



**CITIZEN ADVISORY**  
Public Interest Center (614) 644-2160

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JUN 25 2015

OHIO EPA NEDO

**FOR RELEASE:** June 23, 2015  
**CONTACT:** Mike Settles, (614) 644-2160

**Ohio EPA, Heritage Thermal Services Settle Violations From Ash Release**

Heritage Thermal Services, a commercial hazardous waste incinerator facility in East Liverpool, has agreed to resolve air and hazardous waste violations at its facility, which stemmed from a July 13, 2013, ash release into a nearby neighborhood.

Due to a malfunction that forced ductwork out of place, approximately 761 pounds of incinerator ash was discharged forcefully enough from the incinerator to deposit the material in a nearby neighborhood outside the facility's boundaries.

The company hired an environmental contractor to conduct sampling in areas affected with ash deposits to determine the impact of the release. Impacts were determined to be minimal by the Ohio Department of Health and readings were within standards that are considered safe.

As required by Ohio EPA, Heritage took measures to prevent future incidents by intensifying screening; adding tighter restrictions on waste; performing more frequent inspections of solids within the secondary combustion chamber to remove and control buildup; redesigning the slag quench system; and cancelling problem waste streams. These measures will need to be added to the facility's permit requirements.

In addition, Heritage agreed to pay a \$34,000 civil penalty. A portion of the penalty (\$6,800) will go to Ohio EPA's Clean Diesel School Bus Fund. This fund helps retrofit school buses with pollution control equipment to reduce particulate emissions from diesel fuel engines to protect students who ride buses. The remaining \$27,200 will be equally split between Ohio EPA's Environmental Education Fund and the administration of air pollution control programs.

Ohio EPA focused on this ash incident while U.S. EPA focused on a more global compliance review so that the agencies would not overlap or duplicate efforts.

The settlement with Heritage is included with this Citizen Advisory. Other Heritage-related documents are available online at: [www.epa.ohio.gov](http://www.epa.ohio.gov) (click on "document search").



John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Craig W. Butler, Director

June 23, 2015

CERTIFIED MAIL

John Avdellas  
President  
Heritage Thermal Services, Inc.  
1250 Saint George Street  
East Liverpool, Ohio 43920

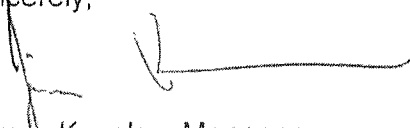
Re: Final Findings and Orders for hazardous  
waste and air pollution violations at 1250  
Saint George St. in East Liverpool, Ohio.

Dear Mr. Avdellas:

Transmitted herewith are the Final Findings and Orders ("Orders") of the Director of Ohio EPA concerning the above-referenced matter.

Please note that the effective date of the Orders is the date that the Orders were entered into the Ohio EPA Director's journal, which is the date that is stamped on the first page of the Orders.

Sincerely,



James Kavalec, Manager  
Compliance/Enforcement Section  
Division of Air Pollution Control

xc: Heidi Griesmer, PIC  
Carol Butler, Fiscal Office  
Stephen Feldmann/Todd Anderson, Legal Office  
Teri Finfrock/Mitch Mathews, DMWM

OHIO E.P.A.

JUN 22 2015

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Heritage Thermal Services, Inc.  
1250 Saint George Street  
East Liverpool, Ohio 43920

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 Heritage Thermal Services, Inc. (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3704.03, 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 Chapters 3704., and 3734. and the rules promulgated there under.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is a "person" as defined in ORC §§ 3704.01(O), 3734.01(G) and Ohio Administrative Code (OAC) rules 3745-15-01(V) and 3745-50-10(A).
2. Respondent owns and operates a commercial hazardous waste incinerator facility located at 1250 Saint George Street, East Liverpool, Columbiana County, Ohio 44117 (Facility).

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: Jerry Lassiter Date: 6-22-15

3. At the Facility, Respondent treats and stores "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Respondent holds a current hazardous waste installation and operation permit (Permit), Ohio Permit # 02-15-0189, and has been issued a US EPA ID number, OHD980613541, and air pollution control Facility ID # 0215020233.
4. At the Facility, Respondent incinerates (treats) hazardous waste through a rotary kiln. Generally, the incineration system includes a waste feed mechanism, rotary kiln, secondary combustion chamber (SCC), slag quench tank, slag and ash removal equipment and other air pollution control equipment. The hazardous wastes treated by Respondent at the Facility include a variety of characteristic and listed hazardous waste as those hazardous wastes are described in OAC rules 3745-51-21 through 3745-51-24 and 3745-51-31 through 3745-51-33. Respondent "generates" hazardous waste from Respondent's treatment of hazardous waste, including, but not limited to, incinerator ash, from the incineration (treatment) of hazardous waste. Respondent's "generated" incinerator ash is characteristic and listed hazardous waste, typically exhibiting characteristics of hazardous waste for metals, as described in OAC rule 3745-51-24, as well as listed hazardous waste, as described in OAC rules 3745-51-31 through 3745-33, pursuant to OAC rule 3745-51-03(C)(2), commonly referred to as the "derived from rule."
5. On December 22, 2008, Ohio EPA issued a Title V renewal permit-to-operate (P0084372), effective January 12, 2009, to Respondent for emissions unit (EU) N001 (hazardous waste incinerator). On June 30, 2011, Ohio EPA issued an administrative modification for Permit-to-Install (P0108374). On July 5, 2011, Ohio EPA issued an administrative permit amendment for Title V permit-to-operate (P0084372). The terms and conditions of P0108374 and P0084372 contain applicable emission limitations and operational control and reporting requirements for EU N001. Specifically, P0084372 and P0108374, state, among other requirements, that air contaminants emitted by the emissions units covered by this permit shall not cause a public nuisance, in violation of OAC rule 3745-15-07. The EUs listed in P0084372 and P0108374 are "air contaminant sources" as defined in Ohio OAC Rule 3745-15-01(C) and (X).
6. On July 13, 2013, an incident occurred at the Facility which caused a release of hazardous waste from the Facility. Specifically, a large slag/ash mass fell into the slag quench tank. This event caused an extreme energetic steam release, which caused an over pressurization within the SCC, which propagated through the system, eventually causing ductwork to be displaced. This displaced ductwork allowed for uncontrolled emissions, including incinerator ash, to be discharged. The Respondent estimated a total of 2,536 pounds of incinerator ash

was released from the system, of which, Respondent estimates 761 pounds was emitted and eventually deposited outside of the Facility boundary.

7. Respondent verbally notified Ohio EPA of the incident described in Finding No. 6. of these Orders approximately thirty minutes after the incident occurred and informed Ohio EPA Respondent was implementing Respondent's contingency plan, as found in Respondent's Hazardous Waste Permit. On July 24, 2013, Respondent provided a written notification of the implementation of the contingency plan.
8. Based upon the information referenced in Findings Nos. 6. and 7. of these Orders, Ohio EPA determined Respondent caused a public nuisance in violation of OAC rule 3745-15-07, the terms and conditions of P0084372 and P0108374, and ORC 3704. In correspondence dated August 5, 2013, Ohio EPA notified Respondent of this violation.
9. On August 7, 2013, Ohio EPA and Respondent held a conference call to discuss the circumstances which caused the incident described in Finding No. 6. of these Orders and what corrective actions Respondent had taken to date to remediate the release and prevent such an incident from occurring again.
10. Based upon the information referenced in Findings Nos. 6., 7., and 9. of these Orders, Ohio EPA determined, *inter alia*, Respondent caused the establishment and operation of a hazardous waste disposal facility without a hazardous waste installation and operation permit, in violation of ORC § 3734.02 (E) and (F) and OAC rule 3745-54-31, by causing hazardous waste ash to be released off-site of the Facility. At a minimum, Respondent caused hazardous waste ash to be deposited (disposed) in the neighborhood adjacent to the Facility. However, as described in Respondent's October 21, 2013 letter, Respondent did take action to attempt cleanup of the released ash in the vicinity of the Facility, yet issues such as weather conditions, e.g., major rainfall event, private property access issues and an inability to ascertain precise amount of deposition hindered ash remediation.
11. By letter dated October 2, 2013, Respondent was notified of the violations referenced in Finding No. 10. of these Orders. Furthermore, Ohio EPA requested Respondent to evaluate the Permit's waste analysis plan for potential modifications as well as any additional information of actions taken or planned on being taken by Respondent to prevent this type of incident from occurring again.
12. On July 29 and 30, 2013, Respondent, through its environmental contractor, conducted a sampling event in areas off-site of the Facility potentially impacted by the release of ash. The purpose of the sampling event was to determine if

metal concentrations in surficial and shallow soils were statistically different from statewide background concentrations of metals.

13. In a letter dated October 21, 2013, Respondent submitted a response to Ohio EPA's correspondence referenced in Finding No. 11. of these Orders. In the correspondence, Respondent provided additional information with regard to sampling of impacted areas where ash was disposed and generally describes actions taken to prevent an incident as described in Finding No. 6. of these Orders from occurring again. With regard to the sample results, Respondent provided information which demonstrated that areas which would have been impacted by the disposal of ash from the incident were not statistically different from statewide background concentration of metals. Additionally, Respondent informed Ohio EPA that preventive actions would be assessed and findings of preventative measures would be provided to Ohio EPA in the first quarter of 2014.
14. In correspondence dated April 9, 2014, Respondent provided Ohio EPA an update on Respondent's investigation to the July 13, 2013, incident referenced in Finding No. 6. of these Orders and the preventative measures taken by Respondent as a result of this investigation.
15. On September 22, 2014, Ohio EPA and Respondent met to discuss measures taken by Respondent to prevent an incident as referenced in Finding No. 6. of these Orders and the outcomes of the initiated preventative measures to date. Actions included additional screening and testing of refinery waste streams, an unscheduled shut down to inspect the solids within the SCC, participation in ash symposium, Slag Quench re-design, cancellation of problematic waste streams and modification of the Permit's waste analysis plan.
16. In correspondence dated October 17, 2014, Respondent provided a summary of the issues discussed in the September 22, 2014 meeting.
17. Based upon the information described in Finding Nos. 10.a., 13. and 15. of these Orders, the Director has determined no further injunctive relief action is necessary to remediate the release of ash from the incident of July 13, 2013. Furthermore, the Director has determined no further action is required at this time to address the operation and maintenance of the Facility. Therefore, the Director has determined Respondent has corrected the violations referenced in Finding Nos. 8 and 10. of these Orders.
18. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of

complying with the following Orders and their benefits to the people of the State to be derived from such compliance.

#### **V. ORDERS**

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated there under according to the following compliance schedule:

1. Respondent shall pay the amount of thirty-four thousand dollars (\$34,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. and 3734. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for twenty-seven thousand two hundred dollars (\$27,200) of the total amount. The \$27,200 official check shall be submitted to Carol Butler, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA  
Office of Fiscal Administration  
P.O. Box 1049  
Columbus, Ohio 43216-1049

2. In lieu of paying the remaining six thousand eight hundred dollars (\$6,800) of the civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$6,800 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$6,800. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.
3. Should Respondent fail to fund the SEP within the required time frame set forth in Order 2, Respondent shall pay to Ohio EPA, within 7 days after failing to comply with Order No. 2., the remaining \$6,800 of the civil penalty in accordance with the procedures in Order 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  
2110 East Aurora Road  
Twinsburg, Ohio 44087  
Attn: DMWM Manager &  
Ed Fasko, DAPC Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Materials and Waste Management  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attention: Teri Finfrock, Assistant Environmental Administrator &



James Kavalec, 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 and Respondent reserve all rights, privileges, and causes of action, except as specifically waived in Section IX 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**

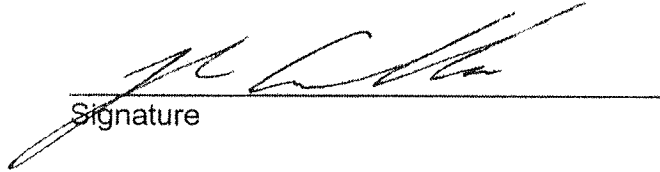


\_\_\_\_\_  
Craig W. Butler  
Director

**RECEIVED**  
JUN 25 2015  
**OHIO EPA NEDO**

**IT IS SO AGREED:**

**Heritage Thermal Services, Inc.**



\_\_\_\_\_  
Signature

6/11/15  
\_\_\_\_\_  
Date

John Avdellas  
\_\_\_\_\_  
Printed or Typed Name

President  
\_\_\_\_\_  
Title