

Civil Penalty

N-242

STATE OF INDIANA



INDIANAPOLIS 46206-1964

ENVIRONMENTAL MANAGEMENT BOARD

1330 West Michigan Street
P. O. Box 1964

January 23, 1986

VIA CERTIFIED MAIL

Mr. R. D. Haugh, President
Dallas Corporation
Overhead Door Division
One Oaks Plaza
6750 L.B.J. Freeway
P.O. Box 809046
Dallas, TX 75380-9046

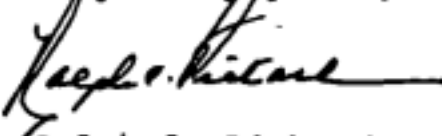
Dear Mr. Haugh:

Re: Adoption of Consent Decree in
Cause No. N-242
Dallas Corporation
Overhead Door Division
Hartford City, Blackford County

This is to inform you that the Indiana Environmental Management Board, at its regularly scheduled meeting of January 17, 1985, approved the Recommended Consent Decree negotiated between you or your representatives and members of our staff. A copy of the Final Order, executed by me as Technical Secretary on behalf of the Board, is enclosed.

You are, no doubt, familiar with the terms of the Final Order necessary to ensure future compliance. As to civil penalties provided for in the document, please forward a check, made payable to the Environmental Management Special Fund, to this office within thirty (30) days of the receipt of this correspondence.

Very truly yours,


Ralph C. Pickard
Technical Secretary

DMZ/tr

Enclosure

cc: Blackford County Health Department (with enclosure)
Ms. Sally K. Swanson, U.S. EPA, Region V (with enclosure)
Mr. Robert K. Johnson, Deputy Attorney General (with enclosure)
Mr. William A. Schochet (with enclosure)
Mr. Verl Myers
Woodrow A. Myers, Jr., M.D.
Mr. Roy Harbert



ENVIRONMENTAL MANAGEMENT BOARD

1330 West Michigan Street
P. O. Box 1964

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| STATE OF INDIANA |) | | BEFORE THE INDIANA ENVIRONMENTAL |
| |) | SS: | |
| COUNTY OF MARION |) | | MANAGEMENT BOARD |

IN THE MATTER OF THE:

INDIANA ENVIRONMENTAL MANAGEMENT BOARD)

Complainant)

vs.)

CAUSE NO. N-242

DALLAS CORPORATION)

OVERHEAD DOOR DIVISION)

Respondent)

CONSENT DECREE

Pursuant to a Notice of Hearing and Complaint filed herein on July 16, 1985, and following an informal settlement conference on August 20, 1985, the parties hereto now desire to enter into this Consent Decree without hearing or adjudication of facts or law as they pertain to the matters set out herein. This Consent Decree does not constitute evidence or admission by any party with respect to any issue of fact or law, which may be used by nonparty third persons.

AGREED FINDINGS OF FACT

NOW, THEREFORE, upon the consent of the parties hereto, and for the purposes of this cause only, the following FINDINGS are made:

1. The Complainant is the Indiana Environmental Management Board (hereinafter referred to as "Board"), an agency of the State of Indiana duly empowered pursuant to IC 13-7 and the rules duly promulgated thereunder to determine whether or not there is a violation of such laws or rules and to issue Orders with respect thereto as it deems proper.
2. Respondent, Dallas Corporation, Overhead Door Division (hereinafter referred to as "Overhead Door"), is a company authorized to do business in Indiana and operates a place of business at Hartford City, Indiana.

3. The Board has jurisdiction over both the subject matter and the parties to this action.
4. Pursuant to IC 13-7-11 and IC 4-22-1-6, Complaint and Notice of Hearing was served upon:

Mr. R. D. Haugh, President
Dallas Corporation
One Oaks Plaza
6750 LBJ Freeway
P.O. Box 809046
Dallas, TX 75380-9046

Mr. E. L. Jackson, Vice-President
Dallas Corporation
Overhead Door Division
One Oaks Plaza
6750 LBJ Freeway
P.O. Box 809046
Dallas, TX 75380-9046

C. T. Corporation
Resident Agent for
Dallas Corporation
Overhead Door Division
One North Capitol
Indianapolis, IN 46204

5. That on August 20, 1980, Overhead Door notified U.S. EPA of hazardous waste activity as a generator.
6. Based upon an investigation of the facility by the Division of Land Pollution Control of the Indiana State Board of Health (hereinafter referred to as "Division"), it was determined that the Respondent is in violation of the Indiana Hazardous Waste Management Program, IC 13-7-8.5, and 320 IAC 4.
7. Based upon the above-mentioned investigation, the following violations were found:
 - a. Pursuant to 320 IAC 4-4 (40 CFR 262.34(a)(1)), containers of hazardous waste shall not accumulate for more than ninety (90) days. Based on information gathered by the Division, Respondent has accumulated containers of hazardous waste for more than ninety (90) days.
 - b. Pursuant to 320 IAC 4-8 and 320 IAC 4-9, no person shall allow the construction or operation of a hazardous waste facility without first obtaining a hazardous waste facility construction and operating permit from the Board. Based on information gathered by the Division, Respondent has allowed the construction and operation of a hazardous waste storage facility without obtaining the required permits. Storage of hazardous waste has occurred for more than ninety (90) days.

- c. Pursuant to 320 IAC 4-4 (40 CFR 262.34(a)(1)), (40 CFR 265.173(a)), the hazardous waste containers shall be stored closed. Based on information gathered by the Division, hazardous waste containers are not stored closed.
- d. Pursuant to 320 IAC 4-4 (40 CFR 262.34 (a)(1)) (40 CFR 265.176) (40 CFR 265.17(a)), the owner or operator shall post "No Smoking" signs on premises where required. Based on information gathered by the Division, Respondent has not posted "No Smoking" signs in the hazardous waste storage area.
- e. Pursuant to 320 IAC 4-4 (40 CFR 262.34(a)(2)), containers shall be marked with start of accumulation date. Based on information gathered by the Division, Respondent has not marked the containers with the start of the accumulation date.
- f. Pursuant to 320 IAC 4-4 (40 CFR 262.34(a)(2)), containers of hazardous waste shall be marked with the words "Hazardous Waste". Based on information gathered by the Division, Respondent has not marked the containers of hazardous waste with the words "Hazardous Waste."
- g. Pursuant to 320 IAC 4-4 (40 CFR 262.34(a)(4)) (40 CFR 265.35), the owner or operator shall maintain adequate aisle space for the unobstructed movement of personnel and emergency equipment. Based on information gathered by the Division, there is not adequate aisle space for the unobstructed movement of personnel and emergency equipment in the hazardous waste storage area.
- h. Pursuant to 320 IAC 4-4 (40 CFR 262.21(a)(2)), all manifests shall contain the mailing address of the generator. Based on information gathered by the Division, Respondent has not provided the mailing address of the generator on a manifest.
- i. Pursuant to 320 IAC 4-4 (40 CFR 262.21(a)(5)), a description of the waste shall be found on manifests according to regulations. Based on information gathered by the Division, Respondent has not provided an adequate description of the waste on the manifests according to regulations. The description of waste paint-related material should also identify the names of other hazardous constituents.

- j. Pursuant to 320 IAC 4-4 (40 CFR 262.34(a)(1)) (40 CFR 265.174), containers shall be inspected weekly for leaks and deterioration. Based on information gathered by the Division, Respondent has not inspected the hazardous waste containers weekly for leaks and deterioration.
 - k. Pursuant to 320 IAC 4-4 (40 CFR 262.34(a)(4)) (40 CFR 265.16(b)), facility personnel shall receive required training. Based on information gathered by the Division, Respondent did not give required training to facility personnel.
 - l. Pursuant to 320 IAC 4-4 (40 CFR 262.34(a)(4)) (40 CFR 265.16), the owner or operator shall maintain personnel training records. Based on information gathered by the Division, Respondent has not maintained personnel training records.
 - m. Pursuant to 320 IAC 4-4 (40 CFR 262.34(a)(4)) (40 CFR 265.37), the owner or operator shall attempt to make arrangements with appropriate authorities in case of an emergency at the facility. Based on information gathered by the Division, Respondent has not attempted to make arrangements with appropriate authorities in case of an emergency at the facility.
 - n. Pursuant to 320 IAC 4-4 (40 CFR 262.34(a)(4)) (40 CFR 265.50 through 40 CFR 265.56), the owner or operator shall develop a contingency plan. Based on information gathered by the Division, Respondent has not developed a contingency plan.
8. That on August 20, 1985, an informal settlement conference was held to discuss the Findings of Violation and the Proposed Final Order in the Complaint.
9. Respondent is at this time in compliance with paragraphs 7a, b, c, d, e, f, g, h, i, j, k, and m above.

ORDER

WHEREFORE, based upon the above Findings and upon the consent of the parties, it is hereby ORDERED that:

- 1. Within forty-five (45) days of receipt of notice of the Board's Final Order, Respondent shall develop a contingency plan. This plan shall follow the outline in 320 IAC 4.1-18-1 through 4.1-18-7 (formerly 320 IAC 4-4 and 40 CFR 265.50 through 265.56).

2. Within sixty (60) days of receipt of notice of the Board's Final Order, Respondent shall submit a copy of the contingency plan to the Division.
3. Within forty-five (45) days of receipt of notice of the Board's Final Order, Respondent shall amend the personnel training records to include the information required in 320 IAC 4.1-16-7 (formerly 320 IAC 4-4 and 40 CFR 265.16). These amendments should include:
 - a. The job title for each employee listed;
 - b. a written job description for each position listed. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position;
 - c. a written description of the type and amount of both introductory and continuing training that has been given to each person filling a position listed; and
 - d. records that document that the training or job experience required has been given to, and completed by, facility personnel.
4. Within thirty (30) days of receipt of notice of the Board's Final Order, Respondent shall pay a civil penalty of \$11,750 to the Indiana Environmental Management Special Fund, 1330 West Michigan Street, Indianapolis, Indiana 46206.
5. The provisions of this Consent Decree will apply to the Respondent, its agents, servants, employees, successors, and assigns, and to all persons, firms, or corporations acting through or for the Respondent.
6. This Consent Decree will have no force or effect until it is approved by the Board, and timely compliance with the terms of this Consent Decree shall constitute a final resolution of this cause.
7. Respondent, by the duly authorized undersigned, hereby consents to the provisions of this Findings and Recommended Order and agree to be bound by said Order when issued by the Board.

TECHNICAL RECOMMENDATION

BY: Thomas L. Russell
Mr. Thomas L. Russell, Chief
Enforcement Section

DATE: December 11, 1985

APPROVED FOR LEGALITY AND FORM

HON. LINLEY E. PEARSON
Attorney General of Indiana

BY: Robert K. Johnson
Mr. Robert K. Johnson
Deputy Attorney General

DATE: 12/17/85

INDIANA ENVIRONMENTAL MANAGEMENT BOARD

BY: Ralph C. Pickard
Mr. Ralph C. Pickard
Technical Secretary

DATE: 1/22/86

DMZ/tr

DALLAS CORPORATION, OVERHEAD DOOR DIVISION

BY: R. D. Haugh
Mr. R. D. Haugh
President

DATE: December 13, 1985

ATTEST

BY: W. A. Schochet
W. A. Schochet, Asst. Secretary

DATE: December 13, 1985

RECOMMENDATION FOR ADOPTION

BY: James M. Garrettson
Mr. James M. Garrettson
Hearing Officer

DATE: Dec 19, 1985