

OHIO E.P.A.

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

City of Athens
395 West State Street
Athens, Ohio 45701

Respondent

Director's Final
Findings and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the City of Athens (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 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:

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: Amie Cassler Date: 4-7-14

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 water treatment plant located at 395 West State Street, Athens, Athens County, Ohio, 45701 (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. Under normal operating conditions, Respondent is a conditionally exempt small quantity generator of hazardous waste at the Facility location and has been assigned EPA ID number OHD987031689. The hazardous wastes generated by Respondent at the Facility include hazardous waste spent solvent (D001/D018/D039/D040), hydrofluorosilic acid (D002), sodium hydroxide (D002), and sodium hypochlorite (D002). Respondent also generates spent lamps.
4. On June 4, 2012, Ohio EPA received an anonymous complaint that Respondent disposed of a 55-gallon drum of hydrofluorosilic acid in Respondent's brine lagoon at the Facility. The brine lagoon discharges to the Hocking River.
5. At Ohio EPA's request, Respondent agreed not to discharge from the lagoon over the night of June 4, 2012.
6. On June 5, 2012, Ohio EPA obtained a material safety data sheet for hydrofluorosilic acid indicating it has a pH of 1.2, which makes the hydrofluorosilic acid a characteristic corrosive hazardous waste with a waste code of D002, as described in OAC rule 3745-51-22.
7. For the next several days, Respondent worked with Ohio EPA's Division of Surface Water to monitor the lagoon parameters and develop a discharge plan to minimize the environmental impact of the hydrofluorosilic acid to the Hocking River.
8. On June 14, 2012, Ohio EPA's Division of Materials and Waste Management conducted an inspection at the Facility. During the inspection, Ohio EPA learned that two 55-gallon drums of hydrofluorosilic acid were generated in May 2012 when Respondent determined the out-of-date hydrofluorosilic acid could no longer be used for its intended purpose. The generation of the two 55-gallon drums of waste made Respondent subject to the hazardous waste rules applicable to small quantity generators, and as such, Respondent was evaluated with respect to those requirements. As a result of this inspection, Ohio EPA determined that Respondent had, *inter alia*:

- a. Unlawfully disposed of hazardous waste hydrofluorosilic acid into the brine lagoon at the Facility without a hazardous waste facility installation and operation permit, in violation of ORC § 3734.02 (E) and (F);
 - b. Failed to evaluate wastes to determine if they were hazardous, specifically, the waste hydrofluorosilic acid and spent fluorescent lamps, in violation of OAC rule 3745-52-11;
 - c. Failed to keep required information posted by the telephone, in violation of OAC rule 3745-52-34(D)(5)(b);
 - d. Failed to label containers of hazardous waste with the words "hazardous waste" and an accumulation start date, in violation of OAC rule 3745-52-34; and
 - e. Failed to conduct and document weekly inspections of the container storage area, in violation of OAC rule 3745-66-74.
9. By letter dated August 8, 2012, Ohio EPA notified Respondent of the violations referenced in Finding No. 8. of these Orders.
 10. By letter dated September 4, 2012, Respondent submitted documentation in response to the violations referenced in Finding No. 8. of these Orders. This documentation included a hazardous waste manifest showing the second drum of hydrofluorosilic acid had been properly disposed of off-site.
 11. By letter dated October 9, 2012, Ohio EPA notified Respondent that the violations referenced in Findings Nos. 8.b. through 8.e. of these Orders were abated.
 12. The Director has determined that no further action is required with regard to the hazardous waste hydrofluorosilic acid which was disposed of in Respondent's brine lagoon in violation of ORC §3734.02(E) and (F), as described in Finding No. 8.a. of these Orders. Due to the dispersement of the hazardous waste constituents by dilution, the Director recognizes the impractability of closure of the brine lagoon.

V. ORDERS

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated thereunder. Respondent shall pay to Ohio EPA the amount of \$14,400.00 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:

1. In lieu of paying \$7,200.00 of the civil penalty, within 270 days of the effective date of these Orders, Respondent shall fund a Supplemental Environmental Project (SEP) by holding a Household Hazardous Waste (HHW) collection event for the City of Athens.
 - a. Respondent shall submit to Ohio EPA at least ten days prior to the planned date of the HHW collection event documentation demonstrating Respondent's commitment to support the HHW collection event.
 - b. Within thirty days after the completion of the HHW collection event, Respondent shall submit to Ohio EPA documentation demonstrating that the HHW collection event took place and the amount of HHW collected.
2. Should Respondent fail to fund the SEP within the required time frames established in Order No. 1., Respondent shall pay to Ohio EPA, within 7 days after failing to comply with Order No. 1., the amount of \$7,200.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and 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 \$7,200.00. 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 sent to Ohio EPA Division of Materials and Waste Management, Supervisor, Processing Records Management Unit, P.O. Box 1049, Columbus, Ohio 43216-1049.*
3. In lieu of paying the remaining \$7,200.00 of the civil penalty, within 270 days of the effective date of these Orders, Respondent shall fund a Supplemental Environmental Project (SEP) by reviewing and conducting an inventory of chemicals and hazardous wastes generated by current, on-going operations at the six public works facilities in the City of Athens (water treatment plant, wastewater treatment plant, two street and vehicle maintenance garages, laboratory, and the engineering and public works main business office) and prepare and conduct two half-day training presentations to staff of the aforementioned six public works facilities in proper chemical and hazardous waste management.
 - a. At least thirty days prior to the training event, Respondent shall submit to Ohio EPA for review and comment, the training agenda outlining the topics to be covered during the training, and the inventory of Respondent's chemicals and hazardous wastes identified in the review at the six public

- works facilities in the City of Athens.
- b. No later than thirty days after completion of the training event, Respondent shall submit to Ohio EPA, copies of attendance sheets demonstrating which employees participated in the training.
 - c. No later than sixty days after the completion of the training event, Respondent shall submit to Ohio EPA, a plan to dispose of any unused and unwanted chemicals identified as such by the review and inventory, and half day training event(s).
4. Should Respondent fail to fund the SEP within the required time frames established in Order No. 2., Respondent shall pay to Ohio EPA, within 7 days after failing to comply with Order No. 2., the amount of \$7,200.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and 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 \$7,200.00. 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 sent to Ohio EPA Division of Materials and Waste Management, Supervisor, Processing Records Management Unit, 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 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 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.

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, exclusive of penalty checks, required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Southeast District Office
Division of Materials and Waste Management
2195 Front Street
Logan, Ohio 43138
Attn: DMWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Enforcement Supervisor
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
P.O. Box 1049

Columbus, Ohio 43216-1049

For deliveries to the building:

Enforcement Supervisor
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
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 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. 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

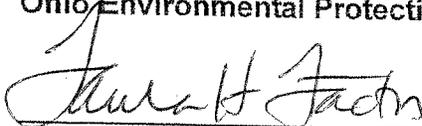
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

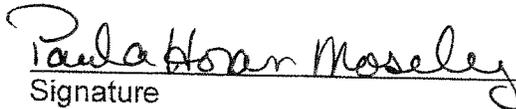


Craig W. Butler
Director

April 7, 2014
Date

IT IS SO AGREED:

City of Athens



Signature
PAULA HORAN MOSELEY

Printed or Typed Name

3/21/14
Date

SERVICE-SAFETY DIRECTOR
Title