



State of Ohio Environmental Protection Agency

STREET ADDRESS:

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MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

CERTIFIED MAIL

August 5, 2009

**Re: Director's Final Findings & Orders
Basic Incorporated
OHD004181954**

Mr. Eugene Madara
Senior Vice President
General Counsel & Secretary
ABB Inc.
501 Merritt 7
Norwalk, Connecticut 06851

Dear Mr. Madara:

Here are the Director's Final Findings and Orders (Orders) issued to Basic Incorporated on August 5, 2009. These Orders are effective today.

I have also enclosed invoices for the penalty payments as required by Order Nos. 1 through 3. Please remember that your first payments are due no later than September 4, 2009.

If you have any questions concerning compliance with these Orders, do not hesitate to contact John Pasquarette at (419) 352-8461.

Sincerely,

Harry E. Sarvis, Manager
Compliance Assurance Section
Division of Hazardous Waste Management

Attachments

cc: Michael A. Savage, Chief, DHWM
Jeremy Carroll, Manager, DHWM, Central File
ec: Todd Anderson, Legal
Heidi Greismer, PIC
John Pasquarette, Mgr., DHWM, NWDO

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BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
AUG-5 2009

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Basic Incorporated
2000 Day Hill Road
Windsor, Connecticut 06095

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

It is agreed by the parties hereto as follows:

By: [Signature] Date: 8-5-09

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Basic Incorporated (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 BOUND

These Orders shall apply to and be binding upon 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 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 rule 3745-50-31 of the Ohio Administrative Code (OAC), the Director, may, by order, exempt any person generating, storing, treating, or disposing of 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 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, 42 U.S.C. § 6921 et seq., as amended.

2. Respondent is a person as defined in ORC § 3734.01(G) and OAC rule 3745-50-10(A). Respondent is a wholly owned subsidiary of ABB Holdings, Inc.
3. Respondent owns the facility located at 495 Emma Street, Bettsville, Seneca County, Ohio (Facility).
4. At the Facility, Respondent generated hazardous waste as defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Respondent is identified as a large quantity generator of hazardous waste. Respondent generated hazardous wash water (D007 - as defined in OAC rule 3745-51-24) from cleaning of scrap metal from building demolition activities.
5. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD004181954.
6. On September 25, 2007, Ohio EPA received a complaint alleging Respondent disposed of waste left on a former manufacturing building foundation.
7. As a result of the September 25, 2007 complaint, Ohio EPA conducted a complaint investigation on March 6, 2008 and August 1, 2008, at the Facility.
8. From approximately July through August of 2007, Respondent conducted site demolition and waste removal activities. These activities included demolishing existing buildings, removing hazardous waste from the site and segregating/cleaning of scrap metal.
9. As a result of the investigation and information submitted by Respondent on June 11, 2008, Ohio EPA determined that Respondent had, *inter alia*, established and operated an unpermitted hazardous waste facility, in violation of ORC § 3734.02(E) and (F), through the storage of hazardous waste at the Facility. Specifically, Respondent, stored hazardous refractory dust in former process units, which was characteristically hazardous for chromium (D007 – as defined in OAC rule 3745-51-24). From a record review of this site, sometime during 1989, this site permanently stopped all operations. Ohio Administrative Code (OAC) Rule 3745-51-04(C) states that

a hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vessel, a product or raw material pipeline, or in a manufacturing process unit, is exempt from certain rules unless the hazardous waste remains in the unit more than ninety days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials.

10. During the activities referenced in Finding No. 8. of these Orders, Respondent operated a tank system subject to the requirements found OAC rule 3745-52-34, including closure obligations.
11. By letter dated September 24, 2008, Ohio EPA notified Respondent of the violations referenced in Finding No. 9. of these Orders.
12. By letter dated October 27, 2008, Ohio EPA received a response from Respondent to Ohio EPA's September 24, 2008 letter.
13. Due to the establishment and operation of an unpermitted hazardous waste facility as described in Finding No. 9. 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. In regards to the unlawful storage referenced in Finding No. 9., closure must be conducted in accordance with the closure standards found in OAC rules 3745-55-11 through 3745-55-20.
14. The *submittal of a Closure Plan(s) which comply 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 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 installation and operation permit for the Facility is unlikely to adversely affect the public health or safety or the environment with the meaning of ORC § 3734.02(G).

V. ORDERS

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. The 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 60 days after the effective date of these Orders, Respondent shall submit to Ohio EPA a Closure Plan(s) for the unpermitted hazardous waste management units referred to in Finding No. 9.
 - b. The Closure Plan(s) shall comply with the administrative requirements of OAC rules 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 3745-54-100.
 - c. The Closure Plan(s) is subject to approval by Ohio EPA. If Ohio EPA does not approve the Closure Plan(s) referenced in Order No. 1.a. of these Orders and provides Respondent with a written statement of deficiencies, Respondent shall submit revised Closure Plan(s) for approval addressing the deficiencies within 30 days of receiving such written statement. If Ohio EPA modifies the Closure Plan(s), the modified Closure Plan(s) becomes the approved plan.
 - d. Upon Ohio EPA approval of the Closure Plan(s), Respondent shall implement the approved Closure Plan(s) in the manner and pursuant to the timeframes set forth in the approved Closure Plan(s) and OAC rules 3745-55-13/3745-66-13.
 - e. Within 30 days after Ohio EPA's approval of the Closure Plan(s) for the hazardous waste management units referenced in Order 1.a. of these Orders, Respondent shall submit closure cost estimates and documentation demonstrating that Respondent has established financial assurance and liability coverage for the hazardous waste management units, in accordance with OAC rules 3745-55-42 through 3745-55-47.
 - f. Within 60 days after completion of closure, Respondent shall submit certification of closure to Ohio EPA in accordance with OAC rules 3745-55-15.

2. Within 90 days after the effective date of these Orders, Respondent shall submit to Ohio EPA a demonstration that the tank system, as referenced in Finding No. 10 of these Orders, has met the closure performance standard as required in OAC rules 3745-66-11 and 3745-66-97(A) and (B). In lieu of submitting separate documentation for this Order, Respondent may incorporate requirements of this Order as part of Respondent's Closure Plan(s) as described in Order No. 1.
3. Respondent shall pay Ohio EPA the amount of \$117,400.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734., in accordance with the following provisions:
 - a. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$82,180.00 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 § 3734.28. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$82,180.00. 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 and the Facility. A copy of each check shall be submitted in accordance with Section X. of these Orders.
 - b. In lieu of paying \$5,574.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of \$5,574.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD). Respondent shall make the payment within 30 days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$5,574.00. The official check shall be submitted to Brenda Case, or her successor, Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent. A copy of this check shall be submitted in accordance with Section X. of these Orders, and an additional copy of this check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, Ohio EPA, Division of Air Pollution Control, P.O. Box 1049, Columbus, Ohio 43216-1049.
 - c. Should Respondent fail to fund the SEP in Order No. 3.b. within the required time frame established in Order No. 3.b of these Orders, Respondent shall pay to Ohio EPA, within 7 days after failing to comply with Order No. 3.b. of these Orders, the amount of \$5,574.00 in accordance with the procedures in Order No. 3.a. of these Orders.

- d. Within 60 days after the effective date of these Orders, and in lieu of payment of \$29,646.00 of the civil penalty settlement, Respondent shall implement a SEP consisting of a one-time contribution in the amount of \$29,646.00 to the University Hospitals Case Medical Center (UHCMC), for the purchase of emergency management response equipment storage cabinets as further described in Attachment A, which is incorporated herein to these Orders. Respondent shall submit to Ohio EPA documentation (e.g., cancelled check, receipts, work orders) demonstrating that the \$29,646.00 payment has been made in accordance with this Order. The documentation shall be submitted in accordance with Section X. of these Orders.
- e. Should Respondent fail to fund the SEP in Order No. 3.d. within the required time frame established in Order No. 3.d of these Orders, Respondent shall pay to Ohio EPA, within 7 days after failing to comply with Order No. 3.d. of these Orders, the amount of \$29,646.00 in accordance with the procedures in Order No. 3.a. 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 Ohio EPA's Division of Hazardous Waste Management 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 Respondent to Ohio EPA and shall be signed by a responsible official(s) of Respondent. 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
Northwest District Office
Division of Hazardous Waste Management
347 North Dunbridge Road
Bowling Green, Ohio 43402-9398
Attn: DHWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section

For deliveries to the building:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
50 West Town Street, Suite 700
Columbus, Ohio 43215
Attn: Manager, Compliance Assurance Section

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 Facility, at some time in the future, pursuant to ORC Chapter 3734. or any other applicable law. Respondent reserves the right to raise any administrative, legal or equitable claim or defense with respect to performing 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 agrees 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

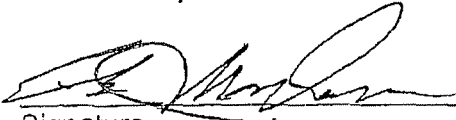


Chris Korleski
Director

AUG 05 2009

Date

Basic Incorporated



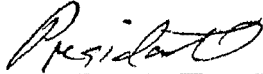
Signature

7/23/09

Date

E. E. MAJARA

Printed or Typed Name



Title

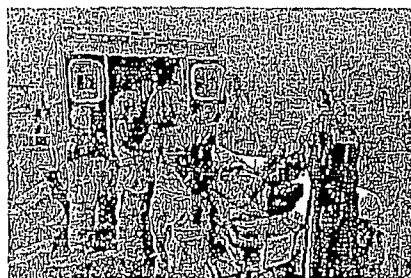


University Hospitals

Disaster Response: Prepared to Care for our Community's Children

In the aftermath of hurricanes, floods, wildfires, tornadoes, earthquakes, and other disasters, children are often the most profoundly affected. They require specialized medical care and compassionate treatment during a time of shock and confusion. In conjunction with local emergency relief efforts through the UH Center for Emergency Medicine, PST-Ohio is a team of 140 volunteer pediatric professionals ready to mobilize in response to local, state, and national emergencies.

PST-Ohio is a collaborative effort of Ohio's six children's hospitals: UH Rainbow Babies & Children's Hospital of Cleveland, Akron Children's Hospital, Children's Medical Center of Dayton, Cincinnati Children's Hospital Medical Center, Nationwide Children's Hospital in Columbus, and Toledo Children's Hospital. By working together to provide pediatric-specific expertise when disaster strikes, no one hospital will have its resources debilitated such that its normal medical services will be impacted. Nationally, PST-Ohio is one of only two pediatric disaster relief teams, positioning it to be an incredibly valuable service to both our local community and in response to large, national disasters.



Coordinated by UH Rainbow Babies & Children's Hospital, PST-Ohio is prepared to immediately respond and provide specialized care to children affected by local, state, and national emergencies.

Organized by Michael R. Anderson, M.D., Vice President and Associate Chief Medical Officer at University Hospitals, whose nationally recognized leadership in pediatric disaster response is reflected in his appointment by then-President George W. Bush to the National Commission on Children and Disasters, PST-Ohio is quickly becoming a national model for disaster response and planning. Below are two opportunities to meaningfully support PST-Ohio's efforts:

Opportunity #1: Storage of Emergency Response Equipment at UH Rainbow Babies & Children's Hospital

In the event of a mass-disaster, UH Rainbow Babies & Children's Hospital must be prepared to not only respond to our community, but also safely care for patients in our hospital. Emergency response equipment for evacuating patients out of the hospital, as well as protective gear for staff and patients have been purchased. We are seeking additional support to construct cabinets in the basement of the hospital to organize and store the equipment in the event of a mass disaster.

RB&C Cabinets

University Hospitals Case Medical Center (UHCMC) Emergency Management has had a shortage of available storage for the past four or five years. The equipment involved in Emergency Management has overcome the space available to keep it. Examples of some of the equipment: over 40,000 N95 masks for respiratory protection in a pandemic flu or other scenarios, Decontamination Tents, Isolation Tents, Personal Protective Gear for employees and public, cots, sleeping bags, patient supplies, evacuation equipment, heaters, generators, ventilators, respirators ... the list goes on and continues to grow.

Current locations for storage include: eight rooms in various locations throughout the hospital, a storage unit off-site in South Euclid, a storage trailer, and we also use warehouse space in Solon. The off-site locations are very troublesome in respect to clogged roadways in a major emergency would equal inaccessible emergency equipment.

Requests for more Emergency Management storage have not been granted, most departments have similar storage issues.

Specific to Pediatrics, we have evacuation equipment, (Med-sleds, infant inserts, evacuation stair chairs), and 22 Pediatric ACLS kits which contain supplies needed for Advanced Cardiac Life Support with sizing and dosage instructions. There is no current location in close proximity to RB&C in which to store this important inventory that will be needed in a hurry. Storage cabinets in RB&C are badly needed and well over-due.

Estimated cost \$29,646.