

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
AUG 24 2005

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

T & W Forge, Inc. 562 West Ely St. Alliance, Ohio 43326)))	<u>Director's Findings</u> <u>and Orders</u>
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PREAMBLE

It is agreed by the parties [Parties] hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to T & W Forge, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("O.R.C.") § 3745.01 and 3751.09.

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 O.R.C. Chapter 3751 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates a forge, an establishment which, when combined with a second establishment, T & W Stamping, Inc., constitutes a facility. Both are subsidiaries of Durrell Metal Products. T & W Forge, Inc. specializes in the manufacture of turbine blades, propeller hubs, and other, specialty, primarily stainless steel forgings used in power generation, mining, and other applications.

2. Pursuant to Ohio Administrative Code ("OAC") rule 3745-100-03, the owner of a facility that is subject to toxic release inventory reporting requirements must retain appropriate records to document annual toxic chemical use. Such records are to be readily available for purposes of inspection by the Ohio EPA.
3. Pursuant to Ohio Administrative Code ("OAC") rules 3745-100-06 and 3745-100-07, the owner or operator of a facility that is classified within a covered Standard Industrial Classification ("SIC") code, has 10 or more full-time employees, and manufactures, processes, and/or uses toxic chemicals listed in OAC rule 3745-100-10 in excess of the applicable threshold, must file appropriate TRI reports with the Ohio EPA and U.S. EPA on or before July 1 of the following year.
4. Respondent's establishments are classified within covered Standard Industrial Classification codes, specifically SIC 3462 (iron and steel forgings) and 3469 (metal stampings).
5. Respondent reported employment of 100 employees in 2000, 115 employees in 2001, and 75 employees in 2002 at the Alliance facility.
6. Chromium, Chemical Abstract Services (CAS) number 7440-47-3 is a listed toxic chemical in OAC rule 3745-100-10.
7. On March 31, 2004, Ohio EPA inspected the Respondent's facility and reviewed TRI record keeping and reporting requirements. Required TRI reporting records had not been developed nor maintained.
8. Information subsequently provided by Respondent indicates that the Respondent processed chromium in excess of 25,000 pounds during the three audit years.
9. Respondent provided TRI reports, supporting information and appropriate fees subsequent to the inspection and prior to the issuance of these orders.
10. 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 relation to benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Pursuant to O.R.C. § 3751.10, Respondent is assessed a civil penalty in the amount of fourteen thousand sixty-two dollars (\$14,062) in settlement of Ohio EPA's claims for civil penalties. Payment shall be made in four installments in accordance with the payment schedule in Order 2. Payment shall be made by official checks made payable to "Treasurer, State of Ohio" and submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the facility.

A copy of each check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Division of Air Pollution Control
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

2. Respondent shall comply with the following payment schedule for the civil penalty identified in Order 1:

<u>Payment Deadline</u>	<u>Amount Due</u>
within 90 days of the effective date of these orders	\$3,515.50
within 180 days of the effective date of these orders	\$3,515.50
within 270 days of the effective date of these orders	\$3,515.50
within 360 days of the effective date of these orders	\$3,515.50

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the total payment 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 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

Copies of all documents required to be submitted by Respondent pursuant to these Orders shall be provided and addressed to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Air Pollution Control
122 South Front Street, P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: James A. Orlemann, Assistant Chief, SIP Development and
Enforcement

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

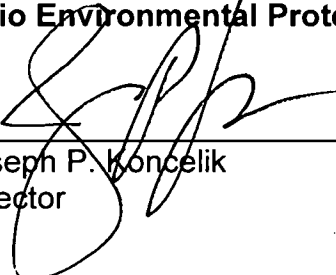
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



Date

IT IS SO AGREED:

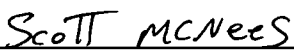
T & W Forge, Inc.



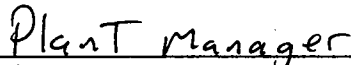
Signature



Date



Printed or Typed Name



Title