OHIO E.P.A.

OCT 29 2013

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ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Bethel Engineering & Equipment, Inc.	:	**Expedited Settlement**
13830 McBeth Road	:	**Agreement and**
New Hampshire, OH 45870	:	**Director's Order**
	:	
	:	
Respondent	:	

I. JURISDICTION

This Expedited Settlement Agreement and Director's Order ("ESA") is issued to Bethel Engineering & Equipment, 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. 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 operates a metal fabricating facility located at 13830 McBeth Road, New Hampshire, Auglaize County, Ohio 45870 (Facility).

3. 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 conditionally exempt small quantity generator of hazardous waste and has been assigned EPA ID number OHR000139709. The hazardous wastes generated by Respondent at the Facility include hazardous paint related waste (D001, D005, D007, D035, F003, F005), spent solvent from parts cleaning (D001, D005, D007, D035, F003, F005), spent paint booth filters (F003 and F005), and spent parts washer fluid (D001) as described in OAC rule 3745-51-31. Respondent is also a used oil generator.

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: Amy Cassler Date: 10-29-13

4. Ohio EPA conducted a compliance evaluation inspection and complaint investigation at the Facility on June 26 and 28, 2012. During the inspection, Ohio EPA learned that Respondent cleans the paint guns by spraying lacquer thinner from the guns onto the paint booth filters. When the filters are changed, they are placed into a garbage bag, set outside to allow the remaining solvents to volatilize, and then disposed of at a solid waste landfill. As a result of this inspection, Ohio EPA determined that Respondent had, *inter alia*:

   a. Disposed of hazardous waste to the air by allowing the listed hazardous paint waste to dry by evaporation, in violation of ORC § 3734.02 (E) and (F);

   b. Caused hazardous waste to be transported to an unauthorized facility by disposing of the listed hazardous waste paint filters in a solid waste landfill, in violation of ORC § 3734.02 (F);

   c. Failed to evaluate wastes to determine if they are hazardous, in violation of OAC rule 3745-52-11;

   d. Failed to label containers of used oil with the words "used oil" in violation of OAC rule 3745-279-22(C)(1); and

   e. Failed to ensure used oil was transported from the Facility by a transporter who had obtained a US EPA identification number, in violation of OAC rule 3745-279-24;

5. By letter dated July 17, 2012, Respondent was notified of the violations referenced in Finding No.4. of this ESA.

6. On August 1, 2012, Ohio EPA received documentation from Respondent in response to the violations referenced in Finding No.4. of this ESA. This information included a management plan for the hazardous waste solvent, paint filters and used oil, and photographs showing containers of used oil were labeled.

7. By letter dated September 19, 2012, Ohio EPA notified Respondent that the violations referenced in Findings Nos. 4.d. and 4.e. of this ESA were abated.

8. On October 16, 2012, Ohio EPA conducted an additional site visit and inspection at the Facility.

9. On October 5, October 16, October 22, October 30, and November 27, 2012, Respondent submitted additional waste information to Ohio EPA.

10. By letter dated December 7, 2012, Ohio EPA notified Respondent that the violation referenced in Finding No. 4.c. of this ESA is abated.

11. The Director has determined that no further action is required with regard to the hazardous waste spent paint waste which was disposed to the air, as described in Finding No. 4.a. of this ESA. Due to the dispersement of the hazardous waste constituents by volatilization, the Director recognizes the impractability for any remedial injunctive relief activity. Furthermore, the Director has determined that no further action is required with regard to the violation in Finding No. 4.b. of this ESA. Respondent is now properly managing the hazardous wastes generated at the Facility.

12. In consideration of Respondent's compliance history, its good faith effort to comply in this matter, the benefits of prompt compliance to the public, and other factors as justice may require, and upon consideration of the entire record, this ESA is an appropriate mechanism to resolve the noncompliance detailed in these Findings.

III. ORDER

1. Within sixty (60) days from the date of the Director's letter inviting Respondent to sign this ESA, Respondent shall pay to the Ohio EPA the amount of $6,600 in settlement of the Ohio EPA's claim for civil penalties, which may be assessed pursuant to Chapter 3734.13 of the Ohio Revised Code. Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" for the full amount, and shall be deposited in the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be mailed to the following address: 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 to Supervisor, Processing/Records Management Unit, Ohio EPA, Division of Materials and Waste Management, P.O. Box 1049, Columbus, Ohio 43216-1049.

IV. TERMINATION

Respondent's obligations under this ESA shall terminate upon both Ohio EPA's entry of this ESA in the Ohio EPA Director's journal and Ohio EPA's receipt of the civil penalty payment required by this ESA.

V. RESERVATION OF RIGHTS AND WAIVER

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived herein.

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 this ESA, Respondent consents to the issuance of this ESA and agrees to comply with this ESA. Compliance with this ESA shall be a full accord and satisfaction of Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of this ESA, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of this ESA either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if this ESA is 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 comply with this ESA notwithstanding such appeal and intervention unless this ESA is stayed, vacated, or modified.

VI. EFFECTIVE DATE

The effective date of this ESA is the date this ESA is entered into the Ohio EPA Director's journal.

VII. SIGNATORY AUTHORITY

Each undersigned representative or party to this ESA certifies that he or she is fully authorized to enter into this ESA and to legally bind such party to this ESA.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Scott J. Nally, Director

October 29, 2013
Date

IT IS SO AGREED:

Bethel Engineering & Equipment, Inc.

David Whitaker
Signature

10-17-13
Date

David Whitaker
Printed or Typed Name

president
Title