

OHIO E.P.A.

MAY 28 2002

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

**The Seneca Wire & Manufacturing
Company**
319 S. Vine Street
Fostoria, Hancock Co. OH, 44830

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 The Seneca Wire & Manufacturing 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

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

1. Respondent operates a wire manufacturing facility located at 319 S. Vine Street, Fostoria, Hancock County, Ohio (Facility).
2. Respondent was incorporated to do business in the State of Ohio on November 22, 1905.
3. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
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.
5. On June 18, 2001, Ohio EPA conducted a complaint investigation at the Facility and determined that Respondent had, inter alia,:
 - a. Stored hazardous waste for greater than ninety (90) days without a permit, in violation of ORC § 3734.02(E) and (F);
 - b. Failed to properly label containers of hazardous waste with the words "Hazardous Waste" and failed to mark containers with the date when accumulation of hazardous waste began, in violation of OAC rules 3745-52-34(A)(2) and (A)(3);
 - c. Failed to note in the inspection log that one box of hazardous waste, in the less than ninety (90) day storage area, was unlabeled and undated and that another box of hazardous waste had been stored on-site for greater than ninety (90) days, in violation of OAC rule 3745-66-74(B); and
 - d. Failed to label containers of used oil with the words "Used Oil," in violation of OAC rule 3745-279-22(C)(1).

6. By letter dated June 29, 2001, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 5.a. through 5.d.
7. By letter dated July 20, 2001, Ohio EPA notified Respondent that Respondent had abated the violations in Finding Nos. 5.a., 5.b., and 5.d.
8. On August 30, 2001, Ohio EPA conducted an inspection at the Facility and determined that Respondent had failed to provide complete hazardous waste management training to employees and maintain complete documentation of training, in violation of OAC rule 3745-65-16.
9. By letter dated September 19, 2001, Ohio EPA notified Respondent that Respondent had abated the violation referenced in Finding No. 5.c.
10. By letter dated September 20, 2001, Ohio EPA notified Respondent of the violations cited in Finding No. 8.
11. By letter dated January 2, 2002, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding No. 8.

V. ORDERS

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 \$10,100.00 in settlement of Ohio EPA's claims for civil penalties which may be assessed for noncompliance pursuant to ORC Chapter 3734. \$8,600.00 of this amount shall be paid pursuant to the following schedule:
 - a. Within 30 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$5,000.00; and
 - b. Within 60 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$3,600.00.

Each of the payments above 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 \$1,500.00 of the civil penalty, Respondent shall complete a Facility-wide pollution prevention assessment utilizing Ohio EPA's 1993 "Ohio Pollution Prevention and Waste Minimization Planning Guidance Manual" (the Manual) pursuant to the following schedule:
 - a. Within 30 days after the effective date of these Orders, Respondent shall begin a comprehensive pollution prevention program for the Facility operations as described in Chapter 6 of the Manual; establish the pollution prevention program as described in Chapter 7 of the Manual; organize the pollution prevention program as described in Chapter 8 of the Manual; and document compliance of these steps by submitting a detailed narrative report to Ohio EPA for review and approval. The report shall include a formal policy statement, a consensus building plan, a list of the names and titles of the members of the pollution prevention task force/team, an outline of preliminary program goals, and plans to develop employee awareness.
 - b. Within 90 days after the effective date of these Orders or 30 days after receipt of Ohio EPA's approval of the report referenced in Order No. 2.a., whichever comes later, Respondent shall perform a preliminary assessment and write the pollution prevention plan as described in Chapters 9 and 10 of the Manual, and document compliance by submitting to Ohio EPA a detailed narrative report for review and approval. The report shall include a discussion of methods and results from the preliminary assessment and the pollution prevention plan document.
 - c. Within 180 days after the effective date of these Orders or 30 days after receipt of Ohio EPA's approval of the report referenced in Order No. 2.b., whichever comes later, Respondent shall complete a detailed assessment and define pollution prevention options for the Facility as described in Chapters 11 and 12 of the Manual, and document compliance by submitting to Ohio EPA a detailed narrative report for review and approval. The report shall

discuss methods and results of the detailed assessment and describe pollution prevention opportunities (and prioritization methods) identified.

- d. Within 270 days after the effective date of these Orders, or 30 days after receipt of Ohio EPA's approval of the report referenced in Order No. 2.c., whichever comes later, Respondent shall evaluate cost considerations, perform a feasibility analysis, and write the assessment report as described in Chapters 13, 14 and 15 of the Manual; and document compliance by submitting to Ohio EPA a detailed narrative report for review and approval. The report shall discuss cost and feasibility considerations, and include the assessment report document. The assessment report shall include items bulleted in Table 7 (Chapter 15) of the Manual and discuss projects that have been eliminated as well as those under consideration for possible implementation.
3. Should Respondent fail to submit to Ohio EPA any of the reports within the time frames established in Order No. 2. of these Orders, Respondent shall pay to Ohio EPA the remaining \$1,500.00 of the civil penalty settlement. Payment of this civil penalty settlement 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 report was to have been submitted to Ohio EPA.

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
Northwest District Office
Division of Hazardous Waste Management
Attn: DHWM Manager
347 North Dunbridge Street
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

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

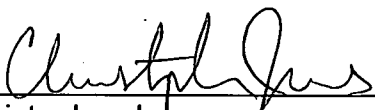
X. RESERVATION OF RIGHTS

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 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

May 28, 2002
Date

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 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. 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:

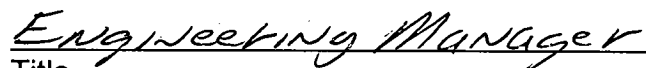
The Seneca Wire & Manufacturing Company



5-09-02
Date

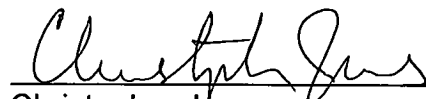


Printed or Typed Name



Title

Ohio Environmental Protection Agency



Christopher Jones
Director

May 28, 2002
Date