

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
JUL 26 2001
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

The C.W. Zumbiel Company
2339 Harris Avenue
Cincinnati, Ohio 45212

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 The C.W. Zumbiel 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 the Respondent, its assigns and successors in interest. No changes in ownership relating to the Facility will in any way alter the Respondent's responsibilities under these Orders. The 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. 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 paperboard packaging, manufacturing and design facility located at 2339 Harris Avenue, Hamilton County, Cincinnati, Ohio 45212 (Facility). Respondent was incorporated to do business in the State of Ohio on December 27, 1929. Respondent received hazardous waste generator identification number OHD004246401 on August 18, 1980, from the United States Environmental Protection Agency.
3. 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 generates hazardous waste solvents (D001 and F005) from the cleanup of waste inks from printing operations.
4. On January 31 and February 2, 2001, Ohio EPA conducted a hazardous waste compliance evaluation inspection at the Facility and determined that Respondent had, inter alia:
 - a. Failed to provide hazardous waste training to employees, in violation of OAC rule 3745-65-16;
 - b. Failed to have a contingency plan, in violation of OAC rule 3745-65-51;
 - c. Failed to maintain sufficient aisle space in the hazardous waste accumulation area, in violation of OAC rule 3745-65-35;
 - d. Failed to label each container of hazardous waste in the less than 90-day hazardous waste accumulation area with the date upon which the accumulation of the hazardous waste began, in violation of OAC rule 3745-52-34(A)(2);
 - e. Failed to label hazardous waste containers with the words "hazardous waste" or other words identifying the contents, in violation of OAC rule 3745-52-34(C)(1)(b); and
 - f. Failed to conduct and document inspections of hazardous waste containers, in violation of OAC rule 3745-66-74.

Ohio EPA informed Respondent of these violations in a letter dated February 22, 2001.

5. On March 27, 2001, Ohio EPA conducted a follow up inspection at the Facility and determined Respondent had abated the violations referenced in Findings Nos. 4.c., 4.d., 4.e., and 4.f.
6. On April 30, 2001, Respondent submitted to Ohio EPA a contingency plan and a personnel training plan. By letter dated June 1, 2001, Ohio EPA informed Respondent that Respondent had abated the violations referenced in Findings Nos. 4.a. and 4.b.

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. Within thirty (30) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$20,000.00 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 \$20,000.00 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

The Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt and successful negotiation of the certified 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 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
Southwest District Office
Division of Hazardous Waste Management
Attn: DHWM Manager
401 East Fifth St.
Dayton, Ohio 45402

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

X. RESERVATION OF RIGHTS

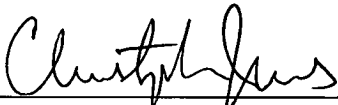
Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against the Respondent for noncompliance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

JUL 26 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, the 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 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:

The C.W. Zumbiel Company

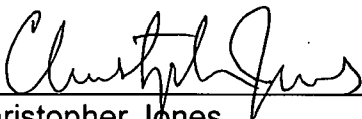


7-11-01
Date

PRESIDENT

Title

Ohio Environmental Protection Agency



Christopher Jones
Director

JUL 26 2001
Date