OHIO E.P.A.

DEC - 7 2009

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Bosserman Aviation Equipment, Inc.
2327 State Route 568
Carey, Ohio 43316

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: [signature] Date: 12-7-09

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Bosserman Aviation Equipment, 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 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 there under.

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 operates an aircraft re-fueler building, servicing and refurbishing facility located at 2327 State Route 568, Carey, Wyandot County, Ohio 43316 (Facility).

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 a small quantity generator of hazardous waste and has been assigned EPA ID number OHR000147876. The hazardous wastes generated by Respondent at the Facility include hazardous waste paint, solvents and distillation bottoms, used oil, rags, and scrap metal (hazardous waste codes D001/F003/F005). Respondent is a small quantity handler of universal waste and generates spent lamps.

4. On January 20, and March 24, 2006, Ohio EPA performed compliance evaluation inspections at the Facility, and requested additional information to determine Respondent's compliance with Ohio's hazardous waste rules.

5. Respondent submitted some of the documentation requested during the inspection on January 27, 2006, and February 28, 2007.

6. As a result of the inspections and the documents submitted, Ohio EPA has determined that Respondent, *inter alia*, failed to evaluate wastes generated to determine if they are hazardous, in violation of OAC rule 3745-52-11.

7. Respondent was notified of the violation referenced in Finding No. 6 by letter dated January 23, 2008.

8. On April 10, 2008, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of this inspection, Ohio EPA determined that Respondent was a small quantity generator, and had, *inter alia*:

    a. Illegally stored hazardous waste for greater than 180 days without a permit, in violation of ORC § 3734.02 (E) and (F);

    b. Failed to obtain a generator ID number prior to offering hazardous waste for transportation, in violation of OAC rule 3745-52-12;

    c. Failed to keep satellite accumulation area containers closed, in violation of OAC rule 3745-52-34(C)(1)(a);

d. Failed to label satellite accumulation area containers with the words "hazardous waste" in violation of OAC rule 3745-52-34(C)(1)(b);

e. Failed to label containers in the container storage area with the word "hazardous waste" in violation of OAC rule 3745-52-34(A)(3);

f. Failed to label the containers in the container accumulation area with the date that accumulation began, in violation of OAC rule 3745-52-34(A)(2);

g. Failed to have the required emergency information posted by the telephone, in violation of OAC rule 3745-52-34(D)(5)(b);

h. Failed to perform and record inspections of the emergency equipment, in violation of OAC rule 3745-65-33; and

i. Failed to conduct and record inspections of the container storage area, in violation of OAC rule 3745-66-74.

9. Ohio EPA notified Respondent of the violations referenced in Finding No. 8. by letter dated May 1, 2008, and that the violations referenced in Finding Nos. 8.c. through 8.f. were abated during the inspection.

10. On May 27, 2008, Respondent submitted a response abating the violation referenced in Finding No. 6. Of these Orders.

11. Respondent submitted documentation on June 6, 2008, abating the violations referenced in Finding Nos. 8.b., 8.h. and 8.i. of these Orders.

12. Respondent submitted a photograph on June 17, 2008, abating the violation referenced in Finding No. 8.g. of these Orders.

13. Because Respondent failed to provide documentation showing that the hazardous waste generated from the recycling of the solvent/paint waste in the distillation unit was properly managed as a hazardous waste, the Director has determined that Respondent is in violation of ORC § 3734.02 (F) for transporting or causing to be transported hazardous waste to an unpermitted facility.

14. Because Respondent will continue to store hazardous waste in the less than 180 day accumulation area and because no releases of hazardous waste were observed, the Director has determined that no additional action is required of

Respondent regarding the ORC § 3734.02(E) and (F) violation referenced in Finding No. 8.a. of these Orders.

15. Respondent submitted financial documentation to Ohio EPA for review on February 11, 2009, and August 4, 2009. Ohio EPA and Respondent participated in a number of conference calls to discuss this information. In addition to the February and August 2009 financial information and discussions regarding the financial information, Ohio EPA participated in a conference call with Respondent and Respondent's certified public accountant on October 13, 2009. During the conference call, Respondent and Respondent's certified public accountant provided a specific detailed analysis of Respondent's financial condition and provided Respondent's most recent financial information. Based upon the financial information and discussions with Respondent and Respondent's certified public accountant and other mitigating information, Ohio EPA has determined that Respondent does not possess the ability to pay the civil penalty as proposed.

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. Respondent shall pay Ohio EPA the amount of $20,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. $20,000.00 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 to Ohio EPA the amount of $5,000.00;

    b. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $1,363.00;

    c. Within 270 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $1,363.00;

    d. Within 365 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $1,363.00;

e. Within 455 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $1,363.00;

f. Within 545 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $1,363.00;

g. Within 635 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $1,363.00;

h. Within 730 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $1,363.00;

i. Within 820 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $1,363.00;

j. Within 910 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $1,363.00;

k. Within 1000 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $1,363.00; and

l. Within 1090 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $1,370.00.

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.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official check[s] 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
Northwest District Office
Division of Hazardous Waste Management
347 North Dunbridge Road
Bowling Green, Ohio 43402
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 reserves its rights to exercise its lawful authority to require Respondent to perform closure of the hazardous waste storage area as well as corrective action at the 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 any final action of the Director regarding such closure or 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 rights to seek closure of the hazardous waste storage area and corrective action at the Facility, which rights 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

12/7/09
Date

IT IS SO AGREED:

Bosserman Aviation Equipment, Inc.

Signature

11-24-09
Date

TERRY L. BOSSERMAN
Printed or Typed Name

President
Title