

OHIO E.P.A.
APR 25 2013
ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

The Ridgeton Restoration Company Ltd.
3507 Ridgeton Road
Bucyrus, Ohio 44820

Robert W. and Mary E. Erwin
410 Mader Drive
Bucyrus, Ohio 44820

Respondents

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

By: Jim Lassiter Date: 4-25-13

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to The Ridgeton Restoration Company Ltd. (Respondent Ridgeton) and Robert W. and Mary E. Erwin (Respondent Erwin), (together Respondents) 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 Erwin and Respondent Ridgeton and successors in interest to Respondent Ridgeton liable under Ohio law. No change in ownership of Respondent Ridgeton or of the Facility shall in any way alter Respondents' 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 there under.

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 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. Respondents are each a "person" as defined in ORC §3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A). Respondent Ridgeton is a domestic limited liability company which filed Articles of Organization in Ohio on May 4, 2000. Respondent Erwin are each an individual.
3. Respondent Ridgeton operates a furniture and property restoration business and restores and refurbishes wood pieces such as doors and furniture. Respondent Ridgeton formerly operated this business at 1411 North Sandusky Avenue, Bucyrus, Crawford County, Ohio (Facility) and is an "operator" as defined in OAC rule 3745-50-10(A). Respondent Erwin owns the real property where the Facility is located and is an "owner" as defined in OAC rule 3745-50-10(A).
4. Ohio EPA has issued U.S.EPA identification number OHR000164111 for the Facility.
5. At the Facility, Respondent Ridgeton generated hazardous and universal waste as those terms are defined by ORC §3734.01, and OAC rules 3745-50-10(A) and 3745-51-31. Respondent Ridgeton generated non-acute hazardous waste in amounts greater than 100 kilograms per month, but less than 1,000 kilograms per month, and therefore is considered a small quantity generator (SQG) of hazardous waste pursuant to OAC rule 3745-52-34(D). Respondent Ridgeton generated methylene chloride and methanol coating/paint sludge and waste water from a rinse table and spent methylene chloride/methanol stripper, including solids from a stripping table, which are, at a minimum, listed hazardous wastes F002 and F003, as described in OAC rule 3745-51-31 and

characteristically hazardous for lead, D008, as described in OAC rule 3745-51-24.

6. On March 14, 2011, Ohio EPA conducted a complaint investigation and compliance evaluation inspection at the Facility. As a result of this inspection, Ohio EPA determined Respondent Ridgeton, *inter alia*;
 - a. Established and operated a hazardous waste storage and disposal facility without a hazardous waste installation and operation permit, in violation of ORC §3734.02(E) and (F). For at least two (2) years, Respondent Ridgeton unlawfully stored and disposed of the hazardous waste described in Finding No. 5. of these Orders, from the rinse table at the Facility into an in-ground pit located inside the Facility. Respondent Ridgeton drained the hazardous waste described in Finding No. 5. of these Orders from the rinse table into a steel pipe which discharged into the pit. The pit was lined with a partial fifty-five (55) gallon steel drum. Once the partial drum in the pit was full, hazardous waste would overflow and discharge between the drum and earth void into the ground and onto the floor of the Facility. Additionally, for at least four (4) years Respondent Ridgeton unlawfully disposed listed hazardous waste spent methylene chloride/methanol solvent and sludge at a gravel area behind the building at the Facility. Respondent Ridgeton would strip and rinse larger pieces of wood items behind the Facility and allow the hazardous waste to be directly discharged/disposed onto the ground;
 - b. Caused the unlawful transportation of listed hazardous waste methylene chloride/methanol stripper/sludge to a facility that neither holds a hazardous waste installation and operation permit nor is otherwise authorized to manage hazardous waste, in violation of ORC §3734.02(F), for at least the last four (4) years. Respondent Ridgeton added sawdust to the spent methylene chloride/methanol stripper hazardous waste generated from the stripping and rinse tables, as described in Finding No. 5. of these Orders, and caused it to be transported to the county solid waste landfill by placing it in the solid waste receptacle at the Facility; and
 - c. Failed to evaluate waste methylene chloride and methanol coating/paint sludge, spent methylene chloride/methanol solvent and spent stripper rags to determine if these wastes were hazardous waste, in violation of OAC rule 3745-52-11.

7. In a letter dated March 23, 2011, Ohio EPA notified Respondent Ridgeton of the violations referenced in Finding No. 6. of these Orders.
8. In a letter dated March 28, 2011, Respondent Ridgeton responded to the letter referenced in Finding No. 6. of these Orders. This response listed tasks being undertaken by Respondent Ridgeton to address the violations, including making arrangements to dispose of hazardous waste from the Facility, using containers to segregate spent stripper rags from spent waste methylene chloride and methanol coating/paint sludge and spent methylene chloride/methanol solvent, and researching a filter system for filtering and recycling the waste water from the rinse table.
9. In electronic mail on April 15 and April 18, 2011, Respondent Ridgeton submitted information addressing the violations referenced in Finding No. 6. of these Orders, including information regarding a distillation unit.
10. In a letter dated June 1, 2011, Ohio EPA notified Respondent Ridgeton that although some information had been provided to Ohio EPA, the violations referenced in Finding No. 6. of these Orders had not been abated.
11. In a letter dated June 3, 2011, Respondent Ridgeton responded to the letter referenced in Finding No. 10. of these Orders and described additional tasks to be performed to address the violations, including cleanup of the shop area, acquisition of waste profiles and preparation of a closure plan.
12. On June 21, 2011, Ohio EPA observed Respondent Ridgeton's consultant collect one consolidated representative sample of hazardous waste from the steel drum lining the pit, as described in Finding No. 6.a. of these Orders, and the spent methylene chloride/methanol stripper and solids, as described in Finding No. 6.b. of these Orders and one representative sample of the spent stripper rags. While at the Facility, Ohio EPA also determined Respondent Ridgeton, *inter alia*;
 - a. Failed to store universal waste lamps in a closed container, in violation of OAC rule 3745-273-13(D)(1); and
 - b. Was unable to demonstrate the length of time universal waste lamps were accumulated, in violation of OAC rule 3745-273-15(C).
13. In a letter dated July 1, 2011, Ohio EPA notified Respondent Ridgeton of the violations referenced in Finding No. 12. of these Orders.

14. In a letter dated July 2, 2011, Respondent Ridgeton provided information to address the violations at the Facility, including past waste management activities, waste generation, and remediation activities to date.
15. In electronic correspondence on July, 8, 2011, Respondent Ridgeton provided analytical results from the sampling that occurred on June 21, 2011. The analytical information demonstrated that the methylene chloride/methanol hazardous waste streams exhibited the characteristic of lead, as described in OAC rule 3745-51-24, in addition to being listed hazardous waste F002 and F003 as described in OAC rule 3745-51-33.
16. In a letter dated August 18, 2011, Ohio EPA notified Respondent Ridgeton it had abated the violation referenced in Finding No. 6.c. of these Orders.
17. In electronic correspondence on August 24, 2011, Respondent Ridgeton provided information demonstrating compliance with the universal waste requirements to address the violations referenced in Finding Nos. 12.a. and 12.b. of these Orders.
18. On September 6, 2011, Ohio EPA received photographs of the universal waste lamps stored at Respondent Ridgeton's Facility.
19. In a letter dated September 28, 2011, Ohio EPA notified Respondent Ridgeton it had abated the violations referenced in Finding No. 12. of these Orders.
20. In a letter dated October 5, 2011, the Director of Ohio EPA informed Respondent Ridgeton of the determination that an enforcement action is necessary to return Respondent Ridgeton to compliance. Proposed Director's Final Findings and Orders requiring closure of the hazardous waste storage and disposal areas and payment of an \$87,960.00 penalty accompanied the letter. Respondent Erwin was sent a copy of the October 5, 2011, letter from the Director and the proposed Director's Final Findings and Orders.
21. On October 26, 2011, Ohio EPA received a copy of a Bill of Lading for a shipment of hazardous waste Respondent Ridgeton had shipped offsite to an authorized hazardous waste disposal facility on October 18, 2011. The Director has determined Respondent Ridgeton failed to prepare a uniform hazardous waste manifest in violation of OAC rule 3745-52-20.

22. On November 2, 2011, Ohio EPA met with Respondents at the Facility to observe areas where hazardous waste was stored and disposed and discuss the elements of closure required by 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.
23. On January 26, 2012, Respondent Ridgeton submitted a document entitled *Proposal for Hazardous Waste Closure Plan, January 12, 2012*. This proposal included a scope consisting of sampling and analysis of soils and groundwater (if encountered). On February 6 and 7, 2012, sampling was conducted at the Facility.
24. On April 2, 2012, Respondent Ridgeton submitted a March 28, 2012, report entitled *Initial Sampling Event for Hazardous Waste Closure Plan* with the results of the sampling event and recommendations for subsequent work to be conducted. On June 28, 2012, Ohio EPA participated in a meeting with Respondent Ridgeton. In a July 17, 2012 letter, Ohio EPA provided comments on the March 28, 2012, report.
25. On September 18, 2012, Respondent Ridgeton submitted a document entitled *September 13, 2012 Draft RCRA Closure Plan for Interim Response Action*. In a letter dated December 19, 2012, Ohio EPA transmitted to Respondent Ridgeton a Notice of Deficiency for the *Draft RCRA Closure Plan for Interim Response Action*.
26. With respect to Finding No. 6.b. of these Orders regarding the unlawful transportation of hazardous waste to a facility not authorized to receive hazardous waste, Respondent Ridgeton has ceased conducting this activity and the solid waste landfill has been notified of this hazardous waste receipt. Therefore, the Director has determined that no further action is required by Respondent Ridgeton with regard to the violation of ORC §3734.02(F) referenced in Finding No. 6.b. of these Orders.
27. With respect to Finding No. 21. of these Orders regarding failure to use a manifest, the hazardous waste that was shipped by Respondent Ridgeton on October 18, 2011, was sent to an authorized permitted hazardous waste facility, and Respondent Ridgeton will now use a manifest to ship hazardous waste waste methylene chloride and methanol coating/paint sludge, spent methylene chloride/methanol solvent generated at its facility. Therefore, the Director has

determined that no further action is required by Respondent Ridgeton with regard to the violation of OAC rule 3745-52-20 referenced in Finding No. 20. of these Orders.

28. Due to Respondent Ridgeton's establishment and operation of a hazardous waste storage and disposal facility as described in Finding No. 6. of these Orders, Respondent Ridgeton 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. Also, as the owner of an unpermitted hazardous waste storage and disposal facility as described in Finding No. 6. of these Orders, Respondent Erwin is in violation of ORC § 3734.02(E) and (F) 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, Respondents are required to submit "Parts A and B" of the application in accordance with OAC Chapter 3745-50.
29. The submittal of a Closure Plan which complies 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 the 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 Respondents of an exemption from the requirement to submit an application for a hazardous waste facility installation and operation permit is unlikely to adversely affect the public health or safety or the environment within the meaning of ORC § 3734.02(G).
30. Based on financial documentation provided by Respondent Ridgeton, Ohio EPA Office of Fiscal Administration determined Respondent Ridgeton does not have the ability to pay the proposed civil penalty in the amount of \$87,960.00 but

instead recommended Respondent Ridgeton pay a de minimus penalty. The Director has determined that rather than pay a de minimus penalty, Respondents should use the funds to prepare and implement a Closure Plan for the hazardous waste management units at the Facility.

V. ORDERS

Respondents shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated there under according to the following compliance schedule:

1. Respondents are hereby exempted from the requirement to submit an application for a hazardous waste facility installation and operation permit for the Facility, provided that Respondents comply with the following:
 - a. Within 60 days after the effective date of these Orders, Respondents shall submit to Ohio EPA for review and approval a Closure Plan for all hazardous waste storage and disposal areas including but not limited to:
 - i. The in ground pit located inside the Facility, as further described in Finding Nos. 5. and 6.a. of these Orders; and
 - ii. The gravel area behind the building at the Facility where larger wood items were stripped and rinsed, as further described in Finding Nos. 5. and 6.a. of these Orders.

The closure plan shall be submitted to the attention of Ed Lim, Manager, Engineering Section, Division of Environmental Response and Revitalization at the Ohio EPA Central Office address specified in Section X. of these Orders.

- b. This Closure Plan shall comply with the administrative requirements of OAC Chapters 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 54-100.
- c. The Closure Plan is subject to approval by Ohio EPA. If Ohio EPA does not approve the Closure Plan and provides Respondents with a written statement of deficiencies, Respondents shall submit a revised Closure Plan for approval addressing the deficiencies within 30 days of receiving such written statement.

- d. If Ohio EPA modifies the Closure Plan, the modified Closure Plan becomes the approved plan. Upon Ohio EPA's written approval of the Closure Plan, Respondents shall implement the approved Closure Plan in the manner and pursuant to the time frames set forth in the approved Closure Plan and OAC rules 3745-55-13/3745-66-13.
2. Within 60 days after approval of the Closure Plan pursuant to Order No. 1.a, Respondent Ridgeton or Respondent Erwin shall submit a closure cost estimate and documentation demonstrating that financial assurance and liability coverage for the areas of the Facility subject to closure has been established, in accordance with OAC rules 3745-55-42 through 3745-55-47.
3. Within 60 days after completion of closure, Respondents shall submit certification of closure to Ohio EPA in accordance with OAC rule 3745-55-15. Closure certification of the area(s) described in Order No. 1.a. will abate the violations referenced in Finding No. 6.a.

VI. TERMINATION

Respondents' obligations under these Orders shall terminate when Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondents have performed all obligations under these Orders and Ohio EPA's Division of Materials and 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 Respondents of the obligations that have not been performed, in which case Respondents 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 Respondents to Ohio EPA and shall be signed by a responsible official of Respondents. For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principal business function of Respondents.

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 Respondents' 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 Respondents.

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 Respondents pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
Division of Materials and Waste Management
347 N. Dunbridge Road
Bowling Green, Ohio 43402
Attn: DMWM Manager

and Ohio EPA Central Office at the following address:

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The Ridgeton Restoration Company Ltd.
and Robert W. and Mary E. Erwin
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For mailings, use the post office box number:

Scott J. Nally, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section

For deliveries to the building:

Scott J. Nally, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
50 West Town Street
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 Respondents to perform corrective action at the Facility at some time in the future, pursuant to ORC Chapter 3734. or any other applicable law. Respondents reserve their rights to raise any administrative, legal or equitable claim or defense with respect to any final action of the Director regarding such corrective action. Ohio EPA and Respondents 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, Respondents consent to the issuance of these Orders and agree to comply with these Orders. Except for the right to seek corrective action at the Facility by Respondents,

which right Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondents' liability for the violations specifically cited herein.

Respondents hereby waive the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondents hereby waive any and all rights Respondents may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondents agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondents retain the right to intervene and participate in such appeal. In such an event, Respondents shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

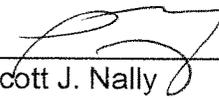
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



Scott J. Nally
Director

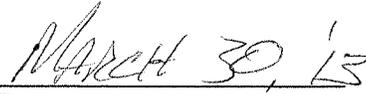
April 25, 2013
Date

IT IS SO AGREED:

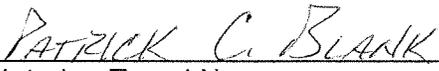
The Ridgeton Restoration Company, Ltd.



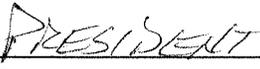
Signature



Date



Printed or Typed Name



Title

Robert W. Erwin

Signature

Date

Printed or Typed Name

Title

Mary E. Erwin

Signature

Date

Printed or Typed Name

Title

IT IS SO AGREED:

The Ridgeton Restoration Company, Ltd.

Signature

Date

Printed or Typed Name

Title

Robert W. Erwin

Robert W Erwin

Signature

4-3-13

Date

Robert W. Erwin

Printed or Typed Name

Property owner

Title

Mary E. Erwin

Mary E Erwin

Signature

4-3-13

Date

Mary E. Erwin

Printed or Typed Name

Property owner

Title