

OHIO E.P.A.

DEC 10 2012

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

**OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the matter of:

**Day-Glo Color Corp.**  
4515 St. Clair Avenue  
Cleveland, Ohio 44103

**Expedited Settlement**  
**Agreement and**  
**Director's Order**

**Respondent**

**I. JURISDICTION**

This Expedited Settlement Agreement and Director's Order ("ESA") is issued to Day-Glo Color Corp. ("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. 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 manufactures daylight fluorescent pigments, paints, dyes, inks, and liquid pigments at its facility located at 4515 St. Clair Avenue, Cleveland, Cuyahoga County, Ohio (Facility).
3. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD004197257.
4. 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. The hazardous waste generated by Respondent at the Facility includes spent methanol and propanol (D001, F003), an off-spec product containing barium (D005), and a variety of other spent solvents (D001, F003) as described in OAC rule 3745-51-21 and OAC rule 3745-51-31.

5. On March 15, 2012, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of this inspection, Ohio EPA determined that Respondent, *inter alia*, stored hazardous waste spent methanol (D001, F003) in an underground storage tank at the Facility, on two separate occasions, for greater than ninety days (fifty excess days and thirty-eight excess days, respectively) without a hazardous waste installation and operation permit, in violation of ORC §3734.02(E) and (F). During a review of the records for the underground storage tank, Ohio EPA determined inspections of the tank and its associated leak detection and alarm systems were being conducted pursuant to the hazardous waste tank requirements. Ohio EPA requested that Respondent submit documentation that the hazardous waste underground storage tank was installed in accordance with the hazardous waste tank regulations.
6. By electronic mail dated March 21, 2012, Respondent submitted information to Ohio EPA regarding the inspection referenced in Finding No. 5. of this ESA. Included in this correspondence was a "System Design and Installation Assessment and Certification" for the hazardous waste underground storage tank demonstrating that the tank was installed in accordance with the hazardous waste tank requirements.
7. By letter dated March 29, 2012, Ohio EPA notified Respondent of the violations referenced in Finding No. 5. of this ESA. In the letter, Ohio EPA also acknowledged that on March 21, 2012, Respondent shipped the hazardous waste spent methanol (D001, F003) that had been stored for greater than ninety days to an authorized facility.
8. By electronic mail on April 4, and April 18, 2012, Respondent submitted documentation in response to the violations referenced in Finding No. 5. of this ESA.
9. By letter dated April 24, 2012, Ohio EPA notified Respondent that no further action is required of Respondent with regard to the violation referenced in Finding No. 5. of this ESA. Furthermore, the documentation referenced in Findings Nos. 5., 6., and 8. of this ESA, demonstrates all of the hazardous waste spent methanol (D001, F005) stored in the hazardous waste underground storage tank has been shipped off-site to an authorized facility; the hazardous waste underground storage tank is in good working order and Respondent intends to continue to accumulate hazardous waste in the underground storage tank for ninety days or less. Consequently no additional measures, including closure of the hazardous waste underground storage tank in accordance with OAC Chapter 3745-55, need to be taken at this time.

10. In consideration of the benefits of prompt compliance to the public, efficiency in Ohio EPA resources, and other factors as justice may require, and upon consideration of the entire record, this ESA is an appropriate mechanism to resolve the noncompliance detailed in these Findings.

### **III. ORDER**

Within sixty (60) days from the date of the Director's letter inviting Respondent to sign this ESA, Respondent shall pay to the Ohio EPA the amount of \$6,160.00 in settlement of the Ohio EPA's claim for civil penalties, which may be assessed pursuant to Chapter 3734.13 of the Ohio Revised Code. Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" for the full amount, and shall be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be mailed to the following address: Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the location of the noncompliance detailed in the Findings of this ESA. A photocopy of this check shall be submitted to Supervisor, Processing/Records Management Unit, Ohio EPA, Division of Materials and Waste Management, P.O. Box 1049, Columbus, Ohio 43216-1049.

### **IV. TERMINATION**

Respondent's obligations under this ESA shall terminate upon both Ohio EPA's entry of this ESA in the Ohio EPA Director's journal and Ohio EPA's receipt of the civil penalty payment required by this ESA.

### **V. RESERVATION OF RIGHTS AND WAIVER**

Ohio EPA reserves its right to exercise its lawful authority to require Respondent to perform closure of the hazardous waste underground storage tank as well as corrective action at the Facility at some time in the future, in accordance with ORC Chapter 3734. or any other applicable law. Respondent reserves its rights to raise any administrative, legal, or equitable claim or defense with respect of any final action of the Director regarding such closure or corrective action. Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived herein.

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in this ESA, Respondent consents to the issuance of this ESA and agrees to comply with this ESA. Compliance with this ESA shall be a full accord and satisfaction of Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of this ESA and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of this ESA either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if this ESA is 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 comply with this ESA notwithstanding such appeal and intervention unless this ESA is stayed, vacated, or modified.

**VI. EFFECTIVE DATE**

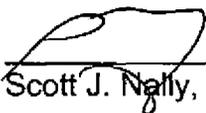
The effective date of this ESA is the date this ESA is entered into the Ohio EPA Director's journal.

**VII. SIGNATORY AUTHORITY**

Each undersigned representative or party to this ESA certifies that he or she is fully authorized to enter into this ESA and to legally bind such party to this ESA.

**IT IS SO ORDERED AND AGREED:**

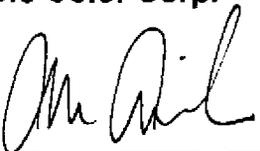
**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Scott J. Nally, Director

December 10, 2012  
Date

**IT IS SO AGREED:**

**Day-Glo Color Corp.**

  
\_\_\_\_\_  
Signature

11/16/2012  
Date

A.M. ARIDA  
\_\_\_\_\_  
Printed or Typed Name

VICE PRESIDENT - FINANCE  
\_\_\_\_\_  
Title