OhioEPA
State of Ohio Environmental Protection Agency

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CERTIFIED MAIL

June 29, 2009

Re: Director's Final Findings & Orders
The Seneca Wire & Manufacturing Company
OHD 004 177 374

Mr. Steve Wray
President
The Seneca Wire & Manufacturing Company
319 South Vine Street
Fostoria, Ohio 44830

Dear Mr. Wray:

Here are the Director's Final Findings and Orders (Orders) issued to The Seneca Wire & Manufacturing Company on June 29, 2009. These Orders are effective today.

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

Sincerely,

David A. Shell

for Harry E. Sarvis, Manager
Division of Hazardous Waste Management

Attachments

cc: Michael A. Savage, Chief, DHWM
Dave Sholtis, Asst. Chief, DHWM
Todd Anderson, Legal
Heidi Greismer, PIC
John Pasquarette, Mgr., DHWM, NWDO
Melissa Boyer, DHWM, NWDO

OHIO E.P.A.

JUN 26 2009

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

The Seneca Wire & Manufacturing Company
319 South Vine Street
Fostoria, Ohio 44830

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 Seneca Wire & Manufacturing Company (Respondent) 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 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 thereunder.

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,

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: Amy Lassiter Date: 6-29-09

or disposing of 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. Respondent is the owner and operator of a tempered wire manufacturing Facility (Facility) located at 319 S. Vine St., Fostoria, Hancock County, Ohio 44830. This wire is manufactured into springs or other types of wire for automotive, agricultural, and other industries.

3. Respondent is a "person" as defined in ORC § 3734.01(G) and OAC rule 3745-50-10(A).

4. On August 18, 1980, Respondent was issued generator identification number OHD004177374 for the Facility. Respondent was authorized to do business in Ohio on November 22, 1905.

5. Respondent operates as a large quantity hazardous waste generator as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. At the Facility, Respondent generates lead contaminated hazardous waste firebrick (hazardous waste code D008).

6. On July 24, 2004, a fire occurred at the Facility. A building that housed nine furnaces burned down and seven of the furnaces were destroyed in the fire. Prior to the fire, when the furnaces were operational, leaks would develop at times in the stainless steel pans that form the combustion chambers of the furnace, allowing molten lead to escape. The molten lead would then run onto the firebrick base that supports the stainless steel pan and ceramic fiber insulation of the furnace. These bricks containing the lead deposits were periodically replaced and have been identified by Respondent as hazardous waste (D008).

7. On June 23, 2005, Ohio EPA investigated a complaint regarding the Facility. The building where the fire occurred, along with several of the furnaces that were located inside the building had been demolished. Respondent was segregating debris from the demolition to remove scrap metal and in the process had generated small piles of debris on the ground. As a result of the complaint investigation, Ohio EPA determined that the Respondent had, *inter alia*, failed to evaluate the structural fire brick waste generated at the Facility, in violation of OAC rule 3745-52-11.

8. Subsequent to the complaint investigation at the Facility, Respondent submitted a letter dated June 28, 2005, which stated that one of the fire brick waste piles had been gathered into 82 "Gaylord" boxes and was to be characterized to determine if it was hazardous waste.

9. In a letter dated July 7, 2005, Ohio EPA informed Respondent of the violation referenced in Finding No. 7 of these Orders. The letter also requested that Respondent submit a Sampling and Analysis Plan to evaluate the waste described in Finding No. 8. that had been boxed and subsequently moved inside the Facility, any fire brick waste piles that remained in the area where the fire occurred (which was also the area where segregation of the demolition debris had taken place) and any other waste generated by the structural fire, in accordance with the criteria in OAC rule 3745-51-20.

10. In a July 18, 2005 submittal, Bowser Morner, on behalf of Respondent, submitted an Environmental Sampling Plan for the fire brick waste at the Facility. On August 16, 2005, Bowser Morner submitted a Revised Fire Brick Sampling Plan.

11. On August 25 and September 2, 2005, Ohio EPA observed Respondent conduct sampling of the wastes at the Facility. On several dates subsequent to the sampling event, Respondent manifested all fire brick waste offsite as hazardous waste D008.

12. On October 16, 2007, Ohio EPA conducted a hazardous waste compliance evaluation inspection at the Facility. As a result of this inspection, Ohio EPA determined that Respondent had, *inter alia*,

    a. Failed to evaluate the used rags in the flat wire, maintenance and other areas through out the plant to determine if they are hazardous in violation of OAC rule 3745-52-11;

    b. Failed to conduct training that specifically teaches employees hazardous waste management procedures relevant to their positions, in violation of OAC rule 3745-65-16(A)(2);

    c. Failed to conduct weekly inspections of its container storage area in violation of OAC rule 3745-66-74;

    d. Based on analytical results received by Ohio EPA on October 14, 2005, had violated ORC Section 3734.02 (E) & (F) because it had disposed of its lead-contaminated structural fire waste (D008) by creating waste piles on a concrete pad outside at the Facility and stored this hazardous waste D008 in "Gaylord" boxes inside the Facility in excess of 90 days, as indicated by "Date of Shipment" in Table 1 and manifests provided by Respondent.

Table 1

Beginning Storage Date	Date of Shipment	Amount of Waste Shipped (lbs.)	Days waste stored
6-17-05	9-16-05	42,100	91
6-17-05	9-19-05	23,274	94
6-17-05	9-19-05	32,314	94
6-17-05	9-20-05	32,340	95
6-17-05	9-21-05	17,778	96

13. By letter dated January 28, 2008, Ohio EPA notified Respondent of the violations referenced in Finding No. 12 of these Orders.

14. On March 11, 2008, Ohio EPA received information from Respondent addressing the violations referenced in Finding No. 12 of these Orders.

15. By letter dated May 1, 2008, Ohio EPA notified Respondent it had abated violations referenced in Finding Nos. 12.a., 12.b., and 12.c. of these Orders, but would continue to be in violation of ORC Section 3734.02(E) and (F) referenced in Finding No. 12.d. for illegal storage and disposal of hazardous waste (D008).

16. Due to Respondent's establishment and operation of a hazardous waste disposal Facility as described in Finding No. 12.d. of these Orders, Respondent 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, Respondent is required to submit "Parts A and B" of the application in accordance with OAC Chapter 3745-50.

17. 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 Respondent of an exemption from the requirement to submit an application for a hazardous waste Facility installation and operation permit for the Facility is unlikely to adversely affect the public health or safety or the environment within the meaning of ORC § 3734.02(G).

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. The Respondent is hereby exempted from the requirement to submit an application for a hazardous waste Facility installation and operation permit for the Facility, *provided that* Respondent complies with the following:

   a. Within 60 days after the effective date of these Orders, Respondent shall submit to Ohio EPA for review and approval a Closure Plan for all areas where hazardous waste was stored or disposed.

   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. The Closure Plan is subject to approval by Ohio EPA. If Ohio EPA does not approve the Closure Plan and provides Respondent with a written statement of deficiencies, Respondent shall submit a revised Closure Plan for approval addressing the deficiencies within 30 days of receiving such written statement. 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, Respondent 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;

   c. Within 90 days after approval of the Closure Plan pursuant to Order No. 1.a, Respondent shall submit a closure cost estimate and documentation demonstrating that Respondent has established financial assurance and liability coverage for the area(s) of the Facility subject to closure, in accordance with OAC rules 3745-55-42 through 3745-55-47; and

   d. Within 60 days after completion of closure, Respondent shall submit certification of closure to Ohio EPA in accordance with OAC rules 3745-55-15. Closure certification of the area(s) described in Order No. 1.a. will abate the violation referenced in Finding No. 12.d.

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
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 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 such corrective action. 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, 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

June 29, 2009
Date

IT IS SO AGREED:

The Seneca Wire & Manufacturing Company

Signature

6/15/09
Date

Steve Wray
Printed or Typed Name

President, Seneca Wire & Mfg Co.
Title