

OHIO E.P.A.

JAN 26 2001

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Molten North America Corp.)	<u>Director's Final Findings</u>
1835 Industrial Drive)	<u>and Orders</u>
Findlay, Ohio 45840)	

PREAMBLE

It is hereby agreed that:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Molten North America Corp. pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Sections 3745.01 and 3751.09.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Molten North America Corp., its assigns and successors in interest.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in ORC Chapter 3751 and the regulations promulgated thereunder.

IV. FINDINGS OF FACT

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

1. Molten North America Corp. owns and operates equipment used for the manufacturing of molded mechanical rubber products at its facility in Findlay, Ohio.

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2. Pursuant to Ohio Administrative Code ("OAC") rules 3745-100-06 and 3745-100-07, the owner or operator of a facility that is classified within Standard Industrial Classification ("SIC") code number 20 through 39, has 10 or more fulltime employees, and uses a toxic chemical listed in OAC rule 3745-100-10 in excess of 10,000 pounds in a calendar year beginning in 1988, or manufactures or processes a toxic chemical in excess of 50,000 pounds in 1988 and 25,000 in any year thereafter, must file a TRI report with the Ohio EPA and U.S. EPA on or before July 1 of the following year.
3. Molten North America Corp.'s facility is classified within SIC code numbers 20 through 39, specifically SIC code number 3061.
4. Molten North America Corp. employed approximately 246 employees in 1994, 278 employees in 1995, and 233 employees in 1996 at the Findlay facility.
5. Di(2-ethylhexyl) phthalate (CAS 117-81-7) and zinc compounds (CAS N982) are listed chemicals in OAC rule 3745-100-10.
6. Molten North America Corp. processed approximately 42,359 pounds of zinc compounds in calendar year 1994, 37,029 pounds of di(2-ethylhexyl)-phthalate and 35,202 pounds of zinc compounds in calendar year 1995, and 43,857 pounds of di(2-ethylhexyl) phthalate and 48,113 pounds of zinc compounds in calendar year 1996.
7. On June 4, 1998, Ohio EPA inspected Molten North America Corp.'s facility and informed Molten North America Corp. that it was in violation of the reporting requirements contained in OAC rule 3745-100-07 and ORC Section 3751.07.
8. ORC Section 3751.07 and OAC rule 3745-100-07 require that TRI reports for each calendar year be submitted to Ohio EPA on or before July 1 of the following year.
9. The Ohio EPA received TRI reports for calendar years 1994, 1995, and 1996 from Molten North America Corp. on October 15, 1998.
10. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Order:

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Pursuant to R.C. 3704.06, Molten North America Corp. is assessed a civil penalty of eleven thousand one hundred ninety four dollars (\$11,194) in settlement of Ohio EPA's claim for civil penalties. Within fourteen (14) days from the effective date of these Orders, Molten North America Corp. shall pay to Ohio EPA the amount of eight thousand nine hundred fifty five dollars (\$8,955) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3751. Payment shall be made by certified check made payable to "Treasurer, State of Ohio" and sent to the following address:

Vicki Galilei
Office of Fiscal Administration
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, OH 43216-1049

Two thousand two hundred thirty nine dollars (\$2,239) shall be paid to fund a supplemental environmentally beneficial project. Specifically, within thirty (30) days after the effective date of these Orders, Molten North America Corp. shall deliver a certified check in this amount and made payable to the Ohio Department of Natural Resources, Division of Forestry, State Forest Fund for the purpose of funding urban tree-planting projects in Ohio. This check shall specify that such monies are to be deposited into Fund No. 509. The check shall be sent to John Dorka, Deputy Chief, or his successor, at the following address:

Division of Forestry
Ohio Department of Natural Resources
1855 Fountain Square Court, H-1
Columbus, Ohio 43224-1327

A copy of both checks shall be sent to James A. Orlemann, Manager, Engineering Section, or his successor, at the following address:

Division of Air Pollution Control
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

VI. 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. These Orders

do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to the Molten North America Corp.'s facility.

VII. RESERVATION OF RIGHTS

Nothing contained herein prevents the Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal, or equitable action as deemed appropriate and necessary, including seeking penalties against Molten North America Corp. for noncompliance with these Orders. Nothing contained herein prevents the Ohio EPA from exercising its lawful authority to require Molten North America Corp. to perform additional activities pursuant to ORC Chapter 3751 or any other applicable law in the future. Nothing herein restricts the right of Molten North America Corp. to raise any administrative, legal or equitable claim or defense with respect to such further actions which the Ohio EPA may seek to require of Molten North America Corp.

VIII. TERMINATION AND SATISFACTION

These Orders shall terminate when Molten North America Corp. demonstrates in writing and certifies to the satisfaction of the Ohio EPA that all obligations under these Orders have been performed and the Ohio EPA, DAPC, accepts this certification in writing.

IX. SIGNATORIES

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to this document.

X. WAIVER

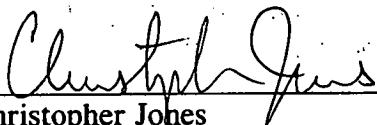
In order to resolve disputed claims, without admission of fact, violation or liability, Molten North America Corp. agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Molten North America Corp.'s civil liability for the specific violations cited herein. Molten North America Corp. hereby waives the right to appeal the issuance, terms and service of these Orders and it hereby waives any and all rights it may have to seek administrative or judicial review of these Orders either in law or equity. Payment of penalties under these Orders shall in no way constitute an admission of any liability or violation of law on the part of Molten North America.

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Notwithstanding the preceding, the Ohio EPA and Molten North America Corp. agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Molten North America Corp. retains the right to intervene and participate in such an appeal. In such event, Molten North America Corp. shall continue to comply with these Orders unless said Orders are stayed, vacated, or modified.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



Christopher Jones
Director

1-18-01
Date

IT IS AGREED

Molten North America Corp.



By

1/09/2001
Date

PRESIDENT

Title