

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Onyx industrial Services, Inc.
6151 Executive Boulevard
Huber Heights, Ohio 45424

Respondent

**Director's Final
Findings and Orders**

OHIO E.P.A.
FEB - 5 2003
ENTERED DIRECTOR'S JOURNAL

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Onyx Industrial Services, 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 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 hazardous waste transporter and operates a hazardous waste transfer facility located at 6151 Executive Boulevard, Huber Heights,

Montgomery County, Ohio (Facility).

2. Respondent was authorized to do business in the State of Ohio on June 9, 1994.
3. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
4. On May 23, 2002, Respondent transported in a tanker truck approximately 3,500 gallons of D007 hazardous waste from AK Steel's Coshocton, Ohio facility. The tanker truck containing the 3,500 gallons of D007 hazardous waste was taken to the Facility.
5. On May 24, 2002, Respondent mistakenly dispatched the tanker truck containing the D007 hazardous waste referenced in Finding No. 4. of these Orders to the Honda of America facility located at 12500 Meranda Road, Anna, Ohio.
6. At the Honda of America facility, Respondent pumped non-hazardous waste coolant generated by Honda of America into the tanker truck where the non-hazardous waste coolant was mixed with the 3,500 gallons of D007 hazardous waste. Next, Respondent pumped the mixture of non-hazardous waste coolant and D007 hazardous waste into Honda of America's wastewater storage tanks. The wastewater storage tanks are part of Honda of America's wastewater treatment plant. The Honda of America facility does not hold a hazardous waste facility installation and operation permit.
7. On May 29, 2002, Respondent discovered that the tanker truck containing the D007 hazardous waste had been dispatched to the Honda of America facility. On May 31, 2002, Respondent notified Ohio EPA that it had mistakenly transported hazardous waste to the Honda of America facility.
8. By letter dated August 12, 2002, Ohio EPA notified Respondent that Respondent had transported hazardous waste to a facility which does not hold a hazardous waste facility installation and operation permit, in violation of ORC § 3734.02(F). In the August 12, 2002 letter, Ohio EPA also informed Respondent that it had transported hazardous waste without a manifest, in violation of OAC rule 3745-53-20.
9. Also by letter dated August 12, 2002, Ohio EPA informed Respondent and Honda of America that the wastewater storage tanks referenced in Finding No. 6. of these Orders must be tripled rinsed with analytical results of the rinseate sent to Ohio EPA for review and approval.

10. From August 19 through August 30, 2002, Respondent removed hazardous waste liquids and sludge from and decontaminated the wastewater storage tanks referenced in Finding No. 6. of these Orders.
11. By letter dated September 17, 2002, Respondent notified Ohio EPA that the wastewater storage tanks had been decontaminated and the analytical results indicted levels of D007 hazardous waste were less than .050 mg/ml.
12. The Director has determined that Respondent has abated the violations referenced in Finding No. 8. 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 to Ohio EPA the amount of \$7,500 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 \$7,500. 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[s] 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 Fifth Street
Dayton, Ohio 45402-2911
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

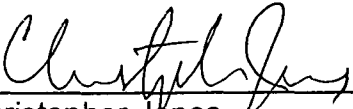
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

FEB 05 2003
Date

IT IS SO AGREED:

Onyx Industrial Services, Inc.



Signature

1/22/03
Date

RANDALL C. LAWSON II
Printed or Typed Name

VICE PRESIDENT - FINANCE & ADMINISTRATION
Title