

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the Matter of:**

**Atlas Industrial Contractors, Inc.  
5275 Sinclair Road  
Columbus, Ohio 43229**

:  
:  
:

**Director's Final Findings  
and Orders**

ENTERED DIRECTOR'S JOURNAL

DEC 31 2002

OHIO E.P.A.

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Atlas Industrial Contractors, Inc. ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§3704.03 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 3704 and the rules promulgated thereunder.

**IV. FINDINGS OF FACT**

All of the findings necessary for the issuance of these Orders pursuant to ORC §§ 3704.03 and 3745.01 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 operates a machinery fabrication and rigging business at 5275 Sinclair Road ("Facility") in Columbus, Ohio.

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2. Respondent began operations at the Facility on May 1, 1992.
3. On July 29, 1994, Ohio EPA conducted an inspection at the Facility and discovered Respondent was operating four air emissions units without having obtained a permit-to-install ("PTI") or a permit-to-operate ("PTO") for any of the units.
4. In a Notice of Violation dated August 1, 1994, Ohio EPA informed Respondent that it was in violation of OAC rules 3745-31-02 and 3745-35-02, which require, respectively, PTIs for installation and PTOs for operation of the air emissions units.
5. In correspondence dated August 15, 1994, Respondent indicated that it would submit PTI and PTO applications by October 31, 1994.
6. On October 31, 1994, Respondent submitted PTI and PTO applications to Ohio EPA for four air emissions units.
7. On March 29, 1995, Ohio EPA issued PTI #01-5235 to Respondent for the following emissions units:

<u>Source #</u>	<u>Description</u>
P001	Fabrication Area
F001	Plant Roadway and Parkway
K001	Paint Room #1
K002	Paint Room #2

8. On August 21, 1998, Ohio EPA conducted an inspection at the Facility.
9. In a Notice of Violation dated August 26, 1998, Ohio EPA informed Respondent of the following violations discovered at the Facility during its August 21, 1998 inspection:
  - a. Respondent had installed and was operating an air emissions unit (shot blaster) at the Facility without obtaining a PTI and PTO, in violation of OAC rules 3745-31-02 and 3745-35-02;
  - b. Respondent had failed to submit quarterly reports for VOC and HAP contents of the coatings used in K001 and K002 at the Facility, as required by the terms and conditions of PTI #01-5235; and
  - c. Respondent had failed to maintain daily records of the VOC and HAP contents

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of the coatings used in K001 and K002 at the Facility, as required by the terms and conditions of PTI #01-5235.

10. In correspondence dated November 11, 1998, Respondent submitted records of coatings purchased for K001 and K002 for the period from January 1997 through September 1998. These records indicated that Respondent had exceeded the daily coating usage limitation of 10 gallons, contained in PTI #01-5235.
11. On November 27, 1998, Respondent submitted a PTI modification request to Ohio EPA to change the 10 gallon/day coating usage limitation in PTI 01-5235 (K001 and K002) to the requirement to use coatings with a VOC content of less than 3.5 lbs/gallon of coating, excluding water and exempt solvents.
12. On December 17, 1998, Respondent submitted PTI and PTO applications for a shot blaster.
13. On March 10, 1999, Ohio EPA issued PTI #01-7854 to Respondent for a shot blaster (P002).
14. On May 19, 1999, Ohio EPA issued PTI #01-7847 to Respondent for K001 and K002. Among other things, the PTI required Respondent to use coatings with a VOC content of less than 3.5 lbs/gallon of coating, excluding water and exempt solvents.
15. On June 21, 1999, Respondent submitted a PTI application for paint spray booth No. 3 which would replace K001 and K002.
16. On December 8, 1999, Ohio EPA issued PTI #01-8013 to Respondent for paint spray booth No. 3 (K003).
17. On March 1 and 3, 2000, Ohio EPA conducted inspections at the Facility.
18. In a Notice of Violation dated March 27, 2000, Ohio EPA informed Respondent of the following violations discovered at the Facility during its March 1 and 3, 2000 inspections:
  - a. waste paint in open containers placed in K003 was being allowed to evaporate, in violation of OAC rule 3745-21-07(l);
  - b. the door to K003 was open during coating operations, in violation of the terms and conditions of PTI #01-8013;

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- c. records indicated that the VOC contents of the coatings used in K003 exceeded the 3.5 lbs/gallon limit, in violation of the terms and conditions of PTI #01-8013;
  - d. Respondent had failed to notify Ohio EPA that it was using coatings in K003 containing more than 3.5 lbs of VOC per gallon of coating, in violation of the terms and conditions of PTI #01-8013;
  - e. records did not contain the monthly cumulative total gallons of coatings used in K003, in violation of the terms and conditions of PTI 01-8013;
  - f. the pressure drop observed on two gauges on P002 as it was operating was below the range specified in PTI #01-7854, in violation of the terms and conditions of PTI #01-7854;
  - g. records indicated that the VOC contents of the coatings used at various times in K001 and K002 exceeded the 3.5 lbs/gallon limit, in violation of the terms and conditions of PTI #01-7847;
  - h. Respondent had failed to notify Ohio EPA that it was using coatings in K001 and K002 containing more than 3.5 lbs of VOC per gallon of coating, in violation of the terms and conditions of PTI #01-7847; and
  - i. records did not contain the monthly cumulative total gallons of coatings used in K001 and K002, in violation of the terms and conditions of PTI 01-7847.
19. In correspondence dated May 10, 2000, Respondent submitted operational changes it would implement to address the violations noted in the Mach 27, 2000 NOV.
  20. On April 4, 2002 and July 7, 2002, Ohio EPA received documentation from Respondent's attorney demonstrating that Respondent had not violated the terms and conditions of its permit as alleged in Finding 18 (b), (c), (d), (g), and (h).
  21. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their benefits to the people of the State to be derived from such compliance.

## V. ORDERS

The Director hereby issues the following Order:

1. Pursuant to ORC § 3704.06, the Respondent is assessed a civil penalty in the

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amount of thirteen thousand two hundred and fifty dollars (\$13,250) in settlement of Ohio EPA's claims for civil penalties. Within thirty (30) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of ten thousand six hundred dollars (\$10,600). Payment shall be made by official check made payable to "Treasurer, State of Ohio." The official check shall be submitted to the attention of Brenda Case at the following address:

Ohio EPA  
Office of Fiscal Administration  
P.O. Box 1049  
Columbus, Ohio 43216-1049

*V. 27826*

A copy of the check shall be sent to James A. Orlemann, Manager, Engineering Section, or his successor, at the following address:

Division of Air Pollution Control  
Ohio Environmental Protection Agency  
Lazarus Government Center  
P.O. Box 1049  
Columbus, Ohio 43216-1049

The remaining two thousand six hundred and fifty dollars (\$2,650) shall be paid to fund a supplemental environmentally beneficial project. Specifically, within thirty (30) days after the effective date of these Orders, Respondent shall deliver an official check in this amount and made payable to the Ohio Department of Natural Resources, Division of Forestry, State Forest Fund for the purpose of funding urban tree-planting projects in Ohio. This check shall specify that such monies are to be deposited into Fund No. 509. The check shall be sent to John Dorka, Deputy Chief, or his successor, at the following address:

Division of Forestry  
Ohio Department of Natural Resources  
1855 Fountain Square Court, H-1  
Columbus, Ohio 43224-1327

*V. 6451*

## 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

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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. 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  
Central District Office  
Division of Air Pollution Control  
3232 Alum Creek Drive  
Columbus, Ohio 43207-3417  
Attn: Isaac Robinson

and to:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attn: Tammy VanWalsen

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,

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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.

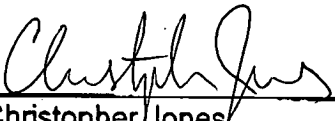
## **XIV. SIGNATORY AUTHORITY**

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.

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**IT IS SO ORDERED AND AGREED:**

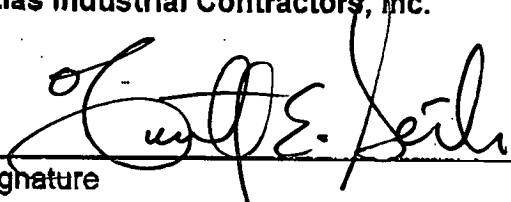
**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Christopher Jones  
Director

12-31-02  
Date

**IT IS SO AGREED:**

**Atlas Industrial Contractors, Inc.**

  
\_\_\_\_\_  
Signature

12-30-02  
Date

Timothy E. Seils  
Printed or Typed Name

Secretary  
Title