

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.  
MAR 24 2009

ORDERED DIRECTOR'S JOURNAL

In the Matter of:

N-Viro International Corporation : Director's Final Findings  
3900 North Summit Street : and Orders  
Toledo, Ohio 43606 :

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to N-Viro International Corporation ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or of the Facility (as hereinafter defined) 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 meanings as defined in ORC Chapter 3704 and the regulations promulgated thereunder.

IV. FINDINGS

1. Respondent's 3900 North Summit Street operation utilizes patented technologies to stabilize and disinfect municipal bio solids and other organic waste products. Respondent processes sludge from the City of Toledo's wastewater treatment plant.

2. ORC Section 3704.05(C) states, in part, that no person shall violate any term or condition of a permit issued by the Director of Ohio EPA pursuant to ORC Chapter 3704.

3. Permit to install ("PTI") #04-503 governs the installation and operation of emissions unit P001 (kiln dust and sludge blending). PTI#04-503 requires that the exhaust from emissions unit P001 be vented to a scrubber.

4. On July 30, 2008, the City of Toledo, Division of Environmental Services ("TDOES") visited Respondent's facility to follow up on a citizen complaint of odors and dust. During the visit, TDOES discovered that the scrubber serving emissions unit P001 was not operating, in violation of the terms and conditions of the PTI.

5. PTI #04-503 also requires that Respondent record wind speeds and close the doors on the leeward side of the sludge processing/soil storage building when the wind speeds exceed 15 miles per hour.

6. During the July 30, 2008 site visit, Respondent indicated that it had not been maintaining records of wind speeds, in violation of the terms and conditions of PTI #04-503. It could not be determined if Respondent was closing the doors when the wind speeds exceeded 15 miles per hour.

7. On August 5, 2008, TDOES sent a notice of violation to Respondent for the above-mentioned violations and corrective actions have been taken by Respondent.

8. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their 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 pay the amount of twenty thousand dollars (\$20,000) in settlement of Ohio EPA's claim for civil penalties. Of this amount, Respondent shall pay to Ohio EPA the amount of sixteen thousand dollars (\$16,000) in accordance with the payment schedule in Order 2. Payments shall be made by official checks made payable to "Treasurer, State of Ohio." The official checks shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA  
Office of Fiscal Administration  
50 West Town Street  
Suite 700  
P.O. Box 1049

A copy of each check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA  
Division of Air Pollution Control  
50 West Town Street  
Suite 700  
P.O. Box 1049

Columbus, Ohio 43216-1049

2. Respondent shall comply with the following payment schedule for the civil penalty identified in Order 1, which is payable to Ohio EPA:

<u>Payment Deadline</u>	<u>Amount Due</u>
within 120 days after the effective date of these Orders	\$4,000
within 210 days after the effective date of these Orders	\$4,000
within 300 days after the effective date of these Orders	\$4,000
within 390 days after the effective date of these Orders	\$4,000

3. In lieu of paying the remaining four thousand one hundred dollars (\$4,000) of the civil penalty, Respondent shall within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution 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 \$4,000. 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  
50 West Town Street  
Suite 700  
P.O. Box 1049  
Columbus, Ohio 43216-1049

4. Should Respondent fail to fund the SEP within the required timeframe set forth in Order 3, Respondent shall immediately pay to Ohio EPA \$4,000 of the civil penalty in accordance with the procedures in Order 1.

## **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the valid official check required by Section V of these Orders.

## **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 activities at the 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. 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:

City of Toledo  
Division of Environmental Services  
348 South Erie Street  
Toledo, Ohio 43604  
Attn: Karen Granata

and to:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Air Pollution Control  
50 West Town Street  
Suite 700  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attn: John Paulian

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**

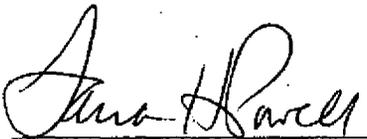
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

## **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.

### **IT IS SO ORDERED AND AGREED:**

Ohio Environmental Protection Agency



Chris Korleski  
Director

3/28/09  
Date

**IT IS SO AGREED:**

N-Viro International Corporation



Signature

3/12/09  
Date

Tim Kasmoch  
Printed or Typed Name

President / CEO  
Title