

OHIO E.P.A.

FEB 27 2004

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Pollution Risk Services, LLC
100 E-Business Way, Suite 210
Cincinnati, Ohio 45241

Respondent

Director's Final
Findings and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Pollution Risk Services, LLC (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

All of the findings necessary for the issuance of these Orders pursuant to ORC §§ 3734.13 and 3734.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any matter of law or fact. 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. Bedford Land Development Company owns the property located at 24400 Solon Road, Bedford, Ohio, formerly known as the "Bailey Walker China site" (Facility).
3. In August, 2001, Bedford Land Development Company, IKON Office Solutions, Inc., Coca-Cola Bottling Company of New York, Inc. and The Pfaltzgraff Co. entered into a settlement agreement and release filed with the United States District Court, Northern District of Ohio, Eastern Division. In the settlement agreement and release, the parties agreed to the implementation and payment of an environmental investigation and the development of a remediation plan addressing contamination at the Facility. In the settlement agreement and release, the parties agreed to conduct the environmental investigation and remediation at the Facility under Ohio's Voluntary Action Program.
4. Respondent was retained as the environmental consultant to perform the investigation and remedial work at the Facility.
5. On May 2, 2002, Ohio EPA received from Respondent a request for authorization to engage in filling, grading, excavating, building, drilling, or mining at the Facility as required by OAC rule 3745-27-13. Specifically, Respondent requested under OAC rule 3745-27-13 authorization to conduct sampling and analysis and removal of nonhazardous waste piles at the Facility known as "piles A and B."
6. As part of Ohio EPA's review of Respondent's request under OAC rule 3745-27-13, on September 12, 2002, Ohio EPA conducted an inspection at the Facility. During this inspection, Ohio EPA noted at least four waste piles at the Facility in addition to nonhazardous waste piles A and B referenced in Finding No. 5. of these Orders. The additional waste piles were identified as "piles E and F." Pile E was located on the ground and Pile F was located on a concrete slab and on the ground at the Facility. At the time of the inspection, Respondent stated that piles E and F were "hot" for lead.
7. It is Ohio EPA's understanding that the soil which was ultimately placed into piles E and F referenced in Finding No. 6. of these Orders underwent treatment *in situ*. Further, it is Ohio EPA's understanding that piles E and F were generated and placed outside the footprint of contamination at the Facility after the soils were stabilized *in situ*. At the time of the inspection, Ohio EPA requested that all analytical data from the stabilization of the soils

which were placed in piles E and F and all information regarding the stabilization process (e.g. pilot studies, chemistry of the reactions, etc.) be supplied to Ohio EPA.

8. On September 20, 2002, Ohio EPA met with Respondent. At the meeting Ohio EPA stated that to verify that piles E and F were not hazardous, Respondent must submit to Ohio EPA the pre-treatment analytical results, a description of the treatment process and the post treatment testing.
9. By letter dated October 1, 2002, Ohio EPA requested that Respondent submit to Ohio EPA information regarding piles E and F and notified Respondent not to remove piles E and F from the Facility pending review and concurrence by Ohio EPA on the waste characterization of piles E and F.
10. On April 11, 2003, Ohio EPA approved Respondent's request under OAC rule 3745-27-13 as referenced in Finding No. 5. of these Orders.
11. On April 21, 2003, Ohio EPA received an April 17, 2003 report entitled "Treatment of Impacted Surface Soil at the Bailey Walker China Site."
12. On August 22, 2003, Ohio EPA informed Respondent during a conference call that although the soil underwent treatment *in situ* prior to being placed into piles E and F, the sampling data submitted by Respondent to Ohio EPA for piles E and F could not be validated and that a Sampling and Analysis Plan (SAP) must be submitted to Ohio EPA to confirm the characterization of piles E and F.
13. On August 24, 2003, Ohio EPA received from Respondent via facsimile, a proposed SAP for confirmation sampling of piles E and F. On August 27, 2003, Ohio EPA met with Respondent at the Facility to review Ohio EPA's comments on the SAP. By letter dated August 28, 2003, Ohio EPA approved the SAP.
14. On August 28, 2003, Respondent collected samples from piles E and F in accordance with the approved SAP. Ohio EPA also obtained "split" samples from piles E and F. Ohio EPA forwarded the "split" samples to the Kemron laboratory for analysis.
15. On September 9 and 11, 2003, Ohio EPA received copies of Respondent's sample results and of the Kemron report of the "split" samples taken from piles E and F. The analytical results from the samples demonstrated that portions of both piles E and F were above the hazardous waste regulatory

limit for lead.

16. On October 10, 2003, Ohio EPA received from Respondent via electronic mail a "Draft Site Remediation Plan for Stockpiles E and F."
17. On October 14, 2003, Ohio EPA sent to Respondent via electronic mail a conditional approval of the Draft Site Remediation Plan for Stockpiles E and F referenced in Finding No. 16. of these Orders.
18. On October 16, 2003, Respondent conducted additional sampling of piles E and F at the Facility.
19. On October 27, 2003, Respondent submitted via facsimile the results for the samples taken on October 16, 2003 from piles E and F. The sampling results demonstrated that portions of piles E and F were above the hazardous waste regulatory limit for lead.
20. The Director has determined that the Facility meets the definition of a "hazardous waste facility" as defined in OAC rule 3745-50-10(A) and that through its excavation and placement of hazardous waste in piles E and F on the ground at the Facility, Respondent meets the definition of "operator" as defined in OAC rule 3745-50-10(A). The Director has further determined that Respondent stored and disposed of hazardous waste in piles E and F at the Facility without a hazardous waste permit, in violation of ORC § 3734.02(E) and (F).
21. On November 18, 2003, Respondent submitted to Ohio EPA via electronic mail and facsimile a revised SAP and Site Remediation Plan for piles E and F. Original versions of the revised SAP and Site Remediation Plan were also submitted to Ohio EPA.
22. On February 2, 2004, Ohio EPA received a supplement to the SAP and Site Remediation Plan referenced in Finding No. 21. of these Orders.
23. Ohio EPA has reviewed Respondent's revised SAP and Site Remediation Plan and the supplement thereto referenced in Finding No. 22. of these Orders and has determined that all of Ohio EPA's comments have been addressed. Accordingly, Ohio EPA approves Respondent's revised/supplemented SAP and Site Remediation Plan.

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 implement the approved Site Remediation Plan as referenced in Finding No. 23. of these Orders in accordance with the specifications and schedules contained in the Site Remediation Plan and any conditions attached thereto.
2. Within 60 days after the completion of work required by the Site Remediation Plan, Respondent shall submit to Ohio EPA, for review and approval, a certification and supporting documentation demonstrating that the work was performed in accordance with the approved Site Remediation Plan. The certification shall be signed by Respondent using the format found in OAC rule 3745-50-42(D). Ohio EPA's approval of the certification will abate the violation referenced in Finding No. 20. of these Orders.
3. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$8,000 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 \$8,000. 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 when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has 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 of the obligations that have not been performed, in which case Respondent 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 to Ohio EPA and shall be signed

by a responsible official of Respondent. For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principal business function of Respondent.

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 the 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 East 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 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 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 right to seek corrective action at the Facility by Respondent, which right 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

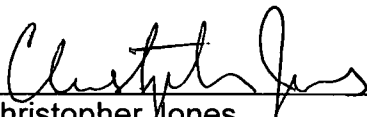
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



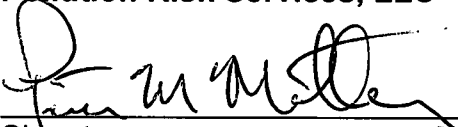
Christopher Jones
Director

FEB 27 2004

Date

IT IS SO AGREED:

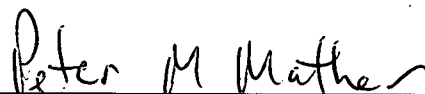
Pollution Risk Services, LLC



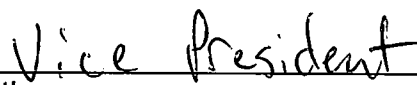
Signature

2/10/04

Date



Printed or Typed Name



Title