



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

August 19, 2016

Jim Phillips
 The Ohio Art Company
 1 Toy Street
 Bryan, Ohio 43506

**Re: The Ohio Art Company
 Director's Final Findings and Orders (DFFO)
 DFFO
 RCRA C - Hazardous Waste
 Williams County
 OHD005034608**

Subject: Final Findings and Orders

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for The Ohio Art Company.

You are hereby notified that this action of the Director of Ohio EPA (Director) is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00 made payable to "Treasurer, State of Ohio." The Commission, in its discretion, may reduce the fee if by affidavit it is demonstrated that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission
 77 South High St., 17th Floor
 Columbus, Ohio 43215

If you have any questions, please contact Tammy Heffelfinger at (614) 644-2954.

Sincerely,

Angela Edwards, Administrative Professional II
 Division of Environmental Response and Revitalization

Enclosure

cc: Tammy Heffelfinger, DERR, CO
 Mitch Mathews, DERR, CO
 Andrea Smoktonowicz, Legal

OHIO E.P.A.

AUG 19 2016

ENTERED DIRECTOR'S JOURNAL

By: Jon Kossiter Date: 8-19-16

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

The Ohio Art Company	:	<u>Director's Final</u>
1 Toy Street	:	<u>Findings and Orders</u>
Bryan, OH 43506	:	

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 Ohio Art Company (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.02(G), 3734.13, and 3745.01.

II. PARTIES

These Orders shall apply to and be binding upon the Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent, or of the Facility, shall in any way alter the Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in ORC Chapter 3734 and the rules promulgated thereunder.

IV. FINDINGS OF FACT

The Director of Ohio EPA ("Director") has determined the following findings:

1. Pursuant to ORC § 3734.02(G) and Ohio Administrative Code (OAC) rule 3745-50-31, the Director, by order, may exempt any person generating, storing, treating, disposing of, or transporting hazardous waste, in such quantities or

under such circumstances that, in the determination of the Director, are unlikely to adversely affect the public health or safety or the environment from any requirement to obtain a permit or comply with other requirements or ORC Chapter 3734. Such an exemption shall be consistent with and equivalent to rules promulgated under the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806, 42 U.S.C. Section 6921 et seq., as amended.

2. Respondent is the owner and operator of the facility located at 1 Toy Street, Bryan, Ohio (Facility). Respondent notified of its hazardous waste activities and was assigned U.S. EPA identification number OHD005034608. At the Facility, Respondent accumulates hazardous waste in various containers including pails, drums, and totes.
3. On December 10, 2015, Ohio EPA conducted a compliance evaluation inspection at the Facility. During the inspection, Ohio EPA discovered Respondent had, *inter alia*, violated Ohio's hazardous waste laws, specifically, OAC rule 3745-66-76, when Respondent moved its ignitable hazardous waste accumulation area to a new location on the property approximately 16 feet from the Facility's property line. OAC rule 3745-66-76 requires that containers holding ignitable hazardous waste or reactive hazardous waste shall be located at least 15 meters, i.e., 50 feet, from a facility's property line. The accumulation area in question is a less than 90-day hazardous waste storage area referred to as the Blue Building. It is located in the northwest corner of the southeast portion of the property. The southeast portion of the property is located south of the access drive that splits Respondent's property into two parcels. The accumulation area is located 16 feet from the property line shared by Respondent and The Ohio Gas Company. During the inspection, Ohio EPA explained to the Respondent the possibility of requesting an exemption from this requirement.
4. On January 13, 2016, Ohio EPA received documentation from Respondent that explained moving of the hazardous waste accumulation area and the subsequent sale of the property where the original accumulation area was located.
5. By letter dated February 5, 2016, Respondent was notified of the violations discovered during the inspection referenced in Finding No. 3. of these Orders. This letter explained that in order to resolve the violation of OAC rule 3745-66-76, Respondent could either move the hazardous waste accumulation area at least 50 feet from the Facility's property line, or request an exemption by the Director from OAC rule 3745-66-76 to keep the present location as the hazardous waste accumulation area.
6. On February 9, 2016, Respondent requested an exemption from the requirement in OAC rule 3745-66-76 to locate containers holding ignitable hazardous waste at

least 50 feet from the Facility's property line. The exemption request included information justifying the exemption, including photos and a map of the area. According to the exemption request submitted by Jim Phillips on behalf of Respondent:

"I have met with officials at The Ohio Gas Company, as well as members of the Bryan Fire Department, regarding this 90 Day Hazardous Waste Storage Area. Both parties have agreed the location is suitable, and poses no foreseeable issues."

The accumulation area is shown on the drawing which accompanied the exemption request and is included as Exhibit 1 of these Orders. Exhibit 2 of these Orders is an aerial photograph of this area.

7. Based upon the results of the December 10, 2015 inspection, Ohio EPA considered potential escalated enforcement actions with respect to Respondent. On May 16, 2016, Ohio EPA issued a warning letter to Respondent for Respondent's non-compliance with Ohio's hazardous waste laws. Additionally, in this letter, Ohio EPA informed Respondent that all outstanding violations were resolved.
8. Pursuant to ORC § 3734.02(G) and OAC rule 3745-50-31, the Director has determined that Respondent's accumulation of ignitable hazardous waste less than 50 feet from the Facility's property line is unlikely to adversely affect public health or safety or the environment.

V. ORDERS

1. Respondent is hereby exempted from the requirement to accumulate ignitable hazardous waste at least 50 feet from the Facility's property line, as required by OAC rule 3745-66-76, provided that the ignitable hazardous waste is managed in accordance with all other applicable hazardous waste laws and Ohio Fire Code and National Fire Protection Association requirements and standards.
2. The Director may revoke the exemption granted in Order No. 1. of these Orders for any reason, including but not limited to, a determination that Respondent's activities at the Facility adversely affect public health or safety or the environment, and/or activities are not being conducted in accordance with these Orders.

3. The exemption from the State of Ohio's hazardous waste requirements provided by these Orders shall terminate when one of the following events occurs:
 - a. Respondent ceases to accumulate ignitable hazardous waste at the Facility;
 - b. Any change in ownership of the Facility or adjacent property;
 - c. The City of Bryan's Fire Chief determines the location of this hazardous waste accumulation area is no longer suitable;
 - d. Any change in use of the adjacent property, such as a building is erected on the adjacent property; or
 - e. The Director revokes the exemption granted to Respondent under these Orders.
4. The issuance of these Orders by the Director does not release Respondent of any liability it may have incurred for any violations which may have occurred at the Facility prior to the effective date of these Orders. The issuance of these Orders does not release Respondent from any obligation it has to comply with the State of Ohio's environmental laws, except as otherwise specifically provided herein.
5. These Orders do not exempt Respondent from any other local, state, or federal laws or regulations which are otherwise applicable.

VI. 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 party to these Orders, for any liability arising from, or related to, the operation of Respondent's Facility.

VII. 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 Respondent.

VIII. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges, and causes of action except as specifically waived in Section IX. of these Orders.

IX. WAIVER

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative and judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if 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.

X. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's Journal.

XI. SIGNATORY AUTHORITY

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 these Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



Craig W. Butler
Director

IT IS SO AGREED:

The Ohio Art Company



Signature

JULY 7, 2016

Date

JAMES F. PHILLIPS

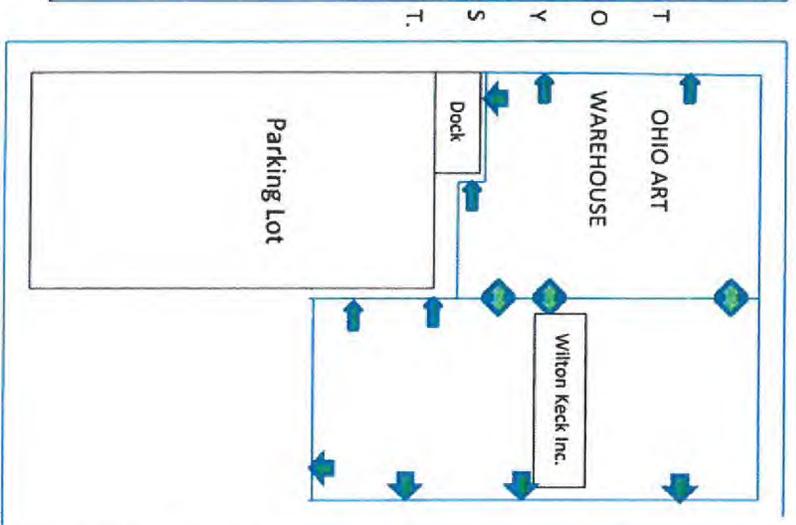
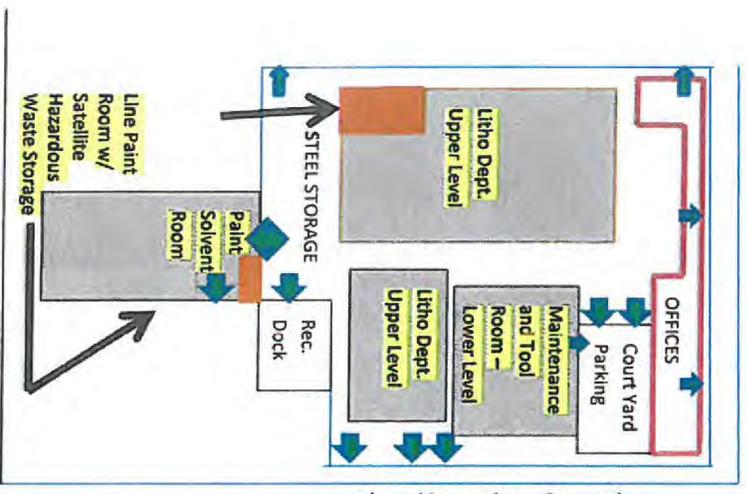
Printed or Typed Name

DIRECTOR OF MANUFACTURING & QUALITY SYSTEMS OPS.

Title

Exhibit 1

EAST HIGH STREET



**The Ohio Art Company, One Toy Street
Bryan Ohio**

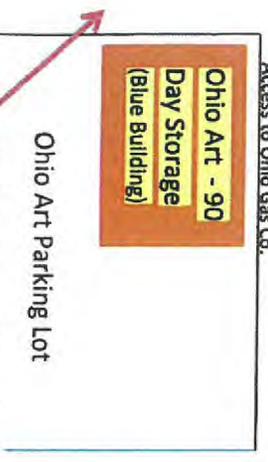
**Emergency Action Plan and Contingency Plan
Map**

Hazardous Chemical Locations and Hazardous Waste Storage Areas

LEGEND

- Hazardous Waste Storage Area: Text
- Hazardous Waste Storage Area (Satellite Storage):
- Hazardous Chemical Locations: Text
- Personnel Exit Ways:

N



Date of Original Map – 2/25/2016
 Revision Date and Number – N/A

Exhibit 2

