

OHIO E.P.A.

MAR 11 2010

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY  
DIRECTOR'S JOURNAL

In the Matter of:

Whitaker Finishing, LLC  
2707 Tracy Road  
Northwood, Ohio 43619

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.

PREAMBLE

It is agreed by the parties hereto as follows:

By: Dan Kaszeta Date: 3-11-10

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Whitaker Finishing, LLC (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 operates the electroplating plating facility located at 2707 Tracy Road, Northwood, Wood County, Ohio (Facility). At the Facility, Respondent specializes in nickel, chrome, and copper plating for various industries. Respondent notified Ohio EPA of its hazardous waste activities and was assigned generator identification number OHD986970986.
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 operates as a large quantity generator of hazardous waste. Hazardous wastes generated at the Facility by Respondent include waste electroplating liquids (D002, D003, D007, F008, F009) and wastewater treatment unit filter cake sludge (F006).
4. On June 26, 2008, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of the inspection, Ohio EPA determined that Respondent had, *inter alia*:
  - a. Established and operated a hazardous waste storage facility by storing hazardous waste filter cake sludge (F006) for greater than 180 days, as described in OAC rule 3745-52-34(I), in violation of ORC §3734.02(E) and (F);
  - b. Failed to conduct inspections of the hazardous waste container accumulation area, in violation of OAC rule 3745-66-74;
  - c. Failed to mark a container of hazardous waste with the accumulation start date, in violation of OAC rule 3745-52-34(A)(2);
  - d. Failed to label a container of F006 filter cake with the words "hazardous waste," in violation of OAC rule 3745-52-34(A)(3);
  - e. Failed to keep the container used to accumulate hazardous waste filter cake (F006) closed at all times except when it is necessary to add or remove waste, in violation of OAC rule 3745-66-73(A);
  - f. Stored hazardous waste in a container that was not in good condition and was leaking, in violation of OAC rule 3745-66-71;
  - g. Failed to keep an updated list of names, addresses and phone numbers of all persons qualified to act as emergency coordinator in the contingency plan, in violation of OAC rule 3745-65-52(D);

- h. Failed to include an evacuation plan for Facility personnel in the contingency plan, in violation of OAC rule 3745-65-52(F);
  - i. Failed to label hazardous waste satellite accumulation containers with the words "hazardous waste" or other words identifying the contents, in violation of OAC rule 3745-52-34(C)(1)(b);
  - j. Failed to include contingency plan implementation as part of the personnel training program, in violation of OAC rule 3745-65-16(A)(2);
  - k. Failed to maintain documents and records for the job title for each position at the Facility related to hazardous waste management and the name of the employee filling each job, in violation of OAC rule 3745-65-16(D)(1);
  - l. Failed to maintain a written job description for each position at the Facility related to hazardous waste management, in violation of OAC rule 3745-65-16(D)(2); and
  - m. Failed to maintain a copy of the Land Disposal Restriction notification form for the hazardous waste filter cake (F006), in violation of OAC rule 3745-270-07(A)(2).
5. By letter dated July 17, 2008, Ohio EPA notified Respondent of the violations referenced in Finding No. 4. of these Orders. In the July 17, 2008 letter, Ohio EPA noted that the illegally stored hazardous waste referenced in Finding No. 4.a. of these Orders was shipped from the Facility on February 27, 2008. In the letter, Ohio EPA also notified Respondent that Respondent had abated the violations referenced in Finding Nos. 4.c., 4.d., and 4.f. of these Orders.
6. In correspondence received July 8 and September 18, 2008 and January 21 and January 28, 2009, Respondent provided responses to Ohio EPA's July 17, 2008 letter referenced in Finding No. 5. of these Orders.
7. By letter dated February 11, 2009, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 4.b., 4.e., 4.g., 4.h., 4.i., 4.j., 4.k., 4.l., and 4.m. of these Orders.
8. Because the hazardous waste was shipped offsite, Respondent removed the visible releases from the area where the leaking container of hazardous waste filter cake sludge (F006) was stored, and Respondent will continue to

use this area to accumulate hazardous waste, 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. 4.a. of these Orders.

9. In October 2009, Respondent submitted financial statements to Ohio EPA in order to demonstrate that it did not possess the financial ability to pay the entire civil penalty settlement included in the Orders proposed to Respondent on May 28, 2009.
10. Ohio EPA has reviewed Respondent's financial information and has determined that Respondent has the ability to pay a civil penalty settlement of no more than \$2,000.

#### **V. ORDERS**

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

1. Within 30 days of the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$2,000.00 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 \$2,000.00. 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 Respondent. 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  
Northwest District Office  
Division of Hazardous Waste Management  
347 N. 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:

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:

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 closure 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 area and corrective action at the Facility by Respondent, 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**

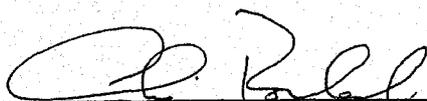
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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:**

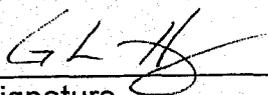
**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Director

March 11, 2010  
Date

**IT IS SO AGREED:**

**Whitaker Finishing, LLC**

  
\_\_\_\_\_  
Signature

2/2/10  
Date

GREG HEMINGER  
Printed or Typed Name

PRESIDENT  
Title