

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: :

Gould, Inc. : DIRECTOR'S FINAL FINDINGS

(nka Gould Electronics, Inc.) : AND ORDERS

and :

Sylvan J. and Rosalee J. Dlesk :

1700 Bearing Road :

Bridgeport, Ohio 43192 :

Respondents :

AMENDMENT TO DIRECTOR'S FINAL FINDINGS AND ORDERS OF APRIL 4, 1989

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("OEPA") under Sections 3734.13, 3734.20, 3745.01, and 6111.03 of the Ohio Revised Code ("ORC").

II. PARTIES

These Orders shall apply to and be binding upon the Respondents, their agents, servants, employees, assigns, and successors in interest.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. On April 4, 1980, the Director issued Final Findings and Orders to the above named Respondents. All findings of fact and conclusions of law made in the April 4, 1989 Final Findings and Orders ("1989 Orders") are hereby incorporated by reference.

B. Pursuant to a Purchase Agreement dated January 31, 1994, Gould Electronics Inc., an Ohio corporation, purchased substantially all the liabilities of Gould Inc., including without limitation the rights and obligations of Gould Inc. under the 1989 Orders. Subsequently, and pursuant to Delaware law, Gould Inc. dissolved

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as a corporation. Gould Electronics Inc. is a person as defined by Ohio Revised Code section 3734.01(G).

IV. ORDERS

A. Except as described below, all provisions contained in the 1989 Orders remain valid and in effect. Only the following amendments are made:

- 1. Subparagraph VIII.5. on page 11 of 1989 Orders is deleted and replaced with the following:
 - 5. The Feasibility Study will include a full and equal analysis of remedial alternatives under both residential and industrial use scenarios.
- 2. Subparagraph VIII.6. on page 11 of the 1989 Orders is deleted and replaced with the following:
 - 6. The draft FS Workplan shall be submitted to OEPA within 30 days of the effective date of this Amendment.
- 3. Subparagraph V.A. on page 7 of the 1989 Orders is amended to include the following sentence:

Furthermore, Respondents will not appeal to the Ohio Environmental Board of Review any action taken by OEPA under this Consent Order.
- 4. The first sentence of Subparagraph XIV.B. on page 21 of the 1989 Orders is deleted and replaced with the following:

Except as otherwise provided in Article V, above, the Respondents and OEPA expressly reserve all rights and defenses that they may have, including, without limitation, OEPA's right both to disapprove the work performed by the Respondents and to request that the Respondents perform tasks in addition to those detailed in the RI Workplan, the FS Workplan, or the RD/RA Workplan, as provided in this Consent Order, and including, without limitation, Respondents' right to assert in an enforcement action by OEPA to enforce the terms of this Consent Order that an action by OEPA under

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this Consent Order was unlawful, unreasonable, or not consistent with the terms of the Consent Order or the SOW.

The remainder of Subparagraph XIV.B. shall remain valid and in effect.

5. Subparagraph XIII.F. beginning on page 19 is replaced with the following:

F. The Project Coordinators shall, wherever possible, operate by consensus, and in the event that there is a disapproval of any report or disagreement about the conduct of the work performed under this Consent Order, or modified or additional work or schedules required under this Consent Order, the Project Coordinators shall negotiate in good faith for five (5) business days to resolve the differences.

In the event that the Project Coordinators are unable to reach consensus on the disapproval or disagreement in five (5) business days, then each Project Coordinator shall reduce his/her position to written form within five (5) business days of the end of the good faith negotiations referenced above. Those written positions shall be immediately exchanged by the Project Coordinators.

Following the exchange of written position, the Parties, with the participation of the OEPA's Project Coordinator's supervisor(s), shall have an additional seven (7) days to resolve the dispute. If after this additional seven (7) day period, OEPA concurs with the position of Respondents, OEPA will modify the Consent Order to include necessary extensions of time or variances of required work, or direct the Respondents in writing to amend the Workplan(s). If OEPA does not concur with the position of the Respondents, the OEPA Project Coordinator shall notify the Respondents of OEPA's position in writing.

Within seven (7) days of the receipt of such notice from OEPA, Respondents may forward a written statement and request for a meeting to

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the Chief of the Division of Emergency and Remedial Response. If Respondents request a meeting with the Chief of DERR, then such meeting shall be scheduled between the Parties as soon as practicable. The Chief may either attend the meeting in person or designate a representative to attend in his/her place. The designee shall be either an Assistant Chief or Environmental Manager from DERR. The meeting shall be limited to concise presentations by each Party of their positions, first by the Respondents followed by OEPA staff. The Chief or his/her designee shall be free to ask questions or solicit input from either Party. The Chief of DERR shall resolve the dispute in writing based upon and consistent with this Consent Order, as amended, the SOWs, as amended, the workplans, and any applicable federal or state law.

If OEPA does not receive a written statement requesting a meeting within seven (7) days of receipt of OEPA's position, OEPA shall submit a written notice to the Respondents resolving the dispute. OEPA's resolution shall be consistent with the Consent Order, as amended, SOWs, as amended, the workplans, and any applicable federal or state law. The pendency of dispute resolution set forth in this Article shall not affect the time period for completion of work to be performed under this Consent Order, except that upon mutual agreement of the parties, any time may be extended as appropriate under the circumstances. Such agreement will not be unreasonably withheld by OEPA. Elements of work not affected by the dispute will be completed in accordance with the schedules contained in the workplans.

6. Subparagraph VIII.8. on page 11 of the 1989 Orders is deleted and replaced with the following:

3. The draft FS report shall be submitted to OEPA according to the

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schedules contained in the final FS Workplan as approved by OEPA.

7. Subparagraph VIII.10. on page 12 of the 1989 Orders is deleted and replaced with the following:

10. The draft RD/RA Report shall be submitted to OEPA according to the schedules contained in the final RD/RA Workplan as approved by OEPA.

8. Subparagraph VIII.7. on page 11 of the 1989 Orders is deleted and replaced with the following:

7. The final FS Workplan shall be submitted to OEPA within 28 days after receipt of OEPA's approval or comments or modifications on the draft FS Workplan.

9. Subparagraph VIII.9. on page 12 of the 1989 Orders is deleted and replaced with the following:

9. The final FS Report shall be submitted to OEPA within 28 days after receipt of OEPA's approval or comments or modifications on the draft FS Report.

10. Subparagraph VIII.11. on page 12 of the 1989 Orders is deleted and replaced with the following:

11. The final RD/RA Report shall be submitted to OEPA within 28 days after receipt of OEPA's approval or comments or modifications on the draft RD/RA Report.

11. The fifth sentence of Subparagraph XIII.B. on page 17 of the 1989 Orders is deleted and replaced with the following:

Within twenty eight (28) days of receipt of OEPA notifications requiring modifications or additions, Respondents shall amend and submit to OEPA a revised document, correcting the deficiencies and incorporating all of the required modifications or additions.

The remainder of Subparagraph XIII.B. shall remain valid and in effect.

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12. The following paragraph is added to Task 13 on Page 10 of the Generic Statement of Work (Attachment A), attached to the 1989 Orders:

Public participation in the remedy selection shall be in accordance with Ohio EPA, Division of Emergency and Remedial Response Preferred Plan and Decision Document Policy. Upon completion of Task 13 and selection of the preferred remedial alternative, Ohio EPA will conduct a public meeting to present the preferred plan and solicit comment from the public. At a minimum, a thirty (30) day period for public comment will also be established.

13. Pursuant to Section X. of the 1989 Orders, Ohio EPA designates to following addresses to replace those listed on page 15 of the 1989 Orders:

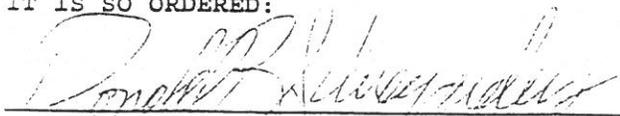
Division of Emergency and Remedial Response
Ohio Environmental Protection Agency
Southeast District Office
2195 Front Street
Logan, Ohio 43138
ATTN: Gould/Bridgeport Site Coordinator

Division of Emergency and Remedial Response
Ohio Environmental Protection Agency
1800 Watermark Drive
P.O. Box 163669
Columbus, Ohio 43216-3669

XI. SIGNATORIES

Each undersigned representative of a signatory to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such signatory to this document. Respondents do not admit liability or any finding of fact, determination or conclusion of law, and Respondents' agreement to undertake the activities required by this Consent Order shall not constitute or be construed as any admission of liability or an admission of any finding of fact, determination or conclusion of law.

IT IS SO ORDERED:


Donald R. Schregardus, Director

Ohio Environmental Protection Agency

Date

10/24/94

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Date 10/24/94

XII. WAIVER AND AGREEMENT

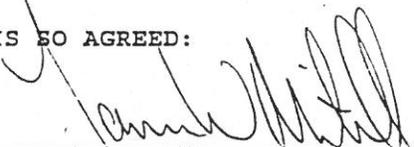
In order to resolve disputed claims, without admission of fact, violation, or liability and in lieu of further enforcement action by the Ohio EPA for only the obligations addressed in these Findings and Orders, the Respondents agree that these Findings and Orders are lawful and reasonable, that the schedule provided for compliance herein is reasonable and that the Respondents agree to comply with these Orders. Upon the Respondent's receipt of written notice of termination of these Orders and except as otherwise described in Section XXII. of the 1989 Orders, the Respondent shall be released from the obligations embodied in Section IV of these Orders.

The Respondent hereby waives the right to appeal the issuance, terms, and service of these Orders, and the Respondent hereby waives any and all rights it might have to seek judicial review of said Findings and Orders either in law or equity.

Notwithstanding the preceding, the Director and the Respondent agrees that in the event that these Findings and Orders are appealed by a third party, the Respondent retains the right to intervene and participate in the third party's appeal. In such event, the Respondent shall continue to comply with these orders notwithstanding such appeal and intervention unless said Orders are stayed, vacated, or modified.

In the matter of Gould, Inc. (nka Gould Electronics, Inc.) and Sylvan J. and Rosalee J. Dlesk:

IT IS SO AGREED:



Signature (for Gould Electronics, Inc.)

9/22/94

Date

Lawrence W. Mitchell

Printed or Typed Name

Associate Counsel

Title

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In the matter of Gould, Inc. (nka Gould Electronics, Inc.) and Sylvan J. and Rosalee J. Dlesk:

IT IS SO AGREED:

Sylvan J. Dlesk
Signature
Sylvan J. Dlesk

9/26/1994
Date

Deemer
Title

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e

By: Editha Welch Date 10/24/94

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In the matter of Gould, Inc. (nka Gould Electronics, Inc.) and Sylvan J. and Rosalee J. Dlesk:

IT IS SO AGREED:

Rosalee J. Dlesk
Signature
Rosalee J. Dlesk
OWNER
Title

9/26/94
Date

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By: [Signature] Date 10/24/94

In the matter of Gould, I. (nka Gould Electronics, Inc.) and Sylvan J. and Rosalee J. Dlesk:

Ohio Environmental Protection Agency:

Donald R. Schregardus
Donald R. Schregardus, Director

10/24/94
Date

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