

OHIO E.P.A.  
OCT 17 2002  
ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

**Erievew Metal Treating Company**  
4465 Johnston Parkway  
Cleveland, Ohio 44128

**Respondent**

**Director's Final**  
**Findings and Orders**

**PREAMBLE**

It is hereby agreed by and among the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to Erievew Metal Treating Company (Respondent) pursuant to the authority vested in the director of the Ohio Environmental Protection Agency (Ohio EPA) under § 3734.13 and § 3745.01 of the Ohio Revised Code (ORC).

**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 relating to the Facility shall in any way alter Respondent's obligations under these Orders. Respondent's obligations under these Orders may be altered only by the written action of the director of Ohio EPA.

**III. DEFINITIONS**

1. Unless otherwise stated, all terms in these Orders shall have the same meaning as used in Chapter 3734. of the ORC and the regulations promulgated thereunder.
2. The effective date of these Orders is the date these Orders are entered into the Ohio EPA director's journal.

#### **IV. FINDINGS OF FACT**

All of the findings of fact necessary for the issuance of these Orders pursuant to ORC §§ 3734.13 and 3745.01 have been made and are outlined below. Nothing in the findings of fact shall be considered to be an admission by Respondent of any fact, violation or liability. The director of Ohio EPA has determined the following findings of fact:

1. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
2. Respondent operates a plating facility located at 4465 Johnston Parkway, Cleveland, Ohio (Facility). Respondent is an Ohio corporation qualified to do business in the state on September 7, 1961.
3. Respondent notified Ohio EPA of its hazardous waste activities and was issued U.S. EPA identification number OHD981195233 on March 21, 1986.
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 large quantity generator of hazardous waste. The hazardous waste generated by Respondent at the Facility includes wastewater treatment sludge from electroplating operations (F006), sodium hydroxide sludge from tank cleanings (D002, D006, D007) and other miscellaneous chromium and cadmium hazardous wastes from various Facility operations.
5. On June 18, 2001, Ohio EPA conducted an inspection of the Facility. As a result of this inspection, Ohio EPA determined that Respondent had, *inter alia*:
  - a. Failed to keep containers of hazardous waste closed, in violation of OAC rule 3745-66-73(A);
  - b. Failed to date and label containers of hazardous waste, in violation of OAC rules 3745-52-34(A)(2) and (A)(3);
  - c. Failed to label hazardous waste satellite accumulation containers, in violation of OAC rule 3745-52-34(C)(1)(b);
  - d. Failed to maintain and operate the Facility in a manner that minimizes the possibility of fires, explosion, or any unplanned

- sudden or non-sudden release of hazardous waste or hazardous waste constituents, in violation of OAC rule 3745-65-31;
- e. Failed to evaluate seven containers of waste to determine if the waste was hazardous waste, in violation of OAC rule 3745-52-11;
  - f. Failed to conduct weekly inspections of hazardous waste container accumulation areas and emergency equipment, in violation of OAC rules 3745-66-74 and 3745-65-33;
  - g. Failed to provide hazardous waste management training to employees, in violation of OAC rule 3745-65-16;
  - h. Failed to maintain complete land disposal restriction forms, in violation of OAC rule 3745-270-07(A);
  - i. Failed to label two containers of used oil with the words "used oil," in violation of OAC rule 3745-279-22(C)(1);
  - j. Failed to maintain a complete hazardous waste contingency plan, in violation of OAC rules 3745-65-52, 3745-65-53 and 3745-65-54;
  - k. Failed to identify all treatment, storage and disposal facilities on Respondent's annual report, in violation of OAC rule 3745-52-41(A)(3); and
  - l. Failed to manage universal waste in a manner to prevent releases to the environment, in violation of OAC rule 3745-273-13(A). This violation was abated during the inspection.
6. By letter dated July 10, 2001, Ohio EPA notified Respondent of the violations referenced in Finding No. 5 of these Order.
7. By letters dated August 7, August 21, September 12 and September 17, 2001, Respondent provided responses to Ohio EPA's July 10, 2001 letter.
8. By letter dated September 18, 2001, Ohio EPA notified Respondent that it had abated the violations referenced in Finding Nos. 5.a. and 5.b. of these Orders.
9. On September 19, September 20 and September 22, 2001, Respondent submitted information to Ohio EPA in an effort to abate the outstanding violations cited in Ohio EPA's July 10, 2001 letter.

10. On October 2, 2001, Ohio EPA conducted a follow up inspection of the Facility. As a result of this inspection, Ohio EPA determined that Respondent had:
  - a. Stored hazardous waste for greater than 90 days without a permit, in violation of ORC § 3734.02(E) and (F);
  - b. Failed to keep containers of hazardous waste closed, in violation of OAC rule 3745-66-73(A);
  - c. Failed to date and label containers of hazardous waste, in violation of OAC rules 3745-52-34(A)(2) and (A)(3);
  - d. Failed to evaluate a roll-off container of waste to determine if the waste was hazardous waste, in violation of OAC rule 3745-52-11; and
  - e. Failed to manage hazardous waste in containers that are in good condition, in violation of OAC rule 3745-66-71.
11. By letter dated October 9, 2001, Ohio EPA notified Respondent of the violations referenced in Finding No. 10. of these Orders.
12. By letter dated October 9, 2001, Ohio EPA notified Respondent that it had abated the violations referenced in Finding Nos. 5.e., 5.f. and 5.h. of these Orders.
13. By letters dated October 5, 9, 15, 25, 29 and November 5, 2001, Respondent provided responses to Ohio EPA's July 10, September 18 and October 9, 2001 letters.
14. On October 25, 2001, Ohio EPA conducted a follow up inspection of the Facility. As a result of this inspection, Ohio EPA determined that Respondent had:
  - a. Stored hazardous waste for greater than 90 days without a permit, in violation of ORC § 3734.02(E) and (F);
  - b. Failed to keep containers of hazardous waste closed, in violation of OAC rule 3745-66-73(A); and
  - c. Failed to mark a container of hazardous waste with the proper accumulation date, in violation of OAC rule 3745-52-34(A)(2).

15. By letter dated November 8, 2001, Ohio EPA notified Respondent of the violations referenced in Finding No. 14. of these Orders.
16. By letter dated November 19, 2001, Ohio EPA notified Respondent that it had abated the violations referenced in Finding Nos. 5.c., 5.d., 5.i., 5.j., 5.k., 10.b., 10.c., and 10.e. of these Orders.
17. On October 24, 2001, Respondent submitted to Ohio EPA documentation demonstrating that the hazardous waste referenced in Finding Nos. 10.a. and 14.a. of these Orders had been properly shipped to a hazardous waste permitted facility.
18. By letter dated November 19, 2001, Ohio EPA informed Respondent that Respondent had abated the violations referenced in Finding Nos. 14.b. and 14.c. of these Orders.
19. By letters dated January 8, 2002 and February 21, 2002, Ohio EPA informed Respondent that Respondent had abated the violations referenced in Finding Nos. 5.g. and 10.d. of these Orders, respectively.

#### **V. ORDERS**

The 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 to Ohio EPA the amount of \$80,000.00 in settlement of Ohio EPA's claims for civil penalties which may be assessed for noncompliance pursuant to ORC Chapter 3734. \$60,000.00 of this amount shall be paid pursuant to the following schedule:
  - a. Within thirty (30) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$10,000.00;
  - b. Within one hundred (100) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$10,000.00;
  - c. Within two hundred days (200) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$10,000.00;

- d. Within three hundred (300) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$10,000.00;
- e. Within four hundred (400) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$10,000.00; and
- f. Within five hundred (500) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$10,000.00.

Each of the above payments shall be made by tendering a certified check in the stated amount to Ohio EPA, Department 631, Columbus, Ohio 43265-0631, made payable to "Treasurer, State of Ohio." A copy of each check shall be submitted in accordance with Section IX of these Orders.

- 2. In lieu of payment of the remaining \$20,000.00 of the civil penalty settlement, Respondent shall implement at the Facility a supplemental environmental project as follows:
  - a. Within 365 days after the effective date of these Orders, Respondent shall implement at the Facility the re-design of the alloy zinc plating line as described in Attachment A to these Orders, incorporated herein. Within 30 days after implementation of the re-design of the alloy zinc plating line, Respondent shall submit to Ohio EPA a report demonstrating completion of implementation of the re-design of the alloy zinc plating line. The report shall include documentation of expenditures, e.g., paid invoices, relating to the implementation of the re-design of the alloy zinc plating line. The report shall be submitted in accordance with Section IX of these Orders.
  - b. Within 730 days after the effective date of these Orders, Respondent shall submit to Ohio EPA a report that details the reduction in the amount of water used in Facility operations and discharged to the waste water treatment system and the reduction in the amount of other waste, e.g., F006 filter cake, sent off site for disposal as a result of the implementation of the re-design of the alloy zinc plating line. The report shall be submitted in accordance with Section IX of these Orders.

3. Should Respondent fail to fully implement the supplemental environmental project within the time frame established in Order No. 2 of these Orders, Respondent shall pay to Ohio EPA the remaining \$20,000.00 of the civil penalty settlement. Payment of this civil penalty shall be in accordance with the procedures set forth in Order No. 1 of these Orders. Payment shall be due no later than 7 days after the date the supplemental environmental project was required to be implemented.

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent demonstrates in writing and certifies to the satisfaction of Ohio EPA that all obligations under these Orders have been performed and Ohio EPA's Division of Hazardous Waste Management acknowledges, in writing, Ohio EPA's acceptance of this demonstration and certification.

This certification shall be submitted by Respondent and shall be signed by a responsible official of Respondent. The certification shall make the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate, and complete."

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 signatory to these Orders, for any liability arising out of or relating to the operations 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. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to Respondent's operation of its Facility. Ohio EPA reserves all rights and privileges except as specified herein.

**IX. NOTICE**

All documents demonstrating compliance with these Orders, and other documents required under these Orders to be submitted to Ohio EPA, shall be addressed to:

Ohio Environmental Protection Agency  
Northeast District Office  
Division of Hazardous Waste Management  
Attn: DHWM Manager  
2110 E. Aurora Road  
Twinsburg, Ohio 44087

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  
Attn: Manager, Compliance Assurance Section  
P.O. Box 1049  
Columbus, Ohio 43216-1049

For deliveries to the building:

Christopher Jones, Director  
Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Hazardous Waste Management  
Attn: Manager, Compliance Assurance Section  
122 South Front Street  
Columbus, Ohio 43215

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

**X. RESERVATION OF RIGHTS**

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking

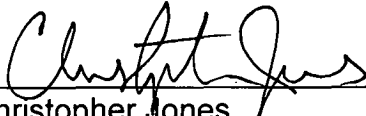


administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities, including closure of hazardous waste units at the Facility, pursuant to ORC Chapter 3734. or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

### **XI. SIGNATORIES**

Each undersigned representative of a signatory to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such signatory to this document.

#### **IT IS SO ORDERED:**

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

OCT 17 2002  
\_\_\_\_\_  
Date

### **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability, and, subject to Section X. of these Orders, in lieu of further enforcement action by Ohio EPA for only the violations addressed in these Orders, Respondent agrees that these Orders are lawful and reasonable, that the times provided for compliance herein are reasonable and that Respondent agrees to comply with these Orders. Subject to Section X., above, compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations cited herein.

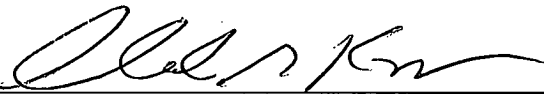
Respondent hereby waives the right to appeal the issuance, terms and service of these Orders and it hereby waives any and all rights it might have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that in the event that 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.

**IT IS SO AGREED:**

**Erievew Metal Treating Company**

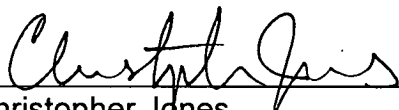
  
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9/24/02  
Date

ALEXANDER G. KAPPOS  
Printed or Typed Name

President  
Title

**Ohio Environmental Protection Agency**

  
\_\_\_\_\_

Christopher Jones  
Director

OCT 17 2002  
Date

**POLLUTION PREVENTION  
SUPPLEMENTAL ENVIRONMENTAL PROJECT (P2 SEP)  
RE-DESIGN OF ALLOY ZINC PLATING LINE PROPOSAL**

1. Describe the current process or operation that would be affected by implementation of the project.

*The current process is a barrel alkaline zinc nickel alloy plating line.*

2. Describe the proposed project. Include discussion of any changes in product design, material substitutions, equipment changes, and/or operating changes. Indicate the level of innovation associated with this project (i.e., is the technology established or is it "cutting edge?").

*The proposed project would:*

- *save water, by increasing the amount of counterflow rinses;*
- *reduce the potential for spills, by re-designing the plating and zinc generation tanks;*
- *reduce proprietary chemical additions and reduce dragout of plating solution and loading to the water treatment system with the addition of automatic chemical feed pumps;*
- *reduce drag out and loading to the water treatment system by adding new hi-tech thin wall plating cylinders. Additionally, any reduction in loading to the water treatment system also potentially reduces loading to the NEORSR as well as reduces the amount of F006 filter cake for disposal.*

3. Quantify how implementation of the proposed project is expected to increase or decrease waste generation to each of the following waste streams.

*Re-Design of Alloy Zinc Plating Line. We do not anticipate any change to hazardous waste or air emissions. We do project a decrease in waste water loading to the NEORSR; and should have a reduction in F006 filter cake for disposal.*

4. Quantify how implementation of the proposed project would result in conservation of resources (such as water or energy) or alternately, increased use of resources.

*There would be a reduction in water used for rinsing. There would also be a reduction in electricity as well as natural gas.*

5. *What is the expected payback of the project?*

*Payback = approx. 4 years*  
*Initial cost of project = \$106,500*  
*Net annual cost of savings = \$ 28,000*

6. *Were the above costs estimated by the company, a consultant, or a vendor?*

*The costs were estimated by our maintenance engineer and vendors.*

7. *Has any of the equipment for the project already been purchased?*

*No equipment has been purchased.*

8. *Has the project already been approved for funding under the company's capital improvement budget or other budget?*

*No monies have been budgeted for the project.*

9. *Explain how the inclusion of this project in the settlement will further the progress of the proposed project. Explain why previously identified projects have not been implemented.*

*Due to business conditions, there has not been capital available for project. The company suffered losses in 2001. However, if Erieview is able to use a portion of the proposed penalty to purchase the necessary equipment, the company would be able to effort the capital outlay.*

10. *Please briefly provide any additional information that may help justify the inclusion of the proposed project in the settlement.*

*A good deal of the focus of the investigations and proposed final findings and orders dealt with Erieview's handling of F006 waste. This redesign would reduce the amount of F006 filter cake for disposal and thus minimize the possibility of any future violations because many of the alleged violations dealt with storage, transportation and disposal of F006 waste, the proposed project would help eliminate the need for storage, transportation or disposal.*