

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

JUN -5 2012

REGISTERED DIRECTOR'S JOURNAL

In the Matter of:

BPI Recycling, Inc.
1100 North 21st Street
Sebring, Ohio 44672

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Director's Final Findings
and Orders

Respondent

PREAMBLE

It is agreed by the Parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to BPI Recycling, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6111.03 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 the composition of 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 6111 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates a plastics recycling plant located at 1100 North 21st Street, Sebring, Ohio in Mahoning County ("the Site"). The Site processes aftermarket and post-consumer plastics. Plastics parts are shredded and then enter a water tank for cleaning and separation, allowing light plastics to float and heavier plastics to sink. The tanks also remove food material and other contaminants, such as oil, as part of the cleaning process.

2. In January 2008, Ohio EPA was notified by the Village of Sebring regarding possible upset conditions at the Village's publicly owned treatment works. The Village indicated that it had been organically overloaded and that pieces of plastic were entering the plant. The Village indicated that Respondent may be the possible source of the upset conditions.
3. A follow-up inspection conducted by Ohio EPA, Northeast District Office, on January 16, 2008 at Respondent's Site identified that Respondent was discharging process water from its plastics shredding operations to the sanitary sewer. The process water contained shredded plastics and had a strong odor. The spent process water was pumped to a below grade pit where it was pumped to the sanitary sewer. Groundwater also leaked into the below grade pit, and had to occasionally be pumped out of the pit to the sanitary sewer.
4. Respondent was notified that the process water was causing a possible upset of the Sebring POTW and was told to immediately stop the discharge. Respondent temporarily stopped the discharge, but in February 2008, Ohio EPA was again informed by the Village of Sebring that plastic material was once again entering the Sebring POTW.
5. On February 25, 2008, Ohio EPA again notified the company that the discharge was impacting the Village and must immediately cease. In response, Respondent stopped the discharge of process water. Respondent then stored the wastewater in rented frac tanks for subsequent disposal. During a May 5, 2010 inspection, Respondent was found pumping process water out of the frac tanks and into the covered loading dock area of the Site, in order to clean out the frac tank. The Ohio EPA inspector at the time observed that the process water and sludge was so deep in the loading docks that it was coming out of the building and accumulating in the drive area to the docks.
6. The process water was then being pumped to an unpermitted treatment system for treatment and then being pumped into a tank that had been placed in the pit with known groundwater leaks. The treatment system consisted of a storage tank and vibratory screen. The process water was being pumped from the loading docks, to the storage tank and through the vibratory screen before being pumped into a tanker truck that disposed of the wastewater to the City of Warren's wastewater treatment plant.
7. Additionally, the storage of waste material outside of the Site's buildings has caused discharges to waters of the state. Numerous inspections have identified detergents, milk, oils, and process water spilled on the ground outside of the property. No controls were in place to prevent contamination of storm water runoff of these materials during precipitation events.

8. Between January 2008 and December 2009, Ohio EPA conducted twelve inspections, and on each occasion, Ohio EPA discussed possible options for controlling runoff of contaminants during precipitation events. Respondent was directed to develop a Storm Water Pollution Prevention Plan ("SWP3") and apply for coverage under the general industrial storm water permit. In March 2009, Respondent submitted a final SWP3 stating all material would be stored under roof at the factory or in trailers or offsite warehouses.
9. Inspections of the Site on May 28, 2009, September 4, 2009, May 5, 2010, July 7, 2010, and November 29, 2010, showed that the company had failed to implement the SWP3. Plastics and other material were stored outdoors and in uncovered dumpsters. Silt fencing required to be erected by the SWP3 had deteriorated and failed. Additionally, Respondent was not conducting daily site inspections to identify contamination sources and site improvements to prevent runoff as required by the SWP3. Respondent's failure to implement the SWP3 for the Site is a violation of ORC Chapter 6111 and Part IV of the General Storm Water Permit for Industrial Activity.
10. Pursuant to ORC 6111.45, no person shall install works for the treatment or disposal of any industrial waste until the plans for the disposal of the waste have been submitted to and approved by the director of environmental protection.
11. Pursuant to ORC Section 6111.07(A), no person shall violate or fail to perform any duty imposed by sections 6111.01 to 6111.08 of the Revised Code or violate any order, rule, or term or condition of a permit issued or adopted by the director of environmental protection pursuant to those sections. Each day of violation is a separate offense.
12. Pursuant to ORC section 6111.04(A), no person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state. Such an action is prohibited under ORC section 6111.04(A) and is declared to be a public nuisance unless the person causing pollution or placing or causing to be placed wastes in a location in which they cause pollution of any waters of the state holds a valid, unexpired permit, or renewal of a permit, governing the causing or placement as provided in ORC sections 6111.01 to 6111.08 or if the person's application for renewal of such a permit is pending.
13. The Director has given consideration to, and based his determination on, evidence relating to the 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 its relation to the benefits to the people of the state to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

V. ORDERS

1. Respondent shall immediately begin conducting and document inspections of the Site under the current SWP3, and immediately halt the use of the loading docks as a storage containment system for wastewater and residual solids.
2. As soon as possible, but not later than thirty (30) days from the effective date of these Orders, Respondent shall submit for approval a revised SWP3 with an implementation schedule. Upon approval of the SWP3 by Ohio EPA, Respondent shall implement the SWP3 and complete all requirements within the implementation schedule timeframes.
3. As soon as possible, but not later than thirty (30) days from the effective date of these Orders, Respondent shall submit to Ohio EPA for approval a general plan, signed by a professional engineer, that describes the disposal of the industrial process water and which includes identification and characterization of all waste streams, any and all present and proposed treatment of the wastewater, and a description of disposal practices for all industrial wastewater and residuals.
4. As soon as possible, but not later than ninety (90) days from Ohio EPA's concurrence with the general plan, Respondent shall submit an approvable permit to install application in accordance with Ohio Administrative Code Rule 3745-42 for all existing and proposed treatment of the industrial wastewater.
5. Respondents shall pay to Ohio EPA the amount of twenty thousand dollars (\$20,000.00) in settlement of Ohio EPA's claims for civil penalties for violations at the Site, which may be assessed pursuant to R.C. Chapter 6111. Payment shall be made in four equal installments of four thousand dollars (\$4,000.00). The first installment shall be due three (3) months after the effective date of these Orders, the second installment shall be due six (6) months from the effective date of these Orders, the third installment shall be due nine (9) months from the effective date of these Orders, and the final installment shall be due twelve (12) months from the effective date of these Orders. Each payment shall be made by an official check made payable to ATreasurer, State of Ohio@ for \$4,000.00 and shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondents and the Site. A copy of the checks shall be sent to the Ohio EPA at the following address:

Office of Fiscal Administration
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, OH 43216-1049

A photocopy of the check shall be sent to Ohio EPA, Northeast District Office, in accordance with Section X of these Orders.

6. In lieu of paying the remaining \$4,000.00 of the civil penalty, Respondent shall within twelve months of the effective date of these Orders, fund a supplemental environmental project ("SEP") by making a contribution in the amount of \$4,000.00 to Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for that amount. The official check and a cover letter identifying the Respondent shall be submitted to Akia Smith, or her successor at:

Ohio Environmental Protection Agency
Office of Fiscal Administration
P.O. Box 1049
Columbus, OH 43216-1049

A copy of the check shall be sent to Mark Mann, Environmental Manager, Storm Water and Enforcement Section, or his successor, at the following address:

Ohio EPA
Division of Surface Water
P.O. Box 1049
Columbus, OH 43216-1049

7. Should Respondent fail to fund the SEP within the required time frame set forth in Order No. 6, Respondent shall immediately pay to Ohio EPA the remaining \$4,000.00 of civil penalty in accordance with the procedures in Order No. 5.

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 Surface Water, 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.

This 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 as defined in OAC Rule 3745-33-03.

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 Respondent's WWTP.

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 the Respondent.

IX. MODIFICATIONS

These Orders may be modified by the 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 EPA, Northeast District Office
Attn: DSW Enforcement Unit Supervisor
2110 East Aurora Road
Twinsburg, Ohio 44087

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 those 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

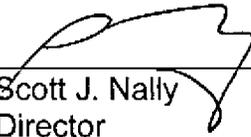
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



Scott J. Nally
Director

4/4/12

Date

IT IS SO AGREED:

BPI Recycling, Inc.



Signature

4/14/12

Date

Ronald A. Christow

Print Name

Chief Operating Officer

Title