OHIO E.P.A.

DEC 29 2008

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

American Star
Specialty Coatings Company
201 Mitchells Lane
Marietta, Ohio 45750

Respondent

Director's Final
Findings and Orders

I certify this to be a true and accurate copy of th official documents as filed in the records of the C Environmental Protection Agency.

By: _____ Date: 12/29/0

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to American Star Specialty Coatings Company (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.

IV. FINDINGS

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 is a painting contractor that performs jobs mainly for schools, factories, colleges and hospitals. Respondent also performs polyurethane foam roofing and insulating work and applies specialty coatings at commercial and industrial facilities. Respondent's facility is located at 201 Mitchells Lane, Marietta, Washington County, Ohio (Facility). Respondent was authorized to do business in Ohio on October 15, 2002.

3. Respondent notified Ohio EPA of its hazardous waste activity at the Facility and was issued generator identification number OHR000139345.

4. 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 typically generates hazardous waste at its Facility in amounts classifying it as a conditionally exempt small quantity generator. Respondent generates spent paint and solvent which are a listed, ignitable hazardous waste (D001, F003, F005) and insulation foam cleanup which is a reactive hazardous waste (D003). Respondent also generates used oil.

5. On July 17, 2008, Ohio EPA performed a compliance evaluation inspection at the Facility. No violations were discovered during this inspection.

6. In a letter dated July 28, 2008, Ohio EPA notified Respondent of the results of the inspection. Ohio EPA also informed Respondent that a review of manifests obtained during the inspection indicated that six drums of hazardous waste manifested offsite from the Facility on December 20, 2007, were shipped to BBU Services, Inc., located at 2206 Horns Mill Road, Lancaster, Ohio (BBU). BBU does not hold a hazardous waste facility installation and operation permit issued in accordance with ORC Chapter 3734.

7. Because of the amount of hazardous waste on-site at the Facility, Respondent was operating as a small quantity generator of hazardous waste in December, 2007.

8. On August 12, 2008, Ohio EPA met with Respondent. Based on information provided during the July 17, 2008, inspection and the August 12, 2008, meeting, Ohio EPA determined that Respondent had, *inter alia*:

   a. Transported or caused to be transported, hazardous waste to BBU, a facility not operating under a hazardous waste facility installation and operation permit issued in accordance with ORC Chapter 3734., in violation of ORC §3734.02(F);

   b. Failed to evaluate its waste to determine if the waste is a hazardous waste, in violation of OAC rule 3745-52-11; and

c. Failed to file an exception report with Ohio EPA indicating that the copy of the manifest that accompanied Respondent's hazardous waste to BBU was not received by Respondent within sixty days with the handwritten signature of the owner or operator of the designated facility, in violation of OAC rule 3745-52-42(B).

9. By letter dated August 22, 2008, Ohio EPA notified Respondent of the violations referenced in Finding No. 8. of these Orders.

10. By letter dated August 26, 2008, Respondent submitted a response to Ohio EPA's August 22, 2008 letter.

11. Based on the information in the letter submitted by Respondent, the Director has determined that the violations referenced in Finding Nos. 8.b. and 8.c. of these Orders are abated.

12. Ohio EPA discovered that BBU combined Respondent's six drums of hazardous waste with other wastes at BBU, resulting in a total of 17 drums of hazardous waste. On July 21, 2008, BBU shipped the 17 drums of hazardous waste to Clean Water Ltd., a facility operating under a hazardous waste installation and operation permit issued in accordance with ORC Chapter 3734.

13. Because the hazardous waste was transported to a permitted hazardous waste facility, the Director has determined that no further action is required of Respondent to abate the violations referenced in Finding No. 8.a. of these Orders.

V. ORDERS

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated there under according to the following compliance schedule:

1. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of $5.000.00 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 $5,000.00. 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 the Respondent and the Facility. 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 upon Ohio EPA's receipt of the official check 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
Southeast District Office
Division of Hazardous Waste Management
2195 Front Street
Logan, Ohio 43138
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
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

December 29, 2008
Date

IT IS SO AGREED:

American Star Specialty Coatings Company

Signature

12/12/08
Date

Garold W. Greenlees
Printed or Typed Name

President
Title