



State of Ohio Environmental Protection Agency

STREET ADDRESS:

MAILING ADDRESS:

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

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

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

**CERTIFIED MAIL**

March 29, 2006

**Re: Director's Final Findings & Orders**  
BDT Industries L.P. dba Davro, LTD  
US EPA ID No.: OHD 000 037 655

Thomas A. Bell, President  
BDT Industries L.P.  
1200 East 152<sup>nd</sup> Street  
Cleveland, Ohio 44110

Dear Mr. Bell:

Here are the Director's Final Findings and Orders (Orders) issued to BDT Industries L.P. on March 29, 2006. These Orders are effective today.

I have also enclosed invoices for the penalty payments as required by Order No. 7.a. through h. and Order No. 8.a. through h. Please remember that your first payments are due no later than June 27, 2006.

If you have any questions concerning compliance with these Orders, do not hesitate to contact Kurt Princic, District Manager (330) 425 - 9171.

Sincerely,

*fr* 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  
Elissa Miller, Legal  
Heidi Greismer, PIC  
Kurt Princic, Mgr., DHWM, NEDO

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



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OHIO EPA

MAR 29 2006

STATE DIRECTOR'S JOURNAL

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the Matter of:**

**BDT Industries L.P.  
dba Davro, LTD  
1200 East 152<sup>nd</sup> Street  
Cleveland, Ohio 44110**

**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 BDT Industries L.P. dba Davro, LTD (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 the 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.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

- Respondent operates an electroplating facility located at 1200 East 152<sup>nd</sup> Street, in Cleveland, Cuyahoga County (Facility). Respondent is an Ohio corporation licensed to do business on January 27, 1994.

accurate copy of the  
official document as filed in the records of the Ohio  
Environmental Protection Agency  
 Date: 3-29-06

2. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
3. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD000037655.
4. 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 large quantity generator of hazardous waste. The hazardous wastes generated by Respondent at the Facility include spent plating bath solutions (D002 and D007) and electroplating wastewater treatment sludges (F006).
5. On January 13, 2005, Ohio EPA received a complaint that Respondent was mismanaging wastes at the Facility.
6. On January 14, 2005, January 18, 2005 and January 25, 2005, Ohio EPA conducted a complaint investigation and compliance evaluation inspections at the Facility. As a result of the complaint investigation and compliance evaluation inspections, Ohio EPA determined that Respondent had, *inter alia*:
  - a. Stored containers of hazardous waste for greater than 90 days without a permit in two hazardous waste accumulation areas (Old Davro and New Davro), in violation of ORC § 3734.02 (E) and (F);
  - b. Failed to evaluate waste to determine if the waste was hazardous waste, in violation of OAC rule 3745-52-11;
  - c. Failed to store hazardous waste in containers that were closed and in good condition, in violation of OAC rules 3745-66-73(A) and 3745-66-71;
  - d. Failed to maintain adequate aisle space, in violation of OAC rule 3745-65-35;
  - e. Failed to label and date containers of hazardous waste, in violation of OAC rule 3745-52-34 (A)(2) and (3);
  - f. Failed to conduct inspections of emergency equipment and container accumulation areas, in violation of OAC rules 3745-65-33 and 3745-66-74;

- g. Failed to label a satellite accumulation container, in violation of OAC rule 3745-52-34(C)(1). This violation was abated during the January 18, 2005 compliance evaluation inspection.
  - h. Failed to have an emergency communication device and spill equipment available at the scene of operations, in violation of OAC rule 3745-65-32;
  - i. Failed to describe all the necessary actions needed to be taken in regard to all hazardous waste streams generated at the Facility, failed to update the contingency plan and failed to list all necessary spill control equipment in the contingency plan, in violation of OAC rule 3745-65-52(A), (D) and (E);
  - j. Failed to provide documentation demonstrating that annual personnel training was conducted, in violation of OAC rule 3745-65-16(C);
  - k. Failed to update job titles and job description for the personnel training program, in violation of OAC rule 3745-65-16(D);
  - l. Failed to properly manage universal waste lamps in containers or packages, in violation of OAC rule 3745-273-13(D)(1);
  - m. Failed to properly label universal waste lamps, in violation of OAC rule 3745-273-14(E);
  - n. Failed to have a system for demonstrating how long universal waste lamps had been on-site, in violation of OAC rule 3745-273-15(C);
  - o. Failed to inform employees on the proper handling and emergency procedures associated with universal waste lamps, in violation of OAC rule 3745-273-16; and
  - p. Failed to have a Land Disposal Restriction (LDR) form for the F006 sludge generated at the Facility, in violation of OAC rule 3745-270-07(A).
7. By letter dated February 15, 2005, Ohio EPA notified Respondent of the violations referenced in Finding No. 6. of these Orders.
8. On February 18, 2005, Ohio EPA conducted a follow up inspection at the Facility.

9. By letter dated March 14, 2005, Respondent submitted a response to Ohio EPA's letter dated February 15, 2005.
10. By letter dated April 4, 2005, Ohio EPA notified Respondent that based upon the information submitted to Ohio EPA in the March 14, 2005 letter, Respondent had abated the violations referenced in Finding Nos. 6.b., 6.c., 6.d., 6.e., 6.f., 6.l., 6.m., 6.n., 6.o. and 6.p. of these Orders.
11. By letter dated May 4, 2005, Respondent submitted a response to Ohio EPA's letter dated April 4, 2005.
12. By letter dated June 8, 2005, Ohio EPA notified Respondent that based upon the information submitted to Ohio EPA in the May 4, 2005 letter, Respondent had abated the violations referenced in Finding Nos. 6.h. and 6.j. of these Orders.
13. By letters dated July 6, 2005 and September 15, 2005, Respondent submitted documentation to Ohio EPA in order to abate the remaining violations at the Facility.
14. By letters dated August 17, 2005 and November 9, 2005, Ohio EPA notified Respondent that the violations referenced in Finding Nos. 6.i. and 6.k. of these Orders had been abated.
15. Because Respondent stored hazardous waste at the Facility without a permit, the Director has determined that Respondent failed to comply with the rules applicable to owners and operators of hazardous waste treatment, storage and disposal facilities found in OAC Chapters 3745-54 and 3745-55.
16. Based upon the fact that no releases of hazardous waste were evident at the time of the inspections referenced in Finding No. 6. of these Orders and the fact that Respondent is continuing to use Old Davro as a hazardous waste accumulation area, the Director has determined that closure of this area is not required at this time.
17. By letters dated August 8, 2005 and January 13, 2005, Respondent submitted financial information to Ohio EPA in an effort to demonstrate that Respondent does not possess the financial ability to pay the entire civil penalty settlement included in the Orders proposed to Respondent on July 22, 2005. Ohio EPA has reviewed Respondent's financial information and has determined that Respondent has the ability to pay a \$15,500 civil penalty settlement.

## **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 30 days after the effective date of these Orders, Respondent shall ship the containers of hazardous waste referenced in Finding No. 6.a. of these Orders off-site to a permitted hazardous waste Facility. Within 60 days after the effective date of these Orders, Respondent shall submit the corresponding manifest(s) and LDR information to Ohio EPA.
2. Within 60 days after the effective date of these Orders, Respondent shall submit to Ohio EPA a Closure Plan for the following hazardous waste unit: New Davro hazardous waste accumulation area. The Closure Plan shall be prepared in accordance with OAC rules 3745-55-11/3745-66-11 through 3745-55-20/3745-66-20.
3. The Closure Plan is subject to approval by Ohio EPA. If Ohio EPA does not approve the Closure Plan referenced in Order No. 2., and provides Respondent with a written statement of deficiencies, Respondent shall submit a revised Closure Plan for approval addressing the deficiencies within 30 days of receiving such written statement. If Ohio EPA modifies the Closure Plan, the modified Closure Plan becomes the approved plan.
4. Upon Ohio EPA approval of the Closure Plan, Respondent shall implement the approved Closure Plan in the manner and pursuant to the time frames set forth in the approved Closure Plan and OAC rules 3745-55-13/3745-66-13.
5. Within 60 days after completion of closure, Respondent shall submit certification of closure to Ohio EPA in accordance with OAC rules 3745-55-15/3745-66-15. Closure certification of the area(s) described in Order No. 2. will abate the violation referenced in Finding Nos. 6.a. and 15. of these Orders.
6. Within 30 days after the submittal of the Closure Plan pursuant to Order No. 2., above, Respondent shall submit a closure cost estimate and documentation demonstrating that Respondent has established financial assurance and liability coverage for the areas of the Facility subject to closure, in accordance with OAC rules 3745-55-42/3745-66-42 through 3745-55-47/3745-66-47.
7. Respondent shall pay Ohio EPA the amount of \$15,500.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to

ORC Chapter 3734. Of this amount, \$12,400.00 will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28 pursuant to the following schedule:

- a. Within 90 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,550.00;
- b. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,550.00;
- c. Within 270 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,550.00;
- d. Within 360 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,550.00;
- e. Within 450 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,550.00;
- f. Within 540 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,550.00;
- g. Within 630 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,550.00; and
- h. Within 720 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,550.00.

Each of the payments above shall be made by an official check 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 the Respondent and the Facility. A copy of each check shall be submitted in accordance with Section X. of these Orders.

8. In lieu of paying the remaining \$3,100.00 of civil penalty, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of \$3,100.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD) in accordance with the following schedule:
  - a. Within 90 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$300.00;
  - b. 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 \$400.00;

- c. Within 270 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$400.00;
- d. Within 360 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$400.00;
- e. Within 450 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$400.00;
- f. Within 540 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$400.00;
- g. Within 630 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$400.00; and
- h. Within 720 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$400.00.

Each of the payments above shall be made by an official check 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 the Respondent and the Facility. A copy of each check shall be submitted in accordance with Section X. of these Orders, and an additional copy of the checks 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.

- 9. Should Respondent miss a scheduled payment as described in Order Nos. 8.a. through 8.h. of these Orders, Respondent shall pay to Ohio EPA the missed payment amount no later than 7 days after the missed payment due date. Payment shall be made in accordance with the procedures established in Order No. 7. of these Orders. 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 corporate officer 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'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  
Northeast District Office

Director's Final Findings and Orders  
BDT Industries L.P. dba Davro, LTD  
Page 9 of 11

Division of Hazardous Waste Management  
2110 East Aurora Road  
Twinsburg, Ohio 44087  
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 the Old Davro hazardous waste accumulation area as well as corrective action at the Facility at 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 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 rights to seek closure of the Old Davro hazardous waste accumulation area and corrective action at the Facility, which rights 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 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**

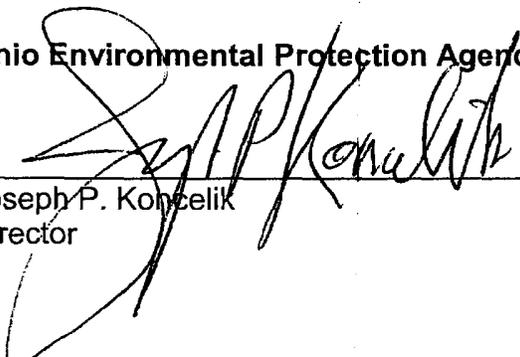
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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. Konczalik  
Director

MAR 29 2006  
Date

Director's Final Findings and Orders  
BDT Industries L.P. dba Davro, LTD  
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IT IS SO AGREED:

BDT Industries L.P. dba Davro, LTD  
BY: Its G.P., BDT Industries, INC.

By: Thomas A. Bell  
Signature

MARCH 9, 2006  
Date

THOMAS A. BELL  
Printed or Typed Name

Its PRESIDENT  
Title