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

June 25, 2008

Re: Director's Final Findings & Orders
Metallic Resources, Inc.
US EPA ID No.: OHD 980 701 072

Mr. John R. Rothschild
President
Metallic Resources, Inc.
2116 Enterprise Parkway
Twinsburg, Ohio 44087

Dear Mr. Rothschild:

Here are the Director's Final Findings and Orders (Orders) issued to Metallic Resources, Inc. on June 24, 2008. These Orders are effective today.

I have also enclosed invoices for the penalty payments required by Order No. 1.a and 1.b.. Please remember that your payments are due no later than July 24, 2008.

If you have any questions concerning compliance with these Orders, do not hesitate to contact Natalie Oryshkewych at (330) 963-1267.

Sincerely,

David A. Sholtis
Assistant Chief
Division of Hazardous Waste Management

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Attachments

cc: Michael A. Savage, Chief, DHWM
Harry Sarvis, Mgr., CAS, DHWM
Todd Anderson, Legal
Heidi Greismer, PIC
Natalie Oryshkewych/Frank Popotnik/Karen Nesbit, DHWM, NEDO
Mr. Michael S. McMahon, McMahon DeGulis, LLP
The Caxton Building, 812 Huron Road, Ste 650, Cleveland, OH 44115

OHIO E.P.A.
JUN 24 2008
ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Metallic Resources, Inc.
2116 Enterprise Parkway
Twinsburg, OH 44087

Respondent

Director's Final Findings and Orders

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: 6-24-08

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Metallic Resources, 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 owned by the Respondent, 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

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 owns and operates a solder recycling and manufacturing facility at 2116 Enterprise Parkway, Twinsburg, OH 44087 (Facility).

3. Respondent notified Ohio EPA of its hazardous waste issued generator identification number OHD980701072.

4. On March 14 and 16, 2007, Ohio EPA conducted a compliance inspection at the Facility. As a result of the inspection, Ohio EPA determined Respondent received at the Facility unmanifested hazardous waste lead contaminated wipes and stored the hazardous waste lead contaminated wipes inside a building at the Facility without a permit, in violation of ORC § 3734.02(E) and (F) on multiple occasions. The lead contaminated wipes are generated in the electronic circuit board manufacturing process where the wipes are used to remove excess lead paste.

5. By letter dated June 22 2007, Ohio EPA notified Respondent of the violations referenced in Finding No. 4. of these Orders.

6. Since the inspection referenced in Finding No. 4. of these Orders, Ohio EPA and Respondent have had multiple discussions as to possible future management of the lead contaminated wipes and the regulatory implications of such management at the Facility.

7. On November 1 and December 12, 2007, Respondent submitted correspondences regarding potential management of lead contaminated wipes and sought regulatory concurrence with future management.

8. On March 17, 2008, Ohio EPA responded to Respondent's request for regulatory concurrence regarding future management of lead contaminated wipes at the Facility. Ohio EPA determined, based upon specific information provided by Respondent, that Respondent could receive the lead contaminated wipes at the Facility since the wipes will be transported from the Facility and continued to be used at Respondent's Mexican facility for wiping purposes. Therefore, the wipes would not be considered a waste.

9. The Director has determined that no further action is required to abate the violations referenced in Finding No. 4 nor is it necessary to reserve closure since the unpermitted hazardous waste storage area(s) are located inside and are either currently being used to store the lead contaminated wipes bound for continued use or product and no visible releases of waste were present during the inspection.

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 $9,400 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 $7,400 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and 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 $7,400. 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 the Respondents and the Facility. A copy of each check shall be submitted in accordance with Section X. of these Orders.

   b. In lieu of paying $2,000 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of $2.000 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 $2.000. The official check shall be submitted to Brenda Case, or her successor, Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, 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 in Order No. 1.b. within the required time frame established in Order No. 1.b of these Orders, Respondent shall pay to Ohio EPA, within 7 days after failing to comply with Order No. 1.b. of these Orders, the amount of $2.000 in accordance with the procedures in Order No. 1.a. 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
2110 E. Aurora Rd.
Twinsburg, Ohio 44087
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 reserves its rights to exercise its lawful authority to require Respondent to perform corrective action at 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 performing 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

Chris Korleski
Director

June 24, 2008
Date

IT IS SO AGREED:

Metallic Resources, Inc.

Stanley R. Rothschild
Signature

May 23, 2008
Date

Stanley R. Rothschild
Printed or Typed Name

President
Title

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