OhioEPA

State of Ohio Environmental Protection Agency

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

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MAILING ADDRES
P.O. Box 10
Columbus, OH 43216-10

CERTIFIED MAIL

June 25, 2007

Re: Director's Final Findings & Orders
Toxco, Inc.
US EPA ID No.: OHD 071 654 958

Mr. Edward Green
Toxco, Inc.
125 Commercial Boulevard
Anaheim, California 92801

Dear Ms. Green:

Here are the Director's Final Findings and Orders (Orders) issued to Toxco, Inc. on June 25, 2007. These Orders are effective today.

I have also enclosed invoices for the penalty payments as required by Order No. 1.a. through 1.f. and Order No. 2.a. through 2.f. Please remember that your first payments are due no later than July 25, 2007.

If you have any questions concerning compliance with these Orders, do not hesitate to contact Steve Rath at (614) 728-3778.

Sincerely,

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

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Attachments

c: Michael A. Savage, Chief, DHWM CO
Harry Sarvis, Mgr., CAS, DHWM CO
Elissa Miller, Legal
Heidi Greismer, PIC
Steve Rath, Mgr., DHWM, CDO
Bruce A. Armbruster, JE Compliance Services, Inc.

OHIO E.P.A.

JUN 25 2007

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Toxco, Inc.
125 Commercial Boulevard
Anaheim, California 92801

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 Toxco, 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 documents as filed in the records of the Ohio Environmental Protection Agency.

By: _____ Date: 6-25-07

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent operates several processes, including nickel cadmium retort furnaces, an electronic arc furnace, and other physical separation techniques to re-utilize and recycle numerous types of batteries at its facility located at 265 Quarry Road, Lancaster, Fairfield County, Ohio (Facility). As a result of these processes, 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 is a large quantity generator of hazardous waste and was issued generator identification number OHD071654958.

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

3. On October 4, 2002, Respondent submitted, for Ohio EPA review, a Hazardous Waste Installation and Operation Permit Application (Application).

4. While Ohio EPA was reviewing Respondent's Application, Respondent operated pursuant to Director's Final Findings and Orders (Exemption Orders), issued on December 12, 2003. The Exemption Orders were issued pursuant to ORC § 3734.02(G), 3734.13 and 3745.01 and incorporated, by reference, the Application. The Exemption Orders temporarily exempted Respondent from the requirement to obtain a hazardous waste installation and operation permit at the Facility, provided Respondent complied with the provisions in the Application, and would terminate upon Ohio EPA's final disposition of Respondent's Application.

5. On December 21, 2005, Ohio EPA issued to Respondent a hazardous waste facility installation and operation permit (Permit). The Permit authorizes Respondent to store hazardous waste at the Facility prior to conducting the battery recycling processes referenced in Finding No. 1 of these Orders.

Findings Related to the December 12, 2003 Exemption Orders

6. Order No. 2.d. of the Exemption Orders states that Respondent shall not commence operation, e.g., storage of universal waste, in any phase of the universal waste storage area until Respondent has provided to Ohio EPA documentation demonstrating that Respondent has obtained appropriate financial assurance and liability coverage as required by OAC Chapter 3745-55.

7. On January 20, 2004, Ohio EPA conducted a financial assurance review of Respondent's Facility and notified Respondent that Respondent had failed to provide documentation demonstrating that third party liability coverage had been obtained prior to commencing hazardous waste operations at the Facility. The documentation was necessary to demonstrate compliance with Order No. 2.d. of the Exemption Orders and OAC rule 3745-55-47.

8. By letter dated January 21, 2004, Ohio EPA notified Respondent that Respondent had not provided documentation demonstrating third party liability coverage for the Facility.

9. On February 17, 2004, Ohio EPA conducted a site visit at the Facility. During the site visit, Ohio EPA observed Respondent storing batteries in the universal waste storage area at the Facility. Ohio EPA was also informed that hazardous waste operations at the Facility commenced approximately one month prior to Ohio EPA's site visit, or January 17, 2004.

10. By letter dated March 23, 2004, Ohio EPA notified Respondent that Respondent had violated Order No. 2 of the Exemption Orders and OAC rule 3745-55-47 by commencing operations at the universal waste storage area without demonstrating that third party liability coverage had been obtained for hazardous waste operations at the Facility.

11. On March 31, 2004, Ohio EPA received Respondent's response to Ohio EPA's March 23, 2004 letter, which included documentation demonstrating that third party liability coverage had been established for the Facility, thereby abating the violation referenced in Finding No. 10 of these Orders.

12. On April 27 and 28, 2004, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of the inspection, Ohio EPA determined that Respondent had, *inter alia*:

    a. Failed to utilize the inspection checklists and processing forms as specified in the Application, in violation of the Exemption Orders;

    b. Failed to document inspections of emergency equipment at the Facility, in violation of the Exemption Orders and OAC rule 3745-54-33;

    c. Failed to mark a hazardous waste storage container with the accumulation start date, in violation of the Exemption Orders and OAC rule 3745-52-34(A)(2);

d. Failed to properly label hazardous waste storage and accumulation containers, in violation of the Exemption Orders and OAC rules 3745-52-34(A)(3) and 3745-52-34(C)(1);

e. Failed to document inspections of the hazardous waste storage area, in violation of the Exemption Orders and OAC rule 3745-55-74;

f. Failed to maintain written statements from qualified persons which demonstrate that ancillary equipment for a hazardous waste storage tank are supported and protected against physical damage and excessive stress, in violation of the Exemption Orders and OAC rule 3745-55-92(B)(D)(E)(G); and

g. Failed to document daily inspections of a hazardous waste storage tank, in violation of the Exemption Orders and OAC rule 3745-55-95.

13. By letter dated May 17, 2004, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 12.a. through 12.g. of these Orders. Also in the May 17, 2004 letter, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 12.c. and 12.d. of these Orders.

14. On July 20, 2004, the chief of the Division of Hazardous Waste Management issued a letter to Respondent addressing concerns regarding Respondent's operation of the Facility and failure to comply with the Exemption Orders and provisions of the Application. Specifically, the letter stated:

> "It is imperative that [Respondent] take seriously its responsibility to operate the [Facility] in compliance with Ohio's hazardous waste laws.....Should Toxco fail to maintain compliance with the [Exemption Orders], its [Application] and Ohio's hazardous waste laws, [Ohio EPA] will consider other available enforcement options, including civil penalties."

15. On September 15 and 19, 2005, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of the inspection, Ohio EPA determined that Respondent had, *inter alia*;

a. Failed to properly mark, for the purpose of tracking, containers of hazardous waste upon receipt at the Facility in accordance with the procedures specified in the Application, in violation of the Exemption Orders;

b. Failed to comply with the pallet stacking requirements by stacking pallets of hazardous waste higher than the maximum height specified in the Application, in violation of the Exemption Orders;

c. Failed to use the proper processing forms for inbound and outbound shipments of hazardous waste as specified in the Application, in violation of the Exemption Orders;

d. Failed to provide hazardous waste training specific to the hazardous waste contingency plan to employees at the Facility as specified in the Application, in violation of the Exemption Orders and OAC rule 3745-54-16(A)(2) and (3);

e. Failed to mark two hazardous waste storage containers with the accumulation start date, in violation of the Exemption Orders and OAC rule 3745-52-34(A)(2); and

f. Failed to properly label two hazardous waste storage containers with the words, "Hazardous Waste," in violation of the Exemption Orders and OAC rule 3745-52-34(A)(3).

16. By letter dated October 4, 2005, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 15.a. through 15.f. of these Orders.

17. In correspondence dated November 2, 2005, Respondent provided responses to Ohio EPA's October 4, 2005 letter.

18. By letter dated December 21, 2005, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 15.c. through 15.f. of these Orders.

19. On December 21, 2005, the Director of Ohio EPA approved Respondent's Permit. Because the Permit superseded the Exemption Orders, no further action was required of Respondent with regard to the violations referenced in Finding Nos. 12.a., 12.b., 12.e. through 12.g., 15.a., and 15.b. of these Orders.

Findings Related to Permit Condition A.27(a) - Permit Corrections

20. Permit Condition A.27(a) states that Respondent must submit a permit modification request to Ohio EPA in accordance with OAC rule 3745-50-51 to update the Permit Application with all Permit Application corrections by the compliance deadline of January 20, 2006.

21. On March 7, 2006, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of the inspection, Ohio EPA determined that Respondent, inter alia, failed to submit a permit modification request that included the information specified in Finding No. 20 of these Orders, in violation of Permit Condition A.27(a).

22. In correspondence dated March 10, 2006, Respondent submitted a Class 1 Permit Modification requesting a change in the compliance deadline established in Permit Condition A.27(a) from January 20, 2006 to April 15, 2006.

23. By letter dated March 21, 2006, Ohio EPA notified Respondent of the violation referenced in Finding No. 21 of these Orders.

24. By letter dated April 14, 2006, Ohio EPA approved Respondent's March 10, 2006 Permit Modification request, thereby establishing a new compliance deadline for Permit Condition A.27(a) of April 15, 2006.

25. In correspondence dated April 15, 2006, Respondent submitted a Class 1 Permit Modification which included all Permit Application corrections in accordance with Permit Condition A.27(a).

26. By letter dated June 2, 2006, Ohio EPA approved Respondent's April 15, 2006 Class 1 Permit Modification.

27. Based upon Respondent's March 10 and April 15, 2006 Permit Modification requests, the Director has determined that Respondent has abated the violation referenced in Finding No. 21 of these Orders.

Findings Related to Permit Condition A.27(b) - Financial Assurance

28. Permit Condition A.27(b) states that Respondent must submit a permit modification request to Ohio EPA in accordance with OAC rule 3745-50-51 to incorporate an updated closure cost estimate, an updated financial assurance mechanism for closure, and updated third party liability coverage into the Permit Application by the compliance deadline of February 19, 2006.

29. On March 7, 2006, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of the inspection, Ohio EPA determined that Respondent had, *inter alia*;

    a. Failed to submit a permit modification request which includes documentation demonstrating that the closure cost estimate has been

updated, in violation of Permit Condition A.27(b)(I) and OAC rule 3745-55-42;

b. Failed to submit a permit modification request which includes documentation demonstrating that the financial assurance mechanism for closure has been updated, in violation of Permit Condition A.27(b)(ii) and OAC rule 3745-55-43; and

c. Failed to submit a permit modification request which includes documentation demonstrating that third party liability coverage has been obtained for hazardous waste operations at the Facility, in violation of Permit Condition A.27(b)(iii) and OAC rule 3745-55-47.

30. In correspondence dated March 10, 2006, Respondent submitted a Class 1 Permit Modification requesting a change in the compliance deadline established in Permit Condition A.27(b) from February 21, 2006 to May 12, 2006.

31. By letter dated March 21, 2006, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 29.a. through 29.c. of these Orders.

32. On March 31, 2006, Ohio EPA conducted a financial assurance review of Respondent's Facility. As a result of the review, Ohio EPA determined that Respondent remained in violation of the following;

a. Failed to submit a permit modification request which includes documentation demonstrating that the closure cost estimate has been updated, in violation of Permit Condition A.27(b)(I) and OAC rule 3745-55-42;

b. Failed to submit a permit modification request which includes documentation demonstrating that the financial assurance mechanism for closure has been updated, in violation of Permit Condition A.27(b)(ii) and OAC rule 3745-55-43; and

c. Failed to submit a permit modification request which includes documentation demonstrating that third party liability coverage has been obtained for hazardous waste operations at the Facility, in violation of Permit Condition A.27(b)(iii) and OAC rule 3745-55-47.

33. By letter dated April 7, 2006, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 32.a. through 32.c. of these Orders.

34. By letter dated April 14, 2006, Ohio EPA notified Respondent that the Permit Modifications requested in Respondent's March 10, 2006 letter were not approved because the compliance deadline extension request was submitted after the compliance deadline specified in the Permit had expired.

35. In correspondence dated April 26, 2006, Respondent submitted a Class 1 Permit Modification which included financial documentation.

36. By letter dated June 27, 2006, Ohio EPA notified Respondent that the Class 1 Permit Modification, referenced in Finding No. 35 of these Orders, was not approved because the financial documentation submitted by Respondent was not updated for inflation and therefore inadequate.

37. By letter dated June 28, 2006, Ohio EPA notified Respondent that Respondent had not abated the violations referenced in Finding Nos. 29.a. through 29.c. and 32.a. through 32.c.

38. In correspondence dated August 8, 2006, Respondent submitted a Class 1 Permit Modification which included financial documentation.

39. By letter dated September 1, 2006, Ohio EPA notified Respondent that the Class 1 Permit Modification, referenced in Finding No. 38 of these Orders, was not approved because the modification request was inaccurately classified as a Class 1 and should have been submitted as a Class 1 permit modification request requiring prior approval of the Director.

40. In correspondence dated December 12, 2006, Respondent submitted a Class 1 Permit Modification requesting the incorporation of an updated closure cost estimate into the Permit Application in accordance with Permit Condition A.27(b)(I) and OAC rule 3745-55-42.

41. By letter dated January 5, 2007, Ohio EPA approved Respondent's Class 1 Permit Modification referenced in Finding No. 40 of these Orders, thereby abating the violation of Permit Condition A.27(b)(I) referenced in Finding No. 29.a. and 32.a. of these Orders.

42. In electronic correspondence dated March 12, 2007, Respondent submitted documentation demonstrating that the financial assurance mechanism for closure has been updated in accordance with Permit Condition A.27(b)(ii) and OAC rule 3745-55-43.

43. In electronic correspondence dated March 9, 2007, Respondent submitted documentation demonstrating that third party liability coverage had been obtained for hazardous waste operations at the Facility, in accordance with Permit Condition A.27(b)(iii) and OAC rule 3745-55-47.

44. Based upon the documentation submitted by Respondent, referenced in Finding Nos. 42 and 43 of these Orders, the Director has determined that no additional action is required of Respondent regarding the violations referenced in Finding Nos. 29.b., 29.c., 32.b. and 32.c. of these Orders.

Findings Related to Permit Condition A.27(C) - New, Clean Version of the Permit Application

45. Permit Condition A.27(C) states that Respondent must submit a permit modification, in accordance with OAC rule 3745-50-51, that includes a new, complete version of the Permit Application which removes all existing stricken language and converts any specialized font (e.g., redline, all caps, etc.) text into standard font by the compliance deadline of April 20, 2006.

46. In correspondence dated April 20, 2004, Respondent submitted a Class 1 Permit Modification requesting a change in the compliance deadline established in Permit Condition A.27(C) from April 20, 2006 to June 30, 2006.

47. By letter dated May 18, 2006, Ohio EPA approved Respondent's Class 1 Permit Modification, referenced in Finding No. 46 of these Orders, thereby changing the compliance deadline to June 30, 2006.

48. By letter dated July 7, 2006, Ohio EPA notified Respondent that Respondent failed to submit a new, clean version of the Permit Application, in violation of Permit Condition A.27(C).

49. In correspondence dated August 1, 2006, Respondent submitted a Class 1 Permit Modification requiring the prior approval of the director, which included a new, clean version of the Permit Application.

50. By letter dated August 31, 2006, Ohio EPA notified Respondent that the Class 1 Permit Modification request requiring the prior approval of the director, referenced in Finding No. 49 of these Orders, was inadequate and provided comments to Respondent which identified the deficiencies.

51. In correspondence dated September 13, 2006, Respondent responded to Ohio EPA's August 31, 2006 letter and requested thirty days to submit a new, clean version of the Permit Application.

52. In correspondence dated September 26, 2006, Respondent withdrew the Class 1 Permit Modification, referenced in Finding No. 49 of these Orders, and requested an additional thirty days to submit a new, clean version of the Permit Application.

53. In correspondence dated November 3, 2006, Respondent submitted a Class 1 Permit Modification requesting the incorporation of a new, clean version of the Permit Application into Respondent's Permit.

54. By letter dated January 8, 2007, Ohio EPA approved Respondent's Class 1 Permit Modification referenced in Finding No. 53 of these Orders, thereby abating the violation of Permit Condition A.27(C) referenced in Finding No. 48 of these Orders.

Findings Related to Hazardous Waste Management Activities at the Facility

55. On December 7 and 8, 2006, Ohio EPA conducted a compliance evaluation inspection at the Facility and on January 11, 2007, Ohio EPA conducted a follow-up site visit at the Facility. As a result of the inspection and follow-up site visit, Ohio EPA determined that Respondent had, *inter alia*:

    a. Failed to use the proper environmental inspection report form as specified in the Application, in violation of Permit Condition A.5;

    b. Failed to comply with the pallet stacking requirements by stacking pallets of hazardous waste higher than the maximum height specified in the Application, in violation of Permit Condition C.1.a;

    c. Failed to properly track all shipments of waste received at the Facility, in violation of Permit Condition A.3.a;

    d. Failed to move five pallets of waste from the staging area to the permitted storage area within 96 hours after receipt at the Facility, in violation of Permit Condition A.3.a;

    e. Failed to close a container holding hazardous waste when not adding or removing waste, in violation of OAC rule 3745-55-73;

f. Failed to maintain containment systems at the Facility that are free of cracks or gaps, in violation of Permit Condition C.2.d. and OAC rule 3745-55-75; and

g. Failed to remedy any deterioration or malfunction of equipment or structures revealed during an inspection at the Facility, in violation of Permit Condition A.5 and OAC rule 3745-54-15(C).

56. By letters dated December 21, 2006 and January 18, 2007, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 55.a. through 55.g. of these Orders.

57. In correspondences dated January 22 2007, Respondent submitted responses to Ohio EPA's December 21, 2006 and January 18, 2007 letters.

58. By letter dated February 1, 2007, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 55.a. through 55.e. of these Orders.

59 In correspondence dated March 9, 2007, Respondent provided responses to Ohio EPA's February 1, 2007 letter.

60. By letter dated April 2, 2007, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 55.f. and 55.g. of these Orders.

61. The Director has determined that the violations referenced in Finding Nos. 21, 29.a. through 29.c., 32.a. through 32.c., 48, 55.a. through 55.d., and 55.f. through 55.g. of these Orders also constitute violations of ORC § 3734.11(B) and OAC rule 3745-50-58(A).

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 the total amount of $42,575.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. Of this total amount, $22,683.00 will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28 in accordance with the following schedule:

a. Within 30 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $3,781.00;

b. Within 60 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $3,781.00;

c. Within 90 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $3,781.00;

d. Within 120 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $3,781.00;

e. Within 150 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $3,781.00; and

f. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $3,778.00.

Payments shall be made by official checks 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 Respondent. A copy of each check shall be submitted in accordance with Section X. of these Orders.

2. In lieu of paying $10,000.00 of the total civil penalty referenced in Order No. 1, Respondent shall fund a supplemental environmental project (SEP) by making a contribution totaling $10,000.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD) in accordance with the following schedule:

a. Within 30 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $1,667.00;

b. Within 60 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $1,667.00;

c. Within 90 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $1,667.00;

d. Within 120 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $1,667.00;

e. Within 150 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $1,667.00; and

f. Within 180 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $1,665.00.

Payments shall be made by official checks made payable to "Treasurer, State of Ohio." The official checks 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 each check shall be submitted in accordance with Section X. of these Orders, and an additional copy of each 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.

3. Should Respondent miss a scheduled payment as described in Order Nos. 2.a. through 2.f., Respondent shall pay to Ohio EPA the missed payment amount no later than 7 days after the missed payment due date. Payment shall be made in accordance with the procedures established in Order No. 1. A copy of each check shall be submitted in accordance with Section X. of these Orders.

4. Within 30 days after the effective date of these Orders, and in lieu of payment of the remaining $9,892.00 of the above total civil penalty settlement, Respondent shall implement an additional SEP. The SEP shall consist of a one-time contribution to the City of Lancaster Fire Department. The contribution shall total at least $9,892.00 and shall be used to purchase hazardous material emergency response equipment. Specifically, the emergency equipment will be comprised of traffic control signs for public safety purposes during response activities, multi-gas monitors and spill containment devices, as those items are identified in Attachment A of these Orders.

5. Within 30 days after implementation of the SEP referenced in Order No. 4, Respondent shall submit to Ohio EPA documentation of expenditures (e.g. paid invoices, cancelled check, etc.) related to the contribution of at least $9,892.00 to the City of Lancaster Fire Department. This documentation shall be submitted in accordance with Section X of these Orders.

6. Should Respondent fail to fund the SEP within the required time frames established in Order Nos. 4 and 5, Respondent shall, within 7 days after failing to comply with either Order No. 4 or 5, pay to Ohio EPA the amount of $9,892.00 in accordance with the procedures in Order No. 1.

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 Hazardous 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 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 required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Central District Office
Division of Hazardous Waste Management
50 West Town Street, Suite 700
Columbus, Ohio 43215
Attn: DHWM Manager

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

For deliveries to the building:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
50 West Town Street, Suite 700
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 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. 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

JUN 25 2007
Date

IT IS SO AGREED:

Toxco, Inc.

Signature

5-24-07
Date

EDWARD D. GREEN
Printed or Typed Name

V.P. EAST COAST OPERATIONS
Title

G:\Murphy Enforcement Files\Enforcement\Cases - Active\Toxco 2\Toxco Orders 12.wpd