

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
OCT -3 2008

ENTERED DIRECTOR'S JOURNAL

In the matter of:

Bill Biskner
dba New Appearance Complete Cleaning Company
52861 Turnberry Drive
Chesterfield, Michigan 48051

Director's Final Findings
and Orders

Respondent

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.

PREAMBLE

It is agreed by the parties hereto as follows:

By: [Signature] Date: 10-3-08

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Bill Biskner, dba New Appearance Complete Cleaning Company, ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6111.03, and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and his partners, heirs, assigns, and successors in interest liable under Ohio law. No change in the ownership of New Appearance Complete Cleaning Company 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 6111 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has made the following findings:

1. Respondent owns and operates a cleaning business with its principal place of business in Chesterfield, Michigan.
2. On October 15, 2007, Respondent cleaned the floors of ABC Warehouse, located at 1925 Tiffin Avenue, Findlay, Hancock County, Ohio ("Facility").

3. On October 15, 2007, an employee of Respondent's company dumped four (4) or five (5) loads of wastewater from a floor wax machine with a capacity of fifteen (15) gallons into a storm sewer catch basin in the Facility's parking lot. The storm sewer catch basin discharges to Rush Creek, a tributary of the Blanchard River.
4. The wastewater discharged from the floor wax machine, which contained floor wax stripper, flowed approximately 2,000 feet downstream from the storm sewer catch basin, turning Rush Creek a milky white color. The wastewater containing floor wax stripper constitutes "industrial waste" as defined in ORC § 6111.01.
5. The storm sewer catch basin, Rush Creek, and the Blanchard River are all "waters of the state" as defined in ORC § 6111.01.
6. Ohio Administrative Code ("OAC") Rule 3745-1-04 sets out general water quality criteria applicable to all surface waters of the state, including OAC 3745-1-04(C) which provides that to "every extent practical and possible as determined by the director," surface waters of the state shall be "[f]ree from materials entering the waters as a result of human activity producing color, odor or other conditions in such a degree as to create a nuisance." Respondent's discharge of wastewater to the storm sewer catch basin violated OAC 3745-1-04(C).
7. Pursuant to ORC section 6111.04(A), no person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state. Such an action is prohibited under ORC section 6111.04(A) and is declared to be a public nuisance unless the person causing pollution or placing or causing to be placed wastes in a location in which they cause pollution of any waters of the state holds a valid, unexpired permit, or renewal of a permit, governing the causing or placement as provided in ORC sections 6111.01 to 6111.08 or if the person's application for renewal of such a permit is pending.
8. Pursuant to ORC Section 6111.07(A), no person shall violate or fail to perform any duty imposed by ORC Sections 6111.01 to 6111.08 or violate any order, rule, or term or condition of a permit issued or adopted by the Director of Ohio EPA pursuant to those sections. Each day of violation is a separate offense.
9. The discharge of industrial waste into waters of the state by Respondent, as described in Finding No. 3, was not authorized by or in accordance with a valid, unexpired permit issued by the Director and, therefore, violated ORC §§ 6111.04 and 6111.07.

10. The discharge was discovered in Rush Creek by the Director of the Hancock County Emergency Management Agency ("EMA") who traced it back to the storm sewer catch basin in the parking lot of the Facility.
11. Several dead fish were observed around the storm sewer catch basin discharge to Rush Creek.
12. Hancock County EMA and City of Findlay employees took measures to prevent further migration downstream of the floor wax stripper.
13. Ohio EPA emergency response personnel requested that Respondent hire a contractor to clean up the creek and sewer line. Respondent complied with this request and the cleanup was completed on or about October 17, 2007 by the contractor.
14. Ohio EPA sent a Notice of Violation and an Acknowledgment of Spill Response to Respondent on or about October 15, 2007. Respondent signed both documents on October 16, 2007 to acknowledge their receipt.
15. Ohio EPA's Emergency Response Section incurred costs of \$849.39 responding to Respondent's discharge of industrial waste into waters of the state. Pursuant to ORC § 3745.12, Respondent is liable for these costs. Respondent was sent an invoice for the costs incurred by Ohio EPA on November 6, 2007, but as of this date, has not paid it.
16. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

V. ORDERS

1. Respondent shall not discharge industrial waste to waters of the state except in accordance with a valid unexpired National Pollutant Discharge Elimination System permit.
2. Respondent shall pay the amount of four thousand fifty dollars (\$4,050.00) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 6111. The penalty shall be paid by tendering official

checks made payable to "Treasurer, State of Ohio" in accordance with the schedule below. The official checks shall be submitted to Brenda Case, or her successor, together with letters identifying the Respondent, at the following address:

Office of Fiscal Administration
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

- a. Within sixty (60) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand dollars (\$1,000.00).
- b. Within one hundred twenty (120) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand dollars (\$1,000.00).
- c. Within one hundred eighty (180) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand dollars (\$1,000.00).
- d. Within two hundred forty (240) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand fifty dollars (\$1,050.00).

Photocopies of the checks shall be sent to the addresses in Section X. 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 the Chief of Ohio EPA's Division of Surface Water 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 the Respondent. For purposes of these Orders, a responsible official is defined in OAC Rule 3745-33-03(D)(1) for a corporation, OAC Rule 3745-33-03(D)(2) for a partnership, OAC Rule 3745-33-03(D)(3) for a sole proprietorship, and OAC Rule 3745-33-03(D)(4) for a municipal, state, or other public facility.

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 activities occurring on or at the 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 or the Facility.

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

Unless otherwise stated herein, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Attention DSW Enforcement Supervisor
347 North Dunbridge Road
Bowling Green, Ohio 43402

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and to:

Ohio EPA
Division of Surface Water
Attn: Manager, Stormwater and Enforcement Section
50 West Town Street, Suite 700 [P.O. Box 1049]
Columbus, Ohio 43215 [43216-1049]

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

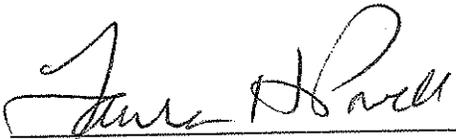
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



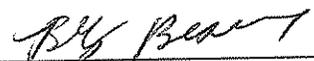
Chris Korleski
Director

10/2/08

Date

IT IS SO AGREED:

**Bill Biskner
dba New Appearance Complete Cleaning
Company**



Signature

8-8-08

Date

Bill Biskner

Printed or Typed Name

owner

Title