

OHIO E.P.A.

DEC 29 2006

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY.

In the Matter of:

Milacron Inc.  
418 West Main Street  
Mt. Orab, Ohio 45154

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:  
:  
:

Director's Final Findings  
and Orders

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Milacron Inc. ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6111.03 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 the Facility (as hereinafter defined) 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 6111 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has made the following findings:

1. Respondent owns and operates a manufacturing facility located at 418 West Main Street, Mt. Orab, Brown County, Ohio ("the Facility.") The Facility has an active

indirect discharge permit (1DP00002\*DP) to discharge to the Mt. Orab wastewater treatment plant.

2. On March 7, 2006, approximately 700 gallons of chromium-laden wastewater was discharged to the Mt. Orab wastewater treatment plant. The spill occurred after a pump that regulated the pretreatment system was unintentionally left on, which caused the spill to overflow containment diking and then overflow into the sump in the Facility's basement. From the sump, the spill was then pumped to the Facility's sanitary sewer, and then to the Mt. Orab wastewater treatment plant. The wastewater contained approximately 80mg/L of chromium, exceeding the permitted chromium discharge limit of 2.77mg/L in the Facility's discharge permit.
3. Upon discovery of the spill, Respondent immediately notified Ohio EPA's spill hotline and the Village of Mt. Orab wastewater treatment plant on March 8, 2006. Staff from the treatment plant also noted a color change at the wastewater treatment plant on March 8, 2006. The staff grabbed samples downstream of the wastewater treatment plant's discharge to Snapping Turtle Run. The test results of the samples are as follows:

<u>Parameter</u>	<u>Sampling Date</u>	<u>Sample Result</u>	<u>Water Quality Std.</u>
Hexavalent Chromium	3/8/06	7.89 mg/l	.016 mg/l
Hexavalent Chromium	3/8/06	5.26 mg/l	.016 mg/l
Hexavalent Chromium	3/9/06	1.22 mg/l	.016 mg/l

4. As a result of the spill, the Mt. Orab wastewater treatment plant violated the water use designations and statewide criteria for hexavalent chromium set forth in OAC 3745-1-07. Pursuant to OAC 3745-3-03(C)(2)(g)(iii), an industrial user is in significant noncompliance with its discharge permit when a violation of a pretreatment effluent limit has caused interference or a pass through with the publicly owned treatment works.
5. Previously, on May 9, 2005, a spill occurred at the Facility that reached the sanitary sewer through the basement. The spill was approximately 500 gallons, and test results indicated that the discharge contained 82.8 mg/l of nickel, in exceedance of Respondent's permit limit of 2.38 mg/l for nickel. The discharge was reported to Ohio EPA in a timely manner.
6. Respondent has also, on at least the dates outlined in the chart attached hereto as Attachment 1 and incorporated by reference as if fully rewritten herein, exceeded the final effluent limitations of its indirect discharge permit from at least June 2004 through at least July 2005. Respondent's failure to comply with the final effluent limitations of its indirect discharge permit is a violation of the permit and ORC §§

6111.04 and 6111.07.

7. Pursuant to OAC Rule 3745-1-04(C) all surface waters of the state shall be free from materials entering the waters as a result of human activity producing color, odor or other conditions in such a degree as to create a nuisance.
8. ORC § 6111.04(A)(1) provides that no person shall cause pollution or place or caused 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.
9. ORC § 6111.04(C) provides that no person to whom a permit has been issued shall place or discharge, or cause to be placed, or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes in excess of the permissive discharges specified under an existing permit without first receiving a permit from the Director to do so.
10. 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 of Ohio EPA pursuant to those sections. Each day of violation constitutes a separate offense.
11. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

#### V. ORDERS

1. Within ninety (90) days after the effective date of these Orders, Respondent shall submit to Ohio EPA Southwest District Office for approval, and in accordance with Section X of these Orders, a spill plan that includes the actions to be taken in the event of a spill or slug load and the names and phone numbers of all agencies/entities that are to be contacted when a spill occurs. The spill plan shall also include a regularly scheduled training program for all plant personnel with the potential to be involved in a spill and/or slug load, on spill response procedures and notifications, and the necessary steps to be taken when an accidental release occurs.
2. Within sixty (60) days after the effective date of these Orders, Respondent shall submit a proposal to install any necessary equipment and alarms to the

pretreatment system and the basement sump to reduce the possibility of a similar release from occurring again. If Ohio EPA determines that the installation of any equipment requires a permit to install ("PTI"), Respondent shall submit to Ohio EPA an approvable PTI application with detailed plans within sixty (60) days from the date of such notification from Ohio EPA. If Ohio EPA determines that a PTI is required, Respondent shall install any necessary equipment within ninety (90) days of the approval of the PTI application by Ohio EPA, or of notification from Ohio EPA that no PTI is required for installation.

3. Respondent shall pay the amount of twenty five thousand dollars (\$25,000.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6111. 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 \$25,000.00. The official check shall be submitted to Brenda Case, 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

A photocopy of the check shall be sent to Ohio EPA Southwest District Office 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 Surface Water 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 in writing 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.

#### **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 activities occurring on or at the 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 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 shall be addressed to:

Ohio Environmental Protection Agency  
Southwest District Office/Division of Surface Water  
Attention: Enforcement Supervisor  
401 East Fifth Street  
Dayton, Ohio 45402

#### **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, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, 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 or 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 AGREED:**

Milacron Inc.

Mark Vanzant  
Signature

11-Dec-06  
Date

Mark Vanzant  
Printed or Typed Name

Director of Manufacturing and Engineering  
Title

**IT IS SO ORDERED AND AGREED:**

Ohio Environmental Protection Agency

Joseph P. Koncelik  
Director

12/28/06  
Date