

OHIO E.P.A.

OCT -5 2005

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

P & J Industries, Inc.
4934 Lewis Avenue
Toledo, Ohio 43612

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 P & J Industries, Inc. (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§§ 3734.13, 3745.01 and 6111.03.

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, the Lewis Avenue Facility, or the Progress Avenue 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 Chapters 3734. and 6111. and the rules promulgated thereunder.

I certify this to be a true and accurate copy of the
official document as filed in the records of the Ohio
Environmental Protection Agency.

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 6111.01 and Ohio Administrative Code (OAC) rule 3745-50-10(A).
2. Respondent operates as a zinc/zinc-nickel electro-plater of fluid delivery parts for the automotive industry at 4934 Lewis Avenue, Toledo, Lucas County (Lewis Avenue Facility). Respondent also operates as a chrome/chrome-nickel electro-plater of tractor trailer exhaust pipes at 1270 Progress Avenue, Toledo, Lucas County (Progress Avenue Facility).

Hazardous Waste Related Findings

Findings for the Lewis Avenue Facility

3. At the Lewis Avenue 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 large quantity generator of hazardous waste at the Lewis Avenue Facility and has been issued generator identification number OHD 009 702 531. The hazardous waste generated by Respondent at the Lewis Avenue Facility includes wastewater treatment sludge (F006), nickel strip solution (D007, D008), and various spent electroplating tank solutions.
4. On February 24, 2004, Ohio EPA received a report from the City of Toledo, Department of Environmental Services, regarding yellow precipitate observed in Shantee Creek near the Lewis Avenue Facility. Also on February 24, 2004, Ohio EPA met with the City of Toledo near the Lewis Avenue Facility, traced the yellow precipitate upstream, and determined the source to be a leaking roll-off box located at the Lewis Avenue Facility containing solid and liquid phase F006 hazardous waste, which had been stored near a storm water drain at the Lewis Avenue Facility for at least seven days, and caused the migration of contamination beyond the boundaries of the Lewis Avenue Facility into off-site surface water and soils surrounding Shantee Creek.
5. On February 25, 2004, Ohio EPA arrived at the Lewis Avenue Facility and observed that on-site storm sewers had been cleaned, and Respondent was preparing to begin remediation of off-site surface water and associated soils surrounding Shantee Creek. Specifically, the on-site storm sewer was flushed of all residual precipitants and sediment, was visually inspected, and

determined to be in good condition by a third-party environmental contractor (contractor) conducting remediation activities at the Lewis Avenue Facility on behalf of Respondent.

6. On February 27, 2004, Ohio EPA conducted a compliance evaluation inspection at the Lewis Avenue Facility. As a result of the inspection, Ohio EPA determined that Respondent had:
 - a. Disposed of hazardous waste without a permit by releasing F006 hazardous waste onto a concrete pad at the Lewis Avenue Facility and into an on-site storm water drain, which migrated off-site beyond the boundaries of the Lewis Avenue Facility, and into the surface water and soils surrounding Shantee Creek, in violation of ORC § 3734.02(E) and (F);
 - b. Failed to maintain and operate the Lewis Avenue Facility in a manner that minimizes the potential that hazardous waste or hazardous waste constituents are released to the environment, in violation of OAC rules 3745-54-31/3745-65-31;
 - c. Failed to properly label a hazardous waste storage container, in violation of OAC rule 3745-52-34(C)(1);
 - d. Failed to maintain adequate aisle space in the hazardous waste container storage area, in violation of OAC rules 3745-54-35/3745-65-35;
 - e. Failed to conduct and document weekly inspections of the hazardous waste container storage area, in violation of OAC rules 3745-55-74/3745-66-74;
 - f. Failed to provide a leak detection system for a hazardous waste storage tank, in violation of OAC rules 3745-55-93(C)(3)/3745-66-93(C)(3); and
 - g. Failed to conduct daily inspections of a hazardous waste storage tank, in violation of OAC rules 3745-55-95/3745-66-95.
7. By letter dated April 2, 2004, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 6.a. through 6.g. of these Orders.
8. In correspondence dated April 29, 2004, Respondent provided responses to Ohio EPA's April 2, 2004 letter.

9. In correspondence received by Ohio EPA on May 6, 2004, Respondent provided a summary of the Shantee Creek remediation activities. Specifically, Respondent's contractor constructed coffer dams downstream of the storm sewer discharge point in 100-200 foot sections, re-routed Shantee Creek upon completion of coffer dam construction, and commenced to remove potentially impacted surface water, stream sediment, and stream bank soils from each section. Following several weeks of such activities, a total of 15,000 to 17,000 thousand gallons of surface water and 63.44 tons of stream sediment and bank soils were removed and properly managed by Respondent's contractor. Ohio EPA's Division of Emergency and Remedial Response and/or City of Toledo representatives conducted oversight of remediation activities at the Lewis Avenue Facility.
10. By letter dated May 28, 2004, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 6.b. through 6.d. of these Orders.
11. In correspondence dated June 14, 2004, Respondent provided responses to Ohio EPA's May 28, 2004 letter.
12. By letter dated August 17, 2004, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 6.e. through 6.g. of these Orders.
13. Based upon the information submitted to Ohio EPA by Respondent, referenced in Finding Nos. 8, 9 and 11 of these Orders, and the remedial activities undertaken by Respondent's contractor, as described in Finding Nos. 5 and 9 of these Orders, 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. 6.a. of these Orders.

Findings for the Progress Avenue Facility

14. At the Progress Avenue 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 at the Progress Avenue Facility and has been issued generator identification number OHD 081 217 465. The hazardous waste generated by Respondent at the Progress Avenue Facility includes wastewater treatment sludge (F006) and chrome sludge (D002, D007, D008).

15. On October 21, 2004, Ohio EPA received a report from the City of Toledo, Department of Environmental Services, regarding unlabeled containers of waste stored both inside and outside of the Progress Avenue Facility, as well as numerous piles of granulated waste stored on a gravel parking lot outside of the Progress Avenue Facility.
16. On October 27, 2004, Ohio EPA conducted a complaint investigation and compliance evaluation inspection at the Progress Avenue Facility. As a result of the inspection, Ohio EPA determined that Respondent had, *inter alia*:
 - a. Established and operated a hazardous waste storage facility by storing seven supersacks of F006 hazardous waste for more than 180 days without a permit, in violation of ORC § 3734.02(E) and (F);
 - b. Failed to evaluate several wastes to determine if those wastes were hazardous wastes, in violation of OAC rule 3745-52-11;
 - c. Failed to post the required emergency information next to a telephone at the Progress Avenue Facility, in violation of OAC rule 3745-52-34(D)(5)(b);
 - d. Failed to conduct and document weekly inspections of emergency equipment at the Progress Avenue Facility, in violation of OAC rules 3745-54-33/3745-65-33;
 - e. Failed to label each hazardous waste storage container with the words, "Hazardous Waste," in violation of OAC rule 3745-52-34(D)(4); and
 - f. Failed to conduct and document weekly inspections of areas where hazardous wastes are stored, in violation of OAC rules 3745-55-74/3745-66-74.
17. By letter dated November 16, 2004, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 16.a. through 16.f. of these Orders.
18. On December 13, 2004, Ohio EPA conducted a follow-up visit at the Progress Avenue Facility to observe sampling activities conducted by Respondent for the purpose of evaluating whether the unevaluated wastes, referenced in Finding No. 16.b. of these Orders, were hazardous wastes.

19. In correspondence dated December 22, 2004, and January 10 and 27, 2005, Respondent provided responses to Ohio EPA's November 16, 2004 letter, which included laboratory analyticals for waste sampling activities conducted on December 13, 2004, as referenced in Finding No. 18 of these Orders.
20. By letter dated January 20, 2005, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 16.c. through 16.f. of these Orders.
21. Because no releases of hazardous waste were observed at the Progress Avenue Facility as a result of the unpermitted storage of the seven supersacks of F006 hazardous waste, referenced in Finding No. 16.a. of these Orders, that occurred inside a building, 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. 16.a. of these Orders. In addition, and based upon the laboratory analyticals received by Ohio EPA on January 10 and 27, 2005, referenced in Finding No. 19 of these Orders, the Director has determined that Respondent has abated the violation referenced in Finding No. 16.b. of these Orders.

Surface Water Related Findings

22. On February 24, 2004, Ohio EPA documented a yellow coloration within Shantee Creek and the stream bed sediments caused by the discharge of a yellow precipitate through a storm sewer at the Lewis Avenue Facility and migrated beyond the boundaries of the Lewis Avenue Facility, a violation of Ohio's general water quality criteria set forth by OAC rule 3745-1-04(C).
23. Shantee Creek constitutes "waters of the state" as defined by ORC § 6111.01. Listed hazardous waste, as referenced in Finding Nos. 4 and 6.a. of these Orders, constitutes "industrial wastes" or "other wastes" as defined under ORC § 6111.01(C) and (D). Placement of this waste into waters of the state constitutes "pollution," as defined in ORC § 6111.01 (A).
24. Pursuant to ORC § 6111.04, no person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state.

25. Pursuant to ORC § 6111.07(A), no person shall violate or fail to perform any duty imposed by ORC §§ 6111.01 to 6111.08, or violate any order, rule, or term or condition of a permit issued or adopted by the Director pursuant to those sections. Each day of violation is a separate offense.
26. Based upon a review of the information obtained during the inspections referenced in Finding Nos. 4 through 6 of these Orders, as well as responses submitted by Respondent, referenced in Finding Nos. 8, 9, and 11 of these Orders, the Director has determined that Respondent has caused hazardous waste to be discharged to waters of the state without a permit, in violation of ORC § 6111.04(A).
27. The work required by these Orders will contribute to the prohibition or abatement of the discharge of industrial wastes or other wastes into the waters of the state. In issuing these Orders, the Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economical reasonableness of complying with these Orders, and to evidence relating to conditions calculated to result from compliance with these Orders, and their relation to benefits to the people of the state to be derived from such compliance.

V. ORDERS

Respondent shall achieve compliance with Chapters 3734. and 6111. of the ORC and the regulations promulgated thereunder according to the following compliance schedules:

1. For a period of one year following the effective date of these Orders, and to ensure that future spills and/or leaks are avoided, Respondent shall conduct and document inspections of all hazardous waste storage area(s) at the Lewis Avenue Facility once daily to determine that discharges to waters of the state are not occurring. If a discharge is discovered, it shall be eliminated and the area cleaned up within 1 hour of discovery. In addition, Ohio EPA must be notified of the discharge by calling 1-800-282-9378 within one hour of discovery.
2. Within 10 days after the effective date of these Orders, Respondent shall contact Ohio EPA's Northwest District Office (NWDO), Division of Surface Water (DSW) storm water coordinator by calling (419) 352- 8461 to schedule an evaluation regarding the applicability of the storm water regulations to the Lewis Avenue Facility. If it is determined that a general or individual storm

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water permit is required, Respondent shall submit the required application, completed and approvable, within 30 days of the evaluation to the NWDO, DSW storm water coordinator.

3. Respondent shall pay Ohio EPA the total amount of \$65,600.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. \$46,000.00 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 90 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,500.00;
 - b. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,500.00;
 - c. Within 270 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,500.00;
 - d. Within 360 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,500.00;
 - e. Within 450 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$3,700.00;
 - f. Within 540 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$3,700.00;
 - g. Within 630 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$3,700.00;
 - h. Within 720 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$3,700.00;
 - i. Within 810 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$6,300.00;
 - j. Within 900 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$6,300.00;
 - k. Within 990 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$6,300.00; and

- i. Within 1,080 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$6,300.00.

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, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent. A copy of each check shall be submitted in accordance with Section X. of these Orders.

4. Respondent shall pay to Ohio EPA the amount of \$14,400.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 6111. In lieu of paying \$11,600.00 of this amount, Respondent shall contribute \$11,600.00 to the Maumee River Remedial Action Plan (Maumee River RAP) as credit toward a supplemental environmental project (SEP) to enable the Maumee River RAP to conduct projects such as seeding conservation filter/buffer zones, restoration/creation of habitats, streambank cleanups, and student sampling programs as well as the implementation of other projects to improve water quality in the Maumee Area of Concern. Payments shall be made in accordance with the following schedule:
 - a. Within 90 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$800.00;
 - b. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$800.00;
 - c. Within 270 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$800.00;
 - d. Within 360 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$800.00;
 - e. Within 450 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,100.00;
 - f. Within 540 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,100.00;
 - g. Within 630 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,100.00; and
 - h. Within 720 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,100.00.

Payments shall be made by delivering certified checks made payable to "TMACOG-Maumee RAP" specifically earmarked for deposit into the appropriate account of the Maumee River RAP to the Toledo Metropolitan Area Council of Governments (TMACOG), P.O. Box 9508, Toledo, Ohio 43697-9508. Respondent shall stipulate that the payment is to be used exclusively for direct project expenses as determined by the Maumee River RAP.

5. Should Respondent fail to fund the SEP within the required time frames established in Order Nos. 4.a. through 4.h., 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 by tendering an official check made payable to "Treasurer, State of Ohio" and 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 Lewis Avenue Facility. A copy of this check shall be submitted in accordance with Section X. of these Orders.
6. In lieu of paying the remaining \$19,600.00 in hazardous waste related claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734., and in lieu of paying the remaining \$2,800.00 in surface water related claims for civil penalties, which may be assessed pursuant to ORC Chapter 6111., Respondent shall fund a supplemental environmental project (SEP) by making a combined contribution totaling \$22,400.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD) in accordance with the following schedule:
 - a. 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 \$500.00;
 - b. 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 \$500.00;
 - c. Within 270 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$500.00;
 - d. Within 360 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$500.00;
 - e. Within 450 days after the effective date of these Orders, Respondent

shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$1,500.00;

- f. Within 540 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$1,500.00;
- g. Within 630 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$1,500.00;
- h. Within 720 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$1,500.00;
- i. Within 810 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$3,600.00;
- j. Within 900 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$3,600.00;
- k. Within 990 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$3,600.00; and
- l. Within 1,080 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$3,600.00.

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, P.O. Box 1049, Columbus, Ohio 43216-1049, 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.

- 7. Should Respondent miss a scheduled payment as described in Order Nos. 6.a. through 6.l., 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.

3. 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 and Division of Surface Water each acknowledge, 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's Division of Hazardous Waste Management and Division of Surface Water 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 Lewis Avenue and Progress Avenue Facilities.

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

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of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to Order Nos. 3, 6, and 7 of these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
Division of Hazardous Waste Management
347 N. 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.

All documents required to be submitted by Respondent pursuant to Order Nos. 1, 2, 4, and 5 of these Orders shall be addressed to:

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Ohio Environmental Protection Agency
Northwest District Office
Division of Surface Water
347 N. Dunbridge Road
Bowling Green, Ohio 43402
Attn: DSW 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 Surface Water
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Enforcement Section

For deliveries to the building:

Joseph P. Koncelik, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Surface Water
122 South Front Street
Columbus, Ohio 43215
Attn: Manager, Enforcement 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 at the Lewis Avenue Facility and Progress Avenue Facility, as well as corrective action at the Lewis Avenue Facility and Progress Avenue 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 performing such closure and 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 management units at the Lewis Avenue Facility and Progress Avenue Facility, as well as corrective action at the Lewis Avenue Facility and Progress Avenue Facility by Respondent, which rights Ohio EPA do 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

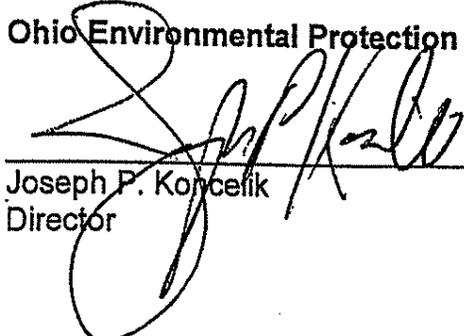
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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. Korycek
Director

OCT 5 2005

Date

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IT IS SO AGREED:

P & J Industries, Inc.

James E. Powers, Sr.
Signature

09/12/2005
Date

James E. Powers, Sr.
Printed or Typed Name

Vice President/Secretary
Title