

OHIO E.P.A.

FEB 24 2006

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the Matter of:**

**Textileather Corporation**  
3729 Twining Street  
Toledo, Ohio 43693

**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 Textileather Corporation, 3729 Twining Street, Toledo, Ohio 43693 (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 the 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

All of the findings necessary for the issuance of these Orders pursuant to ORC §§ 3734.13 and 3745.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any matter of law or fact. 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 owns and operates a vinyl coated fabrics and film manufacturing facility located at 3729 Twining Street, Toledo, Ohio 43693 (Facility).
3. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD980279376 for the Facility.
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, including waste inks (D001, D007, D008, D035), waste plasticiser (D006, D007, D008) and spent parts washer solvent (D001, D008, D018, D039, D040).
5. On June 7, 2002, Ohio EPA personnel conducted a hazardous waste compliance inspection at the Facility and determined that Respondent had, *inter alia*:
  - a. Failed to update the facility contingency plan, in violation of OAC rules 3745-65-52(D) and 3745-65-54(D);
  - b. Failed to provide annual hazardous waste management training for personnel, in violation of OAC rule 3745-65-16(C); and
  - c. Failed to store used oil in a container labeled with the words used oil, in violation of OAC rule 3745-279-22(C).
6. In a letter dated June 13, 2002, Ohio EPA notified Respondent of the violations noted in Finding No. 5.
7. On June 7, 2002 and June 27, 2002, Respondent submitted information in response to Ohio EPA's June 13, 2002 letter.
8. In a letter dated July 3, 2002, Ohio EPA notified Respondent that the violations noted in Finding No. 5 had been abated.

9. On April 12, 2004, Ohio EPA personnel conducted a hazardous waste compliance and closure investigation at the Facility and determined that Respondent had, *inter alia*:
  - a. Failed to properly mark the date when accumulation began for 39 drums and one roll-off container of hazardous waste, in violation of OAC rule 3745-52-34(A)(2) ;
  - b. Failed to properly label several drums of hazardous waste with the words "Hazardous Waste", in violation of OAC rule 3745-52-34(A)(3);
  - c. Failed to keep 22 drums of solvent paint waste and debris properly closed at all times except when adding or removing material, in violation of OAC rule 3745-66-73(A); and
  - d. Failed to maintain aisle space around the flammable hazardous waste storage cabinet in the hazardous waste storage area, in violation of OAC rule 3745-65-35.
10. In a letter dated April 23, 2004, Ohio EPA notified Respondent of the violations noted in Finding No. 9. and requested a response.
11. On May 5, 2004, Respondent provided a response to Ohio EPA's April 23, 2004 letter.
12. In a letter dated May 26, 2004, Ohio EPA notified Respondent that the violations noted in Finding No. 9. had been abated.

#### **V. ORDERS**

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

1. a. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$18,000.00 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: Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$14,400.00 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 by an official check made payable to "Treasurer, State of Ohio" for \$14,400.00. The official check 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 this check shall be submitted in accordance with Section X. of these Orders.

- b. In lieu of paying the remaining \$3,600.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of \$3,600.00 to the Ohio EPA Clean Diesel School Bus Program. Respondent shall make the payment on or within 30 days after July 1, 2005 by tendering an official check made payable to "Treasurer, State of Ohio" for \$3,600.00. The official check 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.
- c. Should Respondent fail to fund the SEP within the required time frame established in Order No. 1.b., Respondent shall pay to Ohio EPA the amount of \$3,600.00 in accordance with the procedures in Order No. 1. 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 required to be submitted by Respondent pursuant to these Orders shall be addressed to:

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

#### **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**

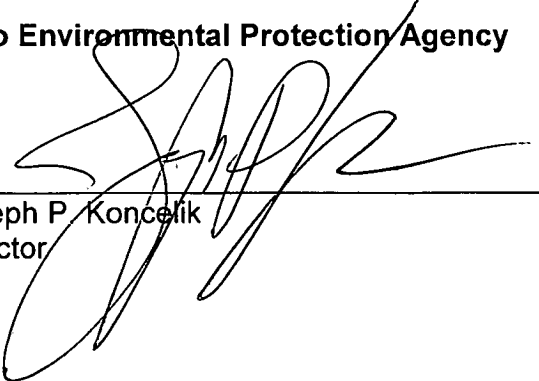
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIV. SIGNATORY AUTHORITY**

Each undersigned representative 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**

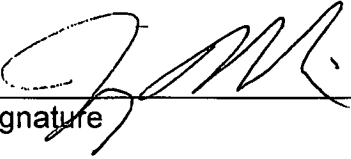
  
\_\_\_\_\_  
Joseph P. Koncelik  
Director

FEB 24 2006

Date

**IT IS SO AGREED:**

**Textileather Corporation**

  
\_\_\_\_\_  
Signature

2-2-06  
Date

Jay Miller  
Printed or Typed Name

SR Dir. of Operations  
Title