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

December 13, 2006

Re: Director's Final Findings & Orders
SK Hand Tool Corporation
US EPA ID No.: OHD 045 247 350

Mr. Michel Moulin, CEO
SK Hand Tool Corporation
9500 W. 55th Street
McCook, Illinois 60525

Dear Mr. Moulin:

Here are the Director's Final Findings and Orders (Orders) issued to SK Hand Tool Corporation on December 13, 2006. These Orders are effective today.

I have also enclosed invoices for the penalty payments as required by Order No. 2.a. through 2.c. and Order No. 3.a. through 3.c. Please remember that your first payments are due no later than February 11, 2007.

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

Sincerely,

Pamela S. Allen

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

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Attachments

c: Michael A. Savage, Chief, DHWM
Harry Sarvis, Mgr., CAS, DHWM
Todd Anderson, Legal
Heidi Greismer, PIC
John Pasquarette, Mgr., DHWM, NWDO
David L. Rieser, Esq.

OHIO E.P.A.

DEC 13 2006

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

SK Hand Tool Corporation
9500 W. 55th Street
McCook, Illinois 60525

Respondent

Director's Final Findings and Orders

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:** 12-13-06

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to SK Hand Tool Corporation (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:

1. Respondent manufactures hand tools such as wrenches, ratchets and breaker bars at its facility located at 135 Hickory Street, Defiance, Ohio

(Facility). Respondent is the owner and operator of the Facility.

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 OHD045247350.

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 identified as a large quantity generator of hazardous waste. The hazardous wastes generated by Respondent at the Facility include electroplating wastes (F006, D007), nitric acid (D002), rack stripping wastes (D002, D007) and vibratory sludge (D002).

5. On September 12, 2005, Ohio EPA was notified by Evergreen Recycling and Disposal Facility, Inc. (ERDF) located in Northwood, Ohio that on September 9, 2005, a load of corrosive vibratory sludge with a pH of 12.8 was received from Respondent. The hazardous waste vibratory sludge was solidified with auto fluff in ERDF's solidification pit and then disposed with the regular solid waste in ERDF's landfill.

6. EDRF's facility is a "sanitary landfill facility" as that term is defined under OAC Rule 3745-27-01(S)(4) and is authorized to accept "solid waste" as that term is defined under ORC Section 3734.01(E) and OAC Rule 3745-27-01(S)(24). EDRF does not hold a hazardous waste facility installation and operation permit and cannot accept hazardous waste.

7. On September 16 and November 28, 2005, Ohio EPA conduct inspections of the Facility. As a result of these inspections and the information provided by EDRF referenced in Finding No. 5., Ohio EPA determined that Respondent had, *inter alia*:

   a. Caused the transportation of hazardous waste to EDRF, a facility not authorized to accept hazardous waste, in violation of ORC § 3734.02(F);

   b. Shipped hazardous waste without a hazardous waste manifest, in violation of OAC rule 3745-52-20;

   c. Failed to meet land disposal restriction requirements, in violation of OAC rules 3745-270-07(A) and 3745-270-09(A);

d. Failed to evaluate containers of crushed fluorescent bulbs to determine if they were hazardous waste, in violation of OAC rule 3745-52-11;

e. Failed to accumulate universal waste lamps in containers/packages that were closed, in violation of OAC rule 3745-273-13(D);

f. Failed to properly label universal waste lamps, in violation of OAC rule 3745-273-14(E);

g. Failed to label containers of used oil, in violation of OAC rule 3745-279-22(C);

h. Failed to clean up and properly manage releases of used oil, in violation of OAC rule 3745-279-22(D);

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

j. Failed to conduct annual hazardous waste refresher training, in violation of OAC rule 3745-65-16(C).

8. By letters dated February 9 and April 26, 2006, Ohio EPA notified Respondent of the violations referenced in Finding No. 7. of these Orders. In the April 26, 2006 letter, Ohio EPA notified Respondent that the violations referenced in Finding Nos. 7.a., 7.b. and 7.c. had been abated.

9. By letter dated June 13, 2006, Respondent submitted a response to Ohio EPA's letter dated April 26, 2006.

10. Based upon the documentation submitted in Respondent's June 13, 2006 letter, the Director has determined that the violations referenced in Finding Nos. 7.d., 7.e., 7.f., 7.g., 7.h. and 7.i. have been abated. Additionally, based upon the response, the Director has determined that Respondent stored crushed hazardous waste fluorescent bulbs at the Facility without a permit from December of 2004 until February 15, 2006, in violation of ORC 3734.02(E) and (F).

11. Because there was no visible evidence of releases of crushed flourescent bulbs at the time of the inspections referenced in Finding No.7. of these Orders and Respondent is continuing to use this container storage area to store hazardous wastes, the Director has determined that closure of this area 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. Within 60 days after the effective date of these Orders, Respondent shall submit to Ohio EPA documentation demonstrating that the annual hazardous waste refresher training has been completed in accordance with OAC rule 3745-65-16. The submittal and Ohio EPA's approval of this documentation will demonstrate that the violation referenced in Finding No. 7.j. has been abated.

2. Respondent shall pay Ohio EPA the amount of $40,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. $32,000.00 of this amount will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28 pursuant to the following schedule:

   a. Within 60 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of $8,000.00;

   b. Within 90 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of $8,000.00; and

   c. Within 180 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of $16,000.00.

   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 Respondent. A copy of each check shall be submitted in accordance with Section X. of these Orders.

3. In lieu of paying the remaining $8,000.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of $8,000.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD) in accordance with the following schedule:

   a. 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 $2,000.00;

b. 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 $2,000.00; and

c. 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 $4,000.00.

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 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.

4. Should Respondent miss a scheduled payment as described in Order Nos. 3.a., 3.b. and 3.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. 2. 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
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 reserves its rights to exercise its lawful authority to require Respondent to perform closure 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 hazardous waste units 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. Koncelik
Director

DEC 13 2006
Date

IT IS SO AGREED:

SK Hand Tool Corporation

Signature

11/27/06
Date

Michael Rouse
Printed or Typed Name

COO
Title