

OHIO E.P.A.

NOV 30 2001

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the Matter of:**

**Detrex Corporation**  
24901 Northwestern Highway, Suite 500  
Southfield, Michigan 48075

**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 Detrex Corporation (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 is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
2. Respondent operates a specialty chemical manufacturing facility located at 1100 State Road, Ashtabula, Ohio ("Facility"). Respondent is a Michigan corporation qualified to do business in Ohio on June 6, 1939.
3. Respondent notified Ohio EPA of its hazardous waste activities and was issued Ohio EPA identification number OHD004165924 on March 27, 1998.
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 still bottoms from pyrrole production, alcohol wastes and spent activated carbon waste.
5. On June 5, 2001, Ohio EPA conducted an inspection of the Facility. As a result of this inspection, Ohio EPA determined that Respondent had:
  - a. stored four (4) 55-gallon drums of ignitable hazardous waste (D001) in excess of 90 days without a permit, in violation of ORC § 3734.02(E) and (F);
  - b. failed to conduct weekly inspections of container accumulation areas, in violation of OAC rule 3745-66-74;
  - c. failed to label containers of hazardous waste, in violation of OAC rule 3745-52-34;
  - d. failed to maintain complete land disposal restriction forms, in violation of OAC rule 3745-270-07;
  - e. failed to conduct annual hazardous waste refresher training, in violation of OAC rule 3745-65-16; and
  - f. failed to label one (1) 55-gallon drum of used oil, in violation of OAC rule 3745-279-22.

6. By letter dated June 18, 2001, Ohio EPA notified Respondent of the violations referenced in Finding No. 5.
7. By letter dated July 18, 2001, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding No. 5.
8. In addition to the violations referenced in Finding No. 5, the director has determined that Respondent has failed to conduct weekly inspections of emergency equipment, in violation of OAC rule 3745-65-33. The director has determined that Respondent has abated the violation of OAC rule 3745-65-33.

#### **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 \$38,000.00 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. Respondent shall pay the \$38,000.00 civil penalty settlement in four payments 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 \$9,500.00;
  - b. Within ninety (90) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$9,500.00;
  - c. Within one hundred and fifty (150) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$9,500.00; and
  - d. Within two hundred and ten (210) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$9,500.00.

Each of the four 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.

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt and successful negotiation of the certified checks 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 the 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 the 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

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

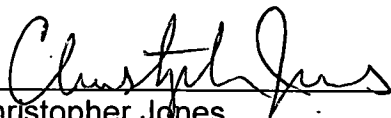
**X. RESERVATION OF RIGHTS**

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 the Respondent for noncompliance with these Orders. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require the 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 the 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 the 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

NOV 30 2001

\_\_\_\_\_  
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, the Respondent agrees that

Director's Final Findings and Orders

**Detrex Corporation**

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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. Subject to Section X., above, compliance with these Orders shall be a full accord and satisfaction for the Respondent's liability for the violations cited herein.

The 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 the Respondent agree that in the event that these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, the Respondent retains the right to intervene and participate in such appeal. In such an event, the 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:**

**Detrex Corporation**

*Kipat M. Anna*

11-15-01  
Date

Vice President, General Counsel  
Title                      & Secretary

**Ohio Environmental Protection Agency**

*Christopher Jones*

Christopher Jones  
Director

NOV 30 2001  
Date