

OHIO E.P.A.

JAN 11 2005

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

UHHS/CSAHS-Cuyahoga Inc.
2351 East 22nd Street
Cleveland, Ohio 44115

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 UHHS/CSAHS-Cuyahoga Inc. (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 will 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 owns and formerly operated a healthcare providing facility, St.

Luke's Hospital, located at 11311 Shaker Boulevard, Cleveland, Cuyahoga County, Ohio (Facility). At the Facility, Respondent provided medical and laboratory services to the general public until January, 2002, at which time Respondent closed the Facility and ceased providing healthcare services.

3. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD 116 874 419.
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. Respondent is a large quantity generator of hazardous waste. The hazardous waste generated by Respondent at the Facility includes expired or unusable laboratory chemicals. Respondent also generated infectious and other solid wastes at the Facility.
5. On April 26, 2004, Ohio EPA received a telephone call from Stericycle, Inc. (Stericycle). Stericycle operates as an infectious waste incinerator and autoclaving facility in Warren, Trumbull County, Ohio, and does not currently hold a permit issued in accordance with ORC Chapter 3734. to treat hazardous waste. During the April 26, 2004 telephone call, Stericycle notified Ohio EPA that Respondent offered four containers of waste for treatment via autoclaving at Stericycle. Stericycle further stated that an inspection of the containers revealed that the contents included ignitable wastes which were not suitable for treatment via autoclaving. The four containers were segregating and placed in an isolation trailer at Stericycle.
6. On May 17, 2004, Ohio EPA conducted a complaint investigation at Stericycle to determine the validity of claims that ignitable and flammable wastes were offered for treatment via autoclaving. As a result of that investigation, Ohio EPA determined that the four containers of waste, referenced in Finding No. 5 of these Orders, contained numerous smaller containers of hazardous waste liquids (D001, U122).
7. On May 17, 2004, Ohio EPA conducted a complaint investigation at St. Vincent's Charity Hospital regarding the Facility. St. Vincent's Charity Hospital is also owned by Respondent and is located at 2351 East 22nd Street, Cleveland, Cuyahoga County, Ohio. Representatives of the Facility were located at St. Vincent's Charity Hospital, as the Facility was no longer operating. As a result of this investigation, Ohio EPA determined that Respondent had, *inter alia*:
 - a. Caused hazardous waste to be transported to a facility not operating under a hazardous waste permit issued in accordance with ORC

Chapter 3734., in violation of ORC § 3734.02(F); and

- b. Failed to adequately evaluate wastes generated at the Facility to determine if those wastes were hazardous wastes, in violation of OAC rule 3745-52-11.
8. By letter dated July 21, 2004, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 7.a. and 7.b. of these Orders.
9. In correspondence dated August 26, 2004, Respondent provided responses to Ohio EPA's July 21, 2004 letter, which included hazardous waste manifests demonstrating that the hazardous waste, referenced in Finding Nos. 5 and 6 of these Orders, was removed from Stericycle and transported to a permitted hazardous waste facility.
10. On October 7, 2004, Ohio EPA conducted a site visit at the Facility.
11. By letter dated November 4, 2004, and based upon the information obtained during Ohio EPA's October 7, 2004 inspection, referenced in Finding No. 10 of these Orders, Ohio EPA notified Respondent that Respondent had abated the violation referenced in Finding No. 7.b. of these Orders.
12. Based upon the information contained in Respondent's August 26, 2004 letter to Ohio EPA, referenced in Finding No. 9 of these Orders, the Director has determined that no additional action is required of Respondent regarding the ORC § 3734.02(F) 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. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$10,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and 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 \$10,000.00. 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 the Respondent and the Facility. A copy of this check shall be submitted in accordance with Section X. of these Orders.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official check 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 pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Hazardous Waste Management
2110 E. Aurora Road
Twinsburg, Ohio 44087
Attn: DHWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Christopher Jones, 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:

Christopher Jones, 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

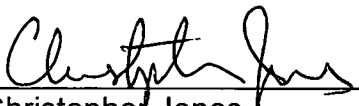
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



Christopher Jones
Director

1-7-05

Date

IT IS SO AGREED:

UHHS/CSAHS-Cuyahoga Inc.



Signature

12/14/04

Date

Jeffrey S. Jeney

Printed or Typed Name

President, SVCH

Title