

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
MAY -9 2011

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Heritage Transport, LLC
1626 Research Way
Indianapolis, IN 46231

Heritage Environmental Services, LLC
7901 West Morris Street
Indianapolis, IN 46231

Respondents

Director's Final
Findings and Orders

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: Donna Lassiter Date: 5-9-11

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Heritage Environmental Services, LLC and Heritage Transport, LLC (Respondents) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.13 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondents and successors in interest liable under Ohio law. No change in ownership of Respondents or of the Facilities owned by Respondents shall in any way alter Respondents' 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 there under.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondents are "persons" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
2. Respondent Heritage Transport, LLC operates as a hazardous waste transporter in the state of Ohio. Respondent Heritage Transport, LLC was issued US EPA identification number IND058484114.
3. Respondent Heritage Environmental Services, LLC operates a hazardous waste transfer facility located at 5451 Enterprise Blvd. in Toledo, Lucas County, Ohio 43612 (Facility). Respondent Heritage Environmental Services, LLC was issued US EPA identification OHD981948649.
4. Respondent Heritage Transport, LLC is an affiliate of Respondent Heritage Environmental Services, LLC.
5. On November 5, 2009, Respondent Heritage Transport, LLC accepted hazardous waste containers from Bendix Commercial Vehicle Systems, LLC (Bendix) located at 901 Cleveland Street in Elyria, Ohio. The shipment was documented using hazardous waste manifest number 000237879WAS.
6. The hazardous waste containers were transported from Bendix's Elyria facility to Respondents' transfer facility in Toledo, Ohio. At this facility, the hazardous waste containers were managed and subsequently placed with other containers onto a consolidated shipping trailer.
7. On November 11, 2009, the trailer referenced in Finding No. 6. of these Orders was transported off-site by Respondents to the permitted hazardous waste facility in East Liverpool, Ohio.
8. On November 19, 2009, the consolidated hazardous waste containers were received at Respondents' permitted hazardous waste facility. However, one container of ignitable (D001) hazardous waste listed on hazardous waste manifest number 000237879WAS was not present when the shipment arrived at Respondents' permitted hazardous waste facility.

9. On December 4, 2009, Respondents submitted a manifest discrepancy report for the manifest numbered 000237879WAS. The discrepancy report identified the failure of Respondents to deliver one 55-gallon drum of hazardous waste ignitable liquids to an authorized facility.
10. On October 8, 2010, Ohio EPA conducted a compliance evaluation inspection of Respondent Heritage Environmental Services, LLC's Toledo facility.
11. Based upon the results of inspection and review of documentation submitted by Respondents, Respondents engaged in the transportation of hazardous waste and failed to deliver all containers of hazardous wastes to an authorized facility. Therefore, Ohio EPA determined that Respondents, *inter alia*:
 - a. caused hazardous waste to be transported to an unpermitted facility in violation of ORC § 3734.02(F);
 - b. failed to safely deliver hazardous waste to the designated facility, in violation of ORC § 3734.15(B); and
 - c. failed to comply with the hazardous waste manifest by not delivering the entire quantity of hazardous waste which was accepted from the generator to the designated facility, in violation of OAC rule 3745-53-21(A)(1).
12. Respondents were notified of these violations in letters dated August 12, 2010 and December 2, 2010.
13. By correspondence dated September 14, 2010, Respondent submitted documentation in response to the August 12, 2010 letter referenced in Finding No. 12. of these Orders. In this letter, Respondents detail the efforts they made to find the missing container of hazardous waste, as well as identified actions to prevent future violations.
14. By electronic mail on November 3, 2010, Respondent submitted a copy of their Standard Operating Procedure which was reviewed and revised following the incident referenced in Finding No. 8. of these Orders.
15. Respondents have been unable to locate the missing container of ignitable hazardous waste.

16. Because of the information referenced in Finding Nos. 13. and 14 of these Orders, no further action is required of Respondents at this time regarding the violations referenced in Findings Nos. 11.a., 11.b., and 11.c. of these Orders.

V. ORDERS

Respondents shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated there under according to the following compliance schedule:

1. Respondents shall pay Ohio EPA the amount of \$6,500.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734., in accordance with the following provisions:
 - a. Within 30 days after the effective date of these Orders, Respondents shall pay Ohio EPA the amount of \$2,000.00 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 hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$2,000.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondents. A copy of this check shall be submitted in accordance with Section X. of these Orders.
 - b. In lieu of paying the remaining \$4,500.00 of civil penalty to Ohio EPA, Respondents shall fund a supplemental environmental project (SEP) by making a contribution in the amount of \$4,500.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD). Respondents shall make the payment within 30 days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$4,500.00. The official check shall be submitted to Brenda Case, or her successor, Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondents. A copy of this check shall be submitted in accordance with Section X. of these Orders, and an additional copy of this check shall be sent to Thomas Kalman, Manager,

Compliance and Enforcement Section, or his successor, Ohio EPA,
Division of Air Pollution Control, P.O. Box 1049, Columbus, Ohio
43216-1049.

- c. Should Respondents fail to fund the SEP within the required time frame established in Order No. 1.b., Respondents shall pay to Ohio EPA, within 7 days after failing to comply with Order No. 1.b., the amount of \$4,500.00 in accordance with the procedures in Order No. 1.a.

VI. TERMINATION

Respondents' obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V. of these Orders.

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 Respondents' Facilities.

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 Respondents.

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 Respondents pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Materials and Waste Management
2110 E. Aurora Road
Twinsburg, Ohio 44087
Attn: DMWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Scott J. Nally, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section

For deliveries to the building:

Scott J. Nally, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
50 West Town Street
Columbus, Ohio 43215
Attn: Manager, Compliance Assurance Section

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

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondents 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, Respondents consent to the issuance of these Orders and agree to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondents' liability for the violations specifically cited herein.

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

Notwithstanding the preceding, Ohio EPA and Respondents agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondents retain the right to intervene and participate in such appeal. In such an event, Respondents shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

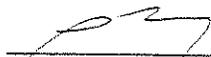
XIII. EFFECTIVE DATE

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**



Scott J. Nally
Director

May 9, 2011

Date

IT IS SO AGREED:

Heritage Transport, LLC



Signature

4/20/11

Date

Bill McDaniel

Printed or Typed Name

VP

Title

Heritage Environmental Services, LLC



Signature

04/20/2011

Date

Debi Edwards

Printed or Typed Name

Vice President

Title