



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

7007 0220 0000 7613 2487

September 6, 2007

Re: Director's Final Findings & Orders
SUNPRO, Inc.
US EPA ID No.: OH0000 333 336

Mr. M. James Kozak, President
SUNPRO, Inc.
7640 Whipple Avenue, NW
N. Canton, Ohio 44720

Dear Mr. Kozak:

Here are the Director's Final Findings and Orders (Orders) issued to SUNPRO, Inc. on September 6, 2007. These Orders are effective today.

I have also enclosed invoices for the penalty payments as required by Order No. 1.a. through 1.d. and Order No. 2.a through 2.d. Please remember that your first payments are due no later than December 5, 2007.

If you have any questions concerning compliance with these Orders, do not hesitate to contact Kurt Princic at (330) 963-1200.

Sincerely,

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

I:\USERS\DSHARPE\FOSSENT\enf.SUNPRO.Inc.2007.doc

Attachments

- c: Michael A. Savage, Chief, DHWM CO
Harry Sarvis, Mgr., CAS, DHWM CO
Elissa Miller, Legal
Heidi Greismer, PIC
Kurt Princic, Mgr., DHWM, NEDO

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

OHIO E.P.A.

SEP -6 2007

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

SUNPRO, Inc.
7640 Whipple Avenue, NW
N. Canton, Ohio 44720

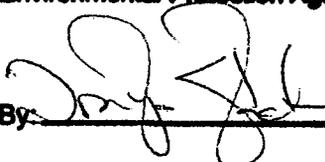
Respondent

**Director's Final
Findings and Orders**

PREAMBLE

It is agreed by the parties hereto as follows:

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: 9-6-07

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to SUNPRO, 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 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:

1. Respondent operates as an environmental contractor, specializing in hazardous waste management, hazardous material release emergency services and remediation, and high-voltage electrical equipment installation and maintenance, and is located at 7640 Whipple Avenue, NW, North Canton, Stark County, Ohio. Respondent previously conducted these operations at 7392 Whipple Avenue, NW, North Canton, Stark County, Ohio (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 did not generate hazardous waste. Respondent operates as a transporter of hazardous waste and has been issued generator identification number OH0000333336.
4. On June 2, 2005, Respondent transported one container of waste from Bridgestone Firestone North America Tire, LLC (Bridgestone), located at 1200 Firestone Parkway, Akron, Summit County, Ohio (Bridgestone Facility) 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 container of waste was transported as non-hazardous waste and was accompanied by non-hazardous shipping papers.
5. Once received by Vexor, Vexor analyzed the container of waste for the hazardous waste characteristics of flashpoint and corrosivity only. Based upon Vexor's analysis, the waste was found to exhibit the hazardous waste characteristic of corrosivity (D002).
6. Vexor contacted Respondent and informed Respondent of the analytical results referenced in Finding No. 5 of these Orders.
7. On June 17, 2005, the container of hazardous waste was transported by Respondent to Respondent's Facility.
8. Bridgestone instructed Respondent to evaluate and confirm Vexor's analytical results referenced in Finding No. 5 of these Orders and, based upon the results, manage the container appropriately.

9. Respondent retained an independent lab to analyze a sample collected from the container of waste referenced in Finding No. 4 of these Orders. The lab confirmed that the container of waste exhibited the hazardous waste characteristic of corrosivity (D002).
10. On September 19, 2005, Respondent transported the container of hazardous waste to Chemtron Corporation, a facility operating under a hazardous waste facility installation and operation permit.
11. Based upon a review of information obtained from Vexor and Bridgestone, Ohio EPA determined that Respondent had:
 - a. On June 2 and June 17, 2005, transported hazardous waste to a facility which does not operate under a hazardous waste facility installation and operation permit issued in accordance with ORC Chapter 3734.; and
 - b. Established and operated a hazardous waste storage facility without a permit by storing the container of hazardous waste at the Facility from June 17 to September 19, 2005, in violation of ORC § 3734.02(E) & (F).
12. By letter dated September 12, 2006, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 11.a. and 11.b. of these Orders.
13. In correspondence dated October 18, 2006, Respondent provided responses to Ohio EPA's September 12, 2006 letter.
14. By letter dated November 15, 2006, Ohio EPA notified Respondent that no additional action is required of Respondent at this time regarding the ORC § 3734.02 violations referenced in Finding Nos. 11.a. and 11.b. of these Orders.
15. Because no releases of hazardous waste were observed, the Director has determined that it is unnecessary to reserve closure for the hazardous waste storage unit.

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 \$11,300.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. \$9,000.00 of this amount will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28 pursuant to the following schedule:
 - a. Within 90 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$2,250.00;
 - b. Within 180 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$2,250.00;
 - c. Within 270 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$2,250.00; and
 - d. Within 360 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$2,250.00.

Each of the payments above shall be made by an official check 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 the remaining \$2,300.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of \$2,300.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD) in accordance with the following schedule:
 - a. Within 90 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$575.00;
 - b. Within 180 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$575.00;
 - c. Within 270 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$575.00; and
 - d. Within 360 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$575.00.

Each of the payments above shall be made by an official check 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., 2.b., 2.c. and 2.d., 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. of these Orders. A copy of each check shall be submitted in accordance with Section X. of these Orders.

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
Northeast District Office
Division of Hazardous Waste Management
Attn: DHWM Manager
2110 E. Aurora Road
Twinsburg, Ohio 44087

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 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

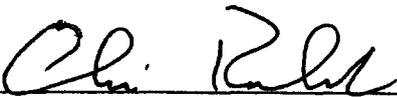
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

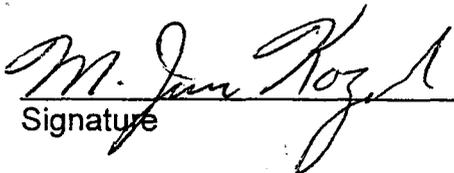


Chris Korleski
Director

September 6, 2007
Date

IT IS SO AGREED:

SUNPRO, Inc.



Signature

8-21-07
Date

M. James Kozak
Printed or Typed Name

President
Title