OHIO E.P.A.

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ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: **Rocal, Inc.** 3186 County Road 550 Frankfort, Ross County, Ohio 45628 **Respondent**	**Director's Final Findings and Orders**

PREAMBLE

It is hereby agreed by and among the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Rocal, Inc. (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under § 3734.13 and § 3745.01 of the Ohio Revised Code ("ORC").

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 Facilities shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms in these Orders shall have the same meaning as used in Chapter 3734. of the ORC and the regulations 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: 4-12-10

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 Rocal owns and operates sign manufacturing facilities located at 3186 County Road 550, Frankfort, Ross County, Ohio 45628 (the New Facility) and at 60 North Fork Lane, Frankfort, Ross County, Ohio 45628 (the Old Facility).

3. At both the Old Facility and the New 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 including waste from a chromate conversion process (D002/D007).

4. The New Facility and the Old Facility were issued generator identification numbers OHD990780777 and OHD981531601, respectively.

5. On June 13, 2006, Ohio EPA conducted a compliance evaluation inspection at Respondent's New Facility. At the time of the inspection on June 13, 2006, Respondent was classified as a Large Quantity Generator at the New Facility. As a result of the inspection, Ohio EPA determined that Respondent had at the New Facility, *inter alia*:

   a. Caused the illegal transportation from the New Facility to the Old Facility and caused the illegal storage of hazardous waste at the Old Facility. Respondent also failed to properly manifest, package, label, mark and placard hazardous waste for transport from the New Facility to the Old Facility. These actions constituted violations of ORC 3734.02(E) and (F), OAC rules 3745-52-20, 3745-52-30, 3745-52-31, 3745-52-32(A) and 3745-52-33;

   b. Failed to prepare a contingency plan for the New Facility, in violation of OAC rule 3745-65-52;

   c. Failed to operate and maintain the New Facility to minimize the possibility of fire, explosion or the release of hazardous waste, in violation of OAC rule 3745-65-31;

   d. Failed to label with the words "Hazardous Waste" and mark with an accumulation date, three 350-gallon totes of D002/D007 hazardous waste at the New Facility, in violation of OAC rule 3745-52-34(A);

e. Failed to conduct weekly inspections of the area where the totes of hazardous waste were being accumulated at the New Facility, in violation of OAC rule 3745-66-74;

f. Failed to determine if the hazardous waste generated at the New Facility had to be treated prior to land disposal, in violation of OAC rule 3745-270-07(A);

g. Failed to determine the hazardous waste code(s) applicable to the waste generated in the chromate conversion process at the New Facility, in violation of OAC rule 3745-270-09(A); and

h. Accumulated universal waste lamps for longer than one year at the New Facility, in violation of OAC rule 3745-273-15(D). This violation was abated at the time of the inspection.

6. In a letter dated June 28, 2006, Ohio EPA notified Respondent of the violations referenced in Finding No. 5. of these Orders.

7. During the June 13, 2006 inspection, Ohio EPA also reviewed documentation relating to the operation of Respondent's Old Facility. At the time of the inspection on June 13, 2006, Respondent was classified as a Large Quantity Generator at the Old Facility.

8. As a result of the review of documentation noted in Finding No.7. of these Orders, the Director has determined that Respondent, *inter alia*:

a. From January 1, 2006 to June 15, 2006, established an unpermitted hazardous waste facility by accepting and storing hazardous waste transported from Respondent's New Facility in a tank at the Old Facility, in violation of ORC §§ 3734.02(E) and (F);

b. Failed to properly evaluate the hazardous waste received from Respondent's New Facility at the Old Facility, by improperly assigning waste code F019 to the waste, in violation of OAC Rule 3745-52-11;

c. Failed to submit a 2005 annual hazardous waste report for the Old Facility by March 1, 2006, in violation of OAC rule 3745-52-41;

d. Failed to operate and maintain the Old Facility to minimize the possibility of fire, explosion or the release of hazardous waste, in violation of OAC rule 3745-65-31;

e. Failed to include required information on its LDR forms needed to determine if the hazardous waste generated at the Old Facility had to be treated prior to land disposal, in violation of OAC rule 3745-270-07(A); and

f. Failed to determine the hazardous waste code(s) applicable to the hazardous waste generated in the chromate conversion process at the Old Facility, in violation of OAC rule 3745-270-09(A).

9. In a letter dated July 5, 2006, Ohio EPA notified Respondent of the violations noted in Finding No. 8. of these Orders.

10. In correspondence dated August 4, 2006, Respondent, through counsel, replied to Ohio EPA's June 28 and July 5, 2006 letters.

11. On August 30, 2006, Ohio EPA responded to the August 4, 2006 letter and asked for additional information concerning the New Facility.

12. In addition to the violations referenced in Finding Nos. 5 and 8 of these Orders, the Director has determined that Respondent failed to submit generator annual reports for 2006 for the Old Facility and 2005 and 2006 for the New Facility by March 1, of the following year, in violation of OAC rule 3745-52-41.

13. In a letter dated December 15, 2006, Ohio EPA returned Respondent to compliance for the violations noted in Finding Nos. 5.b. and 8.c. In this letter, Ohio EPA also noted that Respondent failed to describe any arrangements with local emergency authorities in its contingency plan, in violation of OAC rule 3745-65-37.

14. In a letter dated March 9, 2007, Respondent provided additional information to Ohio EPA.

15. In a letter dated June 14, 2007, Ohio EPA returned Respondent to compliance for the violations noted in Finding Nos. 5.d., 5.e., 5.f., and 13.

16. On June 26, 2007, Ohio EPA conducted inspections at both of Respondent's Facilities. As a result of the inspection at the New Facility, Ohio EPA determined that Respondent had, *inter alia*:

a. Stored hazardous waste (D002/D007) in three 350 gallon totes (approximately 800 gallons) from June 13, 2006 until June 26, 2007, in violation of ORC § 3734.02 (E) and (F);

b. Failed to label an evaporator used to store hazardous waste, with the words "Hazardous Waste", in violation of OAC rule 3745-52-34(A)(3);

c. Failed to label 6 drums containing hazardous waste (D002/D007), with the words "Hazardous Waste", in violation of OAC rule 3745-52-34(A)(3); and

d. Failed to close several drums of hazardous waste (D002/D007), in violation of OAC rule 3745-66-73.

17. In a letter dated July 30, 2007, Ohio EPA notified Respondent of the violations noted in Finding No. 16. of these Orders.

18. During the June 26, 2007 inspection at the Old Facility, Ohio EPA personnel found that the former hazardous waste storage tank referenced in Finding No. 8.a. was being used in the process line and was no longer being used as a hazardous waste storage tank.

19. Because the tank noted in Finding Nos. 8. and 18. of these Orders is now part of the process line, the Director has determined that closure of the unpermitted hazardous waste storage tank is not required at this time. Therefore, the Director has determined that no further action is required of the Respondent at this time to abate the ORC § 3734.02 (E) and (F) violation noted in Finding No. 8.a.

20. On August 23, 2007, September 20, 2007 and September 28, 2007, Respondent submitted manifests and photographs of the labeled evaporation tank, LDR forms as well as a tank assessment for the tanks in the evaporator unit at the New Facility.

21. In a letter dated December 14, 2007, Ohio EPA abated the violations noted in Finding Nos. 16.a., 16.b., 16.c. and 16.d. based upon the information supplied by Respondent in the correspondence noted in Finding No. 20. of these Orders.

22. In a letter dated February 14, 2008, Ohio EPA abated the violations noted in Finding Nos. 5.f. and 5.g. In this letter, Respondent was also notified that Respondent had not abated the violations noted in 5.c. and 8.b. and as a result Respondent has also not abated the violations cited in Findings 8.e. and 8.f.

23. Ohio EPA also explained in the February 14, 2008 letter that Respondent had submitted a tank assessment for a hazardous waste tank at the New Facility that failed to address whether the tank had been properly installed, in violation of OAC rules 3745-66-92(B) and (G).

24. Because Ohio EPA is not aware of any releases of hazardous waste from the totes referenced in Finding No. 16.a, and the area is part of the chromate conversion process area, the Director has determined that closure of the unpermitted storage area is not required at this time. Therefore, no further action is required by the Respondent at this time to abate the ORC § 3734.02 (E) and (F) violation noted in Finding No. 16.a.

25. On March 20, 2009, Respondent notified US EPA that, through the installation of a new processing line and evaporator by Respondent at the New Facility, Respondent had significantly reduced the volume of hazardous waste generated at the New Facility. According to Respondent, during calendar year 2008, Respondent generated a total of 450 pounds of D001 waste and 11,655 pounds of D007 waste. According to Respondent, it is exploring alternatives that may further decrease the amount of waste generated. According to Respondent, waste generation is expected to remain at a level below 2,200 pounds per month for the foreseeable future. According to Respondent, this reduction in volume has resulted in a change in generator status from Large Quantity Generator to Small Quantity Generator.

26. On March 20, 2009, Respondent notified US EPA that there was a change in generator status from Large Quantity Generator to Conditionally Exempt Small Quantity Generator at the Old Facility. According to Respondent, operations at the Old Facility have decreased significantly to the point that the total waste generated during the calendar year 2008 was 220 pounds. According to Respondent, waste generation is expected to remain at a level below 200 pounds per month for the foreseeable future.

27. Based on the change in generator status at the New Facility as referenced in Finding No. 25. of these Orders, no further action is required by the Respondent to abate the violations noted in Finding 5.c., 5.d. and 5.f. of these Orders.

28. Based on the change in the generator status at the Old Facility as referenced in Finding No. 26. of these Orders, no further action is required by the Respondent to abate the violations noted in Finding 8.b., 8.c., 8.d., 8.e. and 8.f. 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. Within sixty (60) days after the effective date of these Orders, to abate the violations noted in Finding No. 23. of these Orders, Respondent shall submit to the Director of Ohio EPA an amendment to the tank assessment that includes a determination that the tank system and ancillary equipment were properly reinstalled after the secondary containment system was sealed pursuant to OAC rules 3745-66-92(B) and (G). The amendment must include a certification statement as required by OAC rule 3745-50-42(D).

2. Respondent shall pay Ohio EPA the total amount of $60,000.00 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. Respondent shall pay Ohio EPA the amount of $48,000.00 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 in accordance with the following schedule:

i. Within 90 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $6,000.00;

ii. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $6,000.00;

iii. Within 270 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $6,000.00;

iv. Within 360 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $6,000.00;

v. Within 450 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $6,000.00;

vi. Within 540 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $6,000.00;

vii. Within 630 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $6,000.00; and

viii. Within 720 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $6,000.00.

Each payment shall be made by an official check made payable to "Treasurer, State of Ohio". 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 $12,000.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project ("SEP") by making a contribution in the amount of $12,000.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD). Respondent shall make the payment in accordance with the following schedule.

i. Within 90 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $3,000.00;

ii. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $3,000.00;

iii. Within 270 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $3,000.00; and

iv. Within 360 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $3,000.00.

Respondent shall make each payment by tendering an official check made payable to "Treasurer, State of Ohio". 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. Should Respondent fail to make a scheduled payment as described in Order No. 2.b. of these Orders, Respondent shall pay to Ohio EPA, within 7 days after failing to comply with Order No. 2.b, the amount of $12,000.00 in accordance with the procedures in Order No. 2.a.

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 demonstrating compliance with these Orders, and other documents required under these Orders to be submitted to Ohio EPA, shall be addressed to:

Ohio Environmental Protection Agency
Southeast District Office
Division of Hazardous Waste Management
Attn: DHWM Manager
2195 Front Street
Logan, Ohio 43138

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
Attn: Manager, Compliance Assurance Section
P.O. Box 1049
Columbus, Ohio 43216-1049

For deliveries to the building:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
Attn: Manager, Compliance Assurance Section
50 West Town Street, Suite 700
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 closure of the hazardous waste units at the Old Facility and New Facility and corrective action at the Old Facility and New Facility, sometime 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 rights to seek closure of the hazardous waste units at the Old Facility and corrective action at the Old Facility and the New 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

April 12, 2010
Date

IT IS SO AGREED:

Rocal, Inc.

Signature

4/1/10
Date

Robert D. Lightle
Printed or Typed Name

President
Title