

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.  
APR -6 2007  
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Jenny L. Ford  
P.O. Box 901  
Hurricane, West Virginia 25256

And

J. Robert Ford  
P.O. Box 901  
Hurricane, West Virginia 25256

Respondents

For the Site Known As:  
Ford Bros. (aka Tri-State Tank  
Cleaning) Site  
510 Riverside Drive,  
Coal Grove, Ohio

Director's Final  
Findings and Orders  
For Remedial Design and  
Remedial Action

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: Jenny L. Ford Date: 4-6-07

**I. JURISDICTION**

1. These Director's Final Findings and Orders ("Orders") are issued to Jenny L. Ford and J. Robert Ford ("Respondents") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") § 3734.13, 3734.20, 3745.01, and 6111.03.

**II. PARTIES BOUND**

2. These Orders shall apply to and be binding upon Respondents and heirs and successors in interest liable under Ohio law. No change in ownership of the Site (as hereinafter defined) shall in any way alter Respondents' obligations under these Orders. Respondents shall provide a copy of these Orders to all contractors, subcontractors, laboratories and consultants retained to perform any portion of the Work pursuant to these Orders.

3. Respondents shall ensure that all contractors, subcontractors, laboratories and consultants retained to perform Work pursuant to these Orders also comply with the applicable provisions of these Orders.

### III. DEFINITIONS

4. Unless otherwise stated, all terms used in these Orders or in any appendices shall have the same meaning as defined in ORC Chapter 3734 and 6111, CERCLA, and the rules promulgated thereunder. Whenever terms listed below are used in these Orders or in any appendices, attached hereto and incorporated herein, the following definitions shall apply:

- a. "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9601 et seq.
- b. "Contaminant" and "Contamination" means (1) any "hazardous waste" under ORC § 3734.01(J); (2) any "solid wastes" under ORC § 3734.01(E); (3) any "industrial waste" under ORC § 6111.01(C); and (4) any "other wastes" under ORC § 6111.01(D), including any release of one or more of the same.
- c. "Day" means a calendar day unless expressly stated to be a business day. "Business day" shall mean a day other than a Saturday, Sunday, or state holiday. In computing any period of time under these Orders, where the last day would fall on a Saturday, Sunday, or state holiday, the period shall run until the close of the next business day.
- d. "NCP" means the National Oil and Hazardous Substances Pollution Contingency Plan, codified at 40 C.F.R. Part 300 (1990), as amended.
- e. "Ohio EPA" means the Ohio Environmental Protection Agency and its designated representatives.
- f. "Orders" means these Director's Final Findings and Orders and all attachments hereto.
- g. "Paragraph" means a portion of these Orders identified by an arabic numeral or an uppercase or lowercase letter.
- h. "Parties" means Respondents and the Ohio EPA.
- i. "Remedial Action" ("RA") means those activities to be undertaken by

Respondents to implement and maintain the effectiveness of the final plans and specifications submitted by Respondents pursuant to the Remedial Design and Remedial Action Work Plan.

- j. "Remedial Design" ("RD") means those activities to be undertaken by Respondents to develop the final plans and specifications for the Remedial Action pursuant to the Remedial Design and Remedial Action Work Plan.
- k. "Remedial Design and Remedial Action Work Plan" ("RD/RA Work Plan") means the document submitted by Respondents and approved by Ohio EPA pursuant to the Performance of Work Section of these Orders.
- l. "Respondents" means Jenny L. Ford and J. Robert Ford.
- m. "Response Costs" means all costs including, but not limited to, payroll costs, contractor costs, travel costs, direct costs, overhead costs, legal and enforcement related costs, oversight costs, laboratory costs, and the costs of reviewing or developing plans, reports, and other items pursuant to these Orders, verifying the Work, or otherwise implementing or enforcing these Orders.
- n. "Section" means a portion of these Orders identified by a roman numeral.
- o. "Site" means the Ford Bros. (aka Tri-State Tank Cleaning) facility located at 510 Riverside Drive, Coal Grove, Lawrence County, Ohio where the treatment, storage, and/or disposal of hazardous waste, and/or the discharge to waters of the state of industrial waste or other wastes have occurred, including any other area where such hazardous wastes, industrial wastes, and/or other wastes have migrated or threaten to migrate.
- p. "Statement of Work" ("SOW") means the "Generic Statement of Work for Conducting Remedial Design and Remedial Action" for the implementation of the Remedial Design and Remedial Action at the Site, as set forth in Appendix A of these Orders. The SOW is not specific to this Site and shall be used as an outline in developing site-specific work plans.
- q. "Transferee" means any future owner of any interest in the Site, including but not limited to, owners of an interest in fee simple, mortgagors, easement holders, and lessees.
- r. "Waste Material" means all activities Respondents are required to perform under the Performance of Work and Additional Work Sections of these Orders.

- s. "Work" means all activities Respondents are required to perform under these Orders.

#### **IV. FINDINGS**

- 5. The Director of Ohio EPA has determined the following findings:
    - a. The Ford Bros. (aka Tri-State Tank Cleaning, Inc.) Site ("Site") is located at 510 Riverside Drive, Coal Grove, Lawrence County, Ohio. The property is approximately 5 acres in size and is owned by Jenny L. Ford.
    - b. The Site was operated by Respondents as a truck terminal and tanker-cleaning facility from 1974 to 1992. During those operations, improper handling and storage procedures resulted in the release of chlorinated solvents to the environment.
    - c. Since March, 1988, volatile organic compounds ("VOCs"), trichloroethylene and dichloroethylene, have been detected in the Coal Grove wellfield. These VOCs are harmful to humans, and they are restricted in existing public drinking water supplies by Maximum Contaminant Levels (MCLs). The contaminant level for trichloroethylene has been detected in the Coal Grove wellfield at up to four times the allowed MCL. As a result of this contamination, the Village removed a drinking water well from service in 1989 and started operating an interceptor well in an attempt to protect the remaining drinking water wells from further contamination.
    - d. On January 2, 1990, the State of Ohio filed a complaint for injunctive relief and civil penalty in the Court of Common Pleas ("Court"), Lawrence County, Ohio for violations of ORC Chapter 3734 and the rules promulgated thereunder at the Site. The complaint named Ford Brothers, Inc.; Maintenance & Cleaning Corporation; J. Robert Ford; Jenny L. Ford; and Chemical Leaman Tank Lines, Inc. as Defendants.
    - e. On January 29, 1992, the Court issued a Judgment Entry and Consent Order (Consent Order) between the State of Ohio and Defendants J. Robert Ford and Jenny L. Ford. The Consent Order required J. Robert Ford and Jenny L. Ford to, *inter alia*, prepare and submit a written closure plan, comply with Ohio's hazardous waste laws and regulations, and provide proof of compliance with Ohio Administrative Code ("OAC") 3745-66-42, 3745-66-43, and 3745-66-47. The Consent Order reserved the State's right to pursue remedial or corrective action, monitoring or testing, and response costs.
    - f. Respondents failed to comply with the 1992 Consent Order and subsequently
-

shut down operations and abandoned the Site. An inspection of the abandoned Site revealed the presence of hazardous wastes that constituted an immediate threat to public health, safety and the environment. Based on these findings, Ohio EPA requested that the United States Environmental Protection Agency (US EPA) perform an emergency removal action at the Site

- g. In December 1993, the U.S. EPA performed an emergency waste removal at the Site. U.S. EPA removed abandoned drum and tank wastes and decommissioned on-site wastewater treatment facilities and storage tanks.
- h. Based on soil and groundwater investigations that have been conducted by Ohio EPA and U.S. EPA since 1994, Ohio EPA and U.S. EPA determined hazardous wastes, as defined by O.R.C. Sec. 3734.01(J), were treated, stored, and/or disposed at the Site and had entered the groundwater and contaminated the Village of Coal Grove's wellfield. The Coal Grove wellfield is used by the Village as a public drinking water supply.
- i. On November 10, 1997, Jenny L. Ford received via certified mail Ohio EPA's written request seeking consent to allow Ohio EPA and its contractors to enter onto the Site and collect soil and groundwater samples at the Site. However, Jenny L. Ford did not respond to Ohio EPA's request. On November 24, 1997, the State of Ohio filed an application for an administrative search warrant with the Court. The administrative search warrant was granted and recorded at the Court on November 24, 1997. Ohio EPA conducted soil sampling pursuant to the November 24, 1997 search warrant to determine the approximate size of the impacted soil area contributing to the VOC groundwater plume that emanated from the Site.
- j. On November 3, 2000, US EPA issued its Engineering Evaluation/Cost Analysis (EE/CA) for the Site.
- k. On May 30, 2001, due to a lack of a response from Jenny L. Ford to Ohio EPA's request for access, the State of Ohio filed an application for an administrative search warrant with the Court. The administrative search warrant was granted and recorded at the Court on May 30, 2001. Ohio EPA conducted groundwater sampling pursuant to the May 30, 2001 search warrant.
- l. The groundwater samples collected under the authority of the May 30, 2001 search warrant showed the continued presence of hazardous substances migrating from the Site and contaminating the Village of Coal Grove wellfield.
- m. On January 17, 2006, due to a lack of response from Jenny L. Ford to Ohio EPA's request for access, the State of Ohio filed an application for an

administrative search warrant with the Court. The administrative search warrant was granted and recorded at the Court on January 17, 2006. The soil and groundwater samples collected under the authority of the January 17, 2006 search warrant have defined the extent of a contaminant source area at the Site which, if left unchecked, will continue to impact the Village of Coal Grove wellfield with the VOCs trichloroethylene and dichloroethylene.

- n. Based upon the results of soil and groundwater sampling and analysis performed during January/February 2006, as well as historical sampling data, Ohio EPA prepared a revised Engineering Evaluation/Cost Analysis (Revised EE/CA), which is attached hereto as Appendix B and is incorporated by reference herein. The Revised EE/CA was approved on September 19, 2006, by former Ohio EPA Director Joe Koncelik.
- o. The revised EE/CA selected In Situ Chemical Oxidation (ISCO) for the remediation of Site soils that leach VOC contaminants into groundwater, and selected Enhanced In Situ Bioremediation to reduce or eliminate contaminant mass within the saturated groundwater zone at the Site. Ohio EPA's evaluation of this two-phased remedy, which utilizes the sub-surface injection of proprietary chemical reagents, indicates that it will be effective for reducing or eliminating the on-Site sources of contaminants in soil and groundwater.
- p. The Site is a hazardous waste facility, solid waste facility, or other location where hazardous waste was treated, stored, or disposed.
- q. The Respondents have directly or indirectly allowed Contamination and/or directed the placement and/or disposal of Contaminants at the Site.
- r. Because of their quantity, concentration, physical or chemical characteristics, the presence of trichloroethylene, cis-1,2-dichloroethene, and vinyl chloride found at the Site are "hazardous wastes" as defined under ORC §3734.01(J).
- s. Trichloroethylene, cis-1,2-dichloroethene, and vinyl chloride found at the Site in the sampled media are "industrial waste" or "other wastes" as defined under ORC §§6111.01(C) and (D).
- t. The ground and surface waters at the Site are "waters of the state" as defined in ORC §6111.01(H).
- u. Ohio EPA has incurred Response Costs and continues to incur Response Costs associated with this Site.

- v. Each Respondent is a "person" as defined under ORC §§3734.01(G) and 6111.01(I).
- w. Conditions at the Site constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination as provided in ORC §3734.20(B).
- x. The migration or threatened migration of Contaminants to soil, ground water, or surface water at or from the Site constitutes a discharge to "waters of the state," as that term is defined in ORC §6111.01(H).
- y. The Work required pursuant to these Orders will contribute to the prohibition or abatement of the discharge of Contaminants to waters of the State.
- z. In issuing these Orders, the Director has given consideration to, and based his determination on, evidence relating to technical feasibility and economic reasonableness of complying with these Orders, and to evidence relating to conditions calculated to result from compliance with these Orders and their relation to the benefits to the people of the state to be derived from such compliance.
- aa. The actions to be taken pursuant to these Orders are reasonable and necessary to protect the public health or safety or the environment as provided in ORC §3734.20.

## V. ORDERS

### 6. Supervising Contractor

All Work performed pursuant to these Orders shall be under the direction and supervision of a contractor with expertise in hazardous waste site investigation and remediation. Prior to the initiation of the Work, Respondents shall notify Ohio EPA in writing of the name of the supervising contractor and any subcontractor to be used in performing the Work under these Orders.

### 7. Remedial Design and Remedial Action

- a. Within seven (7) days of the effective date of these Orders, unless otherwise mutually agreed to by the Parties, Respondents shall meet with Ohio EPA to discuss the requirements of the RD/RA Work Plan.
- b. Within thirty (30) days after the effective date of these Orders, unless otherwise

specified in writing by Ohio EPA, Respondents shall submit to Ohio EPA a work plan and schedule for implementation of the Work required under these Orders. The RD/RA Work Plan shall provide for the design, construction, operation and maintenance of the remedy as set forth in the Revised EE/CA.

- c. The RD/RA Work Plan shall be developed in conformance with the SOW, Appendix B of these Orders, and the guidance documents listed in Appendix C of these Orders, attached hereto and incorporated herein. If Ohio EPA determines that any additional or revised guidance documents affect the Work to be performed in implementing the RD/RA, Ohio EPA will notify Respondents, and the RD/RA Work Plan and other affected documents shall be modified accordingly.
- d. Should Respondents identify any inconsistency between any of the laws and regulations and guidance documents that Respondents are required to follow by these Orders, Respondents shall notify Ohio EPA in writing of each inconsistency and the effect of the inconsistencies upon the Work to be performed. Respondents shall also recommend, along with a supportable rationale justifying each recommendation, the requirement Respondents believe should be followed. Respondents shall implement the affected Work as directed by Ohio EPA.
- e. Upon approval of the RD/RA Work Plan by Ohio EPA, Respondents shall implement the RD/RA Work Plan. Respondents shall submit all plans, reports, or other deliverables required under the approved RD/RA Work Plan, in accordance with any Ohio EPA comments.

#### 8. Health and Safety Plan

Within thirty (30) days of the effective date of these Orders, Respondents shall submit to Ohio EPA for review and comment a health and safety plan developed in conformance with the guidance listed in Appendix C.

#### 9. Operation and Maintenance Plan

The Operation and Maintenance Plan (O&M), including a schedule for implementation, shall be submitted in accordance with the approved RD/RA Work Plan. Upon approval of the O&M Plan by Ohio EPA, Respondents shall implement the O&M Plan. Respondents shall submit all plans, reports, or other deliverables required under the approved O&M Plan, in accordance with the approved O&M schedule set forth therein, for Ohio EPA's review and approval.

## **VI. TERMINATION**

10. Respondents' obligations under these Orders shall terminate when Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondents have performed all obligations under these Orders and the Chief of Ohio EPA's Division of Emergency and Remedial Response 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 Respondents of the obligations that have not been performed, in which case Respondents shall have an opportunity to address any such deficiencies and seek termination as described above.

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

12. This certification shall be submitted by Respondents to Ohio EPA and shall be signed by each Respondent.

## **VII. OTHER APPLICABLE LAWS**

13. 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 Respondents.

## **VIII. NOTICE**

14. All documents required to be submitted by Respondents pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Southeast District Office  
Division of Emergency and Remedial Response  
2195 Front Street  
Logan, Ohio 43138  
Attn: Kevin O'Hara, Site Inspector,  
Division of Emergency and Remedial Response

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

### **PROGRESS REPORTS AND NOTICE**

15. Unless otherwise directed by Ohio EPA, Respondents shall submit a written progress report to Ohio EPA by the tenth (10<sup>th</sup>) day of every month. At a minimum, the progress reports shall provide:

- a. A description of the status of the Work performed during the reporting period, including an estimate of the percentage of the RD/RA completed;
- b. A list of all target and actual completion dates for each element of activity, including project completion;
- c. An explanation for any deviation from any applicable deadline and/or schedule;
- d. Summaries of all findings and QA/QC-validated sampling results received during the reporting period;
- e. Summaries of all significant changes made in the RD/RA during the reporting period, indicating consultation with Ohio EPA and date for approval by Ohio EPA of those changes;
- f. Summaries of all significant contacts with representatives of the local community, public interest groups or government agencies during the reporting period;
- g. Summaries of all significant problems or potential problems encountered during the reporting period, including those which delay or threaten to delay completion of project milestones with respect to the approved work plan schedule or RD/RA schedule;
- h. Summaries of actions taken and/or planned to rectify or prevent problems;
- i. Changes in personnel during the reporting period;
- j. Summary of projected Work to occur during the next reporting period;
- k. Copies of daily reports, inspection reports, sampling data, and laboratory/monitoring data, etc.;
- l. The quantity and disposition of any media treated, removed, or contained:
  - i. Soil treated or removed should be reported by volume and soil contained must be reported by area;

- ii. Surface water load reduction - Load reduction must address all contaminants of concern;
  - iii. Ground water treated, removed, or contained - Ground water treated must be reported by volume and ground water contained should be reported as an estimated area of the plume;
  - iv. Leachate treated, removed or contained - Leachate treated, removed or contained must be reported by volume;
  - v. Sediments treated, removed or contained - Sediments treated or removed should be reported by volume and sediments contained must be reported by area;
  - vi. Waste and debris treated, removed, or contained - Waste and debris will be defined as regulated materials not otherwise covered in Roman number I through v above. Waste and debris treated or contained should be reported by either volume or area as appropriate.
- m. The disposition of contaminated soil, sediments, and waste material that was treated on or off Site, or the disposal location for any quantity of contaminated ground water and/or surface water that was pumped and treated or disposed.
16. Progress reports and all other documents required to be submitted pursuant to these Orders shall be sent by certified mail return receipt requested, or equivalent, to the following address:

Ohio Environmental Protection Agency  
50 West Town Street, Suite 700  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
ATTN: Manager, Central Office, DERR

Ohio EPA  
Southeast District Office  
2195 Front Street  
Logan, Ohio 43138

ATTN: Site Coordinator, Ford Bros. (aka Tri-State Tank Cleaning) Site, DERR

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

All correspondence to Respondents shall be directed to the following address:

P.O. Box 901  
Hurricane, West Virginia 25256

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

#### **IX. RESERVATION OF RIGHTS**

17. Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondents for noncompliance with these Orders and/or for the violations described herein. Nothing herein shall restrict the right of Respondents to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondents.

18. Ohio EPA reserves the right to terminate these Orders and/or perform all or any portion of the Work or any other measures in the event that the requirements of these Orders are not wholly complied with within the time frames required by these Orders.

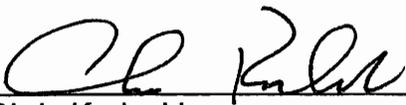
19. Ohio EPA reserves the right to take any action against Respondents if conditions at the Site, previously unknown to the State, are discovered after the effective date of these Orders, or if information is received after the effective date of these Orders and these previously unknown conditions or this information shows that the remedy for the Site as set forth in the Revised EE/CA is not protective of public health or safety or the environment. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondents to perform additional activities pursuant to ORC Chapter 3734 or any other applicable state or federal law in the future. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

#### **X. EFFECTIVE DATE**

20. The effective date of these Orders is the date these Orders are entered in the Journal of the Director of Ohio EPA.

**IT IS SO ORDERED:**

**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Chris Korleski  
Director

4/2/07  
Date