OHIO E.P.A.

MAR 15 2013

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Norris Service Specialties, Inc. dba
Service Specialties, Inc.
14895 Cannons Mill Road
East Liverpool, OH 43920

Respondent

Director's Final
Findings and Orders

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: Dmy Lassiter **Date:** 3-15-13

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Norris Service Specialties, Inc. dba Service Specialties 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, 3734.02(G) 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:

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, 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 a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).

3. Respondent operates a concrete and steel abrasive blasting and protective coatings application business located at 14895 Cannons Mill Road, East Liverpool, Columbiana, Ohio 43920 (Facility).

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 normally generates less than 100 kilograms of hazardous waste per calendar month. Respondent has been assigned EPA ID number OHR000165175. Respondent generates characteristic (D001 and D035) and listed (F003 and F005) hazardous waste as described in OAC rules 3745-51-21, 3745-51-24 and 3745-51-31, from painting related operations, including distillation bottoms from spent solvent reclamation, at the Facility. Additionally, Respondent is a universal waste handler and used oil generator.

5. At some point in time prior to January 1, 2011, Respondent accumulated greater than 1,000 kilograms of hazardous waste on-site. In accordance with OAC rule 3745-51-05, Respondent was subject to the requirements of OAC rule 3745-52-34(D), including the prohibition on accumulating hazardous waste on-site for greater than 180 days without a hazardous waste installation and operation permit.

6. On August 30, 2011 and September 21, 2011, Ohio EPA conducted a complaint investigation and compliance evaluation inspection (inspection) at the Facility. As a result of this inspection, Ohio EPA determined the Respondent, *inter alia* :

    a. Unlawfully established and operated a hazardous waste facility without a hazardous waste installation and operation permit, in violation of ORC § 3734.02(E) and (F), through the storage of hazardous waste at the Facility. Specifically, Respondent stored hazardous waste as described in Finding Nos. 4. and 5. of these Orders for greater than 180 days in a trailer and areas outside near the trailer located at the Facility;

b. Caused hazardous waste to be transported to an unauthorized facility, in violation of ORC § 3734.02(F). Respondent caused listed hazardous waste still bottoms, F005, as described in OAC rule 3745-51-31, to be transported to a municipal solid waste landfill on multiple occasions. No further action is required by the Respondent to abate the violation of ORC § 3734.02(F);

c. Failed to receive a U.S. EPA identification number, in violation of OAC rule 3745-52-12;

d. Failed to properly determine if a waste is a hazardous waste, in violation of OAC rule 3745-52-11;

e. Failed to familiarize employees with waste handling and emergency procedures, in violation of OAC rule 3745-52-34(D)(5)(c);

f. Failed to provide the proper required equipment, in violation of OAC rule 3745-65-32;

g. Failed to provide proper hazardous waste container management, in violation of OAC rules 3745-52-34(C)(1)(a), 3745-52-34(C)(1)(b), 3745-52-34(D)(4), and 3745-66-73(A);

h. Failed to conduct inspections of container storage areas, in violation of OAC rule 3745-66-74;

i. Failed to prevent and cleanup releases of universal waste, in violation of OAC rules 3745-273-13(A) and OAC rules 3745-273-17(A);

j. Failed to provide universal waste management training to personnel, in violation of OAC rule 3745-273-16;

k. Failed to label used oil containers, in violation of OAC rule 3745-279-22(C); and

l. Failed to clean up and manage releases of used oil properly, in violation of OAC rule 3745-279-22(D).

7. By letter dated September 9, 2011, Respondent was notified of the violations referenced in Finding No. 6. of these Orders.

8. In correspondence dated October 7, 2011, Ohio EPA received documentation related to the violations referenced in Finding No. 6. of these Orders.

9. By letter dated October 17, 2011, Ohio EPA, Ohio EPA acknowledged receipt of the information Respondent submitted as referenced in Finding No. 8. of these

Orders, and notified Respondent that Respondent corrected the violations referenced in Finding Nos. 6.c., d., g., h., i., k., and l., of these Orders.

10. By electronic mail and facsimile on December 21, 2011 and in correspondence dated December 30, 2011, Ohio EPA received documentation related to the violations referenced in Finding No. 6.e.,f., and j. of these Orders.

11. By letter dated January 5, 2012, Ohio EPA, Ohio EPA acknowledged receipt of the information Respondent submitted as referenced in Finding No. 10. of these Orders, and notified Respondent that Respondent corrected violations referenced in Finding No.6.e., f., and j. of these Orders.

12. Due to the establishment and operation of a hazardous waste storage facility as described in Finding No.6.a. 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.

13. 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 a Closure Plan for the identified hazardous waste storage areas described in Finding No. 6.a. of these Orders;

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;

c. The Closure Plan is subject to approval by Ohio EPA. If Ohio EPA does not approve the Closure Plan referenced in Order No. 1.a., 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;

d. Upon Ohio EPA 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;

e. Within 30 days after Ohio EPA's approval of the Closure Plan pursuant to Order No. 1.a., above, Respondent shall submit a closure cost estimate and documentation demonstrating that Respondent has established financial assurance and liability coverage for the areas of the Facility subject to closure, in accordance with OAC rules 3745-55-42 through 3745-55-47; and

f. Within 60 days after completion of closure, Respondent shall submit certification of closure to Ohio EPA in accordance with OAC rule 3745-55-15. Closure certification of the area described in Order No. 1.a. will abate the violation referenced in Finding No. 6.a. of these Orders.

2. Respondent shall pay Ohio EPA the amount of $23,560.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. $18,848.00 of this amount 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 $4,712.00;

b. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $4,712.00;

c. Within 270 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $4,712.00; and

d. Within 360 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $4,712.00.

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, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying the Respondent. A copy of each check shall be submitted in accordance with Section X. of these Orders, and an additional copy of this check shall be sent to Processing/Records Management Supervisor, Ohio EPA, Division of Materials and Waste Management, P.O. Box 1049, Columbus, Ohio 43216-1049.

3. In lieu of paying the remaining $4,712.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of $4,712.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD). Respondent shall make the payment within 30 days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for $4,712.00 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 Respondent and the Facility. A copy of this check shall be sent to Ohio EPA Division of Materials and Waste Management, Supervisor, Processing Records Management Unit, P.O. Box 1049, Columbus, Ohio 43216-1049 and to Ohio EPA, Division of Air Pollution Control, Manager, Compliance and Enforcement Section, P.O. Box 1049, Columbus, Ohio 43216-1049.

4. Should Respondent fail to fund the SEP within the required time frame established in Order No. 3., Respondent shall pay to Ohio EPA, within 7 days after failing to comply with Order No. 3., the amount of $4,712.00 in accordance with the procedures in Order No. 2.

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 Materials and 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 [e.g., 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, exclusive of penalty checks, required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Materials and Waste Management
2110 East Aurora Road
Twinsburg, Ohio 44087
Attn: DMWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Enforcement Supervisor
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049

For deliveries to the building:

Enforcement Supervisor
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
50 West Town Street
Columbus, Ohio 43215

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, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek corrective action at the Facility by Respondent, 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

Scott J. Nally
Director

March 15, 2013
Date

IT IS SO AGREED:

Norris Service Specialties, Inc.
dba Service Specialties Inc.

Signature

3-13-13
Date

Craig A. Norris
Printed or Typed Name

President
Title