



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
122 S. Front Street
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
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MAILING ADDRESS:

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

CERTIFIED MAIL

March 17, 2006

Re: Director's Final Findings & Orders
Draper, Inc.
US EPA ID No.: OHR 000 120 246

Mr. R. Alan Beattey
Draper, Inc.
441 S. Pearl Street
Spiceland, Indiana 47385

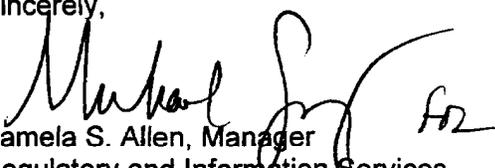
Dear Mr. Beattey:

Here are the Director's Final Findings and Orders (Orders) issued to Draper, Inc. on March 17, 2006. These Orders are effective today.

I have also enclosed invoices for the penalty payments as required by Order No.1.a. through c. Please remember that your first payment is due no later than April 16, 2006.

If you have any questions concerning compliance with these Orders, do not hesitate to contact Dave Chenault (740) 385-8501.

Sincerely,


Pamela S. Allen, Manager
Regulatory and Information Services
Division of Hazardous Waste Management

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Attachments

cc: Michael A. Savage, Chief, DHWM
Harry Sarvis, Mgr., CAS, DHWM
Fran Kovac, Legal
Heidi Greismer, PIC
Dave Chenault, Mgr., DHWM, SEDO



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Bob Taft, Governor
Bruce Johnson, Lieutenant Governor
Joseph P. Koncelik, Director

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MAR 17 2006

REGISTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Draper, Inc.
441 S. Pearl Street
Spiceland, Indiana 47385

Respondent

Director's Final
Findings and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Draper, 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 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 the Facility shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

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.

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

[Signature] Date 3-17-06

IV. FINDINGS

All of the findings necessary for the issuance of these Orders pursuant to ORC §§ 3734.13 and 3745.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any matter of law or fact. 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 operates a basketball backboard manufacturing facility located at 13th and Echo Street, Malta, Morgan County, Ohio (Facility). Respondent is an Indiana corporation licensed to do business in Ohio on December 3, 1998.
3. As a result of Respondent's hazardous waste activities described below, Ohio EPA issued Respondent Ohio EPA identification number OHR 000120246 on May 3, 2004.
4. As of January 22, 2004, Respondent had ceased the generation of "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Hazardous waste stored at the Facility was determined to have been generated by prior operations.
5. On January 22, 2004, Ohio EPA conducted an inspection of the Facility. As a result of this inspection, Ohio EPA determined that Respondent had, *inter alia*:
 - a. Transported hazardous waste solvent from its previous location to an unpermitted Facility, in violation of ORC § 3734.02(F);
 - b. Established and operated a hazardous waste facility without a permit, in violation of ORC § 3734.02(E) and (F); and
 - c. Failed to evaluate waste stored at the Facility, in violation of OAC rule 3745-52-11.
6. By letter dated February 4, 2004, Ohio EPA notified Respondent of the violations discovered during the January 22, 2004 inspection.
7. In correspondence dated March 2, 2004 and March 19, 2004, Respondent submitted documentation in response to Ohio EPA's February 4, 2004 letter.

8. By letter dated March 22, 2004, Ohio EPA notified Respondent that Respondent had abated the violation identified in Finding No. 5.c.
9. On March 24, 2004, Respondent sent, under manifest, the hazardous waste stored at the Facility for disposal.
10. Ohio EPA is not requiring Respondent to close its hazardous waste storage unit at this time because the waste was stored inside the facility, the drums were in good condition and they were shipped off-site for proper disposal. There are no visible signs of release at the Facility where the waste was stored. Moreover, the Orders do not reserve Ohio EPA's right to require Respondent to perform closure of the hazardous waste storage unit for the same reasons. No further action is required to abate the violations identified in Findings No. 5.a and 5.b.

V. ORDERS

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

1. Respondent shall pay Ohio EPA the amount of \$21,000.00 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 \$16,800.00 in settlement of Ohio EPA's claims for civil penalties 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 \$16,800.00. 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.
 - b. In lieu of paying the remaining \$4,200.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of \$4,200.00 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 \$4,200.00. 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.

- c. Should Respondent fail to fund the SEP 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 \$4,200.00 in accordance with the procedures in Order No. 1.a.

VI. TERMINATION

Respondent's 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 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:

Joseph P. Koncelik, 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:

Joseph P. Koncelik, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
122 South Front 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 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

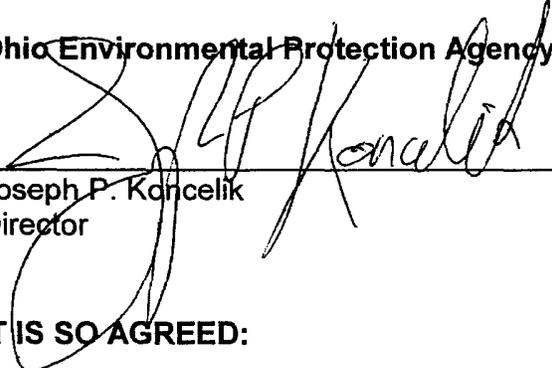
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



Joseph P. Koncelik
Director

MAR 17 2006

Date

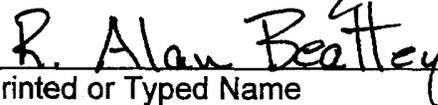
IT IS SO AGREED:

Draper, Inc.


Signature

February 10, 2006

Date



Printed or Typed Name



Title