

OHIO E.P.A.

DEC 21 2005

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the Matter of:**

**Gayston Corporation**  
200 S. Pioneer Boulevard  
Springboro, Ohio 45066

**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 Gayston Corporation (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 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

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 manufactures ordinance products, is a provider of commercial machining services, and operates a facility located at 200 S. Pioneer Boulevard, Springboro, Warren County (Facility).
3. 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. Respondent is a large quantity generator of hazardous waste and has been assigned generator identification number OHD982068579. The hazardous waste generated by Respondent at the Facility includes painting solvents and filters (D001, D005, D006, D008, D035, D039, D040, F003), wastewater treatment sludge (D007, F019), and acid/rinse baths (D002, D005, D007).
4. On December 22, 1999, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of that inspection, Ohio EPA determined that Respondent had, *inter alia*:
  - a. Failed to properly manage excess accumulations of hazardous waste, failed to mark each container of hazardous waste with the accumulation start date, and failed to label each container of hazardous waste with the words, "Hazardous Waste", in violation of OAC rule 3745-52-34(A) and (C); and
  - b. Failed to conduct and document inspections of areas where hazardous wastes are stored at the Facility, in violation of OAC rule 3745-66-74.
5. By letter dated January 6, 2000, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 4.a. and 4.b. of these Orders.
6. On March 7, 2000, Ohio EPA conducted a follow-up site visit at the Facility and, based upon observations conducted during the site visit and by letter dated March 8, 2000, notified Respondent that Respondent had abated the violations referenced in Finding Nos. 4.a. and 4.b. of these Orders.
7. On January 12 and 13, 2005, Ohio EPA conducted compliance evaluation inspections at the Facility. As a result of those inspections, Ohio EPA determined that Respondent had, *inter alia*:

- a. Failed to provide initial and continuing hazardous waste management training to employees that handle and/or manage hazardous waste, and failed to maintain written job titles and descriptions for employees who receive hazardous waste management training, in violation of OAC rule 3745-65-16(A) through (D);
  - b. Failed to include an updated list of the names, addresses and phone numbers of all persons at the Facility qualified to act as emergency coordinator in the contingency plan, in violation of OAC rule 3745-65-52(D);
  - c. Failed to update the contingency plan immediately upon changes to the Facility, in violation of OAC rule 3745-65-54;
  - d. Failed to properly manage excess accumulations of hazardous waste, and failed to label containers of hazardous waste at the Facility, in violation of OAC rule 3745-52-34(A) and (C); and
  - e. Failed to conduct or document inspections of areas where hazardous wastes are stored at the Facility, in violation of OAC rule 3745-66-74.
8. By letter dated January 24, 2005, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 7.a. through 7.e. of these Orders.
  9. In correspondence dated February 24, 2005, Respondent provided responses to Ohio EPA's January 24, 2005 letter.
  10. By letter dated March 31, 2005, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 7.b. through 7.e. of these Orders.
  11. In correspondence dated April 14 and May 10, 2005, Respondent provided responses to Ohio EPA's March 31, 2005 letter.
  12. By letter dated May 12, 2005, Ohio EPA notified Respondent that Respondent had abated the violation referenced in Finding No. 7.a. of these Orders.

## **V. ORDERS**

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

1. Respondent shall pay Ohio EPA the amount of \$8,000.00 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:
  - a. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$6,400.00 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 \$6,400.00. 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 \$1,600.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of \$1,600.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD). Respondent shall make the payment within 30 days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$1,600.00. 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, within 7 days after failing to comply with Order No. 1.b., the amount of \$1,600.00 in accordance with the procedures in Order No. 1.a.

## **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  
Southwest District Office  
Division of Hazardous Waste Management  
401 East 5<sup>th</sup> Street  
Dayton, Ohio 45402  
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**

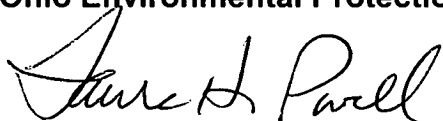
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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

DEC 21 2005

\_\_\_\_\_  
Date

**IT IS SO AGREED:**

**Gayston Corporation**



\_\_\_\_\_  
Signature

22 NOV. 05

\_\_\_\_\_  
Date

JAY G. HEITZ

\_\_\_\_\_  
Printed or Typed Name

EXEC. V.P.

\_\_\_\_\_  
Title