



State of Ohio Environmental Protection Agency

## STREET ADDRESS:

Lazarus Government Center  
50 W. Town St., Suite 700  
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184  
www.epa.state.oh.us

## MAILING ADDRESS:

P.O. Box 1049  
Columbus, OH 43216-1049

November 14, 2008

Browning-Ferris Industries of Ohio, Inc.  
30300 Pettibone Rd.  
Glenwillow, OH 44139

**CERTIFIED MAIL****Director's Final Findings & Orders**

Dear Sir or Madam:

Transmitted herewith are Final Findings & Orders of the Director concerning the matter indicated.

Sincerely,

A handwritten signature in cursive script that reads "Kimberly Reese".

Kimberly Reese  
Systems Management Unit  
Division of Solid & Infectious Waste Management

cc: Jeff Hurdley, CO, Legal  
Ed Gortner, CO, DSIWM  
Lynn Sowers, NEDO, DSIWM  
Cuyahoga County Health Department

Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korleski, Director



BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

NOV 14 2009

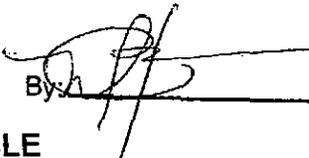
ENTERED DIRECTOR'S JOURNAL

In the Matter Of:

Browning-Ferris Industries of Ohio, Inc : Director's Final Findings  
30300 Pettibone Rd : and Orders  
Glenwillow, OH 44139 :

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.

Respondent

By:  Date: 11.14.08

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Browning-Ferris Industries 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 3734.13 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and its 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

1. Browning-Ferris Industries of Ohio, Inc. Glenwillow  
located at 30300 Pettibone Road, Glenwillow, Cuyahoga County, Ohio. ("Facility") is

*BFI Transfer  
54244*



2. Respondent is the "owner" and the "operator" of the Facility as those terms are defined in Ohio Administrative Code ("OAC") Rule 3745-27-01(O)(7) and (O)(5), respectively, and is also the license holder for the Facility.
3. The Facility is a "solid waste transfer facility" as that term is defined under OAC Rule 3745-27-01(S)(28) and is authorized to accept "solid waste" as that term is defined under ORC Section 3734.01(E) and OAC Rule 3745-27-01(S)(23).
4. Respondent is a "person" as that term is defined in ORC Section 3734.01(G) and in OAC Rule 3745-27-01(P)(3).
5. On February 20, 2007, Ohio EPA, Division of Hazardous Waste Management ("DHWM") conducted an inspection of Semper Quality Industries ("Semper") in Mentor, Ohio and found that Semper had failed to manage its still bottom waste as a hazardous waste and had thus caused the transportation of an F005 hazardous waste to a solid waste landfill.
6. By electronic correspondence dated April 9, 2007, Ohio EPA-DHWM notified Ohio EPA Division of Solid and Infectious Waste Management ("DSIWM") that hazardous waste had been transported to an Ohio landfill.
7. Following the notification outlined above, Ohio EPA received correspondence from Respondent dated April 23, 2007, stating that from December 2006 to February 2007, Respondent provided solid waste collection and disposal services to Semper. Respondent further indicated that the waste collected from Semper was sent to the Facility where it was combined with waste from other generators and subsequently sent for disposal to BFI Lorain County Landfill and/or another Respondent owned facility.
8. Ohio EPA received correspondence from Respondent dated December 3, 2007, providing additional information regarding the waste accepted from Semper. This information included, in part, copies of the following:
  - a. Service agreement with Semper;
  - b. Inbound truck tickets and matching inbound daily logs showing when Semper waste would have been collected;
  - c. Copies of Facility outgoing daily logs;



- d. Summary sheet showing volumes transferred to Carbon Limestone Landfill and BFI Lorain County Landfill from the Facility when Semper waste would have been managed.
9. Ohio EPA reviewed the information, and in correspondence dated December 19, 2007, informed Respondent that based on the information submitted, it appeared that the Facility had accepted F005 (sic<sup>1</sup>) hazardous waste "still bottoms" from Semper on six occasions between December 21, 2006, and March 2, 2007. Ohio EPA further informed Respondent that it was in violation of OAC Rule 3745-27-23(O)(1) for the acceptance of hazardous waste at the Facility.

#### V. ORDERS

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

1. Not later than ninety (90) days after the effective date of these Orders, Respondent shall conduct waste handling and screening training for all of Respondent's haulers using the Glenwillow Transfer Station.
2. On or before January 31, 2009, Respondent shall provide all of its current customers with a waste identification and management letter that includes a list of prohibited materials as identified in OAC Rule 3745-27-23(O), a reminder to all customers that only solid waste is permitted to be disposed in the portable solid waste containers provided by Respondent, and that any questions regarding management of wastes should be directed to Respondent. The waste identification and management letter will be resent to Respondent's customers at least annually thereafter for three consecutive years beginning in January, 2010.
3. Not later than thirty (30) days after the effective date of these Orders, Respondent shall pay the amount of five thousand seven hundred thirty-six dollars (\$5,736.00) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and which will be deposited into the environmental remediation fund established pursuant to ORC Section 3734.281. Payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for five thousand seven hundred thirty-six dollars (\$5,736.00). The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the Facility. A copy of the check shall be sent to Ohio EPA, Division of Solid and Infectious Waste Management, Supervisor, Systems Management Unit, P.O. Box 1049, Columbus, Ohio 43216-1049.

---

<sup>1</sup> This waste code was incorrectly identified as D001 in the December 21, 2007, correspondence.



## **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 the Enforcement Coordinator of Ohio EPA's Division of Solid and Infectious 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 a principal executive officer of at least the level of vice president or his duly authorized representative, if such a representative is responsible for the overall operation of the Facility.

## **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, 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 or the Facility.

## **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  
Northeast District Office  
Division of Solid and Infectious Waste Management  
Attn: Unit Supervisor, DSIWM  
2110 East Aurora Road  
Twinsburg, Ohio 44087

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

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

Ohio EPA and Respondent each reserve all 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. 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 the Orders is the date these Orders are entered into the Ohio EPA Director's Journal.



**XIV. SIGNATORY AUTHORITY**

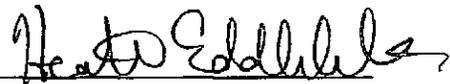
Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED AND AGREED:**

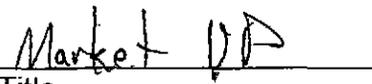
  
Chris Korleski, Director

**IT IS SO AGREED:**

**Browning-Ferris Industries of Ohio, Inc.**

  
Signature

  
Date

  
Title

