

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
MAR 19 2004
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Environmental Specialists, Inc.
1021 Illinois Avenue
McDonald, Ohio 44437

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 Environmental Specialists, 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 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

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 "transfer facility," as that term is defined by OAC rule 3745-50-10(A), and operates as a hazardous waste and used oil transporter, and as a used oil processor/re-refiner at 1101 Andrews Avenue, Youngstown, Mahoning County, Ohio (Facility).
3. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD000816868.
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 conditionally exempt small quantity generator of hazardous waste. The hazardous waste generated by Respondent at the Facility includes parts washer liquid and rags/solids from parts washing operations (D001, F003, F005).
5. On March 25 and April 10, 2003, respectively, Ohio EPA conducted a complaint investigation and compliance evaluation inspection at the Facility. As a result of the investigation and inspection, Ohio EPA determined that Respondent had, *inter alia*:
 - a. Established and operated a hazardous waste storage facility without a permit, in violation of ORC § 3734.02(E) & (F);
 - b. Failed to document and retain records demonstrating that on-specification used oil burned for energy recovery meets the fuel specifications found in OAC rule 3745-279-11, in violation of OAC rule 3745-279-72;
 - c. Failed to document and retain records demonstrating that on-specification used oil, which meets the fuel specifications found in OAC rule 3745-279-11 and are burned for energy recovery, is shipped to an on-specification used oil burner, in violation of OAC rule 3745-279-74(B) & (C);
 - d. Failed to develop and maintain a written Waste Analysis Plan which describes the procedures that will be used to comply with the

requirements of OAC rules 3745-279-53 and 3745-279-72, in violation of OAC rule 3745-279-55; and

- e. Failed to maintain a written operating record which includes the results of used oil analyses performed pursuant to OAC rule 3745-279-55, in violation of OAC rule 3745-279-57(A)(2).
6. By letter dated June 5, 2003, Ohio EPA notified Respondent of the violations referenced in Finding No. 5.
7. In correspondences dated July 6, August 16, and September 12, 2003, Respondent provided responses to Ohio EPA's June 5, 2003 letter.
8. By letter dated October 9, 2003, Ohio EPA notified Respondent that, following review of the responses referenced in Finding No. 7, Respondent had stored hazardous waste on-site greater than 10 days without a permit, and remained in violation of ORC § 3734.02(E) & (F).
9. By letter dated October 9, 2003, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 5.b. through 5.e.
10. The Director has determined that no additional action is required of Respondent at this time regarding the ORC § 3734.02(E) and (F) violations referenced in Finding Nos. 5.a. and 8.

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 \$19,000.00 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 pursuant to the following schedule:
 - a. Within 90 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$4,750.00;
 - b. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$4,750.00;

- c. Within 270 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$4,750.00; and
- d. Within 360 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$4,750.00.

Payments shall be made by official checks made payable to "Treasurer, State of Ohio." The official checks 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 each 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 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
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 reserves its rights to exercise its lawful authority to require Respondent to perform closure of the hazardous waste unit at the Facility, as well as corrective action at the Facility, at some time in the future, pursuant to ORC Chapter 3734. or any other applicable law. Respondent reserves its rights to raise any administrative, legal, or equitable claim or defense with respect to any final action of the Director regarding such closure or corrective action. Ohio EPA and Respondent each reserve all other 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, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the rights to seek closure of the hazardous waste unit and corrective action at the Facility by Respondent, which rights Ohio EPA does not waive, 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

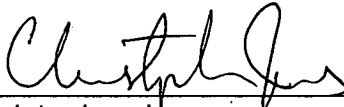
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

MAR 19 2004

Date

IT IS SO AGREED:

Environmental Specialists, Inc.



Signature

3/11/04

Date

Kenneth H. Wells

Printed or Typed Name

President / General Manager

Title