



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

August 22, 2016

Ms. Theresa Hyde  
Emerald Hilton Davis, LLC  
2235 Langdon Farm Road  
Cincinnati, Ohio 45237

**Re: Emerald Hilton Davis, LLC  
Director's Final Findings and Orders (DFFO)  
DFFO  
RCRA C - Hazardous Waste  
Hamilton County  
OHD004240313**

**Subject:** Final Findings and Orders of the Director

Dear Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Emerald Hilton Davis, LLC.

If you have any questions, please contact Andrea Smoktonowicz at (614) 644-3037.

Sincerely,

A handwritten signature in black ink that reads "Angela Edwards". The signature is written in a cursive, flowing style.

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 22 2016

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

**Emerald Hilton Davis, LLC**  
2235 Langdon Farm Road  
Cuyahoga Falls, Ohio 45237

**Respondent**

**Director's Final**  
**Findings and Orders**

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

**PREAMBLE**

By:  Date: 8-22-16

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to Emerald Hilton Davis, LLC (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.13 and 3745.01.

**II. PARTIES BOUND**

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

**III. DEFINITIONS**

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

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

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 pigment and dye manufacturing business located at 2235 Langdon Farm Road, Cincinnati, Ohio 45237 (Facility).
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 in amounts greater than 1000 kilograms per month, and is considered a large quantity generator (LQG) of hazardous waste. The hazardous wastes generated by Respondent at the Facility include spent solvent (D001 – ignitable, D018 – toxicity for benzene, D035 – toxicity for methyl ethyl ketone, F003 – listed for ignitability and toxicity, F005 – listed for toxicity), and spent aerosol cans (D001 – ignitable) as defined in OAC rules 3745-51-21 (ignitability), 3745-51-24 (toxicity), and 3745-51-31 (hazardous waste from non-specific sources). Respondent is also a "small quantity handler of universal waste" spent "lamps" and "batteries" as those terms are defined in OAC rule 3745-273-09 and generates "used oil" regulated under OAC Chapter 3745-279 at the Facility.
4. On February 18, 2016, Ohio EPA conducted a compliance evaluation inspection at the Facility. During the inspection, Ohio EPA documented the presence of six containers of hazardous waste spent solvent in the accumulation area that exceeded the allowed 90-day time limit for accumulation of hazardous waste. Four additional hazardous waste containers were not marked with an accumulation start date, and several containers were identified as having unknown contents. Finally, universal waste batteries and spent lamps were not being properly managed under the universal waste rules, and one container of used oil was not properly labeled.
5. As a result of the inspection, Ohio EPA determined that Respondent, *inter alia*:
  - a. Stored hazardous waste for greater than 90 days without a hazardous waste facility installation and operation permit, in violation of ORC § 3734.02 (E) and (F). Furthermore, a review of Respondent's hazardous waste manifests revealed that Respondent likely exceeded the 90-day accumulation time limit on multiple occasions during calendar year 2015;
  - b. Failed to evaluate wastes to determine if they are hazardous, in violation of OAC rule 3745-52-11;
  - c. Failed to properly mark containers of hazardous waste with an accumulation start date, in violation of OAC rule 3745-52-34(A)(2);

- d. Failed to keep containers of universal waste spent lamps in closed containers, in violation of OAC rule 3745-273-13(D)(1);
  - e. Failed to properly label universal waste batteries, in violation of OAC rule 3745-273-14(A);
  - f. Failed to properly label containers of universal waste spent lamps, in violation of OAC rule 3745-273-14(E); and
  - g. Failed to properly label a container of used oil, in violation of OAC rule 3745-279-22(C)(1).
6. By electronic mail dated February 19, 2016, Respondent submitted photographs of closed, labeled containers of universal waste spent lamps and labeled universal waste batteries.
  7. By letter dated March 7, 2016, Respondent was notified of the violations referenced in Finding No. 5. of these Orders. This letter also notified Respondent that the violations referenced in Findings Nos. 5.d., 5.e., and 5.f. of these Orders were corrected with the submitted photographs referenced in Finding No. 6. of these Orders.
  8. By electronic mail dated March 22, 2016, Respondent submitted additional documentation in response to the violations referenced in Finding No. 5. of these Orders. This documentation included hazardous waste manifests showing proper off-site shipment for the six containers of hazardous waste that exceeded the 90-day time limit as referenced in Finding No. 5.a. of these Orders, a spreadsheet identifying the contents of all unknown containers noted during the inspection, photographs of hazardous waste containers marked with the accumulation start dates, and a photograph showing the container of used oil properly labeled.
  9. By letter dated May 11, 2016, Ohio EPA notified Respondent that the violations referenced in Findings Nos. 5.b., 5.c., and 5.g. of these Orders were corrected.
  10. Because Respondent will continue to store hazardous waste in the less than 90-day accumulation area and because no releases of hazardous waste were observed during the inspection, the Director has determined that no additional action is required of Respondent regarding the ORC § 3734.02(E) and (F) violation referenced in Finding No. 5.a. of these Orders.

#### **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 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$5,200.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.281. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$5,200.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying the Respondent. A copy of the check shall be sent to Supervisor, Administrative Processing Unit, Ohio EPA, Division of Materials and Waste Management, P.O. Box 1049, Columbus, Ohio 43216-1049.

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official check required by Section V. 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 party to these Orders, for any liability arising from, or related to, the operation of 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. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

#### **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall

be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

**X. NOTICE**

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Southwest District Office  
Division of Environmental Response and Revitalization  
401 East 5<sup>th</sup> Street  
Dayton, Ohio 45402  
Attn: Hazardous Waste Program Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

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

For deliveries to the building:

Manager, Hazardous Waste Compliance Assurance Section  
Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Environmental Response and Revitalization  
50 West Town Street  
Columbus, Ohio 43215

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

**XI. RESERVATION OF RIGHTS**

Ohio EPA reserves its rights to exercise its lawful authority to require Respondent to

perform closure of the hazardous waste accumulation area and corrective action at the Facility at some time in the future, pursuant to ORC Chapter 3734. or any other applicable law. Respondent reserves its rights to raise any administrative, legal, or equitable claim or defense with respect to any final action of the Director regarding closure or corrective action. Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders.

## **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 specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek closure and corrective action at the Facility, which rights Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

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 or 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.

## **XIII. EFFECTIVE DATE**

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

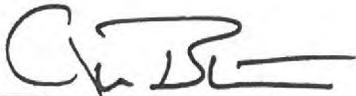
## **XIV. SIGNATORY AUTHORITY**

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:**

**Emerald Hilton Davis, LLC**

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 7/19/2016

\_\_\_\_\_  
THERESA A. HYDE  
Printed or Typed Name

\_\_\_\_\_  
PLANT MANAGER  
Title