



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

August 22, 2016

Sam Sliman
Zerzer, LLC
PO Box 20165
Canton, Ohio 44701

Re: Green Light, LLC
Director's Final Findings and Orders (DFFO)
DFFO
RCRA C - Hazardous Waste
Stark County
OHR000177642

Subject: Final Findings and Orders of the Director

Dear Sir:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for the Green Light facility.

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

Sincerely,

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

Zerzer, LLC
PO Box 20165
Canton, Ohio 44701

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.

By:  Date: 8-22-16

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Zerzer, 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, 3734.02(G) 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. Pursuant to ORC § 3734.02(G) and Ohio Administrative Code (OAC) rule 3745-50-31, the Director, may, by order exempt any person generating, collecting, storing, treating, disposing of, or transporting hazardous wastes 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 hazardous waste facility installation and operation permit or comply with other requirements of ORC Chapter 3734. Any such exemption shall be consistent with and equivalent to rules promulgated under the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806, 41 U.S.C. § 6921 et seq., as amended.
2. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
3. James Leonard dba Green Light, LLC (Green Light) operates a computer, appliance, fluorescent lamp and ballast recycling facility located at 1201 East Tuscarawas Street, Canton, Stark County, Ohio 44707 (Facility). Green Light rents the Facility from Respondent. The Facility consists of a warehouse and enclosed parking lot. Initially, Ohio EPA viewed Green Light as a "large quantity handler of universal waste" spent "lamps" as those terms are defined in OAC rule 3745-273-09. The spent fluorescent lamps are hazardous for mercury (D009) as defined in OAC rule 3745-51-24, unless they are managed as universal waste, which exempts them from the hazardous waste regulations. At the Facility, Green Light also accepted televisions and computer monitors to recover recyclable plastics, metals and cathode ray tube (CRT) glass, which when not excluded from regulation is hazardous for lead (D008) as defined in OAC rule 3745-51-24.
4. Respondent owns the property and warehouse building at the Facility in which Green Light operates.
5. On July 17 and 23, 2013, Ohio EPA conducted a complaint investigation at the Facility. The complaint alleged large piles of electronic waste (e-waste) were being accumulated outdoors at the Facility. During the complaint investigation, Ohio EPA observed several hundred computer monitors, televisions and other e-waste present in the parking lot at the Facility. These units contained CRTs. Approximately one-third of the CRTs in the parking lot were broken. Ohio EPA observed inside the west side of the Facility's warehouse an additional quantity

of broken CRTs from both household and non-household sources. Ohio EPA also found an estimated twenty thousand spent lamps of varying size, totaling more than 5,000 kilograms inside the warehouse. The spent lamps were not containerized nor were they labeled with any identifying words. Additionally, some of the spent lamps were broken and had not been cleaned up or containerized as required by the hazardous waste rules.

6. Green Light became a large quantity universal waste handler (LQUWH) as a result of handling over 5,000 kilograms of lamps.
7. During the inspections and in telephone conversations thereafter, Ohio EPA requested Green Light to provide documentation detailing the number and types of spent lamps present at the Facility. Ohio EPA also requested documentation demonstrating when and from whom Green Light received the lamps, televisions, computer monitors and other e-waste as well as records documenting any waste shipped off-site.
8. Ohio EPA sent Green Light a Notice of Violation (NOV) letter on August 20, 2013, citing the following violations:
 - a. Failed to obtain a U.S. EPA identification number prior to exceeding 5,000 kilograms of universal waste, in violation of OAC rule 3745-273-32(A)(1);
 - b. Failed to contain universal waste spent lamps in closed containers, in violation of OAC rule 3745-273-33(D)(1);
 - c. Failed to label containers of universal waste spent lamps with the appropriate wording, in violation of OAC rule 3745-273-34(E);
 - d. Failed to immediately clean up and containerize any broken lamps to prevent the release of mercury or other constituents to the environment, in violation of OAC rules 3745-273-33(D)(2) and 3745-273-37(A);
 - e. Accumulated universal waste spent lamps for greater than one year, in violation of OAC rule 3745-273-35(A);
 - f. Failed to have a system that demonstrates the length of accumulation time for universal waste, in violation of OAC rule 3745-273-35(C);
 - g. Failed to ensure employees are appropriately trained to manage universal waste, in violation of OAC rule 3745-273-36;
 - h. Failed to document shipments of universal waste sent off-site, in violation

of OAC rule 3745-273-39(B);

- i. Failed to retain records of shipments of universal waste sent off-site for three years from the date of the shipment, in violation of OAC rule 3745-273-39(C)(2); and
 - j. Failed to demonstrate that approximately 20 gaylord boxes of broken CRT glass and unprocessed CRTs (televisions, computer monitors, etc.) are excluded from classification as a hazardous waste, in violation of OAC rule 3745-52-11.
9. Ohio EPA's August 20, 2013 NOV also requested Green Light demonstrate how the CRTs were either excluded from being a hazardous waste, i.e., all the CRTs were from households, or how Green Light met the conditions of the CRT exclusion in OAC rule 3745-51-39. This letter also informed Green Light of its status as a LQUWH and requested Green Light submit records of shipments of universal waste received at the Facility for the previous three years.
10. By submittal dated September 10, 2013, Green Light provided Ohio EPA with documentation in response to the violations referenced in Finding No. 8. of these Orders. This submittal included notification that employees were appropriately trained in universal waste management procedures and documentation that uncontainerized CRTs in the parking lot were received as part of household hazardous waste collection events for the City of Canton and therefore the uncontainerized CRTs in the parking lot were excluded from being a hazardous waste.
11. By letter dated September 26, 2013, Ohio EPA notified Green Light that the violation referenced in Finding No. 8.g. of these Orders was corrected and that the uncontainerized CRTs in the parking lot were excluded from being a hazardous waste. Ohio EPA's letter also indicated that the remaining seven gaylord containers inside the warehouse contained CRTs subject to the hazardous waste regulations (regulated CRTs), including the prohibition of speculative accumulation. Additionally, the letter detailed how Green Light was a LQUWH, and that the other violations remained unabated. Finally, this letter notified Green Light that Ohio EPA determined Green Light:
 - a. Failed to document shipments of universal waste received on-site, in violation of OAC rule 3745-273-39(A); and
 - b. Failed to retain records of shipments of universal waste received on-site for three years from the date received, in violation of OAC rule 3745-273-

39(C)(1).

12. The September 26, 2013 letter further explained that Green Light must demonstrate compliance with the CRT exclusion requirements by December 31, 2014. Ohio EPA informed Green Light that speculative accumulation is deemed to occur if less than 75% by weight or volume of the broken CRT glass on-site on January 1 is recycled or transferred to another site for recycling by December 31 of that year. Green Light was instructed that, in order to meet the CRT exclusion, Green Light would need to ensure that at least 75% of the broken CRTs present on the west side of the warehouse at the Facility on January 1 be recycled or transferred to another site for recycling by December 31 of the same calendar year and provide documentation of this to Ohio EPA. Green Light was further informed that failure to comply with the limits of the speculative accumulation prohibition would cause Green Light to establish and operate a hazardous waste facility without a hazardous waste installation and operation permit, in violation of ORC § 3734.02(E) and (F).
13. By letter dated December 5, 2013, Ohio EPA requested that Green Light contact Ohio EPA regarding the outstanding violations referenced in Findings Nos. 8. and 11. of these Orders.
14. During January, February, March and April 2014, Green Light and Ohio EPA exchanged electronic mail correspondence regarding Green Light's efforts to address the violations referenced in Findings Nos. 8. and 11. of these Orders. While maintaining contact, it did not appear significant progress had not been made by Green Light with regard to the CRT glass.
15. On May 29, 2014, Ohio EPA conducted a compliance evaluation inspection on the west side of the warehouse at the Facility and observed some progress being made. However, Ohio EPA still observed within the building a significant number of the universal waste lamps, intact as well as broken, that had been containerized but not marked, and containers of regulated CRTs that were not labeled.
16. By letter dated June 26, 2014, Ohio EPA notified Green Light of the observations made during the inspection referenced in Finding No. 15. of these Orders. The letter stated all violations except for the employee training remained unabated. This letter also reiterated that Green Light continued to be a LQUWH as well as the requirement to meet the conditions of the CRT exclusion from regulation as a hazardous waste, including the prohibition of speculative accumulation by removing at least 75% of the CRTs by December 31, 2014, to avoid establishing and operating an unlawful hazardous waste facility.

17. By electronic mail dated July 18 and September 3, 2014, Ohio EPA asked Green Light to provide an update of the efforts made to address the outstanding violations referenced in Findings Nos. 8. and 11. of these Orders. Green Light maintained verbal contact with Ohio EPA through December 2014.
18. On December 30, 2014, Ohio EPA conducted a compliance evaluation inspection at the Facility. In the warehouse, Ohio EPA observed that broken universal waste lamps had been containerized and labeled, containers of intact universal waste lamps were labeled, and the remaining containers of regulated CRTs were segregated and labeled. Ohio EPA also noted that Green Light had failed to comply with the CRT exclusion requirements by not demonstrating a potential and feasible means of recycling the regulated CRTs and did not have a plan to recycle at least 75% of the regulated CRTs on-site as instructed in previous letters. Green Light was not able to demonstrate that any regulated CRTs had been removed from the Facility. Therefore, Green Light speculatively accumulated regulated CRTs at the Facility, thereby establishing and operating an unpermitted hazardous waste storage facility without a hazardous waste installation and operation permit in violation of ORC § 3734.02(E) and (F). The area on the west side of the warehouse where the regulated CRTs were stored within the building is now considered a hazardous waste management unit.
19. By letter dated February 11, 2015, Ohio EPA notified Green Light and Respondent of the illegal storage violation referenced in Finding No. 18. of these Orders. This letter also notified Green Light that it had abated the violations referenced in Findings Nos. 8.c., 8.d. and 8.j. of these Orders.
20. On May 14, and August 18, 2015, Green Light provided Ohio EPA load sheets demonstrating that the seven gaylord containers of regulated CRTs at the west side of the warehouse had been shipped off-site.
21. On September 30, 2015, Ohio EPA conducted a complaint investigation at the Facility. The complainant alleged additional areas of the Facility on the east side of the warehouse that were previously identified by Green Light as leased to another operator, were in fact being operated by Green Light. During the investigation, Ohio EPA confirmed the presence of pallets of shrink-wrapped monitors from a school, a homemade fluorescent lamp crusher, six 55-gallon drums of crushed fluorescent lamps, piles of solid waste containing broken fluorescent lamps, and approximately several thousand spent fluorescent lamps on the second floor of the east side of the warehouse.
22. Based upon the investigation referenced in Finding No. 21. of these Orders, Ohio EPA determined Green Light has been operating as a "destination facility" as

defined pursuant to OAC rule 3745-273-09, for the storage of the fluorescent lamps generated and received from off-site prior to crushing (treatment). This storage of fluorescent lamps from off-site prior to crushing requires an owner and operator of a facility to obtain a hazardous waste installation and operation permit.

23. By letter dated December 8, 2015, Green Light was notified that based upon the information described in Findings Nos. 21. and 22. of these Orders, Ohio EPA determined that Green Light:
 - a. Established and is operating an unpermitted hazardous waste storage facility without a permit, in violation of ORC § 3734.02(E) and (F). Since Ohio EPA has not issued a permit to Green Light or Respondent to store hazardous waste at the Facility, Green Light has established and is operating, at a minimum, a hazardous waste storage facility without a permit. The areas on the east side of the warehouse where spent fluorescent lamps are being stored prior to crushing are now considered hazardous waste management units.
 - b. Failed to evaluate hazardous waste, in violation of OAC rule 3745-52-11. Green Light generated at least six containers of spent crushed lamps and additional broken fluorescent lamps were present around the Facility, none of which have been evaluated to determine if they are hazardous.
24. By letter dated December 10, 2015, Respondent was notified that based upon the information described in Findings Nos. 21. and 22. of these Orders Respondent owns a property where a hazardous waste storage facility was established and is being operated without a hazardous waste installation and operation permit in violation of ORC § 3734.02(E) and (F). Owners of hazardous waste storage facilities are required to have a hazardous waste installation and operation permit. Because neither Respondent nor Green Light have been issued an installation and operation permit for storage of hazardous waste at the Facility, Ohio EPA has determined Respondent is in violation of ORC § 3734.02(E) and (F).
25. Based upon the information referenced in Finding No. 23. of these Orders, the Director has determined that Green Light violated OAC rule 3745-54-31 by not responding to releases of hazardous waste when broken fluorescent lamps, which are a hazardous waste, were not immediately cleaned up.
26. Due to Respondent's ownership of a hazardous waste storage facility as described in Findings Nos. 18., 23.a., and 24. of these Orders, Respondent is

required to have a hazardous waste facility installation and operation permit and is subject to all general facility standards found in OAC Chapters 3745-54 and 55, including but not limited to, closure in accordance with OAC rules 3745-55-11 through 3745-55-20, the financial assurance for closure requirements contained in OAC rules 3745-55-42 through 3745-55-51 and corrective action for waste management units in accordance with OAC rule 3745-54-101. To obtain a hazardous waste facility installation and operation permit, Respondent is required to submit "Parts A and B" of the application in accordance with OAC Chapter 3745-50.

27. The submittal of a Lamp Management Plan which meets requirements described in Order No. 2. and a Closure Plan which complies with the administrative requirements of OAC Chapters 3745-65 and 66 and the substantive requirements of OAC Chapters 3745-54 and 55 including but not limited to the groundwater protection program in accordance with OAC rules 3745-54-90 through 3745-54-100 in lieu of the submittal of an application for a hazardous waste facility installation and operation permit is unlikely to adversely affect the public health or safety or the environment. Therefore, the Director finds that the issuance to Respondent of an exemption from the requirement to submit an application for a hazardous waste facility installation and operation permit for the Facility is unlikely to adversely affect the public health or safety or the environment within the meaning of ORC § 3734.02(G) provided that Respondent meets the conditions set forth in the 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. Respondent is hereby exempted from the requirement to submit an application for a hazardous waste facility installation and operation permit for the Facility, *provided that* Respondent complies with the following:
 - a. Within 90 days after the effective date of these Orders, Respondent shall submit to Ohio EPA for review and approval a Closure Plan for the hazardous waste management units referenced in Findings Nos. 18. and 23.a. of these Orders. A copy of the Closure Plan shall be submitted in accordance with Section X. of these Orders and an additional copy submitted to Ohio EPA, Division of Environmental Response and Revitalization, Manager, Engineering Section, P.O. Box 1049, Columbus, Ohio 43216-1049;

- b. This Closure Plan shall comply with the administrative requirements of OAC Chapters 3745-65 and 3745-66 and the substantive requirements of OAC Chapters 3745-54 and 3745-55, including but not limited to, the groundwater protection program in accordance with OAC rules 3745-54-90 through 54-100.
 - c. The Closure Plan is subject to approval by Ohio EPA. If Ohio EPA does not approve the Closure Plan and provides Respondent with a written statement of deficiencies, Respondent shall submit a revised Closure Plan for approval addressing the deficiencies within 30 days of receiving such written statement. If Ohio EPA modifies the Closure Plan, the modified Closure Plan becomes the approved plan.
 - d. Upon Ohio EPA's written approval of the Closure Plan, Respondent shall implement the approved Closure Plan in the manner and pursuant to the time frames set forth in the approved Closure Plan and OAC rules 3745-55-13/3745-66-13;
 - e. Within 60 days after the approval of the Closure Plan pursuant to Order No. 1.d., above, Respondent shall submit to Ohio EPA for review, comment and approval a closure cost estimate. Within 90 days after approval of the closure cost estimate, Respondent shall establish financial assurance and liability coverage for the areas of the Facility subject to closure, in accordance with OAC rules 3745-55-42 through 3745-55-47; and
 - f. Within 30 days after completion of closure, Respondent shall submit certification of closure to Ohio EPA in accordance with OAC rules 3745-55-15. Closure certification of the areas described in Order No. 1.a. will abate the violations referenced in Findings Nos. 18, 23.a., and 25. of these Orders.
2. Respondent is hereby exempted from the requirement to submit an application for a hazardous waste facility installation and operation permit for the Facility, *provided that* Respondent comply with the following:
- a. Within 60 days after the effective date of these Orders, Respondent shall submit to Ohio EPA for approval, a Lamp Management Plan that describes Respondent's plan to apply for an EPA ID number at the

Facility, and to remove and recycle all accumulated universal waste spent lamps from the Facility.

- b. Upon Ohio EPA's approval of the Universal Waste Plan, Respondent shall implement the tasks in the approved Universal Waste Plan in the manner and pursuant to the time frames set forth in the approved Universal Waste Plan. Approval of the Universal Waste Plan by Ohio EPA shall abate the violations referenced in Findings Nos. 8.a., 8.b., 8.e., 8.f., 8.h., 8.i., and 11. of these Orders.
 - c. Within 90 days after the completion of the tasks required by the approved Universal Waste Plan, Respondent shall submit documentation to Ohio EPA for review showing the accumulated universal waste spent lamps have been properly managed.
3. Within 30 days after the effective date of these Orders, Respondent shall submit documentation showing the wastes described in Finding No. 23.b. of these Orders have been evaluated and properly managed. Acceptance of this documentation shall abate the violation referenced in Finding No. 23.b. of these Orders.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Environmental Response and Revitalization acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by any Respondent to Ohio EPA and shall be signed by a responsible official of Zerzer, LLC. For purposes of these Orders, a responsible official is a [e.g., corporate officer] who is in charge of a principal business function of Respondent.

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
Northeast District Office
Division of Environmental Response and Revitalization
2110 E. Aurora Road
Twinsburg, Ohio 44087
Attn: DERR Hazardous Waste 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 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 such corrective action. Ohio EPA and Respondent each reserve all other 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, Respondent consents to the issuance of these Orders and agree to comply with these Orders. Except for the right to seek corrective action at the Facility by Respondent, which right 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

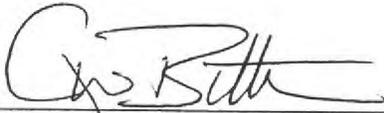
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



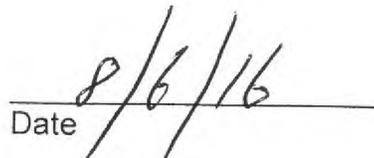
Craig W. Butler
Director

IT IS SO AGREED:

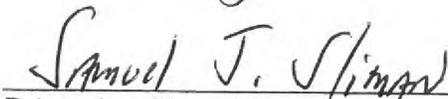
Zerzer, LLC



Signature



Date



Printed or Typed Name



Title

