Ohio | Environmental Protection Agency
John R. Kasich, **Governor**
Mary Taylor, **Lt. Governor**
Scott J. Nally, **Director**

July 13, 2011

CERTIFIED MAIL

Hukill Chemical Corporation
7013 Krick Road
Bedford, Ohio 44146

Re: Director's Final Findings & Orders
Hukill Chemical Corporation

Dear Sir or Madam:

Transmitted herewith are Final Findings & Orders of the Director concerning the matter indicated.

Enclosed are invoices for the penalty payments required by these Orders.

Sincerely,

Kathleen Phillips

Kathleen Phillips
Processing and Records Management Unit
Division of Materials and Waste Management

Enclosure: Director's Final Findings and Orders
Invoices

cc: Bruce McCoy, Mgr., DMWM, CO
Elissa Miller, Legal
Natalie Oryshkewych, Mgr., DMWM, NEDO
Nyall McKenna, DMWM, NEDO

50 West Town Street, Suite 700
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OHIO E.P.A.
JUL 13 2011
ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Hukill Chemical Corporation
7013 Krick Road
Bedford, Ohio 44146

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 Hukill Chemical 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 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.

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: [signature] Date: 7-13-11

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is the owner and operator of a permitted hazardous waste treatment and storage facility located at 7013 Krick Road, Bedford, Ohio (Facility). At the Facility, Respondent is also a large quantity generator of hazardous waste. Respondent is a corporation qualified to do business in Ohio on July 23, 1947.

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

3. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD001926740 and hazardous waste treatment and storage permit number 02-18-0315 (Permit).

4. At the Facility, Respondent operates a "treatment" and "storage" "facility" as well as generates "hazardous waste" as those terms are defined by ORC § 3734.01 and OAC rules 3745-50-10(A) and 3745-51-03.

5. Respondent is authorized to store a maximum of 68,695 gallons per day of hazardous waste in containers at the Facility, in accordance with the Permit.

6. On October 19, 2010, Ohio EPA received an anonymous complaint that Respondent was avoiding entering signed hazardous waste manifests into the computerized inventory system to avoid detection of exceeding the authorized hazardous waste capacity amounts referenced in Finding No. 5. of these Orders.

7. On October 27, 2010, Ohio EPA conducted a complaint investigation and a compliance evaluation inspection of the Facility as a result of the complaint referenced in Finding No. 6. of these Orders.

8. By letter dated October 29, 2010, Respondent provided Ohio EPA a notification of noncompliance with their Permit whereby Respondent described exceedances of the authorized maximum capacity of hazardous waste referenced in Finding No. 5. of these Orders.

9. By letter dated November 8, 2010, Ohio EPA requested additional information regarding the notification referenced in Finding No. 8. of these Orders.

10. By electronic mail dated November 12, 2010, Respondent submitted a response to

Ohio EPA's November 8, 2010 request for information. This response included a hazardous waste inventory log for September 2010, and two letters of reprimand for the employees considered responsible for the late entry of hazardous waste drums received from off-site.

11. On November 17, 2010, Ohio EPA and Respondent met to discuss the instance of non-compliance referenced in Finding No. 8. of these Orders, and the information provided in the November 12, 2010, submittal referenced in Finding No. 10. of these Orders.

12. As a result of the inspection referenced in Finding No. 7. of these Orders, the information submitted by Respondent referenced in Finding No. 10. of these Orders, and the meeting referenced in Finding No. 11. of these Orders, Ohio EPA determined that Respondent had, *inter alia:*

    a. Unlawfully stored hazardous waste in violation of ORC § 3734.02 (E) and (F) and Permit Condition C.1.(a). Hazardous wastes received at the Facility were kept in areas authorized by the Permit, but the amount of hazardous waste present exceeded the container storage volume capacity authorized by Respondent's Permit on at least 35 separate calendar days;

    b. Failed to comply with all applicable provisions of ORC Chapter 3734, all applicable Ohio hazardous waste rules and all terms and conditions of the Permit, in violation of OAC rule 3745-50-58(A) and Permit Condition A.5;

    c. Failed to properly operate and maintain the Facility to achieve compliance with the terms and conditions of the Permit, in violation of OAC rule 3745-50-58(E) and Permit Condition A.9; and

    d. Failed to keep a current written operating record at the Facility, in violation of OAC rule 3745-54-73(B)(2) and Permit Condition B.21.

13. By letter dated December 2, 2010, Ohio EPA notified Respondent of the violations referenced in Finding No. 12. of these Orders.

14. By letter dated January 10, 2011, Respondent submitted a response to the letter referenced in Finding No. 13. of these Orders. This letter contained information pertaining to the causes and extent of the noncompliance discovered by Respondent in October 2010, and the corrective actions being taken by Respondent.

15. By letter dated March 10, 2011, Ohio EPA notified Respondent that the violations referenced in Finding Nos. 12.b. and 12.d. of these Orders were abated.

16. The Director has since determined that Respondent is in violation of ORC § 3734.11(B) for unlawfully storing hazardous waste in excess of the quantity authorized by Respondent's Permit.

17. By letter dated April 11, 2011, Respondent submitted five Permit modification requests. One of the submitted Permit modifications was in response to the violation referenced in Finding No. 12. c. of these Orders, and it included a flow chart and an update to the incoming container management module to assure accurate, current inventory tracking.

18. By letter dated May 4, 2011, Ohio EPA notified Respondent that the violation referenced in Finding No. 12. c. of these Orders was abated.

19. The Director has determined that there is no further action required of Respondent with regard to the violations referenced in Finding Nos. 12.a. and 16. of these Orders.

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 $29,960.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. $23,968.00 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 to Ohio EPA the amount of $5,992.00;

    b. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $5,992.00;

    c. Within 270 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $5,992.00; and

    d. Within 365 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of $5,992.00.

    Respondent shall make each payment by tendering an official check made payable

to "Treasurer, State of Ohio." The official checks shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the Facility. A copy of each check shall be submitted in accordance with Section X. of these Orders.

2. In lieu of paying the remaining $5,992.00 of the civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of $5,992.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD) pursuant to the following schedule:

   a. Within 90 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $1,498.00;

   b. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount $1,498.00;

   c. Within 270 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount $1,498.00; and

   d. Within 365 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount $1,498.00.

   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 these checks shall be submitted in accordance with Section X. of these Orders, and an additional copy of this check shall be sent to Thomas Kalman, Manager, Compliance and Enforcement Section, or his successor, Ohio EPA, Division of Air Pollution Control, P.O. Box 1049, Columbus, Ohio 43216-1049.

3. Should Respondent fail to fund the SEP within the required time frames established in Order Nos. 2.a. through 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.

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 Materials and Waste Management
2110 E. Aurora Road
Twinsburg, Ohio 44087
Attn: DMWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Scott J. Nally, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section

For deliveries to the building:

Scott J. Nally, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and 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, 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

Scott J. Nally
Director

JUL 13 2011
Date

IT IS SO AGREED:

Hukill Chemical Corporation

Robert Hukill
Signature

7/5/11
Date

Robert L. Hukill
Printed or Typed Name

President
Title