



State of Ohio Environmental Protection Agency

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Columbus, Ohio 43216-1049

CERTIFIED MAIL

March 29, 2005

**Re: Director's Final Findings & Orders
Exemption Pursuant to R.C. 3734.02(G)
Ohio Organization for Recycling and Reuse
Heritage Environmental Services, LLC
City of Akron**

Jeffrey E. Wilhite, Deputy Director
c/o City of Akron, Department of Planning & Urban Development
166 South High Street
401 Municipal Building
Akron, Ohio 44308

Christopher L. Maheu, Vice-President
Heritage Environmental Services, LLC
5451 Enterprise Boulevard
Toledo, Ohio 43612

Gerald Holland, Service Director
City of Akron
166 South High Street
Akron, Ohio 44308

Dear Sirs:

Here are the Director's Final Findings and Orders (Orders) exempting the Ohio Organization for Recycling and Reuse, Heritage Environmental Services, LLC and the City of Akron from the requirements contained in Ohio Administrative Code (OAC) Chapters 3745-54, 3745-55 and 3745-270 and the hazardous waste permitting requirements in Ohio Revised Code 3734 and OAC Chapter 3745-50. These Orders are effective today.

Bob Taft, Governor
Bruce Johnson, Lieutenant Governor
Joseph P. Koncelik, Director



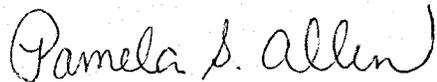
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Ohio EPA is an Equal Opportunity

Mr. Jeffrey E. Wilhite
Mr. Christopher L. Maheu
Mr. Gerald Holland
March 29, 2005
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If you have any questions, do not hesitate to call me at (614) 644-2980 or Sherry Slone at (330) 425-9171.

Sincerely,



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

Attachments

cc: Ed Lim, Manager, ERAS, DHWM
Fran Kovac, Legal
Natalie Oryshkewych, DHWM, NEDO
Laura Ephlin, Roetzel & Andress

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OHIO E.P.A.

MAR 29 2005

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Ohio Organization for Recycling and Reuse
1085 Sweitzer Road
Akron, Ohio 44301

Heritage Environmental Services, LLC
5451 Enterprise Blvd.
Toledo, Ohio 43612

City of Akron
166 South High Street
Akron, Ohio 44308

Respondents

**Director's Final Findings
and Orders**

PREAMBLE

It is hereby agreed by and among the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Ohio Organization for Recycling and Reuse (Respondent OORR), City of Akron (Respondent Akron) and Heritage Environmental Services, LLC (Respondent Heritage) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.02(G), 3734.13, 3734.14 and 3745.01.

I certify this to be a true and accurate copy of the
original document filed with the files of the Ohio
Environmental Protection Agency.

[Signature] Date 3/29/05

II. PARTIES BOUND

These Orders shall apply to and be binding upon the Respondents and successors in interest liable under Ohio law. No change in ownership of the Respondents, or of the Facility, 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 thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent OORR is an Ohio not-for-profit corporation incorporated in the State of Ohio on November 13, 2000.
2. Respondent Heritage is a foreign limited liability company registered to do business in the State of Ohio on August 7, 1998.
3. Respondent Akron is a municipal corporation chartered in the State of Ohio and located in Summit County.
4. Respondent OORR, Respondent Heritage and Respondent Akron are each a "person" as defined in ORC § 3734.01(G) and OAC rule 3745-50-10(A).
5. Respondent OORR proposes to operate, on a pilot basis, a small business hazardous waste recycling facility located at 1085 Sweitzer Road, Akron, Summit County, Ohio (Facility).
6. Respondent Heritage will oversee the day-to-day operations of the Facility under the direction of Respondent OORR.
7. Respondent Akron is the legal owner of the property where the Facility operates.
8. At the Facility, Respondent OORR and Respondent Heritage will accept, aggregate and store used oil from used oil generators who bring used oil to the Facility in shipments of no more than fifty-five gallons. By conducting such activities, the Facility would be a "used oil collection center", as defined in OAC rule 3745-279-01.

9. At the Facility, Respondent OORR and Respondent Heritage will receive universal waste from other universal waste handlers, accumulate universal waste, and send universal waste to another universal waste handler, to a destination facility, or to a foreign destination. By conducting such activities, the Facility would be a "universal waste handler", as defined in OAC rule 3745-273-09.
10. At the Facility, Respondent OORR and Respondent Heritage will accept hazardous wastes generated by conditionally exempt small quantity generators located in Summit and Cuyahoga Counties. Respondent OORR and Respondent Heritage will sort, consolidate and then send these hazardous wastes off site for recycling, reuse, treatment or disposal. By conducting such activities, the Facility would be a "hazardous waste facility," as defined in OAC rule 3745-50-10 and Respondent OORR, Respondent Heritage and Respondent Akron would be required to obtain a hazardous waste permit, as described in OAC Chapters 3745-50, 3745-54, 3745-55 and 3745-270, for the hazardous waste storage area.
11. On April 18, 2004, Respondent OORR met with the South Akron Neighborhood Block Club (Block Club), representing the neighborhood in which the Facility is located. They toured the Summit-Akron Solid Waste Management Authority's Household Hazardous Waste recycling center because it closely resembles the proposed pilot project. The Block Club was also given a complete overview of the proposed Facility operations. On January 22, 2005, Jeff Wilhite, Board Chair, OORR, met with the Block Club to follow-up on any questions or concerns they may have had about the proposed pilot project. No concerns were raised. The Block Club agreed to support the pilot project with the understanding that it is a temporary pilot project that will last 24 months and that the Facility will not operate there permanently. In a letter dated March 9, 2005, Respondent OORR told Ohio EPA that the Block Club would not oppose the Facility.
12. By letters with attachments dated October 6, 2004, February 1, 2005, March 11, March 17 and March 18, 2005, Respondents submitted to Ohio EPA, an application for an exemption pursuant to OAC rule 3745-50-31 from the requirement to obtain a permit for the hazardous waste storage area at the Facility (Application). The Application included, *inter alia*, an explanation of how Ohio's hazardous waste permitting requirements for the storage unit will be addressed.
13. On March 16, 2005, Respondent Akron submitted a five-year summary of its history of compliance with Chapters 3704., 3734., and 6111. of the Revised Code and all rules and standards adopted under them.

14. As part of its 2004 annual updates submitted pursuant to ORC §§ 3734.41 through 3734.47, for the Von Roll America, Inc., facility located in East Liverpool, Ohio, Respondent Heritage submitted a five-year summary of its history of compliance with Chapters 3704., 3734., and 6111. of the Revised Code and all rules and standards adopted under them. Respondent Heritage also submitted a five-year summary of its history of compliance with similar laws and rules of other states. Ohio EPA has reviewed the Attorney General's Office background investigative report for Heritage Environmental Services. No disqualifying crimes were identified for any of the key employees listed in the annual update.
15. Ohio EPA has reviewed Respondents' Application originally submitted on October 6, 2004, and last updated on March 18, 2005, and has found it to be complete and technically adequate.
16. The Director has determined that if Respondents comply with the Application and these Orders, it is unlikely that the public health or safety or the environment will be adversely affected. These Orders are consistent with and equivalent to the rules promulgated under the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806, 42 U.S.C. §§ 6921 et seq., as amended, except as otherwise provided by ORC Chapter 3734.
17. Pursuant to ORC section 3734.02 (G) and OAC rule 3745-50-31, the Director may by order exempt any person generating, storing, treating, disposing of or transporting hazardous waste in such quantities or under such circumstances that, in the determination of the Director, are unlikely to adversely affect the public health or safety or the environment from any requirement to obtain a permit or license, comply with the manifest system or comply with other requirements of ORC Chapter 3734.
18. Pursuant to ORC § 3734.14, when necessary or desirable to facilitate the exchange and use of hazardous waste, the Director of Ohio EPA may order exemptions from the requirements of ORC Chapter 3734. in accordance with ORC § 3734.02(G).

V. ORDERS

1. Respondent Akron, Respondent Heritage and Respondent OORR are hereby exempted from the hazardous waste permitting requirements in ORC §§ 3734.05(C) and 3734.41 through 3734.47 and OAC Chapters 3745-50, 3745-54, 3745-55 and 3745-270 for the hazardous waste storage area at the Facility.

2. Prior to accepting any wastes at the Facility, Respondent Heritage shall update the Application by submitting the following:
 - a. updated pages of the Application to include the names of the employees that have been hired to fill the positions related to hazardous waste management; and
 - b. an appropriately completed Attachment F1, Health and Safety Plan.
3. Respondents shall implement all required tasks in the manner and time frames described in the Application, attached to and incorporated herein, and shall comply with the standards, terms and conditions described in the Application in the course of operating the Facility.
4. Respondent OORR and Respondent Heritage shall comply with the applicable portions of OAC Chapters 3745-273 and 3745-279.
5. Within 150 days after the effective date of these Orders and every 120 days thereafter, Respondents shall submit a report to Ohio EPA that details the following information. The reporting period shall consist of 120 days. The first reporting period will begin on the effective date of the Orders:
 - a. The number of first-time customers who brought waste to the Facility during the reporting period and the number of times they used the Facility during the reporting period;
 - b. The number of returning customers who brought waste to the Facility during the reporting period and number of times they used the Facility during the reporting period;
 - c. A description (using the description from the Application of the types of acceptable wastes and the U.S. EPA hazardous waste number, if applicable) and the quantity of each type of waste received at the Facility during the reporting period;
 - d. The disposition of wastes received during the reporting period;
 - e. The name and U.S. EPA identification number of each transporter used during the reporting period for shipments off-site;

- f. A description, U.S. EPA hazardous waste number, and quantity of each hazardous waste shipped off-site to a treatment, storage, or disposal facility. This information must be listed by U.S. EPA identification number of each such off-site facility to which waste was shipped.
6. Within 60 days following the termination of the exemption, the Respondents shall submit a final report that summarizes the information requirements from Order No. 5. and would include the total amount of waste accepted, sent off-site for recycling, disposed of off-site, and the total amount of various categories of waste accepted, how long waste was stored at the facility before being transported off-site, busiest receipt times, number of spills, amount of outreach done, number of vehicles turned away, an overall assessment by OORR of the project (i.e., was it successful, complications that arose during the project, etc.).
7. The Director may revoke the exemption granted in Order No. 1. of these Orders for any reason, including but not limited to, a determination that Respondents' activities at the Facility adversely affect public health or safety or the environment, and/or activities are not being conducted in accordance with these Orders and/or the Application.
8. The exemptions described in Order No. 1, above, shall terminate no later than 730 days after the effective date of these Orders.
9. The issuance of these Orders by the Director does not release Respondents of any liability they may have incurred for any violations which may have occurred at the Facility prior to the effective date of these Orders. The issuance of these Orders does not release Respondents from any obligation they have to comply with the State of Ohio's environmental laws, except as otherwise specifically provided herein.
10. These Orders do not exempt Respondents from any other local, state, or federal laws or regulations which are otherwise applicable.

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 Respondents' 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 Respondents.

VIII. TERMINATION

Respondents' obligations under these Orders shall terminate when Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondents have 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 Respondents of the obligations that have not been performed, in which case Respondents 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 Respondents to Ohio EPA and shall be signed by a responsible official of each Respondent. For purposes of these Orders, a responsible official is a [e.g., corporate officer] who is in charge of a principal business or governmental function of Respondent.

IX. NOTICE

All documents required to be submitted by Respondents pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Manager, Division of Hazardous Waste Management
2110 East Aurora Road
Twinsburg, Ohio 44087

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, Regulatory and Information Services

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, Regulatory and Information Services

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

X. RESERVATION OF RIGHTS

Ohio EPA and Respondents each reserve all rights, privileges and causes of action, except as specifically waived in Section XI. of these Orders.

XI. WAIVER

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 retains 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.

XII. EFFECTIVE DATE

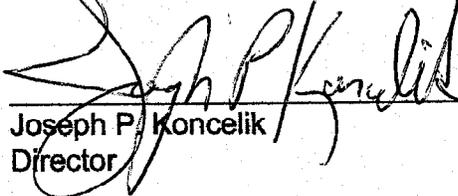
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIII. 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 ORDERED AND AGREED:

Ohio Environmental Protection Agency



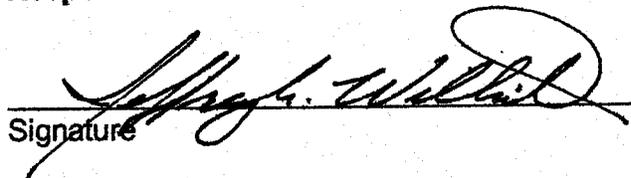
Joseph P. Koncelik
Director

March 29, 2005

Date

IT IS SO AGREED:

Respondent OORR



Signature

3/22/05

Date

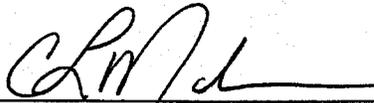
JEFFREY E. WILHITE

Printed or Typed Name

BOARD CHAIR

Title

Respondent Heritage



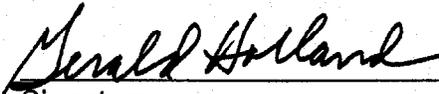
Signature

3.23.05
Date

Christopher L. Maheu
Printed or Typed Name

Vice President, EASTERN REGION
Title

Respondent Akron



Signature

3-24-05
Date

Gerald Holland
Printed or Typed Name

Service Director
Title