OhioEPA

State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
122 S. Front Street
Columbus, Ohio 43215

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

MAILING ADDRESS:

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

CERTIFIED MAIL

March 20, 2006

Re: Director's Final Findings & Orders
LEWCO, Inc.
US EPA ID No.: OHD 004 166 419

Mr. Ronald Guerra
LEWCO, Inc.
706 Lane Street
Sandusky, Ohio 44870

Dear Mr. Guerra:

Here are the Director's Final Findings and Orders (Orders) issued to LEWCO, Inc. on March 20, 2006. These Orders are effective today.

I have also enclosed invoices for the penalty payments as required by Order Nos. 1.a. through c. Please remember that your first payment is due no later than April 19, 2006.

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

cc: Michael A. Savage, Chief, DHWM
Harry Sarvis, Mgr., CAS, DHWM
Fran Kovac, Legal
Heidi Greismer, PIC
John Pasquarette, Mgr., DHWM, NWDO

OHIO E.P.A.
MAR 20 2006
ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

LEWCO, Inc.
706 Lane Street
Sandusky, Ohio 44870

Respondent

Director's Final Findings and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to LEWCO, Inc. (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 Facility 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.

Certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency
By: [signature] Date: 3-20-06

IV. FINDINGS

All of the findings necessary for the issuance of these Orders pursuant to ORC §§ 3734.13 and 3745.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any matter of law or fact. The Director of Ohio EPA has determined the following findings:

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

2. Respondent is an Ohio corporation, incorporated on January 10, 1967, and owns and operates a conveyor and large industrial oven manufacturing facility located at 706 Lane Street, Sandusky, Erie County (Facility).

3. At the 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. Respondent is a small quantity generator of hazardous waste and was assigned generator identification number OHD 004 166 419 on August 18, 1980. The hazardous waste routinely generated by Respondent at the Facility includes waste paint and solvent (D001, F003, F005) and spent solvent (D001).

4. On March 4, 2004, Ohio EPA received notification that a mercury spill had occurred at the Facility on March 2, 2004.

5. On March 8, 2004, Spill Tek Environmental Services ("Spill Tek"), a third-party environmental contractor, conducted on-site remediation of the mercury spill at the Facility. As a result of the remediation activities, one container of mercury contaminated debris was generated at the Facility and classified as a D009 hazardous waste.

6. On or around March 8, 2004, the container of D009 hazardous waste, referenced in Finding No. 5 of these Orders, was offered for transportation to Spill Tek's facility, located at 13908 Kniesel Road , Vermillion, Erie County, Ohio. Spill Tek does not hold a hazardous waste permit issued in accordance with ORC Chapter 3734.

7. On April 20, 2004, Ohio EPA conducted a complaint investigation at the Facility. Based upon the information obtained during the April 20, 2004, complaint investigation, and on May 18, 2004, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of the complaint investigation and compliance evaluation inspection, Ohio EPA determined that Respondent had, *inter alia*:

a. Established and operated a hazardous waste storage facility without a permit, in violation of ORC § 3734.02(E) & (F);

b. Caused hazardous waste to be transported to a facility not operating under a hazardous waste permit issued in accordance with ORC Chapter 3734., in violation of ORC § 3734.02(F);

c. Failed to determine whether wastes generated at the Facility were hazardous wastes, in violation of OAC rule 3745-52-11;

d. Failed to obtain a generator identification number prior to offering hazardous waste for off-site transportation, in violation of OAC rule 3745-52-12(A);

e. Failed to prepare and utilize a uniform hazardous waste manifest for the off-site shipment of hazardous waste, in violation of OAC rules 3745-52-20(A) and (B);

f. Failed to maintain hazardous waste containers closed when not adding or removing waste, in violation of OAC rule 3745-66-73(A);

g. Failed to mark hazardous waste containers with the accumulation start date, in violation of OAC rule 3745-52-34(A)(2);

h. Failed to label hazardous waste containers with the words, "Hazardous Waste," in violation of OAC rule 3745-52-34(A)(3);

i. Failed to conduct and document weekly inspections of areas at the Facility where hazardous wastes are stored, in violation of OAC rule 3745-66-74(A);

j. Failed to conduct and document weekly inspections of emergency equipment at the Facility, in violation of OAC rule 3745-65-33;

k. Failed to post the necessary emergency information next to a telephone at the Facility, in violation of OAC rule 3745-52-34(D)(5)(b); and

l. Failed to ensure that employees at the Facility are thoroughly familiar with proper waste handling and emergency procedures, in violation of OAC rule 3745-52-34(D)(5)(c).

8. By letter dated June 2, 2004, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 7.a. through 7.l. of these Orders.

9. By letter dated June 29, 2004, Respondent provided responses to Ohio EPA's June 2, 2004 letter.

10. By letter dated July 16, 2004, Ohio EPA notified Respondent that Respondent had abated the violation referenced in Finding No. 7.d. of these Orders.

11. By letter dated August 5, 2004, Respondent provided responses to Ohio EPA's July 16, 2004 letter.

12. By letter dated September 22, 2004, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 7.c. and 7.e. through 7.l. of these Orders.

13. By letters dated November 7, 2005 and January 26, 2006, Respondent provided responses to Ohio EPA. Specifically, Respondent's January 26, 2006, letter included inventory tracking records which document the monthly generation rate of hazardous waste at the Facility from May, 2002 to January, 2004.

14. Based upon the information contained in Respondent's June 29 and August 5, 2004 letters to Ohio EPA, referenced in Finding Nos. 9 and 11 of these Orders, the Director has determined that no additional action is required at this time of Respondent regarding the ORC § 3734.02(F) violation referenced in Finding No. 7.b. of these Orders. In addition, and based upon a review of the information contained in Respondent's January 26, 2006 letter to Ohio EPA, referenced in Finding No. 13 of these Orders, the Director has determined that Respondent did not establish and operate a hazardous waste storage facility without a permit, therefore the ORC § 3734.02(E) and (F) violation, referenced in Finding No. 7.a. of these Orders, is rescinded.

V. ORDERS

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

1. Respondent shall pay Ohio EPA the amount of $12,400.00 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, Respondent shall pay Ohio EPA the amount of $9,920.00 in settlement of Ohio EPA's claims for civil penalties 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 $9,920.00. 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 Respondent. A copy of this check shall be submitted in accordance with Section X. of these Orders.

b. In lieu of paying the remaining $2,480.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of $2,480.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD). Respondent shall make the payment within 60 days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for $2,480.00. 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 Respondent. 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 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.

c. Should Respondent fail to fund the SEP within the required time frame established in Order No. 1.b., Respondent shall pay to Ohio EPA, within 7 days after failing to comply with Order No. 1.b., the amount of $2,480.00 in accordance with the procedures in Order No. 1.a.

VI. TERMINATION

Respondent's 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 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.

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 N. 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:

Joseph P. Koncelik, 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:

Joseph P. Koncelik, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
122 South Front 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 reserves its rights to exercise its lawful authority to require Respondent to perform closure of hazardous waste units at the Facility, as well as corrective action at the Facility, some time in the future, pursuant to ORC Chapter 3734. or any other applicable law. Respondent reserves its rights to raise any administrative, legal, or equitable claim or defense with respect to any final action of the Director regarding such closure or corrective action. Ohio EPA and Respondent reserves 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 agree to comply with these Orders. Except for the rights to seek closure of hazardous waste units and corrective action at the Facility by Respondent, which rights Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondent's liabilities 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 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

Joseph P. Koncelik
Director

MAR 20 2006
Date

IT IS SO AGREED:

LEWCO, Inc.

Signature

2/28/06.
Date

RONALD GUERRA.
Printed or Typed Name

PRESIDENT
Title