



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

7007 0220 0000 7613 2319 – Lenco Industry, Inc.

7007 0220 0000 7613 2326 – Day-Hio Products Co.

September 11, 2007

Re: Director's Final Findings & Orders
Lenco Industry, Inc.
US EPA ID No.: OHR 000 130 781

Day-Hio Products Company
US EPA ID No.: OHR 000 130 807

Silver Machine, Inc.
US EPA ID No.: OHR 000 130 799

Mr. Robert B. Wagner
Lenco Industry, Inc.
P.O. Box 1044
Dayton, Ohio 45401-1044

Mr. Robert B. Wagner
Day-Hio Products Company
709 Webster Street
Dayton, Ohio 45404

Dear Mr. Wagner:

Here are the Director's Final Findings and Orders (Orders) issued to Lenco Industry, Inc. and Day-Hio Products Company on September 11, 2007. These Orders are effective today.

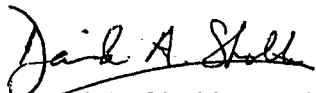
I have also enclosed invoices for the penalty payments as required by Order Numbers 1 and 2. Please remember that your payments are due no later than October 11, 2007.

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

Mr. Robert B. Wagner
Lenco Industry, Inc.
Day-Hio Products Company
September 11, 2007
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If you have any questions concerning compliance with these Orders, do not hesitate to contact Paul Pardi at (937) 285-6357.

Sincerely,



David A. Sholtis, Assistant Chief
Division of Hazardous Waste Management

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Attachments

cc: Michael A. Savage, Chief, DHWM, CO
Harry Sarvis, Mgr., CAS, DHWM, CO
Fran Kovak, Legal
Heidi Greismer, PIC
Paul Pardi, Mgr., DHWM, SWDO
Wray Blattner, Esq., Thompson Hine LLP

OHIO E.P.A.

SEP 11 2007

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

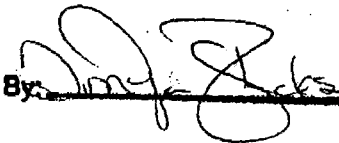
Lenco Industry, Inc.
P. O. Box 1044
Dayton, Montgomery Co., Ohio 45401-1044

Day-Hio Products Company
709 Webster Street
Dayton, Montgomery Co., Ohio 45404

**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.

Respondents

By:  Date: 9-11-07

PREAMBLE

It is hereby agreed by and among the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Lenco Industry, Inc., (Respondent Lenco) and Day-Hio Products Company (Respondent Day-Hio) (together, Respondents) pursuant to the authority vested in the director of the Ohio Environmental Protection Agency (Ohio EPA) under § 3734.13 and § 3745.01 of the Ohio Revised Code (ORC).

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondents and successors in interest liable under Ohio law. No change in ownership relating to the Facilities shall in any way alter Respondents' obligations under these Orders. Respondents' obligations under these Orders may be altered only by the written action of the director of Ohio EPA.

III. DEFINITIONS

1. Unless otherwise stated, all terms in these Orders shall have the same meaning as used in Chapter 3734. of the ORC and the regulations promulgated thereunder.

IV. FINDINGS OF FACT

Nothing in the findings shall be considered to be an admission by Respondents of any matter of law or fact. The director of Ohio EPA has determined the following findings of fact:

1. Respondents are "persons" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A). *These are true and accurate copy of the documents as filed in the records of the Ohio Department of Public Safety.*
2. Respondent Lenco owns and operates a machine shop at 3301 Klepinger Road, Dayton, Montgomery Co., Ohio 45401-1044 (Lenco Facility).
3. Respondent Day-Hio owns and operates a machine shop at 709 Webster Street, Dayton, Montgomery Co., Ohio 45404 (Day-Hio Facility).
4. Respondent Lenco also does business as Silver Machine, Inc. (SMI) at 21 West First Street, South Vienna, Clark Co., Ohio 45369 (SMI Facility).
5. At their Facilities, Respondents generate "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03 including waste solvent (D001).
6. Respondent Lenco, Respondent Day-Hio and SMI were issued hazardous waste generator identification numbers OHR000130781, OHR000130807 and OHR000130799 respectively.
7. On November 19, 2004, Ohio EPA received an anonymous complaint that Respondent Lenco was burying containers of used oil and hazardous waste at the Lenco Facility.
8. On December 21, 2004, Ohio EPA personnel conducted a complaint investigation at the Lenco Facility and at the Day-Hio Facility.
9. Ohio EPA had telephone conversations with Respondent Lenco personnel on June 15, 2005, October 27, 2005 and November 1, 2005.

10. On June 28, 2005 Ohio EPA met with Respondent Lenco personnel to assess waste management practices.
11. As a result of the complaint investigation and subsequent telephone conversations and meetings, Ohio EPA determined that Respondents had, *inter alia*:
 - a. Failed to properly evaluate waste solvents at the Lenco and SMI Facilities to determine if they were hazardous wastes, in violation of OAC Rule 3745-52-11; and
 - b. Respondent Lenco and SMI transported or caused to be transported hazardous waste to the Day-Hio Facility, a facility not operating under a hazardous waste facility installation and operation permit issued in accordance with ORC Chapter 3734., therefore the Director has determined that Respondents violated ORC §§ 3734.02(E) & (F).
12. Because the hazardous waste was transported from the Day-Hio Facility by Howett Oil Company, a registered hazardous waste transporter, the Director has determined that no further action is required of Respondents to abate the violation of ORC §§ 3734.02 (E) & (F) as referenced in Finding No. 11. b. of these Orders.
13. In a letter dated November 17, 2005, Ohio EPA notified Respondents of the violations noted in Finding No. 11.
14. On December 14, 2005, Respondent Lenco responded to Ohio EPA's November 17, 2005 letter.
15. On May 4, 2006, Ohio EPA responded to Respondent Lenco's December 14, 2005 letter and asked for additional information.
16. On June 5, 2006, J. Wray Blattner, representing Respondents, replied to Ohio EPA's May 4, 2006 letter.

V. ORDERS

Respondents shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$16,000.00 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 \$12,800.00. 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. A copy of this check shall be submitted in accordance with Section X. of these Orders.

2. In lieu of paying the remaining \$3,200.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of \$3,200.00 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 \$3,200.00. The official check shall be submitted to Brenda Case, or her successor, Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent. A copy of this check shall be submitted in accordance with Section X. of these Orders, and an additional copy of this check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, Ohio EPA, Division of Air Pollution Control, P.O. Box 1049, Columbus, Ohio 43216-1049.

Should Respondent fail to fund the SEP within the required time frame established in Order No. 2, Respondent shall pay to Ohio EPA, within 7 days after failing to comply with Order No. 2, the amount of \$3,200.00 in accordance with the procedures in Order No. 1.

VI. TERMINATION

Respondents' obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V. of these Orders.

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 Respondents' Facilities.

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 Respondents.

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 demonstrating compliance with these Orders, and other documents required under these Orders to be submitted to Ohio EPA, shall be addressed to:

Ohio Environmental Protection Agency
Southwest District Office
Division of Hazardous Waste Management
Attn: DHWM Manager
401 East Fifth Street
Dayton, Ohio, 45402-2911

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
Attn: Manager, Compliance Assurance Section
P.O. Box 1049
Columbus, Ohio 43216-1049

For deliveries to the building:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management

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Lenco Industry, Inc., & Day-Hio Products Company
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Attn: Manager, Compliance Assurance Section
50 West Town Street Suite 700
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 and Respondents 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, Respondents consent to the issuance of these Orders and agree to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondents' liability for the violations specifically cited herein.

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

Notwithstanding the preceding, Ohio EPA and Respondents agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondents retain the right to intervene and participate in such appeal. In such an event, Respondents shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

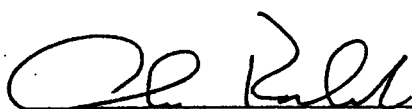
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



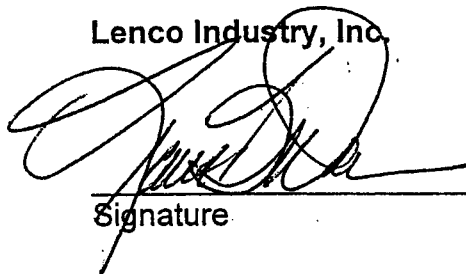
Chris Korleski
Director

Date

SEP 11 2007

IT IS SO AGREED:

Lenco Industry, Inc.



Signature

8-15-07
Date

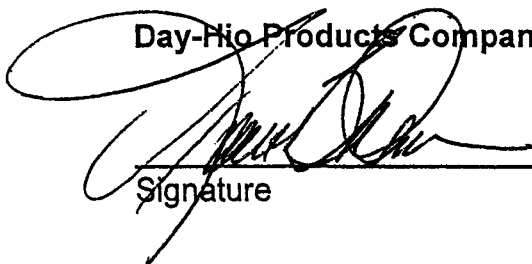
ROBERT B WAGNER
Printed or Typed Name

OPERATIONS

Title

IT IS SO AGREED:

Day-Hio Products Company



Signature

8-15-07
Date

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Lenco Industry, Inc., & Day-Hio Products Company
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ROBERT B WAGNER
Printed or Typed Name

OPERATIONS
Title