



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3164
www.epa.state.oh.us

MAILING ADDRESS:

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

CERTIFIED MAIL

March 10, 2008

Raeford Craig Lackey
Vice President and Chief Counsel
Clean Harbors Environmental Services, Inc.
400 Arbor Lake Drive, Suite B-900
Columbia, South Carolina 29223

**RE: Director's Final Findings & Orders
Clean Harbors Environmental Services
US EPA ID No.: OHD 000 724 153**

Dear Mr. Lackey:

Here are the Director's Final Findings and Orders (Orders) issued to Clean Harbors Environmental Services on March 10, 2008. These Orders are effective today.

I have also enclosed invoices for the penalty payments as required by Order No. 1.a. and 1.b. Please remember that your payments are due no later than April 9, 2008.

If you have any questions concerning compliance with these Orders, do not hesitate to contact Natalie Oryshkewych at (330) 963-1267.

Sincerely,

David A. Sholtis
Assistant Chief
Division of Hazardous Waste Management

Enclosure

cc: Michael A. Savage, Chief, DHWM
Harry Sarvis, Mgr., CAS, DHWM
Elissa Miller, Legal
Heidi Greismer, PIC
Natalie Oryshkewych, Mgr., DHWM, NEDO

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Tad Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director



OHIO E.P.A.
MAR 10 2008

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

**Clean Harbors Environmental
Services, Inc.**
42 Longwater Drive
P.O. Box 9149
Norwell, MA 02061-9149

**Director's Final
Findings and Orders**

Respondent

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: 3-10-08

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Clean Harbors Environmental Services, Inc. (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 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 owns and operates a wastewater treatment facility located at 2900 Rockefeller Avenue, Cleveland, Cuyahoga County, Ohio (Facility). At the Facility, Respondent utilizes two separate treatment systems for the treatment of hazardous and non-hazardous wastewaters. Respondent was qualified to do business in Ohio on February 19, 1991.
3. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD000724153.
4. 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 is a large quantity generator and transporter of hazardous waste. Hazardous waste generated by Respondent at the Facility includes wastewater treatment sludge, spent fluorescent bulbs, and laboratory waste.
5. On June 19, 2006, five containers of hazardous waste (D002, D007, D008, F006) were received at Spring Grove Resource Recovery, a permitted hazardous waste treatment, storage and disposal facility located at 4879 Spring Grove Avenue, Cincinnati, Hamilton County, Ohio (SGRR), from a hazardous waste generator located in the state of Connecticut.
6. Upon receipt, SGRR conducted a waste analysis of the five containers and determined that the five containers were off-specification from the generator's waste profile. Specifically, SGRR determined that the five containers of waste did not exhibit the characteristic of corrosivity (D002). SGRR contacted the customer service representative for the generator and informed them that the five containers of waste did not exhibit the characteristic of corrosivity and did not match the initial waste profile. The customer service representative then generated a new waste profile which identified the five containers of waste as non-hazardous waste. The customer service representative failed, however, to identify that the five containers of waste also exhibited the characteristics of toxicity for chromium (D007) and lead (D008), and was a listed hazardous waste (F006). SGRR proceeded to manage the five containers of waste as non-hazardous waste and transported the five containers of waste to Respondent's Facility on non-hazardous waste shipping documents.

7. On September 5, 2006, Respondent received the five containers of waste from SGRR and subsequently processed the waste in Respondent's non-hazardous wastewater treatment system. On September 11, 2006, the waste filter cake resulting from the treatment of the waste was transported to a facility which does not hold a hazardous waste permit.
8. Upon receipt of the original, signed manifest from SGRR, the generator notified SGRR that the waste was not a non-hazardous waste, but rather a hazardous waste exhibiting, at a minimum, the listed hazardous waste code F006. SGRR then notified Respondent that the five containers of waste transported to the Facility, referenced in Finding No. 7 of these Orders, were listed hazardous waste. As a result, the waste filter cake generated from the treatment of the five containers of waste was also listed hazardous waste.
9. On October 3 and 6, 2006, Respondent notified Ohio EPA that, on September 11, 2006, it had caused one 20-cubic yard container of hazardous waste to be transported to a facility which does not hold a hazardous waste permit.
10. By letter dated November 2, 2006, Ohio EPA notified Respondent that Respondent had violated ORC § 3734.02(F) by causing hazardous waste to be transported a facility which does not hold a hazardous waste permit.
11. Based upon the information contained in Respondent's October 3 and 6, 2006 correspondences to Ohio EPA, referenced in Finding No. 9 of these Orders, the Director has determined that no additional action is required of Respondent regarding the ORC § 3734.02(F) violation referenced in Finding No. 10 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. Respondent shall pay Ohio EPA the amount of \$7,000.00 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 \$5,600.00 in settlement of Ohio EPA's claims for civil penalties 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 \$5,600.00. 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. A copy of this check shall be submitted in accordance with Section X. of these Orders.

- b. In lieu of paying the remaining \$1,400.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of \$1,400.00 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 \$1,400.00. The official check shall be submitted to Brenda Case, or her successor, Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, 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 within the required time frame established in Order No. 1.b., Respondent shall pay to Ohio EPA, within 7 days after failing to comply with Order No. 1.b., the amount of \$1,400.00 in accordance with the procedures in Order No. 1.a.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks 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
Northeast District Office
Division of Hazardous Waste Management
2110 E. Aurora Road
Twinsburg, Ohio 44087
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 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, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. 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

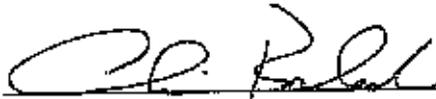
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

MAR 10 2008
Date

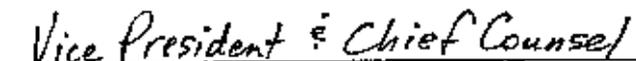
IT IS SO AGREED:

Clean Harbors Environmental Services, Inc.


Signature

February 20, 2008
Date


Printed or Typed Name


Title