OhioEPA

State of Ohio Environmental Protection Agency

STREET ADDRESS:

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

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

MAILING ADDRESS:

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

CERTIFIED MAIL

June 28, 2007

Re: Director's Final Findings & Orders
I. Schumann & Co.
US EPA ID No.: OHD 004 199 204

Mr. Scott M. Schumann
I. Schumann & Co.
22500 Alexander Road
Bedford, Ohio 44146

Dear Mr. Schumann:

Here are the Director's Final Findings and Orders (Orders) issued to I. Schumann & Co. on June 28, 2007. These Orders are effective today.

I have also enclosed invoices for the penalty payments as required by Order No. 1.a. through 1.d. and Order No. 2.a. through 2.d. Please remember that your first payments are due no later than September 26, 2007.

If you have any questions concerning compliance with these Orders, do not hesitate to contact Kurt Princic at (330) 963-1200.

Sincerely,

David A. Sholtis, Assistant Chief
Division of Hazardous Waste Management

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Attachments

c: Michael A. Savage, Chief, DHWM CO
Harry Sarvis, Mgr., CAS, DHWM CO
Elissa Miller, Legal
Heidi Greismer, PIC
Kurt Princic, Mgr., DHWM, NEDO

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: 6/28/07

OHIO E.P.A.

JUN 28 2007

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

I. Schumann & Co.
22500 Alexander Road
Bedford, Ohio 44146

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 I. Schumann & Co. (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

All of the findings necessary for the issuance of these Orders pursuant to §§ 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 owns and operates a select metal recycling facility for production of metals to the foundry industry at 22500 Alexander Road, Bedford, OH 44146 (Facility).

3. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD004199204. Respondent generates metal bearing hazardous wastes including, but not limited to, furnace lining bricks, bag house bags, floor dry and when not recycled, zinc oxide sludge.

4. On August 17 and October 10, 2006, Ohio EPA conducted compliance inspections at the Facility. As a result of the inspections, Ohio EPA informed Respondent that it was Ohio EPA's position that Respondent had, *inter alia*:

   a. Established an unpermitted hazardous waste facility, in violation of ORC § 3734.02(E) and (F), through its disposal and mismanagement of hazardous waste at the Facility, specifically the release of hazardous zinc oxide sludge. Respondent disposed of hazardous waste by releasing and not immediately responding to the releases of hazardous waste zinc oxide sludge. Air pollution control sludge which exhibits a characteristic of a hazardous waste that is not reclaimed nor used as an ingredient to make a product is a hazardous waste. Therefore, the hazardous waste zinc oxide sludge that was released to the ground (via wind dispersal and runoff from the pad) is a hazardous waste which was disposed of and is not afforded the exemption from being a waste per OAC rule 3745-51-02.

   b. Failed to properly manage and accumulate universal waste in accordance with OAC rules 3745-273-13 through 3745-273-15.

   c. Failed to maintain and provide a personnel training program in violation of OAC rule 3745-65-16.

5. By letters dated August 29 and November 21, 2006, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 4.a. through 4.c. of these Orders.

6. In a letter dated November 21, 2006, Ohio EPA notified Respondent that it had abated the violations referenced in Findings 4.b. and 4.c. of these Orders.

7. In correspondence dated September 27 and December 20, 2006 and January 19,

2007 Respondent provided responses to Ohio EPA's August 29 and November 21, 2006 letters. As part of its response, Respondent provided photographs demonstrating that the visual releases of zinc oxide had removed from the ground.

8. In a letter dated January 22, 2007, Respondent provided a further response to Ohio EPA's August 29 and November 21, 2006 letters. In its January 22, 2007 letter, Respondent outlined the management practices and work projects it would implement or had already implemented to improve the zinc oxide handling, transfer and remediation operations at the Facility to minimize releases to the environment.

9. Due to the establishment and operation of an unpermitted hazardous waste facility as described in Finding No. 4.a. of these Orders, it is Ohio EPA's position that Respondent is subject to all general facility standards found in OAC Chapters 3745-54 and 55, including but not limited to, closure in accordance with OAC rules 3745-55-11 through 3745-55-20, the financial assurance for closure requirements contained in OAC rules 3745-55-42 through 3745-55-51 and corrective action for waste management units in accordance with OAC rule 3745-54-101.

10. Based upon the implementation of the management practices outlined in Respondent's January 22, 2007 letter referenced in Finding No. 8. of these Orders and the remedial activities at the Facility as referenced in Finding No. 7. of these Orders, the Director has determined that closure of the unpermitted hazardous waste unit(s) is not required at this time.

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 the total amount of $11,400.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. Of this total amount, $9,120.00 will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28 in accordance with the following schedule:

    a. Within 90 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $2,280.00;

    b. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $2,280.00;

    c. Within 270 days after the effective date of these Orders, Respondent shall

pay to Ohio EPA the amount of $2,280.00; and

d. Within 360 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $2,280.00.

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.

2. In lieu of paying the remaining $2,280.00 of the total civil penalty referenced in Order No. 1, Respondent shall fund a supplemental environmental project (SEP) by making a contribution totaling $2,280.00 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 $570.00;

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 $570.00;

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 $570.00; and

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 $570.00.

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 each 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.

3. Should Respondent miss a scheduled payment as described in Order Nos. 2.a. through 2.d., Respondent shall pay to Ohio EPA the missed payment amount <u>no</u>

later than 7 days after the missed payment due date. Payment shall be made in accordance with the procedures established in Order No. 1. 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 certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondent 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 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 responsible officials 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
Division of Hazardous Waste Management
2110 E. Aurora Rd.
Twinsburg, Ohio 44087
Attn: DHWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Chris Korleski, 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:

Chris Korleski, 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 closure of hazardous waste units at the Facility, as well as corrective action at Facility, at some time in the future, pursuant to ORC Chapter 3734. or any other applicable

law. Respondent reserves its right 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 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 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 retain 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

Chris Korleski
Director

JUN 28 2007
Date

IT IS SO AGREED:

I. Schumann & Co.

Scott M. Schumann
Signature

6/7/07
Date

SCOTT M. SCHUMANN
Printed or Typed Name

PRESIDENT & COO
Title

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