BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
DEC 29 2009
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

TSS Aviation, Inc. dba Standard Aero
11550 Mosteller Road
Cincinnati, OH 45241

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: 12.29.09

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to TSS Aviation, Inc. dba Standard Aero (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 there under.

IV. FINDINGS

All of the findings necessary for the issuance of these Orders pursuant to ORC Sections 3734.13 and 3745.01 have been made and are outlined below. Nothing in these 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 operates a turbine engine component overhauling facility located at 11550 Mosteller Road, Cincinnati, Hamilton County, Ohio (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 large quantity generator of hazardous waste and has been assigned EPA ID number OHD004236170. The hazardous wastes generated by Respondent at the Facility include hazardous waste paint and solvents, parts cleaning acids and rags (hazardous waste codes D001, D002, D003, D007, D035, F003, F005). Respondent also generates used oil and spent lamps.

4. On February 27, 2007 Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of this inspection, Ohio EPA has determined that Respondent had, *inter alia*:

   a. Failed to meet the requirements for a hazardous waste tank system, in violation of OAC rules 3745-66-92 to 3745-66-95;

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

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

   d. Failed to date the containers of hazardous waste in the storage area with the date they began accumulating, in violation of OAC rule 3745-52-34(A)(2);

   e. Failed to keep containers of hazardous waste closed except when adding or removing waste, in violation of OAC rule 3745-66-73;

   f. Failed to conduct and/or record weekly inspections of the hazardous waste storage area, in violation of OAC rule 3745-66-74; and

   g. Failed to meet all of the requirements of the contingency plan, in violation of OAC rule 3745-65-52 (C) and (E).

5. Respondent was notified of the violations referenced in Finding No 4. of these Orders by letter dated March 20, 2007. This letter also notified Respondent that the violations referenced in Finding Nos. 4.b. and 4.e. of these Orders were abated during the inspection.

6. Respondent submitted documentation to Ohio EPA by letter dated April 10, 2007, and electronic correspondence dated April 27, and May 1, 2007.

7. By letter dated May 1, 2007, Ohio EPA notified Respondent that the violations referenced in Finding Nos. 4.c., 4.d., 4.f. and 4.g. of these Orders had been abated.

8. Respondent submitted additional information by letter dated June 22, 2007.

9. By letter dated July 2, 2007, Ohio EPA notified Respondent that the violation referenced in Finding No. 4.a. of these Orders had been abated.

10. On June 24, 2008, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of this inspection, Ohio EPA determined that Respondent had, *inter alia:*

    a. Unlawfully stored hazardous waste without a permit, in violation of ORC § 3734.02 (E) and (F);

    b. Failed to evaluate wastes to determine if they are hazardous, in violation of OAC rule 3745-52-11;

    c. Failed to transport hazardous waste on a hazardous waste manifest, in violation of OAC rule 3745-52-20(A);

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

    e. Failed to date containers of hazardous waste with the date they began accumulating, in violation of OAC rule 3745-52-34(A)(2);

    f. Exceeded the 55-gallon limit per waste stream for a satellite accumulation area, in violation of OAC rule 3745-52-34(C)(1);

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

h. Failed to keep containers of hazardous waste closed, except when adding or removing waste, in violation of OAC rule 3745-66-73;

i. Failed to conduct and/or record weekly inspections of the hazardous waste storage area, in violation of OAC rule 3745-66-74; and

j. Failed to update the contingency plan with current emergency coordinators, in violation of OAC rule 3745-65-54(D).

11. By letter dated July 15, 2008, Ohio EPA notified Respondent of these violations, and that the violations referenced in Finding Nos. 10.d., 10.f., and 10.h. of these Orders were abated at the time of the inspection.

12. Respondent submitted documentation in response to the violations referenced in Finding No. 10. of these Orders by letter dated July 28, 2008.

13. On August 19, 2008, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of this inspection, Ohio EPA determined that Respondent had, *inter alia,* failed to properly complete hazardous waste manifests, in violation of OAC rule 3745-52-20(A). During this inspection, Ohio EPA also determined that Respondent had abated the violations referenced in Finding Nos. 10.g., 10.i., and 10.j. of these Orders.

14. Respondent was notified of the additional violation and the abatements referenced in Finding No.13. of these Orders, by letter dated August 26, 2008.

15. The Director has determined that because Respondent held hazardous waste in an unpermitted tank system on June 5, 2007 and July 24, 2007, Respondent violated the hazardous waste tank requirements found in OAC rules 3745-66-92 through 3745-66-96 for those two dates. However, based on the nature of the hazardous constituents in the waste (D002 and D007), and because a significant amount of time has passed and large volumes of non hazardous waste have passed through the tank system since then, the Director has determined that no further action is required by Respondent at this time.

16. By letter dated July 17, 2009, Respondent submitted documentation to Ohio EPA in response to the outstanding violations referenced in Finding Nos. 10.a, 10.b., 10.c., 10. e. and Finding No. 13. of these Orders.

17. Based upon a review of the documentation referenced in Finding No. 16. of these Orders, Ohio EPA has determined that Respondent abated the violations referenced in Finding Nos. 10.b., 10.c, 10.e., and 13 of these Orders.

18. Because Respondent will continue to store hazardous waste in the less than ninety day accumulation area and because no releases of hazardous waste were observed, the Director has determined that no additional action is required of Respondent at this time regarding the ORC § 3734.02(E) and (F) violation referenced in Finding No. 10.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. Respondent shall pay Ohio EPA the amount of $38,300.00 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 $30,640.00 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 $30,640.00. 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. A copy of each check shall be submitted in accordance with Section X. of these Orders.

    b. In lieu of paying the remaining $7,660.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of $7,660.00 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 $7,660.00. The official check 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 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 within the required time frame established in Order No. 1.b., Respondent shall pay to Ohio EPA, within 7 days after failing to comply with Order No. 1.b., the amount of $7,660.00 in accordance with the procedures in Order No. 1.a.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and Ohio EPA's Division of Hazardous Waste Management acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is a [e.g., corporate officer] who is in charge of a principal business function of Respondent.

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
Southwest District Office
Division of Hazardous Waste Management
401 East 5th Street
Dayton, Ohio 45402
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 unit and the tank system, and 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 unit and the tank system 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

12/29/09
Date

IT IS SO AGREED:

TSS Aviation, Inc. dba Standard Aero

Signature

11-30-09
Date

CHRISTOPHER L. SWAN
Printed or Typed Name

VICE PRESIDENT / GENERAL MANAGER
Title