

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.  
DEC - 4 2001  
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Weston Inc.  
29300 Aurora Road  
Solon, Ohio 44139-1805

Director's Final  
Findings and Orders

Respondent

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 Weston Inc. (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, its assigns and successors in interest. No changes in ownership relating to the Property will in any way alter Respondent's responsibilities under these Orders. Respondent's obligations under these Orders may be altered only by the written approval 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. On or about March 6, 1997, Respondent became the owner of record of

certain property with street addresses of 7849 and 7853 Enterprise Drive, Mentor, Lake County, Ohio (Property).

2. Respondent is a "person" as defined in ORC § 1.59 and § 3734.01(G) and OAC rule 3745-50-10(A). Respondent was incorporated to do business in the State of Ohio on August 22, 1994.
3. On or about March 6, 1997, Euclid & Wickliffe Services, Inc. (E&W) leased the Property from Respondent for the purpose of operating, inter alia, a metal coating business.
4. On September 7, 2000, Ohio EPA conducted an inspection of that portion of the Property with a street address of 7849 Enterprise Drive. As a result of this inspection, Ohio EPA determined that E&W had:
  - a. failed to properly label containers of hazardous waste, in violation of OAC rule 3745-52-34;
  - b. failed to maintain adequate aisle space in the hazardous waste accumulation area, in violation OAC rule 3745-65-35;
  - c. failed to keep containers of hazardous waste closed, in violation of OAC rule 3745-66-73;
  - d. failed to conduct and document weekly inspection of emergency equipment, in violation of OAC rule 3745-65-33(A) and (B);
  - e. failed to conduct and document weekly inspections of areas where containers of hazardous waste were stored, in violation of OAC rule 3745-66-74; and
  - f. failed to store hazardous waste in compatible containers, in violation of OAC rule 3745-66-72.

By letter dated October 12, 2000, Ohio EPA informed E&W of the violations discovered during the September 7, 2000 inspection.

5. On September 21, 2000, Ohio EPA conducted an inspection of that portion of the Property with the street address of 7853 Enterprise Drive. During this inspection, Ohio EPA observed 14 containers which an E&W

representative described as "waste chromate" and a 300-gallon portable container approximately half full of what the E&W representative referred to as "waste acid." The E&W employee further stated that the "waste chromate" containers and the 300-gallon "waste acid" container had been located at the Property for greater than 90 days. Ohio EPA has concluded that the "waste chromate" and "waste acid" were hazardous waste and had been located at the Property for longer than the 90-day accumulation period allowed under ORC Chapter 3734. and OAC rule 3745-52-34. Ohio EPA has also concluded that neither the 14 containers nor the 300-gallon container were labeled in accordance with OAC rule 3745-52-34.

6. By letter dated October 20, 2000, Ohio EPA informed E&W of the results of the September 21, 2000 inspection.
7. By letter dated November 13, 2000, E&W responded to Ohio EPA's October 12, 2000 letter, describing to Ohio EPA the steps that E&W had taken, or proposed to undertake, to address the violations described in Ohio EPA's October 12, 2000 letter.
8. By letter dated November 17, 2000, E&W responded to Ohio EPA's October 20, 2000 letter. In its November 17, 2000 letter, E&W informed Ohio EPA that E&W was in the process of treating the 14 containers of "waste chromate" and the 300-gallon container of "waste acid" through E&W's on-site wastewater treatment plant. In the same letter, E&W requested an additional 30 days to complete the treatment in question.
9. By two letters, both dated December 5, 2000, Ohio EPA responded to E&W's November 13, 2000 and November 17, 2000 letters, respectively. In its first December 5, 2000 letter, Ohio EPA informed E&W that it had abated the violations referenced in Finding Nos. 4.b., 4.c. and 4.f. In its second December 5, 2000 letter, Ohio EPA informed E&W that it had abated the violations referenced in Ohio EPA's October 20, 2000 letter, except that E&W had not yet completed the on-site treatment or off-site disposal of 6 of the 14 containers of "chromate waste" observed on September 20, 2000. In that same letter, Ohio EPA granted E&W an extension until December 22, 2000 to complete the treatment of the 6 containers of "waste chromate" which had yet to be treated.
10. On January 29, 2001, E&W informed Ohio EPA that it had completed treatment of all 14 containers of "chromate waste."
11. By letter dated February 20, 2001, Ohio EPA requested, inter alia, that

E&W provide documentation evidencing the completion of treatment and/or the off-site shipment of all hazardous waste observed by Ohio EPA during the September 21, 2000 inspection.

12. On March 12, 2001, Ohio EPA conducted a follow-up inspection at the Property. On March 12, 2001, E&W provided to Ohio EPA a document entitled "waste treatment log," documenting the completion on December 28, 2000 of the treatment of the 14 containers of "waste chromate" and the 300-gallon container of "waste acid."
13. By letter dated March 21, 2001, Ohio EPA informed E&W that it had abated the violation of OAC rule 3745-52-34 as referenced in Finding No. 5.
14. On March 29, 2001, Ohio EPA conducted an inspection of the Property. As a result of the March 29, 2001 inspection, Ohio EPA concluded that E&W had failed to keep containers of hazardous waste closed, in violation of OAC rule 3745-66-73. E&W abated this violation during the inspection.
15. On or about May 18, 2001, E&W ceased all business operations and abandoned in place all process equipment, stock chemicals and other contents of its business operations at the Property.
16. According to Respondent, on May 23, 2001, Respondent changed the locks on the structures and entrance ways at the Property due to E&W's abandonment of the Property and failure to pay rent and to secure the Property from unlawful entry. Furthermore, according to Respondent, Respondent notified E&W that it expected E&W to comply with Ohio law with respect to any hazardous waste, hazardous waste contamination and hazardous materials at the Property and that Respondent would allow E&W access to the Property for that purpose.
17. According to Respondent, on May 31, 2001, Respondent retained an environmental consultant to assist in addressing any environmental compliance issues at the Property.
18. On June 5, 2001, Ohio EPA conducted an inspection of the Property. During the June 5, 2001 inspection, Ohio EPA observed several containers which had been labeled by E&W as hazardous waste. The containers were labeled with various accumulation start dates, the earliest of which was March 14, 2001.
19. On June 22, 2001, Respondent filed with the director, the Mentor Fire

Department and the Lake County Emergency Planning Commission, a "notice of cessation of regulated operations" in accordance with ORC Chapter 3752. and the rules promulgated thereunder.

20. By letter dated June 29, 2001, Ohio EPA informed E&W and Respondent that the containers of hazardous waste referenced in Finding No. 18 had been located at the Property for greater than the 90-day accumulation period allowed under ORC Chapter 3734. and OAC rule 3745-52-34.
21. According to Respondent, on June 26, 2001, Respondent's representatives met with E&W's representatives. As a result of this meeting, E&W provided to Respondent waste profile sheets which Respondent needed to complete uniform hazardous waste manifests that would accompany shipments of hazardous waste from the Property.
22. On July 2, 2001, a properly licensed hazardous waste transporter transported various hazardous waste, including the containers observed by Ohio EPA during its June 5, 2001 inspection, from the Property to a permitted hazardous waste facility. A representative of E&W completed and signed the uniform hazardous waste manifests accompanying these shipments.
23. By letter dated August 15, 2001, Respondent, pursuant to ORC § 3752.06(B), requested an extension of time in which to complete the requirements under ORC Chapter 3752. and the rules promulgated thereunder. By letter dated September 4, 2001, Ohio EPA approved Respondent's extension request.
24. Based upon its inspections of the Property on September 7, 2000, September 21, 2000, and June 5, 2001, Ohio EPA has determined that E&W, inter alia, stored hazardous waste at the Property in violation of ORC Chapter 3734. and the rules promulgated thereunder. Furthermore, as a consequence of E&W no longer generating hazardous waste at the Property, Ohio EPA has determined that no further actions are required by Respondent to abate the violations referenced in Finding Nos. 4.a., 4.d., and 4.e.

## **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 75 days after the effective date of these Orders, Respondent shall submit to Ohio EPA for review and approval a remediation plan for all hazardous waste storage areas at the Property, in accordance with OAC rules 3745-66-11(A) and (B) and 3745-66-14 and Ohio EPA's September 3, 1998, Guidance on Meeting the Closure Performance Standard for Large Quantity Generators of Hazardous Waste.
2. Upon Ohio EPA's approval of the remediation plan, Respondent shall implement the approved plan in the manner and pursuant to the time frames set forth in the approved plan.
3. Within 60 days after completion of implementation of the approved remediation plan, Respondent shall submit to Ohio EPA for review and approval a written certification, with supporting documentation, demonstrating that Respondent has completed the remediation in accordance with the remediation plan approved by Ohio EPA pursuant to Order No. 2. above.
4. Within 30 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$23,000.00 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 \$23,000.00 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**

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt and approval of the written certification required under Section V., Order No. 3. of these Orders and receipt and successful negotiation of the certified check required under Section V., Order No. 4. 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 signatory to these Orders, for any liability arising out of or relating to the operations of the Property.

## **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. Except as otherwise provided in Sections X. and XII. of these Orders, 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 the operation of the Property. 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 44087-1969

and Ohio EPA's Central Office at the following address:

For mailings use:

Ohio Environmental Protection Agency  
Division of Hazardous Waste Management  
Lazarus Government Center  
Attn: Manager, Compliance Assurance Section  
P.O. Box 1049  
Columbus, Ohio 43216-1049

For deliveries to the building and courier services:

Ohio Environmental Protection Agency  
Division of Hazardous Waste Management  
Lazarus Government Center  
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.

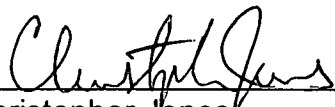
#### **X. RESERVATION OF RIGHTS**

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 appeal, or 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

DEC 4 2001  
\_\_\_\_\_  
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 the 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 and Section X. above, 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:**

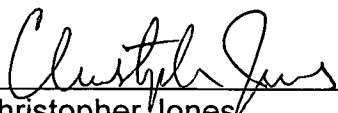
**Weston Inc.**

  
\_\_\_\_\_

11-2-01  
Date

President  
Title

**Ohio Environmental Protection Agency**

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

DEC 4 2001  
Date