

OHIO E.P.A.

JUL 20 2004

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Kriegel Capital, LLC
120 W. Main Street
Van Wert, Ohio 45891

**Director's Final
Findings and Orders**

and

Qualitec Metal Finishers, Inc.
441 Grand Lake Road
Celina, Ohio 45822

Respondents

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Kriegel Capital, LLC (Respondent Kriegel) and Qualitec Metal Finishers, Inc. (Respondent Qualitec) 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 Kriegel and Respondent Qualitec and successors in interest liable under Ohio law. No change in ownership of Respondent Kriegel and Respondent Qualitec or of the Facility shall in any way alter Respondent Kriegel's and Respondent Qualitec'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 Kriegel and Respondent Qualitec are each a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
2. Until approximately June 5, 2003, Ringle Plating Corporation (Ringle) owned and operated a metal finishing facility located at 441 Grand Lake Road, Celina, Mercer County, Ohio (Facility). At the Facility, Ringle electroplated nickel chrome and zinc chromate on carbon steel, and generated "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. At the Facility, Ringle was a large quantity generator of hazardous waste, including dried filter cake sludge (F006).
3. Ringle notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD041350745.
4. On July 22, 2003, Ohio EPA conducted a complaint investigation and compliance evaluation inspection at the Facility. During this site visit, Ohio EPA learned that the Facility was purchased by Respondent Kriegel on or about June 5, 2003, and that Ringle was no longer operating the Facility. Furthermore, Ohio EPA learned that the Facility had been operated by Respondent Qualitec since the purchase of the Facility by Respondent Kriegel. A records review conducted during the July 22, 2003 site visit revealed that from November, 2002, until May, 2003, Ringle had established and operated a hazardous waste storage facility without a permit by storing hazardous waste in an accumulation area in excess of 90 days, in violation of ORC § 3734.02(E) and (F). Furthermore, the unpermitted storage unit had not been closed in accordance with OAC Chapters 3745-54 and 55.
5. At the Facility, Respondent Qualitec currently operates a metal finishing operation, which is similar to the activity conducted by the former owner, Ringle. Respondent Qualitec generates "hazardous waste" at the Facility, as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A)

and 3745-51-03. Respondent Qualitec is a large quantity generator of hazardous waste. The hazardous waste generated by Respondent Qualitec at the Facility includes dried filter cake sludge (F006).

6. As a result of the investigation and inspection referenced in Finding No. 4. of these Orders, Ohio EPA determined that Respondent Kriegel and Respondent Qualitec, *inter alia*,:
 - a. Are the owner and operator, respectively, of an unpermitted hazardous waste storage facility, in violation of ORC § 3734.02(E) and (F). OAC rule 3745-50-45 provides that owners and operators of hazardous waste management units must have a permit during the active life (including the closure period) of the unit. Because the unpermitted hazardous waste storage unit referenced in Finding No. 4. of these Orders was not closed in accordance with OAC Chapters 3745-54 and 55 prior to Respondent Kriegel's purchase of and Respondent Qualitec's operation of the unpermitted storage unit on or about June 5, 2003, Respondent Kriegel is the owner and Respondent Qualitec is the operator of an unpermitted hazardous waste storage facility and Respondent Kriegel and Respondent Qualitec are subject to the hazardous waste facility standards found in OAC Chapters 3745-54 and 55, including closure and post closure care.
 - b. Failed to operate the Facility in a manner which minimizes the possibility of an unplanned release of hazardous waste, in violation of OAC rules 3745-54-31/3745-65-31;
 - c. Failed to evaluate ten electroplating-related wastes to determine if those wastes were a hazardous waste, in violation of OAC rule 3745-52-11;
 - d. Failed to provide annual hazardous waste management training for employees at the Facility, in violation of OAC rules 3745-54-16/3745-65-16;
 - e. Failed to make the appropriate arrangements with local authorities, in violation of OAC rules 3745-54-37/3745-65-37;
 - f. Failed to maintain contingency plan on-site at the Facility, in violation of OAC rules 3745-54-52/3745-65-52 through 3745-54-54/3745-65-54;

- g. Failed to conduct and document weekly inspections of emergency equipment, in violation of OAC rules 3745-54-33/3745-65-33;
 - h. Failed to conduct and document weekly inspections of hazardous waste storage areas, in violation of OAC rules 3745-55-74/3745-66-74;
 - i. Failed to properly label and date a hazardous waste roll-off container, in violation of OAC rule 3745-52-34(A)(2) and (3);
 - j. Failed to maintain adequate aisle space in the hazardous waste storage area, in violation of OAC rules 3745-54-35/3745-65-35; and
 - k. Failed to close a hazardous waste container when not adding or removing hazardous waste, in violation of OAC rules 3745-55-73(A)/3745-66-73(A).
7. By letter dated September 29, 2003, Ohio EPA notified Respondent Kriegel and Respondent Qualitec of the violations referenced in Finding Nos. 6.a. through 6.k. of these Orders.
8. In correspondence dated October 31, 2003, and January 14, 2004, Respondent Kriegel and Respondent Qualitec provided responses to Ohio EPA's September 29, 2003 letter.
9. Based upon a review of the responses referenced in Finding No. 8. of these Orders, the Director has determined that Respondent Kriegel and Respondent Qualitec had, inter alia, failed to meet the design, installation, operation, and inspection requirements for two tank systems that stored hazardous waste, in violation of OAC rules 3745-55-91/3745-66-91 through 3745-55-96/3745-66-96.
10. In correspondence dated February 26, 2004, Respondent Qualitec submitted documentation informing Ohio EPA that a number of the previously unevaluated wastes referenced in Finding No. 6.c. of these Orders, were determined to be hazardous waste.
11. By letter dated March 10, 2004, Respondent Qualitec submitted to Ohio EPA financial documentation in an effort to demonstrate that it did not possess the financial ability to pay the entire civil penalty settlement included in the Orders proposed to Respondents Qualitec and Kriegel on February 24,

2003. Ohio EPA has reviewed Respondent Qualitec's financial information and has determined that Respondent Qualitec has the ability to pay a civil penalty settlement of no more than \$20,000.00.

13. Based upon the information obtained in the responses referenced in Finding Nos. 8. and 12. of these Orders, the Director has determined that Respondent Kriegel and Respondent Qualitec have abated the violations referenced in Finding Nos. 6.d. through 6.k., and 9 of these Orders.

V. ORDERS

Respondent Kriegel and Respondent Qualitec 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 Kriegel and Respondent Qualitec shall submit to Ohio EPA documentation demonstrating that all waste at the Facility has been properly evaluated, in accordance with OAC rule 3745-52-11. In addition, within 30 days after the effective date of these Orders, Respondent Kriegel and Respondent Qualitec shall submit to Ohio EPA hazardous waste manifests for off-site shipments of all wastes determined to be hazardous waste, in accordance with OAC Chapter 3745-52. Completion of Order No. 1. of these Orders shall abate the violation referenced in Finding No. 6.c. of these Orders.
2. Within 60 days after the effective date of these Orders, Respondent Kriegel and Respondent Qualitec shall submit to Ohio EPA, for review and approval a sampling and analysis plan (SAP) for sampling activities to determine the rate and extent of contamination at the unpermitted hazardous waste storage unit referenced in Finding No. 4 of these Orders.
3. The SAP is subject to Ohio EPA review and approval. If Ohio EPA does not approve the SAP and provides Respondent Kriegel and Respondent Qualitec with a written statement of deficiencies, Respondent Kriegel and Respondent Qualitec shall revise the SAP or submit a new SAP for approval that corrects the stated deficiencies within 30 days after receipt of such written statement. Ohio EPA may approve the SAP with modifications. If Ohio EPA modifies the SAP, the modified SAP becomes the approved SAP. Upon Respondent Kriegel and Respondent Qualitec's receipt of approval from Ohio EPA of the SAP, Respondent Kriegel and Respondent Qualitec

shall implement the approved SAP in accordance with the terms, conditions and schedules contained therein.

4. Following receipt of the analytical results generated by the implementation of the approved SAP, Respondent Kriegel and Respondent Qualitec shall, pursuant to the schedule in the approved SAP, submit to Ohio EPA a report (SAP Report) that includes the laboratory analysis and evaluation of data generated from implementing the approved SAP. Using the format found in OAC rule 3745-50-42(D), Respondent Kriegel and Respondent Qualitec shall certify that the sampling and analysis was conducted in accordance with the approved SAP. The certification shall be signed by Respondent Kriegel and Respondent Qualitec and shall be included in the SAP Report.
5. The SAP Report is subject to Ohio EPA review and approval. If Ohio EPA approves the SAP Report and it indicates that soil, but not ground water, has been contaminated by hazardous waste or hazardous constituents above the remediation levels identified in Ohio EPA's "Closure Plan Review Guidance" dated March 1, 1999 as supplemented, as a result of hazardous waste stored at the Facility without a permit, in violation of ORC § 3734.02(E) and (F) and the rules promulgated thereunder, Respondent Kriegel and Respondent Qualitec shall prepare a Remediation Plan.
6. The Remediation Plan shall be submitted to Ohio EPA within 30 days after Ohio EPA's approval of the SAP Report. The Remediation Plan shall propose methods of and a schedule for remediation of the area(s) at the Facility where hazardous waste was stored without a permit, in violation of ORC § 3734.02(E) and (F) and the rules promulgated thereunder.
7. The Remediation Plan is subject to Ohio EPA review and approval. If Ohio EPA does not approve the Remediation Plan and provides Respondent Kriegel and Respondent Qualitec with a written statement of deficiencies, Respondent Kriegel and Respondent Qualitec shall revise the Remediation Plan or submit a new Remediation Plan for approval that corrects the stated deficiencies within 30 days after receipt of such written statement.
8. Upon receipt of Ohio EPA's approval of the Remediation Plan, Respondent Kriegel and Respondent Qualitec shall implement the Remediation Plan in accordance with the requirements of OAC rules 3745-55-11/3745-66-11 and 3745-55-14/3745-66-14 and the specifications and schedules contained in the approved Remediation Plan and any conditions attached thereto.

9. Within 60 days after the completion of work required by the approved Remediation Plan, Respondent Kriegel and Respondent Qualitec shall submit to Ohio EPA, for review and approval, a certification that the remediation work was conducted in accordance with the approved Remediation Plan. The certification shall be signed by Respondent Kriegel and Respondent Qualitec using the format found in OAC rule 3745-50-42(D).
10. If Ohio EPA accepts the SAP Report and it indicates that both soil and ground water have been contaminated by hazardous waste, hazardous constituents or hazardous waste decomposition products to the ground water above the remediation levels identified in Ohio EPA's "Closure Plan Review Guidance" dated March 1, 1999 as supplemented, and it is the result of hazardous waste storage at the Facility without a permit, in violation of ORC § 3734.02(E) and (F) and the rules promulgated thereunder, Respondent Kriegel and Respondent Qualitec shall submit to Ohio EPA a closure plan prepared in accordance with OAC rules 3745-55-11/3745-66-11 through 3745-55-20/3745-66-20.
11. The closure plan shall be submitted to Ohio EPA within 30 days after Respondent Kriegel's and Respondent Qualitec's receipt of Ohio EPA's approval of the SAP Report. The closure plan is subject to Ohio EPA approval. If Ohio EPA does not approve the closure plan and provides Respondent Kriegel and Respondent Qualitec with a written statement of deficiencies, Respondent Kriegel and Respondent Qualitec shall, within 30 days after receipt of such written statement, revise the closure plan or submit a new closure plan to Ohio EPA addressing the deficiencies. Upon receipt of Respondent Kriegel's and Respondent Qualitec's new or revised closure plan, Ohio EPA will notify Respondent Kriegel and Respondent Qualitec in writing that Ohio EPA either approves the closure plan or approves the closure plan with modifications. If Ohio EPA modifies the closure plan, the modified closure plan shall become the approved closure plan.
12. Upon receiving Ohio EPA's written approval of the closure plan, Respondent Kriegel and Respondent Qualitec shall implement the approved closure plan pursuant to OAC rules 3745-55-11/3745-66-11 through 3745-55-20/3745-66-20, the specifications and schedules contained in the approved closure plan, and any modifications attached to the approved closure plan.
13. Within 60 days after completion of closure, Respondent Kriegel and Respondent Qualitec shall submit to Ohio EPA a closure certification in accordance with OAC rule 3745-55-15/3745-66-15.

14. Within 30 days after submitting the closure plan referenced in Order No. 10. of these Orders, Respondent Kriegel and Respondent Qualitec shall submit to Ohio EPA a closure cost estimate and documentation demonstrating that Respondent Kriegel and Respondent Qualitec have established financial assurance and liability coverage for closure in accordance with OAC rules 3745-55-42/3745-66-42 through 3745-55-47/3745-66-47. Once Respondent Kriegel and Respondent Qualitec completes the actions required under Orders Nos. 2 through 14 of these Orders, Respondent Kriegel and Respondent Qualitec will have abated the violations referenced in Finding Nos. 6.a. and 6.b. of these Orders.
15. Respondent Qualitec shall pay Ohio EPA the amount of \$20,000.00 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 30 days after the effective date of these Orders, Respondent Qualitec shall pay to Ohio EPA the amount of \$5,000.00;
 - b. Within 180 days after the effective date of these Orders, Respondent Qualitec shall pay to Ohio EPA the amount of \$5,000.00;
 - c. Within 270 days after the effective date of these Orders, Respondent Qualitec shall pay to Ohio EPA the amount of \$5,000.00; and
 - d. Within 360 days after the effective date of these Orders, Respondent Qualitec shall pay to Ohio EPA the amount of \$5,000.00.

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 Respondent Qualitec and the Facility. A copy of each check shall be submitted in accordance with Section X. of these Orders.

VI. TERMINATION

Respondent Kriegel's and Respondent Qualitec's obligations under these Orders shall terminate when Respondent Kriegel and Respondent Qualitec certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondent Kriegel and Respondent Qualitec have 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 Kriegel and Respondent Qualitec of the obligations that have not been performed, in which case Respondent Kriegel and Respondent Qualitec 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 Kriegel and Respondent Qualitec to Ohio EPA and shall be signed by a responsible official of Respondent Kriegel and Respondent Qualitec. For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principal business function of Respondent Kriegel and Respondent Qualitec.

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 Kriegel's and Respondent Qualitec'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 Kriegel and Respondent Qualitec.

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 Kriegel and Respondent Qualitec pursuant to these Orders shall be addressed to:

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

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 Kriegel and Respondent Qualitec to perform corrective action at the Facility at some time in the future, pursuant to ORC Chapter 3734. or any other applicable law. Respondent Kriegel and Respondent Qualitec each reserve their rights to raise any administrative, legal or equitable claim or defense with respect to any final action of the Director regarding such corrective action. Ohio EPA, Respondent Kriegel and Respondent Qualitec 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 Kriegel and Respondent Qualitec consent to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek corrective action at the Facility by Respondent Kriegel and Respondent Qualitec, which right Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondent Kriegel's and Respondent Qualitec's liability for the violations specifically cited herein.

Respondent Kriegel and Respondent Qualitec hereby waive the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent Kriegel and Respondent Qualitec hereby waive any and all rights Respondent Kriegel and Respondent Qualitec may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA, Respondent Kriegel and Respondent Qualitec agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent Kriegel and Respondent Qualitec each retain the right to intervene and participate in such appeal. In such an event, Respondent Kriegel and Respondent Qualitec shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

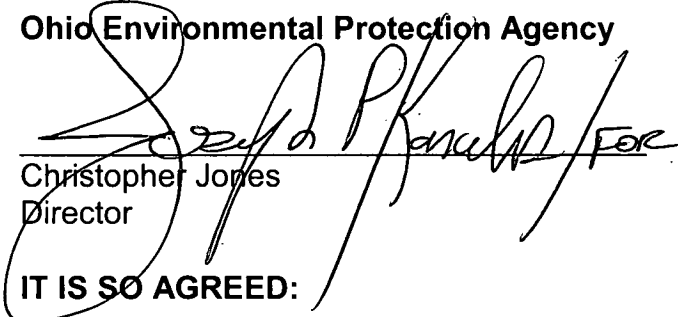
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

July 20, 2004

Date

IT IS SO AGREED:

Kriegel Capital, LLC



Signature

7-13-04

Date

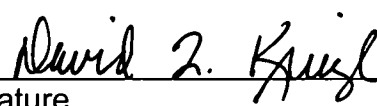
David L. Kriegel

Printed or Typed Name

Chairman

Title

Qualitec Metal Finishers, Inc.



Signature

7-13-04

Date

David L. Kriegel

Printed or Typed Name

Chairman

Title