



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) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

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

CERTIFIED MAIL

July 10, 2008

**Re: Director's Final Findings & Orders
B & H Alignment, LLC
OHR 000 125 534**

Mr. Dan Bauman, Owner
B & H Alignment, LLC
1814 Baltimore Road
Defiance, Ohio 43512

Dear Mr. Bauman:

Here are the Director's Final Findings and Orders (Orders) issued to B & H Alignment, LLC on July 10, 2008. These Orders are effective today.

I have also enclosed invoices for the penalty payments as required by Order Nos. 3.a through 3.c. Please remember that your first payments are due no later than August 11, 2008.

If you have any questions concerning compliance with these Orders, do not hesitate to contact John Pasquarette at (419) 352-8461.

Sincerely,

David A. Sholtis, Assistant Chief
Division of Hazardous Waste Management

Attachments

cc: Michael A. Savage, Chief, DHWM
Harry Sarvis, Mgr., CAS, DHWM
Fran Kovac, Legal
Heidi Greismer, PIC
John Pasquarette, Mgr., DHWM, NWDO
Melissa Boyer, DHWM, NWDO
Mr. David W. Nunn, Esq., Eastman and Smith LTD.

g:\users\dsharpe\fossett\enf.BHAlignmentLLC.NWDO.08.doc

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

Ohio EPA is an Equal Opportunity Employer

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: [Signature] Date: 7-10-08

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

B & H Alignment, LLC
1814 Baltimore Road
Defiance, Ohio 43512

Directors Final
Findings and Orders

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Directors Final Findings and Orders (Orders) are issued to B & H Alignment, LLC (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.13, 3745.01 and 6111.03(H).

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.

OHIO E.P.A.
JUL 10 2008
DIRECTOR'S JOURNAL

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

All of the findings necessary for the issuance of these Orders pursuant to ORC §§ 3734.13 and 3745.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any matter of law or fact. 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 operates as an auto service facility located at 1814 Baltimore Road, Defiance, Defiance County, Ohio (Facility). Respondent is a domestic limited liability company licensed to business in Ohio on December 16, 2002.
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 also generates used oil, as that term is defined in ORC § 3734.01(FF) and OAC rules 3745-50-10(A) and 3745-279-01(A). Respondent is a conditionally exempt small quantity generator of hazardous waste and acts as a used oil transporter, as defined in OAC rule 3745-279-1(A)(20). The hazardous waste generated by Respondent at the Facility includes spent solvent (D001).
4. On July 14, 2004, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of the inspection, Ohio EPA determined that Respondent had, *inter alia*:
 - a. Failed to maintain a container of used oil in good condition, free of severe rusting, structural defects or deterioration, in violation of OAC rules 3745-279-22(B) and 3745-279-45(C);
 - b. Failed to clearly label several tanks and containers used to store used oil with the words Used Oil, in violation of OAC rules 3745-279-22(C) and 3745-279-45(G);
 - c. Failed to clean up releases of used oil at the Facility, in violation of OAC rule 3745-279-22(D);

- d. Accepted used oil from off-site generators to burn in an on-site used oil fired space heater, in violation of OAC rule 3745-279-23(A);
 - e. Failed to notify Ohio EPA of regulated waste activity and obtain a generator identification number for transporting used oil, in violation of OAC rule 3745-279-42(A);
 - f. Failed to deliver all used oil transported to and received at the Facility to another used oil transporter, a used oil processor/re-refining facility, an off-specification used oil burner facility, or an on-specification used oil burner facility, in violation of OAC rule 3745-279-43(A)(1) to (4);
 - g. Failed to ensure that used oil is not a hazardous waste by determining whether the total halogen content of used oil being transported is above or below one thousand parts per million, in violation of OAC rule 3745-279-44(A); and
 - h. Failed to maintain records of each used oil shipment accepted for transport, in violation of OAC rule 3745-279-46(A).
5. On July 14, 2004, and as a result of the inspection referenced in Finding No. 4 of these Orders, Respondent was issued generator identification number OHR000125534.
6. By letter dated August 27, 2004, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 4.a. through 4.h. of these Orders.
7. On November 22, 2004, February 7 and 18, 2005, Ohio EPA contacted Respondent via telephone and requested a written response to Ohio EPA's August 27, 2004 letter.
8. In correspondence dated February 24, 2005, Respondent provided responses to Ohio EPA's August 27, 2004 letter. In the February 24, 2005, response, Respondent notified Ohio EPA that Respondent would no longer accept used oil from off-site generators, and that Respondent would no longer operate as a used oil transporter.
9. By letter dated May 11, 2005, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 4.a., 4.b., and 4.e. through 4.h. of these Orders. Also in the May 11, 2005, letter, Ohio EPA notified Respondent that Respondent had violated OAC rule 3745-52-

11 by failing to determine whether stained soil removed from the area of the used oil release, referenced in Finding No. 4. of these Orders and considered a newly generated waste, was a hazardous waste. Based upon subsequent discussions with Respondent, Ohio EPA has determined Respondent did not remove the stained soil and did not violate OAC rule 3745-52-11 as referenced in this Finding, and that violation is hereby withdrawn.

10. The Director has determined that conditions at the Facility are causing or contributing or threatening to cause or contribute to water pollution or soil contamination.
11. On March 19, 2008, Ohio EPA met Respondent at the Facility and determined Respondent had abated the violation of OAC rule 3745-279-23(A) referenced in Finding No. 4.d.
12. By letter dated April 21, 2008, Respondent submitted to Ohio EPA for approval a document entitled "*Former Used Oil Drum Storage Area Remediation Work Plan*" (Work Plan). After receiving comments from Ohio EPA, Respondent submitted a revised Work Plan on May 23, 2008. The Director hereby approves the May 23, 2008, revised Workplan as Attachment A to these Orders.
13. Used oil constitutes industrial waste or other wastes as defined under ORC § 6111.01(C) and (D). The groundwater and surface water at or within the vicinity of the Facility are waters of the state as defined under ORC § 6111.01(H).
14. The work required by these Orders will contribute to the prohibition or abatement of the discharge of industrial wastes or other wastes into the waters of the state. In issuing these Orders, the Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economical reasonableness of complying with these Orders, and to evidence relating to conditions calculated to result from compliance with these Orders, and their relation and benefits to the people of the state to be derived from such compliance.

V. ORDERS

Respondent shall achieve compliance with Chapters 3734. and 6111. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Respondent shall implement the approved Work Plan (Attachment A) in compliance with the requirements in OAC rule 3745-279-22(D), OAC rule 3745-52-11 and the specifications and schedules contained in the approved Work Plan and any conditions attached thereto.
2. Within 60 days after the completion of work required by the approved Work Plan, Respondent shall submit to Ohio EPA, for review and approval, a certification that the work was conducted in accordance with the approved Work Plan. The certification shall be signed by Respondent using the format found in OAC rule 3745-50-42(D).
3. Respondent shall pay Ohio EPA a total amount of \$6,500.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and which shall be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28., in accordance with the following schedule:
 - a. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$2,500.00.
 - b. Within 365 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$2,000.00.
 - c. Within 730 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$2,000.00

Payments shall be made by official checks made payable to Treasurer, State of Ohio for the stated amount. The official checks 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 these checks shall be submitted in accordance with Section X. of these Orders.

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 Hazardous 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. For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principal business function 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 required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
Division of Hazardous Waste Management
347 N. Dunbridge Road
Bowling Green, Ohio 43402
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 reserves its rights to exercise its lawful authority to require Respondent to perform closure of hazardous waste units at the Facility, some time in the future, pursuant to ORC Chapter 3734, or any other applicable law. Respondent reserves its rights to raise any administrative, legal or equitable claim or defense with respect to any final action of the Director regarding such closure. Ohio EPA and Respondent 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, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek closure of hazardous waste units by Respondent for violations specifically cited in these Orders, which right Ohio EPA does not waive, 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

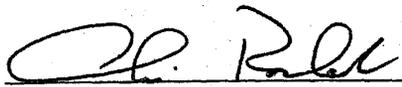
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



Director

July 10, 2008
Date

IT IS SO AGREED:

B & H Alignment, LLC



Signature

6-10-08
Date

DAN BAUMAN

Printed or Typed Name

OWNER

Title

ATTACHMENT A

DIRECTOR'S FINAL FINDINGS AND ORDERS
B & H ALIGNMENT

*FORMER USED OIL DRUM STORAGE AREA
REMEDATION WORK PLAN*

Former Used Oil Drum Storage Area Remediation Work Plan

Site: B & H Alignment
1814 Baltimore Road
Defiance, OH 43512

Objective

The purpose of this work plan is to describe the methods which will be utilized to properly remediate the contamination associated with the used oil drum storage area at the site and characterize any waste materials.

Work Area

The used oil drum storage area is approximately 20' x 20' in size located directly north of the garage. Gravel interspersed with some minor weed growth covers the area. Oily surface stains are visible within the area. Please refer to the attached site map (Figure 1) for the location of the storage area.

Remediation Activities

The Ohio EPA will be given seven days advanced notice of the start of the remediation activities and all work will be coordinated with the agency's on-site representative, if present. Mr. Dan Bauman, under direction from personnel of HazCorp Environmental Services, Inc. (HazCorp), will start by removing the top six inches of material from the work area. This will be accomplished through the use of heavy equipment, such as a front-end loader or backhoe. Once the top six inches has been removed the area will be re-examined. Any areas of the lower soils that are visibly impacted will also be removed, in approximately six inch intervals, until no visible contamination remains. Photographs will be taken following completion of the excavation.

The material that is removed will be containerized in roll-off boxes that are lined with plastic sheeting. This material will be sampled and characterized, as described below. After the containerized soil has been sampled it will be covered with plastic sheeting. Covering the pile will prevent precipitation from leaching contaminants out of it. The soil will remain containerized until the analytical results have been received. Once the material has been properly characterized and determined to be either a hazardous waste or special waste the soil will be transported to the appropriate, licensed disposal facility.

Characterization

The containerized soil will be sampled by personnel from HazCorp. Based on the amount of soil an appropriate number of grab samples will be collected from the roll-off boxes. The number of grab samples will be based on the information found in Table 1. The roll-off boxes will be sampled by visually dividing them into a number of grid sections that equal the number of grab samples. The roll-off boxes will be visually divided by first splitting each box in half longwise. Each half will then be split into the appropriate number of segments of equal size. Marking paint will be used to demarcate grid sections. Using a stainless steel hand augur one sample will be collected from each grid section. These samples will be collected from a minimum depth of one foot into the soil inside the roll-off boxes. Sample locations within each grid section will be biased toward those areas that appear most contaminated. The hand augur will be decontaminated using an Alconox© wash and rinse after each sample is collected.

Each grab sample will be split into two. One portion will be placed immediately into a labeled, laboratory-supplied glass jar and then placed into an ice-filled cooler. The other portion will be placed into a re-closable plastic bag and allowed to attain a temperature of at least 70°F. A Photo-Ionization Detector (PID) will be used to measure the amount of volatile organic compounds in the headspace of each bag. Those samples exhibiting the highest PID readings will be selected for laboratory analysis. The number of samples selected for laboratory analysis will be based on the information found in Table 1. This sampling methodology will be modified appropriately in the event the Ohio EPA requests split samples.

**Table 1
Stockpile Sampling**

	Cubic Yards of Soil and Backfill Material Generated				
	<25	26-100	101-250	251-450	>450
1. Minimum number of grab samples to collect and field screen	6	6	12	18	18 plus 1 sample per each additional 50 yd ³ (or fraction thereof)
2. Minimum number of grab samples to submit to the laboratory	2	3	6	8	8 plus 1 per each additional 100 yd ³ (or fraction thereof)

At the laboratory the samples will be extracted using the Toxicity Characteristic Leaching Procedure (TCLP), method SW846/1311. The sample extracts will then be analyzed for the presence of Volatile Organic Compounds (VOCs) using method SW846/8260, Semi-Volatile Organic Compounds (SVOCs) using method SW846/8270 and metals using methods EPA 200.7 and EPA 245.2. The samples will not be analyzed for herbicides or pesticides as there is no reason to believe those substances would have been added to the used oil drums.

The analytical results will be compared to the levels found in Ohio Administrative Code 3745-51-24 to determine if the stockpiled soil is a hazardous waste requiring proper handling and disposal. If the soil is determined not to be a hazardous waste it will be treated as a special waste and disposed as such.

Final Report

Following the disposal of the impacted materials a report will be generated that details the remedial activities, characterization results and disposal location. A copy of the report will be submitted to the Ohio EPA.

