OHIO E.P.A.

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ENTERED DIRECTOR'S JOURNAL

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: _____ Date: 11-19-13

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Sewah Studios, Inc. **190 Mill Creek Road** **Marietta, Ohio 45750** **Respondent**	: : : : : :	**Expedited Settlement Agreement and Director's Order**

I. JURISDICTION

This Expedited Settlement Agreement and Director's Order ("ESA") is issued to Sewah Studios, 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 manufactures aluminum historical marker signs by melting aluminum ingots in a furnace onsite and casting the aluminum into molds, at its facility at 190 Mill Creek Road, Marietta, Washington County, Ohio (Facility).

3. Respondent notified Ohio EPA of its hazardous waste activities and was issued U.S. EPA generator identification number OHR000026633.

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. At the time of the inspection, the hazardous waste generated by Respondent at the Facility included spent paint booth filters (D001), and spent solvent distillation bottoms (D001/F003/F005) as described in OAC rule 3745-51-21 and OAC rule 3745-51-31.

5. On October 3, 2012, Ohio EPA conducted a compliance evaluation inspection at the Facility. At the time of the inspection, Respondent's compliance with Ohio's hazardous waste requirements was evaluated pursuant to OAC rule 3745-51-05, commonly known as the conditionally exempt small quantity generator hazardous

waste requirements. As a result of this inspection, Ohio EPA determined Respondent, *inter alia*:

a. Established and operated a hazardous waste treatment facility without a hazardous waste installation and operation permit by open burning ignitable (D001) hazardous waste spent paint booth filters, in violation of ORC Section 3734.02(E) and (F). This open burning occurred daily and was conducted in three fifty-five (55) gallon steel drums located behind the Facility. At the time of the inspection, the drums were open on the top and did not appear significantly deteriorated. The drums were placed directly on the ground, but no residual ash from burning the hazardous waste spent paint booth filters was observed on the ground.

b. Failed to adequately evaluate waste to determine if the waste was a hazardous waste, in violation of OAC rule 3745-52-11; and

c. Caused listed hazardous waste (F003, F005) distillation bottoms to be disposed at a facility that does not have a hazardous waste installation and operation permit, in violation of ORC Section 3734.02(F).

6. In a letter dated October 23, 2012, Ohio EPA notified Respondent of the violations referenced in Finding No. 5. of this ESA.

7. By letter dated December 27, 2012, Respondent provided documentation in response to Ohio EPA's October 23, 2012, letter referenced in Finding No. 6. of this ESA, including a discussion about the hazardous waste spent paint booth filters, current management of the hazardous waste distillation bottoms, and analytical results for various waste streams generated at the Facility. The analytical results indicated that the hazardous waste spent paint booth filters did not exhibit any other hazardous waste characteristic except for ignitability (D001) and the ash generated from burning the filters was not a hazardous waste. Additionally, Respondent indicated the distillation bottoms would be managed and disposed as hazardous waste and that it had ceased burning the hazardous waste spent paint booth filters and was instead air drying the hazardous waste spent paint booth filters to deactivate (remove) the characteristic of ignitability.

8. Based on the information contained in the December 27, 2012, letter from Respondent, Ohio EPA determined Respondent adequately evaluated waste generated at the Facility, and had ceased sending listed hazardous waste distillation bottoms to a facility that does not have a hazardous waste permit. However, with regard to the air drying of the hazardous waste spent paint booth filters, the Director has determined Respondent violated ORC Section 3734.02(E) and (F) by causing disposal of hazardous waste methyl ethyl ketone to the air by allowing the spent hazardous waste paint booth filters which contained methyl ethyl ketone, to air dry.

9. On September 9, 2013, Respondent informed Ohio EPA via telephone that it had ceased air drying the hazardous waste spent paint booth filters in July 2013 when the painting operation at the Facility was modified to a powder coating operation.

10. As a result of the information referenced in Finding No. 7. of this ESA, the Director has determined Respondent has abated the violation referenced in Finding No. 5.b. of this ESA and no further action is required at this time to address the violations of ORC Section 3734.02(E) and (F) referenced in Finding No. 5.a. and 5.c. of this ESA because Respondent ceased burning the hazardous waste spent paint booth filters and has ceased sending listed hazardous waste distillation bottoms to a facility that does not have a hazardous waste permit.

11. As a result of the events described in Finding No.9. of this ESA, no further action is required of Respondent at this time regarding the violation of ORC Section 3734.02(E) and(F) referenced in Finding No. 8. of this ESA for the methyl ethyl ketone which was disposed to the air. Because the methyl ethyl ketone was dispersed to the air by volatilization, the Director recognizes that it is not practical for Respondent to conduct any remediation to address this disposal to the air.

12. In consideration of Respondent's compliance history, its status as a small business, the elimination of the hazardous waste spent paint booth filters as a result of the installation of the powder coating operation 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

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 $8,080.00 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, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent and the location of the noncompliance detailed in the Findings of this ESA.

A photocopy of this check shall be sent to Ohio EPA at the addresses listed below:

Ohio Environmental Protection Agency
Division of Materials and Waste Management
P.O. Box 1049, Columbus, Ohio 43216-1049.
Attn: Supervisor, Processing Records Management Unit

and

Ohio Environmental Protection Agency
Southeast District Office
2195 Front Street
Logan, Ohio 43138
Attn: DMWM Supervisor

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 reserves its rights to exercise its lawful authority to require Respondent to perform closure of the area where the drums were located and corrective action at the Facility at 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 closure of the area where the drums were located or corrective action. Ohio EPA and Respondent each reserve all other 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

November 19, 2013
Date

IT IS SO AGREED:

Sewah Studios, Inc.

Signature

10-18-13
Date

BRADFORD B. SMITH
Printed or Typed Name

PRESIDENT
Title