

OHIO E.P.A.

DEC -7 2009

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Miba Bearings US LLC
5037 North State Route 60
McConnelsville, Ohio 43756

Respondent

**Director's Final
Findings and Orders**

PREAMBLE

It is agreed by the parties hereto as follows:

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: *Dr. J. L. Hasler* Date: 12-7-09

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Miba Bearings US 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 thereunder.

IV. FINDINGS

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 manufactures diesel engine bearings for the railroad and aerospace industries, and compressor and diesel engine manufacturers, at its facility located at 5037 North State Route 60, McConnelsville, Morgan County, Ohio (Facility). Respondent is a foreign corporation that was authorized to do business in Ohio on June 29, 2001.
3. Respondent notified Ohio EPA of its hazardous waste activity at the Facility and was issued generator identification number OHD004288056.
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. Respondent is a large quantity generator of hazardous waste. The hazardous waste generated by Respondent at the Facility includes wastewater treatment sludges (F002, F006), waste acid liquids (D002, D007, D008) and waste alkaline liquids (D002, D008). Respondent also generates various waste streams that are characteristically hazardous waste due to their lead content (D008), including acid and alkaline sludges, filter tubes and disks, anode bags, casting mix, lead contaminated solids, oil sludges from the quench system, grinder sludge, foundry baghouse dust, ion exchange filters and parts washer solvent. Respondent is also a small quantity universal waste handler and a used oil generator.
5. On September 11 and September 15, 2008, Ohio EPA performed a compliance evaluation inspection at the Facility. As a result of this inspection and subsequent information provided by Respondent, Ohio EPA determined that Respondent had, *inter alia*:
 - a. Stored a total of four fifty-five gallon drums containing the following hazardous wastes: one drum of paint waste (D001), two drums of hazardous waste lead contaminated solids (D008) and one drum of hazardous waste alkaline sludge (D008), in the Shed, inside the DI Building, and outside near the entrance of the DI Building, for greater than ninety days without a hazardous waste permit, in violation of ORC § 3734.02(E) and (F);
 - b. Failed to evaluate waste generated at the Facility to determine if the waste is a hazardous waste, in violation of OAC rule 3745-52-11;
 - c. Failed to include the addresses of the emergency coordinators in the Facility's contingency plan, in violation of OAC rule 3745-65-52(D);
 - d. Failed to maintain and operate the Facility to minimize the possibility of a fire, explosion or release of hazardous waste, in violation of OAC rule 3745-65-31;

- e. Failed to maintain adequate aisle space inside the DI Building where drums of unevaluated waste and hazardous waste had been stored for greater than 90 days, in violation of OAC rule 3745-65-35;
 - f. Failed to properly label some containers of hazardous waste, in violation of OAC rule 3745-52-34;
 - g. Failed to adequately separate incompatible wastes, specifically containers of waste acid from containers of waste alkaline liquid, in violation of OAC rule 3745-66-77(C);
 - h. Failed to conduct daily inspections of tank systems, in violation of OAC rule 3745-66-95;
 - i. Failed to label three tanks of used oil with the words "Used Oil," in violation of OAC rule 3745-279-22(C);
 - j. Failed to stop releases of used oil, in violation of OAC rule 3745-279-22(D);
 - k. Failed to store universal waste lamps in closed containers, in violation of OAC rule 3745-273-13(D);
 - l. Failed to label universal waste lamps, in violation of OAC rule 3745-273-14(E);
 - m. Failed to provide adequate employee training for employees managing universal waste lamps, in violation of OAC rule 3745-273-16; and
 - n. Failed to determine if certain hazardous waste generated at the Facility must be treated before it can be land disposed and failed to comply with recordkeeping requirements for hazardous waste subject to Land Disposal Restrictions, in violation of OAC rule 3745-270-07(A).
6. The Director has determined that Respondent is in violation of OAC rule 3745-279-22(B) for storing used oil in a leaking container, and not OAC rule 3745-279-22(D) referenced in Finding No. 5.j. of these Orders.
7. By letter dated October 8, 2008, Ohio EPA notified Respondent of the violations referenced in Finding No. 5. of these Orders. Ohio EPA also notified Respondent that the violation referenced in Finding No. 5.i. had been abated during the inspection.

8. By letter dated November 4, 2008, Respondent submitted a response to Ohio EPA's October 8, 2008 letter. The response included information demonstrating that hazardous waste stored at the Facility as described in Finding No. 5.a. of these Orders, had been shipped off-site to a permitted facility.
9. On November 19, 2008, Ohio EPA conducted a follow-up inspection at the Facility.
10. In an electronic mail sent on December 2, 2008, Respondent provided an inventory list for the materials and waste in the DI Building to address the violation referenced in Finding No. 5.b. of these Orders.
11. By letter dated December 2, 2008, Ohio EPA notified Respondent that the violations referenced in Finding Nos. 5.c., 5.e., 5.f., 5.g., 5.h., 5.k., 5.l., 5.m. and 5.n. of these Orders had been abated.
12. By letter dated December 19, 2008, Respondent responded to Ohio EPA's December 2, 2008 letter.
13. By letter dated January 14, 2009, Ohio EPA requested additional information from Respondent regarding the violation of OAC rule 3745-52-11 referenced in Finding No. 5.b. of these Orders.
14. By letter dated February 2, 2009, Respondent responded to Ohio EPA's January 14, 2009 letter.
15. By letter dated February 10, 2009, Ohio EPA notified Respondent that the violations referenced in Finding Nos. 5.b. and 5.d. of these Orders had been abated.
16. By electronic mail on July 30, 2009, Respondent submitted a Microsoft PowerPoint presentation showing the scrap pad as it was in September, 2008, when used oil was leaking from the containers being used for scrap metal storage. The presentation also showed the cleanup of the used oil from the scrap pad, and the new location of the containers being used for scrap metal storage at the Facility.
17. The Director has determined that the presentation submitted on July 30, 2009 demonstrates that the Respondent is no longer storing used oil in leaking containers and therefore, the violation of OAC rule 3745-279-22(B) referenced in Finding No. 6. of these Orders has been abated.

18. Because there was no evidence of releases of hazardous waste observed in the Shed, inside the DI Building, or outside near the entrance of the DI Building at the time of the inspection on September 11, 2008, the Director has determined that closure of these areas is not required of Respondent at this time and no further action is required of Respondent to abate the violation of ORC § 3734.02(E) and (F) referenced in Finding No. 5.a. of these Orders.

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 to Ohio EPA the amount of \$31,550.00 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:
 - a. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$23,550.00 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 \$23,550.00. 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 the Respondent and the Facility. A copy of this check shall be submitted in accordance with Section X. of these Orders.
 - b. In lieu of paying the remaining \$8,000.00 of the \$31,550.00 civil penalty amount to Ohio EPA, and as a supplemental environmental project (SEP), Respondent shall submit a report documenting the scrap pad relocation project at the Facility. The report shall include the steps that were taken to clean the former scrap pad area where used oil had been released and describe the new scrap metal management and storage procedures. The report shall also provide information regarding the reduction in the quantity of oily wastewaters generated at the Facility. Invoices documenting capital expenditures associated with the cleanup of the former scrap pad area as well as the construction of the new scrap metal storage area must be provided. Respondent shall submit this report within 90 days after the effective date of these Orders. A copy of this report and any invoices shall be submitted to Ohio EPA in accordance with Section X. of these Orders.

- c. Should Respondent fail to submit the report and invoices documenting the SEP conducted at the Facility, within the required time frame established in Order No. 1.b., Respondent shall pay to Ohio EPA, within 7 days after failing to comply with Order No. 1.b., the amount of \$8,000.00 in accordance with the procedures in Order No. 1.a. 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
Southeast District Office
Division of Hazardous Waste Management
2195 Front Street
Logan, Ohio 43138
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 closure 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 or corrective action. 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. Except for the right to seek closure and corrective action at the Facility, which rights 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



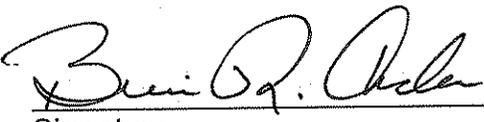
Chris Korleski
Director

12/7/2009

Date

IT IS SO AGREED:

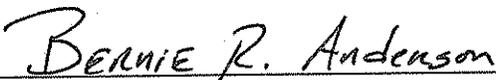
Miba Bearings US LLC



Signature

11/11/2009

Date



Printed or Typed Name



Title