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

April 3, 2006

Re: Director's Final Findings & Orders
Kasper Enterprises, Inc.
dba Harmon Sign Company
US EPA ID No.: OHR 000 128 637

Jeffrey Kasper, President
Kasper Enterprises, Inc.
dba Harmon Sign Company
7844 West Central Avenue
Toledo, Ohio 43617

Dear Mr. Kasper:

Here are the Director's Final Findings and Orders (Orders) issued to Kasper Enterprises, Inc. on April 3, 2006. These Orders are effective today.

I have also enclosed invoices for the penalty payments as required by Order No. 1.a. through c. Please remember that your first payment is due no later than May 3, 2006.

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

Sincerely,

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

I:\USERS\Sleonard\PROPOSED F&O'S\Kasper Enterprises, Inc.06.wpd

Attachments

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

I 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: _____ Date 4-3-06

OHIO E.P.A.
APR -3 2006
ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Kasper Enterprises, Inc.
dba Harmon Sign Company
7844 West Central Avenue
Toledo, Ohio 43617

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 Kasper Enterprises, Inc. dba Harmon Sign Company (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.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent operates a facility located at 7844 West Central Avenue, in

Toledo, Lucas County (Facility). At the Facility, Respondent manufactures and services neon, electric, illuminated and painted signs. Respondent is authorized to do business in Ohio.

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 OHR000128637 on April 25, 2005.

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. The hazardous wastes generated by Respondent at the Facility include spent solvents and paint filters (D001, D007, D035 and F003/F005) from paint cleaning operations.

5. On March 29, 2005, Ohio EPA conducted an inspection at the Facility. During this inspection Ohio EPA discovered that Respondent had been placing spent paint filters in the solid waste dumpster without properly evaluating to determine if they were a hazardous waste, in violation of OAC rule 3745-52-11. During this inspection, Ohio EPA informed Respondent to cease management of the spent paint filters as non-hazardous waste until a proper waste evaluation was completed.

6. On April 20, 2005, Ohio EPA notified Respondent of the violation referenced in Finding No. 5. of these Orders.

7. On May 24, 2005, Respondent conducted a sampling event in order to properly evaluate the spent paint filters referenced in Finding No. 5. of these Orders. On this date, Respondent informed Ohio EPA that the paint spray guns are cleaned out by running a lacquer thinner through the gun and spraying the spent solvent directly onto the paint filters located inside the paint booth. Ohio EPA informed Respondent that this practice would make the paint booth filters a F003/F005 listed hazardous waste and that the filters would need to be managed as a hazardous waste. Respondent also informed Ohio EPA that filters had been changed out on May 20, 2005 and placed into the solid waste dumpster.

8. By letter dated June 13, 2005, Respondent faxed the analytical results for the spent paint filters to Ohio EPA. The analytical results showed levels of chromium at 19.6 mg/l demonstrating that the spent paint filters were characteristic hazardous waste (D007).

9. By letter dated June 24, 2005, Ohio EPA notified Respondent that based upon the analytical results and waste management practices at the Facility, Respondent had unlawfully disposed of hazardous waste, in violation of ORC § 3734.02(E) and (F). In this same letter, Ohio EPA informed Respondent, based upon receipt of the analytical data for the spent paint filters, the violation referenced in Finding No. 5. of these Orders had been abated.

10. The Director has determined that Respondent did not unlawfully dispose of hazardous waste as referenced in Finding No. 9. of these Orders but has instead caused the transportation of hazardous waste to facility that does not hold a hazardous waste permit, in violation of ORC § 3734.02(F).

11. On October 3, 2005, Ohio EPA conducted a follow-up inspection at the Facility. As a result of this inspection, Ohio EPA determined that the Respondent had, *inter alia*:

    a. Failed to properly date containers of hazardous waste, in violation of OAC rule 3745-52-34(A)(2);

    b. Failed to conduct inspections of hazardous waste accumulation areas and emergency equipment, in violation of OAC rule 3745-66-74 and OAC rule 3745-65-33; and

    c. Failed to post emergency information next to the telephone, in violation of OAC rule 3734-52-34(D)(5).

12. By letter dated January 6, 2006 and e-mail dated January 18, 2006, Respondent submitted to Ohio EPA documentation demonstrating that the violations referenced in Finding Nos. 10. and 11. of these Orders had been abated.

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 $12,000.00 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 $9,600.00 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 $9,600.00. 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 $2,400.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of $2,400.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD). Respondent 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 $2,400.00 . 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 $2,400.00 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 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:

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 and Respondent 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, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. 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. Koncelik
Director

APR 0 3 2006
Date

IT IS SO AGREED:

Kasper Enterprises, Inc.

Signature

3/21/06
Date

Jeffrey Kasper
Printed or Typed Name

President
Title