OhioEPA

State of Ohio Environmental Protection Agency

STREET ADDRESS:

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

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MAILING ADDRESS:

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

CERTIFIED MAIL

February 7, 2007

Re: Director's Final Findings & Orders
Hindley Industrial Supply Corporation
US EPA ID No.: OHR 000-132-001

Mr. James R. Hindley, CEO
Hindley Industrial Supply Corporation
326 Industrial Drive
Bowling Green, Ohio 43402

Dear Mr. Hindley:

Here are the Director's Final Findings and Orders (Orders) issued to Hindley Industrial Supply Corporation on February 7, 2007. These Orders are effective today.

I have also enclosed invoices for the penalty payments as required by Order No. 14.a. through 14.c. and Order No. 15.a. through 15.c. Please remember that your first payments are due no later then April 8, 2007.

If you have any questions concerning compliance with these Orders, do not hesitate to contact John Pasquarette at (419) 352-8461.

Sincerely,

Pamela S. Allen

Pamela S. Allen, Manager
Regulatory and Information Services
Division of Hazardous Waste Management

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Attachments

c: Michael A. Savage, Chief, DHWM
Harry Sarvis, Mgr., CAS, DHWM
Elissa Miller, Legal
Heidi Greismer, PIC
John Pasquarette, Mgr., DHWM, NWDO
Joseph A. Gregg, Attorney At Law

OHIO E.P.A.

FEB - 7 2007

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Hindley Industrial Supply Corporation
326 Industrial Drive
Bowling Green, Ohio 43402

10703 Kramer Road
Bowling Green, Ohio 43402

Respondent

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: _____ Date: 2-7-07

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Hindley Industrial Supply Corporation (Respondent) 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 Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or of the Facilities 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. Respondent operated two facilities in Bowling Green, Wood County, Ohio. One facility is located at 326 Industrial Drive (Industrial Facility) and the other was located at 10703 Kramer Road (Kramer Facility). At the Industrial

Facility, Respondent refurbishes electronic controls for mechanical lifts. The corporate headquarters was located at the Kramer Facility.

2. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).

3. Respondent was issued generator identification number OHR000132001 and is authorized to do business in Ohio.

4. At the Industrial Facility and Kramer 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. The hazardous wastes generated by Respondent at the Industrial Facility include spent perchloroethylene (F001) and soldering dross (D008). The hazardous wastes generated by Respondent at the Kramer Facility include spent filters and sludge from the distillation of perchloroethylene (F001) and F001 ash from burning the spent filters and sludge.

5. On May 23, 2005, Ohio EPA received a complaint that Respondent had been mismanaging perchloroethylene (perc) at the Industrial Facility and Kramer Facility.

6. On July 12, July 14, July 28, and August 3, 2005, Ohio EPA conducted complaint investigations and inspections at the Industrial Facility and Kramer Facility. Once a week approximately five gallons of spent perc, generated at the Industrial Facility, is transported to the Kramer Facility by Respondent. At the Kramer Facility the spent perc is pre-cleaned by placing it into a 15-gallon drum and running it through a filter. This pre-cleaned spent perc is then stored in the 15-gallon drum until the drum is full at which time, the spent perc is placed into a distillation unit. As part of this distillation process spent filters and sludge are generated. Approximately twice a year the spent filters and sludge are burned outside in an unpermitted incineration unit. The ash (F001) from this burning is then placed in with the solid waste and transported to an unpermitted facility. As a result of these complaint investigations and inspections, Ohio EPA determined that Respondent had, *inter alia*:

   a. Unlawfully stored spent perc without a permit, in violation of ORC § 3734.02 (E) and (F);

   b. Unlawfully treated and disposed of spent hazardous waste filters and sludge without a permit, in violation of ORC § 3734.02 (E) and (F);

c. Caused the transportation of hazardous waste spent perc and ash to an unpermitted facility, in violation of ORC § 3734.02(F);

d. Failed to evaluate wastes to determine if the wastes were hazardous wastes, in violation of OAC rule 3745-52-11;

e. Failed to comply with the hazardous waste tank standards, in violation of OAC rules 3745-66-92 through 3745-66-95;

f. Failed to meet land disposal restriction requirements, in violation of OAC rule 3745-270-07(A)(1); and

g. Failed to notify Ohio EPA of Respondent's recycling activities for the spent perc, in violation of OAC rule 3745-51-06(C).

7. By letter dated September 9, 2005, Ohio EPA notified Respondent of the violations referenced in Finding No. 6. of these Orders.

8. By letter dated September 19, 2005, Ohio EPA received a response from Respondent in regard to Ohio EPA's September 9, 2005 letter.

9. By letter dated October 17, 2005, Ohio EPA notified Respondent that based upon Respondent's September 19, 2005 letter, the violations referenced in Finding Nos. 6.d., 6.e., 6.f. and 6.g. had been abated.

10. On November 12, 2005, the Kramer Facility caught fire and most of the Facility was destroyed.

11. By letter dated December 19, 2005, Ohio EPA notified Respondent that because Respondent placed hazardous waste soldering dross in with the solid waste, Respondent caused the transportation of hazardous waste to an unpermitted facility, in violation of ORC § 3734.02(F).

12. The Director has determined that no further action is needed to abate the violations referenced in Finding Nos. 6.a., 6.c. and 11. of these Orders because Respondent is no longer transporting hazardous waste to and storing hazardous waste at the Kramer Facility. In addition, Ohio EPA did not observe releases of hazardous waste from the hazardous waste storage area and the soldering dross is now being properly managed as a hazardous waste.

V. ORDERS

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

1. Within 60 days after the effective date of these Orders, Respondent shall submit to Ohio EPA, for review and approval, a sampling and analysis plan (SAP) for sampling activities to determine the rate and extent of contamination, if any, for the hazardous waste incineration unit, referenced in Finding No. 6. of these Orders.

2. The SAP is subject to Ohio EPA review and approval. If Ohio EPA does not approve the SAP and provides Respondent with a written statement of deficiencies, Respondent shall revise the SAP or submit a new SAP for approval that corrects the stated deficiencies within 30 days after receipt of such written statement. Ohio EPA may approve the SAP with modifications. If Ohio EPA modifies the SAP, the modified SAP becomes the approved SAP. Upon Respondent's receipt of approval from Ohio EPA of the SAP, Respondent shall implement the approved SAP in accordance with the terms, conditions and schedules contained therein.

3. Following receipt of the analytical results generated by the implementation of the approved SAP, Respondent shall, pursuant to the schedule in the approved SAP, submit to Ohio EPA a report (SAP Report) that includes the laboratory analysis and evaluation of data generated from implementing the approved SAP. Using the format found in OAC rule 3745-50-42(D), Respondent shall certify that the sampling and analysis were conducted in accordance with the approved SAP. The certification shall be signed by Respondent and shall be included in the SAP Report.

4. The SAP Report is subject to Ohio EPA review and approval. If Ohio EPA approves the SAP Report and it indicates that soil, but not ground water, has been contaminated by hazardous waste or hazardous waste constituents above the remediation levels identified in Ohio EPA's "Closure Plan Review Guidance" dated June 2005, as supplemented, as a result of hazardous waste treated and disposed at the Facility without a permit, in violation of ORC § 3734.02(E) and (F) and the rules promulgated thereunder, Respondent shall prepare a Remediation Plan and comply with Order Nos. 5. through 8.

5. The Remediation Plan shall be submitted to Ohio EPA within 30 days after Ohio EPA's approval of the SAP Report. The Remediation Plan shall propose methods of and a schedule for remediation of the areas at the Facility where hazardous waste was treated and disposed without a permit,

in violation of ORC § 3734.02(E) and (F) and the rules promulgated thereunder.

6. The Remediation Plan is subject to Ohio EPA review and approval. If Ohio EPA does not approve the Remediation Plan and provides Respondent with a written statement of deficiencies, Respondent shall revise the Remediation Plan or submit a new Remediation Plan for approval that corrects the stated deficiencies within 30 days after receipt of such written statement.

7. Upon receipt of Ohio EPA's approval of the Remediation Plan, Respondent shall implement the Remediation Plan in accordance with the requirements of OAC rules 3745-55-11/3745-66-11 and OAC rules 3745-55-14/3745-66-14 and the specifications and schedules contained in the approved Remediation Plan and any conditions attached thereto.

8. Within 60 days after the completion of work required by the approved Remediation Plan, Respondent shall submit to Ohio EPA, for review and approval, a certification that the remediation work was conducted in accordance with the approved Remediation Plan. The certification shall be signed by Respondent using the format found in OAC rule 3745-50-42(D).

9. If Ohio EPA accepts the SAP Report and it indicates that both soil and ground water have been contaminated by hazardous waste, hazardous waste constituents or hazardous waste decomposition products above the remediation levels identified in Ohio EPA's "Closure Plan Review Guidance" dated June 2005, as supplemented, as a result of hazardous waste treated and disposed at the Facility without a permit, in violation of ORC § 3734.02(E) and (F) and the rules promulgated thereunder, Respondent shall submit to Ohio EPA a closure plan prepared in accordance with OAC rules 3745-55-11/3745-66-11 through 3745-55-20/3745-66-20, and comply with Order Nos. 10. through 13.

10. The closure plan shall be submitted to Ohio EPA within 30 days after Respondent's receipt of Ohio EPA's approval of the SAP Report. The closure plan is subject to Ohio EPA approval. If Ohio EPA does not approve the closure plan and provides Respondent with a written statement of deficiencies, Respondent shall, within 30 days after receipt of such written statement, revise the closure plan or submit a new closure plan to Ohio EPA addressing the deficiencies. Upon receipt of Respondent's new or revised closure plan, Ohio EPA will notify Respondent in writing that Ohio EPA either approves the closure plan or approves the closure plan with modifications. If Ohio EPA modifies the closure plan, the modified closure plan shall become the approved closure plan.

11. Upon receiving Ohio EPA's written approval of the closure plan, Respondent shall implement the approved closure plan pursuant to OAC rules 3745-55-11/3745-66-11 through 3745-55-20/3745-66-20, the specifications and schedules contained in the approved closure plan, and any modifications attached to the approved closure plan.

12. Within 60 days after completion of closure, Respondent shall submit to Ohio EPA a closure certification in accordance with OAC rules 3745-55-15/3745-66-15.

13. Within 30 days after submitting the closure plan referenced in Order No. 9., Respondent shall submit to Ohio EPA a closure cost estimate and documentation demonstrating that Respondent has established financial assurance and liability coverage for the area of the Facility subject to closure in accordance with OAC rules 3745-55-42/3745-66-42 through 3745-55-47/3745-66-47. Completion of Order Nos. 1. through 13. will abate the violation referenced in Finding No. 6.b. of these Orders.

14. Respondent shall pay Ohio EPA the amount of $11,750.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. $9,400.00 of this amount will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28 and in accordance with the following schedule:

    a. Within 60 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $3,100.00;

    b. Within 120 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $3,100.00; and

    c. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $3,200.00.

    Payments shall be made by official checks made payable to "Treasurer, State of Ohio." The official checks shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent. A copy of each check shall be submitted in accordance with Section X. of these Orders.

15. In lieu of paying the remaining $2,350.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of $2,350.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD) in accordance with the following schedule:

a. Within 60 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $750.00;

b. Within 120 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $750.00; and

c. Within 180 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $850.00.

Payments shall be made by official checks made payable to "Treasurer, State of Ohio." The official checks 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 Respondent. A copy of each check shall be submitted in accordance with Section X. of these Orders, and an additional copy of this check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, Ohio EPA, Division of Air Pollution Control, P.O. Box 1049, Columbus, Ohio 43216-1049.

16. Should Respondent miss a scheduled payment as described in Order Nos. 15.a., 15.b. and 15.c. of these Orders, Respondent shall pay to Ohio EPA the missed payment amount no later than 7 days after the payment was due. Payment shall be made in accordance with the procedures established in Order No. 14. A copy of each check shall be submitted in accordance with Section X. 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 Hazardous 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 person 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.

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
Northwest District Office
Division of Hazardous Waste Management
347 North Dunbridge Road
Bowling Green, Ohio 43402
Attn: DHWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
P.O. Box 1049

Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section

For deliveries to the building:

Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
50 West Town Street, Suite 700
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 reserves its rights to exercise its lawful authority to require Respondent to perform corrective action at the Facilities at some time in the future, pursuant to ORC Chapter 3734. or any other applicable law. Respondent reserve its rights to raise any administrative, legal or equitable claim or defense with respect to any final action of the Director regarding 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, 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 Facilities 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, Respondent agrees 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

Director

FEB 7 2007
Date

IT IS SO AGREED:

Hindley Industrial Supply Corporation

Signature

01/10/2007
Date

JAMES R HINDLEY
Printed or Typed Name

CEO
Title