



State of Ohio Environmental Protection Agency

STREET ADDRESS:

MAILING ADDRESS:

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

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

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

CERTIFIED MAIL

August 24, 2006

**Re: Director's Final Findings & Orders
Ball Corporation
OHD 982642175**

Mr. John Thiersch
Vice President Manufacturing
Ball Corporation
2690 Charter Street
Columbus, Ohio 43228

Dear Mr. Thiersch:

Here are the Director's Final Findings and Orders (Orders) issued to Ball Corporation on August 24, 2006. These Orders are effective today.

I have also enclosed an invoice for the penalty payment as required by Order No. 2. Please remember that your payment is due no later than September 25, 2006.

If you have any questions concerning compliance with these Orders, do not hesitate to contact Frank Zingales at (330) 963-1108.

Sincerely,

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

KUSERS\SDSHARPE\FOSSENT\ENF.BALL.06.WPD

Attachments

cc: Michael A. Savage, Chief, DHWM
Harry Sarvis, Mgr., CAS, DHWM
Todd Anderson, Legal
Heidi Greismer, PIC
Frank Zingales, Mgr., DHWM, NEDO
Robert W. McClelland, Associate General Counsel, Ball Corp.

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

OHIO E.P.A.

AUG 24 2006

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Ball Corporation
2690 Charter Street
Columbus, Ohio 43228

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 Ball Corporation (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 the Respondent or of the Facility 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 3734. and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

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

8-24-06

1. Respondent operates a business located at 2690 Charter Street, Columbus, Ohio 43228 (Facility).
2. Respondent is a "person" as defined in ORC § 3734.01(G) and OAC rule 3745-50-10(A).
3. At the Facility, 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 identified as a small quantity generator of hazardous waste.
4. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD 982 642 175.
5. On June 7, 2004, Respondent transported or caused to be transported six drums of waste to Vexor Technology, Inc. located at 955 West Smith Road, Medina, Ohio. (Vexor). Vexor does not hold a hazardous waste facility installation and operation permit issued in accordance with ORC Chapter 3734. The six drums of waste were transported as non-hazardous waste and were accompanied by non-hazardous shipping papers.
6. Once received at Vexor, Vexor analyzed the six drums of waste for the hazardous waste characteristics of flashpoint and corrosivity only. Based upon Vexor's analysis, one of the six drums of waste was found to exhibit the hazardous waste characteristic of ignitability.
7. Vexor contacted Respondent and informed Respondent of the analytical results referenced in Finding No. 6. of these Orders.
8. Because Respondent transported or caused to be transported hazardous waste to Vexor, a facility not operating under a hazardous waste facility installation and operation permit issued in accordance with ORC Chapter 3734., the Director has determined that Respondent violated ORC § 3734.02(F).

V. ORDERS

Respondent 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 submit a manifest, land disposal restriction form and/or any other relevant documentation demonstrating the proper final disposition of the one drum of hazardous waste referenced in Finding No.6.
2. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$4,400.00 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 \$4,400.00. 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.

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 a responsible official of Respondent. For purposes of these Orders, a responsible official is a person who is in charge of a principal business function of 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
Lazarus Government Center
Central District Office
Division of Hazardous Waste Management
Attn: DHWM Manager
122 South Front Street
Columbus, Ohio 43215

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 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

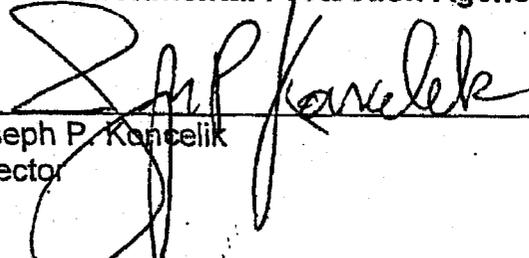
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

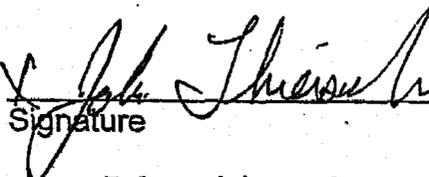


Joseph P. Kancelik
Director

8/22/06
Date

IT IS SO AGREED:

Ball Corporation



Signature
John Thiersch

Printed or Typed Name
Vice President Manufacturing

Title

August 16, 2006
Date