

OHIO E.P.A.

NOV 22 2010

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL



In the Matter of:

Don's Automotive Group, LLC  
720 North Shoop Avenue  
P.O. Box 208  
Wauseon, Ohio 43567

Director's Final  
Findings and Orders

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Don's Automotive Group, 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 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 Respondent or 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 there under.

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.

Bx John Cassiter Date: 11-22-10

1. Respondent is a "person" as defined in ORC §3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
2. Respondent owns and operates an automotive dealership, full service body shop and automotive repair facility at 720 North Shoop Avenue, Wauseon, Fulton County, Ohio (Facility).
3. Respondent has been assigned U.S. EPA identification number OHD018421594.
4. At the Facility, Respondent generates hazardous waste, used oil and universal waste as those terms are defined by ORC §3734.01, and OAC rules 3745-50-10(A) and 3745-51-03. Respondent generates non-acute hazardous waste in amounts less than 100 kilograms per month. Respondent generates spent solvents from paint gun cleaning operations and still bottoms from the recovery of these spent solvents, which are, at a minimum, listed hazardous wastes F003 and F005, as defined in OAC rule 3745-51-31.
5. On May 4, 2010, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of this inspection, Ohio EPA determined Respondent had, *inter alia*:
  - a. Caused listed hazardous waste still bottoms (F003, F005), to be transported for disposal to a facility that does not hold a hazardous waste installation and operation permit, nor is otherwise authorized to receive hazardous waste, in violation of ORC 3734.02(F). Respondent reclaimed the spent solvent from paint gun cleaning operations in an onsite distillation unit. This distillation unit generated still bottoms which were listed hazardous waste F003 and F005. Respondent indicated it generated still bottoms at a rate of approximately fifteen (15) gallons every three months and upon removal from the distillation unit, the still bottoms were placed in the solid waste dumpster. Respondent indicated this practice had been taking place for the last seven (7) years.
  - b. Failed to evaluate waste paint booth filters, spent fluorescent lamps, spent solvents, still bottoms and spent parts washer fluid, in violation of OAC rule 3745-52-11. Respondent was also causing, at a minimum, the paint booth filters, fluorescent lamps and distillation bottoms, to be sent to a solid waste landfill.
6. By letter dated June 7, 2010, Ohio EPA notified Respondent of the results of the inspection referenced in Finding No. 5. of these Orders.

7. In electronic mail dated June 16, 2010, Respondent notified Ohio EPA the spent fluorescent lamps were being managed as universal waste and the paint booth filters and spent parts washer fluid were being evaluated.
8. On August 19, 2010, Ohio EPA conducted a follow up inspection. During the inspection, Respondent provided information demonstrating the paint booth filters were non-hazardous waste and the remaining spent parts washer fluid onsite was managed and disposed as hazardous waste (F003/ F005/ D001/ D005/ D006/ D007/ D008/ D035) at an authorized facility. Respondent demonstrated it no longer used parts washer solvent which when spent would be hazardous waste. Respondent had entered into a contractual arrangement with an outside company that allows the continued use of the parts washer solvent. Additionally, Respondent removed the on-site distillation unit and now has one aqueous paint gun cleaning operation that generates non hazardous spent detergent and one paint gun cleaning machine which generates hazardous waste spent solvent. This spent solvent is being transported off-site to an authorized facility As F003/ F005/ D001/ D005/ D006/ D007/ D008/ D035 hazardous waste.
9. In correspondence dated September 1, 2010, Ohio EPA notified Respondent of the results of the inspection referenced in Finding No. 8. of these Orders. In the correspondence Ohio EPA notified Respondent that Respondent had abated the violation in Finding No. 5.b. of these Orders and no further action was required for the violation referenced Finding No. 5.a. of these Orders.
10. Because Respondent was unable to provide records demonstrating previous shipments of the hazardous waste spent parts washer fluid were sent offsite to a facility authorized to receive hazardous waste, the Director has determined Respondent violated ORC 3734.02(F). However, because the remaining hazardous waste parts washer fluid onsite at the time of the May 4, 2010 inspection was managed as hazardous waste and the Respondent has entered into an arrangement with an outside company that allows the continued use of the parts washer fluid, no further action is required by Respondent for this violation.

#### V. ORDERS

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

1. Respondent shall pay Ohio EPA the amount of \$7,000.00 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 pursuant to the following schedule:

- a. Within 90 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,165.00;
- b. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,165.00;
- c. Within 270 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,165.00;
- d. Within 365 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$1,165.00;
- e. Within 455 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$1,165.00; and
- f. Within 545 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$1,175.00.

Respondent shall make each payment by tendering an official check made payable to "Treasurer, State of Ohio." The official checks shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the Facility. A copy of each check shall be submitted in accordance with Section X. of these Orders.

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V. of these Orders.

#### **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 North Dunbridge Road  
Bowling Green, Ohio 43402  
Attn: DHWM Manager

and Ohio EPA Central Office at the following addresses:

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  
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 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**

  
\_\_\_\_\_  
Chris Korleski  
Director

November 22, 2010  
Date

**IT IS SO AGREED:**

**Don's Automotive Group, LLC**

  
\_\_\_\_\_  
Signature *President/Member*

11/8/2010  
Date

Don Hayati - President/Member  
Printed or Typed Name

President/Member  
Title