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

July 11, 2007

**CERTIFIED MAIL**
91 7108 2133 3932 4449 0489

**Re: Director's Final Findings & Orders**
The Mansfield Paint Company
US EPA ID No.: OHR 000 112 425

Mr. B. George Bufkin
The Mansfield Paint Company
525 West Liberty Street
Medina, Ohio 44256

Dear Mr. Bufkin:

Here are the Director's Final Findings and Orders (Orders) issued to The Mansfield Paint Company on July 11, 2007. These Orders are effective today.

I have also enclosed invoices for the penalty payments as required by Order No. 1.a. through 1.c. and Order No. 2.a. through 2.c. Please remember that your first payments are due no later than August 10, 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: Matthew W. Nakon, Wickens, Herzer, Panza, Cook & Batista Co.
Michael A. Savage, Chief, DHWM CO
Harry Sarvis, Mgr., CAS, DHWM CO
Todd Anderson, Legal
Heidi Greismer, PIC
Kurt Princic, Mgr., DHWM, NEDO

OHIO E.P.A.

JUL 11 2007

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE**
**OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the Matter of:**

**The Mansfield Paint Company**
525 West Liberty Street
Medina, Ohio 44256

**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 The Mansfield Paint 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.

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: 7-11-07

## IV. FINDINGS

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 manufactures paints and coatings and is located at 525 West Liberty Street, Medina, Medina County, Ohio (Facility). Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHR000112425.

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. The hazardous waste generated by Respondent at the Facility includes solvent-based paint washouts and cleanups (D001, F003, F005) and water-based paint washouts and cleanups (D001).

4. On July 27, 2006, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of the inspection, Ohio EPA determined that Respondent had:

    a. Established and operated an unpermitted hazardous waste storage facility, in violation of ORC § 3734.02(E) and (F);

    b. Failed to ensure that there is at least one employee, either at the Facility or on call, with the responsibility for coordinating all emergency response measures, in violation of OAC rule 3745-52-34(D)(5)(a);

    c. 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);

    d. Failed to ensure that all employees at the Facility are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal Facility operations and emergencies, in violation of OAC rule 3745-52-34(D)(5)(C);

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

f. Failed to ensure that adequate aisle space was provided in the hazardous waste storage area, in violation of OAC rule 3745-65-35;

g. Failed to mark each container of hazardous waste with the accumulation start date, as well as with the words, "Hazardous Waste," in violation of OAC rule 3745-52-34(A)(2) and (3); and

h. Failed to maintain the necessary land disposal restriction notification documents, in violation of OAC rule 3745-270-07(A)(8).

5. In facsimile correspondence dated August 15, 2006, Respondent provided responses to Ohio EPA's July 27, 2006 inspection.

6. By letter dated August 22, 2006, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 4.a. through 4.h. of these Orders.

7. In correspondences dated September 21, November 8 and 17, 2006, Respondent provided responses to Ohio EPA's August 22, 2006 letter.

8. By letter dated December 1, 2006, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding No. 4.b. through 4.h. of these Orders.

9. Because no releases of hazardous waste were observed in the unpermitted storage area at the Facility, the Director has determined that no additional action is required of Respondent at this time regarding the ORC § 3734.02(E) and (F) violation referenced in Finding No. 4.a. of these Orders.

10. By letter dated April 27, 2007, Respondent submitted financial information in an effort to demonstrate that it did not possess the ability to pay the entire civil penalty settlement included in the Director's Final Findings and Orders proposed to Respondent on March 23, 2007. Ohio EPA reviewed Respondent's financial information and determined that Respondent possesses the financial ability to pay a civil penalty settlement of not more than $6,500.00.

## 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 $6,500.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. Of this total amount, $5,200.00 will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28 in accordance with the following schedule:

   a. Within 30 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $1,733.33;

   b. Within 60 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $1,733.33; and

   c. Within 90 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $1,733.34.

   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 $1,300.00 of the total civil penalty referenced in Order No. 1, Respondent shall fund a supplemental environmental project (SEP) by making a contribution totaling $1,300.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD) in accordance with the following schedule:

   a. Within 30 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $433.33;

   b. Within 60 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $433.33; and

   c. 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 $433.34.

   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.c., 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. 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 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
Northeast District Office
Division of Hazardous Waste Management
2110 E. 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:

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 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 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 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**

Chris Korleski
Director

July 11, 2007
Date

**IT IS SO AGREED:**

**The Mansfield Paint Company**

B. George Bufkin
Signature

6/14/07
Date

B. George Bufkin
Printed or Typed Name

President
Title

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