

APR 16 2012

BEFORE THE OHIO

ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Portage County Water Resources
 Department
 Shalersville Water Treatment Plant
 449 S. Meridian Street
 Ravenna, Ohio 44266

Director's Final Findings
 and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Portage County Water Resources Department, Shalersville Water Treatment Plant ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3753.08 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 the Respondent or of the facility owned by the Respondent 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 3753 and the rules promulgated thereunder.

IV. FINDINGS

The Director of the Ohio EPA makes the following findings:

1. Respondent is a publicly owned and operated treatment works located at 9750 Coit Road in Ravenna, Ohio. Chlorine is used in the chlorination process. Chlorine is stored in one-ton cylinders with up to two cylinders on site at any one time (4,000 pounds). Respondent has more than a threshold quantity of a "regulated substance," namely chlorine, as defined in Ohio Administrative Code ("OAC") Rule 3745-104-01. The Risk Management Plan ("RMP") threshold amount for chlorine is 2,500 pounds.

2. Chlorine is a regulated substance listed in OAC Rule 3745-104-04. An owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as determined by OAC Rule 3745-104-02, shall comply with the requirements of OAC Rules 3745-104-06 through 49, where applicable, by submitting a Risk Management Plan ("RMP") and implementing a prevention program no later than June 21, 1999 or no later than when the threshold limit is exceeded in a process. On January 3, 2000, Ohio EPA, DAPC received delegation for the RMP program from U.S. EPA.
3. Chlorine has a threshold of 2,500 pounds. Respondent stores chlorine in an amount that exceeds the threshold established in OAC Rule 3745-104-04; and, as a result, Respondent is subject to the RMP requirements detailed in OAC Rule 3745-104-06.
4. An initial RMP audit was conducted by Ohio EPA on November 19, 2003. The following seven deficiencies were discovered during the audit:
 - (a) Respondent failed to include in the process safety information, a block flow diagram or simplified process flow diagram for the chlorination process, in violation of OAC Rule 3745-104-24(C)(1)(a).
 - (b) Respondent failed to establish a system to assure that recommendations from the process hazard analysis (PHA) were resolved in a timely manner, in violation of OAC Rule 3745-104-25(E).
 - (c) Respondent failed to annually certify that operating procedures are current and accurate, in violation of OAC Rule 3745-104-26(C).
 - (d) Respondent failed to establish and implement a written procedure to maintain the on-going integrity of the covered process equipment, in violation of OAC Rule 3745-104-28(B).
 - (e) Respondent failed to conduct an RMP compliance audit every three years, in violation of OAC Rule 3745-104-31(A).
 - (f) Respondent failed to develop a written plan of action regarding the implementation of employee participation, in violation of OAC Rule 3745-104-33(A).
 - (g) Respondent failed to obtain and evaluate information regarding the contractor's safety performance and programs prior to selecting a contractor, in violation of OAC Rule 3745-104-35(B).
5. Respondent submitted documentation dated January 8, 2004, in response to the December 1, 2003 deficiency letter sent by Ohio EPA. Respondent corrected five of the seven deficiencies. A warning letter was sent on January 16, 2004, requiring Respondent to submit documentation to resolve the remaining deficiencies. The information was sent to Ohio EPA on February 10, 2004, and a completion letter was sent to the facility indicating that all deficiencies have been resolved and to maintain compliance with the RMP regulations.

6. On April 25, 2011, Ohio EPA conducted the second five-year RMP audit at Respondent's facility and discovered twelve violations of the rules. Five were repeat violations from the initial RMP audit in 2003. The violations were as follows:
 - (a) Respondent failed to develop a management system to oversee the implementation of the RMP elements, in violation of OAC Rule 3745-104-07.
 - (b) Respondent failed to maintain on site supporting documentation for the worst case and alternative release scenarios, in violation of OAC Rule 3745-104-15.
 - (c) Respondent failed to develop the ventilation system design for the chlorine room, in violation of OAC Rule 3745-104-24(D)(1)(e) and documentation for the safety systems (alarms, chlorine detectors, etc.), in violation of OAC Rule 3745-104-24(D)(1)(h).
 - (d) Respondent failed to update and revalidate the process hazard analysis (PHA) every five years, in violation of OAC Rule 3745-104-25(F). This is a repeat violation.
 - (e) Respondent failed to develop and implement written operating procedures for activities associated with the covered process, in violation of OAC Rule 3745-104-26(A). Operating procedures have not been annually certified that they are current and accurate, in violation of OAC Rule 3745-104-26(C). This is a repeat violation.
 - (f) Respondent failed to provide training to each employee involved in operating the process, in violation of OAC Rule 3745-104-27.
 - (g) Respondent failed to develop and implement a written mechanical integrity program, in violation of OAC Rule 3745-104-28.
 - (h) Respondent failed to establish and implement a written management of change procedure, in violation of OAC Rule 3745-104-29.
 - (i) Respondent failed to conduct an RMP compliance audit at least every three years, in violation of OAC Rule 3745-104-31. This is a repeat violation.
 - (j) Respondent failed to develop a written plan of action regarding the implementation of employee participation, in violation of OAC Rule 3745-104-33. This is a repeat violation.
 - (k) Respondent failed to obtain and evaluate information regarding contractor's safety performance and programs, prior to selecting a contractor, in violation of OAC Rule 3745-104-35. This is a repeat violation.
 - (l) Respondent failed to review, update and resubmit the RMP every five years and to update the emergency contact information, in violation of OAC Rule 3745-104-49.

7. A deficiency letter was mailed to Respondent on April 25, 2011. Respondent submitted documentation on May 24, 2011, and resolved the deficiencies in Findings 6(a), (b), (e), (h), (i), (j), and (k). A warning letter was issued on June 3, 2011.

8. Respondent submitted further information on June 21, 2011 and resolved the remaining deficiencies. No further documentation is required at this time.
9. ORC § 3753.06 prohibits violations of the provisions of ORC Chapter 3753 or any rule adopted under it. Respondent violated rules adopted under ORC Chapter 3753, specifically, the rules cited in Finding 6.
10. The Director has given consideration to, and based his determination on, evidence related to the technical feasibility and economic reasonableness of complying with the following Orders and benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall continue to implement the compliant RMP program.
2. Pursuant to ORC § 3753.09, Respondent shall pay the amount of twelve thousand and two hundred dollars (\$12,200) in settlement of Ohio EPA's claim for civil penalties. Within fourteen (14) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for nine thousand seven hundred and sixty dollars (\$9,760) of the total amount which will be deposited into the Risk Management Plan fund established pursuant to ORC § 3753.05. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

3. In lieu of paying the remaining twenty-four hundred and forty dollars (\$2,440) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$2,440 to the Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$2,440 within fourteen (14) days after the effective date of these Orders. The official check shall be submitted to Akia Smith, or her successor, together with a letter identifying Respondent, the facility, and fund 5CD0 to:

Ohio EPA
Office of Fiscal Administration
Lazarus Government Center
P.O. Box 1049
50 West Town Street, Suite 700
Columbus, Ohio 43216-1049

4. A copy of each of the above checks will be sent to Tom Kalman, Acting Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
Lazarus Government Center
50 West Town Street, Suite 700
Columbus, Ohio 43216-1049

5. Should Respondent fail to fund the SEP within the required time frame set forth in Order 3, Respondent shall immediately pay to Ohio EPA \$2,440 of the civil penalty in accordance with the procedures in Order 2.

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 the Chief of Ohio EPA's Division of Air Pollution Control 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 "facility official" 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 of 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
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: Sherri Swihart

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

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all 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, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. 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

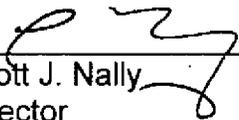
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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.

ORDERED AND AGREED:

Ohio Environmental Protection Agency



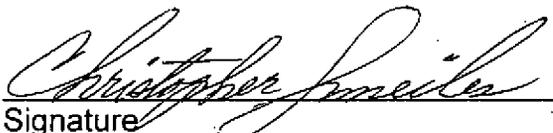
Scott J. Nally
Director

4/11/12

Date

AGREED:

**Portage County Water Resources Department
Shalersville Water Treatment Plant**



Signature

3/27/2012

Date

Christopher Smeiles

Printed or Typed Name

President, Board of Commissioners

Title