OHIO E.P.A.

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ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Ace Iron & Metal Company
2515 Groveport Road
Columbus, Ohio 43207

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: [signature] Date: 6-24-14

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Ace Iron & Metal 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 is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).

2. Respondent operates a scrap metal salvage and recycling facility located at 2515 Groveport Road, Columbus, Franklin County, Ohio 43207 (Facility). From these operations, Respondent generates used oil. Respondent has been assigned EPA ID number OHR000118802.

3. On September 11, 12, and 17, 2013, Ohio EPA conducted a complaint investigation and compliance evaluation inspection at the Facility. As a result of this inspection, Ohio EPA discovered Respondent released used oil from Respondent's engine/transmission draining operation to a surface impoundment. Respondent drained used oil from engines and transmissions into an unlabeled roll-off container which subsequently released used oil to the surface impoundment. From this management of used oil in the surface impoundment, a waste was generated on the sides and bottom of the surface impoundment. Due to this activity, Ohio EPA determined that Respondent, *inter alia*:

   a. Managed used oil in a prohibited unit, a surface impoundment, in violation of OAC rule 3745-279-12(A);

   b. Failed to store used oil in containers that are in good condition and not leaking, in violation of OAC rule 3745-279-22(B);

   c. Failed to label containers of used oil with the words "used oil" in violation of OAC rule 3745-279-22(C)(1);

   d. Failed to respond to releases of used oil, in violation of OAC rule 3745-279-22(D); and

   e. Failed to characterize waste generated in the surface impoundment, in violation of OAC rule 3745-52-11.

4. By letter dated October 10, 2013, Ohio EPA notified Respondent of the violations referenced in Finding No. 3. of these Orders.

5. From Ohio EPA's initial visit to the Facility on September 11, 2013, until December 15, 2013, Respondent provided multiple communications regarding Respondent's actions to achieve compliance with Ohio's hazardous waste and used oil laws, including photographs of the removal of used oil and contaminated soils from the surface impoundment, documentation on how Respondent will prevent future releases from used oil containers, and sample analysis results of the contaminated soils from the surface impoundment that were removed. The sample results demonstrated the underlying soil of the surface impoundment contained a hazardous waste, exhibiting a characteristic for lead, D008, as described in OAC rule 3745-51-24.

6. On January 24, 2014, Ohio EPA conducted a follow-up inspection at the Facility. At the time of this inspection, Respondent had removed all visually contaminated soils underlying the surface impoundment and placed them into roll-off boxes. Ohio EPA and Respondent discussed the locations of confirmation samples in and around the surface impoundment to verify that all contaminated soils which may pose a risk to human health and the environment had been removed.

7. On January 25, 2014, Respondent conducted confirmation sampling of the area in and around the surface impoundment.

8. By letter dated January 28, 2014, Ohio EPA notified Respondent that based on the sample results of the contaminated soils provided by Respondent as referenced in Finding No. 5. of these Orders, and since Ohio EPA has not issued Respondent a hazardous waste installation and operation permit to dispose of hazardous waste, Respondent is in violation of ORC § 3734.02(E) and (F), for establishing and operating a hazardous waste surface impoundment/disposal facility without a hazardous waste permit. Specifically, the used oil surface impoundment with lead contaminated soil is considered a hazardous waste disposal unit. This letter also notified Respondent that the violations referenced in Findings Nos. 3.b., 3.c. and 3.e. of these Orders were abated.

9. On February 4, 2014, Ohio EPA received the analytical results from the confirmation sampling conducted on January 25, 2014, which demonstrated removal of the hazardous waste found in the surface impoundment, and confirmed that any residual lead in the soil would not leach above maximum concentration levels to groundwater.

10. Based upon the results of the soil sampling performed in conjunction with the waste and soil removal activities referenced in Findings Nos. 5., 6., 7. and 9. of these Orders, the Director has determined that Respondent has met the closure performance standard requirements of OAC rules 3745-55-11(A) and (B) and

3745-56-28(A)(1) for the area referenced in Findings Nos. 3. and 8. of these Orders and no further action is required to abate the violations referenced in finding Nos. 3.a., 3.d. and 8. of these Orders.

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 to Ohio EPA the amount of $11,200.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. $8,960.00 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 90 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $4,480.00; and

    b. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $4,480.00.

    Respondent shall make the payments by tendering official check(s) made payable to "Treasurer, State of Ohio." The official check(s) shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent and the Facility. A copy of this check shall be sent to Ohio EPA Division of Materials and Waste Management, Supervisor, Processing Records Management Unit, P.O. Box 1049, Columbus, Ohio 43216-1049.

2. In lieu of paying the remaining $2,240.00 of the civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of $2,240.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD) 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 $1,120.00; and

    b. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $1,120.00.

Respondent shall make the payments by tendering official check(s) made payable to "Treasurer, State of Ohio." The official check(s) shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent and the Facility. A copy of this check shall be sent to Ohio EPA Division of Materials and Waste Management, Supervisor, Processing Records Management Unit, P.O. Box 1049, Columbus, Ohio 43216-1049 and to Ohio EPA, Division of Air Pollution Control, Manager, Compliance and Enforcement Section, P.O. Box 1049, Columbus, Ohio 43216-1049.

3. Should Respondent fail to fund the SEP within the required time frames established in Order Nos. 2.a. and 2.b., 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.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official check[s] 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, exclusive of checks, required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Central District Office
Division of Materials and Waste Management
PO Box 1049
Columbus, Ohio 43216-1049
Attn: DMWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:
Enforcement Supervisor
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049

For deliveries to the building:

Enforcement Supervisor
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
50 West Town Street
Columbus, Ohio 43215

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 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 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 right to seek corrective action at the Facility by Respondent, which right 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

Craig W. Butler, Director

JUN 2 4 2014
Date

IT IS SO AGREED:

Ace Iron & Metal Company

Signature

5/29/14
Date

DAVID FRIEDRICH
Printed or Typed Name

VP FINANCE
Title