

OHIO E.P.A.

MAR 18 2002

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Hancock Manufacturing Company  
Cleveland & Fifth Streets  
Toronto, OH 43964

Director's Final  
Findings and Orders

Respondent

PREAMBLE

It is hereby agreed to by and among the Parties as follows:

I. JURISDICTION

1. These Director's Final Findings and Orders ("Orders") are issued pursuant to the authority vested in the Director of the Ohio EPA under Chapters 3734, 3745, and 6111 of the Ohio Revised Code. Respondent consents to and agrees not to contest Ohio EPA's jurisdiction to issue and enforce these Orders.

II. PARTIES BOUND

2. These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law.

3. No change in ownership or corporate status of Respondent including, but not limited to, a transfer of assets or real or personal property shall in any way alter Respondent's obligations under these Orders.

4. The signatories to these Orders certify that they are fully authorized to execute and legally bind the Party they represent.

III. DEFINITIONS

5. Unless otherwise expressly provided herein, terms used in these Orders or in

I certify this to be a true and accurate copy of the  
official document as filed in the records of the Ohio  
Environmental Protection Agency.

By: Zona L. Clement Date: 3-18-02

appendices shall have the same meaning as used in Chapters 3734 and 6111 of the Ohio Revised Code. Whenever the terms listed below are used in these Orders or in any appendices, attached hereto and incorporated herein, the following definitions shall apply:

a. "Ohio EPA" shall mean the Ohio Environmental Protection Agency and its designated representatives.

b. "1990 Orders" shall mean the administrative order entered into by the Respondent and Ohio EPA on August 3, 1990 requiring the performance of a remedial investigation and feasibility study (RI/FS) at the Site by the Respondent.

c. "Oversight Costs" shall mean those costs incurred by Ohio EPA during the implementation of the 1990 Orders, including the costs of review of documents or work required by the 1990 Orders.

d. "Parties" shall mean Respondent and the Ohio EPA.

e. "Respondent" shall mean Hancock Manufacturing Company.

f. "Site" shall mean the Hancock Manufacturing facility located at Cleveland and Fifth Streets in Toronto, Jefferson County, Ohio.

#### **IV. FINDINGS OF FACT, DETERMINATIONS AND CONCLUSIONS OF LAW**

6. Without admission of guilt or liability by Respondent, all findings of fact, determinations and conclusions of law necessary for the issuance of these Orders pursuant to Chapters 3734, 3745 and 6111 of the Ohio Revised Code have been made and are outlined below. Ohio EPA has determined the following:

a. Respondent leases and operates a metal stamping facility at Cleveland and Fifth Streets, Toronto, Jefferson County, Ohio.

b. On August 3, 1990, Ohio EPA and Respondent entered into Orders for the following purposes: (1) to conduct a full investigation of the Site; (2) to determine the extent of contamination at the Site caused by the release of hazardous substances, pollutants, industrial wastes, contaminants, or other wastes; (3) to develop and evaluate a program of appropriate cleanup measures employing sound scientific, engineering and construction practices which shall be consistent with state law; and (4) to subsequently recommend preferred remedial alternative(s) at the Site.

c. Under the 1990 Orders, Section IX, entitled "Reservation of Rights," established Ohio EPA's right to seek recovery of the Oversight Costs incurred by Ohio EPA during the course of the RI/FS process from the Respondent.

d. In accordance with Section XIV, entitled "Termination," under the 1990

Orders, the Respondent notified Ohio EPA that the required work had been completed pursuant to the 1990 Orders in June 1999.

e. In 1999, Ohio EPA provided written notice informing the Respondent that the work had been performed to the satisfaction of the Ohio EPA and that the Respondent had completed the terms and conditions of the 1990 Orders.

f. In May 1999, Respondent was invited by Ohio EPA to negotiate a Remedial Design/Remedial Action (RD/RA) proposed consent order. However, in June 1999 Respondent responded by submitting sufficient evidence of its participation in the Voluntary Action Program (VAP). In a letter dated March 10, 2000, the Director of Ohio EPA concurred that Respondent was eligible for participation in the VAP.

g. In November 1999, Ohio EPA notified Respondent that Ohio EPA was seeking to recover Oversight Costs it had incurred during the course of the RI/FS process in the amount of \$189,822.27. Upon further review, Ohio EPA revised the amount of the Oversight Costs sought from Respondent to a total amount of \$167,251.00.

## **V. OBJECTIVES OF THE PARTIES**

7. The objective of the Parties in entering into these Orders is to document and implement the procedure and schedule under which the Respondent shall reimburse Ohio EPA for past Oversight Costs incurred by Ohio EPA in the course of overseeing the RI/FS which was conducted at the Site.

## **VI. REIMBURSEMENT OF COSTS**

8. Ohio EPA has incurred Oversight Costs in connection with the Site. Respondent shall reimburse Ohio EPA in the amount of \$167,251.00 in accordance with the schedule outlined in this Section. Payment of this agreed to amount by Respondent to Ohio EPA shall fully satisfy all claims by Ohio EPA for Oversight Costs associated with work undertaken under the RI/FS Order, dated 8/3/90.

9. Beginning in July 2002, Respondent will remit monthly payments to Ohio EPA in the amount of \$2,000 on or before the fifteenth (15<sup>th</sup>) day of each month for a period of eighty-four (84) months with no interest or penalty amount being due or owned by the Respondent. However, the last payment will be made in the amount of \$1,251.00.

10. Payment shall be made by company check payable to "Treasurer, State of Ohio" and shall be forwarded to Fiscal Officer, Ohio EPA, P.O. Box 1049, Columbus, OH 43216-1049. A company check returned to Ohio EPA due to insufficient funds shall constitute a missed payment in accordance with the terms and conditions of these Orders, and Respondent may be subject to enforcement due to a violation of these Orders.

11. A copy of the transmittal letter and the check shall be sent to the Fiscal Officer, DERR, Ohio EPA, P.O. Box 1049, Columbus, OH 43216-1049, Attn: Patricia Campbell, or her successor.

12. Beginning in January 2003, and on a semi-annual basis thereafter, upon receipt of a request by Respondent Ohio EPA shall send to Respondent a written statement indicating the payments that have been made by Respondent in the preceding year, and the balance that is remaining. At any time, the Respondent may request a written statement indicating payments made since the last statement was issued, and the balance that is remaining.

13. At the time these Orders are being executed, the option of monthly payment by wire transfers is not available to Ohio EPA, but if this option should become available while these Orders are in effect, the method of payment may be changed to wire transfer upon mutual agreement of the Parties.

## **VII. RESERVATION OF RIGHTS**

14. Ohio EPA reserves the right to seek legal and/or equitable relief to enforce the terms and conditions of these Orders against Respondent for noncompliance with these Orders. Except as provided herein, Respondent reserves any right it may have to raise any legal or equitable defense in any action brought by Ohio EPA to enforce the terms and conditions of these Orders.

## **VIII. OTHER CLAIMS**

15. 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 subject to these Orders for any liability arising from, or related to, events or conditions at the Site.

## **IX. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION**

16. The effective date of these Orders shall be the date on which these Orders are entered in the Journal of the Director of the Ohio EPA.

17. These Orders may be modified by mutual agreement of the Parties. Modification shall be in writing, signed by the authorized representatives of the Respondent and the Director, and shall be effective on the date entered in the Journal of the Director of the Ohio EPA.

## **X. COVENANT NOT TO SUE**

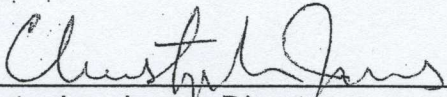
## X. COVENANT NOT TO SUE

18. Upon termination of these Orders pursuant to Section XI, and during the term of these Orders so long as the Respondent meets the terms and conditions contained therein, Ohio EPA covenants not to sue Respondent for any liability arising from the obligation to pay Oversight Costs incurred by Ohio EPA. Respondent shall be released from the obligations embodied in these Orders upon its termination in accordance with Section XI.

## XI. TERMINATION

19. These Orders shall terminate upon Ohio EPA's concurrence in writing with Respondent's written certification to Ohio EPA that the terms and conditions contained in these Orders have been met.

It is so ordered:

  
\_\_\_\_\_  
Christopher Jones, Director  
Ohio Environmental Protection Agency

3-15-02  
Date

## WAIVER AND AGREEMENT

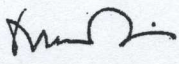
A. In order to resolve the disputed claims, without admission of fact, violation or liability, Respondent agrees that these Findings and Orders are lawful and reasonable, and agrees to perform all actions required by these Orders.

B. Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and hereby waives any and all rights that it may have to seek administrative or judicial review of the issuance, terms and conditions and service of these Orders either in law or equity.

C. Notwithstanding the limitations herein on Respondent's right to appeal or seek judicial review, the Ohio EPA and Respondent agree that in the event that 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 event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

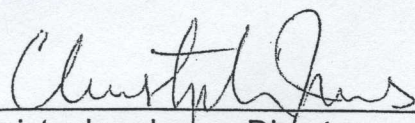
IT IS SO AGREED:

Hancock Manufacturing Company  
Respondent

  
\_\_\_\_\_  
Date

PRESIDENT  
\_\_\_\_\_  
Title

Ohio Environmental Protection Agency

  
\_\_\_\_\_  
Christopher Jones, Director

3-15-07  
\_\_\_\_\_  
Date