield, Ohio, and of a transfer facility located at the same address.

2. The transfer facility listed above is each individually regarded as 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(P) and is currently owned by the Richland County Solid Waste Management District and operated by BFI of Ohio, Inc.
3. ORC Section 3734.42(F)(1) provides, in pertinent part, that “[w]henver there is a change in ownership of any 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.” See also OAC Rule 109:6-1-02(A)(3). Under ORC Section 3734.42(F)(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.
4. In a letter dated July 28, 2005, Ms. Kristin Watt, Esq., notified Ohio EPA that the Respondent intends to enter into a transaction to acquire the Facility from the Richland County Solid Waste Management District. In her letter, Ms. Watt indicates that the Respondent requests an exemption from the 180-day pre-notification requirement specified in ORC Section 3734.42(F)(1), and accordingly, are seeking relief from the requirement through an exemption.
5. Since the time Ohio EPA received Respondent’s request for an exemption, the Office of the Attorney General and Ohio EPA have received a copy of Respondent’s disclosure statements. These documents were received on August 1, 2005.
6. ORC Section 3734.42(F)(3) defines the term “change in ownership” to include “any change in the names, other than those of officers, directors, partners, or key employees, contained in the disclosure statement.” The agreement, as outlined above, transferring ownership of the Facility to the Respondent, constitutes a “change in ownership” as defined by ORC Section 3734.42(F)(3).
7. ORC Section 3734.42(F)(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 (F)(1) of this section.”
8. Pursuant to ORC Section 3734.02(G), the Director may, by order, exempt any person collecting, storing, or disposing of solid waste in such quantities or under such circumstances 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.

9. Pursuant to ORC Section 3734.02(G), the Director has determined that issuance to the Respondent of an exemption from the requirement to submit an environmental background investigation disclosure statement at least 180 days prior to the proposed "change in ownership" discussed in Finding No. 7 above is unlikely to adversely affect public health or safety or the environment.

V. ORDERS

The Director hereby issues the following Orders:

1. The 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, as required in ORC Section 3734.42(F)(1) and OAC Rule 109:6-1-02(A)(3), as a result of the proposed transfer of ownership of the Facility described herein.
2. Except as otherwise expressly provided herein, the 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.
3. The Director may revoke these Orders for any reason, including but not limited to Respondent's failure to comply with any of these Orders or a determination that Respondent's activities at the Facility adversely affect public health or safety or the environment.

VI. 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 the Facility.

VII. 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 the Respondent.

VIII. RESERVATION OF RIGHTS

Ohio EPA and Respondent both reserve all rights, privileges and causes of action, except as specifically waived in Section IX. of these Orders.

IX. WAIVER

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.

X. EFFECTIVE DATE

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

XI. 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 AGREED:

Allied Waste Systems, Inc.

By: _____

_____ Date

Title:

IT IS SO ORDERED AND AGREED:

OHIO ENVIRONMENTAL PROTECTION AGENCY

Joseph P. Koncelik, Director
Ohio EPA

