

OHIO E.P.A.

JUN 19 2002

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Hydranamics, Inc.
P.O. Box 117
820 Edwards Street
Galion, Ohio 44833

Director's Final
Findings and Orders

Carter Machine Company, Inc.
P.O. Box 28
820 Edwards Street
Galion, Ohio 44833

Respondents

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 Hydranamics, Inc. and Carter Machine Company, Inc. (Respondents) 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 Respondents and successors in interest liable under Ohio law. No change in ownership relating to the Facility will in any way alter Respondents' responsibilities under these Orders. Respondents' 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

The director of Ohio EPA has determined the following findings of fact:

1. Respondents are "persons" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
2. Respondents own and operate a hydraulic and pneumatic cylinder manufacturing facility located at 820 Edwards Street, Galion, Crawford County, Ohio (Facility).
3. Respondents are corporations incorporated to do business in the State of Ohio. Respondent Hydranamics, Inc. was incorporated to do business in the State of Ohio on May 27, 1958. Respondent Carter Machine Company, Inc. was incorporated to do business in the State of Ohio on January 2, 1946.
4. On February 26, 1993, Respondents notified the Ohio EPA of their hazardous waste activity and received hazardous waste generator identification number OHD004155255.
5. At the Facility, Respondents generate "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03.
6. On August 8, 2001, Ohio EPA conducted a compliance evaluation inspection at the Facility and determined that Respondents had, *inter alia*,
 - a. Operated a hazardous waste storage facility without a permit by storing hazardous waste for greater than 90 days, in violation of ORC § 3734.02(E) and (F). Records indicated that the hazardous waste was generated in March, 2001;
 - b. Failed to properly evaluate paint waste generated at the Facility to determine if the waste was hazardous waste, in violation of OAC rule 3745-52-11;
 - c. Failed to provide required annual hazardous waste training to employees, in violation of OAC rule 3745-65-16;

- d. Failed to date a container of hazardous waste and failed to properly label a container of hazardous waste, in violation of OAC rule 3745-52-34(A)(2) and (3); and
 - e. Failed to properly label drums of used oil, in violation of OAC rule 3745-279-22.
7. Ohio EPA has determined that Respondents were episodic large quantity generators for the month of March, 2001.
 8. By faxes dated August 10, 13 and 15, 2001, Respondents provided information to Ohio EPA requested during the August 8, 2001 inspection.
 9. By letter dated August 20, 2001, Ohio EPA notified Respondents of the violations referenced in Finding No. 6.
 10. By letters dated September 17, and September 26, 2001, Respondents provided responses to Ohio EPA's August 20, 2001 letter.
 11. By fax dated November 9, 2001, Respondents provided additional responses to Ohio EPA's August 20, 2001 letter.
 12. Respondents have shipped the hazardous waste stored at the Facility without a permit, as referenced in Finding No. 6.a., off-site for proper treatment, storage or disposal.
 13. By letter dated February 25, 2002, Ohio EPA informed Respondents of additional violations including, *inter alia*,:
 - a. The failure to conduct inspections of emergency equipment on a weekly basis, in violation of OAC rule 3745-65-33;
 - b. The failure to conduct inspections of areas where hazardous waste containers are stored on a weekly basis, in violation of OAC rule 3745-66-74; and
 - c. The failure to provide hazardous waste management training to employees in a timely fashion, in violation of OAC rule 3745-65-16.
 14. By letter dated April 15, 2002, Ohio EPA informed Respondents that Respondents had abated the violations referenced in Finding Nos. 6. and 13.

V. ORDERS

Respondents shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Within thirty (30) days after the effective date of these Orders, Respondents shall pay to Ohio EPA the amount of \$12,100.00 in settlement of Ohio EPA's claims for civil penalties which may be assessed for noncompliance 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 tendering a certified check for \$12,100.00 to Ohio EPA, Department 631, Columbus, Ohio 43265-0631, made payable to "Treasurer, State of Ohio." A copy of this check shall be submitted in accordance with Section IX of these Orders.

VI. TERMINATION

Respondents' obligations under these Orders shall terminate upon Ohio EPA's receipt and successful negotiation of the check required above.

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 Respondents' 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 Respondents' operation of the 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
Northwest District Office
Division of Hazardous Waste Management
Attn: DHWM Manager
347 North Dunbridge Road
Bowling Green, Ohio 43402

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

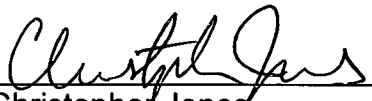
Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondents for noncompliance with these Orders. Nothing contained herein shall

be construed to prevent Ohio EPA from exercising its lawful authority to require Respondents to perform additional activities, including closure of the 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 Respondents to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondents. 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

JUN 19 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, Respondents agree that these Orders are lawful and reasonable, that the times provided for compliance herein are reasonable and that Respondents agree to comply with these Orders. Subject to Section X., above compliance with these Orders shall be a full accord and satisfaction for Respondents' liability for the violations cited herein.

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

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

IT IS SO AGREED:

Hydranamics, Inc.

Andrea L. Carter

5-29-02

Date

ANDREA L. CARTER
Printed or Typed Name

PRESIDENT
Title

Carter Machine Company, Inc.

Andrea L. Carter

5-29-02

Date

ANDREA L. CARTER
Printed or Typed Name

PRESIDENT
Title

Ohio Environmental Protection Agency

Christopher Jones

Christopher Jones
Director

JUN 19 2002

Date