



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

March 27, 2017

Mr. Ed Green
Retriev Technologies Inc.
265 Quarry Road
Lancaster, Ohio 43130

**Re: Retriev Technologies, Inc.
Director's Final Findings and Orders
(DFFO)
DFFO
RCRA C - Hazardous Waste
Fairfield County
Multiple ID Numbers**

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 Retriev Technologies Inc.

Enclosed is the invoice for the total penalty amount of \$14,400.00 required by the orders. The penalty payment shall be made by official check made payable to "Treasurer, State of Ohio."

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

Sincerely,

Tonya Andrews, Administrative Professional
Division of Environmental Response & Revitalization

Enclosure

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

**Retriev Technologies, Inc.
Director's Final Findings and Orders
(DFFO)
DFFO
RCRA C - Hazardous Waste
Fairfield County
OHR000038513**

**Retriev Technologies, Inc.
Director's Final Findings and Orders
(DFFO)
DFFO
RCRA C - Hazardous Waste
Fairfield County
OHD071654958**

Ohio EPA Invoice/Receipt

Date Printed: March 27, 2017

Revenue ID: 1148595

Please include this Revenue ID with all correspondence.

Place ID: 13792

Information: Retrieval Technologies Inc
265 Quarry Rd
Lancaster, OH 43130-

Due Date: April 24, 2017

Amount Due: \$14,400.00

Effective Date: March 27, 2017

Revenue Description: DHWM- Findings and Orders - hazardous waste cleanup

Program Name: RCRA C - Hazardous Waste

Reason: Fund 541 (3734.281), RCRA C-Hazardous Waste; payment to Ohio EPA in settlement for civil p

For some Revenues, Interest and/or Penalties may be charged for late payment.

Next Interest Date (if applicable):

Next Penalty Date (if applicable):

Remittance Advice

Detach Here - Please Return This Portion With Your Payment

Place ID: 13792

Information: Retrieval Technologies Inc
265 Quarry Rd
Lancaster, OH 43130-

Due Date: Apr 24, 2017

Amount Due: \$14,400.00

Secondary Type/Id: RCRA / OHD071654958

Revenue Type: FFOHW

Amount Enclosed: \$ _____

Many Ohio EPA fee invoices are payable online. For online credit card or ACH payment, go to <https://eBiz.epa.ohio.gov>, login or create an account and from the "Available Services" window choose "Pay Ohio EPA Fees Online".

Please write this number on your check. Revenue ID: 1148595
Make check or money order payable to "Treasurer, State of Ohio"

Remit to: Ohio Environmental Protection Agency - OFA
Department L-2711
Columbus, OH 43260-2711

For Ohio EPA use only

Check ID: _____
Check Date: _____
Check Number: _____
Check Amount: \$ _____

1440000

FFOHW 1148595

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Retriev Technologies Incorporated
8090 Lancaster-Newark Road
Baltimore, OH 43105

Retriev Technologies Incorporated
265 Quarry Road
Lancaster, OH 43130

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: Dan Kasser Date: 3-27-17

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Retriev Technologies 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 Respondent or of the Facilities 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, it is unlikely that the public health or safety or the environment will be adversely affected thereby, 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 Ohio Administrative Code (OAC) rule 3745-50-10(A).
3. Respondent owns and operates a universal waste battery facility located at 8090 Lancaster-Newark Road, Baltimore, Fairfield County, Ohio (Baltimore Facility), where it receives and accumulates spent batteries of various chemistry as a large quantity handler of universal waste batteries as defined under OAC rule 3745-273-09. The Baltimore Facility is assigned U.S. EPA identification number OHR000038513.
4. At the Baltimore Facility, Respondent, and an associated business, Battery Power of Ohio (BPO), generated "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. In 2013, Respondent at the Baltimore Facility was a large quantity generator of hazardous waste subject to the requirements in OAC rule 3745-52-34(A). Respondent and BPO generated, among other things, spent sulfuric acid (D002, D008), which was characteristically hazardous due to corrosivity and toxicity for lead, as defined in OAC rules 3745-51-22 and 3745-51-24.
5. Respondent also owns and operates a hazardous waste storage facility and is a universal waste destination facility (OAC rule 3745-273-09) located at 265 Quarry Road, Lancaster, Fairfield County, Ohio (Lancaster Facility), which receives various battery types that include, but may not be limited to lead-acid, nickel cadmium, nickel iron, zinc carbonate, zinc manganese dioxide (i.e., alkaline), carbon zinc, nickel metal hydride, nickel hydrogen, silver oxide, mercury-containing, magnesium, lithium primary, and lithium ion. These battery types are stored, recycled, and/or passed through to downstream recyclers. Generator

classification of the battery types consists of hazardous waste and universal waste. Hazardous and universal waste may include one or more of the following waste codes: D001- ignitability, D002 – corrosivity, D003 – reactivity, D004 – arsenic, D005 – barium, D006 – cadmium, D007 – chromium, D008 – lead, D009 – mercury, D010 – selenium, D011 – silver as defined in OAC rules 3745-51-22, 3745-51-23 and 3745-51-24. On December 21, 2005, Toxco, Inc. was issued a hazardous waste facility installation and operation permit (Permit) for storage of hazardous waste in Building 265 at the Lancaster Facility. On August 18, 2013, the Director of Ohio EPA issued a Class 3 Modification to the permit which replaced Respondent as permittee. The Lancaster Facility is assigned U.S. EPA identification number OHD071654958.

6. On April 22, 2015, Respondent submitted, and on April 23, 2015, Ohio EPA received, a Class 3 Permit modification request to include a new permitted storage area identified as Building 295 and a 50% increase in permitted storage capacity at the Lancaster Facility. The Permit modification has not been issued to date.
7. On June 22, 2015, Respondent submitted, and on June 23, 2015, Ohio EPA received, a renewal application for its Permit for the hazardous waste storage area in Building 265 at the Lancaster Facility. The renewal permit has not been issued to date.
8. On July 17, 2015, Ohio EPA and Respondent entered into Director's Final Findings and Orders (2015 Orders) to resolve Respondent's storage of seven containers of hazardous waste lead plates and forty-two containers of hazardous waste collector oxide for greater than 90 days in unpermitted storage areas, in violation of ORC § 3734.02(E) and (F). The 2015 Orders required payment of a \$13,000.00 civil penalty. Respondent paid \$12,000.00 on August 21, 2015 and completed a supplemental environmental project valued at \$1,000.00 on October 2, 2015.
9. On March 3, 2016, Ohio EPA and Respondent entered into Director's Final Findings and Orders (2016 Orders) to resolve Respondent's storage of one container of hazardous waste polycarbonate plastic (D008) for greater than 90 days in an unpermitted storage area, in violation of ORC § 3734.02(E) and (F) for the Lancaster Facility. The 2016 Orders required payment of a \$4,000.00 civil penalty. Respondent satisfied the 2016 Orders on April 4, 2016.
10. On May 17, 2016, Ohio EPA conducted a compliance evaluation inspection at the Baltimore Facility. As a result of this inspection, Ohio EPA determined that Respondent stored one, 55-gallon container of hazardous waste spent sulfuric acid (D002, D008) in an unpermitted storage area for greater than 90 days, in violation of ORC § 3734.02(E) and (F). The container was marked as hazardous waste,

having been generated by BPO, with an accumulation start date of February 18, 2013. Therefore, the container had been stored illegally for over three years establishing the storage area as a hazardous waste management unit.

11. In a notice of violation (NOV) letter dated June 16, 2016, Ohio EPA notified Respondent of the violation cited in Finding No. 10. of these Orders.
12. Via electronic mail on June 16, 2016, Respondent provided Ohio EPA with a copy of a hazardous waste manifest documenting the container of hazardous waste spent sulfuric acid (D002, D008) was sent off-site to an authorized facility on June 13, 2016.
13. On September 12, 2016, Ohio EPA conducted a compliance evaluation inspection at the Lancaster Facility. During the inspection, Ohio EPA documented the presence of lithium-ion batteries received from off-site generators being stored prior to reclamation in Building 295, for which the Permit modification was pending. Additionally, at the time of the inspection, the filter cake generated in the wet nickel/alkali processing area had not been evaluated to determine if the filter cake was a hazardous waste, two containers holding hazardous waste were not closed, and the hazardous waste satellite accumulation container at the granulator was not properly labeled. Finally, the majority of floor sealer in between sections 20 and 21 of Phase 1 was worn away. Of particular concern were the large cracks in not only the coating, but that it had worn into the subsurface of the concrete in Phase 1.
14. As a result of the inspection, Ohio EPA determined that Respondent, *inter alia*:
 - a. Stored lithium-ion batteries in a storage area yet to be permitted in violation of ORC § 3734.02(E) and (F);
 - b. Failed to evaluate wastes to determine if they are hazardous waste, in violation of OAC rule 3745-52-11;
 - c. Failed to keep containers of hazardous waste closed, in violation of OAC rule 3745-66-73(A);
 - d. Failed to properly label a satellite accumulation area container, in violation of OAC rule 3745-52-34(A)(3); and
 - e. Failed to remedy any deterioration or malfunction of equipment or structures which the inspection reveals on a schedule which ensures that the problems

do not lead to an environmental or human health hazard, in violation of OAC rule 3745-54-15(C) and Permit Condition B.5.

15. On September 15, 2016, Ohio EPA instructed Respondent to remove the lithium-ion batteries from Building 295 at the Lancaster Facility referenced in Finding No. 13. of these Orders.
16. On September 22, 2016, Ohio EPA visited the Lancaster Facility and confirmed that all lithium-ion batteries were removed from Building 295 and placed within a permitted storage unit at the Lancaster Facility.
17. By letter dated September 27, 2016, Ohio EPA notified Respondent of the violations referenced in Finding No. 14. of these Orders. This letter also notified Respondent that the violations referenced in Findings Nos. 14.c., 14.d., and 14.e. of these Orders were resolved.
18. Because Respondent removed the lithium-ion batteries from Building 295 at the Lancaster Facility, no releases were observed, and Respondent committed to cease using Building 295 until the Permit modification is issued or a temporary authorization was issued, the Director has determined that no further action is required of Respondent at this time with regard to the violation referenced in Finding No. 14.a. of these Orders.
19. In correspondence dated October 10, 2016, Respondent submitted waste evaluation documentation for the wastes (filter cake) observed during the September 12, 2016 inspection.
20. By letter dated December 1, 2016, Ohio EPA notified Respondent that the violation referenced in Finding No. 14.a. of these Orders was resolved.
21. On November 22, 2016, the Director issued Respondent a temporary authorization to store lithium-ion batteries for 180 days in Building 295 while the Permit modification remains pending.
22. On November 7, 2016, Respondent performed closure activities at the Baltimore Facility. Analytical results received by Ohio EPA on November 16 and December 12, 2016 indicated no releases of hazardous waste occurred in this hazardous waste management unit. Therefore, the Director has determined that Respondent has met the closure performance standard required by OAC rule 3745-55-11(A) and (B) and no further action is required to resolve the violation of ORC § 3734.02(E) and (F) referenced in Finding No. 10 of these Orders.

23. On December 13, 2016, Ohio EPA conducted a focused compliance inspection at the Lancaster Facility. As a result of this inspection, Ohio EPA determined that hazardous waste (D008) generated in the lead acid manual breaking area had been released to the ground and caused breakdown of the concrete floor, in violation of OAC rule 3745-65-31.
24. In a notice of violation (NOV) letter dated January 9, 2017, Ohio EPA notified Respondent of the violation cited in Finding No. 23. of these Orders and that, based on information received by Respondent on December 19, 2016 showing floor repairs, the violation had been resolved.
25. In correspondence dated February 16, 2017 and received February 23, 2017, Respondent submitted the closure certification for the hazardous waste management unit at the Baltimore Facility to Ohio EPA.

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 shall pay to Ohio EPA the amount of \$14,400.00 in settlement of Ohio EPA's claims for civil penalties. Within 30 days after the effective date of these Orders, Respondent shall pay the amount of \$14,400.00 which will be deposited into the environmental protection remediation fund established pursuant to ORC § 3734.281. Payment shall be made by official check made payable to "Treasurer, State of Ohio" for \$14,400.00. 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 Respondent, the Facility, and the U.S. EPA ID Number referenced in Finding No. 3. of these Orders. A copy of this check shall be sent to the Financial Program Manager, Ohio EPA Division of Environmental Response and Revitalization, P.O. Box 1049, Columbus, Ohio 43216-1049.

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 Respondent to Ohio EPA and shall be signed by a responsible official 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
Central District Office
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: 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 closure of the hazardous waste management unit and corrective action at the Lancaster Facility, as well as corrective action at the Baltimore 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 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 Lancaster Facility and corrective action at the Baltimore 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

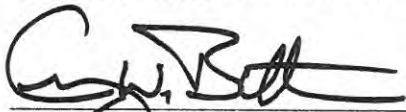
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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:

Retriev Technologies Incorporated



Signature

3-1-2017
Date

Edward D. Green
Printed or Typed Name

Sr. Vice President
Title