

OHIO E.P.A.
APR -5 2010
ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Hukill Chemical Corporation
7013 Krick Road
Bedford, Ohio 44146

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.

PREAMBLE

It is agreed by the parties hereto as follows:

By Mike Casper Date: 4-5-10

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Hukill Chemical 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 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 the owner and operator of a permitted hazardous waste storage facility located at 7013 Krick Road, Bedford, Ohio (Facility). At the

Facility, Respondent is also a large quantity generator of hazardous waste. Respondent is a corporation qualified to do business in Ohio on July 23, 1947.

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 OHD001926740 and hazardous waste storage permit number 02-18-0315 (Permit).
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.
5. On June 26 and July 1, 2009, Ohio EPA conducted a compliance evaluation inspection of the Facility. As a result of this inspection, Ohio EPA determined that Respondent had, *inter alia*:
 - a. Unlawfully stored hazardous waste in excess of the one year time period allowed by Respondent's Permit, in violation of Permit Condition C.1.(a);
 - b. Failed to maintain and operate the Facility in a manner to minimize the possibility of fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents, in violation of OAC rule 3745-54-31 and Permit Condition B.1.;
 - c. Failed to keep containers of hazardous waste closed, in violation of OAC rule 3745-55-73 and Permit Condition C.6.;
 - d. Improperly stored hazardous wastes banned from land disposal, in violation of OAC rule 3745-270-50(A)(2)(a);
 - e. Failed to maintain adequate aisle space in the container storage room, in violation of OAC rule 3745-54-35 and Permit Condition B.12; and
 - f. Failed to conduct weekly inspections of all less than ninety day hazardous waste generator storage areas, in violation of OAC rule 3745-66-74.
6. By letter dated July 28, 2009, Ohio EPA notified Respondent of the violations

referenced in Finding No. 5. of these Orders. This letter also notified Respondent that the violation referenced in Finding No. 5.a. of these Orders was abated, and that the violations referenced in Finding Nos. 5.c., 5.d., and 5.f. were addressed during the inspection.

7. By electronic mail dated July 30, 2009, and by letter dated August 31, 2009, Respondent submitted responses to Ohio EPA's letter dated July 28, 2009.
8. On August 19, 2009, Ohio EPA conducted a follow-up inspection at the Facility.
9. By electronic mail dated September 4, 2009, Ohio EPA requested additional information pertaining to the violations referenced in Finding No. 5. of these Orders.
10. By electronic mail dated September 15, 2009, and by letter dated September 22, 2009, Respondent submitted additional information in response to Ohio EPA's electronic mail request dated September 4, 2009.
11. By letter dated September 23, 2009, Ohio EPA notified Respondent that the violations referenced in Finding Nos. 5.b., 5.c., 5.d., 5.e., and 5.f. of these Orders were abated.
12. The Director has since determined that Respondent is in violation of ORC § 3734.02 (E) and (F), and ORC § 3734.11(B) for unlawfully storing waste beyond the time period allowed by Respondent's Permit.
13. Because the hazardous waste was shipped offsite to an authorized facility, there were no visible signs of a release, and Respondent will continue to use the container storage room for permitted storage of hazardous wastes, the Director has determined that no additional action is required of Respondent in regard to the violations referenced in Finding No. 12. 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 Ohio EPA the amount of \$10,140.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. \$8,112.00 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 30 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$4,056.00; and
- b. Within 120 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$4,056.00.

Respondent shall make each payment by tendering an official check made payable to "Treasurer, State of Ohio." The official checks shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the Facility. A copy of each check shall be submitted in accordance with Section X. of these Orders.

2. In lieu of paying the remaining \$2,028.00 of the civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of \$2,028.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD) pursuant to the following schedule:
 - a. Within 30 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,014.00; and
 - b. Within 120 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,014.00.

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 these checks 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.

3. Should Respondent fail to fund the SEP within the required time frames established in Order Nos. 2.a. through 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 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 and Respondent each reserve all 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. 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

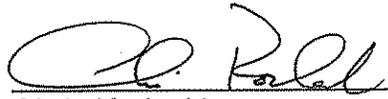
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



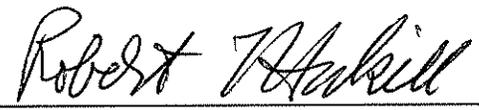
Chris Korleski
Director

April 5, 2010

Date

IT IS SO AGREED:

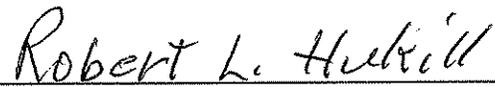
Hukill Chemical Corporation



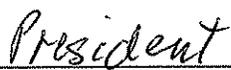
Signature

3/19/10

Date



Printed or Typed Name



Title